

Report Title:	Statement of Licensing Policy – Five Year Review
Contains Confidential or Exempt Information	No – Part I
Cabinet Member:	Councillor D Cannon, Cabinet Member for Public Protection and Parking
Meeting and Date:	Extraordinary Full Council 29 June 2021
Responsible Officer(s):	Hilary Hall, Director of Adults, Health and Housing Tracy Hendren, Head of Housing, Environmental Health and Trading Standards
Wards affected:	All

## REPORT SUMMARY

*RBWM is a licensing authority under the Licensing Act 2003. This Act requires that, every five years, licensing authorities prepare and publish a statement of its licensing policy.*

*This report seeks the agreement of Full Council to adopt the RBWM Licensing Policy Statement 2021 – 2026 so that the policy can be implemented immediately. The new policy may be considered as interim in nature because it has not yet been possible to carry out the required full consultation with relevant stakeholders due to the constraints of Covid-19.*

### 1. DETAILS OF RECOMMENDATION(S)

**RECOMMENDATION:** That Full Council notes the report and:

- i. **Agrees to adopt the RBWM Licensing Policy Statement 2021 - 2026 so that it can be implemented with immediate effect (noting the interim nature of the policy as set out in paragraphs 2.8 - 2.11)**

### 2. REASON(S) FOR RECOMMENDATION(S) AND OPTIONS CONSIDERED

**Table 1: Options arising from this report**

Option	Comments
Full Council agrees to adopt the RBWM Licensing Policy Statement 2021 - 2026 for immediate implementation	RBWM would comply with its statutory requirements
<b>This is the recommended option</b>	
Full Council does not agree to adopt the RBWM Licensing Policy Statement 2021 - 2026 for immediate implementation	RBWM would not comply with its statutory requirements

- 2.1 Section 5 of the Licensing Act 2003 requires licensing authorities to prepare and publish a statement of its licensing policy at least every five years. Such a policy

must be published before the authority carries out any function in respect of individual applications and notices made under the terms of the 2003 Act.

- 2.2 The RBWM Licensing Policy Statement 2016 – 2021 can be found at [https://www.rbwm.gov.uk/sites/default/files/2020-04/licensing\\_policy\\_statement.pdf](https://www.rbwm.gov.uk/sites/default/files/2020-04/licensing_policy_statement.pdf)
- 2.3 The review of this policy and the publishing of a new policy for 2021 – 2026 should have been completed following a consultation with
  - Thames Valley Police
  - Royal Berkshire Fire & Rescue (RBFR)
  - Public Health
  - persons/bodies representative of local premises licence holders;
  - persons/bodies representative of local club premises certificate holders;
  - persons/bodies representative of local personal licence holders; and
  - persons/bodies representative of businesses and residents in its area.
- 2.4 However it has not been possible to fully carry out this review and consultation process due to the effects of the coronavirus outbreak. Thames Valley Police and Public Health have been stretched to the limits in dealing with the outbreak. Many licenced premises were closed completely for long periods from March 2020 and those that were able to operate were only allowed to do so for limited periods and in limited capacities. Only now is the licenced trade beginning to reopen fully for the first time in 15 months.
- 2.5 This means that the future for the hospitality sector is extremely uncertain at present with licenced businesses struggling to continue operating. It is impossible to know at this time what the licenced trade will look like in RBWM once the restrictions are fully relaxed, or indeed for some considerable time afterward. Therefore, to try and consult with this sector during the last 12 months has simply not been feasible or reasonable.
- 2.6 As well as this, the review process requires that consideration is given to the current licensing climate in RBWM and nationally, changes that may have taken place over the last five years, changes to national guidance and a range of other factors to ensure that our policy will be fit for the next five years. Again, this has simply not been possible during or immediately after a period of sustained lockdown.
- 2.7 Taking all of this into account, a number of licensing authorities approached the Home Office in August 2020 to ask for an extension of 18 months to 2 years before having to publish a new licensing policy (the Secretary of State has the power to make regulations under the 2003 Act about the determination and revision of policies). Unfortunately this was not supported so the requirement to renew our policy is still in place.
- 2.8 That being the case, and under the circumstances set out above, the RBWM Licensing Policy Statement 2021 – 2026 that has been prepared and is hereby presented to Council has not been fully consulted on, as required. Therefore, with the agreement of Council, this may be considered as an interim policy until such times as a full consultation can take place. The aim will be to do this in twelve months but this will be subject to there having been a return to full activity across the whole of the licenced trade for a reasonable period of time,

so as to allow an accurate picture of the post-coronavirus trade to be established.

- 2.9 This approach, which will ensure that a policy is in place to allow licensing functions to continue, and this policy were presented to the Licensing Panel on 20 April 2021. The Licensing Panel resolved unanimously to recommend to Full Council that the RBWM Licensing Policy Statement 2021 - 2026 be adopted.
- 2.10 The Licensing Panel also resolved unanimously that RBWM safeguarding partnerships be added to the consultee list for the future review of this policy. There are two partnerships. Statutory children's safeguarding arrangements are overseen by the Child Safeguarding Executive Steering Group and there is a non-statutory adult arrangement which is overseen by the Adult Safeguarding Executive Steering Group. Both will be consultees in the future review of this policy.
- 2.11 The adoption of this updated policy as an interim policy has been agreed with Thames Valley Police, RBFR and Public Health.
- 2.12 This means that there are no radical changes from the previous policy and the changes that have been made are largely presentational.
- 2.13 As and when the full effects of COVID on the licenced trade in RBWM can be determined and the local licensing environment can be properly assessed, a full consultation with the trade will be possible. Once that is carried out, if needs be, an amended policy can be brought back to a future Full Council for adoption (the 2003 Act does allow for licensing authorities to review and revise their policies outside of the five yearly cycle).

### 3. KEY IMPLICATIONS

**Table 2: Key Implications**

Outcome	Unmet	Met	Exceeded	Significantly Exceeded	Date of delivery
RBWM will comply with statutory requirements, and provide guidance to service users	Prior to date of adoption of this Policy	From date of adoption of this Policy	n/a	n/a	29/06/2021

### 4. FINANCIAL DETAILS / VALUE FOR MONEY

- 4.1 There are no direct financial implications arising from this report.

### 5. LEGAL IMPLICATIONS

- 5.1 Section 5 of the Licensing Act 2003 requires licensing authorities to prepare and publish a statement of its licensing policy at least every five years. Failure to do so would mean RBWM is failing in its statutory duty.

## 6. RISK MANAGEMENT

6.1 There are three risks identified

**Table 3: Impact of risk and mitigation**

<b>Risk</b>	<b>Level of uncontrolled risk</b>	<b>Controls</b>	<b>Level of controlled risk</b>
Censure of RBWM and reputational damage for failure to comply with statutory obligation	High	Clear policy in place	Low
Lack of information and guidance for those subject to the Licensing Act 2003	Medium	Clear policy in place	Low
Judicial Review challenge for lack of consultation	Medium	<p>No substantial changes have been made from the previous policy</p> <p>Premises licences are not required to be renewed because they last indefinitely, so current licence holders will not be required to renew their licences against a policy that they were not consulted on</p> <p>A full consultation will be carried out at the earliest time possible</p> <p>The risk of a JR challenge for lack of consultation is outweighed by the risk of not having a new policy which is a statutory requirement, and without which, licensing functions cannot be carried on</p>	Low

## 7. POTENTIAL IMPACTS

7.1 An EQIA screening assessment has been completed and a full assessment is not required. See <https://www.rbwm.gov.uk/sites/default/files/2021-03/2021-eqia-rbwm-statement-of-licensing-2021-2026.pdf>

7.2 Climate change/sustainability. There are no potential impacts of the recommendations in relation to climate change/sustainability

7.3 Data Protection/GDPR. Under the policy presented in this report, any personal data that is not already being processed under RBWM/Licensing data protection/GDPR procedures and protections will be subject to those same procedures and protections.

## 8. CONSULTATION

8.1 As set out in paragraphs 2.4 and 2.5, a full statutory consultation has not been possible. However, Thames Valley Police, RBFR and Public Health have given their agreement to the approach taken to the production of the new policy.

## 9. TIMETABLE FOR IMPLEMENTATION

9.1 If Council agrees to adopt the RBWM Licensing Policy Statement 2021 – 2026 it will come into force on 30 June 2021.

## 10. APPENDICES

10.1 This report is supported by 1 appendix:

- Appendix A - The RBWM Licensing Policy Statement 2021 – 2026

## 11. BACKGROUND DOCUMENTS

11.1 None

## 12. CONSULTATION (MANDATORY)

<b>Name of consultee</b>	<b>Post held</b>	<b>Date sent</b>	<b>Date returned</b>
Cllr Cannon	Cabinet Member for Public Protection and Parking	28/05/2021	17/06/2021
Duncan Sharkey	Chief Executive	28/05/2021	15/06/2021
Adele Taylor	Executive Director of Resources/S151 Officer	28/05/2021	01/06/2021
Andrew Durrant	Executive Director of Place	28/05/2021	04/06/2021
Kevin McDaniel	Executive Director of Children's Services	28/05/2021	15/06/2021
Hilary Hall	Executive Director of Adults, Health and Housing	28/05/2021	28/05/2021
Andrew Vallance	Head of Finance	28/05/2021	01/06/2021
Elaine Browne	Head of Law	28/05/2021	03/06/2021
Emma Duncan	Deputy Director of Law and Strategy / Monitoring Officer	28/05/2021	03/06/2021

Nikki Craig	Head of HR Corporate Projects and IT	28/05/2021	02/06/2021
Louisa Dean	Communications	28/05/2021	15/06/2021
Karen Shepherd	Head of Governance	28/05/2021	28/05/2021
Tracy Hendren	Head of Housing, Environmental Health & Trading Standards	28/05/2021	28/05/2021

## REPORT HISTORY

<b>Decision type:</b> Full Council Decision	<b>Urgency item?</b> No	<b>To Follow item?</b> No
Report Author: Greg Nelson, Trading Standards & Licensing Manager 07970 776526		

# **Royal Borough of Windsor and Maidenhead**

## **Statement of Licensing Policy**

### **2021 - 2026**

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## **1. Introduction**

- 1.1 The Royal Borough of Windsor & Maidenhead is a licensing authority as defined in the Licensing Act 2003.
- 1.2 The Licensing Act 2003 requires licensing authorities to publish a licensing policy statement every 5 years. This is the Statement of Licensing Policy for the Royal Borough of Windsor and Maidenhead 2021-2026
- 1.3 Licensing authorities are required to consult with the following when drawing up a licensing policy;
  - The chief of police
  - The fire authority
  - Public health
  - Persons representing holders of existing licenses
  - Persons representing registered clubs
  - Persons representing businesses and residents in the council's area
- 1.4 Due to the ongoing effects of COVID, which started in March 2020, a full consultation was not possible at the time that this policy was drawn up.
- 1.5 This policy is will therefore be considered to be an interim policy until such times as a full consultation can take place. This approach has been agreed with Thames Valley Police, Royal Berkshire Fire & Rescue and Public Health.
- 1.6 This Statement of Licensing Policy will not be used to attach conditions that duplicate other regulatory regimes unless they relate to specific issues that cannot be addressed elsewhere.
- 1.7 The licensing authority will not use this policy to impose standard conditions on licenses without regards to the merits of each individual case. However, it does include model conditions for guidance for when conditions are required to be imposed.

## **2. Licensing Objectives and other Key Aims and Purposes**

### **2.1 Licensable Activities**

This policy relates to the following activities:

- a) The sale by retail of alcohol
- b) The supply of alcohol to qualifying clubs
- c) The provision of regulated entertainment
- d) The provision of late night refreshment

- 2.2 The four licensing objectives covered by this policy, as set out in the Licensing Act 2003, are:

- Prevention of crime and disorder
- Public safety
- Prevention of public nuisance
- Protection of children from harm

2.3 These four objectives are of equal importance. There are no other statutory licensing objectives so the promotion of these four objectives is a paramount consideration at all times.

2.4 This Statement of Policy reflects the guidance issued by the Home Office under section 182 of the Licensing Act 2003 (version published April 2018).

2.5 Paragraph 1.5 of the section 182 guidance states that licensing legislation supports a number of key aims and purposes. These are vitally important and should be principal aims for everyone involved in licensing work. These include:

- Protecting the public and local residents from crime, anti-social behaviour and noise nuisance caused by irresponsible licenced premises.
- Giving the police and licensing authorities the powers they need to effectively manage and police the night-time economy and take action against those premises that are causing the problems.
- Recognising the important role which pubs and other licenced premises play in our local communities by minimising the regulatory burden on business, encouraging innovation and supporting responsible premises.
- Providing regulatory framework for alcohol which reflects the needs of local communities and empowers local authorities to make and enforce decisions about the most appropriate licensing strategies for their local area.
- Encourage greater community involvement in licensing decisions and giving local residents the opportunity to have their say regarding licensing decisions that may affect them.

### **3. The Royal Borough**

3.1 The Royal Borough of Windsor and Maidenhead currently has over 700 licenced premises including Windsor and Ascot racecourses, Legoland and Eton College. Other licensed premises include public houses, night clubs, members clubs, restaurants and takeaways, as well as a theatre and a cinema.

3.2 Windsor is one of the top 4 night-time economy centres within the Thames Valley Police area.

#### **4. Principles**

4.1 Each and every application for a licence will be considered on its own merits and on a case by case basis. Determinations will be made in accordance with this Statement of Licensing Policy and with the section 182 Guidance issued by the Secretary of State.

4.2 Cumulative impact. "Cumulative impact" for the purpose of this policy means the potential impact on the promotion of the four licensing objectives of a significant number of licenced premises concentrated in an area or areas.

4.3 The Council recognises that where there are several premises providing licensable activities in the same area the cumulative impact may have an adverse effect on the community, in particular from nuisance and disorder.

4.4 The Police and Crime Act 2017 amended the Licensing Act 2003 to place Cumulative Impact Assessments on a statutory footing by introducing section 5A of the Licensing Act.

4.5 RBWM Licensing intended to undertake a Cumulative Impact Assessment of the Windsor town centre night-time economy in 2020. The COVID pandemic and its impact on the licenced trade meant this was not possible. It is the intention of RBWM Licensing to undertake such a Cumulative Impact Assessment once it is possible to take place.

4.6 Licensing is not the primary mechanism for controlling antisocial behaviour away from premises and beyond the control of operators. However, it is a key aspect of such control and licensing law is part of the holistic approach to management of the evening and night-time economy in town centres.

4.7 The licensing authority will exercise its function under the Licensing Act 2003 with due regard to requirements and responsibilities placed upon them by other legislation. Legislation which may be relevant includes.

- The Health and Safety at Work etc. Act 1974
- The Noise Act 1996
- The Environmental Protection Act 1990
- The Crime and Disorder Act 1998
- The Clean Neighbourhoods and Environmental Act 2005
- The Gambling Act 2005
- The Regulatory Reform (Fire Safety) Order 2005

- 4.8 The licensing authority recognises its duty to promote equality under the terms of the Race Relations Act 1976 (Amendment) Regulations 2003 and the Equality Act 2010.
- 4.9 The licensing authority will also continue to work with legislation concerning immediate issues such as the coronavirus pandemic.
- 4.10 The licensing authority will secure the integration of licensing with local crime prevention, planning, transport, tourism, race equality and cultural strategies, together with other plans for management of town centres and the night-time economy, by consultation, dialogue and joint working with the departments and agencies concerned.
- 4.11 So far as possible, duplication with other regulating agencies will be avoided and conditions will only be attached to licences which are necessary for the promotion of the licensing objectives set out in paragraph 2.2.

## 5. Conditions

- 5.1 Standardised conditions will be avoided but a selection may be made from the pool of conditions annexed to this report (see Annex 1). Conditions will be tailored to the individual style and characteristics of the premises. So far as possible, conditions will reflect local crime reduction strategies.
- 5.2 The Council maintains that licensing is about the control of licenced premises, qualifying clubs and temporary events within the terms of the 2003 Act. Any terms and conditions attached to licences will be focused on matters which are within the control of individual licensees and others granted relevant permissions, centring on the premises and their vicinity.

## 6. Key Strategies for 2021-2026

### 6.1 Framework Hours

As in the 2016-2021 Licensing Policy, having considered the evidence of alcohol related crime, disorder and anti-social behaviour, the number of late night premises and, in particular, the social, practical and regulatory impacts on the morning after the night before, the licensing authority has adopted a Framework Hours Policy. This Framework Hours Policy will apply to new and variation applications. The framework hours are:

Premises Type	Commencement hour for Licensable Activities No earlier than	Terminal hour for Licensable Activities No later than
Off licence	09:00	23:00
Restaurant/Café	09:00	01:00
Pubs/Bars/Nightclubs	09:00	02:00
Takeaways	N/A	02:00

- 6.2 The Framework Hours Policy is not an entitlement. An applicant will still need to demonstrate that, for the terminal hour of 02:00 to apply, it can operate so as to promote the licensing objectives and that the application and proposed operation is reasonably acceptable in the particular location.
- 6.3 Hot takeaway food and drink  
Late night refreshment venues are those whose activities include supplying hot food and drink for consumption off the premises between the hours of 23:00 and 05:00.
- 6.4 These types of premises are often found in clusters or in close proximity to late night bars, clubs and other potential crime and disorder hotspots which can give rise to a negative cumulative impact on one or more of the licensing objectives. The licensing authority will have regard to the layout of the local area of the premises, the local environment and, in appropriate cases, the cumulative impact of such operations.
- 6.5 Late night refreshment venues are expected to provide a robust Operating Schedule outlining in particular how they will address the prevention of crime and disorder and public nuisance objectives if their application is outside of the Framework Hours. This will include the public nuisance being caused by deposits of litter in the area.
- 6.6 For the purpose of this policy, premises shall be considered as a restaurant or café if the sale of alcohol is made only to seated customers who are dining in the premises and where this is a condition of the licence, or a condition volunteered in the Operating Schedule for the premises. Where such conditions have not been offered the premises will be treated as a public house.
- 6.7 For the purpose of this policy, a premises shall be considered an off licence where the sale of alcohol is for consumption off the premises only, and includes petrol stations, corner shops and convenience stores.
- 6.8 Licensing and Planning Protocol - Please refer to Annex B – Licensing and Planning Protocol
- 6.9 Wider Community Interest - The licensing authority considers that its licensing functions are exercised in the public interest. Furthermore, the licensing authority is under a duty to take any steps with a view to the promotion of the licensing objectives in the interests of the wider community and not just those of the individual licence holder.
- 6.10 The following will be taken into account by the licensing authority and responsible authorities where an application is made for a premises licence within close proximity to residential properties, and which may have an effect on the promotion of the licensing objectives:
- The nature of the activities on the premises

- The character of the surrounding area
- Measures for limiting noise emissions from the premises. These may include as appropriate noise limitation devices, sound insulation, whether windows are to be opened, the insulation of acoustic lobbies and double glazing
- Measures to deal with queuing, where necessary
- Use of outdoor areas
- The location of outdoor smoking areas
- Measures to deal with dispersal of customers from the premises as necessary, including the employment of door supervisors, the use of dedicated hackney carriage / private hire firms, notices in the premises requesting customers to respect neighbours
- Winding down periods, particularly in public houses and nightclubs etc.

## **7. Promoting the Prevention of Crime and Disorder**

7.1 Where appropriate, the licensing authority and responsible authorities may propose conditions relating to the following issues in relation to the Prevention of Crime and Disorder objective:

- Measures to prevent bottles being carried from premises
- Use of drinks promotions
- Measures to prevent binge drinking
- Participation in the Pub Watch Scheme
- Use of door supervisors
- Training staff in crime prevention measures
- Search procedures
- Use of close circuit television
- Lighting
- Where premises are new, designing out crime
- Quality of surveillance of the premises

7.2 Drugs. The licensing authority recognises that drug use by young people in a club environment is not something that is relevant to all licenced premises. However, it is also recognised that special conditions will need to be imposed for certain types of venues to reduce the sale and consumption of drugs.

7.3 Where relevant representations are made by Thames Valley Police, the conditions to be imposed in such cases are set out in Annexe 1 – Pool of Conditions, although further conditions may be imposed from time to time. In all cases where these conditions are to be imposed, advice will be taken from the local Drugs and Alcohol Action Team and the police.

7.3 In addition to meeting the requirements of the licensing objectives, licensees have a social responsibility not to sell drug paraphernalia and other products that promote drug use.

7.4 Officers of the Licensing Team will engage in the following activities: -

- Provide clear information on how to apply for a Premises Licence or Club Premises Certificate.

- Advise venue owners on how to establish and maintain a safe environment.
- Advise venue owners, in partnership with Thames Valley Police, on developing a venue drugs policy.
- Liaise with the police and other officers to ensure good communication about potentially dangerous venues.
- Encourage venues to use outreach services.
- Encourage venues to provide safe transport home.
- Monitor the operation of clubs at times of peak occupancy.
- Ensure that door supervisors are properly registered with the Security Industry Authority.
- Offer to assist with detecting drugs with the use of sniffer dogs and the “Itemiser” drugs detection equipment.

7.5 Door Supervisors. Whenever any persons are employed at licenced premises to carry out any security activity, all such persons must be licenced with the Security Industry Authority.

7.6 Where relevant representations are made, the licensing authority may consider that certain premises require strict supervision for the purpose of promoting the reduction of crime and disorder. In such cases, the licensing authority may impose a condition that licenced door supervisors must be employed at the premises either at all times or at such times as certain licensable activities are being carried out.

## **8. Promoting Public Safety**

8.1 Where appropriate, the licensing authority and responsible authorities may propose conditions relating to the following issues in relation to the Public Safety objective:

- The use of shatterproof glasses
- The promotion of sensible drinking
- Measures taken to prevent drug spiking
- Drugs policies
- Safe capacities

8.2 In appropriate cases, the following conditions may be imposed on premises’ licences to ensure the safety of those attending the premises:

- that a personal licence-holder shall be present at all times when the premises are open for the sale of alcohol
- suitably qualified first aiders will be required

8.3 Capacity. Fire Safety Certificates should impose number restrictions for individual premises. The Licensing Authority and Responsible Authorities may impose conditions in relation to the maximum number of persons to attend premises where: -

- It considers it to be necessary for the purpose of the prevention of crime and disorder or the promotion of public safety.
- If the fire safety certificate was issued prior to any licensable activity taking place at the premises or if activities have changed since the certificate was

issued. In those circumstances, the Council may impose a maximum number of persons to be in the premises at any one time to ensure the safety of those persons at the premises and to ensure a safe means of escape from fire. The implementation of any of these conditions will be following advice from the Fire Authority.

## **9. Promoting the Prevention of Public Nuisance**

9.1 Where appropriate, the licensing authority and responsible authorities may propose conditions relating to the following issues in relation to the Prevention of Public Nuisance objective:

- The disposal of waste, particularly glass
- The use and maintenance of plant, including air extraction and ventilation systems
- Litter in the vicinity of the premises
- Smoking outdoors
- Noise from deliveries / collections to and from the premises
- Measures to control behaviour and queues
- Whether door supervisors are able to stay at the entrance to encourage quiet departure
- The provision of hackney carriage / private hire services at the premises
- Signs on doors and on tables encouraging consideration to the neighbours

9.2 Noise. The licensing authority and responsible authorities may impose conditions to licenced premises to prevent unnecessary noise and disturbance to local residents. This may include restrictions on times when music or other licensable activities may take place and may impose technical restrictions on levels of sound at the premises.

## **10. Promoting the Prevention of Children from Harm**

10.1 The Royal Borough recognises that the protection of children from harm includes the protection of children from moral, psychological and physical harm. This includes not only protecting children from the harms directly associated with alcohol consumption but also wider harms such as exposure to strong language and sexual expletives (for example, in the context of certain films and adult entertainment).

10.2 The licensing authority will consider the need to protect children from sexual exploitation when undertaking licensing functions. Applicants are therefore expected to provide a robust Operating Schedule outlining how they will address the Prevention of Children from Harm objective.

10.3 The licensing authority encourages licence holders and operators of licenced premises:

- To ensure that they are fully aware of the signs of child sexual exploitation and to understand that the sexual exploitation of a child is sexual abuse and a criminal offence
- To raise awareness of their staff about child sexual exploitation and provide intelligence to the appropriate authorities about concerns and about perpetrators who may be operating in their areas.



- 10.4 All applicants need to demonstrate how children and young people will be safeguarded if attending the licenced premises, or how it will be ensured that they do not gain access to the premises if not appropriate.
- 10.5 The licensing authority and other responsible authorities may propose conditions or restrictions in relation to the Protection of Children from Harm objective. These may include;
- Limitations on the hours when children may be present
  - Age limitations below 18
  - Limitations or exclusions when certain activities are taking place
  - Requirements for accompanying adults
  - Full exclusion of people under 18 from the premises when any licensable activities are taking place
  - The provision of a full range of non-alcoholic drinks
- 10.6 Where cinemas are concerned, the Council may impose conditions that children will be restricted from viewing age-restricted films classified according to the recommendations of the British Board of Film Classification or the local authority itself.
- 10.7 Conditions may be imposed on licences where unaccompanied children will be present at places of public entertainment where adult staff must be present to control the access and egress of children and to ensure their safety.

## **11. Consumption of Alcohol in Public Places**

- 11.1 In October 2014, the Antisocial Behaviour, Crime and Policing Act 2014 was introduced across England and Wales. This legislation allows the Council to adopt the relevant powers to designate parts of its area as places where alcohol may not be consumed publicly. PSPOs (Public Space Protection Orders) are intended to deal with a particular nuisance or problem in an area that negatively affects the local community.
- 11.2 The Council's current PSPOs which details restrictions in place across the Borough can be found at <https://www.rbwm.gov.uk/home/community-and-living/community-safety-and-crime/public-space-protection-orders>.

## **12. Enforcement**

- 12.1 The licensing authority has already established joint inspections of premises together with Thames Valley Police which is considered to be highly effective. It is proposed to continue such inspections to ensure the prevention of crime and disorder and the safety of the public.
- 12.2 Inspections will take place at the discretion of the Trading Standards & Licensing Manager and partner agencies, and resources will be concentrated on areas of need.
- 12.3 The Licensing Team will engage with other partner agencies as necessary. The Council has an Enforcement & Prosecution Policy which is available on the Council's website. Enforcement action will be taken in accordance with that policy.

### **13. Film Exhibition**

- 13.1 In connection with the exhibition of films, conditions will specify that immediately before each exhibition at the premises of a film (other than a current newsreel) passed by the British Board of Film Classification, there shall be exhibited on screen for at least five seconds in such a manner as to be easily read by all persons in the auditorium, a reproduction of a certificate of the Board or, as regards a trailer advertising a film, of the statement approved by the Board indicating the category of the film.
- 13.2 For a film passed by the Council, conditions will require notices to be displayed both inside and outside the premises so that persons entering can readily read them and be aware of a category attached to any film or trailer.

### **14. Retail Radio Scheme**

- 14.1 All premises licensees will be encouraged to subscribe to the Council's radio system. For some premises it will be considered that subscription to the scheme should be a condition of the licence to assist with the reduction of crime and disorder at the premises.

### **15. Pub Watch**

- 15.1 Premises licensees or an appropriate representative are encouraged to join and attend their local Pub Watch.
- 15.2 Further information about the Pub Watch Scheme can be found at [www.nationalpubwatch.org.uk](http://www.nationalpubwatch.org.uk) or supplied by the Licensing Team, upon request

## **ANNEX1 – Pool of Conditions**

### **General**

When applicants for premises licences or club premises certificates are preparing their operating schedules or club operating schedules, the following options should be considered as measures which, if necessary, would promote the licensing objectives.

### **Retail Radio**

The Council's retail radio connects premises licence holders, designated premises supervisors, managers of premises and clubs to the local police and can provide for rapid response by the police to situations of disorder which may be endangering the customers and staff on the premises.

The radios provide two-way communication enabling licence holders, managers, designated premises supervisors and clubs to report incidents to the police, and enabling the police to warn those operating a large number of other premises of potential trouble-makers or individuals suspected of criminal behaviour that are about in a particular area. Radios can also be used by licence holders, door supervisors, managers, designated premises supervisors and clubs to warn each other of the presence in an area of such people.

The Secretary of State recommends that such systems should be considered appropriate necessary conditions for public houses, bars and nightclubs operating in city and town centres with a high density of licenced premises. Following individual consideration of the particular circumstances of the venue, such conditions may also be appropriate and necessary in other areas for the prevention of crime and disorder.

A condition requiring radio links to the police will include the following elements:

- A requirement that radio equipment is kept in working order at all times;
- A requirement that the radio link be activated, made available to and monitored by the designated premises supervisor or a responsible member of staff at all times that the premises are open to the public;
- A requirement that any police instructions/directions are complied with whenever given; and
- A requirement that all instances of crime or disorder are reported via the radio by the designated premises supervisor or a responsible member of staff.

### **Door Supervisors**

Conditions relating to the provision of door supervisors and security teams may be valuable in:

- Preventing the admission and ensuring the departure from the premises of the drunk and disorderly, without causing further disorder;
- Keeping out excluded individuals (subject to court bans or imposed by the licence holder);
- Searching and excluding those suspected of carrying illegal drugs, or carrying offensive weapons; and
- Maintaining orderly queuing outside of venues prone to such queuing.

Where door supervisors conducting security activities are to be a condition of a licence, which means that they would have to be registered with the Security Industry Authority, conditions may also need to deal with the number of such supervisors, the displaying of name badges, the carrying of proof of registration, where and at what times they should be stationed on the premises, and whether at least one female supervisor should be available (for example, if female customers are to be the subject of body searches). Door supervisors also have a role to play in ensuring public safety.

### **Bottle Bans**

Glass bottles may be used as weapons inflicting serious harm during incidents of disorder. A condition can prevent sales of drinks in glass bottles for consumption on the premises.

A condition requiring that no sales may be made of beverages in glass bottles for consumption on the premises may include the following elements:

- No bottles containing beverages of any kind, whether open or sealed, shall be given to customers on the premises whether at the bar or by staff service away from the bar;
- No customers carrying open or sealed bottles shall be admitted to the premises at any time that the premises are open to the public (note: this needs to be carefully worded where off-sales also takes place).

In appropriate circumstances the condition could include exceptions, for example, as follows:

- But bottles containing wine may be sold for consumption with a table meal by customers who are seated in an area set aside from the main bar area for the consumption of food.

### **Plastic Containers and Toughened Glass**

Glasses containing drinks may be used as weapons during incidents of disorder and can cause very serious injuries. Consideration could therefore be given to conditions requiring either the use of plastic containers or toughened glass, which inflicts less severe injuries, where considered necessary.

Location and style of the venue and the activities carried on there would be particularly important in assessing whether such a condition is necessary. For example, the use of glass containers on terraces of some outdoor sports grounds may obviously be of concern and similar concerns may also apply to indoor sports events such as boxing matches. Similarly, the use of plastic containers or toughened glass during the televising of live sporting events, such as international football matches, when high states of excitement and emotion fuelled by alcohol might arise, may be a necessary condition.

It should be noted that the use of plastic or paper drinks containers and toughened glass may also be relevant as measures necessary to promote public safety.

## **CCTV**

The presence of CCTV cameras can be an important means of deterring and detecting crime at and immediately outside licenced premises. Conditions should not just consider a requirement to have CCTV on the premises, but also the precise siting of each camera, the requirement to maintain cameras in working order, and to retain recordings for an appropriate period of time.

CCTV should be installed and working to the satisfaction of Thames Valley Police.

CCTV images must be kept for 31 days and made available upon the request of Thames Valley Police employees and authorised persons, as defined by sections 13 & 69 of the Licensing Act 2003.

The DPS or nominated person should be trained on how to work the CCTV system to the standard where the nominated person can download any potential evidence required by Thames Valley Police employees or authorised persons, as defined by Sections 13 & 69 of the Licensing Act 2003.

The nominated person is responsible for supplying the necessary media (discs, data stick).

## **Open Containers Not to be Taken from the Premises**

Drinks purchased in licenced premises or clubs may be taken from those premises for consumption elsewhere when this is permitted by the premises licence. However, consideration should be given to a condition preventing the taking of alcoholic and other drinks from the premises in open containers (e.g. glasses and opened bottles). This may again be necessary to prevent the use of these containers as offensive weapons in surrounding streets after individuals have left the premises.

## **Restrictions on Drinking Areas**

It may be necessary to restrict the areas where alcoholic drinks may be consumed in premises after they have been purchased from the bar. An example would be at a sports ground where the police consider it necessary to prevent the consumption of alcohol on the terracing of sports grounds during particular sports events. Such conditions should not only specify the areas but indicate the circumstances in which the ban would apply and times at which it should be enforced.

## **Capacity Limits**

Although most commonly made a condition of a licence on public safety grounds, consideration will be given to conditions which set capacity limits for licenced premises or clubs where it may be necessary to prevent overcrowding which can lead to disorder and violence. Where such a condition is considered necessary, consideration will also be given to whether door supervisors would be needed to ensure that the numbers are appropriately controlled.

## **Proof of Age Cards**

It is unlawful for children under 18 to attempt to buy alcohol just as it is unlawful to sell or supply alcohol to them. To prevent such crimes, it may be necessary to require a policy to be applied at certain licenced premises requiring the production of "proof of age" before such sales are made.

### **Crime prevention notices**

It may be necessary at some premises for notices to be displayed which warn customers of the prevalence of crime which may target them. A condition attached to a premises licence or club premises certificate might require the displaying of notices at the premises which warn customers about the need to be aware of pickpockets or bags being unattended because of concerns about terrorism. The notice should display the name of a contact for customers if they wished to report concerns.

### **Signage**

It may be necessary for the normal hours under the terms of the premises licence or club premises certificate at which licensable activities are permitted to take place to be displayed on or immediately outside the premises so that it is clear if breaches of the terms of the licence or certificate are taking place.

Similarly, it may be necessary for any restrictions on the admission of children to be displayed on or immediately outside the premises so that the consequences of breaches of these conditions would also be clear and to deter those who might seek admission in breach of those conditions.

### **Large Capacity Venues used Exclusively or Primarily for the “Vertical” Consumption of Alcohol (HVVDs)**

“High volume vertical drinking” premises (HVVDs) are premises with exceptionally high capacities, used primarily or exclusively for the sale of alcohol, and have little or no seating for patrons.

Where necessary and appropriate, conditions will be attached to premises licences for the promotion of the prevention of crime and disorder at such premises (if not volunteered by the venue operator and following representations on such grounds) which require adherence to:

- A prescribed capacity;
- An appropriate ratio of tables and chairs to customers based on the capacity; and
- The presence of SIA registered security teams to control entry for the purpose of compliance with the capacity limit.

### **Disabled people**

In certain premises where existing legislation does not provide adequately for the safety of the public, consideration might also be given to conditions that ensure that:

- When disabled people are present, adequate arrangements exist to enable their safe evacuation in the event of an emergency; and disabled people on the premises are made aware of those arrangements

### **Escape routes**

It may be necessary to include conditions relating to the maintenance of all escape routes and exits including external exits. These might be expressed in terms of the need to ensure that such exits are kept unobstructed, in good order with non-slippery and even surfaces, free of trip hazards and clearly identified. In restaurants and other premises where chairs and tables are provided this might also include ensuring that internal gangways are kept unobstructed.

In certain premises where existing legislation does not provide adequately for the safety of the public, consideration might also be given to conditions that ensure that:

- All exit doors are easily openable without the use of a key, card, code or similar means;
- Doors at such exists are regularly checked to ensure that they function satisfactorily and a record of the check kept;
- Any removable security fastenings are removed whenever the premises are open to the public or occupied by staff;
- All fire resisting doors to ducts, service shafts and cupboards shall be kept locked shut; and
- The edges of the treads of steps and stairways are maintained so as to be conspicuous

### **Safety checks**

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- Safety checks are carried out before the admission of the public; and
- Details of such checks are kept in a Log-book

### **Special effects**

The use of special effects in venues of all kinds being used for regulated entertainment is increasingly common and can present significant risks. Any special effects or mechanical installation should be arranged and stored so as to minimise any risk to the safety of the audience, the performers and staff.

Special effects which should be considered include:

- Dry ice machines and cryogenic fog;
- Smoke machines and fog generators
- Pyrotechnics, including fireworks;
- Real flame;
- Firearms
- Motor vehicles
- Strobe lighting
- Lasers (see HSE Guide The Radiation Safety of Lasers used for Display Purposes [HS (G)95] and BS EN 60825: Safety of Laser Products);
- Explosives and highly flammable substances

In certain circumstances, it may be necessary to require that certain special effects are only used with the prior notification of the licensing authority or [inspection by] the fire authority.

### **Conditions Relating to the Protection of Children from Harm**

For any premises with known associations (having been presented with evidence) with or likely to give rise to heavy or binge or underage drinking, drugs, significant gambling, or any activity of entertainment (whether regulated entertainment or not) of a clearly adult or sexual nature, there should be a strong presumption against permitting any access at all for children under 18 years.

Applicants wishing to allow access for children to premises where these associations may be relevant, when obtaining or varying a premises licence or club premises certificate, should:

- Explain their reasons; and
- Outline in detail the steps that they intend to take to protect children from harm on such premises.

In any other case, subject to the premises licence holder's or club's discretion, the expectation would be for unrestricted access for children subject to the terms of the 2003 Act. An operating schedule or club operating schedule should indicate any decision for the premises to exclude children completely, which would mean there would be no need to detail in the operating schedule steps that the applicant proposes to take to promote the protection of children from harm. Otherwise, where entry is to be permitted, the Operating Schedule should outline the steps to be taken to promote the protection of children from harm while on the premises.

Under the 2003 Act a wide variety of licensable activities could take place at various types of premises and at different times of the day and night. Whilst it may be appropriate to allow children unrestricted access at particular times and when certain activities are not taking place, the Council, following relevant representations made by responsible authorities and interested parties, will need to consider a range of conditions that are to be tailored to the particular premises and their activities where these are necessary.

The Council will consider:

- The hours of day during which age restrictions should and should not apply. For example, the fact that adult entertainment may be presented at premises after 8.00 pm does not mean that it would be necessary to impose age restrictions for earlier parts of the day;
- Types of event or activity in respect of which no age restrictions may be needed, for example;
  - Family entertainment; or
  - Non-alcohol events for young age groups, such as under 18s dances
- Similarly, types of event or activity which give rise to a more acute need for age restrictions than normal, for example;
  - During "Happy Hours" or on drinks promotion nights;
  - During activities outlined in the first bullet point in the first paragraph above.

### **Age Restrictions - Cinemas**

The Secretary of State considers that, in addition to the mandatory condition imposed by virtue of Section 20, requiring the admission of children to films to be restricted in accordance with recommendation given either by a body designated under Section 4, the Video Recordings Act 1984 or by the licensing authority itself, conditions restricting the admission of children to film exhibitions should include:

- A condition that where the Council itself is to make recommendations on the admission of children to films, the cinema or venue operator must submit any film to the authority that it intends to exhibit 28 days before it is proposed to show it. This is to allow the authority time to classify it so that the premises licence holder is able to adhere to any age restrictions then imposed;



- A condition that when films are classified, by either the film classification body as specified in the licence or the licensing authority, they should be classified in the following way:

**U – Universal** - Suitable for audiences aged four years and over

**PG - Parental Guidance** - Some scenes may be unsuitable for young children.

**12A** - Passed only for viewing by persons aged 12 years or older or persons younger than 12 when accompanied by an adult.

**15**- Passed only for viewing by persons aged 15 years and over

**18**- Passed only for viewing by persons aged 18 years and over

- That conditions specify that immediately before each exhibition at the premises of a film passed by the British Board of Film Classification there shall be exhibited onscreen for at least five seconds in such a manner as to be easily read by all persons in the auditorium a reproduction of the certificate of the Board or, as regards a trailer advertising a film, of the statement approved by the Board indicating the classification of the film;
- A condition that when the licensing authority has made a recommendation on the restriction of admission of children to a film, notices are required to be displayed both inside and outside the premises so that persons entering can readily be made aware of the classification attached to any film or trailer. Such a condition might be expressed in the following terms.

“Where a programme includes a film recommended by the licensing authority as falling into the 12A, 15 or 18 category no person appearing to be under the age of 12 and unaccompanied, or under 15 or 18 as appropriate, shall be admitted to any part of the programme; and the licence holder shall display in a conspicuous position a notice in the following terms –

**PERSONS UNDER THE AGE OF [INSERT APPROPRIATE AGE] CANNOT BE ADMITTED TO ANY PART OF THE PROGRAMME**

“Where films of different categories form part of the same programme, the notice shall refer to the oldest age restriction.

This condition does not apply to members of staff under the relevant age while on-duty provided that the prior written consent of the person’s parent or legal guardian has first been obtained.”

### **Theatres**

The admission of children to theatres, as with other licensed premises, is not expected to normally be restricted unless it is necessary to promote the licensing objective of the protection of children from harm. However, theatres may be the venue for a wide range of activities. The admission of children to the performance of a play is expected to normally be left to the discretion of the licence holder and no condition restricting the admission of children in such circumstances may be necessary. Entertainment may also be presented at theatres specifically for children (see below).

### **Performances Especially for Children**

Where performances are presented especially for unaccompanied children in theatres and cinemas conditions are anticipated to be needed which require:

- An attendant to be stationed in the area(a) occupied by the children, in the vicinity of each exit, provided that on each level occupied by children the minimum number of attendants on duty should be one attendant per 50 children or part thereof.
- The Council, having regard to any representations made by responsible authorities on the issue, will also consider whether or not standing should be allowed. For example, there may be reduced risk for children in the stalls than at other levels or areas in the building.

### **Children in Performances**

The Council may consider the following matters:

- Venue – the backstage facilities should be large enough to accommodate safely the number of children taking part in any performance.
- Fire safety – all chaperones and production crew on the show should receive instruction on the fire procedures applicable to the venue prior to the arrival of the children.
- Special effects - it may be inappropriate to use certain special effects, including smoke, dry ice, rapid pulsating or flashing lights, which may trigger adverse reactions especially with regard to children.
- Care of children – theatres, concert halls and similar places are places of work and may contain a lot of potentially dangerous equipment. It is therefore important that children performing at such premises are kept under adult supervision at all times including transfer from stage to dressing room and anywhere else on the premises. It is also important that the children can be accounted for at all times in case of an evacuation or emergency.

### **The Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks**

Where appropriate and necessary, consideration can be given to attaching conditions to premises licences and club premises certificates that require compliance with the Portman Group's Retailer Alert Bulletin.

### **Proof of Age Cards**

Where necessary and appropriate, a requirement for the production of proof of age cards before any sale of alcohol is made could be attached to any premises licence or club premises certificate for the protection of children from harm.

## **ANNEX 2 – Licensing and Planning Protocol**

Licensing and Planning are two separate regimes. As a matter of law the licensing authority could not refuse an application because of the absence of appropriate planning consent. However, the licensing authority would generally expect applicants to have planning and other permissions required for lawful operation of the premises in place at the time of the licensing application.

For the avoidance of doubt, the granting of any variation to an existing licence which involves a material alteration to a building does not relieve the applicant of the need to apply for planning permission, listed building consent or building regulations approval where appropriate.

Whilst there is a clear distinction and separation between the licensing authority and planning authority in terms of their remit, there are times when there are overlapping considerations. In order to secure proper integration across the Council's range of policies, the licensing authority will expect applicants to demonstrate that their proposed use of a premises is lawful in planning terms, including complying with any conditions and timings that may be imposed upon a planning consent prior to any application being submitted under the Licensing Act 2003.

The licensing authority has recognised that the overlap between the objectives of licensing and planning are a source of confusion for operators and the wider community. It is clear that planning, building control and licensing should properly be separated to avoid duplication and inefficiency. This is relatively easy to state but much harder to formulate any general principle that would assist in demarcating the respective competences of the planning and licensing authorities.

It may however be generally stated that the framework and substance of the Licensing Act 2003, and its underlying rationale, would strongly suggest that operational matters are intended primarily for regulation by the licensing authorities.

The inevitable confusion that arises in the practical application of overlapping yet separate regimes undermines the key aim and purpose of greater community involvement in licensing decisions. The Royal Borough has developed a Licensing and Planning Protocol to assist in the proper demarcation of the respective competencies of the licensing and planning regimes.

### **Context**

The Licensing Act 2003 is the legislation that regulates the operation of licenced premises. The licensee is held as responsible for the proper operation of the premises. The Licensing objectives are:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

The Planning Act 2008 is clear that planning permission runs with the land; all planning decisions should be made in line with the national and local planning

policies and should balance the environmental, social and economic impacts of a development.

There is a tension between the two legislative frameworks when it comes to the management of the night-time economy. The Royal Borough has in the past used planning conditions to limit the hours of operation of licenced premises and has also imposed similar restrictions on licences via licence conditions.

However, because the legal considerations and policy framework are different for the two processes there is, in theory and in practice, the possibility of a licenced premises having a planning condition stating one 'closing time' and a licence condition stating another. This is unhelpful not only to the proprietor/operator of the premises, but also to local residents, and hinders the effective management of the night-time economy locally.

The Council has a responsibility to take into account the expectations of local residents to be able to live in peace and enjoy their homes without unreasonable noise, disturbance or fear of crime. Therefore, it is an important duty of the Council to effectively manage the night-time economy wherever licenced premises exist.

The most flexible and proactive tool to manage these premises is the licensing regime as any issues arising through mismanagement of opening hours conditions can be dealt with through the current well-established licence review process.

Having a generic regime responsible for the hours of operation of these premises will mean that there is a greater clarity for residents and licensees, a single point of responsibility for enforcement and simpler town centre management.

### **Planning Applications**

If they believe that a premises subject to a planning application may require a premises licence, the Planning team will liaise with Licensing to see if such a licence is required.

If the premises is likely to require such a licence, then, when granting planning permission, the Royal Borough's Planning team will not include any planning conditions that control the premise's hours of operation.

### **Licensing Applications**

Applicants are already required by statute to send a copy of their application to the Royal Borough's Planning team

The Planning team will ensure that all copies received are considered jointly by both Development Control Planning Officers and by the Planning Enforcement team to see if a relevant objection needs to be mounted or a concern raised with the Licensing team.

If it is felt that an objection or concern should be raised, Development Control Planning Officers will liaise with the Licensing team.

If a licence condition specifies an earlier closing time, then the Royal Borough's Licensing team will enforce the condition in the same way that they have done since the Licensing Act 2003 was implemented.

This entails the use of an annual programmed set of proactive night-time and weekend operations, as well as responding to changes in the Royal Borough's night-time economy and responding to complaints made by residents, the police and other concerned parties and to any intelligence received.

During the course of their normal enforcement duties, licensing officers will, when encountering premises that are allegedly breaching an earlier planning condition closing time:

- remind licensees of their planning conditions and encourage licensees to abide by them
- capture evidence and report the matter to the Planning Enforcement team
- provide relevant witness statements if subsequently requested by the Planning Enforcement team, and
- if required, act as witnesses in any subsequent legal proceedings should formal action be pursued

Both Licensing and Planning teams will also ensure that Lead Members are informed of any and all enforcement actions at their normal Lead Member briefings.

### ANNEX 3 - Delegation of Functions

<b>Matter to be Dealt With</b>	<b>LPSPO Sub Committee</b>	<b>Officers</b>
Application for Personal Licence	If an objection is made	If no objection is made
Application for a Personal Licence with unspent convictions	All cases	
Application for premises licence/club premises certificate	If representation is made	If no representation is made
Application for provisional statement	If representation is made	If no representation is made
Application to vary premises licence/club premises certificate	If a representation is made	If no representation is made
Application to vary Designated Premises Supervisor	If a police objection is made	All other cases
Request to be removed as Designated Premises Supervisor		All cases
Application for transfer of premises licence	If a police objection is made	All other cases
Applications for Interim Authorities	If a police objection is made	All other cases
Application to review premises licence/club premises certificate	All cases	
Decision on whether complaint is irrelevant, frivolous, vexatious etc.		All cases
Decision to object when Local Authority is a consultee and not the relevant authority considering the application	All cases	
Determination of a police objection to a Temporary Event Notice	All cases	
Applications for minor variations		All cases
Delegation of authority in relation to powers of entry		Head of Housing, EH & TS
Authority to make a representation to review a licence on behalf of the Licensing Authority as a Responsible Authority		Trading Standards & Licensing Manager