

- 2.1 When administering licensing matters the council as the Licensing Authority will have regard to and promote the four Licensing Objectives set out in section 4 of Part 2 of the Licensing Act 2003.

**The four licensing objectives are the:**

- **Prevention of Crime and Disorder**
- **Prevention of Public Nuisance**
- **Public Safety**
- **Protection of Children from Harm**

The Licensing Authority gives equal weight to each of these objectives.

- 4.4 It is fact that well managed licensed premises and licensable activities contribute to the boroughs activity, vitality, vibrancy and economy by attracting local residents and visitors to use the premises and facilities on offer, and provide sustainable employment for people who work at those premises. The licensed premises and licensable activities regulated by the Licensing Act 2003 will play a significant part in realising that vision.

- 5.1 This Policy aims to promote the Licensing Authority's vision for the borough as a whole and its hopes:

***'to establish in the borough a wide choice of high quality and responsibly managed entertainment and cultural venues which provide a diverse range of licensed activities, community interaction and a variety of places for retail and refreshment; ensuring at all times the safety and amenity of residential communities, business communities and the visiting public'***

- 5.5 The Policy aim is to clearly set out how Basingstoke and Deane Borough Council in its role as the Licensing Authority will promote the four licensing objectives when dealing with licensing matters. The four licensing objectives are:

- Prevention of Crime and Disorder
- Public Safety
- Prevention of Public Nuisance
- Protection of Children from Harm

- 5.6 The Licensing Authority will regulate licensable activities at licensed and unlicensed premises in the combined interests of the public and licensed trades, and recognises that these activities contribute to the quality of lives of the borough's residents, businesses and visitors and help support the local economy.

- 5.7 To achieve this aim the council is committed to partnership working with the responsible authorities, local businesses, licensing trade, residents, those involved in the protection of children and other interested parties towards the promotion of the objectives. The council will ensure that it takes into account the views of these stakeholders and ensure proper integration of local crime prevention, planning, transport, employment, tourism and cultural strategies.
- 5.8 The Licensing Authority aims to balance the protection of the amenity of the local population with the expectations and ability of local businesses to operate in an environment that is attractive and sustainable for their business. The Policy aims to minimise the impacts of licensable activities on residents, visitors, stakeholders and the environment.
- 5.9 This Policy aims to guide applicants, residents and other persons on the general approach that the council will take to licensing applications and other related issues. Although each application will be considered individually on its own merits, this Policy indicates the wider considerations that will be taken into account when determining applications. However, it is not the Council's intention in adopting this Policy to override the right of any person to make an application and have it considered on its merit.
- 5.10 The council will work with other local authorities, particularly those with whom boundaries are shared, to ensure a consistent approach is taken to licensing issues whilst respecting the differing needs of the individual communities.
- 6.11 **Designated Premises Supervisor (DPS) at alcohol licensed premises.** Whilst this role has a limited definition under the Licensing Act 2003, it is expected that this person nominated on a licence will have overall responsibility for the day to day management and control of the licensed premises and in particular be responsible for the safe receipt, storage and sale of alcohol.
- 6.12 The Licensing Authority would expect the DPS to be onsite at the licensed premises for the majority of time when alcohol is being sold subject to working hours' legislation and absence for sickness and holidays. The Licensing Authority expects the DPS to provide training to staff in relation to alcohol sales and to authorise the employees the DPS considers competent to sell alcohol on their behalf in writing.
- 6.13 The Licensing Authority expects that a DPS should have responsibility for only one licensed premises at a time to ensure good management of the premises and the licensable activities. Where the same person is a nominated DPS on more than one premises licence and representations are made, the Licensing Authority will wish to satisfy itself that the premises in question can properly be managed by that person whilst responsibly promoting the licensing objectives.

## 7 **RESPONSIBLE AUTHORITIES AND OTHER PERSONS**

- 7.1 Responsible authorities are public bodies that are statutory consultees that must be notified of applications by the applicant. The full list and contact details can be found at Appendix A and are contained on the Basingstoke and Deane Borough Council web-site at [Responsible Authorities](#)
- 7.2 When dealing with applications for licences and reviews of premises licences, the Licensing Authority is obliged to consider representations from two categories of persons, referred to as 'Responsible Authorities' and 'Other Persons'. This allows for a broad range of persons including ward councillors to comment both for and against applications for premises licences and club premises certificates and for reviews.
- 7.3 The Licensing Authority may only consider representations that are relevant in that they relate to the promotion of the licensing objectives, or that they raise issues in relation to this Statement of Licensing Policy or Home Office Guidance.
- 7.4 The Licensing Authority will take care to ensure that concerns raised by Responsible Authorities in relation to their own legislative functions are not taken into account if they are not relevant to the application for a premises licence under the Act, or the promotion of the licensing objectives. It would expect those authorities to use their powers and duties within their statutory roles to control such matters. Any representation made by a Responsible Authority that relates to the promotion of the licensing objectives will be accepted.
- 7.5 The Licensing Authority must give the appropriate amount of weight to representations made by the Police on crime and disorder matters. The Police are the Licensing Authority's main source of advice on matters relating to the promotion of the crime and disorder licensing objective. The Licensing Authority will accept representations made by the Police unless the authority has evidence that to do so would not be appropriate for the promotion of the licensing objectives.
- 7.7 The Licensing Authority will examine closely all representations to ensure that they are not frivolous, repetitive or vexatious. Matters that this authority will look at are likely to include:
- who is making the representation, and whether there is a history of making representations that are not relevant or which have been previously considered vexatious or frivolous
  - whether the representation raises a 'relevant' issue
  - whether the representation raises issues specifically to do with the premises and/or the licensable activities that are the subject of the application.
- 7.8 The above considerations are not exhaustive, and the Licensing Authority will have regard to anything a person making a representation, or persons representing them, say about his or her status to make representations. Nothing in this Policy should be taken to undermine the right of any person to make a representation on an application or to seek a review of a licence where provision to do so exists.
- 7.10 **The Licensing Authority as a Responsible Authority**. The Licensing Authority has carefully considered its role as a Responsible Authority under the Act. It will achieve a separation of responsibilities through procedures and approved delegations within the authority to ensure procedural fairness and eliminate conflicts of interest. A separation is achieved by allocating distinct functions (i.e. those of Licensing Authority and Responsible Authority) to different officers within the licensing team.

## **8 LICENSING AUTHORITY POLICY APPROACH TO LICENSING IN THE TOWN CENTRE**

8.1 Basingstoke Town Centre is the area that contains the highest concentration of licensed premises of all types and contains the area covered within the Purple Flag accredited area. The Town Centre is where large numbers of people go for a night out to eat and/or drink or enjoy a film, concert or play

and that many wish to enjoy the facilities into the early hours. It also accepts that the majority of the customers are well behaved and respectful of others.

8.7 The Licensing Authority in its partnership role with the Police, aims to maintain the current status of low numbers of crimes and antisocial behaviour within the Town Centre, but will use the licensing process where necessary to tackle any increases and in particular those issues that can be attributed to a specific licensed premises.

8.8 The Licensing Authority will expect all applicants for new licences and for variations to existing licences in the Town Centre area to include a detailed operating schedule within the application to ensure that their new business or changes to the operation of their business enhances and compliments the existing style and characteristics of the Top of Town and does not create a negative impact.

8.9 Where matters of concern arise from an application which generates representations, the Licensing Authority will, where appropriate control, or

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restrict trading hours and/or activities and impose appropriate and proportionate licence conditions to adequately mitigate those concerns where evidence supports such control in order to promote the licensing objectives.

## **12 HUMAN RIGHTS AND EQUAL OPPORTUNITIES**

12.1 The Human Rights Act 1998 makes it unlawful for a local authority to act in a way which is incompatible with the European Convention on Human Rights. In making decisions and determining appropriate action the council will have due regard to the Convention. The Licensing Authority will interpret the LA2003 in a manner consistent with the Human Rights Act 1998.

12.2 The Licensing Authority will consider the effect upon people's human rights and adopt a principle of proportionality and the need to balance the rights of the individual with the rights of the community as a whole. Action taken by the council which affects another's rights must be no more onerous than is necessary in a democratic society.

## 13 COMPLIANCE AND ENFORCEMENT

- 13.1 There are a range of other offences detailed under Part 7 of the Licensing Act 2003. The Licensing Authority will liaise with the Responsible Authorities to determine enforcement of specific offences on a case by case basis. Offences related to sales of alcohol to minors will be enforced by the Police or Trading Standards Authority unless they form part of a range of offences identified by the Licensing Authority.
- 13.2 The Licensing Authority has an approved Licensing Enforcement Policy which complies with the Regulatory Compliance Code and is available on the Council's website by clicking here. [Enforcement Policy](#)
- 13.3 A risk-based inspection programme is in place, which includes the targeting of high risk premises which require greater attention, whilst operating a lighter touch in respect of low risk and well managed premises. The risk-based approach is based on Home Office Guidance; the activities authorised and premises compliance history.
- 13.4 The Licensing Authority has established protocols with the local Police on enforcement issues where necessary. This enables the more efficient deployment of council staff and Police officers who are commonly engaged in enforcing licensing Law and the inspection of licensed premises. Where necessary, inspections will be carried out jointly. The aims of the protocol are to target agreed problem and high risk premises which require greater attention whilst providing a lighter touch in respect of low risk premises which are well run.

## 21 REVIEW OF A PREMISES LICENCE OR CLUB PREMISES CERTIFICATE

- 21.1 The Licensing Authority acknowledges that matters can arise at premises that raise concern as to the continued promotion of the licensing objectives at licensed premises.
- 21.2 The Act allows a licence to be reviewed where such matters arise. It is expected that most reviews will be applied for by Responsible Authorities.
- 21.3 Although this Licensing Authority is also a Responsible Authority and entitled to bring about a review application, it is not expected that it will act as a Responsible Authority on behalf of other parties (for example, local residents, local councillors or community groups).
- 21.4 Such parties can make relevant representations to the Licensing Authority in their own right, and it is reasonable for the Licensing Authority to expect them to make representations themselves where they are reasonably able to do so. However, if these parties have failed to take action and the Licensing Authority is aware of relevant grounds to make a representation, it may consider acting in its capacity as Responsible Authority.
- 21.5 The Licensing Authority will determine whether a review application is relevant and the validity of a review application will be determined by a licensing officer. This will be on the basis of whether the request for the review is relevant to the matters listed below:
- in accordance with the Guidance issued by the Home office
  - relevant to the non-promotion of the licensing objectives

- 21.6 The request for the review will also be subject to the consideration by the licensing officer as to whether the request is frivolous, vexatious, or repetitious. (See Paragraph 7.7)
- 21.7 The Licensing Authority would expect grounds for a review to be evidence based but will consider each application on its merits and allow the benefit of doubt where necessary.
- 21.8 Where a review application is accepted the Licensing Authority will encourage the parties to enter into mediation during the consultation period to help resolve issues arising. Such mediation would usually be chaired by the Licensing Manager or a licensing officer, but all parties may choose to have a different third party as a mediation chairperson.
- 21.9 All representations received in support of or against a review application will be considered by the licensing officers as to whether such representations are relevant to the application. Where appropriate the benefit of doubt will be given and representations accepted.
- 21.10 All reviews will lead to a hearing before a sub-committee. This may be a full hearing or a condensed hearing to consider the outcome of mediation. However other parties who have made representation but not been involved in mediation will be permitted to voice their representations at the hearing in accordance with the Hearings Regulations. The Policy applied to hearings can be found at section 23.
- 21.11 The authority considers that where reviews are raised as a result of serious crime and disorder causing that licensing objective to be undermined, then it is likely that the a revocation of the licence will be considered.
- 21.12 More information can be found on the Council's website by clicking here: [How to review a Premises Licence or Club Premises Certificate](#)

## **23 HEARINGS**

- 23.1 Any application that has resulted in the submission of relevant representations from any party will be referred to the Licensing Sub-Committee for a hearing and determination in accordance with the 2003 Act and the Licensing Act 2003 (Hearings) Regulations 2005.
- 23.2 A sub-committee will consist of 3 suitably trained members of the Licensing Committee. No members will serve on a sub-committee involving an application for a licence within their own ward. The subcommittee will be advised on the law by a member of the Council's Legal Services Team. That legal team member will not be involved in the application process to prevent a conflict of interest by ensuring a clear separation of roles.
- 23.3 This Policy will play a key role in achieving consistency in decision making and will ensure decisions are made in a way which promotes a sustainable leisure economy for the borough.
- 23.4 Where representations are made only by Responsible Authorities, the Licensing Authority would expect applicants and Responsible Authorities to enter into negotiation or mediation prior to a hearing in an attempt to resolve issues before attending the licensing hearing.

- 23.6 Parties will be advised of the hearing date and procedure in advance and in accordance with the statutory process. At all hearings the sub-committee will have regard to the Guidance issued under section 182 of the Act. This authority may use its discretion where there are strong and defensible reasons for departing from the Guidance and where it considers it right to do so. In any such case this authority will clearly express and explain its reasons for doing so.
- 23.7 The Licensing Authority must give the appropriate amount of weight to representations made by the Police on crime and disorder matters. It will give appropriate weight to all representations made by all parties based on the content and relevance to the promotion of all licensing objectives.
- 23.8 All decision notices will be in writing and will include clearly stated reasons to explain a decision on an application.
- 23.9 In respect of all of the licensing objectives, licensing officers may be asked to assist in the drafting of licence conditions relevant to the application and representations in order to assist the Sub-Committee at a hearing

## **24 LICENCE CONDITIONS**

- 24.1 A key concept in the Licensing Act is that conditions that are attached to licences or certificates are tailored to suit the individual style and characteristics of the premises and its activities and the impact of those activities. Those conditions will be deemed appropriate and proportionate in order to promote the licensing objectives at that premises.
- 24.2 All licences that authorise the sale of alcohol will be subject to the mandatory conditions set out in the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010. A copy of those conditions can be found on the Council's website by clicking here: [Mandatory Licensing Conditions for premises selling or supplying alcohol](#)
- 24.4 Where applications receive valid representations and are subject to a hearing, the sub-committee will consider the evidence provided within representations, the detail of the application, the nature of the premises and business and only where appropriate will attach conditions to a licence to secure the promotion of the licensing objectives in light of the evidence provided.
- 24.5 Decisions on individual licence conditions will be made on a case by case basis, and where there are concerns over the effective promotion of the licensing objectives, the applicant will be expected to offer suggestions on how the objectives can be met. This authority will work closely with all parties and the applicant in establishing workable and reasonable conditions for new and variation applications.
- 24.6 In all cases the Licensing Authority will have regard to the Guidance when considering the implementation of licence conditions. Further information on the Guidance can be found at the Home Office website by clicking here: [Guidance to the Licensing Act issued by the Home Office](#)
- 24.7 In all cases conditions will aim to promote the licensing objectives, be unambiguous and enforceable, appropriate to the activities and the business, achievable and applicable to the premises itself and the areas around the premises which is within the licensees control.

24.8 The Licensing Authority recognises the need to avoid, so far as possible, duplication with other regulatory systems including Health and Safety at Work, Fire Safety, Food Hygiene and Nuisance Control. However these regulations may not cover the unique circumstances of some activities and entertainment. In these circumstances, the council may therefore, where necessary, attach conditions to premises licenses for the promotion of the licensing objectives.

24.9 Conditions to promote the Prevention of Crime and Disorder.

Under the Act the Licensing Authority has a duty to promote the licensing objectives, and, a further duty under the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in the borough.

24.10 The applicant will be expected to detail in their operating schedule how they will prevent crime and disorder on and close to the premises. Such detail should reflect the licensable activities on offer, location and character of the area, the nature of the premises use and the range of customers likely to use the premises.

These may include, but are not limited to, the following:

- Prevention of disorderly conduct and anti-social behaviour
- Prevention of underage drinking
- Prevention of sales of alcohol to intoxicated customers
- Prevention of drunkenness both on and in the vicinity of the premises
- Prevention of drug use and drug dealing
- Restriction of drinks promotions
- Use of safety glass
- Inclusion of a wind-down time following alcohol sales period
- Adequate seating to discourage "vertical drinking"
- The offer of food and snacks or other entertainment or occupation to discourage persistent drinking

24.11 In busier premises the Licensing Authority would expect to see a short (say 30mins) 'wind down' or 'drinking up' period allowed for after the cessation time of entertainment and alcohol sales as this is effective in assisting in a reduction in noise and exuberance of customers before leaving the premises.

24.12 Where the Licensing Authority determines after consultation with the police that a premise is one that warrants additional security and monitoring it would expect applicants to include the provision of SIA approved door staff at the premises at appropriate times. Relevant premises are usually those used mainly for drinking alcohol, have later opening hours and are situated within the Town Centre night time economy area. Applicants will be expected to seek advice from the Police and the Licensing Authority will give appropriate weight to requests by the Police for premises to be protected by SIA registered door staff subject to the provision of relevant evidence.

24.13 Where appropriate, applicants for licences in the Town Centre areas providing mainly alcohol, music and dancing would be expected to include a provision of safety glasses to prevent a risk of injury on the rare occasion that a glass may be used as a weapon.

- 24.14 The use of CCTV should be considered where appropriate or on the advice and recommendations of the Police and to a quality and standard approved by the Police for evidence purposes. Licensees will be expected to fully comply with the requirements of the Information Commissioners Office and the Data Protection Act 1998 in respect of any surveillance equipment installed at a premises.
- 24.15 In any application the sub-committee will consider each application on its individual merits and determine the imposition of conditions that are appropriate to the objectives.
- 24.16 **Conditions to promote Public Safety.**  
The applicant will be expected to show that the physical safety of persons attending the premises will be protected and will offer relevant steps in the operating schedule to promote this.
- 24.17 Such steps will not replace the statutory obligation on the applicant to comply with all relevant legislation under the Health and Safety at Work etc. Act 1973 or under the Regulatory Reform (Fire Safety) Order 2004.
- 24.21 Steps to prevent public nuisance may include a range of options including noise limiting devices, sound insulation, wind down periods, acoustic lobbies, management of smoking areas etc.
- 24.22 Steps will differ depending on the individual premises and activities and it is for the applicant to ensure that reasonable, effective and appropriate steps are included within the operating schedule.
- 24.23 **Conditions to promote the Protection of Children from Harm.**  
Applicants will be expected to detail steps to protect children at the premises from any harm. The Licensing Authority recognises the right of licensees (serving alcohol) to allow accompanied children into their premises. The Licensing Authority would not seek to restrict access by children (above that specified in the Act) unless it is necessary for the prevention of physical, moral or psychological harm.
- 24.24 Steps to prevent children from harm must be included where:
- (i) There is entertainment or services of an adult nature provided.
  - (ii) There have been previous convictions for under age sales of alcohol.
  - (iii) There is a known association with drug taking or dealing.
  - (iv) There is a significant element of gambling on the premises.
  - (v) There is a presumption that children under 18 should not be permitted entry such as to nightclubs (apart from when specific events are held for under 18's).
  - (vi) Outcomes of discussions with relevant Responsible Authorities suggest such steps are applicable.
- 24.25 Nothing in the Licensing Act prevents licensees from excluding children from a licensed premises and no condition can be added to require the admission of children.
- 24.26 Where there are no matters that give rise to concern in respect of children at premises the Licensing Authority would expect to see the relevant box on an application form completed to specify NONE.

- 28.13 **Outdoor seating areas at licensed premises.** It is recognised that many 'on' licensed premises are located in pedestrianised streets with areas of outdoor space on the public highway adjacent to the premises. Customers like to sit outside such premises when the weather is suitable and a 'café' style culture is encouraged.
- 28.15 Licensees will be expected to make appropriate arrangements for customers who wish to smoke outside the premises to ensure that the licensed highway area is not also used as the allocated smoking area. This is to prevent nuisance and potential ill-health to non-smokers who wish to use the outside seating.