

**Licensing Committee  
5.1.15**

**LICENSING ACT 2003 - REVIEW OF LICENSING POLICY**

**1 Purpose**

- 1.1 For Licensing Committee to note the requirement to review the Council's current Licensing Policy Statement and for them to further note the key proposals in the latest draft and comment upon them.

**2 Recommendations/for decision**

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| 2.1 That the Licensing Committee comment on the Council's draft Licensing Policy Statement. |
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**3 Supporting information**

- 3.1 The Licensing Act 2003 (the Act) requires the Licensing Authority to prepare and publish a statement of its licensing policy every 5 years. Up until recently it was every 3 years. The first statutory 3 year period began in January 2005. The second policy was published in January 2008 and our current policy was published in January 2011. Although the Licensing Authority have until 2016 to review its current policy it is felt that there have been significant changes in legislation and the statutory guidance to justify a thorough review prior to then.
- 3.2 The Council now has 8 years practical experience in implementing the Act. The current policy has proved successful, particularly as it applies to Aylesbury town centre not only in contributing to a continuing fall in crime and disorder (a Community Safety Partnership priority) but also assisting in the development of the town centre in line with the Council' Strategic Town Centre Vision. The saturation policy has been commended by the Association of Town Centre Management's Purple Flag award for the town centre.
- 3.3 It is the intention of the 4<sup>th</sup> generation policy to reflect the Council's vision for the night time economy particularly in our town centres and promote standards by setting out our expectations of business practice through licensing mechanisms. A restraint policy in respect to Aylesbury town centre has proved both necessary and successful and an approach which seeks to restrain later hours is intended for Buckingham town centre.
- 3.4 Attached as Appendix 1 is a draft policy proof read by a leading licensing Counsel which sets out the Licensing Authority's approach for the Vale. The draft not only includes changes to the law but, just as important better reflects changes in Government policy in respect of licensing. The current coalition Government have abandoned the previous Government's experiment with longer licensing hours. Current policy and guidance now empowers Licensing Authorities to introduce restrictions on hours and implement strategies to meet the needs of the local area, based on local knowledge.

- 3.5 Prior to consultation the originally drafted evidential basis of the policy will require updating. Indeed the draft policy acknowledges the need to periodically review the evidence supporting it. The practical experience of the Licensing Authority is that the evidential basis of the policy occurs continuously and naturally throughout its life. The Community Safety Partnership regularly review crime and disorder across the Vale and identify priorities. For example non-domestic violent crime in Aylesbury town centre continues to be a priority. The Buckingham Neighbourhood Action Group routinely discuss issues arising from licensed premises in their town. The Local Police Authority convene weekly meetings with Council licensing officers to discuss crime and disorder during the night time economy. These primarily relate to the town centres of Aylesbury and Buckingham. The evidential basis of the policy is evaluated every time premises are subject to sub-committee hearings and subsequent appeals.
- 3.6 Once complete the draft will be subject to thorough consultation with, amongst others all responsible authorities, District Councillors, the County, Town and Parish Councils and of course the licensed trade. In addition meetings will be convened for licensees and other parties for the town centres of Aylesbury and Buckingham. It is intended that consultation will continue for 12 weeks in line with Government guidance. The draft will also go before the Environment and Living Scrutiny Committee. All comments arising from the consultation will be considered and if appropriate incorporated into the draft. This final draft will then be brought before Licensing Committee for final approval and recommendation to Full Council.

#### **4 Options considered**

- 4.1 The review of the Licensing Policy is a legal requirement and there are no other options available.

#### **5 Reasons for Recommendation**

- 5.1 The Licensing Act 2003 requires the Licensing Authority to prepare and publish a statement of its licensing policy every 5 years. Although the current policy need not be reviewed until 2016, changes in the law, statutory guidance and Government policy expedite the necessity.

#### **6 Resource implications**

- 6.1 Resources relating to drafting and consultation will be met by income from statutory set fees arising from the Act.

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Background Documents	Guidance issued under section 182 of the Licensing Act 2003



# Licensing Policy Statement

January 2015

DRAFT

# Contents

## **Part A.     INTRODUCTION**

### **1     A SUSTAINABLE LEISURE ECONOMY**

**The role of Policy**

**Formulation of Policy**

**The Policy in action**

**Partnerships**

**Amenity**

**Public participation**

### **2     LEISURE ECONOMY STRATEGIES**

**Planning**

## **Part B.     PROMOTING THE LICENSING OBJECTIVES**

### **3    HOW THIS POLICY WORKS**

### **4    HOURS**

### **5    SPECIAL SATURATION POLICY – AYLESBURY TOWN CENTRE**

### **6    LICENCE CONDITIONS**

**The Standards**

**Prevention of crime and disorder**

**Public safety**

**Protection of children from harm**

**Specific situations**

**Large events**

**Sexual Entertainment Venues**

**Pavement Trading**

**Part C.      THE SYSTEM IN ACTION**

**7 THE LICENSING PROCESS**

**Applications for premises licences**

**Temporary events**

**Applications for personal licences**

**Designated Premises Supervisors**

**Licence reviews**

**8      DELEGATION AND DECISION-MAKING**

**The Licensing Committee**

**9      ENFORCEMENT**

**Complaints against licensed premises**

**Inspection of premises**

**APPENDIX 1      Summary of the factors considered in adopting a special saturation policy for Aylesbury Town Centre**

**APPENDIX 2      Evidential basis for restraint policy in Buckingham**

**APPENDIX 3      Pool of conditions**

**APPENDIX 4      Glossary of terms**

**APPENDIX 5      Map of Special Saturation Area**

## **General explanation of changes and improvements made**

When the Council first published its Licensing Policy (the Policy) in January 2005 in compliance with Section 5 of the Licensing Act 2003 (the Act), we could only best guess how in practice we would exercise our powers. The Act was then a new and untested piece of legislation and its practical impact was uncertain. In particular, the licensing of the sale and supply of alcohol and take-aways was not something that the Council had any previous experience of.

In the ensuing years the precise nature of the Council's role, acting in its capacity as Licensing Authority, has evolved and matured.

When the Council reviewed its policy in 2007 we were able to address the gap between the anticipated role of the Licensing Authority as defined in our first policy and the role actually assumed in reality. The Council's revised policy, which we published in January 2008, was much more experience based and therefore more responsive to the effects of the new licensing regime.

The third generation policy, published in January 2011 drew on the lessons learnt over a further 3 years of operational experience, changes were made to the policy which built on past successes and which challenged in new or more effective ways remaining areas of concern. This experience allowed the Council to develop its policy making role with greater confidence, clarity and precision as to what works in the district of Aylesbury Vale in terms of promoting the licensing objectives.

The Council now has 9 years of practical experience in implementing the Act. The previous policy has proved successful, particularly as it applies to Aylesbury town centre not only in contributing to a continuing fall in crime and disorder (a Community Safety Partnership priority) but also assisting in the development of the town centre in line with the Council's Strategic Town Centre Vision. The saturation policy has been commended by the Association of Town Centre Management's Purple Flag award for the town centre. It is the intention of this current policy to reflect the Council's vision for the night time economy, particularly in our town centres and promote standards by setting out our expectations of business practice through licensing mechanisms. A restraint policy in respect to Aylesbury town centre has proved successful, and an approach which seeks to restrain later hours is intended for Buckingham town centre.

The Policy has also generally been updated and, in particular, changes have been made to reflect amendments made to the Licensing Act 2003 and the Guidance issued under Section 182 of the Act to Licensing Authorities as well as case law developments.

Finally, the opportunity has been taken to improve the drafting of the policy wherever this was felt necessary.

## PART A INTRODUCTION

### 1 A SUSTAINABLE LEISURE ECONOMY

#### The Role of Policy

- 1.0 Aylesbury Vale District Council wishes to promote a sustainable local leisure economy. Such an economy must be safe, welcoming, diverse, accessible and attractive to the population as a whole. It must minimise negative impacts of such an economy, whether on local residents, visitors or the environment.
- 1.1 Licensing has a crucial role to play in achieving that goal, through the formulation of policy, individual decision-making, promotion and encouragement of best practice and through enforcement. This is the job of the District Council as Licensing Authority.
- 1.2 Licensing is concerned with promotion of the licensing objectives. These are:
- a) The prevention of crime and disorder;**
  - b) Public safety;**
  - c) The prevention of public nuisance; and**
  - d) The protection of children from harm.**

Each of these objectives has equal importance.

- 1.3 In all that it does, the Licensing Authority will work to promote the Licensing Objectives. This Policy, which the Licensing Authority is obliged to publish every five years, explains how the Licensing Authority intends to do so.

## Formulation of policy

- 1.4 This is the fourth edition of this Policy. The first was first prepared and published in January 2005 just before the introduction of the Licensing Act 2003. The second was published in January 2008 and the third in January 2011. In determining this new Policy the Licensing Authority has applied its experience in administering the licensing system under the Licensing Act 2003. It has also taken into account revisions to the National Guidance, local appeal decisions, case law, best practice, the Aylesbury Town Centre Plan, the views of the Buckingham Neighbourhood Action Group, Community Safety Partnership, and the views of a wide range of stakeholders.
- 1.5 In preparing this Policy, the Licensing Authority has taken into account current national Guidance issued by the Secretary of State. Nevertheless, this Policy concerns Aylesbury Vale and is directed to the specific needs and priorities of the District.
- 1.6 The Licensing Authority has consulted widely in the formulation of this Policy, including with the following:
- a) Thames Valley Police**
  - b) Police Crime Commissioner**
  - c) Buckinghamshire Fire & Rescue Service**
  - d) All Pubwatch schemes operating in the Vale**
  - e) Licensees of all premises holding a Premises Licence for Alcohol, Entertainment or Late Night Refreshment**
  - f) Club premises certificate holders.**
  - g) Licensing Committee**
  - h) District Councillors**
  - i) Town Councils and Parish Councils**
  - j) Aylesbury Old Town Residents Association**
  - k) Bucks County Council Safeguarding Children Board**
  - l) The Local Health and Safety Enforcing Authority**



- m) **The Local Planning Authority**
- n) **The Director of Public Health.**
- o) **The Local Leisure and Community Engagement Authority**
- p) **The Local Environmental Health Authority**
- q) **The Local Trading Standards Authority**
- r) **Alcohol Advisory Group**
- s) **British Beer and Pub Association**
- t) **Community Safety Partnership**
- u) **Buckinghamshire County Council Highways**
- v) **South Central Ambulances**
- w) **Buckingham Neighbourhood Action Group**

### The Policy in action

- 1.7 This Policy relates to the following activities that are required to be licensed under the Act:
- a) **The sale of alcohol by retail;**
  - b) **The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club;**
  - c) **The provision of regulated entertainment to the public or to club members or for consideration and with a view to profit. Regulated entertainment includes the performance of a play, film exhibitions, indoor sporting events, boxing or wrestling events, performing live music and playing recorded music (except incidental music) and performances of dance. dance performances and the provision of facilities for making music or dancing, and entertainment of a similar description. Certain exemptions apply, for example unamplified music before up to 11 p.m. and amplified music on licensed premises to an audience of no more than 200 people;**  
**and**
  - d) **The provision of late night refreshment.**

1.8 This policy explains how licensable activities can be harnessed and run to promote the

licensing objectives. It depends on the co-operation of a number of parties:

- Applicants are expected to read this Policy before making applications for new licences or variations and to tailor their applications to meet the licensing objectives.
- Local residents will be assisted by reading this Policy when deciding whether to make a representation to licence applications and if so whether to object to the principle of the application or merely the conditions which have been offered this can be found on the Aylesbury Vale District Council web site <http://www.aylesburyvaledc.gov.uk/business/licensing-regulation/making-representation/>
- Responsible authorities will be expected to act as guardians of the Policy by pointing out any departure of applications from its terms. This applies in particular to the Licensing Authority itself, which is a responsible authority under the Licensing Act 2003.
- Local councillors, who have the same entitlement to make representations as other members of the public, will similarly be expected to relate any objections to applications to terms of the Policy.
- The Licensing Committee and Sub-Committee will use the Policy as a starting point when deciding applications for new licences, variations and reviews.
- The Magistrates' Court, when deciding appeals, must stand in the shoes of the Licensing Authority when applying the Policy.

1.9 Therefore, the Policy plays a key role in achieving consistency in decision-making

and ensuring that all applications are decided in a way which promotes a sustainable leisure economy for the area as a whole.

- 1.10 Nothing in this Policy prevents any party from making any application and having it determined on its merits. Nor does the Policy prevent any party who is entitled to make representations from doing so, whether such representations are based on the Policy or some other matter. Furthermore, when it is asked to do so, the Licensing Authority will always decide whether it is appropriate to make a departure from the Policy. However, the Policy will always play a key role in decision-making where the Licensing Authority has a discretion.
- 1.11 Some of the policies in this document are intended to be strictly applied because of the importance of the Policy in question to the promotion of the licensing objectives locally. While, even in these cases, the Licensing Authority will consider whether it is appropriate to depart from the Policy, it is unlikely to do so except in truly exceptional cases where the applicant can show that the objectives of the policy can be met by other means.

## Partnerships

- 1.12 The aims of this Policy are not just achieved through decision-making. They are also achieved through formal and informal partnerships. In order to achieve this the Council is committed to partnership working with the police, fire service, child protection agencies, local businesses, residents and others.
- 1.13 Among the partnership initiatives operating in the area are:
- Partnerships with regulatory authorities. The Licensing Authority, together with Thames Valley Police and Trading Standards, will enforce the law relating to the sale of alcohol to drunk and underage people and drunkenness and disorder on, or in the immediate vicinity of licensed premises. Targeted

and joint enforcement initiatives will be undertaken in line with the Legislative and Regulatory Reform Act 2006.

- Pubwatch. This important scheme enables partnership working between licensed premises themselves and also with the police, so as to foster a joint understanding of the measures needed to produce a vibrant but safe leisure economy. The Licensing Authority strongly encourages universal participation in Pubwatch as a measure of the premises management's commitment to the promotion of the licensing objectives.
- Aylesbury Vale Community Safety Partnership

## Diversity

- 1.14 The Licensing Authority recognises that licensed premises are valuable in attracting tourists and visitors. They support vibrant communities and serve as major employers.
- 1.15 It is recognised that as a part of implementing local authority cultural strategies proper account has to be taken of the need to encourage and promote a broad range of entertainment. Where there is any indication that events are being deterred by licensing requirements, the Policy will be revisited with a view to investigating how the situation might be improved within the terms of the Licensing Act 2003.
- 1.16 In general, the Licensing Authority encourages the development of premises which are not alcohol-led and which are aimed at different sectors of the population, including age and gender. Thus, premises promoting the arts, a food offer or other cultural activities are particularly encouraged. Where premises, such as pubs, are alcohol-based, they are encouraged to consider diversifying their offer so as to encourage a mixed customer-base and wider attractions, including community uses, soft refreshments, snacks and live entertainment. Diversification is important in the promotion of the licensing objectives as well as ensuring a sustainable economic future for premises.

- 1.17 To ensure the development of cultural diversity the Licensing Authority has issued premises licences for some public spaces in the community. These include public spaces in Aylesbury and Buckingham town centres and some parks. The Council will continue to encourage cultural diversity through licensing public spaces. This might include, for example, village greens, market squares, community halls, council owned art centres and similar public areas. The Live Music Act 2012 had the effect of removing the need for licences for certain live music performances, in order to promote such activity. The Licensing Authority endorses the value of live performance and, where authorisation is needed, will seek to permit such activity when this is consistent with the promotion of the licensing objectives.
- 1.18 As part of its strategy for ensuring that public spaces are welcoming to all residents and visitors, the Council has made Designated Public Places Orders (DPPOs) under the Criminal Justice and Police Act 2001 in the towns of Aylesbury and Buckingham and several public spaces in and around Aylesbury this can be found on the Aylesbury Vale District Council web site <http://www.aylesburyvaledc.gov.uk/business/licensing-regulation/designated-public-places-order-dppo/>. These effectively prevent the consumption of alcohol in such public spaces except where there is a premises licence permitting consumption. These orders are fundamentally important in promoting the licensing objectives, in particular, the prevention of public nuisance and crime and disorder.
- 1.19 The provisions of the 2001 Act relating to DPPOs have now been replaced by Public Space Protection Orders (PSPOs) which part of the reforms introduced by the Anti-Social Behaviour , Crime and Policing Act 2014. However, existing DPPOs will remain enforceable until 2017 after which they will be treated as PSPOs.

## Amenity

- 1.20 The Licensing Authority is committed to protecting residents and other commercial

operators from harm as a result of licensable activities. When it has a discretion, depending on the circumstances, the Licensing Authority will take into account factors such as

- a) Noise. This may be noise breakout from the premises, from smoking areas and beer gardens or noise in the vicinity caused by customers arriving or leaving.
- b) Street crime
- c) Litter
- d) Odour.
- e) Resources, including police resources to cope with the influx of visitors, particularly at night. This will be a weighty consideration in Aylesbury and Buckingham town centres.
- f) The availability of adequate transport to ensure the swift dispersal of customers away from the area
- g) The contribution of other nearby premises or facilities such as takeaways and taxi ranks to criminality and disturbance
- h) The role of conditions or hours restrictions in the avoidance of harm

Where there are several premises operating in the vicinity, definitive proof that particular premises are the cause of harm to amenity is rarely possible. The licensing authority will, however, draw sensible inferences as to whether premises are, or will be, contributors to such harm.

In deciding whether there is or will be harm to amenity, the licensing authority is not concerned with whether the conduct of the licensee is or will be blameworthy, but what steps are appropriate for the promotion of the licensing objectives. This is because the purpose of the system is not punitive but protective.

Public participation

- 1.21 The Licensing Authority encourages public participation in the licensing system. Any person may make relevant representations on applications for new and variation applications and club premises certificates, as well as applying for reviews. This enables democratic participation in the licensing process, allowing residents, workers, businesses and town centre users to have a say in how the licensed economy is regulated. Persons do not have to live or work close to licensed premises to engage in the licensing process. However representations that are frivolous or vexatious will not be considered.
- 1.22 In accordance with the Act the Policy will be kept under review and revisions made, if necessary, before a new policy is determined in five years time.

## 2 LEISURE ECONOMY STRATEGIES

- 2.1 There is a range of strategic influences and statutory controls which affect the licensing system in terms of policy formulation, administration and enforcement activities. Whilst the following is not meant to be an exhaustive list, it identifies the key areas which may inform and shape the policies contained in this Policy statement:
- a) The Community Strategy as required by the Local Government Act 2000.
  - b) The Community Safety Partnership as required by the Crime and Disorder Act 1998.
  - c) The national Alcohol Harm Reduction Strategy
  - d) Anti-social Behaviour, Crime and Policing
  - e) Act 2014
  - f) Guidance on Safer Clubbing.
  - g) Planning controls
  - h) Fire Protection legislation
  - i) Equality legislation such as the Equality Act 2010. Human Rights Act 1998
  - j) Building Regulations
  - k) Health and safety at Work Act 1974
  - l) Statutory Nuisance

- m) Private Security Industry Act 2001
- n) Smoke Free (Premises and Enforcement) Regulations 2006

The use of Criminal Behaviour Orders, Pubwatch banning schemes and alcohol arrest referral schemes targeted at offenders.

- 2.2 At a policy level, the Licensing Authority is committed to the integration of all relevant regimes so as to promote a sustainable and diverse leisure economy and, as part of that, the licensing objectives. It will do this by ensuring communication between the Licensing Authority and other relevant bodies so that matters of mutual concern and aspiration are discussed, joint working strategies developed, and by reflecting shared goals in Licensing Policy.
- 2.3 At an operational level, it will ensure that integration occurs through joint working arrangements and partnership working, particularly in relation to enforcement.
- 2.4 At a decision-making level, it will respect the role that each regulatory scheme has in the development of a sustainable leisure economy. It will not in general attach conditions to licences where the matters of concern are adequately protected by other legislation. It will take into account the existence of other statutory controls when deciding what is appropriate in an individual case in order to promote the licensing objectives. In general, duplication will be avoided and control exercised through the most appropriate system.

## Planning

- 2.5 Planning permission is usually required for the building of new premises or the material change of use of premises from one 'Use Class' to another.
- 2.6 In general, planning is concerned with land use whereas licensing is concerned with more detailed operational matters. Accordingly, applicants for premises licence are encouraged to ensure that the proposed use would amount to a lawful planning use. There is no legal basis for the Licensing Authority to refuse a licence application merely because the proposal does not have planning permission. However, the



Licensing Authority will take account of the lack of the requisite consent to the extent that this is relevant to the licensing objectives.

- 2.7 Conversely, the fact that premises have a planning permission for the proposed use does not guarantee the grant of a premises licence for the use. In general, the licensing system will provide the detailed control of operational matters, which are unlikely to be addressed through the planning process. However there will be overlapping issues of interest e.g. disturbance, which will remain material considerations for both planning and licensing purposes.
- 2.8 Licensing is not the primary mechanism for controlling anti-social behaviour away from premises and beyond the direct control of operators. However, it is a key aspect of such control and licensing law is part of the holistic approach to the management of the evening and night time economy in town and city centres as well as rural areas and to some extent during the daytime too. Therefore, this Policy acknowledges the contribution of individual premises and, in certain circumstances, groups of premises to anti-social behaviour.

## PART B PROMOTING THE LICENSING OBJECTIVES

### 3 HOW THIS POLICY WORKS

- 3.1 Applicants for premises licences and club premises certificates are required to complete an “operating schedule” showing the activities proposed, the operating hours, and the measures which they propose to promote the licensing objectives.
- 3.2 Applicants are strongly encouraged to read this Licensing Policy when preparing their applications and to include the standards and, where relevant, licensing hours, set out in this Policy. However, they are not obliged to do so.
- 3.3 If they do not do so, it is more likely that their application will attract objections

(relevant representations) from responsible authorities and other persons based on departure from this Policy.

- 3.4 If no relevant representations are received, the Licensing Authority is bound to grant the application, subject only to the terms of the operating schedule and any mandatory conditions. If, however, such representations are received, the Licensing Authority's discretion is engaged.
- 3.5 In exercising its discretion, the Licensing Authority is likely to apply the standards set out in this Policy, unless exceptional circumstances can be demonstrated whereby the objectives of the Policy are achievable through other means.
- 3.6 Therefore, while applicants are legally entitled to make applications without complying with this Policy, a failure to comply with the Policy is likely to lead to objections, delay, extra cost and the application of the Policy at a licensing hearing.
- 3.7 Where the Policy refers to standards expected of operators, and of action the Licensing Authority will take, this is as explained above. For example, where the Policy states that the Licensing Authority will impose conditions, this means when its discretion has been engaged following the making of relevant representations.
- 3.8 The Licensing Authority will also take this Policy into account when deciding upon review applications. If a failure to comply with the Policy has been a contributory factor in the non-compliance of the premises with the licensing objectives, this is likely to be reflected in the remedy applied by the Licensing Authority.

#### 4 HOURS

FOR HOW THIS POLICY IS INTENDED TO APPLY SEE CHAPTER 3
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- 4.1. In general, the Licensing Authority will set the hours of licensed premises according to the individual merits of the case.

- 4.2. In some circumstances, flexible licensing hours can help to avoid harm to the licensing objectives caused by simultaneous exit from licensing premises and can also help to promote diverse leisure economies.
- 4.3. However, in applying the licensing objectives, the Licensing Authority's Policy is to respect the right of residents to peace and quiet. In most cases concerning nuisance, this is likely to amount to an important concern.
- 4.4. In general, the Licensing Authority will take a stricter approach to licensing hours in areas of higher residential density.
- 4.5. There are also specific policies relating to Aylesbury Town Centre and Buckingham Town Centre which are dealt with in Chapters 5 and 6 because a different approach is appropriate to avoid harm to the licensing objectives.
- 4.6. The Licensing Authority's experience is that premises which are alcohol-led are more likely to give rise to concerns regarding late night nuisance and crime and disorder, the more so when they are directed at a younger clientele and/or involve vertical drinking or the playing of loud music. Therefore, premises falling within this category will be expected to demonstrate clearly, including by the use of licence conditions and management systems, that the hours applied for will not risk harm to the licensing objectives.
- 4.7. Shops, stores and supermarkets should normally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are good reasons, based on the licensing objectives, for restricting those hours. Such reasons may concern their location in Aylesbury Town Centre or Buckingham Town Centre, dealt with in Chapters 5 and 6. Further, in the case of individual shops which are known to be a focus of is order and disturbance then, subject to representations from for example the police or other persons, a limitation on licensing hours may be appropriate.

## 5 SPECIAL SATURATION POLICY - AYLESBURY TOWN CENTRE

FOR HOW THIS POLICY IS INTENDED TO APPLY SEE CHAPTER 3

5.1 The Licensing Authority's Special Saturation Policy ('Saturation Policy') for Aylesbury Town Centre is as follows:

In Aylesbury Town Centre as shown on the map at Appendix 5, the following policies apply:

- (1) Applications for new licences or club premises certificates or for material variations for "Higher Risk Premises" beyond midnight or close beyond 12.30 a.m. will be refused.**
- (2) Applications for new licences or club premises certificates or for material variations for "Lower Risk Premises" beyond 2 a.m. or close beyond 2.30 a.m. will be refused.**
- (3) This Saturation Policy is intended to be strictly applied. Exceptions will only be made in genuinely exceptional cases. A case will not normally be considered exceptional on the ground of the good character of the applicant or the size of the application or variation.**
- (4) Applications within the above hours will be considered on their merits. However, the fact that the premises lies within a Special Saturation Area will be taken into account and special consideration will be given to the impact of the proposal on the licensing objectives.**
- (5) This Saturation Policy applies in addition to and not in substitution for other provisions of the Licensing Policy.**
- (6) In this Saturation Policy:**
  - a. A higher risk premises is one for which the sale of alcohol is a primary activity, including pubs and nightclubs or which serves hot food or drink for consumption off the premises.**

- b. A lower risk premises is one for which the sale of alcohol is at most a subsidiary activity, including theatres, cinemas, restaurants, gambling premises and performance venues.**
- c. If there is evidence that an off-licence is contributing or may in the future contribute to harm to the licensing objectives in the night time economy, it will be considered High Risk Premises with this Policy.**
- d. A material variation is one which increases the capacity or trading hours of the premises, introduces or extends the sale of alcohol or late night refreshment or regulated entertainment, or which changes the way the premises operates or varies an existing condition in such a way that there is likely to be an impact on the promotion of the licensing objectives.**

5.2 Special saturation policies are a response to cumulative impact. They are made where there is a concentration of licensed premises, and their cumulative impact – usually from customers leaving - is proving harmful to the licensing objectives.

Aylesbury Vale District Council adopted a special saturation policy for Aylesbury town centre at the inception of the Licensing Act. This followed serious concern from Thames Valley Police, the Aylesbury Old Town Residents Association and Aylesbury Town Council about crime and disorder and nuisance arising from the large number of customers in this area, particularly late at night. Attached as Appendix 1 is a summary of the factors considered in adopting a special saturation policy for Aylesbury Town Centre and continuing with it. The evidence in Appendix 1 will be periodically reviewed, to determine whether the saturation policy remains justified.

5.3 In general terms there was an increase in crime and disturbance since 1999. This corresponded to an increase in the number and duration of late night licences in the town centre. This was despite additional police manpower, the introduction of town centre CCTV, the introduction of an Order prohibiting the public consumption of alcohol in the town centre and the use of multi-agency licensing inspections.

5.4 About 600 people live within Aylesbury Town Centre. The number of residents in this area is at present steadily increasing as redevelopment or change of use (e.g.

from offices to flats) takes place. These residents experience anti-social behaviour, minor vandalism, noise disturbance and litter beyond those incidents reported to the police.

- 5.5 It is the view of Thames Valley Police that the number and density of premises selling alcohol late at night continues to give cause for concern and so the continuation of the Saturation Policy is justified.
- 5.6 This Saturation Policy does not impose quotas that restrict the consideration of any application on its own merits within the area, and does not take into account the demand for licensed premises which is not a licensing matter. Moreover it recognises the variety of different types of premises concerned – public houses, nightclubs, restaurants, hotels, theatres, concert halls and cinemas - not all of which pose the same risk of harm to the licensing objectives.
- 5.7 The Saturation Policy focuses on the two primary risk factors in relation to cumulative impact. That is the type of the premises and the hours of trade. The basis of the Saturation Policy is to apply restraint to higher risk (alcohol-led) premises seeking to trade beyond 12.30 a.m. and to lower risk (i.e. other) premises seeking to trade beyond 2.30 a.m. This gradation of approach is intended to assist the town centre in moving towards a more diverse, sustainable pattern of licensing which promotes the licensing objectives and protects residents from additions to the cumulative impact currently being experienced.
- 5.8 In deciding applications within the above hours, the Licensing Authority will deal with each case on its merits and arbitrary restrictions will be avoided. However, the fact that the premises is within a Special Saturation Area will remain material.
- 5.9 It is recognised that in Aylesbury Town Centre a number of premises' licences permit the sale of alcohol until 2.00 a.m. and closure at around 2.30 a.m. This has caused particular difficulties for the Police as customers leave premises simultaneously. It is the operational experience of officers from both Thames Valley Police and Aylesbury Vale District Council is that the ability to operate until later in the night has produced a common, commercially driven terminal hour which has not

resulted in the gradual dispersal of customers. It has shifted the mass exit of customers to a later hour. The majority of customers leave the premises between the last sale of alcohol and the closure of the premises. A significant number of customers of these premises remain in the town centre up until about 3.30 a.m. to obtain late night refreshment, obtain transport home or simply to freshen up. The majority of premises trading beyond 12.00 mid-night are alcohol-led, as opposed to food led. Therefore it follows that many customers leaving town centre premises at 2.00 a.m. are under the influence of alcohol.

- 5.10 The significant number of people under the influence of alcohol in the town centre up to 3.30 a.m. puts demands on a number of public services such as town centre policing, police domestic violence unit and the Accident and Emergency ward at Stoke Mandeville Hospital. It also impacts on the availability of taxis and private hire vehicles and street cleansing the following morning. Those customers that leave the town by foot will invariably pass residential properties and both Environmental Health and Licensing have received non-specific complaints about noise and excessive litter from residents of St Marys, Cambridge Street and Buckingham Street.
- 5.11 This Saturation Policy, however, is not aimed just at premises seeking to trade until 2.30 a.m. The Licensing Authority's licensing experience since the Licensing Act came into force strongly suggests that longer licensing hours in Aylesbury Town Centre will result in more and later incidents of crime, disorder and nuisance. This is likely to cause even further disruption to Town Centre residents.
- 5.12 Therefore, applications seeking permission to trade beyond 2.30 a.m. are also covered by this Saturation Policy. This Saturation Policy is not just concerned with applications which are capable of adding to the cumulative impact when incidents of crime, disorder and nuisance normally peak. The Licensing Authority recognises that applications for new premises licences or material variations which are likely to result in even later incidents or disturbances are just as capable of adding to the cumulative impact of a concentration of licensed premises. In fact, applications which are likely to result in incidents after 3.30 a.m. when the Town Centre has been largely cleared is relatively quiet and the Police are no longer present in large

numbers, could undermine the licensing objectives to an even greater extent. For that reason, it is most unlikely to be considered exceptional that the applicant intends to trade or open past the peaks hours for dispersal, crime and disorder or nuisance.

- 5.13 When considering applications beyond 2.30 a.m., the Licensing Authority will consider, amongst other things, the problems that might be caused by customers who have already been drinking alcohol migrating to other premises and the impact similar applications by other premises may have. The Licensing Authority will also take into account the fact that just because a premises is able to trade later than most other premises does not mean that the premises will necessarily do so and will be free to close at an earlier and common terminal hour.
- 5.14 These factors will be taken into account by the Licensing Authority when dealing with applications, whether for hours within or outside the terms of the Saturation Policy.
- 5.15 This Saturation Policy does not preclude an application for a licence or a determination of an application on its merits when relevant representations are received. Nor does this Saturation Policy relieve responsible authorities or other persons of the need to make a relevant representation relating to cumulative impact before the Licensing Authority will consider giving effect to it. However, if a relevant representation is received relating to an application for a new licence or a material variation which would breach this Saturation Policy, the application will not be granted unless it can be demonstrated that it will not add to the cumulative impact identified in the area.
- 5.16 The Licensing Authority will be vigilant in relation to the use of Temporary Event Notices in Aylesbury Town Centre. In considering objections to notices for hours beyond those specified above, the Authority will take into account that the premises lie in an area already identified as one within which harm to the licensing objectives is occurring.
- 5.17 Furthermore, the Licensing Authority will scrutinise with particular care claims that past events conducted under Temporary Event Notices without known harm to the licensing objectives justify an exception to the Special Saturation Policy. The nature



of saturation areas is that harm is cumulative, and it is difficult to prove retrospectively that there was or was not incremental harm on any given night. Furthermore, the amount of trade or impact generated in respect of a single temporary event will not necessarily be the same as that generated once the premises is known to trade regularly to later hours.

- 5.18 The need for this Saturation Policy is not because of bad management of individual premises. Bad management is dealt with through enforcement. All licensees in Aylesbury Vale should operate good management standards. The need for this Saturation Policy is rather concerned with the number and concentration of premises. Therefore, the fact that premises are or will be well-managed will not in and of itself amount to an exception within the terms of the Saturation Policy. Nevertheless, applicants will be expected to demonstrate high standards of management so as not to exacerbate problems in the area generally. Further reference should be made to paragraph 7.8 of this Policy.
- 5.19 The fact that premises lie within the Special Saturation Area will not in itself justify a review of a premises licence. However, the fact that the premises does lie within that Area may be taken into account by the Licensing Authority when deciding whether any and if so what steps are appropriate to promote the licensing objectives.
- 5.20 Whilst this Special Policy attempts to deal with potential issues of disorder and disturbance in Aylesbury Town centre, there are other mechanisms available for addressing such issues. These are set out below:
- a) Planning controls
  - b) Designation, by Order, of Aylesbury Town Centre as an area where alcohol may not be consumed publicly
  - c) The Council will review the necessity to extend the order under the Anti-social Behaviour, Crime and Policing Act 2014
  - d) Police enforcement of law relating to disorder and anti-social behaviour
  - e) Joint enforcement visits to licensed premises during evening trading involving the police, the licensing authority and County Council's Trading Standards Officers

- f) Police and local authority powers to close down instantly any licensed premises or temporary events on grounds of disorder or nuisance under section 76 of the Anti-social Behaviour, Crime and Policing Act 2014
- g) Power of police or other responsible authority or a local resident or business to seek a review of the licence or certificate in question
- h) Door supervisor licensing scheme regulated by the Security Industry Authority
- i) Aylesbury Town Centre CCTV
- j) Aylesbury Pubwatch scheme initiatives such as Drug Awareness training, the use of the itemiser (a drug detection device) and knife arch
- k) Powers of police to seek a summary review and obtain interim orders against licensed premises.

5.21 The absence of a special policy outside of Aylesbury Town Centre does not prevent any responsible authority or interested party making representations on a new application for the grant, or variation, of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives.

## 6 TERMINAL HOURS POLICY – BUCKINGHAM TOWN CENTRE

FOR HOW THIS POLICY IS INTENDED TO APPLY SEE CHAPTER 3

6.1 The Licensing Authority's Terminal Hours Policy for Buckingham Town Centre is as follows:

6.2 In Buckingham Town Centre as shown on the map at Appendix ?, the following policies shall apply:

6.3 Buckingham town centre is characterised by the proximity of licensed premises and housing, which has caused disturbance to local residents, particularly those living near to licensed premises and on exit routes from the town centre. The Council's Environmental Health and Licensing services and Thames Valley Police have received a number of complaints from local residents from both the town centre and (Name the streets) reporting disturbances caused by noise late at night. Attached as Appendix ? is a summary of factors considered in developing this policy.

6.4 To date Buckingham town centre has not been subject to any form of restraint policy. Licensing hours have been determined generally by way of disputed

applications for material variations and resulted in a latest terminal hour for the sale of alcohol until 1.00 a.m. and closure at 1.30 a.m, although there are a range of licensed hours within the town. However, the Licensing Authority believes it important to set out in a transparent way its likely approach to applications to trade to later hours, for the benefit of residents and current and potential operators and investors.

- 6.5 Buckingham is home to an independent university with around 2000 students, most of which live on campus (approximately 1300) but a significant number live in accommodation in and around the town. The university has become increasingly popular as it offers honours degrees in two years of intensive study.
- 6.6 The Council will take the following policy approach to contested licence applications:
  - 6.6.1 Applications for a premises licence to open up to 12.00 midnight will be dealt with on their own individual merits having regard to other provisions in this Licensing Policy.
  - 6.6.2 Applications to open beyond 12.00 will normally be refused unless the Applicant satisfies the Licensing Authority that it can operate beyond that time without harm to the licensing objectives.
  - 6.6.3 The Licensing Authority's Policy is that applications to open beyond 1.30 a.m. will be refused.
  - 6.6.4 This policy is intended to be strictly applied so as to maintain a fair balance between the right of residents to sleep and operators and their guests respectively to offer and enjoy premises into the later hours.

## 6 LICENCE CONDITIONS

FOR HOW THIS POLICY IS INTENDED TO APPLY SEE CHAPTER 3
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- 6.1 Licence conditions come to be applied to premises licence and club premises certificates in three ways:
  - 1) Because the applicant proposes them in the operating schedule.

- 2) Because the conditions are imposed by the Licensing Authority when relevant representations have been received in relation to an application or when determining an application for review.
- 3) Because they are mandatory conditions which the Licensing Act 2003 requires to be applied.

6.2 This chapter concerns the first two of those methods. The mandatory conditions are obligatory and so this Licensing Policy does not deal with them.

6.3 The Licensing Authority considers that conditions play a key part in the promotion of the licensing objectives. Before making applications, applicants are expected to risk assess their operations and, where appropriate, discuss their proposals with the Licensing Authority and Responsible Authorities. This will help them to formulate proposed conditions which will meet the licensing objectives and avoid objections (“relevant representations”). Where they fail to do so and relevant representations are received, the Licensing Authority will have to consider whether additional conditions are appropriate to promote the licensing objectives.

6.4 In formulating their proposals, Applicants are strongly encouraged to consider the terms of this Licensing Policy in general and this chapter in particular. In considering applications, the Licensing Authority will also take this Policy as a starting point.

6.5 A key concept underpinning the Act is for conditions attached to licences and certificates to be tailored to the individual style and characteristics of the premises and licensable activities concerned. It is not the intention to impose disproportionate or overly burdensome conditions where they are not justified. Further conditions may only be imposed on licences where they are appropriate for the promotion of one or more of the licensing objectives. Nevertheless, when deciding what conditions are appropriate, the Licensing Authority will be strongly guided by this Policy. If an Applicant wishes to state that a particular condition ought not to be applied, the Applicant will be expected to explain why.

6.6 Applicants’ attention is drawn to the non-exhaustive pool of conditions attached as **Appendix 2** which may be of use when completing operating schedules. The

conditions listed are similar to those which the Licensing Authority has found particularly useful in promoting the licensing objectives when addressing concerns raised by responsible authorities and interested parties. In appropriate circumstances, the Licensing Authority will continue to draw upon these conditions when exercising its licensing powers. In addition there is further guidance on conditions in Chapter 10 of the Guidance on the Licensing Act 2003, and applicants and the Licensing Authority itself may also draw on other sources, including the following:

- The Purple Guide to Health, Safety and Welfare at Music and Other Events ([www.thepurpleguide.co.uk](http://www.thepurpleguide.co.uk))
- Managing Crowds safely (HSE 2000) ISBN 9780717618347

### The standards

- 6.7 In proposing licence conditions, Applicants are expected to take into account the standards and other matters set out below. Where relevant representations are made, it is the policy of the Licensing Authority to impose conditions reflecting such standards unless the case is exceptional. A case will not be considered exceptional unless the Applicant can demonstrate that the licensing objectives will not be harmed by the omission of the condition or can be met in some other way.
- 6.8 In considering review applications, the Licensing Authority will take into account whether such standards have previously been observed at the premises and whether such standards are appropriate in order to promote the licensing objectives.
- 6.9 The Licensing Policy restricts itself to the control of licensed premises, qualifying clubs and temporary events within the terms of the Act. Therefore, conditions will focus on matters within the control of operators, centring on the premises and the vicinity.

Prevention of crime and disorder

- 6.10 The Licensing Authority's starting point is in terms of seeking a reduction in crime and disorder including anti-social behaviour throughout the district, consistent with its statutory duty under section 17 of the Crime and Disorder Act 1998.
- 6.11 Applicants will be expected to demonstrate in their operating schedule how they intend to promote the crime prevention objective. In some cases the applicant may have to consider local circumstances, for example such as the terminal hour of other licensed premises in close proximity and the position of taxi ranks.
- 6.12 The Licensing Authority will treat the police as the main source of advice on conditions to be applied in order to promote the crime prevention objective. Conditions imposed on licences will, so far as possible, reflect local crime prevention strategies.
- 6.13 Applicants are encouraged to discuss the crime prevention procedures and arrangements with the Licensing Authority and the police before making an application. In an effort to avoid problems applicants are encouraged to make contact as early as possible.
- 6.14 The Licensing Authority encourages Designated Premises Supervisors and others connected with the sale of alcohol to attend meetings aimed at the reduction of crime and disorder such as local Pubwatch schemes.
- 6.15 In considering licence applications, where a relevant representation has been made, or if advice is sought from a potential applicant regarding the crime and disorder objective, the Licensing Authority will particularly consider the following:
- a) Systems of accountability in place to ensure the premises are run in accordance with the Premises Licence or Club Registration Certificate. Such systems would helpfully clarify how duties will be delegated, deal with authorisations to dispense alcohol and who is in control of the premises on a day to day basis.
  - b) Physical security features installed in the premises. This may include the position and design of cash registers, where alcohol is stored in 'off licences', and the

installation, management and maintenance of closed-circuit television (CCTV) equipment. CCTV may have to be provided in certain circumstances and certain type of premises. This is particularly appropriate where premises are licensed to sell alcohol for consumption on the premises within Aylesbury Town Centre and Buckingham Town Centre and operate beyond 11.00 p.m. and 'off licence' premises where there is evidence of anti-social behaviour problems in their vicinity. The Licensing Authority strongly recommends that the installation and operation of CCTV should be in accordance with established Thames Valley Police guidance which is available to licensees. It is also likely that in the case of Aylesbury Town Centre, the police will consider it to be important that the premises should be adequately covered by the Town Centre CCTV system;

- c) Where pubs and nightclubs within Aylesbury Town Centre and Buckingham Town Centre operate beyond 11.00 p.m. applicants are particularly encouraged to become members of and attend meetings of the local Pubwatch scheme and to become part of the Pubwatch radio system in order to alert other premises of potential troublemakers;
- d) The use of winding down policies. These consist of management procedures, a set time before closing, after which alcohol ceases to be sold, but hot and cold soft drinks continue, "exit music" is played, lights are turned up, food may be served, customers are advised as to transport home, including dedicated taxi services, and staff at the door ensure that customers leave in an orderly manner.
- e) The measures employed to prevent the consumption or supply of illegal drugs, including search procedures, entry policies, staff training, supervision of WCs, the removal of horizontal surfaces and the installation of lighting to deter drug use in WCs
- f) The use of anti-spiking measures including customer warnings and devices to prevent spiking.
- g) Measures to prevent theft, including customer warning notices, free cloakrooms, handbag hooks, interior surveillance and high quality lighting;
- h) For late night venues, applicants should consider the use of customer identification systems such as Clubscan and ID scan.
- i) Designing out crime when designing premises, for example by providing for good sightlines and lighting in the venue.

- j) The use of door both staff inside and outside the premises to deter crime. Staff should be easily identifiable through use of clothing.
- k) Crime and disorder risk assessments, particularly for one off and promoted events.
- l) The use of polycarbonates or toughened glass for glasses and bottles in pubs and nightclubs. Frequent collection of all empty drinking vessels to prevent their being used as weapons.

6.16 **Drug use** - The Licensing Authority recognises that drug use by people in pubs and clubs is not something relevant to all licensed 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 and to create a safer environment for those who may have taken them. Where conditions are under consideration, the Licensing Authority will take into account the 'Safer Clubbing' publication issued by the Home Office. In all cases where these conditions are to be imposed, advice will be taken from the police.

6.17 **Late night refreshment** – While those supplying late night refreshment, particularly takeaways, may not sell alcohol, they can be a gathering point for those who have consumed alcohol in other premises late at night. This can lead to flashpoints. Where there is a history of crime and disorder at the premises or at other similar premises in the vicinity, premises management should consider the use of CCTV and door staff to deter offenders and prevent crime and disorder.

6.18 Experience has shown that it is sometimes difficult to comply with the terminal hour in respect to the provision of late night refreshment. Supply of hot food or drink actually takes place when it is handed to the customer, not when money is exchanged. Given that the premises may at the terminal hour be full of customers, it would be prudent to consider within the application sufficient time to serve those and let them out of the premises. Closing procedures such as when the door will be locked, the displaying of the 'closed' sign and letting customers out are worth taking into consideration in preparing an operating schedule. Applicants may also like to consider the need to prominently display their opening times on the shop window. Where premises are likely to experience crime and disorder, the use of door supervisors should be considered.



- 6.19 **Door supervisors – With limited exceptions**, persons employed at licensed premises to carry out security activities are required to be licensed with the Security Industry Authority. The Licensing Authority may consider that certain premises require strict supervision for the purpose of promoting the reduction of crime and disorder. Where appropriate, the Licensing Authority may impose a condition that licensed door supervisors must be employed at the premises either at such times as certain licensable activities are being carried out or the premises is open to the public or at such other appropriate times. Applicants should risk assess their operation and make sensible and realistic proposals in respect of the number of door supervisors and the hours of their attendance.
- 6.20 **Equality** - Applicants are advised that any form of public entertainment (including film exhibitions) which is likely to lead to disorder, or stir up hatred or incite violence towards any section of the public on the grounds of colour, race, ethnic or national origin, disability, religious beliefs, sexual orientation or gender is likely to give rise to representations which are likely to lead to the refusal of such an application.

## Public Safety

- 6.21 Applicants must demonstrate a rigorous approach to assessment of the risk to public safety in their operations. Statutory duties in relation to risk assessment arise under the Health and Safety at Work Act 1974 and the Regulatory Reform (Fire Safety) Order 2005. The Licensing Authority does not intend to impose conditions which simply replicate other statutory controls, but it will scrutinise whether all relevant measures are being applied so as to promote the licensing objectives. Applicants are encouraged, though not obliged, to submit with their applications evidence of compliance with such controls. Where they do, it is less likely that relevant representations will be made leading to the cost and delay of a licensing hearing.
- 6.22 Depending on the individual circumstances, control measures proposed in an operating schedule may include:

- (1) Capacity limits. Depending on the nature of the venue, there may need to be capacity limits for different parts or rooms within the venue.
- (2) A plan showing the nature and location of fire safety features, including smoke detectors, emergency lighting, sprinkler systems and other safety measures.
- (3) Clearly signed exits which are kept unobstructed and easy to open.
- (4) Safety measures to enable the safe evacuation of disabled people and staff training in respect thereof.
- (5) Maintenance and inspection of safety equipment.
- (6) Safety measures in respect of installations and special effects in premises licensed for regulated entertainment.

## The prevention of public nuisance

6.23 Public nuisance is a nuisance involving noise, light pollution, odour and litter affecting (or which is likely to affect) at least a few people locally. The Licensing Authority is concerned to protect the amenity of residents and businesses in the vicinity of licensed premises. At the same time the Licensing Authority is aware of the importance of the licensed trade to the local economy and its culture and leisure aspirations. Accordingly, it will try and work together with statutory agencies, licensed businesses and residents' groups to ensure a mutual co-existence.

6.24 In considering all licence applications, the Licensing Authority will consider the adequacy of measures proposed to deal with the potential for nuisance and/or anti-social behaviour having regard to all circumstances of the application. In formulating its application, the Applicant is strongly encouraged to consider the measures set out below. Much weight will be placed on recommendations made by Environmental Health Officers in terms of preventing public nuisance.

### 6.25 **Particular measures include:**

- a) The steps taken or proposed to be taken by the Applicant to prevent noise and vibration escaping from the premises, including music, noise from ventilation equipment and human voices. Such measures may include the installation of

soundproofing, air conditioning, acoustic lobbies and sound limitation devices. In appropriate circumstances and where not included in the operating schedule, a condition may be imposed requiring the assessment by the Applicant (either with or without the involvement of Environmental Health), of potential noise sources which could cause disturbance to those in the vicinity and to identify and implement appropriate control measures;

- b) The steps taken or proposed to be taken by the Applicant to prevent disturbance by customers arriving at the premises, particularly at night. This may include last entry conditions, minimisation and control of queuing and supervision of the exterior of the premises. If some queuing is inevitable then queues should be diverted away from neighbouring premises or be otherwise managed to prevent disturbance or obstruction.
- c) Arrangements to minimise disturbance from customers smoking outside the premises. These may include supervision, delineated areas for smoking, controls on numbers and preventing customers taking alcohol outside.
- d) The steps taken or proposed to be taken by the Applicant to prevent disturbance by customers leaving. Such steps will include proper winding down policies so that customers leave gradually and quietly, notices to customers requesting respect for neighbours, the use of dedicated taxis, management of queues for taxis, direction of customers away from residential areas, supervision of exterior, requesting customers to respect neighbours, and prevention of customers gathering outside the premises.
- e) The steps taken or proposed to be taken by the Applicant to ensure staff leave the premises quietly;
- f) The arrangements made or proposed for parking by patrons and the effect of parking by patrons on local residents;
- g) Whether there is sufficient provision for public transport (including taxis and private hire vehicles) for patrons;
- h) Whether taxis or private hire vehicles are likely to disturb local residents and measures to prevent such disturbance, including preventing use of horns, engines running, numbers permitted to wait and direction of approach and departure. Such controls are easier to implement when the licensee has a contract with particular suppliers.

- i) The installation of any special measures where licensed premises are or are proposed to be located near sensitive premises such as nursing homes, hospitals, hospices or places of worship
- j) The use of gardens and other open-air areas, including forecourts. This may include supervision, glass collection, numerical or spatial controls, curfews and last entry conditions.
- k) Delivery and collection areas and times;
- l) The siting and use of external lighting, including security lighting that is installed inappropriately;
- m) Whether the premises would lead to increased refuse storage or disposal problems, or additional litter (including fly posters and illegal placards and cigarette butts) in the vicinity;
- n) Prevention of the disposal of glass outside the premises at night.
- o) Control of delivery times.
- p) Control of hours when litter may be placed outside the premises.
- q) Supply of dedicated telephone line for local residents.
- r) Encouragement of periodical meetings between management and residents.
- s) Any relevant representations being made by any person and/or Responsible Authority supported by previous complaints.

**6.26 Street drinking can cause nuisance as well as crime and disorder. Where there is a history of street drinking in the area, the licensing authority may impose upon licences to sell alcohol for consumption off the premises conditions to deter such activity, including prevention of sales of beers and ciders over 5.5% ABV, prevention of sales of single cans of alcohol, prevention of exterior advertising of alcohol, prevention of end of aisle displays of alcohol, storage of alcohol away from entrances to the premises, or behind the counter and notices stating that alcohol will not be sold to street drinkers. Before making applications, applicants are expected to assess the locality of their premises and to speak to the police and Licensing Authority to consider whether such conditions should be proposed in the Operating Schedule.**

6.27 Sometimes problems arise about litter from takeaways and, to a limited extent, from off licences. Licensees should consider distinctive wrapping, packaging or bags, so that litter can be traced back to particular premises and also periodic litter collection patrols and the provision of additional bins.

#### Protection of children from harm

6.28 The Licensing Authority recognises that there are many activities for which licences may be sought. These will be located in a great variety of premises such as public houses, night clubs, hotels, inns, theatres, cinemas, concert halls, restaurants, takeaways, cafes, fast-food outlets, community halls, schools and colleges.

6.29 In addition to the restrictions imposed by the Licensing Act 2003, the Licensing Authority may impose conditions restricting the access of children to premises where it is considered appropriate for the prevention of physical, moral or psychological harm to children. Where there are matters that give rise to serious concerns and restriction of access may not ensure adequate protection of children from harm, applications will be refused.

6.30 Examples which may give rise to concerns in respect of children include those:

- adult entertainment is provided;
- a member or members of the current management have been convicted for serving alcohol to minors or with a reputation for allowing underage drinking (other than in the context of the exemption in the 2003 Act relating to 16 and 17 year olds consuming beer, wine and cider when accompanied by an adult during a table meal);
- it is known that unaccompanied children have been allowed access;
- there is a known association with drug taking or dealing; or
- in some cases, the premises are used exclusively or primarily for the sale of alcohol for consumption on the premises.

- 6.31 When deciding whether to limit the access of children to premises, the Licensing Authority will judge each application on its own merits
- 6.32 Where concerns have been identified in respect of individual premises and it is felt that access of children should be restricted, the options available would include:
- a) Limitations on the hours when children may be present;
  - b) Age limitations for persons under 18;
  - c) Limitations or exclusion when certain activities are taking place;
  - d) Full exclusion of persons under 18 when certain licensable activities are taking place;
  - e) Limitations of access to certain parts of the premises for persons under 18;
  - f) A requirement for an accompanying adult to be present.
- 6.33 The Licensing Authority will not impose any conditions that specifically require the access of children to premises.
- 6.34 Where no conditions or restrictions are imposed, the issue of access for children is a matter of the discretion of individual licensees or clubs subject to legislative restrictions.
- 6.35 The 'Responsible Authority' in respect to the protection of children is the County Council's Safeguarding Children Board
- 6.36 This Policy commends the Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks. It is considered that the code is an effective means of protecting children in relation to packaging and promotions that may appeal to minors.
- 6.37 The Licensing Authority recommends that the only way to verify a person's proof of age is with reference to their:
- a) Passport;**
  - b) a photo card driving licence issued in a European Union country;**

- c) a **Proof of Age Standards Scheme card**;
- d) an **official identity card issued by HM Forces or by a European Union country bearing the photograph and date of birth of the holder.**

- 6.38 The Licensing Authority considers under-age consumption of alcohol to be a particularly serious issue and premises licence holders will be expected to play a full and appropriate part in securing its reduction or eradication. In addition to the minimum requirements of the new mandatory condition relating to an age verification policy, the Licensing Authority supports and encourages the adoption of Challenge 25 or similarly approved schemes, the use of a refusal register, the maintenance of an incident log and staff training. Premises should consider the risk of proxy purchasing of alcohol and put in place measures and train staff to deal with it.
- 6.39 **Children and cinema exhibitions.** Where premises are used for film exhibitions, the Licensing Authority will expect licensees or clubs to include in their operating schedules arrangements for restricting children from viewing age-restricted films classified according to the recommendations of the British Board of Film Classification or the Licensing Authority itself. The Act requires any premises licence or club certificate authorising the exhibition of films and admission of children to be conditioned in accordance with the recommendations given to films either by a body designated under section 4 of the Video Recordings Act 1984, i.e. British Board of Film Classification or by the Licensing Authority itself.
- 6.40 The Licensing Authority will expect that licensees ensure that any age restrictions for cinema exhibitions are properly complied with.
- 6.41 In considering applications, the Licensing Authority will take into account any evidence that age restrictions for cinema exhibitions are not being properly observed.
- 6.42 Where a large number of children are likely to be present on any licensed premises, for example a children's show or pantomime, applicants should consider the

additional risks associated with children. The operating schedule should consider measures that will ensure the prevention of harm to the children and also to ensure public safety.

6.43 Entertainment involving striptease and/or nudity. In general, such premises are likely to need a sexual entertainment venue licence and relevant conditions will be attached to that licence (see Chapter xxx). Where, for whatever reason, no such licence is needed, the applicant will be expected to propose conditions which protect children by:

- (a) preventing access to the premises by children;**
- (b) preventing exterior visibility into the premises;**
- (c) preventing obtrusive exterior advertising including nude images or language describing the nature of the activities;**
- (d) controlling leafleting and other forms of exterior marketing;**

## SPECIFIC SITUATIONS

**This Chapter deals with specific types of events and activity which merit particular consideration. The policies in this Chapter are in addition to those specified in other chapters.**

## LARGE EVENTS

6.44 The experience of the Licensing Authority is that large events can prove problematical for a number of reasons. These include:

- agreeing the relatively complicated and often extensive operational arrangements within the statutory timescales;
- the involvement of professional agencies other than those nominated as Responsible Authorities;



- building in a flexibility within a premises licence that reflects the circumstances at the time the event takes place e.g. reduced ticket sales.

6.45 This section of the Policy seeks to offer some practical advice to event organisers

6.46 For the purpose of this Policy a large event is a one-off event which has the potential for significant public nuisance to the wider community, increased risk of crime and disorder and which carries a significant risk to public safety. It is not necessarily defined by the number of people attending. A very large capacity event made up of mature adults attending a concert is less likely to raise as many issues as say a smaller dance event involving young adults throughout the night time. Applicants are strongly recommended to check in advance with the Licensing Authority whether the proposed event is likely to be treated as a large event within the meaning of this Policy.

6.47 Organisers of large events are also strongly encouraged to make early contact with the Aylesbury Vale Safety Advisory Group (SAG). The SAG is made up of representatives from all the blue light emergency services and other agencies concerned with event safety. The SAG has produced some generic advice to event organisers and this can be found on the Aylesbury Vale District Council web site <http://www.aylesburyvaledc.gov.uk/community-living/event-management/aylesbury-vale-safety-advisory-group/>. In the first instance an organiser would complete a notification form and risk assessment. For more complicated or very large events an organiser would normally attend a meeting with the SAG. Applicants for events requiring a premises licence would be expected to make contact with the SAG at least six months before the event date. Failure to consult with the SAG properly and in a timely fashion is likely to result in the application receiving a relevant representation from a responsible authority. If any issues complained about still remain outstanding at the time of a hearing this might result in an adjournment or even a refusal of the application if the sub-committee is not satisfied that any adverse impact on the licensing objectives has been properly addressed.

6.48 Large scale events invariably have implications in relation to issues arising from traffic management and first aid. It is acknowledged that the recognised experts in these fields are the Transport for Bucks and South Central Ambulances respectively. These agencies are not of course Responsible Authorities as set out by the Act. It is expected that the Transport for Bucks will raise their concerns via Thames Valley Police and for South Central Ambulances to similarly deal with any issues via Environmental Health.

6.49 Given the complexity and scale of large events it is normal practice to produce an Event Management Plan (EMP). It is recommended that the EMP deal with the following issues:

- **Management structure**
- **Nature and style of the event including crowd profile**
- **Capacity and expected audience**
- **Event programme**
- **Crowd management, including security and stewarding**
- **Emergency evacuation plan**
- **Extreme weather plan**
- **Fire risk assessment**
- **Emergency procedures**
- **Medical plan**
- **Traffic management plan**
- **Welfare and sanitation plan**
- **Entry search and eviction policy**
- **Alcohol and drugs policy**
- **Campsite safety and security (when on site)**
- **Noise management and control**
- **Age controls**

6.50 The EMP can for the purpose of an application for a premises licence be the 'de facto' operating schedule. The Act requires the Licensing Authority to issue the licence with conditions consistent with the operating schedule accompanying the application. Paragraph 10.7 of the Statutory Guidance states that 'consistency

means that the effect of the condition should be substantially the same as that intended by the terms of the operating schedule.’ Applicants should bear this in mind when drafting their EMP so that the premises licence is prepared with clear and enforceable conditions attached to it.

6.51 When events have become well-established and organisers have demonstrated an ability to work with its partners in delivering a well-managed and safe event, the Licensing Authority may consider attaching a licence condition merely requiring that there be an EMP and preventing the event proceeding until the EMP has been signed off by all relevant partners. This will enable a greater degree of flexibility in the management of the event, without needing each variation of the EMP to be reflected by a variation to the licence condition.

6.52 Within the Aylesbury town centre saturation policy area it is expected that premises will cooperate with the Licensing Authority, the police and any other responsible authorities in respect to town centre events e.g. public music and dancing events, international sporting events and political protests. Example of cooperation would be the possible use of polycarbonate glasses during the event, ensuring that drinks are not taken from the premises, the removal of outside furniture and the employment of event stewards.

## SEXUAL ENTERTAINMENT VENUES

6.53 The Licensing Authority has adopted the Local Government (Miscellaneous Provisions) Act 1982 so as to require sexual entertainment venues to be licensed under that legislation.

6.54 Where regulated entertainment is licensable under that legislation, it will be exempt from regulation under the Licensing Act 2003. Nevertheless, venues may still require

an alcohol licence, and so the Licensing Authority will attach appropriate conditions to such licences where it has a discretion and it considers such conditions appropriate to promote the licensing objectives.

6.55 Where sexual entertainment is not licensable under the 1982 legislation, e.g. because the “frequency exemption” under that legislation applies, it will continue to be licensable under the Licensing Act 2003. The Licensing Authority will then consider the nature of the premises and the entertainment and attach appropriate conditions including:

- (a) Code of conduct for performers.
- (b) Rules for customers.
- (c) Contact between performers and customers or other performers.
- (d) Use of sex articles or other overtly sexual performance.
- (e) Policies for protection of performers.
- (f) Verification of age, nationality and employment status of staff.
- (g) Use and maintenance of CCTV.
- (h) Exterior visibility, advertising and marketing.
- (i) Supervision of premises.

6.56 In all cases, applicants must state on the operating schedule whether it is proposed to use the premises for adult entertainment. Where the applicant does not state that it is so proposed, a condition will be added to the licence preventing such use.

## PAVEMENT TRADING

6.57 In considering licence applications to extend operations by way of tables and chairs on the highway, if a relevant representation is received or the advice is sought from an applicant, the Licensing Authority will particularly consider the following:

- a) It is the objective of the Council to encourage a continental culture for the outside drinking of alcohol in some parts of the district. In some cases appropriate

planning permission may need to be sought and granted. In addition either a licence under section 115E of the Highways Act 1980 or a Street Trading Consent may be required if the trading is on the public highway. These permissions may impose conditions relating, amongst other things to the design of the furniture, demarcation of the trading area and hours of operation;

- b) It will be noted that certain designated 'no drinking' areas exist in Aylesbury and Buckingham Town Centres. Pavement licences granted in these areas will be under particular public and agency scrutiny;
- c) Where trading hours are not defined by a pavement licence or Street Trading Consent, applicants are encouraged to discuss their requirements with the police.
- d) The Licensing Authority will take into account any effect of the proposal on the licensing objectives and in deciding any application will have regard to the provisions of this Licensing Policy

## PART C. THE SYSTEM IN ACTION

### 7 THE LICENSING PROCESS

- 7.1 The powers of the Licensing Authority under the Act may be carried out by the Licensing Committee, by a Sub-Committee or, instead, by one or more officers acting under delegated authority. It is considered that many of the functions will be largely administrative with no perceived areas of contention. In the interests of efficiency and effectiveness these will, for the most part be carried out by officers.
- 7.2 Applications where there are relevant representations will be dealt with by the Council's sub-committee, as will any application for review of a licence.
- 7.3 In making licensing decisions, the Licensing Authority will have regard to its duties under the following legislation:

- 7.3.1 Section 17 of the Crime and Disorder Act 1998, which requires the Licensing Authority to exercise its functions with due regard to the likely effect of its decisions on crime and disorder and the misuse of drugs, alcohol and other substances.
- 7.3.2 The Equality Act, which obliges public authorities to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; to advance equality of opportunity; and to foster good relations, between persons with different protected characteristics. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.
- 7.3.3 The Human Rights Act, which requires authorities to take into account the rights of individuals to respect for their private and family life (Article 8) and to protection of their property (Article 1, Protocol 1). Any interference with such rights should be proportionate.

#### Applications for Premises Licenses

- 7.4 The Licensing Authority will expect individual applicants to address the licensing objectives in their Operating Schedule having regard to the type of premises, the licensable activities to be provided, the operational procedures, the nature of the location and the needs of the local community.
- 7.5 Applicants should make themselves aware of the Council's Statement of Licensing Policy and in particular the issues that will need to be addressed in formulating the Operating Schedule.
- 7.6 Applicants are also expected to demonstrate in their operating schedule that they have researched and understand the local environment and the risks to the licensing objectives which their operation may pose, as well as local initiatives such as crime reduction or taxi-marshalling schemes. The proposals in the operative schedule should not be standardised but should respond specifically to the sensitivities which have been identified. Applicants will be assisted by speaking to responsible authorities, and in particular police and Environmental Health, when preparing their Operating Schedule. If they do not, it is more likely that representations will be

made, leading to hearings and the expenditure of time and costs which could otherwise have been avoided.

- 7.7 All plans are required to comply with the regulations relating to applications for premises licences. In addition, applicants are requested to indicate on the plan provided to the licensing authority the proposed locations for the display and storage of any alcohol, the locations where sales/and/or consumption will take place (i.e. bars / tills / stock rooms / outside areas), the location of dance floors and the location of food service areas. Applicants are also encouraged to show the location of smoking areas.. The locations of such activities on approved plans should not be amended without prior approval of the Licensing Authority.
- 7.8 Where the sale of alcohol is proposed on licensed premises, every sale must be made or authorised by a person who holds a personal licence, and there must also be a Designated Premises Supervisor named on the licence who is the holder of a personal licence. In order to avoid disruption to business during absence of the Designated Premises Supervisor the Licensing Authority recommends that a minimum of one additional member of staff should hold a personal licence. If sales are to be made by persons who are not holders of personal licences, it is strongly recommended that such persons be trained to the standards required of personal licence holders, that records of such training be retained and that the Designated Premises Supervisor provides written authorisations to such persons.
- 7.9 For community premises, an alternative licence condition may be applied for, so that the management committee for the premises acts in place of the designated premises supervisor and personal licensees. Applicants are recommended to take advice or check with the Licensing Authority as to whether this exemption may apply in the circumstances of the case.
- 7.10 The Licensing Authority expects high standards of management from licensees. If its discretion is engaged by receipt of relevant representations, the Licensing Authority will take into account the quality of the management of premises. It will consider the track record of management, the experience of the management team in running sensitive or sensitively located premises, written management procedures and staff training. One important facet of management is seniority and consistency of management. To that end, the Licensing Authority generally expects the Designated

Premises Supervisor to be based at the premises and for the role to be his or her full time occupation. The Designated Premises Supervisor should be on duty during the busiest days (usually Thursdays to Saturdays) until the premises closes and in their absence should nominate a deputy, who should be a personal licence holder, in writing. When the Designated Premises Supervisor is not at the premises they should be easily contactable. Applicants are expected to take account of these factors in preparing their Operating Schedules. If they do not, they are more likely to receive relevant representations. In any case, they should be prepared to demonstrate their managerial quality and systems if they are required to attend a hearing as a result of such representations.

7.11 The Licensing Authority reminds applicants and licence holders of the need to obtain a Performing Rights Society licence and Phonographic Performances Ltd licence in order to observe copyright requirements. Contact the PRS on 020 7580 5544 or [www.prsformusic.com](http://www.prsformusic.com).

7.12 Applications need to be advertised in two ways. Firstly, by displaying a notice prominently at or on the premises to which the application relates where it can be conveniently read from the exterior of the premises and in the case of a premises covering an area more than fifty metres square, a further notice every fifty metres along the external perimeter of the premises abutting any highway. Secondly, in a local newspaper. As for advertising of applications, the Licensing Authority recommends one of the following local newspapers depending on which one circulates in the vicinity of the premises:

- (a) **Bucks Herald**
- (b) **Buckingham & Winslow Advertiser**
- (c) **Bucks Advertiser**
- (d) **Leighton Buzzard Observer**

7.13 If an alternative newspaper is used the applicant is requested to send the Licensing Authority a copy of the advert.

7.14 When determining applications the Licensing Authority will have regard to any Guidance issued by the Home Office. In particular, account will be taken of the need



to encourage and promote live music, dancing and theatre for the wider cultural benefit of the community as a whole. If representations are made concerning the potential for disturbance in a particular neighbourhood, the Licensing Authority's consideration will be balanced against the wider benefits to the community.

- 7.15 Prospective holders of new premises licences, and those seeking variations to existing premises licences, are advised to consult with the Council's licensing officers and the various responsible authorities at the earliest possible stage in order to reduce the risk of confusion and dispute arising. The Licensing Authority will endeavour to work in full co-operation with licensees and applicants to minimise the number of disputes that may otherwise arise in this area.
- 7.16 Any licence holder wishing to apply for a Minor Variation or to remove the Designated Premises Supervisor requirement for community premises is advised to contact the Council's licensing services before making an application.

#### Temporary Events

- 7.17 The Licensing Act 2003 provides for certain occasions when small scale events (for less than 500 people lasting for no more than 168 hours and involving any of the licensable activities set out in paragraph 1.7 of this Policy, do not need a licence providing that advance notice is given to the police, Environmental Health and the Licensing Authority. The police and Environmental Health can object to a Temporary Event Notice if the event would undermine one or more of the licensing objectives. If they do, then the Licensing Authority has power to permit or refuse permission for the event to proceed, and also to permit the event to proceed with conditions.
- 7.18 Applicants should be aware that the limit of 499 persons at any time applies to all Temporary Event Notices and the number includes staff engaged in the event. Failure to comply with this limit may lead to enforcement action. Organisers are

recommended, where appropriate, to employ means of recording the number of persons entering and leaving the premises.

- 7.19 Although the Licensing Act 2003 requires organisers to give 10 working days notice (not including the day of delivery of the notice or the day of the event) of qualifying temporary events, the Licensing Authority recommends that at least three months' notice be given. This will allow the Licensing Authority to help organisers plan their events safely. Any longer period than this may mean that organisers do not have all the details available at the time of submitting the notice, and any lesser time means that planning may be rushed and haphazard.
- 7.20 The legislation also permits the serving of late Temporary Event Notices, between five and nine days before the beginning of the event period. However, applicants should be aware that if any objection notice is given by the police or Environmental Health, then the event may not proceed. It is therefore strongly in the interests of applicants to serve standard Temporary Event Notices within the timescales set out above, and to use the late Temporary Event Notice procedure in cases of emergency.
- 7.21 The Council has established a Safety Advisory Group, consisting of the emergency services and other statutory agencies such as the highways authority, to advise and co-ordinate planning for public events in the District, whether or not a premises licence or a temporary event notice is needed. More information regarding Aylesbury Vale's Safety Advisory Group is available on Aylesbury Vale District Council's website <http://www.aylesburyvale.gov.uk/community-living/event-management/aylesbury-vale-safety-advisory-group/>
- 7.22 Organisers of temporary events are strongly advised to contact the Council's licensing officers for advice at the earliest opportunity when planning events. Where necessary, the advice of the Safety Advisory Group can be obtained, or discussions held with the police to avoid any unnecessary objections being made that may arise from misunderstandings or confusion as to what is being proposed. Applicants intending to sell alcohol should be aware that it is an offence to supply alcohol to minors or persons who are drunk.

7.23 The Council wishes to guard against the use of Temporary Event Notices as a means of circumventing the restraint policies in Aylesbury and Buckingham Town Centres. Therefore, when considering objections to Notices in those centres, the Licensing Authority will take into account the policies set out in Chapters 5 and 6.

#### Applications for personal licences

7.24 It is a mandatory condition of a premises licence that all sales of alcohol are made or authorised by a holder of a personal licence.

7.25 Where applicants for personal licences have unspent criminal convictions for relevant offences set out in the Act, the Police have a discretion to object to their application, which will then be determined by the Licensing Authority. Applicants with such convictions are encouraged to first discuss their intended application with the police and Council licensing officers before making the application.

#### Designated premises supervisors

7.26 It is recommended that the designated premises supervisor meet with the Licensing Authority and the police licensing officers as soon as practicable after taking up their duties, in order that the Licensing Authority's approach to securing the licensing objectives can be understood by those responsible for licensed premises.

#### Licence Reviews

7.27 The Licensing Authority can only review a licence where it is alleged that the licensing objectives are being breached. Applications for a review of a premises licence which involve the issues outlined below are viewed particularly seriously :

- Use of premises for the sale and distribution of Class A drugs and the laundering of the proceeds of drugs crime;
- Use of premises for the sale and distribution of illegal firearms;
- Evasion of copyright in respect of pirated or unlicensed films and music,;
- Illegal purchase and consumption of alcohol by minors;
- Prostitution or the sale of unlawful pornography;
- Use of premises by organised groups of paedophiles to groom children;
- Use of premises as the base for the organisation of criminal activity, particularly by gangs;
- Use of premises for the organisation, promotion or carrying out of racist, homophobic or sexual offences or attacks;
- Knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a condition on that person's leave to enter;
- Use of premises for unlawful gambling;
- Use of premises for the sale of smuggled tobacco, alcohol or other goods;
- Use of premises for the sale of stolen goods;
- Use of premises for unlawful gaming;
- Where the police are frequently called to attend to incidents of disorder
- Prolonged and/or repeated instances of public nuisance
- Where serious risks to public safety have been identified and the management is unable or unwilling to correct those
- Where serious risks to children have been identified.
- 

## 8 DELEGATION AND DECISION-MAKING

- 8.1 One of the major principles underlying the Licensing Act 2003 is that the licensing functions contained within the Act should be delegated to an appropriate level so as to ensure speedy, efficient and cost effective service delivery.
- 8.2 The Council is committed to the principle of delegating its powers to ensure that these objectives are met and, subject to the formal approval of the Licensing

Committee, has arranged for its licensing functions to be discharged in accordance with the Guidance issued by the Secretary of State.

- 8.3 The Act generally requires applications to be granted unless an objection is raised. Where a function is delegated to officers they will be responsible for liaising between the applicant, other persons and the responsible authorities to ensure that any licence granted is subject to appropriate conditions. Where objections are made the licensing officer will once again liaise with the applicant, interested parties and the responsible authorities to see if a “settlement” is possible to overcome the objections and, if possible, without the need for the matter to go before the Sub Committee.
- 8.4 The Licensing Authority is a Responsible Authority which means that the licensing authority can instigate reviews and make representations on applications for new licences and variations of existing licences. Delegations allow the Licensing Services Manager to take decisions and issue/serve notices in accordance with the Act and any regulations made under the Act and represent the Licensing Authority as a responsible Authority. The Licensing Authority will make representations or call a review of a licence where it is appropriate to do so. It generally will not act as a responsible authority on behalf of other parties. Where the Licensing Authority exercises its right to make representations or instigate reviews of licences it will ensure a separation of responsibilities within the authority to ensure procedural fairness and eliminate conflicts of interest. The officer advising the Licensing Act Sub-Committee will be different from the officer acting for the responsible authority. Under these circumstances the Licensing Services Manager will not be involved in the licensing decision process and will not discuss the merits of the case with those involved in making the determination by the Licensing Authority.
- 8.5 In hearing contested licence applications the Sub-Committee will try to keep the proceedings as informal as possible. However, some degree of formality is needed to ensure that all parties receive a fair hearing. The procedure for hearings is designed to ensure that all parties are able to express their views, openly and fairly. The Sub-Committee procedure is inquisitorial rather than adversarial and, whilst

applicants, other persons, and responsible authorities are entitled to be legally represented with them if they wish, this is by no means a requirement.

- 8.6 In the Licensing Authority's experience, it is important that the Designated Premises Supervisor or someone else with day to day knowledge and experience of running the premises attends the hearing to facilitate a meaningful discussion of the issues and concerns raised by any responsible authority and/or interested party. Accordingly, the Licensing Authority will normally expect Designated Premises Supervisor to attend hearings.

### The Licensing Committee

- 8.7 The Licensing Committee will consist of a maximum of 15 Councillors that will sit at least once per year.
- 8.8 A licensing sub-committee of three Councillors will sit to hear every application where relevant representations have been received from responsible authorities and/or other persons
- 8.9 The Chairman of the Licensing Committee shall be elected by the Licensing Committee at the annual meeting of the Council. The Chairman of the licensing sub-committee shall on each occasion be elected at the meeting.
- 8.10 The Licensing Committee will also sit to determine general licensing matters not associated with the Licensing Act 2003.
- 8.11 Every decision by a licensing sub-committee shall be accompanied with clear, cogent reasons for the decision. This shall be given to the parties in writing as soon as is reasonably practicable after the meeting.
- 8.12 The Licensing Authority's licensing officers will deal with all other licence applications where no representations have been received.

- 8.13 Council officers will make the decisions on whether representations or applications for licence reviews should be referred to the sub-committee. Where representations or application for licence reviews are rejected, officers will give a written reason as to why that is the case.
- 8.14 Officers will be responsible for drafting appropriate conditions for premises licences and club premises certificates when the sub-committee is satisfied that it is appropriate and proportionate to impose such conditions.
- 8.15 The Licensing Authority will ensure that members and officers are appropriately trained to carry out their duties under the Act.

## 9 Enforcement

### COMPLAINTS AGAINST LICENSED PREMISES

- 9.1 The Licensing Authority will investigate genuine complaints against licensed premises where the complaint arises from a breach of conditions or an offence under the Licensing Act 2003. The investigation will be tailored to the circumstances. In the first instance, complainants may be encouraged to raise the complaint directly with the licensee or business concerned. Where this is not practical, generally in the first instance licensees will be put on notice that a complaint has been made and asked to offer an explanation.. The complainant will also be provided with diary sheets and asked to log the details for a period of one month. The results of these actions will shape any subsequent investigation.

Where another person (such as a local resident or a resident's association or local business) has made a complaint about premises, whether informally or by way of representation or during review proceedings, then if it is appropriate the Licensing Authority will initially arrange a mediation meeting between the complainant and the premises concerned to address, clarify and try to resolve the issues of concern.

- 9.2 This process will not override the right of any other person to ask that the Licensing Committee consider their valid objections or for any licence holder to decline to participate in a mediation meeting.
- 9.3 In exercising its enforcement powers, the Licensing Authority will have regard to the principles that regulatory activities should be carried out in a way which is transparent, accountable, proportionate and consistent and targeted only at cases in which action is needed i.e. when there is a risk of harm to the licensing objectives. Regard will also be had to the Regulator's Compliance Code in formulating the authority's enforcement policies and standards.

This can be summarised as follows:

- Publish an enforcement policy
- Consider impact of regulatory sanctions on economic progress
- Take cost/benefit approach to regulatory intervention
- Keep regulatory interventions under review with view to considering whether removal/ reduction would be appropriate
- Target efforts by taking risk assessment approach
- Incentivise and reward businesses for good levels of compliance
- Ensure inspectors can interpret and apply legal requirements and enforcement policies fairly and consistently
- Hold discussions with businesses when considering formal enforcement action (except for serious/urgent cases)
- Ensure sanctions and penalties are proportionate, directed at change of behaviour and deter non-compliance
- Enforce and apply sanctions in a transparent manner
- Provide clear reasons for enforcement actions
- Measure outcomes
- Periodically justify choice of enforcement actions to interested parties



- 9.4 A graduated response will be taken where offences against licensing legislation are found or where licence conditions have been contravened. An isolated administrative offence – such as failing to maintain certain records – may be dealt with purely by way of a written warning whilst more serious offences which have either been committed over a period of time or which jeopardise public safety – such as failing to maintain fire extinguishers properly – may result in a referral for prosecution.
- 9.5 The Licensing Authority will seek to work with all the responsible authorities, but the police, trading standards and Environmental Health in particular, in enforcing licensing legislation. It expects the police to share information about licensees and licensed premises under the Crime and Disorder Act 1998 and its common law powers, and to consult closely with the Licensing Authority when any enforcement action may be required. A joint enforcement protocol has been drawn up with the police and other relevant statutory agencies and this will inform the Licensing Authority's enforcement actions.
- 9.6 The Licensing Authority's approach is multi-targeted and depending on the facts and circumstances will be directed at the appropriate miscreant(s) e.g. directors, companies, Designated Premises Supervisor, servers, customers, under age purchasers, or proxy purchasers.
- 9.7 In exercising its enforcement functions the Licensing Authority will adopt a multi-functional approach and consider the range of enforcement and regulatory tools available e.g. prosecution, simple caution, injunction, review, closure, closure notices or other remedies. The purpose of enforcement is to achieve compliance and not to punish the person enforced against, although there may be cases where a deterrent approach is called for.

#### Inspection of Premises

- 9.8 The inspection of premises is based on a rational set of priorities. A risk-based approach will be taken involving the inherent risk of the licensable activities, the

hours and location of operation, the history of compliance and the extent to which it has been appropriate previously to attach conditions to the licence in order to promote the licensing objectives. A licence with conditions arising from a hearing is considered a higher priority than one arising from an uncontested variation. In addition, in an effort to provide a comprehensive licensing service, it is desirable to inspect all newly licensed premises and those with recent licence variations.

- 9.9 Multi-agency visits involving officers from the Licensing Authority and various responsible authorities are routinely carried out. The greatest benefit is derived from doing these when the businesses concerned are actually operating. They are conducted in accordance with the Legislative and Regulatory Reform Act 2006 and any Code of Practice arising from it and focus on a specific geographical area of the district. Given the higher density of licensed premises in the town centres of Aylesbury and Buckingham and the consequential issues of disorder and disturbance, these premises receive particular attention. Intelligence driven checks are also carried out on specific premises.
- 9.10 Inspections of premises may also arise from complaints made against them, to investigate an unauthorised activity and should there be an application discrepancy e.g. if a complaint is made that the public notice has not been displayed during an application or that although displayed it is not done so prominently so that it can be conveniently read from the exterior of the premises.

## APPENDIX 1 –

### Special Saturation Policy – Aylesbury Town centre

#### **Factors considered in adopting and continuing a special policy**

##### **1. Introduction**

Since the introduction of the Licensing Act 2003 Aylesbury Vale District Council have adopted a special saturation policy for the town centre of Aylesbury as defined by the inner relief road. This policy has focused on late night licensed premises. Over the years it has not precluded applications for new premises licences or variations to existing premises licences in the town centre. It has focused attention particularly on the promotion of the licensing objectives relating to crime and disorder and public nuisance. As a result the incidence of crime and disorder has stabilised and more recently has been seen to fall slightly. Thames Valley Police firmly believe that there is an ongoing need for the continuation of the saturation policy in this area with the objective of reducing crime and disorder, anti-social behaviour and public nuisance in and around the town centre of Aylesbury.

##### **2. Late night licensed premises in the town centre**

There are 44 premises licences trading late at night in the town centre of Aylesbury. This number represents a variety of different premises including takeaways, off licences, restaurants, food pubs and non-food pubs. There are three town centre off licences and three supermarkets that sell alcohol. These premises close relatively early and are not generally part of the night time economy. There are seven restaurants in Aylesbury that again in relative terms close quite early. As expected the customers of the restaurants are mixed in terms of age, gender, etc and these premises, at this time, do not pose any particular problem in relation to the licensing objectives.

There are nine pubs within the town centre who do not offer food and rely heavily on the sale of alcohol. There are a further twelve pubs that do provide a significant volume of food, especially during the daytime. However after around 10.00 p.m. all twenty one pubs are alcohol led. Whilst some venues offer a fairly unique brand and

identify with a particular group of customer such as more mature patrons or students, most appear to market themselves to younger members of the community. Many offer recorded and live music and dancing.

The majority of pubs and clubs in the town centre, particularly at weekends have a last sale of alcohol at 2.00 a.m. and closure at 2.30 a.m. Two pubs have slightly later trading hours. Many of these venues have been trading with these hours for a number of years and simply converted their licences when the Licensing Act 2003 was introduced. Others have subsequently varied their hours in line with competitors.

Four of the town centre takeaways are licensed to supply late night refreshment up until 3.30 a.m. These premises have varied their original premises licences in recent years as experience has shown that there is significant demand for fast food until 3.30 a.m. The observation of police officers working late at night is that, contrary to the Statutory Guidance to the Licensing Act 2003, longer trading hours has not resulted in a gradual dispersal of customers but the majority leave between the last sale of alcohol and closure of the premises. It is for this reason that the takeaway premises remain open and admit to being at their busiest between 2.00 a.m. and 3.00 a.m.

### **3. Residents**

There are around 600 residents living in the town centre. Housing tenure is largely mixed and includes owner occupied and privately rented, social housing and a large area of Alms housing for elderly residents. Residential accommodation is dispersed throughout the town centre including various flats in the middle of the town itself. Some are situated above or opposite or just within the vicinity of late night licensed premises. Others are on main thoroughfares leading into and out from the town.

A significant residential area of the town centre is what is colloquially known as the 'old town'. The heart of the old town is St Mary's Church in St Mary's Square. St Mary's Square is directly connected to a busy retail and night time space by a relatively short walk – Pebble Lane. Residents living around the churchyard around St Mary's are frequently subjected to noise disturbance and anti-social behaviour from people leaving the town centre and some merely loitering in St Marys. A number of late night premises

customers leave by foot via Cambridge Street, Buckingham Street, St Marys, Oxford Road, Bourg walk, Wendover Road and High Street. In doing so residents living on these town centre exit routes are routinely disturbed by boisterous customers and suffer excessive litter.

#### **4. Crime and disorder**

Crime figures for the Town Centre of Aylesbury significantly increased in 1999/2000 with the opening of three large late night pubs. Crime rates continued to increase as other late night venues sought later hours. These crimes tend to be outside the premises themselves but within the vicinity of licensed premises. More recently late night crimes have been seen to fall slightly but remain unacceptably high. The aim of the special saturation policy is to further reduce not just reported crimes but the anti—social behaviour and nuisance that often goes unreported. The British Crime Survey 2002/3 states that only 37% of violent crime is reported and so the reality of the situation in the town centre of Aylesbury may be very different. This adds to the fear of crime and perceived community safety.

The incidents of violent crime in the town centre is almost exclusively alcohol fuelled and often involves multiple victims. This puts a strain on police resources in intervening and making arrests. A single incident can have a very significant impact on police manning the town centre. The later trading hours and increased capacity of the late night economy in the town centre of Aylesbury has required the police to significantly change their shift patterns to contain the issues arising. Any later trading hours would impact significantly on the ability of the police to continue to effectively contain incidents in the town centre. It is worth noting that violent crimes can also occur at home as a result of heavy drinking in the town centre. The Domestic Violence Unit of Thames Valley Police confirm a higher rate of incidents in the early hours of the morning particularly at weekends.

#### **5. Causes of crime**

Over the five years that the Licensing Act 2003 has been in force Thames Valley Police have had to resort to two premises licence reviews in relation to town centre pubs. On both occasions a stepped approach was adopted with the licensees which was measured and proportionate. In both cases the management did not heed the warnings

and finally a review was sought. The problems of crime and disorder evident at these premises was as a direct result of poor and negligent management. Both premises failed to get to grips with the issues even after the reviews and shortly afterwards closed. A number of other premises have in the past been subjected to the same approach due to poor management and once proper experienced management had been put in place a review was not necessary.

Late night pubs and clubs in Aylesbury are frequented mostly by younger customers. The observation and operational experience of police officers reveal that customers tend to migrate from venue to venue during the night. This can be problematical later on during the night as the relative concentration of premises inevitably means that customers of one venue will meet customers of others. After mid-night customers using the town centre tend to congregate in and around half a dozen pubs. Queuing outside of these pubs is inevitable and together with smokers loitering outside, can lead to confrontation. Potential customers queuing and existing customers smoking outside has not only been identified as a flashpoint in relation to violence but has also resulted in noise complaints.

Similarly large numbers of people using town centre venues congregate at takeaway premises and taxi ranks and these can be problematical also. Although most takeaways do not themselves sell alcohol they can be flashpoints as a concentrated number of individuals having consumed alcohol visit such premises after the closing of pubs and nightclubs. The presence of late night takeaways in the town centre means after leaving alcohol and entertainment venues, customers are more likely to remain in the town centre instead of going home. This in turn increases the incidence of crime and disorder and noise nuisance even later at night and demands even greater police resources.

It has been suggested that Aylesbury has reached or passed the 'tipping point'. This means that the increase in the number of licensed premises had caused a disproportionate or exponential increase in violence. The tipping point for Aylesbury arrived at some point following the opening of three large late night venues in 1999 and the increase in existing premises seeking later hours. The saturation policy has helped in containing the problem and is needed moving forward to achieve a substantial reduction in the number of violent, anti-social and nuisance incidents.

## **6. Noise**

As mentioned earlier there are a significant number of residents living in the town centre of Aylesbury and these relate to a variety of different tenure. Environmental Health Officers and the Council's Licensing Services have received and continue to receive complaints regarding noise disturbance in the town centre. Some have related to noise directly from premises playing amplified music. These tend to be from residents of flat conversions close to or even above licensed premises. Various investigations have revealed residents of flat conversions are often privately rented and do not complain to the authorities but simply leave the area. The complaints almost exclusively come from owner occupiers of flats.

More frequently noise complaints relate directly to customers of late night premises and are non-specific about the premises they have just left. Suffice to say that they have been drinking in the town centre. Quiet spaces very close to the commercial town centre such as St Mary's are particularly vulnerable. Complaints have been received of customers of the town centre premises loitering in St Mary's, consuming late night refreshment there too and general anti-social behaviour.

## **7. Transport provision**

In respect to transport late at night in the town centre this is provided exclusively by taxis and private hire vehicles. Taxis in Aylesbury are easily identifiable as they are purpose built and in a black livery. There are several ranks within the town centre and are not problematical. Private hire vehicles are also readily identifiable as they bear door signs and display plates showing their licence numbers and expiry dates. There is little or no evidence of un-licensed vehicles exploiting the town centre. However there is evidence of unlawful plying for hire in the town centre by some private hire drivers. Private hire vehicles must be pre-booked through a licensed operator. Despite numerous publicity campaigns and routine enforcement this problem still exists. The fact that customers of the late night economy are mostly under the influence of alcohol only exacerbate this behaviour from some unscrupulous private hire drivers.

## **8. Other**

Other agencies have confirmed the impact of the late night economy in Aylesbury town centre particularly at the weekends. Stoke Mandeville Accident and Emergency Ward is busier during this time and almost all casualties relate to excessive drinking and many in the town centre. The Council contract out the street cleansing function and the contractor has confirmed that additional resources are required to deal with the excessive litter following a Friday and Saturday night. This largely consists of takeaway food containers, food itself and vomit. There is also evidence of public urination.



## APPENDIX 2

### Pool of Conditions

1. All windows and doors shall remain closed after *time*, save for the opening and closing of doors to allow the ingress and exit of customers.
2. When regulated entertainment is provided after *time*, all windows and doors shall remain closed, save for the opening and closing of doors to allow the ingress and exit of customers.
3. The provision of regulated entertainment shall cease thirty minutes before the terminal hour for the sale of alcohol.
4. The outside area which forms part of the premises shall be cleared of customers, and shall not be used, after *time*.
5. Any speakers used during the transmission of music shall be kept within the premises and shall not be positioned near to openings such as doors and windows.
6. The playing of recorded music shall take place indoors only and no external speakers are permitted.
7. A noise limiter shall be fitted to the musical amplification system in agreement with and to the satisfaction of an authorised officer of the responsible environmental health authority. The noise limiter shall be set and maintained at a level to be determined by the said officer.
8. Prominent, clear and legible notices shall be displayed at all exits reminding club members and their guests of the residential area and to respect the needs of local residents and advising them to leave the premises and the surrounding area quietly.
9. A prominent, clear and legible notice shall be displayed at the exits reminding customers that no alcohol is to be consumed outside the premises.
10. An adequate sized and permanently fixed waste receptacle and cigarette receptacle for use by customers shall be provided outside the premises and the licensees shall dispose of the waste responsibly as and when necessary but at least on a daily basis.
11. The licensees shall ensure that the highway and public spaces in the vicinity of the premises are kept free of litter from the premises to the satisfaction of the Licensing Authority.
12. The doors to the premises shall be locked ten minutes before the end of the licensing time and no new customers shall be admitted to the premises after that time. A closed sign shall also be displayed after that time and any customers leaving the premises thereafter shall be supervised by a member of staff. (N.B. specific to takeaway premises)

- 13.** The sign indicating the opening hours of the premises shall be amended to make the provisions of condition 13 above clear to all customers. (N.B. specific to takeaway premises)
- 14.** If a customer appears to be under 21 there shall be no sale of alcohol unless the customer proves he or she is over the legal age limit for the purchase of alcohol. The compliance with this condition shall be in accordance with the "Challenge 21" initiative or equivalent standard.
- 15.** A refusals register shall be created and maintained which records all sales of alcohol refused by the premises because of the legal age limit for the purchase of alcohol. The register shall be made available, on request, to the Police, the Council and Trading Standards.
- 16.** Carrier bags shall be used for all alcohol sales with the name of the premises printed on the bags.
- 17.** A colour CCTV system with a hard disk shall be installed inside the premises, maintained and operated correctly to the satisfaction of Thames Valley Police. The recordings from the system shall be retained for a period of 90 days and shall be made available on request to the Police, Council and Trading Standards. These authorities shall also be allowed to take DVD copies of the recordings.
- 18.** Door supervisors shall be used whenever regulated entertainment is provided whatever day of the week or time that might be.

## **APPENDIX 3**

### **Glossary of terms**

Club Premises Certificates are authorisations to conduct licensable activities granted to members' clubs.

The Designated Premises Supervisor ("DPS") is an individual who holds a personal licence and is named as the designated premises supervisor on a premises licence permitting the sale of alcohol. The DPS is the single point of management focus in a licensed premises.

Interested Parties are people who live or work in the vicinity of licensed premises or bodies representing such people such as residents' associations. Interested parties also include elected Members who do not necessarily live in the area. Interested parties may participate in the licensing process by making "relevant representations" on applications or by bringing applications for reviews of licences and club premises certificates.

Late Night Refreshment is the provision of hot food and drink between 11 p.m. and 5 a.m. for consumption on or off the premises.

Licensable activities include the sale and supply of alcohol, the provision of late night refreshment and regulated entertainment.

The Licensing Authority is Aylesbury Vale District Council.

Licensing Objectives under the Licensing Act 2003 are the prevention of crime and disorder, the prevention of nuisance, public safety and the protection of children from harm. All representations must concern the licensing objectives.

Mandatory Conditions are prescribed by the Licensing Act 2003 and other regulations. In premises licensed for the sale of alcohol, they include the need for a designated premises supervisor; that every sale of alcohol needs to be authorised by a personal licence holder; that any door supervisors used must be licensed with the Security Industry Authority; They also include the "mandatory code" which prevents irresponsible drinks promotions on licensed premises, requires alcohol to be available in smaller measures, and also requires the provision of free tap water on request. Alcohol-licensed premises must also ensure that alcohol is not sold below the permitted price for such sales. In premises licensed for the showing of films, there must be a condition restricting the admission of children to films according to the British Board of Film Classification's recommendations or the Licensing Authority's own assessment.

An Operating Schedule forms part of the application for a premises licence. It contains of what licensable activities are proposed, the hours of operation and the measures proposed to promote the licensing objectives. Where the licence is granted, its terms become conditions on the licence.

A Personal Licence allows its holder to make or authorise the sale of alcohol on licensed premises. It is valid for 10 years.

A Premises Licence permits the carrying on of licensable activities. It is valid indefinitely unless it is revoked, surrendered or lapses, e.g. on the death of its holder.

Relevant Representations are objections to applications made by interested parties and responsible authorities. They must concern the licensing objectives and must be made in time, otherwise they will be rejected.

Regulated Entertainment includes plays, the showing of films, indoor sporting events, musical performance, the playing of recorded music, the provision of facilities for music and dancing such as dance floors and other similar forms of entertainment.

Responsible Authorities are the statutory authorities who may participate in the licensing process, including the police, the environmental health authority, the fire and rescue authority, the child protection authority, the health and safety authority and the planning authority.

