



## Licensing Committee Agenda

Date: Wednesday, 28th March, 2018  
Time: 7.00 pm  
Venue: Council Chamber  
District Council Offices, Queen Victoria Road, High Wycombe Bucks

### Membership

Chairman: Cllr Alan Hill  
Vice Chairman: Cllr Ian McEnnis

Councillors: Ms A Baughan, M Clarke, M P Davy, S Graham, A R Green,  
C B Harriss, M A Hashmi, M Hussain, D Knights, N B Marshall,  
S Saddique, R J Scott and A Turner

### Standing Deputies

Councillors Z Ahmed, M Hanif, M Harris, M E Knight, R Raja and M Hussain JP

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**Filming/Recording/Photographing at Meetings** – please note that this may take place during the public part of the meeting in accordance with Standing Orders. Notices are displayed within meeting rooms.

## Agenda

Item	Page
1. <b>Apologies for Absence</b> To receive apologies for absence.	
2. <b>Minutes of the Previous Meeting</b> To confirm the minutes of the previous meeting.	1 - 4
3. <b>Declarations of Interest</b> To receive any disclosure of disclosable pecuniary interests by Members relating to items on the agenda. If any Member is uncertain as to whether	

an interest should be disclosed, he or she is asked if possible to contact the District Solicitor prior to the meeting.

Members are reminded that if they are declaring an interest, they should state the nature of that interest whether or not they are required to withdraw from the meeting.

4. **Review of Statement of Licensing Policy**

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5. **Training**

**Officer Contacts:** Mrs Caroline Steven Tel: 01494 421222  
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**Executive Summary**

Under the Licensing Act 2003, the local authority is responsible for determining applications made under the Act. This function is delegated to a Licensing Panel of three members. Any Member wishing to take part in Panel Hearings must have received appropriate training, ideally at least every two years.

It is proposed to devote some time during this meeting to training, with a view to bringing as many members as possible up to date with training needs and to offer a refresher of the processes involved.

Training on the 28 March will aim to give all Committee Members the opportunity to recap or learn aspects of the Act relating to Licensing Panel Hearings. It will enable Members to raise questions and Officers to provide guidance and assistance on key points and procedures in a training environment.

**Outcomes and Next Steps**

It will be the aim to give every member the training and confidence to take part in Licensing Panels.

6. **Supplementary Items (If Any)**

7. **Urgent Items (If Any)**

**For further information, please contact Liz Hornby, 01494 421261  
[committeeservices@wycombe.gov.uk](mailto:committeeservices@wycombe.gov.uk)**

# Licensing Committee Minutes

Date: 12 November 2015

Time: 7.00 - 7.17 pm

**PRESENT:** Councillor A E Hill (in the Chair)

Councillors Miss S Brown, Ms A Baughan, M Clarke, M P Davy, S Graham, A R Green, C B Harriss, M A Hashmi, M Hussain, I L McEnnis and R J Scott.

Apologies for absence were received from Councillors: N B Marshall

## 7 APOLOGIES FOR ABSENCE

There were no apologies.

## 8 MINUTES OF THE PREVIOUS MEETING

**RESOLVED:** that the minutes of the meeting of the Licensing Committee held on 7 July 2015 be approved as a correct record and signed by the Chairman.

## 9 DECLARATIONS OF INTEREST

There were no declarations of interest.

## 10 GAMBLING ACT 2005 - OUTCOME OF CONSULTATION

Members considered the report on the Gambling Act 2005 – Outcome of Consultation and noted that the draft Statement of Licensing Policy had been presented to them at the previous meeting which was duly approved for consultation purposes.

The consultation had now taken place and it was noted that three responses were received. One was from Thames Valley Police which stated they had no comments to make.

Members noted that the other two responses were received very close to the deadline and were both from solicitors representing gambling organisations. While both were generally happy with the Council's policy some suggestions were put forward. It was believed that these were responses that had been sent to all authorities who were reviewing their policies. One of the solicitors who was representing Coral suggested that reference should be included regarding the ability of betting shops to be located near to schools. There was also a suggestion that the Policy made specific reference to the fact that moral considerations were not relevant in terms of the determination of applications for gambling. However, it was noted that there was a betting shop located at the top of Marlow Hill in fairly close proximity to three schools and so this was not considered necessary to include in the policy and the law prohibited moral views from being taken into consideration as this would merely restate legal requirements.

The other representation was from a firm of solicitors representing the Association of British Bookmakers suggesting the reiteration of some of the legislation and statutory guidance within the policy although it was not considered that it was necessary given

that the Act and Guidance would, in any case, need to be referred to in determining any applications.

As a result, it was not considered necessary for any changes to be made to the policy other than the changes which had already been made as a result of comments from Members at the previous committee meeting.

Members approved the report to be referred to Council for adoption at their meeting in December.

**RESOLVED:** that the Policy be referred to Council for adoption at their meeting in December.

## **11 LICENSING COMMITTEE TERMS OF REFERENCE - CONSTITUTION REVIEW**

Members noted the Licensing Committee Terms of Reference, Constitution Review.

**RESOLVED:** that the Licensing Committee Terms of Reference, Constitution Review be noted.

## **12 SUPPLEMENTARY ITEMS (IF ANY)**

A suggestion was made in respect of Licensing Panel hearings, that site visits take place prior to those hearings as this would assist those Panel Members when making a decision.

It was agreed that the Clerk would discuss logistics with the Democratic Services Manager and that in future would make arrangements for site visits.

It was also suggested and agreed that photographs be taken of the application site which can be displayed on the AV equipment during a hearing.

In relation to training, it was noted that some Members had not received training at the previous meeting. It was agreed that some 1-to-1 training would be arranged for those Members who wished to attend.

**RESOLVED:** that in relation to Licensing Panel hearings the following actions points were agreed –

- photographs of application sites would be taken and displayed at hearings;
- site visits to application sites would be arranged prior to hearings.

In relation to training, some 1-to-1 training would be arranged.

## **13 URGENT ITEMS (IF ANY)**

None.

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Chairman

### **The following officers were in attendance at the meeting:**

- |                 |                                      |
|-----------------|--------------------------------------|
| Caroline Steven | - Licensing Team Leader              |
| Liz Hornby      | - Senior Democratic Services Officer |



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# Agenda Item 4.

## REVIEW OF LICENSING ACT 2003 POLICY – CONSULTATION PROCESS

**Officer Contact:** Mrs Caroline Steven

**DDI:** 01494 421222

**Email:** caroline.steven@wycombe.gov.uk

**Wards Affected:** All

### PROPOSED DECISION

That the draft reviewed Statement of Licensing Policy issued under the Licensing Act 2003 be approved for a consultation exercise as required by section 5 of the Act.

### Executive Summary

The Council's Statement of Licensing Policy is required to be reviewed, prepared and published every five years following a full consultation process. The last review was carried out in 2013 and is therefore now due. The policy has been reviewed and Members are now asked to consider the draft amended policy for the purposes of a consultation exercise.

### Policy/Community Plan Implications

The revision of the Licensing Act 2003 policy contributes to the Community Plan Aims in respect of regeneration and cohesive communities.

### Corporate / Legal Implications

The proposed consultation exercise and subsequent review and publication of the policy must be carried out in order to comply with the Council's statutory duties under the Licensing Act 2003. Non-compliance may lead to possible legal and financial implications in that future applications determined under the Act may be challenged.

### Detailed Report

1. The Licensing Act 2003 policy must be reviewed, undergo a consultation process and be approved by Council by December 13 this year, as required by the Licensing Act 2003.
2. The consultation process is recommended by the government to last 3 months.
3. It is proposed that an updated version of the consultation list previously used will be utilised for this purpose.
4. It is proposed that the reviewed amended policy undergoes the consultation process during late Spring to early Summer, in order for the consultation responses to be considered by the Licensing Committee at its meeting on the 11<sup>th</sup> October 2018.
5. The current Policy has been utilised at Licensing Hearings on a regular basis since its last review and no queries have been raised in relation to it nor has it been challenged or any improvements suggested.
6. There have, however, been some amendments to relevant legislation since the last review was carried out, which have resulted in suggested amendments, as detailed

below. Further minor amendments have also been made for the sake of clarification or to update references.

7. The Anti-Social Behaviour, Crime and Policing Act 2014 brought changes to the Designated Public Places Order and as referred to at paragraph 3.11 of the policy has now become a Public Spaces Protection Order (PSPO), covering the same area of High Wycombe town centre. The PSPO is currently also under review and it is proposed that a power will be created which will prohibit at any time, consuming alcohol or having an open alcohol container within the restricted area of the town centre. If the person who, without reasonable excuse continues drinking intoxicating liquor in his possession when asked to stop by a police officer or an authorised person or fails to surrender anything in the person's possession which is believed to be alcohol or a container of alcohol, they will commit an offence under the legislation and is liable on summary conviction to a fine (standard scale £500) or if in receipt of a Fixed Penalty Notice to a penalty of a maximum of £100.00. The legislation also gives powers to police officers to dispose of any open can of alcohol once it has been surrendered.

The proposed revised PSPO will be subject to consultation and has to be agreed by Cabinet before it is adopted later this year.

8. It is proposed that the White Cider Initiative referred to at Paragraph 3.12 of the policy be amended to create an accreditation for responsible retailers who agree not to sell super strength alcohol products. This would include other forms of alcohol than white cider but would exclude craft speciality products.
9. Further to a number of review applications being made on the basis of illicit alcohol or cigarettes being found on licensed premises, paragraph 3.13 has been added to clarify that review applications will be considered in these circumstances and that the sale of unlawful alcohol and cigarettes is a serious matter.
10. As a result of compliance checks on the issue of child sexual exploitation carried out at hotels within the district, specific reference to licence holder's responsibilities in this respect has been added at paragraph 3.16.
11. Provisions of the Immigration Act 2016 came into force in April 2017 which prohibit premises and personal licences being issued to anyone who does not have the right to live and work in the UK. The Home Secretary (Home Office Immigration) has also become a responsible authority who can comment on licence applications or request licence reviews. These matters are referred to in paragraphs 3.35 to 3.37 and 3.43 to 3.44.
12. A new section dealing with Expedited Reviews has been added from paragraph 8.7 to 8.17 which explains the process for this type of review and how interim steps are treated during the hearing and appeal processes. Although we have not yet needed to deal with this type of application, the law relating to interim steps has recently been clarified and it is considered appropriate for this to be included within the policy.
13. The Scheme of Delegation at Appendix 1 (page 26) has been amended to include the classification of films which have not previously been classified by the British Board of Film Classification.

## **Background Papers**

Files in Environmental Services





**WYCOMBE**  
**DISTRICT COUNCIL**

**Environment Service**

*Draft*

**STATEMENT OF  
LICENSING POLICY**

March 2018

## **The Purpose and Scope of the Licensing Policy**

This policy is required by the Licensing Act 2003, which places responsibility for licensing with Local Authorities.

The legislation sets out four statutory objectives that are to be addressed when licensing functions are undertaken. These are:-

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

The Act was intended to promote a 'Café Culture' style into the way leisure activities are undertaken and it is against this objective that a number of key aims and purposes are pursued. These are advised by the Government's Guidance Notes as the principal aims for all involved in licensing work and include:-

- The introduction of better and more proportionate regulation to give business greater freedom and flexibility to meet their customers' expectations;
- Greater choice for consumers, including tourists, about where, when and how to spend their leisure time;
- The encouragement of more family friendly premises where younger children can be free to go with the family;
- The further development within communities of our rich culture of live music, dancing and theatre, both in rural areas and in our towns and cities;
- The regeneration of areas that need the increased investment and employment opportunities that a thriving and safe night-time economy can bring; and
- The necessary protection of local residents, whose lives can be blighted by disturbance and anti-social behaviour associated with the behaviour of some people visiting places of entertainment.

The District Council, through the Community Plan for Wycombe District, seeks to improve the economic, social and environmental wellbeing of the area by creating a caring community, a thriving economy, a healthy environment and value for money. The objective, over time, is that these improvements will work towards delivering our Vision to 2026, making Wycombe District a better place to live, work and visit.

This Policy seeks to build on and contribute towards the overall Community Plan objective by drawing upon the Government's statutory objectives and Guidance as set out above. In so doing this Policy will specifically work towards the Community Plan aims of community development, community safety, culture and leisure, the environment and economic development.

It is against the background of these key aims that this Policy sets out Wycombe District Council's response to the 2003 Act and against which applications made in respect of licensing will be determined. We will continue to monitor the impact of the 2003 Act on crime and disorder and the other licensing objectives and, in the light of these findings, shall review the Policy accordingly.

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## 1. Introduction

1.1 Wycombe District Council is the Licensing Authority (the Authority) for the district of High Wycombe. The Authority is responsible for the licensing of licensable activities under the Licensing Act 2003 (the Act). This document sets out the policies that the Authority will apply when making decisions on applications for:

- The sale by retail of alcohol;
- The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club;
- The provision of regulated entertainment; and
- The provision of late night refreshment.

Regulated entertainment requires a licence when it is performed in front of an audience and includes any of the following:

- the performance of a play;
- the exhibition of a film;
- indoor sporting events;
- boxing or wrestling (indoors and outdoors)
- performance of live music (with some exceptions);
- playing of recorded music (apart from background music and with some exceptions);
- performance of dance; and
- the provision of facilities for dancing, making music and similar types of entertainment.

There are some proposed changes to the definition of regulated entertainment which may result in certain activities no longer requiring a licence, although these proposals have not yet come into force. This Policy will continue to be reviewed in this respect or in case of any other relevant changes in licensing law.

The provision of late night refreshment (supply of hot food and/or drink at any time between 23:00 and 05:00 for consumption on or off the premises) also requires a licence.

1.2 This policy shall apply to the following:

- Premises Licences
- Club Premises Certificates
- Personal Licences
- Temporary Event Notices

in respect of new consents, renewals, transfers and variations. This policy does not override the right of any individual to apply under the terms of the Act for a variety of permissions and to have any such application considered on its own merits. There is a statutory presumption that all applications will be granted unless a relevant and valid objection is made. The Authority can only impose conditions where a valid representation has been made and any conditions imposed must be proportionate, appropriate and reasonable. In carrying out its licensing functions, the Authority must have regard to the Act, the statutory Government Guidance, this policy and the licensing objectives. Any statement within the Policy will be relevant to all licensed premises unless otherwise stated

1.3 The Act makes provision for this policy to be the subject of consultation and a list of consultees is attached as Appendix 2. The Authority will review this policy at least every five years and consult on any proposed revisions.

## Objectives and Principles

1.4 It is the duty of the Authority to carry out its licensing functions with a view to promoting the

four licensing objectives, which are:

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

Each of the objectives is considered to be of equal importance.

- 1.5 The Authority is seeking to achieve control of licensed premises, qualifying clubs and temporary events within the terms of the Act. Terms and conditions will focus on achieving the licensing objectives with reference to:-
- matters within the control of individual licensees;
  - the specific premises and the places used;
  - the direct impact of the activity taking place at the licensed premises on the public who live, work and carry out normal activity in the area concerned.
- 1.6 Licensing is not a mechanism for the general control of anti-social behaviour by individuals beyond the direct control the licensee of the premises concerned.

In this respect the Authority recognises that there are a number of other mechanisms available for addressing issues of unruly behaviour that can occur away from licensed premises including:-

- planning controls
  - measures to create a safe and clean environment in partnership with local businesses and other departments of the Council
  - powers of the Council to designate parts of the Council area as places where alcohol may not be consumed publicly and may be confiscated by the police, and specifically
  - enforcement of the Wycombe District Public Spaces Protection Order 2016. Police enforcement of the normal law concerning disorder and anti-social behaviour including issuing fixed penalty notices
  - Trading Standards enforcement of under-age drinking offences
  - use of proof of identity cards and schemes for checking age limits, such as Challenge 21
  - the prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk or underage
  - Police powers to close down immediately for up to a maximum of 48 hours any licensed premises or temporary event on grounds of disorder, the likelihood of disorder or excessive noise emanating from the premises
  - the power of the police, other responsible authority or a local resident or business to seek a review of the licence or certificate in question
- 1.7 The objective of the licensing process is to allow the carrying on of alcohol sales and the provision of regulated entertainment in a way which ensures compliance with the Act, safeguards public safety and which is neither to the detriment of residents, nor gives rise to loss of amenity. It is the Authority's wish to facilitate well run and managed premises with licence holders displaying sensitivity to the impact of the premises on local residents.
- 1.8 The Authority recognises that the licensed entertainment business sector and community licensed facilities in the District contribute to the local economy, employment and social infrastructure. On the other hand there are costs associated with policing and clean-up which are not borne directly by the entertainment venue. The Authority wishes to support, where appropriate, licensees to provide a wide range of entertainment activities throughout their opening hours and to promote live music, dance, theatre, regulated informal entertainment etc. for the wider cultural benefit. They are a factor in maintaining thriving and sustainable towns and villages which is one of the Council's aims. Where there is any indication that regulated entertainment, especially live music and dancing, are being deterred

by licensing requirements, the policy will be revisited with a view to investigating how the situation might be reversed.

- 1.9 Information on the impact of the Act on the local economy and tourism will be provided to the Licensing Committee. Anybody wishing to comment on this issue should send their comments to the Licensing Unit, either by post to the Council Offices, Queen Victoria Road, High Wycombe, Buckinghamshire, HP11 1BB or by e-mail to [licensing@wycombe.gov.uk](mailto:licensing@wycombe.gov.uk).
- 1.10 Other statutory requirements may apply to the provision of any regulated activities at a premises and the responsibility for compliance lies with the licence holder. For example if the activity involves the preparation and sale of food then it is the responsibility of the applicant to ensure necessary Food Safety requirements are met and it is not a requirement of any licensing decision to address these matters. It is not intended that the requirements of existing legislation and regulatory regimes that already place obligations on employers and operators will be duplicated. The Authority will not impose licence conditions which are covered by other regulatory regimes, except where this imposition can be exceptionally justified as necessary to promote the licensing objectives.
- 1.11 All applicants for Premises Licences and Club Premises Certificates and those intending to hold temporary events are reminded that planning permission will normally be required for such uses and such planning permissions may carry conditions with which they are expected to comply or action may be taken under the relevant planning legislation. In general, planning permissions authorise a broad type of use of a premises, whereas licences are granted for a particular type of activity. A planning permission for an entertainment use, for example, may cover a number of activities that can have a wide range of different impacts in the locality. The precise nature of the impact of the specified activities proposed by a prospective licence holder will be considered when an application is made for a Premises Licence.
- 1.12 Licensing applications should not be seen as a re-run of the planning application process and there is a clear separation of the planning and licensing regimes to avoid duplication and inefficiency. If premises do not have planning permission, applicants are strongly advised to apply for this prior to submitting their Premises Licence application. The Licensing Committee will ensure that the Planning Committee is advised of the situation regarding licensed premises in the District including the general impact of alcohol related crime and disorder, as these may be material considerations to be taken into account when determining planning applications.

### **Integrated Strategies**

- 1.13 The Authority will seek to achieve integration with relevant strategies and their aims in determining applications and will do so through relevant pre-consultation of this policy.
- 1.14 In formulating this policy, the Authority has and will continue to take account of its obligations and powers under other legislation, such as the Crime and Disorder Act 1998, the Human Rights Act 1998, the Equalities Act 2010, the Anti-social Behaviour Act 2003 and the Anti-social Behaviour, Crime and Policing Act 2014.

It has also taken into account the following Government and national strategies and guidance:-

Alcohol Harm Reduction Strategy for England (Prime Minister's Strategy Unit) <sup>(1)</sup>  
Safe. Sensible. Social. The Next Steps in the National Alcohol Strategy <sup>(2)</sup>  
Home Office Safer Clubbing Guide <sup>(3)</sup>  
Action Plan for Tackling Alcohol Related Crime, Disorder and Nuisance <sup>(4)</sup>  
DTI Enforcement Concordat <sup>(5)</sup>  
Code of Practice on Environmental Noise Control at Concerts 1995 <sup>(6)</sup>  
The Government's Alcohol Strategy 2012 <sup>(7)</sup>

1.15 The Authority has also taken into account relevant local strategies relating to crime prevention, planning, transport, tourism, race equality and culture, including the following:-

- The Council's Corporate Plan 2015 - 2019 <sup>(8)</sup>
- Wycombe Community Safety Plan 2017 - 2020 <sup>(9)</sup>
- Enforcement policies of Wycombe District Council, Buckinghamshire County Council and Thames Valley Police <sup>(10)</sup>
- Town Centre Management and Market Town Initiatives (Princes Risborough Vision) <sup>(11)</sup>
- Buckinghamshire Substance Misuse Strategy 2016 - 2019 <sup>(12)</sup>
- Sustainable Community Strategy for Wycombe District 2013 – 2031 <sup>(13)</sup>

(1) Cabinet Office, March 2004

(2) Dept. of Health, Home Office, Dept. for Education and Skills, DCMS, June 2007

(3) Home Office & London Drugs Policy Forum in partnership with Release, Jan 2002

(4) Home Office Online Report 08/03

(5) Cabinet Office / Local Government Association, March 1998

(6) The Noise Council, 1995

(7) Secretary of State for the Home Department

(8) Wycombe District Council, 2015

(9) Wycombe District Council, April 2017

(10) Wycombe District Council, October 2002: Buckinghamshire County Council and Thames Valley Police, October 2004

(11) Risborough Area Community Action Group, September 2016

(12) Bucks County Council 2016

(13) Wycombe District Council, 2014

## 1.16 Partnership Working

The Authority, along with Thames Valley Police, support the Pubwatch scheme which was established to assist and advise the licensees of the alcohol licensed premises within High Wycombe town centre.

The Authority also works closely with the Nightsafe initiative which is a programme of education, communication and partnership working for the benefit of everyone who lives, works, studies and socialises in the Wycombe District. Partners involved in the project include Wycombe District Council, Thames Valley Police, Bucks Drug and Alcohol Action Team, the High Wycombe Town Centre Partnership (HWBID CO) and Trading Standards.

## 2. Background to the Area

2.1 The Authority regards existing and future environmental qualities and character of the District to be important when consideration is given to granting of licenses for any purpose. When considering licensing applications where relevant representations have been made, the Authority will consider its effect on the licensing objectives and in particular the effect the licence will have on the public nuisance and crime and disorder objectives. In order to consider these matters, it is necessary to consider the environment of the area in which the premises are or will be situated. For those not familiar with the District and its many and varied characteristics this section of the Policy sets out in brief some of the qualities that the Council consider important to retain.

2.2 The District is a mixed urban and rural area, whose amenity the Council has a duty to protect. One of the Council's aims is to promote safer and stronger communities. These factors will be taken into account where applications will increase the concentration of entertainment uses and / or lengthen hours of operation in a way that would materially impact on the local area.

- 2.3 Wycombe District is situated in the heart of Buckinghamshire, which includes such features as the Chilterns and Thames Valley. The three main towns, High Wycombe, Marlow and Princes Risborough are within 'The Chilterns', a designated Area of Outstanding Natural Beauty, whose secluded countryside and rural communities provide a unique environment for residents and visitors to enjoy.
- 2.4 High Wycombe is a thriving historic town well known for its association with the furniture trade manufactured from local timber. It has a thriving business community and shopping centre with a large new shopping and leisure complex which opened in 2008. It has an established University, which brings a large student population to the town. It also has many residential areas, which accommodate a broad ethnic mix and religious following, the character of which will be taken into account when examining the impact of an application upon the licensing objectives. The town centre retains its ancient street market and buildings whilst also accommodating many high capacity entertainment venues, some of which operate late into the night. The Frogmoor area and its surroundings have a concentration of such venues and whilst the Authority does not immediately wish to impose a specific saturation policy, it is likely that any increase in activity will be a material consideration when undertaking periodic reviews of the Licensing Policy. The town is also well served by open spaces such as the Rye where families and people of all ages can enjoy the largely unspoilt 'meadow' parkland.
- 2.5 Marlow is quite unique within the District. It is famous for its Thames setting and attracts many thousands of visitors from both the UK and overseas during the year. It is largely residential but its varied commercial area caters for tourists and local residents alike. The main commercial areas comprise the High Street, Spittal Street and West Street, These have many restaurants and public houses which are very busy catering for families and groups throughout the day and a number of them have licences until late on Friday and Saturday evenings. As with other high street towns, there are some residential units situated above or adjoining the commercial premises which are sensitive to noise. There are plenty of parking facilities, both on-street and in nearby car parks and there are very few residential properties in this area. There are also a number of public houses in other parts of Marlow, all of which are in the midst of residential areas and are not so well served with on-street parking facilities.
- 2.6 Princes Risborough typifies a quiet market town. Set in the north of the District it retains its high street shops and farmers market giving it an unhurried rural feel to visitors and residents alike. It has many historic features such as the brick Market House with open arcades, church and Manor House. Princes Risborough has a number of traditional pubs and, generally speaking, these cater for the local residents and do not have late licences.
- 2.7 There are many other communities within the District each with their distinctive features. These range from small rural hamlets to larger villages each with special characteristics valued by local residents and the wider community. The characteristics of each are far too great to list here but applicants are advised that the Authority will take into account the character of an area when deciding what affect, if any, a premises licence will have on the four licensing objectives.

### **3. Applications and Determinations**

#### **General**

- 3.1 Premises Licenses and Club Premises Certificates will be determined in the same way. Club Premises operators may apply for a Premises Licence, which (if granted) will allow them greater freedom in relation to the use of the Premises. Full details of the procedure for all applications are available with application packs on the Council's website at [www.wycombe.gov.uk](http://www.wycombe.gov.uk). New legislation has recently been passed which allows for a new 'minor variation' application which can be used to make changes to licenses which are unlikely to have any effect on the licensing objectives. Officers will consult with relevant



responsible authorities where there is any doubt over the possible impact on the licensing objectives. There is no right to a hearing with such applications although any comments made by interested parties or responsible authorities must be taken into account before any decision is made.

- 3.2 Premises must be constructed or adapted in such a way that it is deemed safe and appropriate to the nature of the activities to be licensed. Premises in the course of construction, alteration, extension, etc. can be granted a Provisional Statement pending completion to the required standard and compliance with all other requirements. Full Premises Licences can also be granted for such premises, although detailed plans and operating schedules are likely to be required by Responsible Authorities to enable determination.
- 3.3 The Authority may, in appropriate situations, seek to facilitate mediation between applicants, relevant statutory agencies and occupiers of nearby premises, local residents groups, community or interested groups where significant issues have arisen relating to a licence application.
- 3.4 Applicants are strongly advised and encouraged to seek advice from the relevant statutory agencies, and where appropriate speak to local residents or their representatives, prior to submitting an application. Responsible Authorities will often offer advice on information to be included in operating schedules which can then be translated into conditions or confirm whether they are likely to object to any aspect of an application. In the absence of other representations this may shorten the application process, thereby avoiding the need for a hearing or reducing the length of such a hearing. Licensing Officers are able to advise on general matters relating to applications and licensing requirements generally although applicants will need to seek independent advice for detailed assistance in the completion of forms or where complicated legal issues arise.
- 3.5 In considering licence applications, responsible authorities will consider the adequacy of measures proposed to deal with the potential for nuisance and/or public disorder and public safety having regard to all the circumstances of the case. Operating Schedules should satisfactorily address these issues to enable responsible authorities to reach an informed decision. The following issues will be considered where relevant representations are made and an application is determined by a Licensing Panel. Conditions may be attached to ensure compliance with the licensing objectives, although any conditions imposed will be tailored to the specific premises in question and will be appropriate and proportionate to ensure compliance with the licensing objectives. The issues have been separated into the four licensing objectives, although there will inevitably be some overlap between them.

### **Prevention of Crime and Disorder**

- 3.6 Applications for new or variation of premises licences should demonstrate that crime and disorder will not increase as a result of the application being granted.
- 3.7 If, upon receipt of a relevant representation, there is a likelihood of crime and disorder increasing as a result of the application being granted, the Authority will refuse the application, unless there are exceptional circumstances or it can be demonstrated that additional conditions will alleviate the concerns. In cases where conditions are attached to licences, the conditions will aim to reflect local crime prevention strategies
- 3.8 The Authority accepts that the legislation does not require the presence of either a personal licence holder or the Designated Premises Supervisor on the premises at all times when alcohol is sold. The Authority would recommend that personal licence holders give written authority to other staff for alcohol sales and clear guidance on whom alcohol may be sold to. Applicants are invited to provide details of how Personal Licence holders will authorise alcohol sales. In exceptional circumstances and upon receipt of a relevant representation,

the Authority will consider whether a condition should be imposed requiring the presence of a Personal Licence holder on the premises at all times when alcohol is available for sale.

3.9 The Authority will expect prevention of crime and disorder measures to be appropriate to the type and location of premises e.g. the provision of door supervisors and CCTV are likely to be more appropriate in larger venues, dance venues and those in busy town centre locations.

3.10 In considering licence applications, the Authority will particularly take into account the following where relevant:-

- The measures proposed to prevent the consumption or supply of illegal drugs, including any search procedures and entry policies.
- The measures proposed to prevent or reduce violence and public disorder in the vicinity of the premises, e.g. the provision of door supervisors, security lighting and signage both inside and outside the premises.
- Physical security features such as the use of CCTV; where a licensed premises is required to have CCTV as a condition of the licence then unless there are good reasons provided to the satisfaction of the Licensing Committee, the premises must be equipped to a standard and in a manner in accordance with established Thames Valley Police guidance in relation to CCTV.
- Measures taken to prevent bottles and glasses being used as weapons.
- Measures to control the strength (alcohol by volume) of beers, lagers and ciders for sale by retail off the premises only may be appropriate in those areas considered to be at risk of public nuisance from street drinkers and/or areas of existing anti-social behaviour.
- Policies in relation to drinks promotions – the Authority encourages the adoption of voluntary codes covering responsible price promotions.
- Measures taken to prevent underage drinking offences, in particular the Council advocates use of schemes such as Challenge 21 and PASS accredited proof of age cards.
- Representations from the police.
- Representations from local residents in the vicinity of the premises.
- Representations from Parish and Town Councils.

#### Public Spaces Protection Order

3.11 Pursuant to the Anti-social Behaviour, Crime and Policing Act 2014, a Public Spaces Protection Order (PSPO) came into force in February 2016 which replaced the previous Designated Public Places Order (DPPO) covering Wycombe town centre. The new Order largely reflects the terms of the DPPO and prohibits consuming alcohol or being in the possession of an open container of alcohol and be acting in an anti-social behaviour manner. All licensed premises are exempt and the Order does not affect people who are drinking socially and not causing any disturbance.

#### “White Cider Initiative”

3.12 In March 2013 the Council implemented a voluntary prohibition on the sales of “white cider” products from off-licensed premises situated within the Public Spaces Protection Order. This type of alcohol is considered particularly harmful and is popular with street drinkers. The majority of affected premises have supported the scheme by including a condition within their licence prohibiting sales of this product.

The licensing authority encourages off licences to reduce the availability of cheap super strength beers and ciders. Off licences that voluntarily agree not to sell this type of product (over 6% ABV but excluding craft products) and operate good practice measures shall receive accreditation as a responsible retailer.

3.13 The licensing authority shall consider an application to review a premises licence from trading standards or police where there is evidence that illicit alcohol has been offered for sale on the premises. Where other illicit goods, such as tobacco have been found, the authority shall consider this as evidence of poor management in addition to undermining the licensing objective to prevent crime.

### **Public Safety**

3.14 Licensed premises present a mixture of health and safety risks. It is essential that premises are constructed or adapted so as to safeguard occupants against such risks. Evidence will be required by the relevant responsible authority that health and safety risks have been assessed, including whether building regulations approval has been given in the case of new or structurally altered buildings.

3.15 The Regulatory Reform (Fire Safety) Order 2005 came into effect in October 2006 and replaced previous legislation with regards to fire safety. As a result the Authority cannot impose any fire safety conditions where the Order applies and any conditions previously imposed will cease to have effect unless they are specifically required in relation to public safety. Fire safety in licensed premises is now dealt with entirely by the authority responsible for such matters.

3.16 In considering licence applications and whether appropriate conditions should be imposed, responsible authorities are likely to take into account the following:-

- Measures proposed to train staff to an appropriate certified level in general health and safety of persons, and in dance venues, measures taken to train first aiders in drug issues;
- Measures in place to promote the sensible drinking message;
- Training of staff to tackle underage drinking
- Provision of fire-fighting equipment, emergency lighting, fire alarms, CCTV, British Standard or otherwise approved lighting trusses, ceilings and suspended equipment;
- Provision of certificates in relation to flame retardant materials, electrical inspections and staff training in conformity with legislative requirements
- Provisions made for the safety of persons in the premises and escape routes, including provision for people with physical disabilities. In particular, venues holding dance events will be expected to demonstrate that they have taken account of the Home Office Safer Clubbing Guide and should provide information in their operating schedules about provision of air conditioning/ventilation, availability of drinking water and further measures to combat overheating;
- Representations made by the Police and Environmental Health.
- Representations made by the Fire Authority. In this respect it is advised that a suitable and sufficient fire risk assessment is completed by a competent person so that any application can be appropriately considered by the Fire Authority.

### **Prevention of Public Nuisance**

3.17 The Council wishes to protect the amenity of residents and businesses in the immediate area surrounding the licensed premises. Applications should demonstrate that public nuisance will not increase as a result of the application being granted.

3.18 The Authority will particularly take into account the following:

- The measures proposed to prevent noise and vibration escaping from the premises. Such measures may include installation of sound insulation and sound limitation devices;
- Measures proposed to prevent public nuisance from use of outside areas, including smoking areas and outdoor events;

- The measures proposed to prevent disturbance by customers arriving at or leaving the premises, in particular after 11pm, for example appropriate signage at exits and in car parks, parking provision, the provision of door supervisors, use of “quiet last half hour” at dance venues and provision and availability of safe transport home;
- The measures proposed to prevent light pollution from external lighting, including security lighting;
- The measures proposed for refuse storage or disposal and management of any additional litter;
- Representations by Control of Pollution, Thames Valley Police and Environmental Health;
- Representations by local residents in the vicinity of the premises;
- Representations by Parish and Town Councils.

### **The Protection of Children from Harm**

3.19 The Authority will carry out its responsibilities so as to promote the licensing objective of protection of children from harm and recommend the use of PASS accredited proof of age cards. Schemes to check age by approved forms of identification, such as Challenge 21, will also be encouraged. Harm in this context includes physical, moral or psychological harm. The Authority recognises the Area Child Protection Committee as the appropriate authority to advise on matters of child protection and any application for a Premises Licence or variation to a Premises Licence will be required to be sent to this authority at the following address: Business Manager, Buckinghamshire Children's Safeguarding Board, Buckinghamshire County Council, Annex B, County Hall, 5-7 Walton Street, Aylesbury, Bucks, HP20 1XA. Advice in relation to child protection matters and licence applications can also be sought from this body.

3.20 Licences will be sought by operators of a wide variety of premises including theatres, cinemas, restaurants, concert halls, cafes, late night take-aways, pubs, bars and nightclubs. It is not possible for a licensing policy to anticipate every situation where children are at risk. Any conditions imposed will aim to best promote the licensing objectives in each particular case.

3.21 The Authority will not seek to limit the access of children to licensed premises unless it is necessary to protect them from harm. The Authority will judge the merits of each separate application before deciding whether to impose conditions limiting access to children. The following are examples of premises that will raise concern:-

- where there have been convictions for serving alcohol to minors or premises with a reputation for underage drinking
- where there is a known association with drug taking or dealing
- where there is a strong element of gambling on the premises (but not the simple presence of a small number of cash prize gaming machines)
- where entertainment of an adult or sexual nature is provided

Conditions will not be imposed that require the admission of children. This will remain a matter for the discretion of the licensee.

3.22 The Act specifies various offences which aim to protect children from the possible harms associated with alcohol and certain types of entertainment. These include; a prohibition of alcohol sales to children; a prohibition on unaccompanied children in specified premises between midnight and 5am; a prohibition on the purchase of alcohol on behalf of children and the prohibition on consumption of alcohol by children.

3.23 The range of options available to limit the access of children to licensed premises that may be imposed by the Authority include:

- Limitations on the hours where children (e.g. under 16) may be present;

- Age limitations (below 18);
- Limitations or exclusions when certain activities are taking place;
- Requirements for an accompanying adult;
- In exceptional cases, exclusion of people under 18 from the premises or parts thereof when any licensable activities are taking place.

3.24 Licensees will be expected to prevent children from viewing films that are unsuitable because of the age classification of the film that has been imposed by the British Board of Film Classification. Children will not be permitted to view un-certificated films.

3.25 The Authority will expect that where a significant number of unaccompanied children will be present during a public entertainment event, the licensee will ensure that an adequate number of adult staff is present to control the access, egress and safety in and around the premises. The number of staff required should be assessed by the licensee, taking into account the number of children to be present, the type of entertainment, the characteristics of the premises and any other relevant factor, subject to there being a minimum of one member of staff per 50 children or part thereof.

3.26 Licence holders that provide accommodation will be expected to have robust child protection measures. Such policies and documentation should be available to authorised officers upon request.

### **No Smoking Legislation**

3.27 In July 2007, the Health Act 2006 came into force and prohibited smoking in virtually all enclosed public places and work places. This included both permanent and temporary structures such as tents and marquees. Smoking rooms in public places and workplaces are no longer permitted.

3.28 The new law also requires vehicles to be smoke free at all times if they are used:

- (a) to transport members of the public, or;
- (b) in the course of paid or voluntary work by more than one person regardless of whether they are in the vehicle at the same time.

3.29 As a result of the new legislation many licensed premises have created specific smoking areas for customers and where necessary controls may be required to limit the hours that these areas are used to prevent nuisance to neighbouring residents.

3.30 With some venues this has not been possible and has resulted in people smoking in the streets. The Authority works closely with the licence holders of such premises in conjunction with the Control of Pollution Unit and Thames Valley Police to ensure that nuisance and / or disorder are not caused by customers congregating in outside areas. The Authority may use measures that prevent alcohol being consumed in outside areas of a premise after specified hours to manage noise pollution.

### **Films**

3.31 No film shall be exhibited at licensed premises which is likely to lead to disorder and/or stir up hatred or incite violence towards any section of the public on grounds of colour, race or ethnic or national origin, disability, religious beliefs, sexual orientation or gender.

3.32 If a licence holder is notified by the Authority that a particular film in the opinion of the Authority falls into that category and may not be shown, its decision shall be final in that respect.

3.33 The Council accepts that the British Board of Film Classification (BBFC) is best qualified to make age limitation decisions and will not seek to change or substitute its own age limitations in place of the Board's classification.

3.34 Where a request is made to screen a film which has not been classified by the BBFC, the Authority will classify the film having followed the relevant guidelines provided by the BBFC.

### **Immigration Act 2016**

3.35 Section 36 of, and Schedule 4 of the Immigration Act 2016 (the 2016 Act) came into force on the 6<sup>th</sup> April 2017 and amended the 2003 Act, introducing the following immigration safeguards in respect of licensing applications:

- Premises licences which authorise alcohol sales or provision of late night refreshment and personal licences cannot be issued to an individual who does not have permission to work in the UK in a relevant licensable activity;
- Licences issued to those with limited permission to be and work in the UK will lapse when that permission ceases;
- Immigration offences, including civil penalties, become 'relevant offences' as defined by the 2003 Act;
- The Home Secretary became a responsible authority, which permits the Home Office (Immigration Enforcement) to make appropriate representations and objections to the grant of a licence; and
- Immigration officers are permitted to enter premises which they have reason to believe are being used to sell alcohol or provide late night refreshment, to investigate whether immigration offences are being committed in connection with the licensable activity.

3.36 The Home Office may also request a review of an existing licence where it has concerns relating to immigration matters.

3.37 Where reviews arise and the licensing authority determines that immigration offences have been committed, it may consider revocation of the licence, even in the first instance, or suspension of the licence for up to three months. The authority shall have a zero tolerance approach to such illegal activities and human exploitation.

### **Personal Licences**

3.38 A person is required to hold a personal licence if he or she wishes to authorise the sale of alcohol in accordance with a premises licence. A person must make an application for a personal licence to the Authority for the area in which they live. This Authority will remain the issuing authority regardless of whether a person subsequently moves out of the area or takes up employment elsewhere

3.39 The Authority must grant a personal licence if it appears that:

- a) The applicant is over 18
- b) The applicant possesses a relevant licensing qualification
- c) The applicant has not forfeited a personal licence in the previous five years beginning with the day the application was made
- d) The applicant has not been convicted of any relevant offence (as defined in the Act).

3.40 The Authority recognises the positive benefits from an investment in proper training for staff members and will therefore take a positive view of those who invest in such training as one important method of promoting the licensing objectives.

3.41 In order to substantiate whether or not an applicant has a conviction for an unspent relevant offence, applicants will be required to produce a current Basic Disclosure from the Criminal Records Bureau (currently available from Disclosure Scotland). The Authority will liaise closely with the police where an applicant is found to have an unspent conviction for a relevant offence, and should the police be minded to object to the grant of the licence they may wish to interview the applicant.

3.42 Only the police can object to an application on crime prevention grounds and if the police serve an objection notice, the applicant is entitled to a hearing before the Licensing Panel. Refusal of the application will be the normal course unless there are, in the opinion of the Panel, exceptional and compelling circumstances that justify granting the application.

- 3.43 Where an applicant's permission to work in the UK is time-limited, the licensing authority may issue a licence for an indefinite period, but the licence will lapse when the licence holder's right to be and work in the UK expires.
- 3.44 The individual's entitlement to work in the UK may be extended or made permanent by the Home Office, and granting the licence for an indefinite period prevents the licensee from having to re-apply for a new licence. In the event that the Home Office cuts short or ends a person's immigration permission (referred to a curtailment or revocation), any licence issued further to an application made on or after 6 April 2017 will automatically lapse. The licensing authority is under no duty to carry out on-going immigration checks to see whether a licence holder's permission to be in the UK has been brought to an end.

### Temporary Events

- 3.45 If you' are organising a temporary event and want to sell alcohol, provide late-night refreshment or put on regulated entertainment, you will need to complete a temporary event notice. A Temporary Event Notice (TEN) application is notified to the local council, the police and the Control of Pollution Unit, providing details of your proposed event.
- 3.46 There are 2 types of TENs:
- a standard TEN, which is given no later than 10 working days before the event to which it relates
  - a late TEN, which is given not before 9 and not later than 5 working days before the event

The Authority recommends that considerably longer notice should be given to the police for large events to allow them to help organisers plan their events safely. Applicants should recognise that if short notice is given, this will increase the likelihood of the police objecting. It is also recommended that advice should be sought from the police prior to submission of applications for large events

- 3.47 For the purpose of a TEN, a temporary event is a relatively small-scale event attracting fewer than 500 people. The event must last no more than 168 hours and can be held either outdoors or indoors. Any premises can only be used for a maximum of 15 temporary events per year, up to a total of 21 days. You must be aged over 18 in order to hold a temporary event.
- 3.48 If you have a personal licence, you can give 50 TENs (made up of standard and late TENs) a year. If you don't have a personal licence you can only give 5 (made up of standard and late TENs). If you have a personal licence, you can give 10 late TENs a year. If you don't have a personal licence you can only give 2 late TENs.
- 3.49 There must be at least 24 hours between temporary events organised by the same person or an associate in relation to the same premises.
- 3.50 Once the police or Control of Pollution receive your TEN, they have 3 working days to make any objections to it on the grounds of any of the 4 licensing objectives: If they object, the council will organise a hearing to consider the evidence and may decide that your event cannot proceed. If there is an objection to a late TEN, the event will not be allowed to proceed. Otherwise, the event can go ahead as planned.
- 3.51 Copies of Temporary Event Notices must be served on the police and environmental health within the required timescales to the following addresses:

The Chief Officer of Police  
Licensing  
Thames Valley Police  
Headquarters (South)

Julian Smith  
Divisional Environmental Health Officer  
Wycombe District Council  
Queen Victoria Road

KIDLINGTON  
Oxfordshire  
OX5 2NX

High Wycombe  
Bucks  
HP11 1BB

[licensing@thamesvalley.pnn.police.uk](mailto:licensing@thamesvalley.pnn.police.uk)

[controlofpollution@wycombe.gov.uk](mailto:controlofpollution@wycombe.gov.uk)

3.52 Once a TEN has been authorised and issued, it is not possible to make any amendments, such as a change of date or time, the requested activity or number of persons attending. A new TEN would need to be submitted in these circumstances.

### **Private Events**

3.53 Entertainment at a private event to which the general public are not admitted becomes licensable only if a fee is charged and it is provided with a view to profit to any person involved in the organisation of the event.

### **Circuses**

3.54 The provision of music at circuses will normally be exempt from licensing requirements. Any music after 23:00 may, however require authorisation. Each case will be considered on an individual basis so organisers of such events should contact the Licensing Unit to confirm whether any licence is required. Any sales of alcohol would need to be licensed.

### **Gambling in Licensed Premises**

3.55 The Gambling Act 2005 was implemented in 2007 and a separate policy has been created and approved by this Council which provides details on the Act and the manner in which the Authority will deal with applications made under it. The Authority will have due regard to this policy, where relevant, when considering applications under the Licensing Act 2003.

### **Sex Encounter Establishments**

3.56 In November 2009, the Police and Crime Act 2009 was implemented, which amended Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 to incorporate sexual entertainment venues. Under the amended Act, premises offering lap dancing or any live performance or display of nudity on more than eleven occasions within a twelve month period are required to obtain a sex establishment licence. Some exemptions also exist within the legislation.

3.57 The Council has produced and published a policy in relation to Sex Encounter Establishments which lays out the means by which applications for such licences will be determined.

3.58 The Licensing Authority does not seek to censor the content of regulated entertainment. In granting any licence authorising entertainment of an adult nature, however, careful consideration will be given to the proposed activities, the location of the premises and whether any of the licensing objectives are likely to be undermined by the proposals.

3.59 Applications involving nudity or striptease or sex related entertainment will only be granted in exceptional circumstances and if the proposal meets the relevant criteria. Very careful consideration will be given to any application before a licence is granted to authorise adult entertainment in locations which are in close proximity to:

- residential accommodation
- schools
- places of worship
- community facilities or public buildings.



- 3.60 Where licences for adult entertainment are granted, consideration will also be given as to whether any specific conditions are necessary to promote the licensing objectives which are specific to the type of entertainment being provided.
- 3.61 The Licensing Authority will have regard to the cumulative effect of the number of such premises in proximity to each other and in the vicinity.

### **Petrol Stations and Garages**

- 3.62 Section 176 of the Licensing Act 2003 states that no premises licence has effect to authorise the sale by retail of alcohol on premises used primarily as a garage. Premises are used as a garage if they are used for the sale of petrol or derv, or for the sale or maintenance of vehicles. "Primary use," is measured in terms of the number of transactions carried out ("footfall"), rather than by way of business turnover or net profit.
- 3.63 Where an applicant is seeking a premises licence for the retail of alcohol at premises which are used as a garage, the licensing authority expects the application, through the operating schedule or by separate document, to provide evidence that the premises are not used primarily as a garage. This can best be achieved by the provision of sales data over a relevant period (for example for 6 or 12 months immediately preceding the date of the application). Applicants should note that if evidence of primary use is not provided with their application, consideration of the application may be delayed while further information is sought.
- 3.64 Where licences are granted for the sale by retail of alcohol at such premises, the primary use will be kept under review to ensure that the premises still comply with the statutory criteria. In order to do this further information may be requested of the licence holder where there is doubt that the Act is being complied with.

### **Consultation on Licence Applications**

- 3.65 The aim of consultation is to provide the opportunity for responsible authorities and interested parties to be involved in the licensing process.
- 3.66 The applicant will be required to comply with the statutory requirements in relation to advertising their application. The Authority will also place details of the application in the relevant register, on its website and will notify local ward councillors and parish councils.

## **4. Cumulative effect of licensing on the amenity of particular areas**

- 4.1 The Authority recognises that the cumulative effect of licensed premises and late night refreshment establishments may result in an increase in numbers of people either passing through or congregating in streets or cause adverse effects on amenity. This in turn may have a number of undesirable consequences, for example:
- An increase in crime against both property and persons;
  - A risk to public safety
  - An increase in noise causing disturbance to residents;
  - Traffic congestion and/or parking difficulties;
  - Littering and fouling.
- 4.2 The Council will take into account:
- The character of the surrounding area;
  - The potential and real impact of the licence on the surrounding area, both individually and cumulatively with existing licenses;
  - The nature and character of the proposed operation; and
  - Any other relevant considerations.

- 4.3 Where there is evidence that a particular area of the District is suffering adverse effects arising from a concentration of licensed premises, or that residential areas are under stress, this will be taken into account in determining any further applications or variations to existing licenses for premises within the area identified. The onus will be on the objectors to provide evidence to back up any assertion that the addition of the premises in question would produce the cumulative impact claimed.
- 4.4 The Authority may consider a specific saturation policy if this proves necessary. In considering whether to adopt a special saturation policy the Authority will take the following steps:
- identify serious and chronic concern from a responsible authority or representatives or residents about nuisance and disorder;
  - assess the causes;
  - where it can be demonstrated that disorder and nuisance is arising as a result of customers of licensed premises, identify the area from which problems are arising and the boundaries of that area;
  - adopt a special policy about future licence applications from that area.

## **5. Structure and Administration**

### **Licensing Committee and Panel**

- 5.1 Relevant decisions under the Act are made by the Licensing Committee, which consists of fifteen (15) Councillors.
- 5.2 The Licensing Committee delegates some of its functions to a Licensing Panel, which consists of three (3) Councillors or to an individual officer. The Authority delegates its functions in the way set out in Appendix 1, in the interests of speed, efficiency and cost effectiveness.
- 5.3 In line with the Local Authorities (Model Code of Conduct) Order 2007, Councillors may attend Hearings which relate to matters personally affecting them, so long as it is a public meeting and they only remain whilst making their own representation.
- 5.4 Where a Councillor who is a member of the Licensing Committee or the Licensing Panel has had an indirect or direct involvement in an application before them, in the interests of good governance they shall disqualify themselves from any involvement in the decision-making process affecting the premises licence in question. In particular, Ward Councillors who have received representations from residents about an application within their Ward will be advised to consider whether they should sit on the Licensing Panel involved in the determination of that application.
- 5.5 Councillor's conduct is governed by the New Code of Conduct for Members set out in the Council's Constitution. Since 31 July 2012, the Council has adopted a Code of Conduct for members pursuant to the Localism Act 2011. It is available for inspection on the authority's website and on request from Reception at the Council Offices. The Councillor's Monitoring Officer has statutory responsibility for administering the system in respect of complaints relating to Members' conduct. The Council has delegated to the Hearing Panel such of its powers to take action in respect of individual Members as may be necessary to promote and maintain a high standard of conduct and these are also set out in the adopted Members code of conduct.
- 5.6 Every determination of a licensing decision by the Licensing Committee or the Licensing Panel shall be accompanied with clear, cogent reasons for the decision. This shall be given to the applicant in writing.

### **Administration and Delegation**

- 5.7 Decisions as to whether representations are irrelevant, frivolous or vexatious must be made objectively and not on the basis of any political judgement. Accordingly, the Head of

Environment will decide whether representations or applications for licence reviews should be referred to the Licensing Panel. Where representations are rejected, the person making that representation will be given written reasons.

5.8 The Authority will ensure that Members and officers are appropriately trained to carry out their duties under the Act. Unless there are compelling reasons to the contrary, the Authority will require the Licensing Committee or the Licensing Panel to meet in public – although Members can retire into private session to consider their decision.

5.9 'Relevant representations' are those:

- about the likely effect of the application or licence on the promotion of the licensing objectives;
- made by a responsible authority or another party within prescribed time periods, which have not been withdrawn and, in the case of representations not made by a responsible authority, they are not in the Authority's opinion irrelevant, frivolous or vexatious.

Where no relevant representations are made there will be no need for a Hearing and the Licence or Certificate will be issued on the terms requested.

## Hearings

5.10 The Authority has produced a document which sets out the procedure to be followed during Hearings and which is made available to all relevant parties prior to any Hearing. All parties are given an equal opportunity to state their case and ask questions. The purpose of the Hearing is for parties to comment and expand upon the written representation previously made. New issues cannot be introduced at this stage.

5.11 In determining the application with a view to promoting the licensing objectives in the overall interests of the community, the Authority must give appropriate weight to; the steps that are necessary to promote the licensing objectives, all relevant representations, the government Guidance and this Policy.

5.12 Where negotiation has taken place during the consultation period and additional conditions or amendments to an operating schedule have been agreed between the relevant parties, it may not be necessary for a full Hearing to take place to determine the application. Where the Authority and all parties agree to dispense with the need for a full Hearing the matter will be referred to a Licensing Panel for final determination and approval.

5.13 Copies of representations must be sent to the applicant and so personal details (the address) of parties making representations will generally be provided to the applicant and appear in any Committee reports as part of the Hearing process. In exceptional circumstances such details can be withheld, although this would only generally occur where there are genuine and well-founded fears of intimidation or violence. Parties may also wish to consider using another individual or body to represent them in such circumstances, e.g. Ward Councillor or parish / town council.

5.14 A responsible authority means any of the following:

- the chief officer of police
- the fire authority
- the health and safety enforcing authority
- the local planning authority
- the local environmental health authority in relation to noise nuisance
- a body which protects children from harm, and is recognised by the Authority as being competent to advise it on such matters. The Authority considers that Buckinghamshire County Council's Area Child Protection Committee is a competent body and in urgent cases, the Director of Social Services at Buckinghamshire County Council is competent to provide advice
- any licensing authority (other than the relevant licensing authority) in whose area part of the premises is situated.
- the licensing authority
- the local health authority (Buckinghamshire County Council Public Health Authority)
- The Home Secretary (Home Office Immigration Enforcement)

## **6 Conditions**

### **General Conditions**

- 6.1 Upon grant of a licence, the Act sets out mandatory conditions which will be attached in certain circumstances and in addition to these, special conditions may be attached where an application has been determined by a Licensing Panel following receipt of valid representations. These conditions will be appropriate to the nature of the activities specified in the Operating Schedule and reflect the four licensing objectives referred to on page 4 of this document. Special conditions may be drawn from a pool of conditions, copies of which are available from the Authority's Licensing Unit. Any condition will be required to meet the circumstances of the proposed activities. Conditions will not be imposed on a licence unless they are considered appropriate for the promotion of the licensing objectives. Conditions will generally be considered unnecessary if they are already adequately covered by other legislation.
- 6.2 A key concept underscoring the Act is for conditions to be attached to licences and certificates where relevant representations are made and the application is determined by a Licensing Panel. Any conditions imposed will be tailored to the individual style and characteristics of the premises and events concerned. They will also relate to matters within the control of the licensee and will be proportionate and appropriate to meet the licensing objectives. Blanket, standard conditions cannot be imposed on licences. The operating schedule, submitted by the applicant together with the licence application, is an important document which describes the way in which it is proposed to operate the business and address the four licensing objectives. Applicants are strongly recommended to liaise with relevant responsible authorities and, where appropriate other parties, prior to submitting an application.
- 6.3 Any condition placed on a licence, TEN or certificate must be clear, enforceable and capable of being complied with. To achieve this, proposed conditions may need to be amended whilst retaining the same meaning.

### **Fire Safety and Capacity Limits**

- 6.4 The Authority is committed to ensuring public safety in licensed premises by working in close partnership with Buckinghamshire and Milton Keynes Fire Authority, subject to the provisions of the Regulatory Reform (Fire Safety) Order 2005
- 6.5 The Authority will, when relevant representations are received from the Fire Authority, consider the implications relating to fire safety for each individual application for, or variation of, a premises licence. The Authority will seek to protect the safety of persons, both members of the public and employees at all licensed premises by ensuring that the requirements of the Fire Authority are met.
- 6.6 In order to avoid the necessity of representations to be made, applicants should ensure that the Fire Authority are consulted prior to an application being made where it is considered that fire safety or capacity may be an issue. It is for the applicant, however, to ensure that a competent person has completed a suitable and sufficient fire risk assessment. It is not the responsibility of the Fire Authority to complete this on their behalf.

### **Licensing hours**

- 6.7 In making decisions that relate to the hours for which premises are licensed or any conditions relating to delivery times etc., consideration will be given to the prevention of crime and disorder and the prevention of public nuisance objectives. Each case will be decided on its individual merits.
- 6.8 It is recognised that varied licensing hours may be important in some areas to ensure that

concentrations of customers leaving licensed premises simultaneously are avoided. In turn this will reduce the potential for disorder at fast food outlets, taxi ranks and other sources of transport.

- 6.9 In relation to shops and other retail outlets supplying alcohol for consumption off the premises, the general policy will be to allow sales of alcohol at all times that the premises are open for business unless there is evidence to suggest that this would not promote the crime and disorder objective (e.g. where there is evidence of antisocial drinking in the morning hours). Any decision not to allow sales of alcohol at particular times will be based on evidence of the need to prevent crime, disorder and public nuisance.
- 6.10 Fixed trading hours will not be set for particular geographical areas. Account will be taken, however, of any guidelines that are adopted in respect of licensing hours. It should be stressed that each case will be decided on its own merits based on whether the licensing objectives can be met. Stricter conditions are likely to apply where premises are situated in mainly residential areas to minimise disturbance to local residents. There is no presumption that longer hours should be permitted.
- 6.11 It is expected that any opening hours specified on an authorisation will mean that the premises are closed to the public outside of these times

### **Community Premises**

- 6.12 Changes in legislation now permit community premises to be able to sell alcohol without the need for a Designated Premises Supervisor holding a personal licence and can instead specify that the committee will be responsible for alcohol sales. In such circumstances the Authority would expect to be provided with a name or names and contact number(s) for those individuals who could be contacted in case of emergency or general queries relating to the licence.

## **7. Appeals**

### **General**

- 7.1 Entitlement to appeal for parties aggrieved by decisions of the licensing authority is as follows:
- the applicant when the Authority rejects an application for a premises licence, or the variation or transfer of a premises licence.
  - the holder of the premises licence or any other person who made relevant representations in relation to a review of a premises licence
  - the applicant where the Authority rejects an application for a personal licence.
  - the holder of a licence when the Authority imposes conditions on the premises licence.
  - a person / authority that has made relevant representations that the licence ought not to have been granted or about conditions.
  - the applicant, or person who has made relevant representations about the issue of a provisional statement
  - the police
- 7.2 Other than in the case of personal licences, an appeal has to be made to the Wycombe and Beaconsfield or Central Buckinghamshire Magistrates' Court according to the location of the premises. In the case of personal licences, the appeal must be made to the Wycombe and Beaconsfield Magistrates' Court.

### **Appeals to Magistrates' Court**

- 7.3 An appeal has to be started by the giving of a notice of appeal by the appellant to the

justices' clerk for the magistrates' court within a period of 21 days from the day on which the appellant was notified by the Authority of the decision appealed against.

- 7.4 The Authority will always be a respondent to the appeal, but in cases where a favourable decision has been made for an applicant against the representations of a responsible authority or an interested party, the holder of the premises licence or club premises certificate will also be entitled to act as a respondent
- 7.5 On determining an appeal, the court may:
- dismiss the appeal;
  - substitute for the decision appealed against any other decision which could have been made by the licensing authority; or
  - remit the case to the Authority to dispose of it in accordance with the direction of the court.
- 7.6 The court may make such order as to costs as it thinks fit.
- 7.7 Any appeal may therefore review the merits of the decision on the facts and consider points of law or address both.
- 7.8 The Authority will not delay the implementation of the magistrates' courts decisions.

## **8. Complaints against Licensed Premises**

### **General**

- 8.1 The Authority will investigate complaints against licensed premises in cases where the licensing objectives are compromised. In the first instance it may be appropriate for complainants to raise the complaint directly with the licensee or business concerned or with the relevant responsibility authority (e.g. the Control of Pollution Unit in cases of noise nuisance)

### **Review**

- 8.2 The importance of working in partnership to achieve the promotion of licensing objectives cannot be understated and responsible authorities will aim to give licensees early warning of any concerns identified at a premises. At any stage following the grant of a premises licence, however, a responsible authority or any other party may ask the licensing authority to review the licence because of a matter arising at the premises in connection with one of the four licensing objectives. In addition, a review of the licence will normally follow any action to close the premises (for up to 24 hours) on the grounds of disorder or noise nuisance or as a result of a magistrates' court determination.
- 8.3 If a Member has made a representation in relation to an application for a licence they may still have a prejudicial interest in any subsequent review or variation application
- 8.4 Members who have a prejudicial interest may not sit on a Licensing Panel to consider the application in which they have that interest
- 8.5 In order to successfully bring a review of a licence, evidence will be required of breaches of one of the licensing objectives. As a result it may assist interested parties to liaise with the relevant responsible authority prior to submitting an application for review (e.g. the police in cases of disorder or the Control of Pollution Unit in cases of noise nuisance). The person requesting the review is also required to notify the premises licence holder and all responsible authorities of their review application.
- 8.6 Under the Violent Crime Reduction Act 2006, following an application from the chief officer of police, the Authority can attach interim steps to licences pending a full review. The Act also introduces a new offence in relation to persistent alcohol sales to minors.

## Expedited review

- 8.7 The Violent Crime Reduction Act 2006 gave the police powers to seek accelerated reviews of premises licences where the sale of alcohol is a licensable activity. The powers do not apply to other types of licence, or to club premises certificates.
- 8.8 The powers complement existing procedures in the 2003 Act for tackling crime and disorder associated with licensed premises. The existing powers, in Part 8 of the 2003 Act, provide for the instant closure of premises by the police in some circumstances, and allow the licensing authority to review the licence. The expedited review powers are aimed at tackling serious crime and serious disorder, including the use of guns and knives.
- 8.9 The powers allow:
- the police to trigger a fast track process where they consider that the premises are associated with serious crime or serious disorder (or both); and
  - the licensing authority to respond by taking interim steps quickly, where appropriate, pending a full review.
- 8.10 The police may apply to the licensing authority for an expedited review of a premises licence where a senior police officer has issued a certificate stating that in his/her opinion the premises are associated with serious crime or serious disorder (or both).
- 8.11 On receipt of the application and the certificate, the licensing authority must within 48 hours, consider whether it is necessary to take interim steps pending determination of the review of the premises licence. In any event, the licensing authority must undertake a review within 28 days of receiving the application.
- 8.12 At the interim steps hearing, the licensing authority may:
- modify the conditions of the premises licence
  - exclude the sale of alcohol by retail (or other licensable activities) from the scope of the licence
  - remove the designated premises supervisor from the licence
  - suspend the licence.
- 8.13 Following the full review hearing, the licensing authority may do any of the above, or revoke the licence.
- 8.14 “Serious crime” is defined as conduct that:
- a) constitutes an offence for which a person 21 years of age or over with no previous convictions could reasonably be expected to be sentenced to imprisonment for three or more years or,
  - b) involves the use of violence, results in substantial financial gain, or is conduct by a large number of persons in pursuit of a common purpose
- 8.15 The 2003 Act does not define “Serious disorder” but it should be understood in its ordinary English sense.
- 8.16 The premises licence holder may make representations against interim steps taken by the licensing authority. There is no time limit for this, though in practice at some point this would be superseded by the full review, which must be completed within 28 days. If the licensing authority receive representations, it must hold a hearing within 48 hours of receiving them (unless the representations are withdrawn). This does not include Saturdays, Sundays or bank holidays.

- 8.17 In the case of an expedited review, the interim steps taken by the licensing authority remain in force during any period within which the licence holder can bring an appeal, until the determination of that appeal. Any decision taken at the full hearing will not take effect during this time.
- 8.18 Any application for review must relate to particular premises for which a premises licence is in existence and must be relevant to the promotion of one or more of the licensing objectives. Representations must be in writing and may be amplified at the subsequent hearing or may stand in their own right. Applications will not be accepted if they are considered to be frivolous, vexatious or repetitive.
- 8.19 In cases where the crime prevention objective is being undermined it is expected that revocation of the licence (even in the first instance) will be seriously considered.

## **9. Enforcement**

### **Enforcement Policy**

- 9.1 The Council's Licensing Enforcement Policy is based upon the principles of consistency, transparency and proportionality as set out in the Department of Trade and Industry's Enforcement Concordat which also takes into account the Attorney-General's Guidelines to Crown Prosecutors for bringing prosecutions.
- 9.2 The Enforcement Policy (available on request from the Licensing Unit) proposes that a graduated response is taken where offences against licensing legislation are found or where licence conditions have been contravened. An isolated administrative offence – such as failing to display a Premises Licence Summary – 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 safety equipment properly, may result in a referral for prosecution.

### **Enforcement General**

- 9.3 The Council will seek to work actively with the police in enforcing licensing legislation and is a signatory to the Buckinghamshire Memorandum of Understanding and Joint Enforcement Protocol along with Thames Valley Police and the other local authorities in Buckinghamshire. The Protocol seeks to ensure a consistent and appropriate approach to enforcement. The Protocol is available on the Council's website at [www.wycombe.gov.uk/licensing](http://www.wycombe.gov.uk/licensing) or a copy can be obtained by contacting the Licensing Unit at [licensing@wycombe.gov.uk](mailto:licensing@wycombe.gov.uk). The police, the Authority and other agencies will share information about licensees and licensed premises under the provisions of current legislation.
- 9.4 In addition to Thames Valley Police, the licensing authority will continue to work with other enforcement agencies, such as Buckinghamshire & Surrey Trading Standards, and the Home Office Immigration Enforcement
- 9.5 The licensing authority will seek to work actively with the police in enforcing licensing legislation. It expects the police (subject to public interest immunity) to share relevant 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.
- 9.6 The Council will provide a licensing enforcement function to investigate allegations of unlicensed activities and to ensure that licence conditions are complied with. Any inspection regime will be relative to the type of premises to be inspected i.e. properly managed and maintained premises will not require the same number of inspections as problem and high risk premises.



- 9.7 The Council will carry out its responsibilities for enforcement so as to promote the four licensing objectives and will aim to ensure enforcement is fair, open, reasonable, consistent and proportionate. Action will be taken against the most appropriate person, which may not be the licence holder or premises supervisor, depending upon the circumstances.
- 9.8 The Act now requires the suspension of a Premises Licence or Club Premises Certificate where an invoice has been issued for an annual fee and the payment has not been made within the required timescale. Suspension notices will be issued to the relevant premises in these cases and a further 21 days will be given prior to the suspension taking effect.
- 9.9 The licensing authority expects licence holders to take immediate action to deal with problems that are seriously affecting the quality of life of local people, to promote the licensing objectives and to ensure compliance with the terms and conditions of their authorisation. Licence holders are advised to communicate to the licensing authority on any remedial steps being taken. Any failure on the part of the licence holder to respond proactively to management issues may lead the licensing authority to take enforcement action. It may also trigger a review of the licence. In considering such a review, the actions of the licence holder will be taken into consideration and the extent to which they have co-operated with other parties and the licensing authority in attempting to deal with the issues.

## 10. Further information

Further information about the Licensing Act 2003 and the Authority's licensing policy can be obtained from:

Caroline Steven  
Licensing Team Leader  
Wycombe District Council  
Queen Victoria Road  
High Wycombe  
Bucks HP11 1BB

T: 01494 421222  
F: 01494 421791  
E: [licensing@wycombe.gov.uk](mailto:licensing@wycombe.gov.uk)  
Website – [www.wycombe.gov.uk](http://www.wycombe.gov.uk)

Information is also available from

(1) The Home Office  
Direct Communications Unit  
2 Marsham Street  
London  
SW1P 4DF

T: 020 7035 4848  
E: [public.enquiries@homeoffice.gsi.gov.uk](mailto:public.enquiries@homeoffice.gsi.gov.uk)  
W: [www.gov.uk](http://www.gov.uk)

(2) The Local Government Association  
[www.local.gov.uk/regulatory-services-and-licensing](http://www.local.gov.uk/regulatory-services-and-licensing)

(3) Copies of the Licensing Act 2003 and associated legislation is available from [www.legislation.hmsso.gov.uk](http://www.legislation.hmsso.gov.uk)

(4) Government's Licensing Act 2003, Section 182 Guidance is available from [http://www.culture.gov.uk/Reference\\_library/Publications/archive\\_2007/guidancesection182\\_li](http://www.culture.gov.uk/Reference_library/Publications/archive_2007/guidancesection182_li)

cact03june07.htm

- (5) Copies of reports and minutes of the Licensing Committee are available on the Council's website at [www.wycombe.gov.uk](http://www.wycombe.gov.uk), following the links to **Council and Democracy** or by contacting the Licensing Unit (details as above)
- (6) Licensing Act 2003 – Members Guide

## APPENDIX 1 TABLE OF DELEGATED FUNCTIONS

Matter to be dealt with	Council	Licensing Committee	Licensing Panel	Head of Environment
Review Licensing Policy	All cases	Recommendation to Council		
Deal with Policy Issues	All cases	Recommendation to Council		
Matters of Cumulative Impact	When referred by Licensing Committee	All cases except when referred to Council		
Application for personal licence			If a representation is made	If no representation is made
Application for personal licence with unspent convictions			All Cases	
Application for premises licence/club premises certificate			If a representation is made	If no representation is made
Application for provisional statement			If a representation is made	If no representation is made
Application to vary premises licence/club premises certificate			If a representation is made	If no representation is made
Application to vary designated personal licence holder			If a police representation is made	All other cases
Request to be removed as designated personal licence holder				All cases
Application for transfer of premises licence			If a police representation is made	All other cases
Application for interim authority			If a police representation is made	All other cases
Application for a Minor Variation				All Cases
Application to review premises licence/club premises certificate			All cases	
Approval of plans which do not comply with statutory scale				All cases
Decision to impose interim sanctions in accordance with s.53A-C of the Act			All cases	
Classification of a film where not previously classified by the BBFC				All cases

## APPENDIX 2 - LIST OF CONSULTEES SECTION 5 LICENSING ACT 2003

The Chief Officer of Police for the Councils area  
 The Fire Authority for the area  
 Bodies representing local holders of premises licences / club premises certificates  
 Bodies representing businesses and residents in the area  
 Parish Councils in the District  
 Neighbouring Councils  
 Wycombe and Beaconsfield / Central Buckinghamshire Magistrates Court