



Licensing Committee agenda

Date: Wednesday 20 October 2021

Time: 6.30 pm

Venue: The Paralympic Room, Buckinghamshire Council, Gatehouse Road, HP19 8FF
- Aylesbury

Membership:

D Barnes, J Baum, R Gaster, T Green, P Griffin, C Jones, N Rana, J Rush, N Southworth, B Stanier Bt, D Town, G Wadhwa, H Wallace (Chairman), D Watson and A Wood

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Licensing Committee minutes

Minutes of the meeting of the Licensing Committee held on Thursday 22 July 2021 in The Oculus, Buckinghamshire Council, Gatehouse Road, HP19 8FF, commencing at 6.30 pm and concluding at 8.11 pm.

Members present

J Baum, N Southworth, B Stanier Bt, D Town, H Wallace, D Watson and A Wood

Agenda Item

1 Apologies for absence

Apologies for absence were received from Cllrs Dominic Barnes, Richard Gaster, Paul Griffin, Caroline Jones, Nabeela Rana, Jonathan Rush and Gurinder Wadhwa

2 Declarations of interest

There were no declarations of interest.

3 Minutes of the previous meeting

The Minutes of the Meeting held on 30 June 2021 were agreed as a correct record.

4 New Statement of Licensing Policy, Licensing Act 2003

The Committee received a report on the draft Licensing Policy. The Licensing Authority had a legal obligation to publish a licensing policy statement, 'Policy', which set out its approach to promoting the licensing objectives when performing its licensing functions. A Policy must be published every five years under the Act, following a period of formal consultation and review. The Council's licensing service was currently operating under separate legacy policies reflecting the four former district council areas. Under the terms of the transitional legislation, Buckinghamshire Council had two years to prepare and publish a new single licensing policy under the Act and align service provision. The deadline for publication and implementation of the new Policy was no later than 1 April 2022. A pre-draft policy consultation exercise had been carried out and the results have helped shape Buckinghamshire Council's first draft Licensing Policy Statement. 107 individual responses were received which were broadly representative 30% from residents, 23% from businesses and 35% from councillors. Broadly there was support from those consulted to the new draft licensing policy.

It was proposed that historic cumulative impact and special hour's policies were not included in the new draft Policy due to lack of sufficient required supporting

evidence. 'Cumulative impact' was about the concentration of licensed premises in a particular area and the impacts of this. Currently only Aylesbury town centre had a cumulative impact policy. Evidence from the police and local residents had historically supported the view that a high concentration of late licensed premises has had a detrimental impact and contributed to public nuisance and crime and disorder. The police's view was that the historic cumulative impact policy had been an effective tool in containing the negative impacts of late night licensed premises.

Whilst these views were valid they must be balanced against the available evidence provided and the views of all stakeholders. While there were clear concerns from the police that the removal of the cumulative impact policy linked to "high risk premises" would lead to an increase in crime and disorder related issues (and therefore in the costs of policing), the available evidence at this stage was arguably inconclusive. Furthermore, over 82% of stakeholders responding to the survey support the view that the cumulative impact should be removed but kept under assessment going forward. Cumulative impact policies could be re-introduced if supported by an assessment of the available evidence and this would be kept under review over the next 12 months with a further report to the Licensing Committee.

Five other areas were mentioned in the survey as being impacted by a high concentration of licensed premises: High Wycombe, Marlow, Beaconsfield, Buckingham and Amersham on the Hill. While no supporting evidence had been submitted to support this view at this stage, these areas would be closely monitored by the licensing service with a view to considering the introduction of CIA policies if evidence supports this approach.

There was also a terminal hour's policy for Buckingham due to students from the university and disturbance to residents living in close proximity. While opinion from respondents was split (46% supportive of removal and 47% supportive of retention), it appeared that there was insufficient evidence at present to support the retention of a special hour's policy for Buckingham.

Members noted that the Policy was also an opportunity to promote and encourage adherence to other council policies, priorities and strategies. A number of such areas have been identified, many of which not only promote the licensing objectives but also Buckinghamshire Council's key priorities such as safeguarding children and the public health policy.

Subject to agreement by the Licensing Committee, the draft Policy would be consulted upon widely for a period of 6 weeks. The results of the consultation would be reported back to the Licensing Committee for further consideration prior to referral to Full Council for adoption.

During discussion the following points were made by Members:

- A Member expressed concern of removing the cumulative impact policy on current license holders which could open them up to more competition

when they were trying to bounce back from the pandemic. The Principal Licensing Officer reported that the normal consultation channels had been used during Covid as previous years so that there should not be any difficulty for anyone putting a response forward.

- The Member above also asked a question regarding what weighting was given to comments from councillors and the police as it could be easy to skew the figures of the general public with getting people to reply on one particular area. The Principal Licensing Officer reported that no weighting was applied but there was 82% in favour across the board from all stakeholders. Licensing authorities should give significant weight to comments from the responsible authorities particularly the police. The decision was not taken lightly but had to be made on the evidence produced but that was why they were considering doing a review in 12 months. The Transition Head of Licensing, Cemeteries and Crematoria Services reported that they had extensive conversations with the police as the lead agency for crime and disorder. There had been a decrease in violent crime therefore there was no link between the licensed premises and crime. The comment from the local police was that the problem occurred for them at closing time when all the premises closed at the same time. If this restrictive policy was not in place there could be premises that have different closing times to stagger the impact. Licensing officers would work with the police to look at the data and collect evidence and if this policy was reintroduced it would need to be considered in the context of the whole of Buckinghamshire not just Aylesbury.
- Reference was made to having a one size fits all policy across Buckinghamshire which was very diverse. It was noted that the cumulative impact policy had been implemented in Aylesbury previously because of past crime and disorder issues, which were no longer there. Over the next 12 months Licensing Officers would be looking at particular areas across Buckinghamshire where concerns had been raised to see if it met the threshold for a cumulative impact policy. If there was any evidence, then this would be presented to the Committee for a decision on whether this policy should be imposed or reinstated. The Member commented that 12 months from now the County would still be coming out of the effects of the pandemic and the Transition Head of Licensing, Cemeteries and Crematoria Services agreed that this was not an entirely representative period and that they may need longer and the date of 12 months was a target date to have a discussion with the Committee who may not wish to make a final decision at that time.
- A comment was made on the need to level up the policies rather than level down and apply the Aylesbury policy across the County. The Member also commented that the survey sample was too small. The Principal Licensing Officer referred to the change in legislation in 2018 that the cumulative impact assessments should be put more on a statutory footing and the guidance was clear that evidence was needed to support this decision. The evidence base needed to be regularly scrutinised. The Member commented that he felt that the evidence base to take it away was not strong enough.

The Transition Head of Licensing, Cemeteries and Crematoria Services reported that whilst the policy could be removed this did not take away the control of the Council and the police and they could call a review of a licence at any time in relation to the four licensing objectives. Any new application had to go out to public consultation and gave residents the opportunity to object and if objections were received would need to be considered by Licensing Sub-Committees.

- A Member commented that this was a draft Licensing Policy which was going out to consultation so at the end of the consultation Members could review the comments made on the cumulative impact policy to see if it was the right approach to remove it. The Transition Head of Licensing, Cemeteries and Crematoria Services reported that following the consultation they would analyse the data and present the report to the Committee with a recommendation and it would be a decision for Members on how they wished to proceed.

On a vote being taken (proposed by Cllr Wood and seconded by Cllr Baum) five were in favour with two abstentions and it was **RESOLVED that:**

- 1. the content of the draft new Licensing Policy Statement for Buckinghamshire Council as required under the Licensing Act 2003 be agreed and;**
- 2. the commencement of a public consultation on the new Buckinghamshire Council Licensing Policy be agreed.**

5 Pavement Licensing - The Business and Planning Act 2020 (Pavement Licences) (Coronavirus) (Amendment) Regulations 2021

The Committee received a report from the Licensing Manager (Chiltern and South Bucks) on pavement licensing. The Business and Planning Act 2020 obtained Royal Assent on 22 July 2020. The Act introduced a number of powers and requirements on local authorities that affected how they deal with a variety of issues, with the aim of supporting local businesses and helping economic recovery as the COVID-19 restrictions put in place by Government continue to be eased. The two most relevant sections of the Act cover:

- The change in approach to outdoor furniture provision for relevant businesses (as defined in the Act) to enable them to increase their trading space 'pavement licences'.
- Relaxation of off sales of alcohol for licensed premises

The new powers were temporary, and were originally in place until 30 September 2021, however there are new draft regulations (Business and Planning Act 2020 (Pavement Licences) (Coronavirus) (Amendment) Regulations 2021) which would amend The Business and Planning Act 2020, extending these powers to 30 September 2022, which were approved by parliament on 20 July 2021.

In order to promote consistency in approach, it was recommended that subject to

the new regulations coming into effect, the Council continued to issue pavement licences for the maximum permitted length. This would mean that although premises with existing licences would have to re-apply, their newly issued licences would be valid until 30th September 2022. 38 licences issued to date would expire at the end of September 2021. Similarly, all new licences issued would also be valid until 30th September 2022. It was also recommended that the same fee of £100 for each pavement licence be retained in line with the maximum amount specified by Government. This would go part way towards the costs of the provision of this service and the associated regulatory activity. The cost to the service was £300 per licence.

During discussion the following questions were responded to:

- Clarity was sought on the definition of street furniture particularly pillars and temporary roofing. The Licensing Manager reported that there were conditions on each licence to make sure that there was accessibility and no obstruction to ensure health and safety requirements were met. The Transition Head of Licensing, Cemeteries & Crematoria Services also responded that the powers introduced were a temporary lift on planning permissions on temporary structures outside in order to assist business which would have previously required planning consent. However, if this guidance was made permanent (which was currently being looked at by the Government) then the Council would feedback to the Government the importance of criteria for long term structures. Inspections were carried out when any concerns were reported to the Licensing Team. It was predominantly reactive as it was part of a permissive regime to help businesses. Planning permission exemptions were attached to the licence when issued and would be extended with the licence.
- A Member commented that the Council was losing £200 on each licence and if the Government was thinking about making this permanent how this could be funded in the future. The Licensing Manager reported that they would definitely be raising this as part of the Government consultation.
- Reference was made to £7,600 which had been lost to the Council and the Transition Head of Licensing, Cemeteries & Crematoria Services responded that this came from the licensing budget and had to be offset against any other income. Only certain parts of licensing could be self-funding for example taxi licensing income could only be used for taxi licensing services.

On a vote being taken (proposed by Cllr Town and seconded by Cllr Southworth) with seven Councillors in favour it was **RESOLVED that**

- 1. the changes to the Business & Planning Act 2020 introduced by The Business and Planning Act 2020 (Pavement Licences) (Coronavirus) (Amendment) Regulations 2021 be noted.**
- 2. the proposed duration of pavement licences, subject to The Business and Planning Act 2020 (Pavement Licences) (Coronavirus) (Amendment) Regulations 2021 coming into effect be confirmed.**

3. the level of fee charged in respect of applications for pavement licences issued under the Business & Planning Act 2020 be confirmed.

6 Taxi and Private Hire Licensing Fees and Charges

The Committee received a report on taxi and private hire licensing fees and charges. The Chairman provided an update for the Committee as follows:

Following agreement with the Cabinet Member for Regulatory Services, Nick Naylor and herself as Chairman of the Committee, she provided an update on a minor amendment to the Taxi Licensing Policy which would come into effect from the 6th September 2021.

The agreed amendment enabled existing licensed vehicles that were not already subject to the age requirements set down within the Policy to continue to be licensed until the vehicle was 15 years old or until the 1st September 2024 (whichever was the sooner). This would include wheelchair accessible vehicles that were previously licensed by Wycombe District Council as hackney carriage vehicles.

This gave the majority of the licensed trade who were not already subject to a 10 year vehicle age limit additional time to prepare and plan to change their vehicles and was aimed specifically at maintaining the level of supply of wheelchair accessible vehicles available for passengers across the Council area. It should also mean that there was a greater choice of affordable electric wheelchair accessible vehicles available in the market at the time of replacement which supported the Council's environmental objectives. Consideration was also being given to extending the maximum age limit of larger more specialist wheelchair accessible vehicles and feedback would be provided to the Committee on this in due course.

This amendment had been made following feedback from the licensed trade on the possible impacts of this part of the Policy. Members and Officers were committed to working with the licensed trade to implement the new Policy from the 6th September 2021.

Turning to the report, the Licensing Team Leader (Wycombe area) reported that the new Buckinghamshire Council Taxi and Private Hire Licensing Policy was approved at the Council meeting on the 24th February 2021 and was due to be implemented on the 6th September 2021 when the existing legacy area zones would be removed and replaced with one single operating area. As a result, it was now necessary to align all fees and charges relating to taxi licensing to enable full implementation of the policy and provide consistency across the Council area for both applicants and licence holders. Taxi fees were required by law to be cost neutral and the relevant legislation and case law set out the elements of the licensing process which can be included in the calculation of fees.

At its meeting on the 14th April 2021, the Committee agreed to approve the then proposed fees for a full consultation process. Since that meeting the fees have been advertised in newspapers throughout the council area as required by the legislation.

All licence holders have also been contacted and provided with a link to information on the fees along with a feedback survey. The consultation ended on the 7th July 2021 and 84 responses were received. 81 of these were received via the website feedback form and 3 additional responses were received via email.

The majority of consultation responses (56.8%) were from licensed drivers who were not in agreement with any increase in fees. This negative response was unsurprising given that this was the only area where it was proposed that the fees would increase, as a result of the requirements of the new statutory standards. . The main reason given by drivers for not making any increase in fees (37%) was the impact that the pandemic has had on the trade over the last 15 months. There was a deficit of approximately £90,000 across the legacy areas, although the decision had been made not to include this in calculating the new fees as it was felt not to be fair to the trade.

The proposed fees compared favourably with surrounding authorities despite the likelihood that many of these would inevitably be increased in coming months with the implementation of the statutory standards.

Taxi licensing fees and charges would be kept under close review to ensure that they have been set at an appropriate level and any surplus or deficit would be included in future reviews to ensure that the trade were paying a reasonable fee for licences, as required by the legislation. Further reports would be provided to the Committee in this respect on an annual basis.

During discussion the following points were made:

- A Member welcomed the principle of harmonising the fees but asked about the flexibility of reviewing fees earlier to understand the impact on the taxi trade. The Licensing Team Leader reported that normally fees were reviewed on a three yearly basis but 12 months was being proposed as the Council was a new authority with a new structure. The Transition Head of Licensing, Cemeteries & Crematoria Services confirmed that 12 months was the earliest time to review fees as those licences were issued for three years and the income that came in would cover the cost of that three year period and needed to cover a number of areas including enforcement. A period of one year should be able to provide enough data on the volume of applications and the cost of the service. Taxi drivers could hold licences in more than one legacy area and these would be condensed into one licence and also the service currently licence out of area drivers which could change depending on Council policy changes e.g. Milton Keynes and Luton.
- Fees were paid at the point of application. A vehicle licence was one year and an operator licence five years.
- Reference was made to £90,000 deficit and the Transition Head of Licensing, Cemeteries & Crematoria Services reported that a previous Committee had agreed not to recover the deficit from the existing taxi licensing trade. The Transition Head of Licensing, Cemeteries & Crematoria Services would be

looking to review the figures as early as possible to understand if there was a deficit or a surplus with the fees and charges. Any profit or loss would be taken into consideration in calculating future fees.

- Wycombe fees were reviewed 2019/20 and it was decided to freeze the fees due to the new unitary. Aylesbury's fees were reviewed in 2018. Aylesbury was the only council running at a surplus of £100,000. Going forward with the new structure the Service area would have a full establishment structure based on demand.
- The Transition Head of Licensing, Cemeteries & Crematoria Services reported that there were restrictions on the service on how funding streams were used so if the income related to vehicles that could only be used for vehicles. When fees were calculated they looked at each area separately.
- The Transition Head of Licensing, Cemeteries & Crematoria Services was asked a question about feedback from the taxi trade and she commented that they had been liaising with the Licensed Private Hire Car Association since the last Licensing Committee. The Department of Transport had indicated that the increase in driver fees required to meet the statutory standards was expected to be in the region of £62.67 per year, so approximately £187 for the three year period. Members noted that the proposed fees were in that ballpark or lower. The Association understood that the fees had to be increased but were concerned about the introduction of statutory standards during the pandemic. The LPHCA represented approximately 40 operators in the council area when there were in the region of 300 operators overall.
- In relation to private hire operator licences, reference was made to one man bands who operate their own vehicle (generally from home) compared to operators who could have 40-50 vehicles and it was necessary to make sure that the fees were fair depending on the size of the business. There were different ways to charge operator licences.
- A Member expressed concern about the fees bearing in mind the impact of the recent pandemic and whether the fee could be set at the lowest legacy council fee. The Transition Head of Licensing, Cemeteries & Crematoria Services reported it was the decision of the Committee but if the fees were reduced then the costs of the Service could not be recovered and would not be cost neutral next year. In terms of providing licences the trade was very clear that they wanted to have their licences in a timely fashion and for the Council to provide a high quality service. The Service area was investing in improved technology so many processes could be automated and they would look to reduce costs going forward. They were hopeful they could pass further efficiencies back to the trade. Setting lower fees could be a mistake as it would not cover the costs of delivering the additional requirements of the statutory standards. Generally, vehicle and operator fees were decreasing and the only increase was driver licence fees because of the new standards which have been brought in by Government to protect the public.
- A Member commented that he would like to see a review of this as soon as possible and the impact on the taxi trade. The Transition Head of Licensing, Cemeteries & Crematoria Services reported that she could provide an update

to Members before September 2022 but that there may not be enough evidence to review the charges at that time.

- Reference was made to being business-like and setting a cost depending on the number and mix of licences and the structure of the service. A comment had been made that the cost of a licence should be lower for unitary councils because of efficiency savings but that was yet to be analysed.
- Clarification was sought regarding the difference in costs and Members were referred to the Appendix in the report. A Member commented that there was an increase of 62% for Wycombe driver fees.
- Another Member commented that he had looked at the officer report and was confident in the fees that had been set. He commented that times were tough for all residents not just taxi drivers.
- A discussion was held and there was concern about any deficit being offset by the council tax payer. The Transition Head of Licensing, Cemeteries & Crematoria Services reported that in the next 12 months she would be able to give information on the surplus and deficit. The cost per driver per year for a licence was £101.
- If information was available at an earlier point and changes needed to be made this would be brought to the Committee as soon as possible who could make a decision to change them. There was a process around this for example public consultation and a committee decision. If the fees needed to be varied, advertising would be carried out over a 28 day period. The process of amending fees could be carried out within a three month period.
- A number of responses referred to an apparent new requirement that all vehicle licence holders would be required to travel to Aylesbury for vehicle testing. Although feasibility studies were currently ongoing in relation to future vehicle testing requirements, there was currently no proposal for all licensed vehicles to be tested at the in-house garage at Pembroke Road in Aylesbury. Other areas could be tested through authorised testing centres and this would not be included in council fees and charges. Clarification on this would be sent to Members for information.

On a vote being taken (proposed by Councillor Wood, seconded by Cllr Town) with six votes in favour and one against it was **RESOLVED that the proposed fees and charges set out at Appendix 1 of the report were agreed to become effective as of the 6th September 2021.**

7 Date of next meeting

The date of next meeting was 7 September and an additional meeting of 20 October was agreed both at 6.30pm.

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Report to Licensing Committee

Date: 20th October 2021

Title: New Statement of Licensing Policy, Licensing Act 2003

Author: Simon Gallacher, Principal Licensing Officer

Recommendations:

1. To agree the content of the draft new Licensing Policy Statement for Buckinghamshire Council as required under the Licensing Act 2003.
 - a. To recommend the draft new Licensing Policy Statement to Full Council for approval and adoption.

1. Introduction

- 1.1 Under the terms of the transitional legislation Buckinghamshire Council is obliged to prepare and publish a new single licensing policy under the Licensing Act 2003 and align the associated service provision of the former legacy district councils no later than 1 April 2022.
- 1.2 On 22nd July 2021 the Licensing Committee agreed the content of a new draft Licensing Policy Statement for Buckinghamshire Council and the commencement of a public consultation exercise. A link to the associated Licensing Committee report is provided in the key documents section of this report. The report of 22nd July 2021 sets out the statutory background to the formation and adoption of the Licensing Policy Statement. The report also contains an analysis of the results of the pre-consultation survey with key stakeholders.
- 1.3 The purpose of this report is to provide feedback from the public consultation following the meeting of 22nd July 2021. The public consultation feedback has been overwhelmingly supportive. The Licensing Service has prepared a revised draft version of the Licensing Policy Statement in response to the written comments received. These revisions are relatively minor and no significant changes to the overall content of the draft policy are proposed by the Licensing Service. A copy of the revised draft Policy is shown in Appendix 1.

- 1.4 The Licensing Committee are asked to consider the content of the revised draft Licensing Policy and agree its content for adoption by Full Council, subject to any further amendments considered appropriate by the Licensing Committee.
- 1.5 As reported on the 22 July 2021, it is proposed that respective historic cumulative impact and special hours policies for Aylesbury and Buckingham town centres are not included in the new draft Policy due to the lack of sufficient supporting evidence which is required in order to retain such policies.

2. Public consultation

2.1 Prior to publishing its Policy, the Act requires the Licensing Authority to consult with the police, fire authority, public health authority and representatives of local licence holders, businesses and residents. The public consultation was conducted principally by means of a survey publically available on the Council's website between the end of August and the end of September 2021. The survey was promoted via the Council's social media channels on Twitter and Facebook. In addition the following stakeholders were consulted directly:

- Thames Valley Police,
- Police and Crime Commissioner
- Fire and Rescue Authority
- Premises licence and club certificate holders.
- Ward Councillors
- Town Councils and Parish Councils
- Buckinghamshire's Safeguarding Children Partnership
- The Local Health and Safety Enforcing Authority
- The Local Planning Authority
- The Director of Public Health.
- The Local Environmental Health Authority
- The Local Trading Standards Authority
- Community Safety Partnership
- Buckinghamshire Council Highways
- South Central Ambulance Services
- Aylesbury Town Centre management
- Wycombe BID

- 2.2 Much of the content of Licensing Act policies is prescribed by legislation and statutory guidance published by the Secretary of State (Section 182 guidance) to which the council must have regard. As reported on 22 July 2021 these matters have been incorporated into the new draft policy. The survey consultation focused mainly on wider policy areas beyond the statutory matters and also included reference to the historic cumulative impact policy for Aylesbury town centre and the special hours policy for Buckingham. A copy of the survey questions is shown as Appendix 2.
- 2.3 The Licensing Service received 110 survey responses and 4 additional written responses to the consultation. This response rate is similar to the 107 responses received to the pre-consultation survey.
- 2.4 The Council's Business Intelligence team collated and analysed the survey results and a summary of key findings is shown at Appendix 3. The response to the consultation is considered in more detail below.

Respondent by role

- 2.5 Survey respondents were asked to describe their role: resident (or resident representative), licensed business, non-licensed business (or business representative), Councillor (Ward, Town or Parish) or other. The majority of responses were received from those with a residential interest, 51.3%. The next most popular respondent group were businesses, the majority of whom are licensed, 20%. The table below shows a summary of responses by role:

| Role type | Response rate |
|--|----------------|
| Residential interest | 51.3% |
| Business interest (Licensed business) | 22.6% (20%) |
| Councillor ward/parish/town | 15.7% |
| Responsible authority | 6.1% |
| Other | 4.3% |

Cumulative Impact – Aylesbury town centre.

- 2.6 This question focused on the proposal to effectively remove the cumulative impact policy for Aylesbury. The legacy area policy position creates a presumption that higher risk late night premises, such as late night bars and nightclubs that sell alcohol or takeaway food, will be refused licences to trade after 00.30. All other premises are not permitted to open after 02.30. It was explained that applications for licences would still go through consultation and applicants would have to demonstrate how they intend to meet the licensing objectives. The area would also be kept under

review. As a result of legislative changes in 2018 cumulative impact policies must be supported by an assessment of evidence supporting the policy at least every 3 years. In this case an assessment of the evidence was last carried out in 2015 and at the present time it is proposed that there is insufficient evidence to support continuation of the policy.

- 2.7 The majority of respondents, 68%, support the proposal to remove the historic cumulative impact policy for Aylesbury town centre while keeping the area under review. This view is generally reflected across all groups with 71% Councillors, 74% licensed businesses and 69% residents supporting this approach. Notably 73% of respondents with a connection to the Aylesbury area support the proposal.
- 2.8 Comments supporting respondents' view are similar to those expressed in the pre-consultation survey where 82% of respondents supported the proposal. Those in favour of the policy generally advocate considering each application on its merits and the importance of encouraging diversity in terms of licensed premises. Those opposed to the proposal raise concerns about the risk to residential areas.
- 2.9 It is important to note that the removal of a cumulative impact policy does not affect the right of any party to make representation based on the promotion of the licensing objectives, which can include cumulative impact effects. Cumulative impact policies can also be re-introduced if supported by an assessment of the available evidence. As reported at the meeting of 22 July 2021 and in light of the concerns raised by Thames Valley Police, whilst the evidence presented to date does not appear to support a cumulative impact policy, the Licensing Authority has committed to keeping the matter under review. Council officers intend to conduct a thorough review of the evidence related to cumulative impact and report back to the Licensing Committee for further assessment after 12 months following the adoption of the Policy.

Special Hours Policy - Buckingham

- 2.10 This question focused on the special hours policy for Buckingham. Unlike the Aylesbury cumulative impact policy, this legacy area policy did not come about as a consequence of the collective impact of a concentration of licensed premises in the town and the policy was based on precedence arising from decisions made by former licensing committees. The policy provides that applications to open beyond 12 midnight will normally be refused unless exceptional circumstances apply and in all cases applications to open after 1:30 will be refused. It is proposed that the evidence supporting this approach is lacking and the policy should no longer apply. Furthermore the wording of the policy is likely to be construed as unlawful in respect of its treatment of applications to open after 1:30am. The wording implies that these applications "will" be refused regardless of exceptional circumstances. Whilst it is lawful for licensing authorities to take a 'bright line' approach and set out clear

statements of intent, it is not lawful for the policy to fetter decision making discretion as appears to be the case with this policy.

- 2.11 The majority of respondents, 61%, support the proposal to effectively remove the special hours policy for Buckingham. This view is generally shared across all groups, with 64% of residents, 70% of businesses and 78% of Councillors supporting the approach. Of those respondents with a connection to Buckingham, albeit a relatively small number, opinion is evenly split with a third agreeing, a third neutral and a third disagreeing to the proposal.
- 2.12 Comments supporting respondents' view are again similar to those expressed in the pre-consultation survey where opinion was more evenly split with 46% in favour of the policy and 47% against. Those in favour of the policy believe the approach will help support the economy and those against raise concerns about the potential impact on local residents.
- 2.13 It is once again important to note that the absence of a special hours policy does not negate the right of any concerned party to make representation in respect of any future application. All potential applicants are required to carry out an assessment of the area in which they intend to provide licensable activities and prepare an operating schedule with appropriate safeguards in place to promote the licensing objectives. Applicants that fail to make adequate provision are likely to have their application refused or limited in scope.
- 2.14 Respondents were also asked to comment about special policies in general within Buckinghamshire Council's area. Respondent themes generally support the idea that special hours could be beneficial if the evidence supported their need and the importance of considering each case on its merits.

Street drinking policy

- 2.15 This question focused on the proposal to place expectations on off licences in areas which have Public Space Protection Orders (PSPOs) to adopt specific additional measures to help tackle problematic street drinking. Restrictions include not selling cans and bottles in single cans, not selling high strength products and discouraging the sale of alcohol to known street drinkers.
- 2.16 The clear majority are in support of the proposed policy, 68%, with 73% in support in the pre-consultation survey.

Outside hospitality

- 2.17 This question concerned the use of outside areas and an expectation that applicants seeking new licensees will follow the same measures introduced under the temporary pavement licence scheme when using outside areas not on the public highway.

2.18 The clear majority support this approach, 80%, with 86% in support in the pre-consultation survey. Respondents are clearly supportive of well managed outside spaces and recognise how well the licensed trade has adapted the use of outside space to accommodate customers. Some concerns have been raised about the potential negative effects in residential areas. It is worth noting that since the temporary pavement licence scheme was introduced complaints to the Council's licensing service have been minimal. It is envisaged by the service that the wider application of the same control measures to outside spaces beyond the public highway will afford greater protection for residents neighbouring licensed premises. It should also be emphasised that all applications are considered on a case by case basis and where appropriate more stringent measures than those proposed may be necessary to ensure promotion of the licensing objectives.

Application consultation policy

2.19 This question set out the policy proposal that all notifications of new and variation applications are sent to local Ward Councillors and to the local Town and Parish Councils. This is in addition to the existing legal requirements for notice of applications to be published in a local newspaper, displayed on the premises, served on the responsible authorities and published in the Council's online register.

2.20 The majority clearly support the proposed policy, with 84.5% of respondents supporting the proposal. 93% of respondents were in support in the pre-consultation exercise.

Pubwatch policy

2.21 This question focused on the proposal to encourage licence holders to take part in local pub watch and shop watch schemes, providing a network for licenced businesses to work together.

2.22 The overwhelming majority of respondents are in clear support of the proposed policy with 95.5% supporting the proposal. 92% were in support in the pre-consultation survey. It is worthy of note that none of the licensed businesses responding to the consultation disagree with the proposal.

Safeguarding children policy

2.23 This question focused on the proposal to encourage operators of licensed premises to put in place a safeguarding policy. Operators of high risk premises would be expected to have a written policy and procedures including records of staff training.

2.24 The majority clearly support the proposed policy, with 87.3% of respondents supporting the proposal. This compares with 90% support to the pre-consultation survey and similar issues or themes were raised. These themes are notably the importance of staff training, receiving guidance from the Council and sharing good policies and best practice. There are some concerns expressed about the additional

burden on business, although on balance this is considered reasonable given the importance of this issue and the level of support for the proposed approach.

Public health policy

- 2.25 This question focused on the proposal to encourage licence applicants to consider the health impacts of alcohol and adopt measures to mitigate the risk to health.
- 2.26 The clear majority support the proposed policy, with 73.6% of respondents supporting the proposal. This compares to 71% of respondents supporting the proposal in the pre-consultation survey. Respondents commenting on the proposal emphasise the importance of staff training and suggest that the focus should be on not serving those who are inebriated and under age drinkers rather than moderate drinkers. Some respondents have contrasting views, with one respondent suggesting the policy should be mandatory and another suggesting that policy is out of scope of the licensing authority.
- 2.27 It is important to note that while the Director of Public Health is a statutory consultee on licence applications, public health is not a licensing objective. This means that any public health representation must currently be linked to one or more of the existing four licensing objectives. The proposed policy is to encourage rather than mandate that applicants take into account health matters when preparing their applications. It is worth noting that the Local Government Association is advocating a change to the licensing laws to include a public health objective so the impact on health can be considered when making licence decisions. A link with further information on this is provided in the key documents section.

Promoting environmental best practice

- 2.28 This question focused on the proposal to encourage operators of licensed premises to contribute to creating a greener and cleaner environment, by adopting environmental best practice measures such as minimising waste, improving energy efficiency and reducing traffic on the road.
- 2.29 There is a clear majority of support for this proposed policy with 85.5% of all respondents supporting the policy approach, and 78.3% of licensed businesses supporting the approach. This compares to 91% support in the pre-consultation survey. While supportive, comments from respondents raise issues of the importance monitoring and enforcement and difficulties with the practical implementation of the policy.

Understanding the policy and survey

- 2.30 Respondents to the survey were asked to rate ease of understanding of the policy. The majority, 90%, rated the policy ok or easy to understand. Respondents suggest that the policy could be improved by highlighting key aspects, using case studies and best practice examples and more use of bullet points and diagrams. These

comments will be taken into account when the final version of the policy is published.

2.31 In terms of the survey, 96.4% of respondents found it ok or easy to understand.

2.32 **Written responses**

2.33 In addition to the survey submissions, four written responses were received in response to the consultation. The responses came from Punch Pubs & Co, the Fire and Rescue Service and the Council's Environmental Protection (Control of Pollution) and Environmental Health (Health and Safety) teams. The Licensing Service has provided a schedule of responses to the each of the comments raised, shown as Appendix 4. Where considered appropriate the draft Policy has been revised in response to these comments and an annotation appears in the draft version of the Policy attached at Appendix 1 to indicate where changes have been made.

2.34 **Next steps and review**

2.35 The new Policy must ultimately be approved and adopted by Full Council prior to publication. Subject to the agreement of the Licensing Committee with the content of the draft version of the Policy, it is proposed that the Policy then be referred to Council for adoption at the Full Council meeting of the 24 November 2021.

2.36 In accordance with Licensing Act 2003 the policy must be kept under review, which includes full consultation, at least every 5 years. As stated in the report, the Licensing Committee will also receive an assessment report on cumulative impact in Aylesbury town centre area after 12 months following implementation of the policy.

3. Other options considered

3.1 The Council has a statutory duty to publish a Licensing Policy Statement, which must be published by 1 April 2022.

4. Legal and financial implications

4.1 Under Sections 4(1), (2) and (3) of the Licensing Act 2003 a licensing authority must carryout its licensing functions with a view to promoting the four licensing objectives and with regard to its own licensing policy statement and the Secretary of State's guidance (issued under Section 182). Under Section 5 the licensing authority must prepare and publish a licensing policy statement at least every 5 years. The Act sets out the persons that must be consulted before the Licensing Authority can determine its policy. Furthermore the Act and Secretary of State's guidance provide directions as to the content of policy statements. In accordance with the Local Government (Structural changes)(Transition Arrangements)(No. 2) Regulations 2008 (as amended), Buckinghamshire Council has two years to prepare a publish a new Policy, that is by 1 April 2022.

- 4.2 In accordance with Section 5A, licensing authorities may publish a Cumulative Impact Assessment stating that the authority considers that the relevant number of authorisations (premises licences and club premises certificates, not TENs) in respect of premises in one or more parts of its area as described is such that it is likely to be inconsistent with its duty to promote the licensing objectives. The assessment must set out the evidence for the authority’s opinion and may relate to all relevant authorisations or a particular kind. The authority must consult on the assessment before it is published. The consultation must include the reasons why it is considering publishing an assessment, a general indication of the part(s) of its area to be described in the assessment, whether it will relate to all relevant authorisations or only a particular kind. The assessment must be reviewed before the end of each three year period.
- 4.3 The current Aylesbury town centre cumulative impact policy was adopted prior to the provisions of Section 5A took effect in April 2018. Paragraph 14.38 of the Section 182 Guidance expressly deals with cumulative impact policies which were in place before S5A came into effect:
- 4.4 “As Cumulative Impact Policies were not part of the 2003 Act, there are no transitional provisions that apply to CIPs that were in place before 6 April 2018. However, any existing CIPs should be reviewed at the earliest practical opportunity to ensure they comply with the legislation. It is recommended that the review should take place within three years of the commencement of the legislation or when the licensing policy statement is next due for review, whichever is sooner. This will ensure that any CIPs in place before the commencement of the provisions on CIAs adhere to the principles in the legislation (in particular concerning relevant evidence and consultation).”
- 4.5 Whilst the S182 Guidance is not legislation, licensing authorities are obliged to have regard to it. The guidance indicates that the Aylesbury town centre cumulative impact assessment was due to for reconsideration by 1 April 2021, however the transitional arrangements regulations had the effect of extending the policy review requirements until April 2022.
- 4.6 The work involved in preparing and publishing the new Policy is a function of the licensing service with the work performed by officers as part of their duties. No significant additional costs to the Council are envisaged.

5. Corporate implications

- 5.1 Protecting the vulnerable – Protecting children from harm is one of the core statutory licensing objectives that the Council, in its role as Licensing Authority, must have regard when carrying out its licensing functions. The draft Policy contains reference to a number of specific policies designed to protect children: safeguarding

policies, restricted access, alcohol advertising, age verification, alcohol delivery services, cinemas, large events involving children and sexual entertainment venues.

- 5.2 Property – N/A
- 5.3 HR – N/A
- 5.4 Climate change – The draft Policy contains measures to encourage operators to adopt measures to promote cleaner and greener practices.
- 5.5 Sustainability – A/A
- 5.6 Equality – an equalities impact assessment (EqIA) screening exercise has been completed, shown at Appendix 5. There are no concerns that the Policy will impact negatively on any group. Conversely the Policy contains positive measures to promote the Equalities Act generally, with specific measures designed to promote child protection. On this basis it is deemed that a full EQIA is not necessary
- 5.7 Data – measures are in place to ensure relevant personal data is managed in accordance with the Data Protection Act and GDPR requirements. An information sharing protocol is in place to facilitate exchange of information with the Police and other partners, while ensuring data protection requirements are complied with.
- 5.8 Value for money – policy development work is performed by officers in-house. Licensing fee levels under the Act are set by central Government and the Licensing Authority has no discretion to amend these fee levels. Fees have not been reviewed nationally since the Act came into force in 2005 and do not cover the cost of delivering the service in this area.

6. Consultation and communication

- 6.1 A pre-draft policy consultation exercise was carried out with key stake holders who were invited to complete an online survey between 14 May and 8 June 2021.
- 6.2 Further public consultation was carried out on the draft version of the Policy between the end of August and end of September 2021 and consultees were invited to complete an online survey between 27 August and 26 September 2021. The consultation was advertised on the Council’s website and promoted through the Council’s social media channels. Correspondence was sent directly to the parties listed in 2.1 of the report.

Key documents:

Appendix 1: new draft Licensing Policy Statement, Licensing Act 2003 vs2

Appendix 2: consultation survey questionnaire.

Appendix 3: Summary report of survey responses.

Appendix 4: Licensing Service response to written consultation comments.

Appendix 5: Equalities screening report

Licensing Committee report 22nd July 2021:

<https://buckinghamshire.moderngov.co.uk/documents/s29319/LC%20Report%20-%20New%20Draft%20LA03%20Policy%20-%2030th%20June%202021%20FINAL.pdf>

“Licensing powers need to cover public health”, Local Government Association:

<https://www.local.gov.uk/about/news/lga-licensing-powers-need-cover-public-health>

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Licensing Policy Statement
Licensing Act 2003

DRAFT

March 2022

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Part A - Introduction

Version Control

1.1

| Version No | Initial | Date | Changes Made |
|------------|---------|------|---|
| V1.0 | | | Policy adopted (date TBC) and date published (TBC). |
| | | | |
| | | | |
| | | | |
| | | | |

Accessibility

1.2 We have actively considered the needs of blind and partially sighted people in accessing this document. We will make this document available in full on our website and you may download and translate into other accessible formats. If you have other needs in this regard, please contact the licensing service on [licensing email].

Definitions

1.3 While every effort has been made to avoid the over use of technical terms, this is not always possible. [Appendix 1](#) contains a list of definitions which may be of help in explaining some of the key words and phrases used in this document.

Buckinghamshire Council

- 1.4 Buckinghamshire Council came into effect on 1 April 2020, bringing together the former Buckinghamshire County Council, and the four District Councils of Aylesbury Vale, Chiltern, South Bucks and Wycombe. The county has a population of over 540,000 residents and includes the towns of Buckingham, Winslow, Aylesbury, Wendover, Princess Risborough, Chesham, Amersham, High Wycombe, Beaconsfield and Gerrards Cross. The county has a significant amount of rural space with over a quarter of the county within the Chilterns Area of Outstanding Beauty and a further third is covered by the Metropolitan Green Belt.
- 1.5 An interactive map showing the Council's area, including Ward boundaries is available on the Council's [website](#).

The role of Policy

- 1.6 Buckinghamshire Council aims to make Buckinghamshire the best place to live, raise a family, work and do business. The Council wants the county to be a place which everyone can be proud of, with excellent services, thriving businesses, and outstanding public space for everyone. A place where residents, regardless of background, have access to great opportunities, living healthy, successful lives and ageing well with independence. These ambitions are summarised in The Council's key priorities:
- strengthening our communities
 - improving our environment
 - protecting the vulnerable
 - increasing prosperity
- 1.7 Licensing has a crucial role to play in achieving these goals, through the formulation of policy, decision-making, promotion of best practice and enforcement activities.
- 1.8 Licensing is concerned with promotion of the licensing objectives:
- **The prevention of crime and disorder;**
 - **Public safety;**
 - **The prevention of public nuisance; and**
 - **The protection of children from harm.**
- 1.9 The Council, in its role as Licensing Authority, must ensure that when it carries out licensing functions that it does so with a view to promoting the licensing objectives. This Policy explains how the Licensing Authority plans to do this.
- 1.10 The Policy seeks to balance the interests of business and residents to make sure that Buckinghamshire Council continues to offer a wide choice of high quality and well managed entertainment and cultural venues within an environment that is safe and attractive to residents, business and visitors.

Policy creation

- 1.11 This is Buckinghamshire Council's first published licensing policy statement under the Licensing Act 2003. This Policy replaces the licensing policies adopted by the previous District Councils of Aylesbury Vale, Chiltern, South Bucks and Wycombe.
- 1.12 In preparing this new Policy the Licensing Authority has drawn on the experience of the previous councils in administering the licensing system under the Licensing Act 2003. It has also taken into account the latest National Guidance, guidance from the Local Government Association, case law, best practice and the views of a wide range of stakeholders.
- 1.13 The Licensing Authority has consulted widely in the formulation of this Policy, including the following:
- **Thames Valley Police**
 - **Police and Crime Commissioner**
 - **Fire and Rescue Authority**
 - **Licensees of premises holding a Premises Licence for Alcohol, Entertainment or Late Night Refreshment**
 - **Club premises certificate holders.**
 - **Licensing Committee**
 - **Ward Councillors**
 - **Town Councils and Parish Councils**
 - **Local residents and businesses**
 - **Buckinghamshire's Safeguarding Children Partnership**
 - **The Local Health and Safety Enforcing Authority**
 - **The Local Planning Authority**
 - **The Director of Public Health.**
 - **The Local Environmental Health Authority**
 - **The Local Trading Standards Authority**

- **Community Safety Partnership**
- **Buckinghamshire Council Highways**
- **South Central Ambulance Services**
- **Aylesbury Town Centre management**
- **Wycombe BID**

1.14 In accordance with the Licensing Act the Policy will be kept under review and revisions made, if necessary, before a new policy is determined in five years time.

Using the Policy

1.15 This Policy relates to the following licensable activities under the Licensing Act 2003:

- The sale of alcohol by retail.
- 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 to the public or to club members or for consideration and with a view to profit.
- The provision of late night refreshment.

1.16 This Policy explains how the Council intends to regulate licensable activities when carrying out its licensing functions. It also sets out the authority's expectations of those responsible for carrying out licensable activities. Specific areas of concern are highlighted within the Policy together with proposed risk reduction measures. The successful provision of licensable activities and the promotion of the licensing objectives in Buckinghamshire is dependent on all those involved in the licensing process having regard to this Policy:

- a) **Applicants** are expected to read this policy before making applications for new licences or variations and to tailor their applications to promote the licensing objectives.

- b) **Local residents** will benefit from reading this policy when deciding whether to make a representation to licence applications or apply for a formal review of an existing licence. The Policy will help when deciding whether to object to an entire application or certain aspects such as proposed times or whether the proposed conditions are adequate. The Council maintains a public register on its **website** where details of all new and variation applications can be found.
- c) **Responsible authorities** will be expected to refer to the Policy and give careful consideration to any application which departs from its terms. This applies in particular to the Licensing Authority itself, which is a responsible authority under the Licensing Act 2003.
- d) **Local councillors**, who are able to make representations as other members of the public. Local councillors may also be asked by local residents and licence holders to help with making representations and applications.
- e) **The Licensing Committee and Sub-Committee** will use the policy when deciding applications for new licences, variations and reviews.
- f) **The Magistrates' Court**, when deciding appeals, 'must stand in the shoes' of the Licensing Authority when applying the Policy.

1.17 The successful application of the Policy by all those involved in the licensing process plays a key role in achieving consistency in decision-making and ensuring that all applications are decided in a way which effectively promotes the licensing objectives.

1.18 Nothing in this Policy prevents any party from making an application and having it determined on its merits. Nor does the Policy prevent any party who is entitled to make representations from doing so, whether such representations are based on the Policy or some other matter relevant to the promotion of the licensing objectives. Furthermore, when it is asked to do so, the Licensing Authority will always decide whether it is appropriate to make a departure from the Policy and will always give reasons for doing so. However, the Policy will always play a key role in decision-making where the Licensing Authority has a discretion.

1.19 Some of the principles in this document are intended to be strictly applied because of the importance of the Policy to the promotion of the licensing objectives locally. While, even in

these cases, the Licensing Authority will consider whether it is appropriate to depart from the Policy, it is unlikely to do so except in truly exceptional cases where the applicant can show that the objectives of the Policy can be met by other means.

Part B - Integrating other policies, strategies and objectives

General approach

2.1 In preparing this Policy the Licensing Authority has had regard to the following policies, strategies and objectives:

- [Buckinghamshire Council Corporate Plan 2020-23](#)
- [Modern Day Slavery Statement](#)
- [Safer Buckinghamshire Plan](#)
- [Council Emergency Plan](#)
- [Equality Policy](#)
- [Enforcement Policy – Regulatory Functions](#)
- [Aylesbury Garden Town Plan](#)

2.2 Many of these are not directly related to the promotion of the licensing objectives, but indirectly impact upon them. It is therefore important that the Licensing Authority's Policy co-ordinates and integrates with these areas. Of particular importance is the Corporate Plan which sets out the Council's ambition and vision; the [following sections](#) explain how this Policy integrates with the Council's key priorities.

2.3 As a new organisation Buckinghamshire Council is developing new policies, plans and strategies in key areas such as planning, tourism and climate change. The Licensing Authority is committed to the integration of all relevant regimes so as to promote a sustainable and diverse leisure economy and, as part of that, the licensing objectives. It will do this by ensuring ongoing communication between the Licensing Authority and other relevant bodies so that matters of mutual concern and aspiration are discussed, joint working strategies developed, and by reflecting shared goals in this Policy.

- 2.4 At an operational level, the Licensing Authority will ensure that integration occurs through joint working arrangements and [partnership working](#), particularly in relation to enforcement.
- 2.5 At a decision-making level, the Licensing Authority will respect the role that each regulatory scheme has in the development of a sustainable leisure economy. It will not in general attach conditions to licences where the matters of concern are adequately protected by other legislation. It will take into account the existence of other statutory controls when deciding what is appropriate in an individual case in order to promote the licensing objectives. In general, duplication will be avoided and control exercised through the most appropriate system.

Strengthening Communities

Healthy lifestyles

- 2.6 People in Buckinghamshire are living longer and healthier lives than ever before, with health outcomes better than the national average. Buckinghamshire is a healthy and inclusive place to live, work and visit, but the Council still has a number of challenges. The Council wants to support its residents to live independent, fulfilling lives, within strong, healthy, inclusive and resilient communities
- 2.7 Licensed premises can help support this ambition by providing opportunities for people to come together and socialise. However, there are health risks associated with the consumption of alcohol. Licence holders and applicants for licences involving the sale or supply of alcohol are encouraged to consider the potential health impacts of their activities and adopt measures to mitigate risks to health. This could include staff training on the responsible sale of alcohol, avoiding promotions which encourage people to drink more and thinking about the type and alcohol content of drinks they sell.
- 2.8 The Licensing Authority will only consider matters relevant to the promotion of the four licensing objectives when undertaking its licensing functions. The Licensing Authority recognises that there is no specific 'public health' licensing objective, however it is recognised that there may be overlap between the four licensing objectives and health concerns. The Director of Public Health is a responsible authority and may make

representations in respect of new and variation applications, as well as applications for review. When making a representation, the Director of Public Health is most likely to relate such representations to the objectives on public safety and protecting children from harm. This is likely to include the prevention of accidents, injuries and other immediate harms that can result from alcohol consumption, such as unconsciousness or alcohol poisoning. The Licensing Authority also recognises that public health officers have access to health information such as accident and emergency data and ambulance records, where consumption of alcohol has been a factor. This information can help identify areas where the sale and supply of alcohol is having a negative impact on one or more of the licensing objectives. The Licensing Authority encourages the use and sharing of this information where considered relevant and the data shows a clear link between the premises concerned and the data presented. This will promote the health and wellbeing of communities through reducing the harm caused by alcohol.

Public participation

- 2.9 The Licensing Authority encourages public participation in the licensing system. Any person may make relevant representations on applications for new and variation applications and club premises certificates, as well as applying for and supporting review applications. This enables democratic participation in the licensing process allowing local residents, workers, businesses and town centre users to have a say in how the licensed economy is regulated and helps build more resilient communities. Persons do not have to live or work close to licensed premises to engage in the licensing process.
- 2.10 All applicants for new and variation of existing licences are required by law to advertise their application by displaying a public notice on the premises and in a local newspaper and by serving a copy on statutory authorities such as the police and fire authority. In addition, the Council publishes details of all applications on its online public register on The Council's website.
- 2.11 With a view to facilitating community engagement in the licensing process, the Licensing Authority will ensure that local town and parish councils are notified when a new or variation application is submitted in their area. The purpose of this approach is not to

solicit representations to an application but merely to ensure local communities are notified when applications are made.

- 2.12 While the Licensing Authority wishes to encourage participation in the licensing process it is important to emphasise that the authority may only consider valid representations. Valid representations must be concerned with the promotion of one or more of the licensing objectives. The Licensing Authority are legally obliged not to consider any representation, whether in support or opposed to an application, which is not relevant to one or more of the objectives. The Licensing Authority will also not consider those representations which it considers vexatious or frivolous. The Licensing Authority will for example reject representations which only reference such things as a lack of commercial demand for licensed premises in an area or base objections only on moral grounds.

Improving the environment

- 2.13 Buckinghamshire is a beautiful county with a stunning natural and historic landscape. Over a quarter of the county is within the Chilterns Area of Outstanding Natural Beauty and a further third is covered by the Metropolitan Green Belt. The Council wishes to:
- Address climate change, improve the environment and create economic opportunities for clean growth.
 - Reduce the county's environmental impact by promoting sustainability and reducing waste.
 - Improve air quality and people's health, by reducing emissions and encouraging green transport options.
- 2.14 The Licensing Authority recognises that at first glance promoting environmental concerns is not one of the four licensing objectives, however it can be linked to public nuisance. Public nuisance is not defined in the Act and retains its broad common law meaning and may for example include, in appropriate circumstances, the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of artificial light, dust, odour and insects.

2.15 Licensed premises can contribute by helping to create a greener and cleaner environment by meeting their legal duties and also following best practice. Many venues are also likely to benefit financially by improving energy efficiency. Licensed operators are encouraged to:

a) Reduce, recycle, reuse:

- Publish menus and promotion material online or on recycled materials.
- Encourage customers to use refillable water bottles.
- Improve recycling across all aspects of the business.
- Train staff on sustainability best practice.
- Consider reused and recycled furniture.

b) Improve energy efficiency:

- Improve energy efficiency in heating and cooling. Close doors during colder periods and minimise use of outdoor heating.
- Lighting: use LED lighting and turn lighting off when not in use.
- Use energy efficient equipment to save on power use.

c) Reduce road traffic:

- Develop and implement delivery and service plans that minimise traffic.
- Consolidate supplies and use local suppliers.
- Minimise waste collections.
- Use low emission vehicles for deliveries and servicing which are less likely to cause noise and air quality nuisance.

Protecting the vulnerable

2.16 While most people in Buckinghamshire live independent and healthy lives, some need extra support and protection. The Council wants children, adults and families to feel safe and supported to live independent lives.

- 2.17 Protecting children from harm is one of the core licensing objectives and protecting the vulnerable is a key priority of Buckinghamshire Council. Licensed premises can be a high-risk environment for children and young people. Risks can include underage consumption of alcohol, access and exposure to tobacco products and illegal drugs, exposure to violence and disorder and exposure to inappropriate entertainment. Although not common there is also the potential for exposure to sexual exploitation, modern slavery, human trafficking and illegal employment.
- 2.18 Operators of licensed premises are encouraged to put in place a safeguarding policy. The Council will expect operators of high-risk premises to have a written safeguarding policy and procedures including records of staff training. Further details are contained within the promoting the licensing objectives section of this Policy, [protection of children from harm](#).

Increasing Prosperity

- 2.19 Buckinghamshire is a prosperous county and a successful place to do business, contributing significantly to the UK economy and ranked as the fourth most productive area in England. The county has low unemployment, higher than average household incomes, and boasts world-leading sectors. The Council wants:
- To encourage sustainable economic growth, working with partners to maximise opportunities and boost productivity.
 - To continue to attract high quality jobs and investment in skills, innovation and connectivity, keeping Buckinghamshire one of the best places to do business.
 - Growth to benefit both new and existing communities, preserving the character of our environment while delivering everything we need to prosper.
- 2.20 This Policy contains a number of measures that supports this ambition:
- Ensuring enforcement actions are targeted according to risk to avoid unnecessary burdens on compliant businesses.
 - The avoidance of disproportionate or overly burdensome conditions where they are not justified.
 - Avoid duplication with other statutory regimes.

- Consistency of decision making through the application of this Policy
- Helping businesses develop robust operating schedules that promote the licensing objectives and reduce the likelihood of future interventions.

Diversity

- 2.21 The Licensing Authority recognises that licensed premises are valuable in attracting tourists and visitors. They also help support vibrant communities and serve as major employers.
- 2.22 It is recognised that as a part of implementing local authority cultural strategies proper account has to be taken of the need to encourage and promote a broad range of entertainment. Where there is any indication that cultural events are being deterred by licensing requirements, the Policy will be revisited with a view to investigating how the situation might be improved within the terms of the Licensing Act 2003.
- 2.23 In general, the Licensing Authority encourages the development of premises which are not alcohol led and which are aimed at different sectors of the population, including age and gender. Premises promoting the arts, offering food or other cultural activities are particularly encouraged. Where premises, such as pubs, are mainly alcohol focused, they are encouraged to consider diversifying their offer so as to encourage a mixed customer base and wider attractions, including community uses, soft refreshments, snacks and live entertainment. Diversification is important in the promotion of the licensing objectives as well as ensuring a sustainable economic future for premises.
- 2.24 To ensure the development of cultural diversity the Licensing Authority has issued premises licences for many public spaces in the community including some town centre areas and parks. The Council will continue to encourage cultural diversity through licensing of public spaces. This might include, for example, village greens, market squares, community halls, council owned art centres and similar public areas. To help promote such activity many forms of entertainment have been deregulated which means no licence is required, providing no alcohol is sold. The Licensing Authority endorses the value of live performance and, where authorisation is needed, will seek to permit such activity when this is consistent with the promotion of the licensing objectives.

2.25 As part of its strategy for ensuring that public spaces are welcoming to all residents, businesses and visitors, the Council has made use of Public Space Protection Orders (PSPOs.) PSPOs were introduced under the Anti-Social Behaviour, Crime and Policing Act 2014 as a means to tackle anti-social behaviour. They are designed to deal with a particular nuisance or problem in a specific area that is having a detrimental effect on the quality of life of the local community. This is achieved by imposing conditions on the use of that area that apply to everyone. They are intended to help ensure that the law abiding majority can use and enjoy public spaces, safe from anti-social behaviour. Failure to comply with an order is an offence and can lead to fines and prosecution for offenders. PSPOs have been introduced for a number of public spaces in Buckinghamshire, such as parks and town centres. The orders mainly focus on prohibiting the consumption of alcohol which has been associated with anti-social behaviour in the area concerned.

Promotion of Equality

2.26 Buckinghamshire Council is committed to ensuring compliance with the Equality Act 2010 and to advancing equality of opportunity, fostering good relations, and eliminating discrimination, harassment and victimisation. The Council's [Equality Policy](#) sets out the Council's approach to equality and diversity in employment and in service delivery.

2.27 To ensure transparency, and to assist in the performance of this duty, in accordance with the Equality Act 2010 (Specific Duties) Regulations 2011 the Council will publish:

a) Equality objectives, at least every four years.

b) Information to demonstrate their compliance with the Public Sector Equality Duty annually.

2.28 Equality Impact Assessments (EqIAs) are used to ensure that the Council considers equalities issues and assesses the likely impact of its services, policies and decisions. It is possible to carry out an Equality Impact Assessment when there is a change or review to any aspect of the Council's work and the focus may be policy; strategy; service; major project; or a group of services/policies. The completion of an initial screening template will be conducted on behalf of the Licensing Authority to determine if a full EqIA is needed alongside any relevant policy change.

2.29 The Licensing Authority recommends that licensees make themselves familiar with the requirements of the Equalities Act for the access and provision of services for persons within the nine protected groups identified by the legislation. The Act makes it unlawful to discriminate against anyone because of:

- Age
- Being or becoming a transsexual person
- Being married or in a civil partnership
- Being pregnant or on maternity leave
- Disability
- Race including colour, nationality, ethnic or national origin
- Religion, belief or lack of religion/belief
- Sex
- Sexual orientation.

2.30 The Licensing Authority expects operators of licensed premises to assess their policies and procedures to ensure they comply with the Equalities Act. This is particularly relevant to 'entrance policies' which are expected to be inclusive and transparent.

Partnerships

2.31 The aims of this Policy are not just achieved through decision making. They are also achieved through formal and informal partnerships. In order to achieve this the Council is committed to partnership working with the police, fire & rescue authority, child protection agencies, local businesses, residents and others.

2.32 Among the partnership initiatives operating in the area are:

- a) **Partnerships with regulatory authorities.** The Licensing Authority, together with Thames Valley Police, Trading Standards and Community Safety will enforce the law relating to the sale of alcohol to drunk and underage people and drunkenness and disorder on, or in the immediate vicinity of licensed premises. Targeted and joint

enforcement initiatives will be undertaken in line with the Legislative and Regulatory Reform Act 2006, see [Enforcement section](#).

- b) **Pubwatch.** This important scheme enables partnership working between licensed premises themselves and also with the police, so as to foster a joint understanding of the measures needed to produce a vibrant but safe leisure economy. The Licensing Authority strongly encourages universal participation in Pubwatch as a measure of the premises management's commitment to the promotion of the licensing objectives. The Council's licensing service can provide details of local schemes and help with guidance and assistance to set a scheme up where one does not currently exist.
- c) **Safer Buckinghamshire Board.** The Crime & Disorder Act 1998 gave the police and local authorities powers to join with other organisations to form a local Community Safety Partnership. The role of the partnership is to develop an action plan to reduce crime within the local area. The [priorities of the partnership](#) include helping communities become more resilient, protecting children and the vulnerable, addressing the impact of drugs and alcohol and poor mental health, tackling domestic violence and abuse and dealing with offending. Drug and alcohol misuse is often a factor in many instances of criminal behaviour, disorder and anti-social behaviour.
- d) **Aylesbury Town Centre Partnership.** The partnership brings together council officers, businesses, residents and local organisations with an interest in the future of Aylesbury town centre. The result has been a programme of initiatives which have helped to transform the area, improve safety, support businesses, attract new investment and new retailers and increase footfall.
- e) **High Wycombe Business Improvement District (BID).** The not-for-profit partnership works on behalf of over 675 businesses within High Wycombe town centre. The BID work with the local community, including statutory agencies such as the police and Council's licensing service, to help make the town look better and feel safer. The BID also organise activities throughout the year to help promote the town centre area and encourage footfall.

Planning and building control

- 2.33 Planning permission is usually required for the building of new premises or the material change of use of premises from one 'Use Class' to another. Building regulations approval is concerned with the construction and changes to buildings.
- 2.34 In general, planning is concerned with land use and building regulations are concerned with building safety, whereas licensing is concerned with more detailed operational matters. Accordingly, applicants for premises licence are encouraged to ensure that the proposed use would amount to a lawful planning use and any planned works to the building meet the relevant building regulations requirements. There is no legal basis for the Licensing Authority to refuse a licence application merely because the proposal does not have planning permission or the appropriate building regulations approval. However, the Licensing Authority will take account of the lack of the requisite consent or approval to the extent that this is relevant to the licensing objectives.
- 2.35 The fact that premises have a planning permission for the proposed use does not guarantee the grant of a premises licence for the use. In general, the licensing system will provide the detailed control of operational matters, which are unlikely to be addressed through the planning process. However, there will be overlapping issues of interest, for example disturbance, which will remain material considerations for both planning and licensing purposes. There may be circumstances when a terminal hour condition has been attached to the planning permission for the use of the premises for commercial purposes. Where these hours are different from the permitted licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of either their planning or licensing permissions would be liable to enforcement action under the applicable legislation.

Anti-Social Behaviour away from the premises

- 2.36 Licensing is not the primary mechanism for controlling anti-social behaviour away from premises and beyond the direct control of operators. However, it is a key aspect of such control and licensing law is part of the holistic approach to the management of the evening and night time economy in town and city centres as well as rural areas and to some extent

during the daytime too. Therefore, this Policy acknowledges the contribution of individual premises and, in certain circumstances, groups of premises to anti-social behaviour.

Part C Promoting the licensing objectives

How this policy works

- 3.1 Applicants for premises licences and club premises certificates are required to complete an “operating schedule” showing the proposed licensable activities, the operating hours, and the measures which they propose to promote the licensing objectives.
- 3.2 Applicants are strongly encouraged to read this policy when preparing their applications and to include the standards and, where relevant, licensing hours, set out in this Policy. While applicants are legally entitled to make applications without complying with this Policy, a failure to comply with the Policy is more likely to lead to objections, delay, extra cost and referral of the application to the Council’s licensing sub-committee for determination at a public hearing.
- 3.3 Responsible authorities, local residents, residents’ groups, local businesses and other parties that are considering making a representation are also encouraged to refer to this Policy. The expected standards in relation to the promotion of the licensing objectives may help in submitting a valid representation which focuses on one or more of the licensing objectives.
- 3.4 If no relevant representations are received, the Licensing Authority has a legal duty to grant the application, subject only to the terms of the applicant’s operating schedule and any mandatory conditions. If, however, valid representations are received, the Licensing Authority is required to determine the application and the decision is usually made by the Council’s licensing sub-committee.
- 3.5 In determining the application, the Licensing Authority is likely to apply the standards set out in this Policy, unless exceptional circumstances can be demonstrated and the objectives of the Policy are achievable through other means.
- 3.6 The Licensing Authority will also take this Policy into account when determining review applications. If non-compliance with the Policy has been a contributory factor in the failure to promote the licensing objectives, this is likely to be reflected in any decision made by the Licensing Authority.

- 3.7 The Licensing Authority will also refer to the Policy when considering contested personal licence applications and temporary event notices.
- 3.8 Where reference is made in this Policy to Licensing Authority decisions in respect of applications for example regarding hours of operation or imposing particular conditions, it is emphasised that this is only in circumstances where relevant representations have been received. The Licensing Authority has no discretion to refuse or grant applications subject to different conditions than those applied for if no valid representations have been made.

Hours

- 3.9 In general, the Licensing Authority will set the hours of licensed premises according to the individual merits of the case.
- 3.10 In some circumstances, flexible licensing hours can help to avoid harm to the licensing objectives caused by customers leaving licensed premises at the same time. Varied closing times can also help to promote diverse leisure economies.
- 3.11 However, inline with the duty to promote the licensing objectives, the Licensing Authority's Policy is to respect the right of residents to peace and quiet. In general, the Licensing Authority will take a more stringent approach to licensing hours in areas of higher residential density where there is greater risk of public nuisance.
- 3.12 The Licensing Authority's experience is that premises which are alcohol-led are more likely to give rise to concerns regarding late night nuisance and crime and disorder, the more so when they involve one or more of the following:
- Directed at a younger clientele
 - Involve vertical drinking
 - Playing of loud music
 - Include outside drinking areas

Premises falling within this category will be expected to demonstrate clearly, including by the use of licence conditions and management systems, that the hours applied for will not risk harm to the licensing objectives.

3.13 Shops, stores and supermarkets will normally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are good reasons, based on the licensing objectives, for restricting those hours. Further, in the case of individual shops which are known to be a focus of disorder and disturbance then, subject to receipt of representations from, for example, the police or other persons, a limitation on licensing hours may be appropriate.

Standards of management

3.14 The Licensing Authority seeks to encourage the highest standards of management in licensed premises and expects this to be demonstrated through the operating schedule. When assessing the applicant's or licensee's ability to demonstrate a commitment to high standards of management the Licensing Authority will take into account whether the applicant or licensee:

- Can demonstrate comprehensive knowledge of best practice.
- Has sought advice from the responsible authorities.
- Has implemented any advice that has been given by the responsible authorities.
- Is able to understand verbal and written advice and legal requirements.
- Can demonstrate knowledge of the licensing objectives, relevant parts of the Policy and their responsibilities under the Licensing Act 2003.
- Is able to run their businesses lawfully and in accordance with good business practices.
- Can demonstrate a track record of compliance with legal requirements.

3.15 Where there is a history and pattern of non-compliance associated with the management of the premises, linked to an adverse affect on the promotion of the licensing objectives, the Licensing Authority is unlikely to grant a new or variation application, or permit premises to continue to operate without further restrictions on review, unless there is evidence of significant improvement in management standards.

Licence conditions

- 3.16 There are three types of conditions that may apply to premises licence and club premises certificates:
- Proposed conditions presented by the applicant in their application.
 - Imposed conditions by the Licensing Authority when relevant representations have been received in relation to an application or when determining an application for review.
 - Mandatory conditions which the Licensing Act 2003 requires to be applied.
- 3.17 This section concerns the first two of those methods. Mandatory conditions are obligatory conditions that apply to all licensed premises depending on the particular licensable activities they carry out and are imposed by law. Further information about mandatory conditions is available in [Chapter 10 of the Section 182 Guidance](#).
- 3.18 The Licensing Authority considers that conditions play a key part in the promotion of the licensing objectives. Before making applications, applicants are expected to risk assess their proposed operations with reference to the licensing objectives. Potential applicants are encouraged to discuss their proposals with the Licensing Authority and responsible authorities. This will help them to formulate proposed conditions which will meet the licensing objectives and avoid objections (“relevant representations”). Where they fail to do so and relevant representations are received, the Licensing Authority will have to consider whether additional conditions are appropriate to promote the licensing objectives. Breaches of condition in and of themselves are an offence under Section 136 of the Licensing Act and on summary conviction can lead to an unlimited fine and/or up to 6 months in prison.
- 3.19 In preparing their applications, applicants are strongly encouraged to consider the terms of this Policy in general and this chapter in particular. In considering applications, the Licensing Authority will also take this Policy as a starting point.
- 3.20 A key concept underpinning the Act is that conditions attached to licences and certificates are tailored to the individual style and characteristics of the premises and licensable activities concerned. It is not the intention to impose disproportionate or overly

burdensome conditions where they are not justified. Conditions may only be imposed on licences where they are appropriate and proportionate for the promotion of one or more of the licensing objectives. Nevertheless, when deciding what conditions are appropriate and proportionate, the Licensing Authority will be strongly guided by this Policy and the Licensing Act. If an applicant wishes to state that a particular condition should not to be applied, the applicant will be expected to explain why.

3.21 Applicants' attention is drawn to the non-exhaustive pool of conditions published by the licensing service and available on the Council's [website](#). These conditions may be of use to applicants when completing operating schedules. In accordance with case law, ([Crawley BC v Attenborough \[2006\]](#)), the licensing authority is entitled to go through any draft conditions which are being offered by the applicant or as part of the application process and to advise them of appropriate wording which will make the condition clear and enforceable and seek their agreement to amend their application to achieve this objective. The conditions listed are similar to those which the Licensing Authority has found particularly useful in promoting the licensing objectives when addressing concerns raised by responsible authorities and other parties. In appropriate circumstances, the Licensing Authority will draw upon these conditions when exercising its licensing powers. In addition there is further guidance on conditions in [Chapter 10 of the Section 182 Guidance](#). Applicants and the Licensing Authority may also draw on other sources, including the following:

[The Purple Guide to Health, Safety and Welfare at Music and Other Events](#)

[Managing crowds safely](#) (Health and Safety Executive)

[Fire safety risk assessments small and medium places of assembly](#) (up to 300 people)

[Fire safety risk assessments large places of assembly](#) (over 300 people)

3.22 In proposing licence conditions, applicants are expected to take into account the standards and other matters set out below. Where relevant representations are made, it is the policy of the Licensing Authority to impose conditions reflecting such standards where applicable unless the case is exceptional. A case will not be considered exceptional unless the applicant can demonstrate that the licensing objectives will not be harmed by the omission of the condition or can be met in some other way.

- 3.23 In considering variation applications, decision concerning conditions will be confined to the subject matter of the application as per case law ([Taylor vs Manchester City Council \[2012\]](#)). In practice this means that conditions will not be imposed in response to a variation application that do not relate to the application sought.
- 3.24 In considering review applications, the Licensing Authority will take into account whether such standards have previously been observed at the premises and whether such standards are appropriate in order to promote the licensing objectives.
- 3.25 The Policy restricts itself to the control of licensed premises, qualifying clubs and temporary events within the terms of the Act. Therefore, conditions will focus on matters within the control of operators, centring on the premises and the vicinity.

Prevention of crime and disorder

- 3.26 Section 17 of the Crime and Disorder Act 1998 places a legal duty on the Council to consider the reduction of crime and disorder, including the reduction of anti-social behaviour, in all its activities. The Licensing Authority will look to the police as the main source of advice on crime and disorder matters and will also seek to involve the local Community Safety Partnership for advice on anti-social behaviour.
- 3.27 Applicants are expected to demonstrate in their operating schedule how they intend to promote the crime prevention objective in relation to the licensable activities provided. Applicants should also consider local circumstances, for example such as the terminal hour of other licensed premises in close proximity, local crime and anti-social behaviour 'hot spots' and the position of taxi ranks and other transport hubs.
- 3.28 The Licensing Authority will treat the police as the main source of advice on conditions to be applied in order to promote the crime prevention objective. Conditions imposed on licences will, so far as possible, reflect any local crime prevention strategies and the local [Police and Crime Plan](#) published by the Police and Crime Commissioner for Thames Valley.
- 3.29 Applicants are encouraged to discuss the crime prevention procedures and arrangements with the Licensing Authority and the police before making an application.

3.30 The Licensing Authority encourages Designated Premises Supervisors and others connected with the sale of alcohol to attend meetings aimed at the reduction of crime and disorder such as local Pubwatch and Shopwatch schemes.

3.31 The prevention of crime includes preventing offences under the Immigration Act 2016 related to illegal working in licensed premises. The Licensing Authority will look to Home Office Immigration Enforcement, as well as the police, for advice in respect of these matters.

3.32 In considering licence applications, where a relevant representation has been made, or if advice is sought from a potential applicant regarding the crime and disorder objective, the Licensing Authority will particularly consider the following:

- a) **Accountability.** Robust systems of accountability should be in place to ensure the premises are run in accordance with the Premises Licence or Club Premises Certificate. Such systems should clearly show how duties will be delegated, deal with authorisations to dispense alcohol and identify who is in control of the premises on a day to day basis.
- b) **Responsible sale and supply of alcohol.** It is expected that all premises licensed to sell and supply alcohol will have measures in place to prevent:
 - The sale and supply of alcohol to children
 - Serving alcohol to customers who are drunk
 - Permitting drunkenness on the premises
 - Encouraging irresponsible drinks promotions
 - Spiking of drinks
 - Anti-social street drinking in the local vicinity.

The expected measures include written policies and procedures, documented staff training and refresher training, the use of refusal logs and incident reports and use of appropriate signage.

- c) **Drinking vessels.** The use of drinking vessels made of toughened glass, plastic or other materials that do not form a sharp edge when broken reduce the risk of

serious injury and should be considered in environments where there is an increased risk of disorder and threats to public safety. Higher risk environments include nightclubs, late night pubs and bars and venues hosting major sporting events. Frequent collection of all empty drinking vessels and avoiding passing glass bottles to customers will help prevent these items being used as weapons. Careful consideration should be given to the choice of drinking vessel in outside drinking areas.

- d) **Street drinking.** Street drinking can cause nuisance as well as crime and disorder. Where there is a history of anti-social behaviour associated with street drinking in an area, the Licensing Authority may impose additional restrictions on licences for the sale of alcohol for consumption off the premises. Additional restrictions may include not selling high strength beer and cider, no single cans or bottles of beer or cider will be sold and discouraging the sale of alcohol to known street drinkers. Applicants intending to sell alcohol for consumption off the premises are advised to refer to the section on [Public Space Protection Orders \(PSPOs\)](#).
- e) **Physical measures.** Physical security features installed in the premises should reflect the potential risks of crime and disorder occurring. This may include the position and design of cash registers, where and how alcohol is stored in 'off licences', and the installation, management and maintenance of closed-circuit television (CCTV) equipment. A 'designing out crime' approach when designing premises, for example by providing for good sightlines and lighting in the venue, will help identify the appropriate measures necessary to reduce the risk of crime and disorder.
- f) **CCTV.** The presence of closed-circuit television (CCTV) cameras both inside and immediately outside the premises can actively deter disorder, nuisance, anti-social behaviour and crime generally. CCTV may have to be provided in certain circumstances and certain type of premises. This is particularly appropriate where there is good reason to suppose that disorder may take place, for example premises licensed to sell alcohol for consumption on the premises later at night within town centre areas and 'off licence' premises where there is evidence of anti-social behaviour problems in their vicinity. Some licence holders may wish to have

cameras on their premises for the prevention of crime directed against the business itself, its staff, or its customers. The Licensing Authority strongly recommends that the installation, maintenance and operation of CCTV should be carried out in consultation with Thames Valley Police. It may be appropriate to ensure that the precise location of cameras is set out on plans to ensure that certain areas are properly covered and there is no subsequent dispute over the terms of any conditions relating to CCTV. Operators considering installing CCTV will need to ensure that they comply with data protection laws, further information and guidance is available from the [Information Commissioner's Office](#).

- g) **Theft prevention.** Thieves may target customers of licensed premises or the premises itself. Measures to prevent theft, include:
- Customer warning notices.
 - Free cloakrooms and bag hooks.
 - Adequate surveillance of internal and external areas, mapping crime hotspots may help identify vulnerable areas.
 - High quality lighting and removal of 'dark' spots.
 - Gathering and sharing intelligence with the local police and other businesses in the vicinity.
 - Ensuring stock is secure and carefully monitored.
- h) **Pubwatch and shopwatch.** Voluntary schemes such as [Pubwatch](#) and Shopwatch help promote safer environments for the sale and consumption of alcohol. These partnership schemes provide an independent local network for licenced businesses to work together to tackle crime and disorder, share best practice and develop closer working relationships with the police, council and other agencies. Licence holders are encouraged to take part in local schemes where they exist; licensees are also encouraged to introduce a scheme where one does not already exist.
- i) **ID scan.** For late night venues where there is a significant risk of serious crime occurring, applicants should consider the use of customer identification systems

such as Clubscan and ID scan to record the identities of all those attending the premises. As with CCTV, operators considering using computerised ID verification equipment will need to ensure that they comply with data protection laws.

- j) **Door supervisors.** The use of door staff both inside and outside the premises can help deter crime. Staff should be easily identifiable through use of clothing. With limited exceptions, persons employed at licensed premises to carry out security activities are required to be licensed with the [Security Industry Authority](#). The Licensing Authority may consider that certain premises require strict supervision for the purpose of promoting the reduction of crime and disorder. Where appropriate, the Licensing Authority may impose a condition that licensed door supervisors must be employed at the premises either at such times as certain licensable activities are being carried out or the premises is open to the public or at such other appropriate times. Applicants should risk assess their operation and make sensible and realistic proposals in respect of the number of door supervisors and the hours of their attendance.
- k) **Closing procedures.** The effective use of ‘wind down’ procedures can help facilitate an orderly dispersal of customers. Wind down measures typically consist of:
- a set time before closing, after which alcohol ceases to be sold
 - hot and cold soft drinks and food may still be provided;
 - “exit music” is played at a reduced volume;
 - lights are turned up;
 - customers are advised on available onward transport options, including dedicated taxi services;
 - staff at the door ensure that customers leave in an orderly manner.
- l) **Illegal drugs.** The Licensing Authority recognises that drug use by people in pubs and clubs is not something relevant to all licensed premises. However, it is also recognised that special conditions will need to be imposed for certain types of venues to reduce the sale and consumption of drugs and to create a safer environment for those who may have taken them. Where conditions are under

consideration, the Licensing Authority will take into account latest Government guidance. In all cases where these conditions are to be imposed, the Licensing Authority will endeavour to seek advice from the police and the authority for responsible for public health. The measures employed to prevent the consumption or supply of illegal drugs, include search procedures, entry policies, staff training, supervision of WCs, the removal of horizontal surfaces and the installation of lighting to deter drug use in WCs.

- m) **Special events.** Existing licensed premises considering hosting one off special events, particularly those using an external promoter, should give careful consideration to carrying out a crime and disorder risk assessment. One off events can attract significantly larger numbers or a different customer profile than the premises normally accommodates. A specific risk assessment will help identify problems before they occur and identify the necessary control measures such as sufficient staff numbers and security provision. Premises management should also consider historical background checks to ensure events have not been associated with crime and disorder problems elsewhere.
- n) **Late night refreshment.** Experience has shown that it is sometimes difficult to comply with the terminal hour in respect to the provision of late night refreshment. Supply of hot food or drink actually takes place when it is handed to the customer, not when money is exchanged. Given that the premises may be full of customers at the terminal hour of the licence, it is advisable to ensure there is sufficient measures in place to ensure there is time to serve these customers. Closing procedures such as when the door will be locked, the displaying of the 'closed' sign and letting customers out are worth taking into consideration in preparing an operating schedule. Applicants may also like to consider the need to prominently display their opening times on the shop window. Where premises are likely to experience crime and disorder, the use of CCTV and door supervisors should be considered.
- o) **Illegal working.** In circumstances where premises are associated with an increased risk of employing illegal workers, for example through previous enforcement or credible information and intelligence, then it may be appropriate for the premises licence holder to have demonstrable procedures of right to work checks on staff

employed at the licensed premises and arrangements for retaining documentary evidence of such checks.

- p) **Threat of terrorism.** Operators of licensed premises should undertake a terrorism threat risk assessment that ensures that any security-related vulnerabilities have been identified, and reasonable, and proportionate steps (in keeping with the size and nature of the operation), have been taken to reduce the risk from a terrorist attack. Further advice is available online from the [National Counter Terrorism Security Office](#).
- q) **Equality.** Applicants are advised that any form of public entertainment (including film exhibitions) which is likely to lead to disorder, or stir up hatred or incite violence towards any section of the public on the grounds of colour, race, ethnic or national origin, disability, religious beliefs, sexual orientation or gender is likely to give rise to representations which are likely to lead to the refusal of such an application.

Public Safety

- 3.33 Applicants must be able to demonstrate that they have undertaken a thorough assessment of the risk to public safety presented by their intended activities. Statutory duties in relation to risk assessment arise from the Health and Safety at Work Act 1974 and the [Regulatory Reform \(Fire Safety\) Order 2005](#). The Licensing Authority does not intend to impose conditions which simply replicate other statutory controls, but it will scrutinise whether all relevant measures are being applied so as to promote the licensing objectives. Applicants are encouraged, though not obliged, to submit with their applications evidence of compliance with such controls. Where they do, it is less likely that relevant representations will be made leading to the cost and delay of a licensing hearing. Licence holders are also advised that while generally smaller businesses employing less than five employees are not required to keep a record of their risk assessments, this does not apply in the case of fire safety risk assessments and licensed premises. All licensed premises, regardless of size or number of employees, must have a record of a suitable and sufficient fire risk assessment.

- 3.34 Depending on the individual circumstances, control measures proposed in an operating schedule may include:
- a) **Permitted Capacity limits.** Depending on the nature of the venue, there may need to be capacity limits for different parts or rooms within the venue. Where limits are necessary, appropriate measures will need to be in place to ensure that these limits are complied with such as recorded capacity checks and sufficient staff to monitor and control customer numbers.
 - b) **Entrance and exits.** Additional arrangements may be necessary to ensure customers can arrive and leave the premises or site safely. These arrangements may include the use of clearly identifiable signage, suitable barriers, maintenance of unobstructed exit routes, adequate lighting levels, staff employed to control entrances. Particular consideration should be given to the safe evacuation of those with disabilities for example the partially sighted and wheelchair users.
 - c) **Plans.** All applicants for licences and certificates are required to submit a scale plan of the premises. Among other things the plan must show the location of any fire safety and any other safety equipment which could include smoke detectors, emergency lighting, fire fighting appliances, safety shutters, panic alarms, CCTV.
 - d) **Certificates and record keeping.** A system for recording the routine servicing and maintenance of any equipment that poses a potential risk to ensure premises remain safe. This should include electrical installations, fire safety equipment, boilers, cooking equipment and lifts. Records should also be kept of ongoing premises safety management checks such as daily pre-opening and during opening checks and routine fire safety checks such as fire alarm and emergency lighting tests and emergency evacuation exercises.
 - e) **Staff training.** Staff need to know what is expected of them to ensure the public remain safe when visiting licensed premises. Regular training helps ensure that staff know how to maintain premises in a safe condition and to take the appropriate action in the event of an emergency situation. A record of ongoing staff training helps ensure routine training is maintained at regular intervals and gaps in training needs can be easily identified.

- f) **Special effects.** Special consideration needs to be given to the use of any special effects such as lasers, pyrotechnics, strobe lighting and smoke machines. The use of any special effect should be thoroughly risk assessed before being introduced.
- g) **Terrorism.** A terrorism risk assessment will help identify any security-related weaknesses and depending on the size and nature of the business what steps are required to reduce the risk from a terrorist attack. Steps could range from staff briefings, increased frequency of outside glass collections and additional surveillance to the installation of new CCTV systems and redesigned entrances and outside areas.
- h) **Arson.** Arson is a common cause of fire at licensed premises. The location, accessibility and volume of waste are all factors that need to be considered. Large volumes of easily accessible waste stored in close proximity increase the risk of arson attack.
- i) **Dance venues.** Venues used for dancing present potential additional safety risks to staff and customers through increased music noise levels, overheating and exposure to illicit drugs. Risks can be reduced through ear protection, provision of quieter break out areas and use of adequate ventilation. A first aid needs assessment will help identify the appropriate level of first aid required. All venues susceptible to issues associated with illicit drugs should have written drugs policies and procedures which identify what actions staff will take in the event of a drug related emergency. The Control of Noise at Work Regulations (2005) require employers to reduce risks to health and safety from noise at work. While the regulations do not apply where people are not at work, the general duties under the Health & Safety at Work Act may apply. For further information see the HSE, [“Noise at work A brief guide to controlling the risks”](#).

The prevention of public nuisance

- 3.35 Public nuisance relates to the negative effects of nuisance including noise, light, odour, dust and litter affecting, or likely to affect, separate households locally. The Licensing Authority is keen to protect the amenity of residents and businesses in the vicinity of licensed

premises. At the same time the Licensing Authority is aware that the licensed trade is important to the local economy and promoting the Council's culture and leisure aspirations. Consequently, the Licensing Authority will try and work together with statutory agencies, licensed businesses, residents and other businesses to reach a compromise in its decision making.

3.36 In considering all licence applications, the Licensing Authority will consider whether the measures proposed to deal with the potential for public nuisance, having regard to all circumstances of the application, are adequate. In preparing applications, applicants are strongly encouraged to consider the measures set out below. Weight will be placed on recommendations made by Environmental Health Officers in terms of preventing public nuisance.

3.37 Particular measures include:

- a) **Noise escape.** The steps taken or proposed to be taken by the applicant to prevent noise and vibration escaping from the premises, including music, noise from ventilation equipment and human voices. Such measures may include the installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices. In appropriate circumstances and where not included in the operating schedule, a condition may be imposed requiring the assessment by the applicant (either with or without the involvement of Environmental Health), of potential noise sources which could cause disturbance to those in the vicinity and to identify and implement appropriate control measures.
- b) **Customer arrival.** The steps taken or proposed to be taken by the applicant to prevent disturbance by customers arriving at the premises, particularly at night. This may include last entry conditions, minimisation and control of queuing and supervision of the exterior of the premises. If some queuing is inevitable then queues should be diverted away from neighbouring premises or be otherwise managed to prevent disturbance or obstruction.
- c) **Smokers.** Arrangements to minimise disturbance from customers smoking outside the premises. These may include supervision, delineated areas for smoking, controls on numbers and preventing customers taking alcohol outside.

- d) **Customer departure.** The steps taken or proposed to be taken by the applicant to prevent disturbance by customers leaving. Such steps will include proper winding down policies so that customers leave gradually and quietly, notices to customers requesting respect for neighbours, the use of dedicated taxis, management of queues for taxis, direction of customers away from residential areas, supervision of exterior areas, requesting customers to respect neighbours and prevention of customers gathering outside the premises.
- e) **Staff departure.** The steps taken or proposed to be taken by the applicant to ensure staff leave the premises quietly. Consideration should also be given to policies relating to the use of the premises by staff once the premises has closed, particularly in relation to late closing premises in residential areas. Nuisance can often arise as a consequence of staff using licensed premises once closed to the general public.
- f) **Customer parking.** The arrangements made or proposed for parking by patrons and the effect of parking by patrons on local residents.
- g) **Public transport.** Whether there is sufficient provision for public transport (including taxis and private hire vehicles) for patrons. Taxis and private hire vehicles have the potential to disturb local residents and measures to prevent such disturbance, include preventing use of horns, engines running, restricting numbers permitted to wait and direction of approach and departure. Such controls are easier to implement when the licensee has a contract with particular suppliers.
- h) **Location.** Operators should thoroughly assess their location and be mindful of any premises particularly sensitive to nuisance such as care and nursing homes, hospitals, hospices or places of worship. In such cases the installation of additional special measures may assist in reducing the risk of nuisance.
- i) **Outside areas.** The Licensing Authority supports the use of outside areas such as gardens and forecourts however robust management controls are usually required to ensure that the use of these areas does not cause a nuisance. Control measures may include adequate supervision, regular glass collections, curfews and last entry conditions. The Licensing Authority encourages operators to consider adopting the pavement licence conditions, shown in **the Council's schedule of model conditions**, ,

in respect of outside hospitality areas off the public highway. These measures have proved successful in allowing venues to provide hospitality on the public highway without contributing to public nuisance. A summary of the key measures to prevent public nuisance are:

- Furniture to only be placed during permitted hours of use.
- Separate smoking and non-smoking seating areas, separated by a minimum of 2 metres, with appropriate signage. No ash trays or similar permitted in smoke free areas.
- The provision of any outside entertainment shall not cause a disturbance to nearby residents.
- The licence holder shall have a system in place to regularly monitor the use of outside areas by customers to ensure nearby residents are not disturbed by customer noise and the area is kept clear of litter.
- Outside lighting shall not cause a nuisance to nearby residents.
- Suitable waste receptacles shall be made available for use by staff and customers.
- The outside area shall be thoroughly cleaned at the end of each day that it is in use.

j) **Deliveries and waste collections.** As far as possible delivery and collection times should be arranged to minimise the risk of noise nuisance to residents and other businesses in the vicinity. Staff should avoid placing glass bottles and other waste outside late at night unless suitable noise mitigation measures are in place.

k) **Litter.** Measures should be in place to manage the risk of littering associated with the premises. This includes having sufficient waste receptacles to avoid overflowing refuse containers and litter sweeps in the immediate vicinity to clear cigarette butts, food receptacles and flyers associated with the premises. Sometimes problems arise regarding litter from takeaways and, to a limited extent, from off licences. Licensees should consider distinctive wrapping,

packaging or bags, so that litter can be traced back to particular premises and also periodic litter collection patrols and the provision of additional bins.

- l) **Lighting.** Outside lighting needs to be carefully planned and managed, including security lighting, to avoid causing nuisance.
- m) **Complaints procedure.** All licensed premises are expected to have a complaints procedure in place. This may include a dedicated phone line available for local residents to use in the event of problems arising. Any complaint should be recorded in a log together with details of any action taken to the response. All staff should be made aware of the complaints procedure and provided with clear instructions. In some circumstances regular meetings with neighbouring residents can be beneficial in addressing any concerns. Experience shows that it is most effective if action is taken at an early stage to build good relations with local residents.
- n) **Street drinking.** Street drinking can cause nuisance as well as crime and disorder. Where there is a history of public nuisance associated with street drinking in an area, the Licensing Authority may impose additional restrictions on licences for the sale of alcohol for consumption off the premises. Additional restrictions may include not selling high strength beer and cider, no single cans or bottles of beer or cider will be sold and discouraging the sale of alcohol to known street drinkers. Applicants intending to sell alcohol for consumption off the premises are advised to refer to the section on [Off-licences and PSPOs](#).

Protection of children from harm

- 3.38 Protecting children from harm is one of the core licensing objectives and protecting the vulnerable is a key priority of Buckinghamshire Council. Licensed premises can be a high-risk environment for children and young people. A child is defined as any person under 18 years of age and includes unborn children. Risks can include underage consumption of alcohol, access and exposure to tobacco products and illegal drugs, exposure to violence and disorder and exposure to inappropriate entertainment. Although not common there is

also the potential for exposure to sexual exploitation, modern slavery, human trafficking and illegal employment.

- 3.39 **Safeguarding policies.** The Licensing Authority believes that everyone working in an environment where there may be children present should safeguard and promote the wellbeing of children so they are protected from abuse. Child abuse is a general term which encompasses all maltreatment of children. The Department for Health uses four broad categories of abuse: neglect, physical abuse, sexual abuse and emotional abuse. Abuse can occur within a family, institutional or community setting and the perpetrator may or may not be known to the child.
- 3.40 The Licensing Authority encourages all operators of licensed premises to put in place a safeguarding policy. The Licensing Authority expect operators of high-risk premises to have a written children safeguarding policy. High-risk premises include:
- Venues providing adult entertainment.
 - Hotels.
 - Premises used exclusively or primarily for the sale of alcohol for consumption on the premises.
 - Premises with unsupervised beer gardens.
 - Nightclubs and late night opening pubs and bars (open after 12 midnight).
 - Premises where unaccompanied children may be permitted such as shops and late night food takeaways.
- 3.41 The policy should contain details of awareness training provided to staff so that they know how to identify and report potential abuse. More specifically staff awareness training should cover:
- Being alert to the possibility of child abuse and neglect, i.e. the definition, prevalence, identifying features in a child or adult, legal parameters and social consequences.
 - Having enough knowledge to recognise an abusive or potentially abusive event or set of circumstances.
 - Knowing who in the organization to raise concerns with.

- Being competent to take the appropriate immediate or emergency action.
- Knowing how to make a referral to Buckinghamshire Council and/or the Police.

3.42 It is also recommended that a person be nominated with responsibilities for managing the safeguarding children policy. This role should include arranging training and recording details of those that have attended, sharing and displaying latest information relevant to the policy, provide advice and support to staff and to act as the main point of contact on safeguarding matters.

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

3.44 Examples which may give rise to concerns in respect of children and access may be restricted include those where:

- adult entertainment is provided;
- a member or members of the current management have been convicted for serving alcohol to minors or with a reputation for allowing underage drinking (other than in the context of the exemption in the 2003 Act relating to 16 and 17 year olds consuming beer, wine and cider when accompanied by an adult during a table meal);
- it is known that unaccompanied children have been allowed access;
- there is a known association with drug taking or dealing;
- in some cases, the premises are used exclusively or primarily for the sale of alcohol for consumption on the premises; or
- other high risk premises where there is no evidence of a sufficient safeguarding children policy is in place.

- 3.45 When deciding whether to limit the access of children to premises, the Licensing Authority will judge each application on its own merits.
- 3.46 Where concerns have been identified in respect of individual premises and it is felt that access of children should be restricted, the options available would include:
- Limitations on the hours when children may be present.
 - Age limitations for persons under 18.
 - Limitations or exclusion when certain activities are taking place.
 - Full exclusion of persons under 18 when certain licensable activities are taking place.
 - Limitations of access to certain parts of the premises for persons under 18.
- 3.47 Where no conditions or restrictions are imposed, the issue of access for children is a matter of the discretion of individual licensees or clubs subject to legislative restrictions.
- 3.48 The 'Responsible Authority' in respect to the protection of children is the [Buckinghamshire Safeguarding Children's Partnership](#).
- 3.49 **Advertising.** The Licensing Authority welcomes the [Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks](#). The code is an effective means of protecting children in relation to packaging and promotions that may appeal to minors. Licence holders are encouraged to refer to the Code and to be vigilant to ensure any alcohol products sold are in compliance with the Code.
- 3.50 **Age verification.** The Licensing Authority considers under-age consumption of alcohol to be a particularly serious issue. All premises licensed for the sale by retail of alcohol are required by way of mandatory condition to have an age verification policy in place. The Licensing Authority recommends that the following documents are suitable to verify a person's proof of age:
- Passport.
 - Photo card driving licence.
 - Proof of Age Standards Scheme card bearing the PASS hologram.
 - Military identification card.

- 3.51 In addition, the Licensing Authority supports and encourages the adoption of Challenge 25 or similarly approved schemes, the use of a refusal register, the maintenance of an incident log and staff training.
- 3.52 Premises should consider the risk of ‘proxy’ purchasing of alcohol and put in place measures and train staff to deal with it. Proxy purchasing in this instance refers to a person buying alcohol on behalf of someone who is under the age of 18 years.
- 3.53 **Alcohol delivery services.** Licensed businesses involved in the delivery of alcohol, for example online retailers, are expected to have sufficient age verification procedures in place to ensure alcohol is not supplied to persons’ underage. The Licensing Service expects persons who operate premises providing ‘alcohol delivery services’ to reflect this in their operating schedule. This ensures that the Licensing Authority can properly consider what conditions are appropriate. Premises with an existing premises licence, which choose to operate such a service in addition to their existing licensable activities, should contact the licensing service for advice on whether this form of alcohol sale is already permitted or whether an application to vary the licence will be required.
- 3.54 **Children and cinema exhibitions.** The Act requires any premises licence or club certificate authorising the exhibition of films to be subject to a condition restricting the admission of children in accordance with the recommendations given to films either by a body designated under section 4 of the Video Recordings Act 1984, (currently only the British Board of Film Classification) or by the Licensing Authority itself. Generally the Licensing Authority will only make a recommendation in cases where the film has not been classified by the BBFC; in these cases the Licensing Authority will make reference to the [BBFC Classification Guidelines](#).
- 3.55 The Licensing Authority expects that licensees will include in their operating schedule the arrangements for restricting children from viewing age-restricted films. In considering applications, the Licensing Authority will take into account any evidence that age restrictions for cinema exhibitions are not being properly observed.
- 3.56 **Large numbers of children.** Where a large number of children are likely to be present on any licensed premises, for example a children’s show or pantomime, applicants should consider the additional risks associated with children. The operating schedule should

consider measures that will ensure the prevention of harm to the children and also to ensure public safety. Similarly, if a licensed premises hosts an event involving under 18's licence holders will be expected to risk assess the event beforehand and implement satisfactory arrangements to ensure alcohol is not made available to under 18 year olds.

3.57 **Sexual entertainment venues, SEVs.** In general, premises providing adult entertainment involving striptease and/or nudity are likely to need a sexual entertainment venue licence and relevant conditions will be attached to that licence. In circumstances where no such licence is needed, operators intending to provide adult entertainment will be expected to propose conditions which protect children by:

- Preventing access to the premises by children.
- Preventing exterior visibility into the premises.
- Preventing obtrusive exterior advertising including nude images or language describing the nature of the activities.
- Controlling leafleting and other forms of exterior marketing;

Specific situations

3.58 This section deals with specific circumstances, types of events and activities. The principles in this section are in addition to those specified in other parts of the Policy.

Off-licences and PSPOs

3.59 The street drinking of alcohol has found to be associated with crime and disorder and anti-social behaviour in certain areas of Buckinghamshire. Street drinking can also be associated with public nuisance. To help tackle the issue the Council has introduced PSPOs (Public Space Protection Orders) in some parks and town centres which prohibit drinking alcohol or possessing alcohol in open containers. Failure to comply with these orders is an offence and offenders can be fined by way of fixed penalty notice or prosecution. Details of the orders, including location details, are published on The Council's [website](#).

- 3.60 Experience shows that enforcement of the PSPO alone is not sufficient to deter would be offenders from consuming alcohol in breach of current PSPOs. Enforcement is only part of the solution and it is important that locally licensed businesses also play their part. Not only does this demonstrate a commitment to the promotion of the licensing objectives, the removal of anti-social street drinking enhances the area and contributes to greater prosperity.
- 3.61 To assist address, the problematic street drinking, premises licensed for the sale of alcohol for consumption off the premises in areas where relevant PSPOs have been introduced are expected to adopt the following measures:
- No single cans or bottles of beer or cider will be sold.
 - No high strength beer or cider products with 7.5% ABV or higher will be sold.
 - Alcohol shall not be sold to any person who is reasonably expected to consume it on the street in the vicinity of the premises.
 - Alcohol shall not be sold to customers in an open container.
 - All alcohol sold from the premises will be marked in a way that can be used to identify that the alcohol has been purchased from the shop.
 - Staff training shall include training on awareness of local alcohol related issues of concern and the actions required by staff to avoid contributing to these concerns.
 - A log of refusals to sell alcohol shall be maintained at the premises and include a record of refusals of persons known to consume alcohol in breach of the local PSPO.
- 3.62 Before making applications, applicants are expected to assess the locality of the premises and to seek the advice of the police and Licensing Authority whether any other additional measures are recommended. Licensed premises selling alcohol where there is a demonstrable link between the alcohol sales and a failure to adopt appropriate measures to promote the licensing objectives are likely to be subject to enforcement action, which may include a formal review of the premises licence.

Large events

- 3.63 For the purpose of this section a large event is a one-off event which has the potential for significant public nuisance to the wider community, increased risk of crime and disorder and which carries a significant risk to public safety. It is not necessarily defined by the number of people attending. Applicants are strongly recommended to check in advance with the Licensing Authority whether the proposed event is likely to be treated as a large event within the meaning of this Policy.
- 3.64 Organisers of large events are also strongly encouraged to make early contact with Buckinghamshire Council's Safety Advisory Group (SAG). The SAG is made up of representatives from the emergency services and other agencies concerned with event safety. The SAG has produced some general advice to event organisers and this can be found on the Council's [website](#). In the first instance an organiser is required to complete an event notification form and risk assessment. For more complicated or very large events an organiser may be invited to attend a meeting with the SAG. Applicants for events requiring a premises licence would be expected to make contact with the SAG at least six months before the event date. Failure to consult with the SAG properly and in a timely fashion is likely to result in the application receiving a relevant representation from a responsible authority. If any issues of concern remain outstanding at the time of a hearing this might result in an adjournment or even a refusal of the application if the sub-committee is not satisfied that any adverse impact on the licensing objectives has been properly addressed.
- 3.65 Given the complexity and scale of large events it is normal practice to produce an Event Management Plan (EMP). It is recommended that the EMP deal with the following issues:

| | | |
|--|---|---|
| Nature & style of the event, including crowd profile | Capacity and expected audience | Event programme & advertising |
| Communication strategy | Site and location plans | Management structure |
| Special effects | Campsite safety and security (when on site) | Emergency evacuation plan |
| Medical plan | Information and welfare | Safeguarding children and young people and age controls |

| | | |
|--|---------------------------------------|--|
| Transport and traffic management plans | Food, drink and water provision | Waste management |
| Working at height | Animal welfare | Noise management planning and controls |
| Temporary demountable structures | Fire risk assessment | Electrical safety |
| Welfare and sanitation plan | Extreme weather and contingency plans | Waste management |
| Crowd management | Emergency procedures | Barriers and fencing |
| Entry search and eviction policy | Alcohol and drugs policy | Counter terrorism |

3.66 For the purpose of an application for a premises licence the EMP can be the operating schedule. The Act requires the Licensing Authority to issue the licence with conditions consistent with the operating schedule accompanying the application. Paragraph 10.7 of the Statutory Guidance states that ‘consistency means that the effect of the condition should be substantially the same as that intended by the terms of the operating schedule.’ Applicants should bear this in mind when drafting their EMP so that the premises licence is prepared with clear and enforceable conditions attached to it.

3.67 In circumstances when large scale public events take place, for example in the town centre areas, it is expected that licensed premises will cooperate with the Licensing Authority, the police, the environmental protection team and any other responsible authorities. Examples of cooperation would be the possible use of polycarbonate glasses during the event, ensuring that drinks are not taken from the premises, the removal of outside furniture and the employment of event stewards.

Sexual Entertainment Venues (SEVs)

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

- 3.69 Where regulated entertainment is licensable under that legislation, it will be exempt from regulation under the Licensing Act 2003. Nevertheless, venues may still require an alcohol licence, and so the Licensing Authority will attach appropriate conditions to such licences where it has a discretion and it considers such conditions appropriate to promote the licensing objectives.
- 3.70 Where sexual entertainment is not licensable under the 1982 legislation, e.g. because the “frequency exemption” under that legislation applies, it will continue to be licensable under the Licensing Act 2003. In such circumstances, the Licensing Authority will consider the nature of the premises and the entertainment and attach appropriate conditions which may include:
- a) Code of conduct for performers.
 - b) Rules for customers.
 - c) Contact between performers and customers or other performers.
 - d) Use of sex articles or other overtly sexual performance.
 - e) Policies for protection of performers.
 - f) Verification of age, nationality and employment status of staff.
 - g) Use and maintenance of CCTV.
 - h) Exterior visibility, advertising and marketing.
 - i) Supervision of premises.
- 3.71 In all cases, applicants must state in the operating schedule whether it is proposed to use the premises for adult entertainment. Where the applicant does not state that it is so proposed, a condition will be added to the licence preventing such use.

Pavement trading

- 3.72 The Licensing Authority supports and encourages the use of well managed outside areas for hospitality purposes. Where the proposed area falls on the public highway various permissions may be needed such as a highways licence, street trading consent, parking bay

suspension, road closure and planning permission. Licence holders will also need to ensure that their licence does not contain restrictions which would prevent the intended area being used.

3.73

Cumulative impact

3.74 'Cumulative impact' is about the concentration of licensed premises in a particular area and the impacts of this. In some areas licensed premises that sell alcohol and late night food and drink can contribute to a nuisance and/or disorder problems. These problems can happen when a large number of drinkers gather in one area when leaving a premises at closing time or queuing for food or public transport. Sometimes lots of licensed premises in an area can have a negative impact on the licensing objectives, such as public nuisance or crime and disorder. Where there is evidence of this the council can introduce a 'cumulative impact' policy which means that a licence application that would have a negative impact will probably be refused. These policies must be supported by evidence and an assessment must be published every 3 years.

3.75 Before considering introducing a cumulative impact policy within the Buckinghamshire Council area the Licensing Authority will take the following steps:

- Identify that there is a concern in respect of the licensing objectives of crime and disorder, or public safety or public nuisance or protection of children from harm.
- Consider whether there is good evidence that crime and disorder or public nuisance are occurring or whether there are activities which pose a threat to public safety or the protection of children from harm.
- If such problems are occurring, identify whether these problems are being caused by customers of licensed premises, or that the risk of cumulative impact is imminent.
- Identifying the boundaries of the area where problems are occurring (this can involve mapping where the problems occur and identifying specific streets or localities where such problems arise).

- Consultation with those individuals or groups specified within section 5(3) of the Act and subject to the outcome of the consultation, include and publish details of the cumulative impact policy in the licensing policy statement

3.76 The Licensing Authority will take the following into account, where applicable, when considering evidence of cumulative impact:

- Local crime and disorder statistics, including statistics on specific types of crime and crime hotspots.
- Statistics on local anti-social behaviour offences.
- Health-related statistics such as alcohol-related emergency attendances and hospital admissions.
- Environmental health complaints, particularly in relation to litter and noise.
- Complaints recorded by the local authority, which may include complaints raised by local residents or residents' associations.
- Representations in response to licence applications that cite cumulative impact as an issue.
- Response to surveys with key stakeholders.
- Evidence from ward, town and parish councillors.
- Evidence obtained by, or on behalf of, the Licensing Authority, for example details of existing licensed premises, complaints to the licensing service and observational reports.

3.77 The effect of adopting a cumulative impact policy, is to create a 'rebuttable presumption' to refuse applications which are likely to add to the cumulative impact. As such, the applicant will need to demonstrate in their operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives in order to rebut any such presumption. This presumption requires at least one of the responsible authorities or other persons to make a relevant representation before the Licensing Authority can lawfully consider applying any adopted cumulative impact policy. If there are no representations,

the Licensing Authority must grant the application in terms that are consistent with the operating schedule submitted.

- 3.78 Applicants are advised to give consideration to potential cumulative impact issues when setting out the steps they will take to promote the licensing objectives as well as showing how they will mitigate any potential negative harms in their application. Applicants are also reminded that less weight is likely to be attached to any arguments relating to there being no complaints arising from existing premises when seeking a variation or renewal of an authorisation within a cumulative impact policy area. This is because, given the nature of the area and concentration of licensed premises, it can be difficult to attribute complaints and problems to any particular premises, especially with regards to nuisance being caused in outside areas.
- 3.79 It should be noted that special policies are not absolute. The individual circumstances of each application will be considered on its merits. The Licensing Authority will grant applications where the applicant has demonstrated that the operation of the premises is unlikely to add to the cumulative impact that is already being experienced in the area.
- 3.80 The Licensing Authority will not consider the issue of commercial “need” in determining any licence application, as this is a matter for planning control and the market. Therefore, the Licensing Authority will not seek to impose quotas of premises, licences or certificates.
- 3.81 At the time of publishing this Policy the Licensing Authority has not been presented with sufficient evidence to support the adoption of any cumulative impact policies within Buckinghamshire Council’s area. Should the Licensing Authority determine that there is sufficient evidence, as outlined in this section, that an area requires the adoption of a cumulative impact policy, an assessment of the supporting evidence will be published separately and reviewed at least every 3 years.
- 3.82 The Licensing Authority recognises that there are other mechanisms for controlling cumulative impact problems, such as bad behaviour by a minority of customers once away from licensed premises. These strategies include measures both within and outside the licensing regime:
- Planning control.

- Positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the local authority, including best practise schemes such as Pubwatch, Town Centre Partnerships and BIDs.
- Community Protection Notices and Public Space Protection Orders.
- The provision of CCTV surveillance in town centres, taxi ranks, street cleaning and litter patrols.
- The confiscation of alcohol from adults and children in designated areas;
- Police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices.
- Prosecution for the offence of selling alcohol to a person who is drunk (or allowing such a sale).
- Raising a contribution to policing the late night economy through the Late Night Levy.
- Early Morning Alcohol Restriction Orders.
- The use of fixed closing times, staggered closing times and zoning when such restrictions are justified by the available evidence. Decisions would continue to be made on the merits of each case in accordance with what is appropriate for the promotion of the licensing objectives.

Part D. The system in action

The licensing process

- 4.1 The powers of the Licensing Authority under the Act may be carried out by the Licensing Committee, by the Licensing Sub-Committee or, by one or more officers acting under delegated authority. Many of the Licensing Authority's functions are largely administrative so in the interests of efficiency and effectiveness these are, for the most part be carried out by officers.
- 4.2 Applications where there are relevant representations, usually objections, will be dealt with by the Council's Licensing Sub-Committee, as will any application for review of a licence. Applications where all relevant representations have been withdrawn at least 24 hours before the Licensing Sub-Committee hearing will usually be dealt with by officers.
- 4.3 In making licensing decisions, the Licensing Authority will have regard to its duties under the following legislation:
 - a) Section 17 of the Crime and Disorder Act 1998, which requires the Licensing Authority to exercise its functions with due regard to the likely effect of its decisions on crime and disorder and the misuse of drugs, alcohol and other substances.
 - b) The Equality Act 2010, which obliges public authorities to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; to advance equality of opportunity; and to foster good relations, between persons with different protected characteristics. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.
 - c) The Human Rights Act 1998, which requires authorities to take into account the rights of individuals to respect for their private and family life (Article 8), a right to a fair trial/hearing (Article 6) and to protection of their property (Article 1, Protocol 1). Any interference with such rights should be proportionate

Applications for Premises Licenses

- 4.4 The Licensing Authority will expect individual applicants to address the licensing objectives in their application operating schedule having regard to the type of premises, the licensable activities to be provided, the operational procedures and the nature of the location.
- 4.5 Applicants should be conversant with the Council's Policy and in particular the issues that will need to be addressed in formulating the operating schedule.
- 4.6 Applicants are also expected to demonstrate in their operating schedule that they have researched and understand the local environment and the risks to the licensing objectives which their operation may pose, as well as local initiatives such as crime reduction or Pubwatch schemes. The proposals in the operative schedule should not be standardised but should reflect the specific circumstances of the application. Applicants may benefit by speaking to responsible authorities, and in particular the police and the Council's environmental health service, when preparing their operating schedule. If they do not, it is more likely that representations will be made, leading to hearings and the expenditure of time and costs which could otherwise have been avoided.
- 4.7 Accompanying plans are required to comply with the regulations relating to applications for premises licences. In addition, applicants are requested to indicate on the plan provided to the Licensing Authority the proposed locations for the display and storage of any alcohol, the locations where sales/and/or consumption will take place (i.e. bars / tills / stock rooms / outside areas), the location of dance floors and the location of food service areas. Applicants are also encouraged to show the location of smoking areas. The locations of such activities on approved plans should not be amended without prior approval of the Licensing Authority.
- 4.8 Where the sale of alcohol is proposed on licensed premises, every sale must be made or authorised by a person who holds a personal licence, and there must also be a Designated Premises Supervisor (DPS) named on the licence who is the holder of a personal licence. In order to avoid disruption to business during absence of the DPS the Licensing Authority recommends that a minimum of one additional member of staff should hold a personal licence. If sales are to be made by persons who are not holders of personal licences, it is strongly recommended that such persons be trained to the standards required of personal

licence holders, that records of such training be retained and that the DPS provides written authorisations to such persons.

- 4.9 For community premises, an alternative licence condition may be applied for, so that the management committee for the premises acts in place of the designated premises supervisor and personal licence holders. Applicants are recommended to take advice or check with the Licensing Authority as to whether this exemption may apply in the circumstances of the case.
- 4.10 The Licensing Authority expects [high standards of management](#) from licensees. It will consider the track record of management, the experience of the management team in running sensitive or sensitively located premises, written management procedures and staff training. One important aspect of management is seniority and consistency. The Licensing Authority generally expects the DPS to be based at the premises and for the role to be his or her full time occupation. The DPS should be on duty during the busiest days (usually Thursdays to Saturdays) until the premises closes and in their absence should nominate a deputy, who should be a personal licence holder, in writing. When the DPS is not at the premises they should be easily contactable. Applicants are expected to take account of these factors in preparing their operating schedules. If they do not, they are more likely to receive relevant representations.
- 4.11 Applications need to be advertised in two ways to comply with the Act. Firstly, by displaying a notice prominently at or on the premises to which the application relates. The notice must be placed where it can be conveniently read from outside the premises, in the case of a premises covering an area more than fifty metres square, further notices must be placed every fifty metres along the external perimeter of the premises abutting (joining) any highway. Secondly, in a local newspaper, newsletter or similar circulating in the vicinity of the premises. The Licensing Authority is able to advise which local newspapers circulate in the Council's area and if in doubt applicants are encouraged to check.
- 4.12 In addition to the public notice requirements under the Act, the Licensing Authority will notify local ward councillors and parish or town councils when a new or variation application is submitted in their area. The details of applications received by the Licensing Authority are also made publicly available via the Council's [online register](#).

- 4.13 When determining applications, the Licensing Authority will have regard to any Guidance issued by the Home Office. In particular, account will be taken of the need to encourage and promote live music, dancing and theatre for the wider cultural benefit of the community as a whole. If representations are made concerning the potential for disturbance in a particular neighbourhood, the Licensing Authority's consideration will be balanced against the wider benefits to the community.
- 4.14 Prospective holders of new premises licences, and those seeking variations to existing premises licences, are advised to consult with the Council's licensing officers and the various responsible authorities at the earliest possible stage. Licensing officers are able to offer advice about the most appropriate type of application. For example, new applicants may only require a TEN to meet their licensing needs rather than a full licence application. A planned variation may be considered significantly substantial such that a new application is required or relatively minimal so that a minor application would be more appropriate.
- 4.15 Any licence holder wishing to apply for a [minor variation](#) or to remove the DPS requirement for community premises is advised to contact the Council's licensing services before making an application.

Temporary Events

- 4.16 The Licensing Act 2003 allows licensable activities to be provided at premises for small scale events (for less than 500 people) on a limited number of occasions per year without the need for a licence. Instead the organiser is required to notify the Licensing Authority in advance by way of Temporary Event Notice (TEN) and the event can go ahead unless the Licensing Authority notifies intervenes. The Licensing Authority will only intervene if an objection is made by the police or the Council's environmental health service or the legal limits have been exceeded. Objections, or representations, must be made on the basis that the event would undermine one or more of the licensing objectives. In the event of an objection the Licensing Authority is obliged to decide whether to refuse the application or allow the event to go ahead. In circumstances where an event takes place at a licensed premises the Licensing Authority may also decide to impose one or more conditions from the premises licence to the TEN.

- 4.17 It is important to note that the Licensing Authority is not allowed to take into account objections from parties other than the police or the Council's environmental health service. The Licensing Authority recommends that any party with concerns about an event taking place under a TEN contact the police or environmental health service.
- 4.18 Applicants should be aware that the limit of 499 persons applies to the number of people present at any one time and includes the number includes staff engaged in the event. Failure to comply with this limit may lead to enforcement action. Organisers are recommended, where appropriate, to employ means of recording the number of persons entering and leaving the premises.
- 4.19 Although the Act requires organisers to usually give a minimum of 10 working days' notice (not including the day of delivery of the notice or the day of the event) of qualifying temporary events, the Licensing Authority recommends that between three and six months' notice be given. This will allow the Licensing Authority to help organisers plan their events safely. Any longer period than this may mean that organisers do not have all the details available at the time of submitting the notice, and any lesser time means that planning may be rushed and insufficient.
- 4.20 The Act also permits the serving of "late" TENs, between five and nine days before the beginning of the event period. However, applicants should be aware that if any objection notice is given by the police or environmental health service, then the event may not proceed. It is therefore strongly in the interests of applicants to serve standard TENs within the timescales set out above.
- 4.21 The Council has established safety advisory groups, (SAGs), consisting of the emergency services and other statutory agencies such as the highways authority, to advise and co-ordinate planning for public events in the Council's area, whether or not a premises licence or a temporary event notice is needed. More information regarding Buckinghamshire Council's SAGs is available in the [large events](#) section of this Policy.
- 4.22 Organisers of temporary events are strongly advised to contact the Council's licensing service for advice at the earliest opportunity when planning events. Where necessary, the advice of the SAGs can be obtained, or discussions held with the police to avoid any unnecessary objections being made that may arise from misunderstandings or confusion as

to what is being proposed. Applicants intending to sell alcohol should be aware that it is an offence to supply alcohol to persons under 18 years of age or persons who are drunk.

Applications for personal licences

- 4.23 It is a mandatory condition of a premises licence that all sales of alcohol are made or authorised by a holder of a personal licence.
- 4.24 Where applicants for personal licences have unspent criminal convictions for relevant offences set out in the Act, the Police have a discretion to object to their application, which will then be determined by the Licensing Authority. Applicants with such convictions are encouraged to first discuss their intended application with the police and council licensing officers before making the application.

Designated premises supervisors

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

Licence Reviews

- 4.26 The Licensing Authority can only review a licence on specific application and where it is alleged that the licensing objectives are being breached. The Act allows for any person to apply for a review, including local residents and responsible authorities. Applications for a review of a premises licence which involve the issues outlined below (the list not being exhaustive) are viewed particularly seriously by the Licensing Authority:
- Use of premises for the sale and distribution of Class A drugs and the laundering of the proceeds of drugs crime.
 - Use of premises for the sale and distribution of illegal firearms.
 - Evasion of copyright in respect of pirated or unlicensed films and music.
 - Illegal purchase and consumption of alcohol by minors.
 - Prostitution or the sale of unlawful pornography.

- Use of premises by organised groups of paedophiles to groom children.
- Use of premises as the base for the organisation of criminal activity, particularly by gangs.
- Use of premises for the organisation, promotion or carrying out of racist, homophobic or sexual offences or attacks.
- Knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a condition on that person's leave to enter.
- Use of premises for unlawful gambling.
- Use of premises for the sale of smuggled tobacco, alcohol or other goods.
- Use of premises for the sale of stolen goods.
- Use of premises for unlawful gaming.
- Where the police are frequently called to attend to incidents of disorder.
- Prolonged and/or repeated instances of public nuisance.
- Where serious risks to public safety have been identified and the management is unable or unwilling to correct those.
- Where serious risks to children have been identified.

Delegation and decision making

- 4.27 One of the major principles underlying the Licensing Act 2003 is that the licensing functions contained within the Act should be delegated to an appropriate level so as to ensure speedy, efficient and cost effective service delivery.
- 4.28 The Council is committed to the principle of delegating its powers to ensure that these objectives are met and, subject to the formal approval of the Licensing Committee, has arranged for its licensing functions to be discharged in accordance with the Guidance issued by the Secretary of State. [Appendix 3](#) shows the Licensing Authority's scheme of delegation.
- 4.29 The Act generally requires applications to be granted unless an objection is raised. Where a function is delegated to officers they will be responsible for liaising between the applicant, other persons and the responsible authorities to ensure that any licence granted is subject

to appropriate conditions. Where objections are made the licensing officer will once again liaise with the applicant, interested parties and the responsible authorities to see if a “settlement” can be achieved to overcome the objections and, if possible, without the need for the matter to go before the Sub Committee.

- 4.30 The Licensing Authority is a responsible authority which means that the Licensing Authority can instigate reviews and make representations on applications for new licences and variations of existing licences. The Licensing Authority will make representations or call a review of a licence where it is appropriate to do so. It generally will not act as a responsible authority on behalf of other parties. Where the Licensing Authority exercises its right to make representations or instigate reviews of licences it will ensure a separation of responsibilities within the authority to ensure procedural fairness and eliminate conflicts of interest. The officer advising the Licensing Sub-Committee will be different from the officer acting for the responsible authority.
- 4.31 In hearing contested licence applications, the Licensing Sub-Committee will try to keep the proceedings as informal as possible. However, some degree of formality is needed to ensure that all parties receive a fair hearing. The procedure for hearings is designed to ensure that all parties are able to express their views, openly and fairly. Applicants, other persons, and responsible authorities are entitled to be legally represented if they wish, this is by no means a requirement.
- 4.32 In the Licensing Authority’s experience, it is important that the DPS or someone else with day to day knowledge and experience of running the premises attends the hearing to facilitate a meaningful discussion of the issues and concerns raised by any responsible authority or other party. Accordingly, the Licensing Authority will normally expect this person to attend any hearing.

The Licensing Committee

- 4.33 The Licensing Committee consists of a maximum of 15 Councillors that will sit at least twice per year.

- 4.34 A licensing sub-committee of at least three Councillors from the Licensing Committee will sit to hear every application where relevant representations have been received from responsible authorities and/or other persons and are maintained.
- 4.35 Every decision by a licensing sub-committee shall be accompanied with clear reasons for the decision. This shall be given to the parties in writing in accordance with the hearing regulations.
- 4.36 The Licensing Authority's licensing officers will deal with all other licence applications where no representations have been received or generally where all representations have been withdrawn at least 24 hours prior to the relevant hearing date.
- 4.37 Council officers will make the decisions on whether representations or applications for licence reviews should be referred to the sub-committee. Where representations or application for licence reviews are rejected, officers will give a written reason as to why that is the case.
- 4.38 Officers will be responsible for preparing a draft set of appropriate conditions for consideration by all parties where applications for a premises licences or club premises certificates are being considered at a hearing of the licensing sub-committee to assist the committee should it decide that it is appropriate and proportionate to grant the application subject to conditions.
- 4.39 The Licensing Authority will ensure that members and officers are appropriately trained to carry out their duties under the Act.

Enforcement

Principles of enforcement

- 4.40 In exercising its enforcement powers, the Licensing Authority will have regard to the Legislative and Regulatory Reform Act 2006, the [Regulators Code](#) (Office for Product Safety and Standards) and Buckinghamshire Council's [Enforcement Policy](#). The Council's aim is to undertake its regulatory and enforcement role in an impartial, open, and consistent

manner. This is achieved through education, mediation, advice, inspections, monitoring, and by regulating the activities of individuals and business as necessary.

4.41 Compliance is secured through informal and formal routes and, ultimately, if necessary, by prosecution through the courts.

4.42 The Licensing Authority will work to ensure compliance with the law by:

- Helping and encouraging businesses and individuals to understand their responsibilities by providing the necessary advice and guidance to allow them to comply with the law.
- Responding proportionately and fairly to breaches of the law.
- Ensure that resources and regulatory activities are appropriately targeted to where they will have the greatest impact taking into account the associated risks.

4.43 Regulatory activities will be carried out in a way which is transparent, accountable, proportionate and consistent and targeted only at cases in which action is needed such as when there is a risk of harm to the licensing objectives.

4.44 The actions of officers may include:

- Providing sufficient explanation in plain English as to what is expected and differentiating between legal requirements and recommendations.
- Confirming verbal advice in writing if necessary .
- Signposting to sources of additional support and advice.
- Officers will act in a fair and efficient manner and record any enforcement actions taken.
- In the event of formal action, advise of any applicable appeal's procedures.
- Keep complainants informed of progress in any investigation.
- Ensure officers can interpret and apply legal requirements and enforcement policies fairly and consistently.
- Target efforts by taking risk assessment approach.

- Ensure sanctions and penalties are proportionate, directed at change of behaviour and deter non-compliance.

4.45 A graduated response will be taken where offences against licensing legislation are found or where licence conditions have been contravened. An isolated administrative offence – such as failing to maintain certain records – may be dealt with purely by way of a written warning whilst more serious offences which have either been committed over a period of time or which jeopardise public safety – such as failing to maintain emergency exits – may result in a referral for prosecution.

4.46 The Licensing Authority will seek to work with all the responsible authorities, the police, trading standards and environmental health service in particular, in enforcing licensing legislation. An Information Sharing Protocol (ISP) is in place to facilitate the exchange of information between Thames Valley Police, Buckinghamshire Council and other agencies with the primary purpose of:

- Prevention or detection of crime, disorder and anti-social behaviour
- Protection and safeguarding of vulnerable people
- Enhance and maintain public safety

The Licensing Authority expects the police to share information about licensees and licensed premises under the Crime and Disorder Act 1998 and its common law powers, and to consult closely with the Licensing Authority when any enforcement action may be required.

4.47 The Licensing Authority's approach is multi-targeted and depending on the facts and circumstances will be directed at the appropriate person(s), such as directors, partners, companies, DPS, serving staff, customers, under age purchasers, or proxy purchasers.

4.48 In exercising its enforcement functions, the Licensing Authority will adopt a multi-functional approach and consider the range of enforcement and regulatory tools available such as prosecution, simple caution, injunction, review, closure, closure notices or other remedies. The purpose of enforcement is to achieve compliance and not to punish the person enforced against, although there may be cases where a deterrent approach is called for.

Complaints against licensed premises

- 4.49 The Licensing Authority will investigate complaints against licensed premises where the complaint arises from a breach of conditions or an offence under the Licensing Act 2003. The investigation will be conducted according to the circumstances and nature of the complaint. In the first instance, complainants may be encouraged to raise the complaint directly with the licensee or business concerned. Where this is not practical or appropriate, generally in the first instance licensees will be put on notice that a complaint has been made and asked to offer an explanation. The complainant may also be provided with diary sheets and asked to log the details for a period of up to one month. The results of these actions will shape any subsequent investigation.
- 4.50 Where another person (such as a local resident or a resident's association or local business) has made a complaint about premises, whether informally or by way of representation or during review proceedings, then, if it is appropriate the Licensing Authority may initially arrange a voluntary mediation meeting between the complainant and the premises concerned to address, clarify and try to resolve the issues of concern.

Inspection of Premises

- 4.51 The inspection of premises is carried out on a risk-based approach, with the promotion of the licensing objectives being the key objective. Factors determining the level of risk are the nature of licensable activities, the hours and location of operation, the history of compliance and the extent to which it has been appropriate previously to attach conditions to the licence in order to promote the licensing objectives. In addition, in order to further promote the licensing objectives, the licensing service will endeavour to inspect all newly licensed premises and those with recent licence variations to encourage compliance from an early stage.
- 4.52 Multi-agency visits involving officers from the Licensing Authority and various responsible authorities are routinely carried out. The greatest benefit is derived from conducting visits when the businesses concerned are operating. Given the higher density of licensed premises in the town centre areas and the increased likelihood of disorder and disturbance, these premises are more likely to receive particular attention. Targeted visits and checks

will also be carried out on specific premises based on intelligence that suggests there is a risk to the promotion of the licensing objectives.

- 4.53 Inspections of premises may also arise from complaints, to investigate an unauthorised activity or in relation to a pending application.

Appendices

Appendix 1 - Definitions

Club Premises Certificate. Club Premises Certificates are authorisations to conduct licensable activities at qualifying clubs, often referred to as members' clubs.

Designated Premises Supervisor. The Designated Premises Supervisor ("DPS") is an individual who holds a personal licence and is named on a premises licence permitting the sale of alcohol. The DPS is ultimately responsible for running the premises. There can be only one DPS for each premises licence.

Guidance. National Guidance to the Licensing Act 2003 published under section 182 of the Licensing Act 2003. The guidance is regularly updated and licensing authorities have a legal obligation to consider the guidance when carrying out licensing functions.

Late night refreshment. Late Night Refreshment refers to hot food and drink served between 11 p.m. and 5 a.m. for consumption on or off the premises.

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

Licensing Authority. Buckinghamshire Council.

Licensing Committee. A committee of not less than ten and not greater than 15 Council members (Councillors) delegated by the Council to carry out the licensing functions of the Council. The whole committee may sit or delegate its responsibility to sub committees consisting of at least three members.

Licensing functions

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

Licensing Sub-Committee. A sub-committee of the main Licensing Committee that meets to hear contested licence applications at a public hearing. The sub-committee consists of at least 3 members of the Licensing Committee.

Licensing officers. Council officers who are authorised to carry out certain functions of the licensing authority. Licensing officers process applications, issue licences, provide advice on licence applications, perform enforcement functions and may also make representation on licence applications.

Local Government Association. The LGA works on behalf of local authorities (councils) to support, promote and improve local government. The LGA provides guidance and training to councillors and officers.

Mandatory Conditions. Conditions that apply to every premises licence or club premises certificate.

Minor variation. A small change to a premises licence or club premises certificate that could not impact adversely on any of the four licensing objectives. Further guidance is available [here](#).

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

Personal licence holder. A personal licence allows its holder to make or authorise the sale of alcohol on licensed premises. A personal licence is granted by the local authority where the holder usually lives. That local authority will remain the licence holder's 'home authority' while they hold the licence, even if they move to a new area.

Premises Licence. A premises licence permits the carrying on of licensable activities. It is valid indefinitely unless it is revoked, surrendered or lapses, e.g. on the death of its holder. An annual fee is payable based on the "Non-Domestic Rateable Value".

Provisional statement. A preliminary approval by the Licensing Authority on the basis of a set of plans showing proposed alterations to existing premises or premises which have not

yet been built. A premises licence application will still be necessary even though a provisional statement has been granted.

Qualifying Club. A club must be established in good faith with at least 25 members and adhere to membership requirements and an alcohol supply policy as per the requirements of the Licensing Act 2003.

Regulated entertainment. Regulated entertainment includes the performance of a play, film exhibitions, indoor sporting events, boxing or wrestling events, performing live music and playing recorded music (except incidental music) and performances of dance, and entertainment of a similar description. Certain exemptions apply, for example unamplified music between 08.00 and 23.00 hours on any day.

Representation. Representations are objections to applications made by interested parties and responsible authorities. They must concern the licensing objectives and must be made in time, otherwise they will be rejected. Representations which are considered vexatious or frivolous will not be considered.

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

Review of premises licence. An application made by a responsible authority or residents or business, asking the Licensing Authority to reconsider the conditions on a premises licence or club premises certificate and whether that licence should be revoked or suspended for up to three months.

Summary review. The Police may apply to the Licensing Authority for the summary review of a premises licence where they believe the premises are associated with serious crime, serious disorder or both. The Licensing Authority must decide, within 48 hours, whether to take any interim steps pending the outcome of the full review of the premises licence, which must be concluded within 28 days of the receipt of the application for review.

Statement of Licensing Policy. Document that licensing authorities are required to publish and review at least every 5 years. The document details how licensing functions will be

carried out by the Council in its role as Licensing Authority. This document is Buckinghamshire Council's Statement of Licensing Policy.

Temporary Event Notice. TENs allow licensable activities to take place for short periods of time at unlicensed premises. They can also be used to extend the permitted hours at licensed premises. There are limits per calendar year on the number of times a person can submit TENs and the amount of time a premises may be used under a TEN. The maximum number of people allowed on premises being used under a TEN is 499 including staff. Only the police and the Council's environmental health service can object to TENs.

Appendix 2 Pavement licence conditions

Pavement licences permit the holder to place removable furniture on the relevant highway adjacent to their premises so that it may be used in connection with the serving, selling and consumption of food and drink. Licence holders wishing to sell or supply alcohol will need to ensure that they also have the required permission under the Licensing Act 2003.

The following conditions apply to all pavement licences granted or deemed granted in accordance with Section 5 of the Business and Planning Act 2020. Licences may also be subject to additional conditions specified by the Secretary of State.

General

1. Only 'removable' furniture as specified on the licence, including the type, quantity and location may be used.
2. Only the relevant highway area shown on the approved plans accompanying the licence may be used. The use must be in connection with the serving, selling and consumption of food and/or drink.
3. No fixtures to or excavations of any kind shall be made in the surface of the highway.
4. Furniture may only be placed in the approved area on the days and during the hours specified on the licence.

Prevention of Obstruction

5. Anything done by the licence holder pursuant to the licence, or any activity of other persons which is enabled by the licence, must not have the effect of:
 - a) preventing traffic, other than vehicular traffic, from
 - (i) entering the relevant highway at a place where such traffic could otherwise enter it (ignoring any pedestrian planning order or traffic order made in relation to the highway),
 - (i) passing along the relevant highway, or
 - (ii) having normal access to premises adjoining the relevant highway,
 - (b) preventing any use of vehicles which is permitted by a pedestrian planning order or which is not prohibited by a traffic order,
 - (c) preventing statutory undertakers having access to any apparatus of theirs under, in, on or over the highway, or
 - (d) preventing the operator of an electronic communications code network having access to any electronic communications apparatus kept installed for the purposes of that network under, in, on or over the highway
6. Furniture shall be immediately removed from the relevant area where the use of the highway is required by the Council (or anyone working on the behalf of), police, fire and rescue service and ambulance services, furniture removal or hearses.

7. A minimum of 1500mm of unobstructed, clear passageway shall be provided between the boundary of any designated furniture area and the edge of the footway and any obstruction such as telephone boxes, lamp posts, sign posts, post boxes, street furniture and similar items.
8. Barriers used to separate furniture from the rest of the footway shall be colour contrasted with tap rails and reflective strips, to assist the visually impaired. Any item used as a barrier must not cause an obstruction to those using the highway.
9. The positioning of furniture shall not be positioned so that pedestrians are discouraged from using the footway. Available routes must be visible, entirely clear and not require pedestrians to pass through an area of outside furniture.
10. Furniture shall be non-reflective and of sufficient construction to withstand being pushed or blown over.

Smoking area condition

11. The licence holder must make reasonable provision for seating in an area where smoking is not permitted with 'no smoking' signage displayed in designated 'smoke-free' zones in accordance with Smoke-free (signs) regulations 2012 which can be viewed [here](#).
12. No ash trays or similar receptacles shall be provided or permitted to be left on furniture in designated 'smoke free' zones.
13. Licence holders shall provide a minimum 2 metre distance between non-smoking and smoking areas.

Liability and Insurance

14. The licence holder shall indemnify The Council against all actions, proceedings, claims, demands and liability which may at any time be taken, made or incurred in consequence of the use of the tables and chairs and other projects and for this purpose must take out at the Licensee's expense a policy of insurance approved by The Council in the sum of at least £5 million in respect of any one event and must produce to The Council on request the current receipts for premium payments and confirmation of the annual renewals of the policy. The licence holder shall make no claim or charge against The Council in the event of the tables and chairs or other items being lost, stolen or damaged in any way from whatever cause.

Covid-19

15. The licence holder shall adhere to latest government guidelines surrounding COVID-19 at all times. The licence holder must ensure that they have carried out a suitable and sufficient risk assessment to protect employees and visitors to their premises from risks to their health and safety. A copy of the current risk assessment shall be made available on request to authorised officers of The Council.
16. Within the licensed area, outside furniture such as tables and chairs shall be positioned to give enough space to allow people to pass whilst keeping the appropriate social distance of 2 metres. Where it is not possible to provide a 2 metre gap between furniture, a minimum of 1 metre gap is permitted but appropriate mitigation measures must be introduced and detailed in the risk assessment, which must be made available to officers on request.
17. Clear signage shall be displayed to direct customers to toilets, ordering procedures, opening times, and other relevant information.

18. Outside areas shall only be used by customers who have been identified for 'track and trace' purposes.

Safety

19. Outside furniture shall not be placed in front of any designated emergency exits or prevent easy access for emergency services.
20. Furniture stored inside during opening times shall not obstruct any emergency exit routes.
21. Furniture must be suitable for outside use, so that it can withstand adverse weather and must be maintained in a safe condition. Furniture such as umbrellas and other coverings must be suitably robust and sufficiently weighted to prevent collapse or movement, especially during adverse weather.
22. Items that may cause trip hazards such as trailing cables and weights must be highlighted, covered, removed or positioned out of the way as appropriate. Low lying furniture that may not be easily seen shall not be used.
23. If providing outside heaters the licensee shall ensure adequate firefighting arrangements and appropriate secure arrangements for storing any fuel are in place.
24. Adequate lighting shall be used if outside areas are used at night or in low light level conditions.
25. Outside electrical systems must be installed, modified and maintained by a competent and suitably qualified electrical engineer.

Prevention of Nuisance

26. The provision of any outside entertainment shall not cause a disturbance to nearby residents.
27. The licence holder shall have a system in place to regularly monitor the use of outside areas by customers to ensure nearby residents are not disturbed by customer noise and the area is kept clear of litter.
28. Outside lighting shall not cause a disturbance to nearby residents.
29. Suitable waste receptacles shall be made available for use by staff and customers.
30. The outside area shall be thoroughly cleaned at the end of each day that it is in use.

Appendix 2 – Scheme of delegation

| Matter to be dealt with | Sub Committee | Officer |
|---|-----------------------------------|------------------------------------|
| Application for personal licence | If a police objection | If no objection made |
| Application for personal licence with unspent convictions | All cases | |
| Application for premises licence/club premises certificate | If a relevant representation made | If no relevant representation made |
| Application for provisional statement | If a relevant representation made | If no relevant representation made |
| Application to vary premises licence/club premises certificate | If a relevant representation made | If no relevant representation made |
| Application to vary designated premises supervisor | If a police objection | All other cases |
| Request to be removed as designated premises supervisor | | All cases |
| Application for transfer of premises licence | If a police objection | All other cases |
| Applications for interim authorities | If a police objection | All other cases |
| Application to review premises licence/club premises certificate | All cases | |
| Decision on whether a representation is irrelevant frivolous vexatious etc | | All cases |
| Decision to object when local authority is a consultee and not the relevant authority | All cases | |

| | | |
|--|-----------------------|-----------------|
| considering the application. | | |
| Determination of an objection to a temporary event notice | All cases | |
| Determination of application to vary premises licence at community premises to include alternative licence condition | If a police objection | All other cases |
| Decision whether to consult other responsible authorities on minor variation application | | All cases |
| Determination of minor variation application | | All cases |

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New Licensing Policy Consultation – Alcohol, Entertainment and Late Night Refreshment

Overview



Overview

Buckinghamshire Council has responsibility for allowing people to sell alcohol, put on public entertainment and sell late night food and drink. The Council does this by issuing licences, permits and notices.

The main purpose of licensing is to ensure that the national licensing objectives are promoted:

1. preventing crime and disorder;
2. public safety;
3. preventing public nuisance; and
4. protecting children from harm.

We have produced a new draft licensing “Policy”, which explains Buckinghamshire Council’s approach to promoting the four licensing objectives when making decisions about licences. This Policy is important for businesses such as pubs, shops, restaurants and nightclubs but also for members of the wider community such as residents, community groups and responsible authorities who may be impacted by, or have an interest in, licensing decisions.

The Policy includes some things that are required by national legislation and legal guidance. It also includes things that reflect the Council’s core objectives of strengthening our communities, improving our environment, protecting the vulnerable and increasing prosperity. The Policy reflects feedback we received in our recent public survey with key stakeholders, which included the licensed trade, representatives of Buckinghamshire residents and responsible authorities such as the police and fire service.

This consultation focuses on policy areas that are considered of most interest. You are invited to comment on any part of the Policy that’s important to you. A copy of the draft Policy is available from the Council’s web page. [link at the bottom of this page]

How to take part

We welcome your views to help shape future policy decisions in this important area. Please take a few minutes to complete the online survey below. If you have any questions about this consultation, please email us at licensing.av@buckinghamshire.gov.uk or phone us on 01296 585605. If completing by post please return your completed survey to:

Licensing Policy Consultation, Buckinghamshire Council, The Gateway, Gatehouse Road, Aylesbury, HP19 8FF.

Please respond by **26 September 2021**

What happens next

Once the consultation closes, we will review all the feedback and make adjustments to the draft Policy if required. In October 2021, our Licensing Committee will review the final draft Policy and decide whether to recommend its adoption.

We aim to adopt a final Licensing Policy by early 2022. This new policy will replace the licensing policies of the former Aylesbury Vale, Chiltern, South Bucks and Wycombe District Councils.

Privacy

*We will use the information you provide here only for this activity. We will store the information securely in line with data protection laws and will not share or publish any personal details. For more information about data and privacy, please see our **Privacy Policy** <<https://www.buckinghamshire.gov.uk/your-council/privacy/privacy-policy/>> .*

*If you have questions about data and privacy, please email us on **dataprotection@buckinghamshire.gov.uk**. Or write to our Data Protection Officer at Buckinghamshire Council, The Gateway, Gatehouse Road, Aylesbury, HP19 8FF.*

About you

We will use the information you provide here only for the purpose of this activity. We will store the information securely in line with data protection laws and will not share or publish any personal details.

1 Which of the following best describes you?

Please select all that apply

- Resident Licensed business Non-licensed business
 Councillor (Ward, Town or Parish) Responsible Authority
 Representative of residents Representative of business
 Other (please specify)

Other

2 If possible, please provide a description of the geographic area that best reflects your area of interest (for example town, ward or postcode e.g. HP19)

Area

Cumulative Impact – Aylesbury

About

Sometimes lots of licensed premises in an area can have a negative impact on the licensing objectives, such as public nuisance or crime and disorder. These problems can happen when a large number of drinkers gather in one area when leaving a premises at closing time, or queuing for food or public transport. Where there is evidence of this the council can introduce a 'cumulative impact' policy which means that a licence application that would have a negative impact will probably be refused. These policies must be supported by evidence and an assessment must be published every 3 years.

Currently only Aylesbury town centre has a cumulative impact policy which states that high risk late night premises such as late night bars and nightclubs that sell alcohol or takeaway food will be refused licences to trade after 00.30. All other premises are not permitted to open after 02.30. The policy was last reviewed in 2015.

What people said in our recent surveys

We asked you whether you would support a proposal to remove the cumulative impact policy for Aylesbury in the new Policy. A strong majority (82% of respondents) were in support of removing the policy. Reasons given included supporting the night time economy to recover post the Covid-19 pandemic and that they would like applications considered on a case by case basis, rather than adopting a single approach for all. Respondents also supported a proposal to keep the Aylesbury town centre area under review.

What the draft Policy says.

The law is clear that councils may only introduce cumulative impact policies if supported by recent evidence. The draft Policy does not identify any areas as cumulative impact areas. This means that there is no presumption to refuse late night licence applications in any part of Buckinghamshire Council's area. Applications will still go through a full consultation process and residents and responsible authorities would have the chance to have their say. Applicants would still have to consider the local environment in which they plan to operate and demonstrate how they intend to meet the four national licensing objectives.

The licensing situation in Aylesbury town centre will be kept under close review by the licensing team and the findings considered by the Council's Licensing Committee. If at any point in the future evidence shows that the cumulative impact of licensed premises in an area is having a negative effect, then the Council may introduce a new cumulative impact policy.

3 Do you agree or disagree with this proposal?

(Required)

Please select only one item

- Strongly agree Agree Neither agree nor disagree Disagree
 Strongly disagree I'm not sure

4 Do you have any other comments about cumulative impact policies?

Other comments

Special hours policy - Buckingham and Buckinghamshire generally

About

The council can choose to apply special hours policies to licence applications in a particular area (or zone) or of a particular type, e.g. pubs, nightclubs, hot food take-aways. Special hours policies can set a preferred closing time(s) by premises type, area or both. Where a special hours policy is in place and applicants apply to operate beyond the preferred closing time(s), then the application is subject to additional scrutiny and it is expected that the applicant will have robust additional measures in place to ensure they meet the national licensing objectives. A special hours policy which sets a preferred closing time must be supported by evidence that one or more of the licensing objectives are being impacted.

Currently only Buckingham town centre has a special hours policy. The policy means that applications to open beyond 00.00 will normally be refused unless applicants can satisfy the Council that they can operate without harm to the licensing objectives. All applications after 01:30 will generally be refused. This policy was put in place at a time when the Council received regular complaints and had evidence of late night noise disturbance associated with licensed premises in Buckingham. The policy is based on evidence last considered in 2015.

What people said in our recent surveys

We asked you whether you would support a proposal to remove the special hours policy for Buckingham in the new Policy. Opinion was divided, with just over half of residents and 60% of businesses who responded supporting the removal of the policy. Reasons given by respondents in favour of the proposal included supporting businesses to recover post the Covid-19 pandemic and the importance of considering each application on a case by case basis, rather than adopting a single approach for all. Those against the proposal were concerned about the impact of noise and disturbance on residents and felt that the policy had helped improve this.

We asked you whether you supported the introduction of special hours policies in general. 59% of respondents were in favour of their use and felt it was important to protect residents living in town centres from disturbance. Those against the use of special hours policies felt it was important that policies were based on evidence of a problem and that the existing licensing laws already provided a high level of protection.

What the draft Policy says.

Since the special hours policy was first introduced in Buckingham the nature of the town has changed. Licensed premises in Buckingham are now more food led and less likely to open late. Complaints made to the Council about licensed premises in Buckingham have significantly reduced. Based on the lack of available supporting evidence the draft Policy does not have a special hours policy for Buckingham, or any other area in Buckinghamshire.

Applications will still go through a full consultation process and residents and responsible authorities would have the chance to have their say. Applicants would still have to consider the local environment in which they plan to operate and demonstrate how they intend to meet the four national licensing objectives. Any party adversely affected by late opening licensed premises may seek a formal review of the licence based on one or more of the licensing objectives. The Council can adopt special hours policies in the future should evidence support this approach.

5 Do you agree or disagree with this?

(Required)

Please select only one item

- Strongly agree Agree Neither agree nor disagree Disagree
 Strongly disagree I'm not sure

6 Do you have any other comments about removal of the special hours policy in Buckingham?

Other comments

7 Do you have any other comments about special hours policies in general in the Buckinghamshire Council area?

Other comments

Street Drinking

About

Street drinking has been found to be associated with crime and disorder and anti-social behaviour in certain areas of Buckinghamshire. The Council has introduced Public Space Protection Orders (PSPOs) in some parks and town centres which prohibit drinking alcohol or possessing alcohol in open containers. Enforcement of PSPOs is only part of the solution and it is important that licensed businesses close to and within a PSPO area also play their part.

What people said in our recent surveys

73% of respondents to our survey agreed that licensed premises selling alcohol in and close to PSPO areas should be expected to use additional measures to reduce street drinking.

What the draft Policy says.

The draft Policy proposes that premises licensed for the sale of alcohol for consumption off the premises, in and close to PSPO areas, will be expected to adopt additional measures. These include not selling high strength beer and cider, not selling cans and bottles in single cans and discouraging businesses from selling alcohol to known street drinkers.

8 Do you agree or disagree with this?

(Required)

Please select only one item

- Strongly agree Agree Neither agree nor disagree Disagree
 Strongly disagree I'm not sure

9 Do you have any other comments about street drinking in Buckinghamshire?

Other comments

Outside hospitality

About

During the Covid-19 pandemic the government introduced pavement licences which make it easier for businesses to use outside spaces to sell food and drink on the public highway. Many licensed premises also operate outside areas that are not on the public highway and as such are not bound by the same conditions. The council supports the pavement licence scheme but also wants to limit impacts on nearby residents.

What people said in the recent survey

86% of respondents supported the Council's proposed approach that all new applicants are expected to manage outdoor spaces by following the conditions applied to pavement licences, whether or not they are on the public highway.

What the draft Policy says.

The draft Policy sets out measures for the management of outside areas that all new applicants are generally expected to follow. These reflect the conditions applied to pavement licences operating on the public highway. These conditions include a requirement that outside areas are not used later than 23.00 on Fridays and Saturdays, 22.00 on other days, and that there are separate areas for smokers and non-smokers.

10 Do you agree or disagree with this?

(Required)

Please select only one item

- Strongly agree Agree Neither agree nor disagree Disagree
 Strongly disagree I'm not sure

11 Do you have any other comments about the management of outside areas for licensed premises in Buckinghamshire?

Other comments

Application consultation

About

All applicants for licences are required by law to advertise their application by displaying a public notice on the premises and in a local newspaper and by serving a copy on responsible authorities such as the police and fire authority. Details of all applications are also published on the online public registers available on the Council's website.

What people said in the recent survey

93% of respondents supported the Council's proposal to go beyond the minimum requirements with a view to publicising applications more widely.

What the draft policy says.

Details of all new and variation applications will be sent to local Ward and Parish/Town Councils in addition to existing legal requirements for advertisement.

12 Do you agree or disagree with this?

(Required)

Please select only one item

- Strongly agree Agree Neither agree nor disagree Disagree
 Strongly disagree I'm not sure

13 Do you have any other comments about consultation on licence applications?

Other comments

Pubwatch

About

Voluntary schemes such as Pubwatch and Shopwatch help promote safer environments for the sale and consumption of alcohol. These schemes provide a local network for licensed businesses to work together to tackle crime and disorder, share best practice and develop closer working relationships with the Police, the Council and other agencies.

What people said in the recent survey

92% of respondents supported the Council's proposed approach to encourage membership of Pubwatch and Shopwatch schemes.

What the draft policy says.

The draft Policy encourages all licence holders to take part in local schemes where they exist; licensees are encouraged to introduce a scheme where one does not already exist.

14 Do you agree or disagree with this?

(Required)

Please select only one item

- Strongly agree Agree Neither agree nor disagree Disagree
 Strongly disagree I'm not sure

15 Do you have any other comments about membership of Pubwatch and Shopwatch schemes?

Other comments

Safeguarding Children

About

Protecting children from harm is one of the core national licensing objectives and protecting the vulnerable is a key priority of Buckinghamshire Council. Licensed premises can be a high-risk environment for children and young people. Risks can include underage consumption of alcohol, access and exposure to tobacco products and illegal drugs, exposure to violence and disorder and exposure to inappropriate entertainment. Although not common, there is also the potential for exposure to sexual exploitation, modern slavery, human trafficking and illegal employment.

What people said in the recent survey

90% of respondents supported the introduction of written safeguarding policies and procedures, including records of staff training, in high-risk licensed premises.

What the draft policy says.

The new draft Policy encourages operators of licensed premises to put in place a safeguarding policy. The Council will expect operators of high-risk premises to have a written safeguarding policy and procedures including records of staff training. High risk premises identified in the policy includes the following:

- Venues providing adult entertainment.
- Hotels.
- Premises that are used exclusively or primarily for the sale of alcohol for consumption on the premises.
- Premises with secluded beer gardens, which are not readily monitored by staff.
- Nightclubs and late night opening pubs and bars (open after 00.00 hours.
- Premises where unaccompanied children are permitted

16 Do you agree or disagree with this?

(Required)

Please select only one item

- Strongly agree Agree Neither agree nor disagree Disagree
 Strongly disagree I'm not sure

17 Do you have any other comments about safeguarding children and licensed premises?

Other comments

Public Health

About

A key priority for Buckinghamshire Council is to strengthen local communities and support people to live healthy lifestyles. Licensed premises can help support this by providing opportunities for people to come together and socialise. However, there are health risks associated with the consumption of alcohol.

What people said in the recent survey

71% respondents to the recent survey supported the Council's proposed approach to encourage licensed operators to promote public health. Respondents raised the importance of staff training, challenges of implementing the policy and additional burdens on businesses.

What the draft policy says.

The new draft Policy encourages rather than requires applicants to consider the health impacts of the sale of alcohol and adopt measures to mitigate risks to health. These measures include staff training on the responsible sale of alcohol, avoiding promotions which encourage people to drink more and thinking about the type and alcohol content of drinks they sell.

18 Do you agree or disagree with this?

(Required)

Please select only one item

- Strongly agree Agree Neither agree nor disagree Disagree
 Strongly disagree I'm not sure

19 Do you have any other comments about public health and licensed premises?

Other comments

Promoting environmental best practice

About

A key priority for Buckinghamshire Council is to improve the local environment. Licensed premises can contribute by helping to create a greener and cleaner environment.

What people said in the recent survey

91% of respondents supported the Council' proposed approach to encourage licensed operators to promote environmental best practice.

What the draft policy says.

The new draft Policy encourages operators of licensed premises to adopt best practice measures such as minimising waste, improving energy efficiency and reducing traffic on the road.

20 Do you agree or disagree with this?

(Required)

Please select only one item

- Strongly agree Agree Neither agree nor disagree Disagree
 Strongly disagree I'm not sure

21 Do you have any other comments about promoting environmental best practice and licensed premises?

Other comments

Understanding the Policy

The Licensing Policy is a long document and needs to set out a lot of information about licensing in Buckinghamshire. Although it is long, we have tried to make the information easy to understand. This means you should be able to read any part of the Policy that's relevant to you and understand it.

22 How easy was the Policy to understand?

(Required)

Please select only one item

- Very easy Quite easy OK Quite difficult Very difficult
 No comment

23 How could we make the Policy easier to understand?

Comment below

24 How easy was this survey to understand?

(Required)

Please select only one item

- Very easy Quite easy OK Quite difficult Very difficult
 No comment

25 How could we make the survey easier to understand?

Comment below

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New Licensing Policy for Buckinghamshire Council

Summary of key findings

Survey open: 27 August – 26 September 2021

Targeted to a stakeholder list: 110 responses (set out in detail on the next slide)

Location specific proposals: *(set out in detail on following slides)*

Proposal to remove the cumulative impact policy for Aylesbury: **majority agreement from respondents**

Proposal to remove the special hours policy for Buckingham: **majority agreement from respondents**

New policy proposals: all receiving broad agreement from respondents *(set out in detail on following slides)*

Street drinking

Use of outside areas

Consultation approach

Pub watch network

Public health, safeguarding children, environmental best practice approach

Underpinned by Licensing Objectives:

Preventing crime and disorder

Public safety

Preventing public nuisance

Protecting children from harm

Respondent Profile

There were no demographic questions included in this survey, so this profile focuses purely on the 'role question'

Total number of respondents = 110

Methodology:

Respondents by role: respondents were able to select more than one role option, so there are numerically slightly more responses than respondents. *This approach risks some double counting but was selected as the best representation of respondents' views on the basis of their roles*

| Role | Responses |
|-----------------------------------|-----------|
| Resident | 55 |
| Licensed business | 23 |
| Non-licensed business | 2 |
| Councillor (Ward, Town or Parish) | 18 |
| Responsible Authority | 7 |
| Representative of residents | 4 |
| Representative of business | 1 |
| Other | 5 |
| Total | 115 |

Data health warning:

We recommend caution on making assumptions based on these small samples – they are best seen as indicative only

Key Policies and Proposals: summary (1)

| | In agreement | Not in agreement | Variations by role: Numbers and %s in agreement |
|---|--------------------------|-------------------------|--|
| Removal of the cumulative impact policy: Aylesbury | 75 respondents, 68.2% | 13 respondents 11.8% | Residents in agreement 38 responses, 61.8% Licensed business in agreement 17 responses, 73.9% Councillor group in agreement: 14 responses, 77.8% |
| Removal of the special hours policy: Buckingham | 68 respondents 61.8% | 17 respondents 15.5% | Residents in agreement 35 responses, 63.6% Licensed business in agreement 16 responses, 69.6% Councillor group in agreement: 14 responses, 77.8% |
| Street Drinking policy | 89 respondents 80.9% | 10 respondents 9.1% | Residents in agreement 47 responses, 85.5% Licensed business in agreement 15 responses, 65.2% Councillor group in agreement: 14 responses, 77.8% |
| Outside areas/space policy | 88 respondents 80% | 14 respondents 12.7% | Residents in agreement 12 responses, 81.8% Licensed business in agreement 14 responses, 60.9% Councillor group in agreement: 15 responses, 83.3% |
| Consultation on license applications | 93 respondents 84.5% | 3 respondents 2.7% | Residents in agreement 48 responses, 87.3% Licensed business in agreement 15 responses, 65.2% Councillor group in agreement: 17 responses, 94.4% |

Key Policies and Proposals: summary (2)

| | In agreement | Not in agreement | Variations by role |
|---|--------------------------|-------------------------|--|
| Pub Watch/Shop Watch policy | 105 respondents 95.5% | 1 respondent 0.9% | Residents in agreement 53 responses, 96.4% Licensed business in agreement 20 responses, 87% Councillor group in agreement: 16 responses, 94.4% |
| Safeguarding Children policy | 96 respondents 87.3% | 5 respondents 4.5% | Residents in agreement 51 responses, 92.7% Licensed business in agreement 15 responses, 65.2% Councillor group in agreement: 17 responses, 88.9% |
| Public health policy | 81 respondents 73.6% | 12 respondents 12.9% | Residents in agreement 40 responses, 72.7% Licensed business in agreement 15 responses, 65.2% Councillor group in agreement: 13 responses, 72.2% |
| Promoting environmental best practice policy | 94 respondents 85.5% | 2 respondents 1.8% | Residents in agreement 46 responses, 83.6% Licensed business in agreement 15 responses, 78.3% Councillor group in agreement: 15 responses, 83.3% |

Notes

The In agreement/not in agreement totals do not sum 100% as “neutral” and “not sure” are not included

Variations by role

Below Survey Average Above Survey Average

Cumulative Impact policy: Aylesbury

This section sets out the proposal to remove the cumulative impact policy for Aylesbury, where there are concentrations of licensed premises so that there would no longer be a presumption to refuse late night licence applications. Applications for licences would still go through consultation and applicants would have to demonstrate how they would meet licensing objectives. The area would be kept under review.

There was a strong majority across all groups in favour of removing the policy.

| Strongly Agree | Agree | Neither | Disagree | Strongly Disagree | Not Sure |
|----------------|------------|------------|----------|-------------------|----------|
| 24 (21.8%) | 51 (46.4%) | 21 (19.1%) | 7 (6.4%) | 6 (5.5%) | 1 (0.9%) |

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Role

| | Agree | Neutral | Disagree |
|---------------------------|-------|---------|----------|
| Resident (55) | 69.1% | 14.5% | 16.4% |
| Licensed Business (23) | 73.9% | 17.4% | 4.3% |
| Non Licensed Business (2) | 50% | 0% | 50% |
| Councillor (18) | 77.8% | 16.7% | 5.6% |
| Responsible Authority (7) | 71.4% | 14.3% | 14.3% |
| Resident Rep (4) | 100% | 0% | 0% |
| Business Rep (1) | 0% | 100% | 0% |
| Other (5) | 20% | 80% | 0% |

Location

| | Agree | Neutral | Disagree |
|-----------------------------------|-------|---------|----------|
| Aylesbury and Aylesbury Vale (42) | 73.6% | 19% | 7.1% |
| Chiltern & South Bucks (31) | 61.3% | 19.4% | 16.1% |
| Wycombe (18) | 77.8% | 11.1% | 11.1% |

Comments

Themes:

- Concern for residents where licensed premises are in residential areas
- That each application should be judged on its own merits rather than a blanket approach
- That the public realm should be well kept, with regular removal of litter

Selective licencing permitted based on type of establishment.
Not all licenced premises are the same

Removing the Cumulative Impact Policy, would likely increase the impact on residential properties within the town centre.

Aylesbury needs venues that offer various services, quiet drinking space, weekend entertainment and nightclubs for young people!

Supporting the Policy

Against the Policy

Special hours policy: Buckingham

This question focused on the special hours policy for Buckingham town centre which was put in place following late night noise disturbance from late opening alcohol led premises and the student population. Applications to open beyond 12 midnight would normally be refused and all applications after 1.30am would be refused. Since the policy was introduced the nature of Buckingham has reportedly changed and the proposal is now to remove the policy.

There was a clear majority in favour of removing the policy.

| Strongly Agree | Agree | Neither | Disagree | Strongly Disagree | Not Sure |
|----------------|------------|------------|----------|-------------------|----------|
| 15 (13.6%) | 53 (48.2%) | 21 (19.1%) | 11 (10%) | 6 (5.5%) | 4 (3.6%) |

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Role

| | Agree | Neutral | Disagree |
|---------------------------|-------|---------|----------|
| Resident (55) | 63.6% | 14.5% | 16.4% |
| Licensed Business (23) | 69.6% | 17.4% | 4.3% |
| Non Licensed Business (2) | 50% | 0% | 50% |
| Councillor (18) | 77.8% | 16.7% | 5.6% |
| Responsible Authority (7) | 42.9% | 28.6% | 28.6% |
| Resident Rep (4) | 75% | 0% | 25% |
| Business Rep (1) | 1% | 100% | 0% |
| Other (5) | 20% | 60% | 20% |

Location

| | Agree | Neutral | Disagree |
|------------------------------------|-------|---------|----------|
| Buckingham (6) | 33.3% | 33.3% | 33.3% |
| Aylesbury Vale excl Buckingham(36) | 75% | 11.1% | 11.1% |
| Chiltern & South Bucks (31) | 41.9% | 32.3% | 19.4% |

Special hours policy in Buckingham: Comments by themes

- The need for economic support for businesses at the current time
- Concern for the impact on residents where premises are in residential areas
- The need to monitor also licensed premises outside of the town centres

Special hours policies in general in Buckinghamshire Council area: comments by themes

- To keep the option for special hours policies but only implement if needed
- Judge applications on a case by case area, noting the context, in particular rural areas
- The need for consultation with local residents

Removing the special hours policy in Buckingham is a good idea and will encourage the economy

Removing a policy which protected residents may lead to opportunist business opening later and then having to reintroduce the policy

Supporting the Policy

Against the Policy

Street drinking policy

This question focused on a proposal to place restrictions on off licences in areas which have Public Space Protection Orders (PSPOs). Restrictions would include not selling cans and bottles in single cans and discouraging the sale of alcohol to known street drinkers. There was a clear majority in support of the proposed policy.

| Strongly Agree | Agree | Neither | Disagree | Strongly Disagree | Not Sure |
|----------------|------------|----------|----------|-------------------|----------|
| 49 (44.5%) | 40 (36.4%) | 8 (7.3%) | 4 (3.6%) | 6 (5.5%) | 3 (2.7%) |

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Role

| | Agree | Neutral | Disagree |
|---------------------------|-------|---------|----------|
| Resident (55) | 85.5% | 3.6% | 9.1% |
| Licensed Business (23) | 65.2% | 13% | 17.4% |
| Non Licensed Business (2) | 100% | 0% | 0% |
| Councillor (18) | 77.8% | 11.1% | 11.1% |
| Responsible Authority (7) | 85.7% | 0% | 0% |
| Resident Rep (4) | 100% | 0% | 0% |
| Business Rep (1) | 0% | 100% | 0% |
| Other (5) | 100% | 0% | 0% |

Location

| | Agree | Neutral | Disagree |
|-----------------------------|-------|---------|----------|
| Aylesbury Vale (42) | 81.0% | 7.1% | 7.1% |
| Chiltern & South Bucks (31) | 71% | 12.9% | 12.9% |
| Wycombe (18) | 83.3% | 5.6% | 11.1% |

Comments

Themes:

- The need for visible monitoring and enforcement of this policy
- Concerns about the state of the public realm and the need to clear up litter
- That those acting responsibly may also be penalised by this policy
- The importance of tackling the causes of street drinking as well as the result and impact

practical steps designed to reduce street consumption of alcohol should be tested and applied - and licencees must play their part

shops that open late should take some responsibility for clearing up glasses and cans

Not sure how you can police this and people can still bring stronger strength alcohol from further afield.

Supporting the Policy

Against the Policy

Outside areas policy

This question focused on controlling the use of outside areas. The pavement licence scheme introduced in response to Covid has made it easier for businesses to sell food and drink on the public highway subject to certain control measures. The Council wants to encourage the same control measures in all outside areas used by licensed premises. There was a clear majority in support of the proposed policy.

| Strongly Agree | Agree | Neither | Disagree | Strongly Disagree | Not Sure |
|----------------|------------|----------|----------|-------------------|----------|
| 38 (34.5%) | 50 (45.5%) | 8 (7.3%) | 8 (7.3%) | 6 (5.5%) | -- |

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Role

| | Agree | Neutral | Disagree |
|---------------------------|-------|---------|----------|
| Resident (55) | 81.8% | 5.5% | 12.7% |
| Licensed Business (23) | 60.9% | 13% | 26% |
| Non Licensed Business (2) | 100% | 0% | 0% |
| Councillor (18) | 83.3% | 11.1% | 5.6% |
| Responsible Authority (7) | 100% | 0% | 0% |
| Resident Rep (4) | 75% | 0% | 25% |
| Business Rep (1) | 100% | 0% | 0% |
| Other (5) | 80% | 0% | 20% |

Location

| | Agree | Neutral | Disagree |
|-----------------------------|-------|---------|----------|
| Aylesbury Vale (42) | 78.6% | 7.1% | 14.3% |
| Chiltern & South Bucks (31) | 74.2% | 9.7% | 16.1% |
| Wycombe (18) | 83.3% | 5.6% | 11.1% |

Comments

Themes:

- Concern for residents where licensed premises may be in residential areas
- The importance of clearing litter from the public realm and the need for premises to take responsibility for this
- The need for businesses to be able to re-establish as Covid restrictions are eased so keeping limitations to a minimum
- The need for enforcement of the policy

External drinking / dining creates if managed well a great atmosphere in towns and supports the economy and vibrancy of an area

if it happens to be in a residential area then it is a nightmare for those residents night after night

welcome the increase in availability of outdoor spaces. The pub and restaurant owners have done a great job making such spaces dry and warm.

Supporting the Policy

Against the Policy

Application consultation policy

This question set out the policy proposal that all notifications of new and variation applications are sent to local ward councillors and to the local town or parish Council as well as the existing requirements for applications to be published on the Council websites, notices to be served to statutory authorities and newspaper advertising. There was a clear majority in support of the proposed policy

| Strongly Agree | Agree | Neither | Disagree | Strongly Disagree | Not Sure |
|----------------|------------|------------|----------|-------------------|----------|
| 45 (40.9%) | 48 (43.6%) | 14 (12.7%) | 1 (0.9%) | 2 (1.8%) | -- |

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Role

| | Agree | Neutral | Disagree |
|---------------------------|-------|---------|----------|
| Resident (55) | 87.3% | 9.1% | 3.6% |
| Licensed Business (23) | 65.2% | 30.4% | 4.3% |
| Non Licensed Business (2) | 100% | 0% | 0% |
| Councillor (18) | 94.4% | 0% | 5.6% |
| Responsible Authority (7) | 85.7% | 14.3% | 0% |
| Resident Rep (4) | 100% | 0% | 0% |
| Business Rep (1) | 100% | 0% | 0% |
| Other (5) | 100% | 0% | 0% |

Location

| | Agree | Neutral | Disagree |
|-----------------------------|-------|---------|----------|
| Aylesbury Vale (42) | 88.1% | 9.5% | 2.4% |
| Chiltern & South Bucks (31) | 74.2% | 19.4% | 6.5% |
| Wycombe (18) | 83.3% | 16.7% | 0% |

Comments

Themes:

- Strong support for wider consultation and engagement, in particular with those who know the local area
- Concern over the cost of advertising, in particular newspaper advertising

This is a really good proposal which facilitates greater awareness and scrutiny of all new applications

When parish councils are aware they can let residents know in advance

Is placing an advert in a newspaper still a suitable method of informing people? The cost of placing this type of advert is very high.

Supporting the Policy

Against the Policy

Pub watch & Shop watch policy

This question focused on the proposal to encourage licence holders to take part in local pub watch and shop watch schemes, providing a network for licenced businesses to work together. There was a clear majority in support of the proposed policy

| Strongly Agree | Agree | Neither | Disagree | Strongly Disagree | Not Sure |
|----------------|------------|----------|----------|-------------------|----------|
| 55 (50%) | 50 (45.5%) | 4 (3.6%) | -- | 1 (0.9%) | -- |

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Role

| | Agree | Neutral | Disagree |
|---------------------------|-------|---------|----------|
| Resident (55) | 96.4% | 1.8% | 1.8% |
| Licensed Business (23) | 87% | 13% | 0% |
| Non Licensed Business (2) | 100% | 0% | 0% |
| Councillor (18) | 94.4% | 0% | 5.6% |
| Responsible Authority (7) | 100% | 0% | 0% |
| Resident Rep (4) | 100% | 0% | 0% |
| Business Rep (1) | 100% | 0% | 0% |
| Other (5) | 100% | 0% | 0% |

Location

| | Agree | Neutral | Disagree |
|-----------------------------|-------|---------|----------|
| Aylesbury Vale (42) | 95.2% | 4.8% | 0% |
| Chiltern & South Bucks (31) | 96.8% | 0% | 3.2% |
| Wycombe (18) | 94.4% | 5.6% | 0% |

Comments

Themes:

- The importance of collaboration between Council departments and partners
- The great value that these schemes bring
- Whether it would be possible to make participation in these schemes mandatory
- Concern that this would bring additional bureaucracy

All licensees should be strongly encouraged to partake of these schemes as they do work and they foster communications between outlets and help reduce crime

Active participation in schemes should be compulsory..... the Council should be proactive in setting up collaborative mechanisms

There is a danger of mission creep and what starts as an 'encouragement' will become a criteria in assessment and then a requirement

Supporting the Policy

Against the Policy

Safeguarding children policy

This question focused on the proposal to encourage operators of licensed premises to put in place a safeguarding policy. Operators of high risk premises would be expected to have a written policy and procedures including records of staff training. There was a clear majority in support of the proposed policy

| Strongly Agree | Agree | Neither | Disagree | Strongly Disagree | Not Sure |
|----------------|------------|----------|----------|-------------------|----------|
| 54 (49.1%) | 42 (38.2%) | 9 (8.2%) | 3 (2.7%) | 2 (1.8%) | -- |

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Role

| | Agree | Neutral | Disagree |
|---------------------------|-------|---------|----------|
| Resident (55) | 92.7% | 3.6% | 3.6% |
| Licensed Business (23) | 62.5% | 26.1% | 8.7% |
| Non Licensed Business (2) | 100% | 0% | 0% |
| Councillor (18) | 88.9% | 0% | 11.1% |
| Responsible Authority (7) | 100% | 0% | 0% |
| Resident Rep (4) | 100% | 0% | 0% |
| Business Rep (1) | 100% | 0% | 0% |
| Other (5) | 80% | 20% | 0% |

Location

| | Agree | Neutral | Disagree |
|-----------------------------|-------|---------|----------|
| Aylesbury Vale (42) | 83.3% | 9.5% | 7.1% |
| Chiltern & South Bucks (31) | 87.1% | 6.5% | 6.5% |
| Wycombe (18) | 88.9% | 11.1% | 0% |

Comments

Themes:

- The need for clear guidance from the Council in this area and sharing of good policies and practice
- Staff training would be important
- The policy should be carefully monitored and enforced
- Concern over additional bureaucracy

Safeguarding training for Licensed premises will help to protect people vulnerable to crime and exploitation.

Safety of children is paramount and any policy should be robust and monitored

This is a unnecessary burden on the premises, what evidence is there that this will in any way impact what is being targeted?

Supporting the Policy

Against the Policy

Public health policy

This question focused on the proposal for licence applicants to consider the health impacts of alcohol and adopt measures to mitigate the risk to health including potentially staff training around the responsible sale of alcohol and avoiding promotions which encourage people to drink more.

There was a clear majority in support of the proposed policy.

| Strongly Agree | Agree | Neither | Disagree | Strongly Disagree | Not Sure |
|----------------|------------|------------|----------|-------------------|----------|
| 33 (30%) | 48 (43.6%) | 17 (15.5%) | 8 (7.3%) | 4 (3.6%) | -- |

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Role

| | Agree | Neutral | Disagree |
|---------------------------|-------|---------|----------|
| Resident (55) | 72.7% | 14.5% | 12.7% |
| Licensed Business (23) | 65.2% | 26.1% | 8.7% |
| Non Licensed Business (n) | 100% | 0% | 0% |
| Councillor (18) | 72.2% | 16.7% | 11.1% |
| Responsible Authority (7) | 85.7% | 14.3% | 0% |
| Resident Rep (4) | 100% | 0% | 0% |
| Business Rep (1) | 100% | 0% | 0% |
| Other (n) | 60% | 0% | 40% |

Location

| | Agree | Neutral | Disagree |
|-----------------------------|-------|---------|----------|
| Aylesbury Vale (42) | 69% | 16.7% | 14.3% |
| Chiltern & South Bucks (31) | 67.7% | 19.4% | 12.9% |
| Wycombe (18) | 83.3% | 11.1% | 5.6% |

Comments

Themes:

- That social drinking is a benefit to mental health and community, the emphasis here should be on not serving those already inebriated and under age drinkers
- Staff training would be important in this area and recommended for licensed premises to consider
- That the policy should be a requirement rather than encouragement
- That this policy goes beyond the scope of licensing

social drinking is a benefit to mental health and the community.....Drinking in moderation should not become a social wrong

Applicants should be mandated - rather than simply encouraged - to consider the health impacts.

it is not the role of the licencing department to manage health measures or seek to impact these through their licencing activity.

Supporting the Policy

Against the Policy

Environmental best practice policy

This question focused on the proposal to encourage operators of licensed premises to contribute to creating a greener and cleaner environment, by adopting environmental best practice measures such as minimising waste, improving energy efficiency and reducing traffic on the road.
There was a clear majority in support of the proposed policy.

| Strongly Agree | Agree | Neither | Disagree | Strongly Disagree | Not Sure |
|----------------|------------|------------|----------|-------------------|----------|
| 44 (40%) | 50 (45.5%) | 13 (11.8%) | 1 (0.9%) | 2 (1.8%) | -- |

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Role

| | Agree | Neutral | Disagree |
|---------------------------|-------|---------|----------|
| Resident (55) | 83.6% | 12.7% | 3.6% |
| Licensed Business (23) | 78.3% | 17.4% | 4.3% |
| Non Licensed Business (2) | 100% | 0% | 0% |
| Councillor (18) | 83.3% | 11.1% | 5.6% |
| Responsible Authority (7) | 85.7% | 14.3% | 0% |
| Resident Rep (4) | 100% | 0% | 0% |
| Business Rep (1) | 100% | 0% | 0% |
| Other (5) | 100% | 0% | 0% |

Location

| | Agree | Neutral | Disagree |
|-----------------------------|-------|---------|----------|
| Aylesbury Vale (42) | 81% | 16.7% | 2.4% |
| Chiltern & South Bucks (31) | 83.9% | 9.7% | 3.2% |
| Wycombe (18) | 94.4% | 5.6% | 0% |

Comments

Themes:

- The importance of ensuring that litter is cleared from around licensed premises
- That there would need to be monitoring and enforcement of this policy approach to ensure that it was implemented consistently
- Not all environmental issues can/should be the responsibility of the operators of licensed premises

If there are ways for licensed premises to reduce traffic that is welcome, but I wouldn't consider it the duty of the operators of the licensed premises to do this

Consider implementing fines, enforcement for premises impacting areas with waste, nuisance more thoroughly

It's hard enough running a business without having to deal with additional burdens.

Supporting the Policy

Against the Policy

How easy were the policy and the survey to understand?

Respondents were asked if the policy and the survey were easy to understand and suggestions for making them easier to understand

Policy

| Very easy | Quite easy | OK | Quite difficult | Very difficult | No comment |
|---------------|---------------|---------------|-----------------|----------------|-------------|
| 20 (18.2%) | 43 (39.1%) | 36 (32.7%) | 5 (4.5%) | 2 (1.8%) | 4 (3.6%) |

Themes:

- Highlight key aspects of the policy in summary
- Consider use of case study best practice examples
- More use of bullet points & diagrams

More bullet points instead of long sentences. More pictures/ diagrams. More examples.

easy to read summaries focused on the individual types of people who wish to use the policy

Survey

| Very easy | Quite easy | OK | Quite difficult | Very difficult | No comment |
|---------------|---------------|---------------|-----------------|----------------|------------|
| 41 (37.3%) | 35 (31.8%) | 30 (27.3%) | 3 (2.7%) | 1 (0.9%) | -- |

Themes:

- Restate the policy after providing the context
- Highlight key changes

it is not always clear what you are asking respondents to agree/disagree with. Restate the policy before asking this question, after context has been provided,

Good to have a survey that explains in detail.

Licensing Service recommended response to policy consultation written comments.

| Respondent | Comment | Licensing Service recommended response |
|-----------------|--|---|
| Punch Pubs & Co | <p>We were very pleased to note the importance placed on integration of policies and how the role of licensed premises fits within the ‘bigger picture’ of the area. In particular, including links to the other policies is helpful for parties looking at either coming into the area or making substantial changes to existing licensed premises.</p> <p>Licensing policies works best when they reference, and indeed work with, other council strategic plans and policies. For instance, planning strategies and local cultural strategies often inform applicants for either new licences or variations to licences as to what the council are looking to do in terms of promoting culture, leisure use and night-time economy uses in a particular area.</p> | No policy change required |
| Punch Pubs & Co | <p>Para’s 2.7 & 2.8: We note the inclusion of ‘healthy lifestyles as a section in the policy and welcome the reference to the importance of community spaces and places for people to socialise. We also agree in general terms that uncontrolled sales of alcohol can be detrimental; to people’s health.</p> <p>However, we are concerned that the references to the role of the Director of Public Health and indeed the presentation of ‘data’ in relation to licensing applications and reviews overreaches what is permitted in law. We would suggest that this paragraph needs to emphasise that such information cannot inform a committee in its decision making on individual premises applications, unless a direct link can be shown between the premises and the data being presented. It is not enough to show alcohol can produce harmful effects by presenting hospital admission data, for instance, for such representations to be germane in individual cases. The policy should, we submit, explicitly reference this to avoid giving a misleading impression of the powers of DPH data in</p> | Draft policy amended to include the clause: “and the data shows a clear link between the premises concerned and the data presented.” |

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| | determining licensing matters. | |
| Punch Pubs & Co | Paras 2.9 to 2.11 deal with 'amenity'. We found this confusing as 'amenity is a term of art used in planning matters. The list of factors to be considered issues of 'amenity' can all be categorised under one or more of the licensing objectives. We feel that this reference introduces a new 'test' that is not found within the Licensing Act and therefore is likely to cause confusion. | Draft policy amended. Agree that this section can be removed as may cause confusion and while amenity is important the wording could be seen as superfluous to the policy. The policy objective of protecting "amenity" is arguably achievable by the promotion of the licensing objectives in general.. |
| Punch Pubs & Co | Para 2.10 in particular is concerning. It states: 'Where there are several premises operating in the vicinity, definitive proof that particular premises are the cause of harm to amenity is rarely possible. The Licensing Authority will, however, draw sensible inferences as to whether premises are, or will be, contributors to such harm.' This reads like a cumulative Impact policy 'by the back door'. Cumulative Impact must be determined through consultation (as required by statute) and cannot be introduced by policy alone. To suggest that a Licensing Authority can draw sensible inferences in relation to the cumulative impact of premises when determining matters appears to be overreach. We feel therefore that this paragraph needs to be reconsidered in light of the statutory requirements around cumulative impact policies. | See above, recommend section removed. |
| Punch Pubs & Co | 2.36 to 2.38 planning and building control Agent of Change Whilst we recognise that the principle is currently being utilised in the context of planning applications, it is equally as important in licensing. We recommend that the licensing policy expressly recognises that developers of new residential developments need to protect their buyers from potential sources of noise disturbance, not expect existing licensed premises to have to adapt their offer to accommodate the new development. In particular, small pubs often rely on live or recorded | No policy change required. As stated "Agent of change" is a planning principle. There is a risk that if the principle is introduced into the licensing policy without statutory authority the policy could be seen to unlawfully undermine an individual's right to make representation or seek review in respect of pre-existing premises. |

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| | <p>music, provision of social events and other community based promotions, such as beer festivals, in order to survive and thrive. We have, unfortunately, seen a rise in complaints and reviews directed at existing premises that have often been at the heart of the community for over a century, from residents moving into new properties nearby. Whilst it is incumbent upon licence holders to promote the licensing objectives, it is iniquitous and arguably a breach of their Article 1, Protocol 1 human right to peaceful enjoyment of property, which includes their premises licence, to have their livelihood threatened and sometimes taken away because of poorly designed and constructed residential property built next door.</p> | |
| Punch Pubs & Co | <p>2.39 ASB away from premises The paragraph repeats states that ‘this policy acknowledges the contribution... in certain circumstances, groups of premises to anti-social behaviour.’ Again, careful thought must be given to ensure that cumulative impact is not introduced without proper statutory steps being taken</p> | <p>No policy change required. The policy clearly sets out the Council’s approach to assessing cumulative impact.</p> |
| Punch Pubs & Co | <p>Para’s 3.16 to 3.24: Licence Conditions Whilst Punch Taverns recognise the importance of conditions on premises licences in certain circumstances, such as to prevent or to mitigate the potential risk of certain activities undermining the licensing objectives, we have a concern that more and more conditions are being placed on a licence that are then enforced as breaches of the licence in their own right. Licensing authorities are obliged to promote the 4 licensing objectives. Breaches of condition in and of themselves are an offence under Section 136 of the Licensing Act and on summary conviction can lead to an unlimited fine and/or up to 6 months in prison. It is important that this distinction is recognised in the policy and that breaches of condition in and of themselves are a matter for the Courts; whereas an undermining of the licensing objectives, which can happen</p> | <p>Acknowledged that breach of conditions per se is an offence under the Act (unauthorised licensable activity) but not accepted that the distinction can be readily made. Failure to comply with licence conditions in many instances is intrinsically linked to failure to promote licensing objectives.</p> <p>Draft Policy amendment Additional paragraph added to emphasise that “breach” of conditions is an offence: “Breaches of condition in and of themselves are an offence under Section 136 of the Licensing Act and on summary conviction can lead to an</p> |

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| | <p>with or without conditions being on the licence in any event, are the province of the licensing authority to deal with. We would suggest that this distinction is made in your policy as it will re-enforce the message both for responsible authorities and for operators who hold premises licences in your area.</p> <p>Punch has always been happy to work with licensing authorities in relation to conditions being imposed on a licence where they are necessary and proportionate to achieve an identifiable aim. However, we are concerned with the prevalence of standard conditions being used across all licences within any particular class, This has taken over from a proper analysis of the need for such conditions in the first place.</p> <p>In particular, we have seen a rise in conditions being imposed upon premises licences by responsible authorities, irrespective of the nature of the application being made. For instance, a variation to the plans attached to a licence to effect a simple alteration in layout and where there is no change in licensable activities, increase in customer area, or removal of internal lobbies, for instance, sometimes result in officers seeking to ride on the back of that application to impose conditions that are in no way relevant to it.</p> <p>The case of Taylor v Manchester City Council makes is clear that any conditions imposed on a premises licence when it is varied must relate to that application itself and should not stray into other areas that are not part of the application. It is important again that this is referenced in policy in order to prevent unnecessary hearings and often additional expense to applicants seeking to make simple changes to their licence but are then held to ransom by responsible authorities who know that operators are unlikely to challenge their right to impose such conditions where the cost would be send the matter to a hearing.</p> <p>We submit that the imposition of large numbers of conditions on a premises licence is self-defeating. Premises licences form one part of a</p> | <p>unlimited fine and/or up to 6 months in prison”.</p> <p>Standard conditions have not been advocated in the draft policy. The wording is clear that it is not the intention to apply disproportionate or overly burdensome conditions. A list of model conditions will be attached to the policy to assist applicants draft their application but this list is in no way considered mandatory.</p> <p>Draft policy amendment.</p> <p>Comment on “Taylor v Manchester City Council: noted, additional wording added as follows:</p> <p>“In considering variation applications, decision concerning conditions will be confined to the subject matter of the application as per case law (Taylor vs Manchester City Council [2012]). In practice this means that conditions will not be imposed in response to a variation application that do not relate to the application sought.”</p> |
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| | <p>significant number of regulatory requirements that must be observed by publicans and this is often forgotten by regulators who often only think in terms of their one area of expertise. This means that they often do not see the wood for the trees. Policies that set out an expectation of long operating schedules or worse, require officers to object to applications unless the applicant applies their standard conditions, place an unnecessary burden on operators without necessarily helping to promote the licensing objectives. The City of London licensing authority, for instance, will only impose conditions if deemed absolutely necessary. It is not unusual to see licences with only a handful of conditions. The reason for this is that they expect operators to promote the licensing objectives, not go through the motions of complying with conditions because they have to. Also, licences grandfathered in 2005 would, likely have few or no conditions on them. We have seen no evidence to suggest such premises have undermined the licensing objectives more than "conditioned licences."</p> <p>We would challenge any authority to suggest that this approach leads to more issues with licence holders undermining the objectives. If anything this clarity of approach means that operators are freed up to adapt their businesses as the demands of the market change, freeing up officers from having to undertake lengthy inspections of licences and then having to send out enforcement letters relating to conditions that are breached in the observation without any real evidence that the breaches themselves undermine the objectives. This in turn frees up resources for enforcement against poorly behaving premises and dealing with unlicensed operators.</p> | |
| Punch Pubs & Co | <p>3.25 to 3.31: Prevention of Crime and Disorder The prevention of crime and disorder is one of the 4 licensing objectives and clearly a major pillar of licensing legislation. However, we have become increasingly concerned that licensed premises are sometimes</p> | <p>Draft policy amendment. "Applicants are expected to demonstrate in their operating schedule how they intend to promote the crime prevention objective in relation to the</p> |

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| | <p>being unfairly held to a higher standard when it comes to prevention of crime and disorder than other public premises. For instance, when Police present evidence of crime and disorder in relation to licensed premises, they will often include references to any crime that is associated not just with the premises in terms of its operation as licensed premises but generally. For instance, the Police will often include reference to all calls where those calls have referenced the premises as a local landmark which can include anything from criminal activity from people who have not been customers of the premises, offences in relation to taxis, or general disturbance and noise nuisance in a town centre where it cannot be said to be relevant to the premises.</p> <p>Premises licence holders will also often find reference to offences that are not relevant to the licensing objectives themselves. So, for instance, robberies at residential premises above a licensed and premises are sometimes included. We feel it is important that the council recognise in their policy that these are matters that are not relevant to the prevention of crime and disorder licensing objective and that the licensing authority's expectation is that they will only be presented with evidence where it directly relates to the licensable activities being provided within the premises themselves.</p> | <p>licensable activities provided.”</p> |
| Punch Pubs & Co | <p>CCTV, ID scan & GDPR</p> <p>We note a short reference to data protection laws in relation to CCTV and ID scanners, but given the near ubiquity now for such conditions to be imposed, rather than volunteered, we feel that there needs to be more made of this issue.</p> <p>One of the most significant changes in recent times has been the change to data protection legislation introduced via GDPR. Whilst the obvious effects of this regulatory change relate to protecting personal data held on behalf of individuals, such as social media, mailing lists, email data bases and various other forms of storage of someone else's data, there</p> | <p>No policy change required.</p> <p>The draft policy refers to GDPR and data protection laws under CCTV and ID scan paragraphs with links to the ICO for further advice.</p> |

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| | <p>are other effects that need to be reflected in licensing policy.</p> <p>For instance, the requirement for CCTV at a premises licence is not only expensive to install, but we question the value of such systems in terms of crime prevention and detection, especially in smaller community pubs. However, it is now commonplace for police to demand CCTV in almost all premises and to insist upon complicated and demanding CCTV conditions to be added to premises licences. In addition, operators of CCTV systems have to consider the GDPR implications. In particular, anyone who stores data, including CCTV footage of individuals, which is classed as data for the purposes of GDPR, must be responsible for its safe collection, storage, usage and disposal. Handing over CCTV footage to Police officers in the active investigation of a criminal offence, such as a fight, would obviously be a legitimate reason for providing data. However, a condition with a general requirement to hand over CCTV at the behest licensing officer or police officer would arguably breach GDPR were it to be enforced. This means that there are numerous CCTV conditions on licences that would likely, were one to try and enforce them as they are written, cause an operator to breach GDPR. Similarly, club scan conditions need to be thought about in terms of GDPR and the obligations of the data holder. For instance, the time for which any data is stored and the purpose for storing that data needs to be made clear to people handing over their data. Again conditions that require such data to be handed over at the behest of an officer other than in investigating a criminal offence would in all likelihood breach GDPR.</p> <p>We feel therefore that this need to be addressed in the policy in order to ensure that conditions are updated to ensure compliance and that CCTV in particular is not being universally required where there is no real and pressing need for it.</p> | |
| Punch Pubs & | 3.34 to 3.36: Prevention of Public Nuisance | Draft policy amendment |

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| Co | <p>The prevention of public nuisance licensing objective is to be widely interpreted, as set out in the Statutory Guidance. However, we often come across conditions imposed on licences, as well as the investigation of complaints that do not relate to public nuisance. For instance, conditions that refer to 'nuisance', rather than 'public nuisance', set a significantly higher barrier- one that was not intended by the Licensing Legislation.</p> <p>We also see this in terms of enforcement action where often enforcement officers will allege that a nuisance, often a private nuisance, has occurred and demand action under the terms of the premises licence. Clearly this is beyond that which was intended by Parliament and therefore we suggest that your policy reflects the need for public nuisance to be demonstrated and for conditions relating to nuisance to relate to public nuisance rather than any wider definition. In particular, we suggest that expressly stating that private nuisance is not a licensing objective would assist in all parties understanding what is and is not the remit of licensing legislation.</p> | <p>Wording changed: “Public nuisance relates to the negative effects of nuisances including noise, light, odour, dust and litter affecting at least a few separate households locally.”</p> |
| Punch Pubs & Co | <p>3.71 & 3.72 Pavement trading</p> <p>We welcome your acknowledgement of the positive impact of the Business and Planning Act. We would caution against reference to pavement licence conditions in premises licence applications. They are separate regimes and subject to change at different times. Indeed the Business and Planning Act has a ‘sunset’ clause set for 30 September 2022. Much better that conditions relating to external areas on premises licences relate to specific areas outside of pavement licensing such as pub gardens or where drinking on the pavement is permitted without any further licences.</p> <p>Tables and chairs outside premises, including garden areas</p> <p>External areas, especially gardens and enclosed spaces laid out to tables</p> | <p>Draft policy amendment.</p> <p>Reference to pavement licence scheme removed from pavement trading section. However the pavement licence conditions currently in operation provide a useful guide and reference to these conditions has been retained within the “outside areas” paragraph of the prevention of public nuisance section.</p> <p>Tables and chairs outside premises:</p> <p>Currently no tables and chairs policy in place so</p> |

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| | <p>and chairs, are often attractive in their own right, as well as promoting businesses. Where they are on council land, they can be useful sources of revenue for local authorities. We would ask that your policy refers to any tables and chairs policy in place, with links to where application forms can be found on the council website etc. Whilst not strictly related to the Licensing Act 2003, the council policy document is a useful guide to licence holders and the more information that can be provided about ancillary matters, the more likely it is that licence holders and applicants will use this resource.</p> <p>In terms of gardens, these are often essential to businesses to thrive. Premises that spend time and money making their pub gardens attractive places for customers should not be penalised for increased custom, albeit we recognise that this may cause some additional noise for nearby residents. That being said, this would not ordinarily be considered a public nuisance and therefore undermine the licensing objectives. Of course, where activities take place outside of the ordinary use of such spaces, such as regular regulated entertainment, or use late at night, this can tip over into public nuisance, but again, this would be a balancing act. We would ask that your policy reflect this situation so that all parties recognise that use of pub gardens by customers will not automatically be considered a public nuisance and require enforcement action even if complaints are received from residents.</p> | <p>unable to provide this link.</p> <p>Policy sets out clear and detailed approach to enforcement, no policy change required.</p> |
| Punch Pubs & Co | <p>3.73 to 3.81 Cumulative Impact</p> <p>We note at 3.80 that there are no cumulative impact policy areas identified, but that this will be kept under review.</p> <p>We understand that there are occasions where Cumulative Impact Policies provide a valuable tool to local authorities in regulating the night time economy. However, our experience is that they can also be an impediment to businesses and the development of a thriving night time economy. Punch, as a promoter of entrepreneurship within our estate of</p> | <p>No further policy change required.</p> |

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| | <p>leased pubs understands very well the challenges that small business operator's face when looking to enter a new market or adapt their offer. Cumulative impact policies can have the effect of dissuading operators from even attempting to get a licence. This unintentionally penalises operators considering smaller more novel applications (simply because of the prohibitive cost), often resulting in them looking to take their ideas elsewhere and thereby wasting a chance to develop a more rounded and vibrant economy in the CIP. For the same reason, such policies also promote ubiquity and stagnation as the only operators willing to take on the risk and outlay of applying in cumulative impact zones are larger established chains with the financial backing to fight for a licence. Given the plight of the pub market 7 years ago and now the casual dining market, in part because their offers failed to change as the market developed around them, the use of CIPs needs careful oversight. We re-iterate the points made above in relation to introducing cumulative impact via the back door and would ask that given there is no evidence for cumulative impact areas, these sections need to be carefully considered and where necessary clarified in light of this finding.</p> | |
| Punch Pubs & Co | <p>4.41 to 4.49 Enforcement We suggest this policy specifically provides links to the Regulators' Compliance Code and the Enforcement Concordat together with the Council's own Enforcement Policy. This is useful for all parties to licensing matters and recognises the important role that businesses play in local communities.</p> | Draft policy amendment , suggested links added. |
| Punch Pubs & Co | <p>Minor Variations We would suggest that a little more detail is given in the policy in terms of clarifying for both officers and applicants what might be considered a minor variation. We would propose that the following bullets are added as a list of what minor variations can be used for:</p> <ul style="list-style-type: none"> • small changes to the structure or layout of a premises and Changes to | <p>Draft policy amendment Definition of minor variation added to the appendix of definitions with links to further guidance:</p> <p>"Minor variation. A small change to a premises</p> |

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| | <p>layout that do not increase the customer area (beyond a de-minimis increase of, we would suggest, 10%).</p> <ul style="list-style-type: none"> • the addition of authorisation for late night refreshment or regulated entertainment (such as performance of plays or film exhibitions); • small changes to licensing hours (but see below on changes that relate to alcohol); • changes to hours for sale of alcohol that do not extend licensing hours for the sale or supply of alcohol at any time between 11pm and 7am or increase the amount of time on any day during which alcohol may be sold by retail or supplied; • revisions, removals and additions of conditions (this could include the removal or amendment of out of date, irrelevant or unenforceable conditions, or the addition of volunteered conditions). <p>and on occasion they do not even mirror the other. This leads to additional and unnecessary expense for licence holders should such conditions need to be amended.</p> | <p>licence or club premises certificate that could not impact adversely on any of the four licensing objectives. Further guidance is available here. “</p> |
| Punch Pubs & Co | <p>On and Off-Sales</p> <p>We have become aware that the definition of on and off-sales has caused some confusion. In particular there appears to be confusion around whether an off-licence is required for customers to take drinks outside of a premises, for instance onto the pavement, and consume their drinks there.</p> <p>We contend that such a sale is an on-sale. If one considers the nature of the offence of selling alcohol without the appropriate licence, it is clear that the intention is that the person making the sale is the one who would be charged with the offence, rather than, say, the purchaser.</p> | <p>No policy amendment required.</p> <p>The statutory application forms require applicants to specify whether alcohol is sold for consumption on or off the premises or both. The guidance note to the application form states the following:</p> <p>“Describe the premises, for example the type of premises, its general situation and layout and any other information which could be relevant to the</p> |

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| | <p>Therefore, in selling a drink in an open container for immediate consumption, it cannot be argued that the publican has made anything other than an on-sale. It is inconceivable that the law intended that should this person step outside the premises, or indeed take that drink away with him, that this would somehow transform that on-sale to an off-sale. The terms 'on' and 'off' sales originate from the Licensing Act 1964. Analysis of the legislation (by reference to off-sales) demonstrates that all off-sales had to be intended to be sold for consumption away from not only the licensed premises but any land associated with that premises or land immediately adjoining it for them to be considered an off sale. The intention was to ensure that in a situation where a seller makes an on-sale, that on-sale does not become an off-sale simply by means of it being consumed in the immediate environment of the premises, such as an unlicensed garden or on the pavement outside the pub.</p> <p>As such, we feel that this needs to be clarified in the policy. We would propose a statement along the following lines:-</p> <p>"On and off-sales are defined by reference to the intention of the seller at the time of sale. A sale in an open container for immediate consumption at the premises is an on-sale. This extends to where the person who has purchased the drink at the bar and then consumes it either in a pub garden or on the pavement immediately outside the premises.</p> <p>An off-sale is a sale designed for consumption away from the premises and its immediate environs. This will usually be in a sealed container such as a bottle or can and the seller when selling that drink had no intention for the purchaser to remain at the premises to consume it".</p> | <p>licensing objectives. Where your application includes off-supplies of alcohol and you intend to provide a place for consumption of these off-supplies, you must include a description of where the place will be and its proximity to the premises."</p> <p>This guidance is unambiguous and clearly envisages a situation where alcohol is sold for consumption in area outside the licensed area of a premises such as a beer garden and refers to these as "off-suppliers". The licensing service disagree that on/off sales are defined by the intention of the seller. The statutory guidance makes it clear that it is the intention of the premises licence holder that determines the matter.</p> |
| <p>Punch Pubs & Co</p> | <p>List and contact details for all responsible authorities We find it helpful where policies contain an up to date list of responsible authorities, with email and phone contact details. Whilst this may be</p> | <p>Draft policy amended to include link to contact details via the definition of responsible authorities.</p> |

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| | available via the council website, a link in the policy is always extremely welcome. | |
| Environmental Health (Public Safety) | <p>I would confirm that I have read the consultation document as it relates specifically to public safety and would agree with the proposed content of the policy.</p> <p>My only comment would be that it is unlikely Covid-19 will disappear for some time. I note that this has been incorporated within the pavement licence schedule of conditions in Appendix 2 and so it would be expedient to incorporate in the policy as a whole what licensed businesses have had to put in place this past year, e.g. ventilated shelters, adequate spacing of seating areas etc. However I appreciate that this may be seen as a public health concern rather than that of public safety and I note that this may be considered a duplication of controls. However, currently there are no legal restrictions in place for businesses to have Covid security measures despite increasing numbers of Covid-19 cases and so I would ask that this is an expectation or aspiration for businesses to have these in place.</p> | <p>No policy change required.</p> <p>As acknowledged in the comment this is outside the remit of licensing policy as this is not a matter relevant to the licensing objectives and duplicates requirements in other legislation. Specifically the requirement to carryout a health and safety risk assessment. Whilst Covid-19 remains a risk to health then those responsible are legally required to assess the risk and implement appropriate control measures.</p> |
| Environmental Health (Pollution Control) | <p>1.17 This paragraph states that applications will be determined in a way which best promotes the licensing objectives. The Act does not make specific reference to the word 'best' and so would this amount to an ultra vires decision making statement ? The word 'best' is replaced with 'effectively'.</p> | <p>Draft policy amendment. Change made.</p> |
| Environmental Health (Pollution Control) | <p>2.4 The promotion of an integrated approach to enforcement is very much supported by this Responsible Authority.</p> | <p>No change required</p> |
| Environmental Health | <p>2.9 and 2.10 Whilst there is philosophical linkage between the statutory licensing</p> | <p>Draft policy amendment, sections removed.</p> |

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| (Pollution Control) | <p>objectives and the Council's Corporate Plan priorities, et al, there is a danger in conflating the concepts of amenity and public nuisance. In particular, section 2.9 may encourage residents to approach the Council on matters relating to a diminution to their amenity (or perception of it), due to licensable activity, but our regulatory powers are largely limited to common law nuisance (in the case of the Act, public nuisance only) which is fundamentally more serious in extent. This could result in disappointment and possible claims of maladministration if the Council purports to have a regulatory control that it does not actually have.</p> <p>Insert text that makes clear that decision making is limited to the prevention of public nuisance only or remove sections 2.9 and 2.10.</p> | |
| Environmental Health (Pollution Control) | <p>2.17 As above, the local expansion of the definition of public nuisance to cover matters such as tackling climate change is unlikely to be upheld by the courts. Revision of the text to realistically reflect the constraints of the Licensing Act 2003.</p> | <p>No change required. Draft policy wording makes clear that promoting environment concerns is not a licensing objective but there are potential links to public nuisance in appropriate circumstances.</p> |
| Environmental Health (Pollution Control) | <p>2.39 The nuisance and crime associated with licensed premises that actually take place beyond the physical extent of the premises is a significant and growing problem locally. Some additional text on establishing causal links between nuisance, anti-social behaviour and/or crime and licensed premises would help hold licence holders to account for the wider, but linked, consequences of their operations.</p> | <p>No change required. This is a matter that requires consideration on a case by case basis.</p> |
| Environmental Health (Pollution Control) | <p>3.11 Whilst the thrust of this paragraph is very much supported again it is important to recognise that residents do not have a statutory or</p> | <p>Draft policy amendment. Sentence referring to nuisance removed.</p> |

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| Control) | <p>enforceable right to peace and/or quiet.</p> <p>Rephrase this paragraph to make reference to the statutory protection of residents from nuisance.</p> | |
| Environmental Health (Pollution Control) | <p>3.15 Again, this provision is supported by this Responsible Authority but perhaps it could be clarified that it relates to the real world promotion of the licensing objectives otherwise it runs the risk of the Council being deemed to have created a de facto standalone licensing objective regarding management competence.</p> <p>Insert text linking the sentiment of the para to the licensing objectives.</p> | <p>Draft policy amendment.</p> <p>“Where there is a history and pattern of non-compliance associated with the management of the premises, linked to an adverse affect on the promotion of the licensing objectives...”</p> |
| Environmental Health (Pollution Control) | <p>3.18 This is a significant point that is worthy of greater emphasis – the Licensing Act 2003 is essentially a risk management regime and too often applicants approach it as a form filling exercise without much wider thought.</p> <p>Perhaps an aide memoir can be attached to the Policy Statement that encourages applicants to consider the gross (i.e. unmitigated) risks of non-conformity with the licensing objectives and the net risk (the difference being attributable to the effectiveness of the control measures set out in the Operating Schedule).</p> <p>Pre-application consultation is very often helpful and so should be advocated within the Statement.</p> <p>Insert words to the effect that pre-app consultations are encouraged (also see section 4.6).</p> | <p>Draft policy amendment Reference to legal sanctions for failure to comply with conditions added.</p> <p>Draft policy amendment: “Potential applicants are encouraged to discuss their proposals with the Licensing Authority and responsible authorities.</p> |
| Environmental | 3.19 | No change required. |

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| Health (Pollution Control) | This could be assisted if specimen Operating Schedule conditions were appended to the Statement in the same way as Appendix 2. Creation of an additional appendix and revision of section 3.21 | A schedule of model conditions will be drafted but it is intended these will be published as separate document to allow more timely updates. |
| Environmental Health (Pollution Control) | 3.33 Consideration needs to be given by the applicant the control of noise at work in music and entertainment. In 2008, workers in the music and entertainment sectors became protected from exposure to excessive noise under the Control of Noise at Work Regulations 2005 (the Noise Regulations). This applies to licensed premises and entertainment venues. This is covered by the Health and Safety Executive under 'Noise at Work' Reference should be made to this and links to the relevant HSE web pages see foot note | Draft policy amendment The Control of Noise at Work Regulations (2005) require employers to reduce risks to health and safety from noise at work. While the regulations do not apply where people are not at work, the general duties under the Health & Safety at Work Act may apply. For further information see the HSE, "Noise at work A brief guide to controlling the risks". |
| Environmental Health (Pollution Control) | 3.34 The list of noise, light, odour..... could be read as being exhaustive. Insert the phrase 'this is not an exhaustive list of nuisances'. Reference to 'people' could be interpreted as those in the same household, i.e. this would then probably amount to private nuisance and therefore beyond control of the Licensing Act 2003) Term anti-social behaviour should be considered under Prevention of crime and disorder rather than that of public nuisance. | Draft policy amendment "Public nuisance relates to the negative effects of nuisances including noise, light, odour, dust and litter affecting at least a few separate households locally." Draft policy amendment Reference to anti-social behaviour removed. |
| Environmental Health (Pollution Control) | 3.36 i) – 5th bullet point A 'disturbance' may not amount to a public nuisance. Reconsider text. | Draft policy amendment "Outside lighting shall not cause a nuisance to nearby residents." |
| Environmental Health | 3.36 n) See comment re 2.39 above | Draft policy amendment "Where there is a history of public nuisance |

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| (Pollution Control) | | associated with street drinking in an area, |
| Environmental Health (Pollution Control) | <p>3.58 – 3.61 The generality of this section implies, to a degree, that the principal solution to street drinking is a PSPO.</p> <p>It is suggested that greater emphasis is made of possible causal links between licensed premises and street drinking and the possibility of licence reviews of those premises that are not taking appropriate action.</p> | <p>Draft policy amendment “The street drinking of alcohol has found to be associated with crime and disorder and anti-social behaviour in certain areas of Buckinghamshire. Street drinking can also be associated with public nuisance. To help tackle the issue the Council has introduced PSPOs (Public Space Protection Orders)...”</p> <p>Draft policy amendment “Licensed premises selling alcohol where there is a demonstrable link between the alcohol sales and a failure to adopt appropriate measures to promote the licensing objectives are likely to be subject to enforcement action, which may include a formal review of the premises licence.”</p> |
| Environmental Health (Pollution Control) | <p>3.63 As I understand it, SAGs are non-statutory in nature and therefore the word ‘required’ in connection with event notification forms and risk assessments might well be ultra vires.</p> <p>Replace ‘required’ with ‘strongly encouraged’.</p> | <p>Draft policy amendment Suggested change made.</p> |
| Environmental Health (Pollution Control) | <p>3.64 – 3.66 Large events should give significant consideration to noise management. There is no mention in the table for noise or noise management. Nor the positioning of equipment so as to not cause a public nuisance. This noise management should not just be for the licensable activity but for the event as a whole.</p> | <p>Draft policy amendment Noise management planning and controls</p> <p>Draft policy amendment “cooperate with the Licensing Authority, the</p> |

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| | <p>Addition into the table for the requirement for noise management planning and controls</p> <p>Phrase, ‘cooperate with the Licensing Authority, the police and any other responsible authorities’ would be helpful to include reference the reactive environmental protection team</p> <p>Reference to include ‘cooperate with the Licensing Authority, the police, the environmental protection team and any other responsible authorities’</p> | <p>police, the environmental protection team and any other responsible authorities”</p> |
| Environmental Health (Pollution Control) | <p>4.5 This is obviously something to be encouraged, but at 76 pages the length of this document may put most applicants off.</p> <p>Consideration should be given to significantly reducing the length of the document by removing text that essentially repeats the content of the Act and/or other policy documents.</p> <p>A work flow chart may assist new applicants in navigation the application process and act as the check list to ensure that all point are covered.</p> | <p>Much of the format/content of the policy is prescribed by statute and statutory guidance. Thought has been given to the subject headings and the policy complies with accessibility requirements to facilitate navigation around the policy.</p> <p>Alongside publication of the policy the licensing service will publish guidance material to assist service users.</p> |
| Fire & rescue service | <p>3.21 Can we insert relevant fire safety information for the completion of a fire risk assessment.</p> <p>https://www.gov.uk/workplace-fire-safety-your-responsibilities/fire-risk-assessments</p> | <p>Draft policy amendment. Link inserted.</p> |

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| | The relevant assessment guidance for small and medium places of assembly (up to 300 Persons) and the large places of assembly (more than 300 persons) is located in the same link. | |
| Fire & rescue service | <p>3.32 Application forms, under the public safety section rarely reflect any fire safety considerations such as the fire risk assessment and fire safety management included employee training. Can this section be improved to ensure applicants are fully aware of their duties for public safety?</p> <p>Compliance with the fire safety order is referenced in the revised guidance issued under section 182 of the licensing act 2004 dated April 2018.</p> <p>“Regardless of size or number of employees.”</p> <p>A copy of the FRA should be provided to the fire & rescue service at the earliest opportunity.</p> | <p>Draft policy amendment Hyperlink added to Government guidance document: “Check your fire safety responsibilities under the Fire Safety Order”.</p> <p>Draft policy amendment All licensed premises, regardless of size or number of employees, must have a record of a suitable and sufficient fire risk assessment</p> <p>Requirement to deposit a copy of the FRA with the fire & rescue service is outside the scope of the licensing policy.</p> |
| | <p>3.33 f) “Live bands, entertainment, amplified music, the fire alarm and the DJ's microphone.”</p> | <p>No change required. This paragraph specifically refers to use of ‘special effects’.</p> |
| | <p>3.36 k Due consideration for arson control measures. Location of waste in proximity to the building, windows and final exits. Volume of waste especially when dealing with missed collections or payment disputes resulting in the build up of waste. materials which represent attractive targets to arsonists.</p> | <p>Draft policy amendment Additional section included: “Arson. Arson is a common cause of fire at licensed premises. The location, accessibility and volume of waste are all factors that need to be considered. Large volumes of easily accessible waste stored in close proximity increase the risk</p> |

of arson attack.”



Equality Impact Assessment (EqIA) Screening Template

April 2020

Proposal/Brief Title: Adoption of a new statement of licensing policy in accordance with the Licensing Act 2003

Date: 2nd July 2021, updated 11th October 2021

Type of strategy, policy, project or service:

Please tick one of the following:

- Existing
- New or proposed
- Changing, update or revision
- Other (please explain)

This report was created by

Simon Gallacher

Principal Licensing Officer

Simon.gallacher@Buckinghamshire.gov.uk

Briefly describe the aims and objectives of the proposal below:

The Licensing Authority has a legal obligation to publish a licensing policy statement, 'Policy', which set out its approach to promoting the licensing objectives when performing its licensing functions. The licensing objectives are:

- preventing crime and disorder;
- public safety;
- preventing public nuisance;
- protecting children from harm.

The Policy is also an opportunity to promote and encourage adherence to other council policies, priorities and strategies.

A Policy must be published every five years under the Act, following a period of formal consultation and review. The Council's licensing service is currently operating under separate legacy policies reflecting the four former district council areas. Under the terms of the transitional legislation, Buckinghamshire Council has two years to prepare and publish a new single licensing policy under the Act and align service provision. The deadline for publication and implementation of the new Policy is no later than 1 April 2022.



Equality Impact Assessment (EqIA) Screening Template

April 2020

What outcomes do we want to achieve?

The adoption and publication of a formal Policy helps ensure that all parties to the licence application process are treated fairly and in a consistent manner. A published Policy provides clear guidance, advice and information about Council decision making and enforcement under the Licensing Act 2003. Through the promotion of the licensing objectives and the wider objectives of the Council, the Policy supports the provision of licensable activities that can benefit the whole community. The Policy helps ensure that licence conditions and requirements are transparent, easily understood and unambiguous which benefits both licence holders and members of the public.

1) Screening Questions

1.1 Does this proposal plan to withdraw a service, activity or presence? ~~Yes~~/No

Please explain your answer: The Council in its role as Licensing Authority is obliged to accept and consider all valid applications on their own merit. The processes and procedures for making valid applications is largely determined by statutory requirements. The Policy principally focuses on the Council's discretionary powers which arise when the Council is required to determine contested applications. The Licensing Act is generally permissive in nature, the purpose of the Policy is to encourage licensed premises that promote the licensing objectives. The new Policy will not impact on any parties right to make an application or representation. **Wording updated 11th October 2021.**

1.2 Does this proposal plan to reduce a service, activity or presence? ~~Yes~~/No

Please explain your answer: For the same reasons as given in 1.1.

1.3 Does this proposal plan to introduce, review or change a policy, strategy or procedure? ~~Yes~~/No

Please explain your answer: The Policy will replace the existing legacy policies of the former Buckinghamshire Districts. The Policy introduces several new policy areas which link to the Council's key priorities of strengthening communities, improving the environment, protecting the vulnerable and increasing prosperity. The Policy has removed reference to historic policies relating to special consideration of Aylesbury town centre and Buckingham which created presumptions that late licences applications in those areas would be refused. Importantly these area specific blanket policies are difficult to justify from a legal perspective based on current available evidence and all concerned parties retain the right to make representation and have their concerns heard before any application is determined in the affected areas. The new policies received significant support across the spectrum of stakeholders both at pre-consultation and full public consultation. The majority of respondents were supportive of the removal of the Aylesbury policy, while opinion was more evenly split over removal of the Buckingham policy. **Wording updated 11th October 2021.**

1.4 Does this proposal affect service users and/or customers, or the wider community? ~~Yes~~/No

Please explain your answer: The Policy sets out the Council's approach to decision making and will be of interest to those engaged in the licensing process who may be affected positively or negatively by licensing decisions. It is believed that overall the Policy will have a positive effect by facilitating greater community engagement in decision making through the wider consultation of applications



Equality Impact Assessment (EqIA) Screening Template

April 2020

and encouraging applicants to submit well considered applications. **Wording updated 11th October 2021.**

1.5 Does this proposal affect employees? Yes/~~No~~

Please explain your answer: A small number of staff connected to the licensing and responsible authorities may be affected by new policy requirements.

1.6 Will employees require training to deliver this proposal? Yes/~~No~~

Please explain your answer: Staff connected to the licensing service and responsible authorities may require some training and guidance in relation to new policy requirements.

1.7 Has any engagement /consultation been carried out? Yes/~~No~~

Please explain your answer: A pre-draft Policy consultation exercise was carried out involving key stakeholders between 14 May and 8 June 2021 and 107 responses were received. A full public consultation exercise was carried out between 27th August and 26th September 2021 and 110 responses were received. Respondents included residents, local businesses, the licensed trade and Ward, Town and Parish Councillors. There was high levels of support for the proposed policies and no significant changes have been made to the draft version of the policy. 90% of respondents rated the policy either easy or ok to understand. **Wording updated 11th October 2021**

2) Are there any concerns at this stage which indicate that this proposal could have negative or unclear impacts on any of the group (s) below? (*protected characteristics). Please include any additional comments.

- A) Age* No
- B) Disability* No
- C) Gender Reassignment* No
- D) Pregnancy & maternity* No
- E) Race & Ethnicity* No
- F) Religion & Belief* No
- G) Sex* No
- H) Sexual Orientation* No
- I) Marriage & Civil Partnership* No
- J) Carers No
- K) Rural isolation No
- L) Single parent families No
- M) Poverty (social & economic deprivation) No
- N) Military families / veterans No
- O) Gender identity No

Additional comments (please indicate which of the protected groups you are commenting on):

Age. The Policy mitigates against concerns in relation to licensable activities and persons under 18 years. Licenced premises are encouraged to promote the statutory provisions not to sell alcohol to persons under 18 years and to have appropriate ID verification measures in place. The Policy encourages all licensed operators to put in place safeguarding policies. Operators of high-risk



Equality Impact Assessment (EqIA) Screening Template

April 2020

premises are expected to have written safeguarding policies and procedures including records of staff training.

As a result of this screening, is an EqIA required?

(If you have answered yes to any of the screening questions or any of the group (above), a full EqIA should be undertaken)

- Yes
 No

Briefly explain your answer:

The Policy sets out the Council's approach to performing its licensing functions. Its application is generic in nature applying the same policies to all parties wishing to engage in the licensing process. All applications are dealt with on a case by case basis and all parties have the same right to make representation. Enforcement activities associated with the policy will be conducted in accordance with the regulator's code and not targeted in respect of any particular group.

There are no concerns that the Policy will impact negatively on any group. Conversely the Policy contains positive measures to promote the Equalities Act generally, with specific measures designed to promote child protection. On this basis it is deemed that a full EQIA is not necessary.

EqIA Screening Sign off

Officer completing this Screening Template: Simon Gallacher Date: 2nd July 2021, reviewed and updated 11th October 2021.

Equality Lead: (Please insert name) Date: (Please insert Date)

Buckinghamshire Corporate Board sign off (Please insert name) Date: (Please insert Date)

Please continue to the next page to complete a full EqIA.

EqIA – Full Equality Impact Assessment

Step 1: Introduction

Policy or Service to be assessed:

Service and lead officer:

Officers involved in the EqIA:

What are you impact assessing?

- Existing
 New/proposed
 Changing/Update revision



Equality Impact Assessment (EqIA) Screening Template

April 2020

Other, please list:

-
-

Step 2: Scoping – what are you assessing?

What is the title of your service/strategy/policy/project?

What is the aim of your service/strategy/policy/project?

Who does/will it have an impact on? E.g. public, visitors, staff, members, partners?

Will there be an impact on any other functions, services or policies? If so, please provide more detail

Are there any potential barriers to implementing changes to your service/strategy/policy/project?

Step 3: Information gathering – what do you need to know about your customers and making a judgement about impacts

What data do you already have about your service users, or the people your policy or strategy will have an impact on, that is broken down by equality strand?

Age/Disability:

Gender re-assignment:

Race:

Religion or belief:

Sex:

Sexual orientation:

Pregnancy and maternity:

Marriage & Civil Partnership:

Do you need any further information broken down by equality strand to inform this EqIA?

- Yes
- No

If yes, list here with actions to help you gather data for the improvement plan in Step 5

Is there any potential for direct or indirect discrimination?

- Yes



Equality Impact Assessment (EqIA) Screening Template

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No

If yes, please provide more detail on how you will monitor/overcome this

Conclusion:

Step 4: Improvement plan – what are you going to change?

| Issue | Action | Performance target (what difference will it make) | Lead Officer | Achieved |
|-------------------|-------------------|--|-------------------|-------------------|
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EqIA approved by:

Date:

Next review date:



Report to Licensing (Regulatory) Committee

Date: 20th October 2021

Title: Draft Statement of Licensing Policy under the Gambling Act 2005

Author(s): Caroline Steven, Principal Licensing Officer.

Decision:

1. To approve the draft Statement of Licensing Policy under the Gambling Act 2005 as set out at Appendix 1 for a public consultation exercise.
2. To approve the draft fees as set out at Appendix 2.
3. To note the draft Local Area Profile at Appendix 3.

1. Background

- 1.1 In accordance with the Gambling Act 2005 (the 'Act'), Buckinghamshire Council, in its role as Licensing Authority, is responsible for authorising certain gambling activities at premises used for gambling purposes by the issue of premises licences and permits.
- 1.2 Under section 349 of the Act, the Licensing Authority is required to prepare and publish a Statement of Licensing Policy which sets out its approach to the consideration and determination of applications made under the Act and any subsequent necessary compliance and enforcement action.
- 1.3 The Council's licensing service is currently operating under separate legacy policies and fees, reflecting the four former district council areas. Under the terms of the transitional legislation, Buckinghamshire Council has two years to prepare and publish a new single policy under the Act and align service provision. The deadline for publication and implementation of the new Policy is no later than 1 April 2022.
- 1.4 A new draft policy has now been produced for consultation purposes and is attached to this report at Appendix 1 for consideration.

2. Main content of report

- 2.1 The Licensing Authority is responsible for issuing premises licences for premises where gambling activities are proposed to take place. Examples of such premises are betting shops, bingo halls and entertainment / gaming centres.
- 2.2 Licensing authorities are also responsible for issuing permits for gaming machines, notices for one off gambling events and for registering societies who wish to carry out small scale lotteries, and for ensuring local compliance and enforcement of the Act.
- 2.3 The Gambling Commission is responsible for licensing operators and individuals involved in the provision of gambling activities, including online and remote facilities.
- 2.4 Statements of Licensing Policy made under the Act must be reviewed and published at least every three years further to consultation with named statutory consultees and other persons and bodies who may be affected by gambling activities.
- 2.5 In preparing their Statement of Licensing Policy the Licensing Authority must have regard to the Guidance for Licensing Authorities issued by the Gambling Commission along with any relevant Codes of Practice, the licensing objectives and any consultation responses.
- 2.6 The Act is prescriptive in terms of the information to be provided within licensing authority policies, resulting in noticeable similarities between these policies across the country and limited local influence.
- 2.7 Section 153 of the Act, states that local authorities should “aim to permit” gambling activities insofar as they consider the proposed activity to be in accordance with any relevant code of practice or guidance issued by the Gambling Commission and with the Licensing Authority’s Statement of Licensing Policy. Any gambling activity should also be ‘reasonably consistent’ with the licensing objectives, which are:
 - Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
 - Ensuring that gambling is conducted in a fair and open way
 - Protecting children and other vulnerable persons from being harmed or exploited by gambling
- 2.8 However, this framework does not result in a presumption that authorisations will be granted and any authorisations which are granted are subject to mandatory conditions and Codes of Practice issued by the Gambling Commission. Additional conditions can also be imposed on premises licences where it is considered necessary.

- 2.9 Gambling activities which are carried out in licensed premises such as betting shops are generally considered to be safer for the user in terms of the control mechanisms in place to mitigate addictive or compulsive gambling behaviour because of the highly regulated nature of the environment. Users also have the ability to take advantage of self-exclusion schemes and signposting is available for treatment options for problem gamblers.
- 2.10 In terms of protecting children and other vulnerable persons from being harmed or exploited from gambling, the draft policy clearly sets out at section 19.3 the Licensing Authority's expectations in relation to the measures it expects operators to take to ensure compliance with this objective. Control measures are suggested which operators can consider for inclusion within their local risk assessments depending on the local circumstances of the premises.
- 2.11 Should concerns arise, premises licences can be reviewed upon receipt of an acceptable review application which can be made by any responsible authority or interested party. The Licensing Authority may also request a review of a premises licence where it considers it to be appropriate. It should be noted that applications cannot be refused and licences cannot be revoked either on the grounds of business need or because of moral objections.

Risk Assessments and Local Area Profiles

- 2.12 The Gambling Commission Licence Conditions and Codes of Practice (LCCP) require all premises licensees to assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises and to have policies, procedures and control measures to mitigate those risks. In undertaking their risk assessments, premises licensees must take into account relevant matters identified in the Licensing Authority's statement of licensing policy.
- 2.13 Applicants must carry out a local risk assessment when applying for a new premises licence and existing operators are reviewed to review and update risk assessments when applying for a variation of their licence or when there are any changes in the local area which may affect the provision of gambling activities.
- 2.14 The Gambling Commission Guidance for Local Authorities states that there is no mandatory requirement for local authorities to produce a Local Area Profile (LAP), but there are a number of benefits in doing so. A Local Area Profile:
- enables licensing authorities to better serve their local community, by better reflecting the community and the risks within it
 - provides greater clarity for operators as to the relevant factors in licensing authority decision making, which will lead to improved premises licence applications, with the operator already incorporating controls and measures to mitigate risk in their application

- enables licensing authorities to make robust but fair decisions, based on a clear, published set of factors and risks, which are therefore less susceptible to challenge
- encourages a proactive approach to risk that is likely to result in reduced compliance and enforcement action.

2.15 A draft LAP for the Buckinghamshire Council area has been produced which signposts applicants and operators to relevant information to assist them in producing local risk assessments. The draft LAP is at Appendix 3.

Casinos

2.16 When the Gambling Act 2005 was implemented in September 2007 it was possible for local authorities to bid for the opportunity to obtain a casino licence within their area. The regulations permitted licences for one regional casino, 8 large casinos and 8 small casinos within the United Kingdom. All of the licences for large and small casinos were awarded, although not all of the planned casinos were subsequently built. The plans for a regional casino in Manchester were scrapped by the government in 2008. There is currently no provision legally to grant any further casino licences although this situation may change in the future.

2.17 Licensing Authorities have the power under section 166 of the Act to resolve not to issue premises licences for casinos. In relation to the legacy district councils, Aylesbury, South Bucks and Wycombe decided not to make a resolution. However, Chiltern District Council passed a “no casino” resolution in 2018 which is currently still in force under the legacy council Policy

2.18 It is not currently legally possible to grant any casino licences due to the lack of quota availability. Were this situation to change and an application be submitted, the grant of such a licence could provide significant economic and employment benefits to the local area. The requirements within the Act, the relevant Codes of Practice and planning controls provide safeguards so as to ensure that any such premises would be properly operated and would not cause a detrimental impact on the surrounding area.

2.19 Should any future application be possible, the Scheme of Delegation set out at Appendix 3 of the draft policy confirms that the consideration and determination of any such application would sit with the Licensing Committee. This would give the Committee the opportunity to scrutinise in detail any such application and to ensure that they were satisfied with the proposals set out within the application and the mitigation measures proposed prior to the grant of any licence.

2.20 Given this robust approach, it is suggested that a “no casino” resolution would not currently be advisable for the Buckinghamshire Council area and the most appropriate option is not to make a “no casino” resolution within the proposed policy statement.

Fees

- 2.21 In approving any policy made under the Act, the authority is also required to agree and publish a single set of application fees and charges for licences and permits issued under the Act.
- 2.22 Section 212 of the Act gives the Secretary of State power to make regulations prescribing the fees payable to the Licensing Authority. It also gives the power to devolve to Licensing Authorities in England and Wales the freedom to set fees for premises licence applications, subject to any constraints the Secretary of State may prescribe which includes a maximum fee level. The government has decided that for England and Wales, Licensing Authorities will determine their own fees for gambling premises licences but that the Secretary of State will prescribe the maximum fee payable for each category of licence.
- 2.23 There is no statutory requirement for public consultation when setting fees under the Act and it for the Licensing Committee to agree these fees. The proposed fees are included within this report solely for the purposes of consideration and for approval by the Committee.
- 2.24 Gambling fees are currently being charged separately in the legacy district areas. A comparison of all of the various current fees and charges for the legacy areas is provided at Appendix 2. In producing a single policy for the Council area, it will also be necessary to produce and publish a single set of fees.
- 2.25 Some fees, such as for small society lotteries, gaming machine permits and automatic entitlements are set by central government and there is no discretion locally. No fee is chargeable for Occasional Use Notices which are intended for infrequent (a maximum of 8 per year) track betting at events such as point-to-point meetings.
- 2.26 For premises licence fees and Temporary Use Notices, there are regulations which set maximum possible fee levels for each type of application. These maximum permitted fee levels have also been included in Appendix 2 for comparison purposes.
- 2.27 Fees should be set at a level to ensure full cost recovery whilst also being fair and value for money for the gambling industry. Fees should be reviewed on an annual basis.
- 2.28 There are currently 39 betting premises within the Council area and 9 other gambling premises that will be affected by the proposed fees.
- 2.29 The general methodology behind this review of fees has been determined by the Act and the document 'Open for business: Local Government Association (LGA) guidance on locally set licence fees'.

- 2.30 The core principles in the LGA guidance are that fees should be non-discriminatory; justified; proportionate; clear; objective; made public in advance; transparent; and accessible.
- 2.31 The guidance draws attention to two important judicial decisions in relation to fees. The first is *R (Cummings) v Cardiff [2014]* which rules that the charges within a licensing regime for different categories of licence should be accounted entirely separately and should not subsidise each other.
- 2.32 The second is *Hemming v Westminster [2013]* The principle ruling was that application fees relate solely to the costs of authorisation i.e. reviewing the application and granting or refusing it. Successful applicants should subsequently be charged an additional fee relating to the costs of on-going maintenance and enforcement. This aspect of fee setting is relevant to the Council's refund policy in relation to unsuccessful applications.
- 2.33 The LGA guidance acknowledges that Councils are free to design their licensing service in a manner that best serves the needs of their community and recover the costs accordingly. It provides a number of elements that Councils may wish to consider. These include administration, visits, third party costs, liaison with interested parties, management costs, local democracy costs, staffing on-costs, development, determination and production of licensing policies, web material, advice and guidance, setting and reviewing fees, monitoring and inspection visits and maintaining statutory registers.
- 2.34 The type of tasks involved in gambling premises applications include assisting applicants, checking received applications for validity, processing the application, assessing representations for relevance, undertaking informal mediation and site visits where necessary. Once applications have been processed, further costs include determining and issuing the licence or arranging for and holding a hearing, which also includes notification of the decision and updating the records and register.
- 2.35 The costs associated with possible magistrate court appeals and hearings have been estimated. The risk of appeals and hearings occurring has been based on historical experience of the legacy authorities.
- 2.36 The legislation does not require the Council to make a precise calculation so as to arrive at an income which exactly meets the cost of the administration of licences and permits. Councils are required, however, to take a reasonable and proportionate approach and should aim to set a fee level that is sufficient to cover the cost but not make a surplus. On that basis it is proposed that a full service review of fees is carried out on a rolling three year basis in line with the policy review, thus affording the opportunity to reconcile any surplus or deficit accrued.
- 2.37 In addition to this, the fees will be reviewed annually in relation to any increase in RPI and where appropriate an increase will be applied to the fee to recover related

increased costs to the Council. The Government are currently reviewing RPI and may replace it with another inflationary measure. If this is the case an annual increase in relation to any new measure prescribed, where appropriate, will be applied to the fee to recover related increased costs to the Council.

- 2.38 A comprehensive review of the cost of delivering activities relating to gambling licences has been carried out and new fees are proposed that reflect both the full staffing costs of running the service as well as the support service costs. As required this review has factored in recoverable costs incurred by the Council such as Democratic Services and committees, corporate governance, office accommodation, IT provision, administration, supplies and services etc. It does not include Freedom of Information requests, Data Protection Act requests or activity related to unlicensed operators.
- 2.39 Benchmarking has also been carried out with other local authorities, both nationally and for surrounding authorities.
- 2.40 A fee schedule of the new proposed fees and charges is provided at Appendix 2 alongside benchmarking comparison information from other local authority areas.
- 2.41 Members will note that there is a large variance in fees both across the benchmarking and legacy area figures. The proposed fees are within the range of the legacy area fees, generally being lower than the current Chiltern, South Bucks and Wycombe fees whilst representing an increase for the Aylesbury area.
- 2.42 In terms of betting premises, which make up the majority of the licensed premises in the Buckinghamshire Council area, the proposals amount to a large decrease of over £1000 for an application for a new licence compared with the current Chiltern and South Bucks area. The decrease is smaller for Wycombe and Aylesbury, being £44 and £3 respectively. In terms of wider benchmarking, out of the remaining 12 benchmarked authorities only three have lower annual fees for betting shops; Royal Borough of Kensington and Chelsea (£1,175), Three Rivers (£890) and Darlington (£1,300).
- 2.43 It should also be noted that new applications for betting premises are, however, very low in number and there has been a continued downward trend in this respect since the reduction in stakes on fixed odds betting terminals.
- 2.44 The proposed annual fee for betting shops is £415 which amounts to a reduction of £185 for the Chiltern and South Bucks areas and a small increase of £15 for the Wycombe area. The proposal represents a larger increase of £156 in the Aylesbury area where there are currently 11 premises benefitting from this type of licence (in Wycombe there are 18 such premises and in Chiltern and South Bucks there are 10). Overall the proposed annual fee would therefore result in a net reduction for businesses across the Council area.

- 2.45 In terms of wider benchmarking for betting shop annual fees, the proposed fee is lower than any of the remaining benchmarked authorities which indicates that it represents value for money for operators.

3. Next steps and review

- 3.1 If approved, the draft policy will be subject to a consultation exercise for a period of 6 weeks. A further report with details of consultation responses and any consequent proposed amendments to the policy will be presented to this committee. The following time scales are proposed in order to meet the publication deadline of 1 April 2022:

- Draft policy 6 week public consultation – October to December 2021
- Result of consultation reported to Cabinet Member - TBC
- Results of consultation reported to Licensing Committee – 02 February 2022 (TBC)
- Final version of policy presented to Council for adoption – 23 February 2022

4. Other options considered

None. The preparation and publication of a Statement of Licensing Policy under the Gambling Act 2005 is a legal requirement under section 349 of the Act. Failure to do so would be likely to result in legal challenge and reputational damage to the Licensing Authority.

5. Legal and financial implications

- 5.1 Section 349 of the Gambling Act 2005 requires licensing authorities to prepare, review and publish a statement of licensing policy at least every three years, which sets out how the authority will consider and determine applications made under the Act along with its approach to enforcement activities.
- 5.2 The Act is prescriptive in terms of the information to be included within the policy and in producing any such policy the authority must take into account the Gambling Commission's Guidance to Licensing Authorities, the licensing objectives, any relevant Codes of Practice and any consultation responses received.
- 5.3 The work involved in preparing and publishing the new Statement of Licensing Policy is a function of the licensing service with the work performed by officers as part of their duties. No significant additional costs to the Council are envisaged.

6. Corporate implications

- 6.1 Protecting the vulnerable – The licensing objectives underpinning the Gambling Act 2005 include the requirement to protect children and other vulnerable persons from

being harmed or exploited by gambling. It is important that the Licensing Authority clearly sets out the measures it intends to take to fulfil this objective within the policy document.

6.2 Property – N/A

6.3 HR – N/A

6.4 Climate change – N/A

6.5 Sustainability – N/A

Equality – an equality impact screening assessment has been completed which indicates that a full equalities impact assessment is not required

6.6 Data – N/A

6.7 Value for money – the Licensing Service has ensured that the costs involved in delivering the service are kept to a minimum whilst also ensuring that the provision of the service is cost neutral.

Key documents:

“Open for Business”, LGA Guidance on locally set fees:

<https://www.local.gov.uk/open-business-lga-guidance-locally-set-licence-fees>

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Statement of Licensing Policy

under the

Gambling Act 2005

October 2021

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PART A

GENERAL PRINCIPLES

1. The Licensing Objectives

The Gambling Act 2005 regulates most forms of gambling in the UK and places control of some gambling activities in the hands of local authorities.

In exercising their functions under the Gambling Act 2005 (“the Act”), the Licensing Authority (Buckinghamshire Council) will have regard to the licensing objectives as set out in section 1 of the Act. The licensing objectives are:

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
- Ensuring that gambling is conducted in a fair and open way
- Protecting children and other vulnerable persons from being harmed or exploited by gambling

While the term “vulnerable” is not defined in the Act, the Gambling Commission assumes for regulatory purposes that vulnerable people include those who gamble more than they want to, people who gamble beyond their means and people who may not be able to make informed or balanced decisions about gambling due to, for example, mental health issues, a learning disability or substance misuse relating to alcohol or drugs. The Licensing Authority will make the same assumptions when exercising its powers under the Act.

The Licensing Authority will work with partners such as the police, the Gambling Commission, GamCare and other treatment providers to ensure that gambling is fair and open, kept free from crime and protects those who are underage or vulnerable from being harmed.

In making decisions in relation to the grant or otherwise of premises licences under section 153 of the Act, the Licensing Authority will aim to permit the use of premises for gambling in so far as the proposed activities are reasonably consistent with:

- any relevant code of practice,
- any relevant guidance issued by the Commission,
- the licensing objectives, and
- the Licensing Authority’s Statement of Licensing Principles

When making any application under the Act, applicants are strongly advised to provide sufficient relevant information to enable the Licensing Authority to properly determine their application in light of the requirements in section 153.

2. Introduction

Buckinghamshire Council is a unitary authority created in April 2020 from Buckinghamshire County Council and the Aylesbury Vale, Chiltern, South Bucks and Wycombe District Councils.

A map of the Council area is at Appendix 1.

Licensing authorities are required by the Act to publish a statement of the principles which they intend to apply when exercising their functions under the Act. The statement, or policy, must be reviewed and published from time to time or at least every three years.

This policy is divided into three sections. The first deals with general principles relating to the implementation of the Gambling Act 2005. The second concentrates on premises licences and provides guidance on the Licensing Authority's approach in considering applications. The final section relates to permits issued under the Act.

Licensing authorities are responsible for licensing premises for gambling activities e.g. gaming machine arcades, betting shops, casino gaming and bingo. Residents who are, or who could be, affected by premises providing gambling facilities have an opportunity to influence decisions, subject to the licensing objectives. The Licensing Authority is also able to work with other stakeholders to protect children and vulnerable people from being harmed or exploited by gambling activities.

The responsibility for regulating gambling is shared between the Gambling Commission and licensing authorities.

The Gambling Commission is responsible for issuing operating licences to organisations and individuals who provide facilities for gambling and personal licences to persons working in the gambling industry. The Commission takes the lead role on ensuring that gambling is conducted in a fair and open way through the administration and enforcement of operating licence and personal licence requirements. The Commission is also responsible for remote gambling activities such as facilities provided via the internet, television or radio.

The Gambling Commission issues national guidance to licensing authorities which must be taken into account when exercising their functions under the Act and preparing statements of licensing policy.

A full consultation process must be carried out when preparing any statement of licensing policy and a list of consultees in this respect is provided as Appendix 2. The Act requires that the following parties are consulted by licensing authorities:

- The Chief Officer of Police;
- One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area;

- One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Gambling Act 2005.

Consultation took place on this policy between **INSERT DATE** and **INSERT DATE** and the policy was approved at a meeting of the Full Council on **INSERT DATE**.

Any comments in relation to this policy should be sent by email to licensing@buckinghamshire.gov.uk or by post to: Licensing Service, Buckinghamshire Council, The Gateway, Gatehouse Way, Aylesbury, Bucks, HP19 8FF.

This policy statement will not override the right of any person to make an application, make representations about an application or apply for a review of a licence – all of which will be considered on their own merits and according to the statutory requirements of the Gambling Act 2005.

3. Declaration

In producing the final statement, the Licensing Authority declares that it had regard to the licensing objectives of the Gambling Act 2005, the guidance issued by the Gambling Commission and any responses from those consulted on the statement.

4. Responsible Authorities

For the purpose of the Gambling Act 2005, the following are responsible authorities in relation to the licensing of premises under the Act:

- A licensing authority in whose area the premises are wholly or partly situated
- The Gambling Commission
- Thames Valley Police
- Buckinghamshire Fire and Rescue
- The Planning Department
- The Environmental Health Department
- Buckinghamshire Safeguarding Children Partnership
- HM Commissioners of Customs and Excise

The Licensing Authority is required by regulations to state the principles it will apply in exercising its powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm. The principles are:

- the need for the body to be responsible for an area covering the whole of the licensing authority's area; and
- the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group.

The Licensing Authority designates the Buckinghamshire Safeguarding Children Partnership for this purpose.

Contact details for all of the Responsible Authorities under the Gambling Act 2005 are available via the Council's website at:

<https://www.buckinghamshire.gov.uk/business/licences-and-permits/>

5. Interested parties

Interested parties can make representations about licence applications or apply for a review of an existing licence. To be an 'interested party' a person must meet one of the following criteria:

- live sufficiently close to the premises to be likely to be affected by the gambling activities
- have business interests that might be affected by the gambling activities
- represent persons in either of the groups above, e.g. residents' and tenants' associations, trade unions and trade associations, partnerships, charities, community groups, faith groups, medical practices, Assembly Members, Councillors and MPs.

When considering whether a person lives sufficiently close to the premises, the Licensing Authority will take into account:

- the size of the premises
- the nature of the premises
- the distance of the premises from the location of the person making the representation
- the potential impact of the premises, for example the number of customers and routes likely to be taken by those visiting the establishment
- the circumstances of the person making the representation. This is not their personal characteristics, but their interests which may be relevant to the distance from the premises.

In considering whether someone is likely to be affected, the Licensing Authority recognises that there is a broad context in which people may possibly be affected by premises providing gambling facilities in their vicinity. The Licensing Authority will maintain an open mind when considering the circumstances presented in any representation.

Having a 'business interest' will be given the widest possible interpretation and include community and voluntary groups, schools, charities, faith groups and medical practices. The Licensing Authority will consider the following factors to be relevant when determining whether a person's business interests may be affected:

- the size of the premises
- the catchment area of the premises, for example how far people travel to visit the premises
- whether the person making the representation has business interests in the affected catchment area

The Licensing Authority will not take into account representations that are:

- vexatious

- frivolous
- will certainly not influence the authority's determination of the application

Details of applications and representations referred to a licensing sub-committee for determination will be published in a report which is placed on the Council's website in accordance with the Local Government Act 1972 and the Freedom of Information Act 2000. Personal details will be redacted from representations in the website version of reports.

Names and addresses of people making representations will be disclosed to applicants to enable discussions to take place between the parties to resolve or reduce the areas of dispute. This information will only be withheld from disclosure on the grounds of personal safety where the Licensing Authority is specifically asked to do so and there is evidence to support concerns.

6. Exchange of Information

Licensing authorities are required to include in their statements the principles to be applied by the authority in exercising their functions under sections 29 and 30 of the Act in relation to the exchange of information between it and the Gambling Commission, and their functions under section 350 of the Act in relation to the exchange of information between it and the other persons listed in Schedule 6 to the Act.

The principle that this Licensing Authority applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which includes the provision that the General Data Protection Regulation 2018 will not be contravened. The Licensing Authority will also have regard to any guidance issued by the Gambling Commission on this matter as well as any relevant regulations issued by the Secretary of State under the powers provided in the Act.

The Gambling Commission can require the Authority to provide specific information if it forms part of our licensing register or we hold it in connection with our licensing functions under the Act. We may also exchange information with other persons or bodies listed below for use in the exercise of functions under the Act.

- A constable or police force
- An enforcement officer
- A licensing authority
- HMRC
- The First Tier Tribunal
- The Secretary of State

Exchanges of information will be conducted in a timely and accurate fashion and confirmed in writing in all cases.

Any protocols that are established relating to information exchange with other bodies will be made available at www.buckinghamshire.gov.uk.

7. Enforcement

Licensing authorities are required by regulation under the Gambling Act 2005 to state the principles to be applied by the authority in exercising their functions under Part 15 of the Act in relation to the inspection of premises and their powers under section 346 of the Act to institute criminal proceedings in relation to specified offences.

The Licensing Authority will be guided by national guidance and will endeavour to be:

- Proportionate: regulators should only intervene when necessary and remedies should be appropriate to the risk posed. Costs should be identified and minimised;
- Accountable: regulators must be able to justify decisions and be subject to public scrutiny;
- Consistent: rules and standards must be joined up and implemented fairly;
- Transparent: regulators should be open and keep regulations clear; and
- Targeted: regulation should be focused on the problem.

As the national guidance advises, the Licensing Authority will endeavour to avoid duplication with other regulatory regimes so far as possible. A risk-based approach to enforcement will be adopted based on;

- The licensing objectives
- Relevant codes of practice issued by the Gambling Commission
- Guidance issued by the Gambling Commission; and
- The principles set out in this statement of licensing policy

The Licensing Authority will also have regard to the Regulators' Code issued by the Better Regulation Delivery Office.

The purpose of the Code is to promote proportionate, consistent and targeted regulatory activity through the development of transparent and effective dialogue and understanding between regulators and those they regulate. The Code also aims to promote efficient and effective approaches to regulatory inspection and enforcement, improving the outcome of regulation without imposing unnecessary burdens.

The main enforcement and compliance role for licensing authorities under the Act is to ensure compliance with the requirements of premises licences and other permissions which it authorises. In circumstances where the Licensing Authority is made aware of possible unlawful gambling activities at premises within the Council's area, Licensing Officers will carry out investigations and take robust enforcement action where evidence of offences is established.

Any decisions made in terms of sanctions, including prosecution, will be made in accordance with the Code of Crown Prosecutors.

The Gambling Commission is the enforcement body for operating and personal licences. Concerns about the manufacture, supply or repair of gaming machines are not within the remit of licensing authorities and should be notified to the Gambling Commission at www.gamblingcommission.gov.uk.

8. Licensing Authority functions

Licensing Authorities are required under the Act to:

- Be responsible for the licensing of premises where gambling activities are to take place by issuing Premises Licences, including the investigation of complaints and review of licences
- Issue Provisional Statements
- Regulate members' clubs and miners' welfare institutes where certain gaming activities are proposed to take place by issuing Club Gaming Permits and/or Club Machine Permits
- Issue Club Machine Permits to commercial clubs
- Grant permits for the use of certain lower stake gaming machines at unlicensed Family Entertainment Centres
- Receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines
- Issue Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol on the premises (under the Licensing Act 2003) where there are more than two gaming machines
- Register small society lotteries which fall below prescribed thresholds
- Issue Prize Gaming Permits
- Receive, endorse and, if necessary, determine Temporary Use Notices
- Receive Occasional Use Notices
- Provide information to the Gambling Commission regarding details of licences issued (see section above on information exchange)
- Maintain registers of the permits and licences that are issued under these functions.

Local licensing authorities are not involved in licensing remote gambling which is the responsibility of the Gambling Commission through operating licences. Remote gambling means gambling where participation is by the use of the internet, telephone, television, radio or any other kind of electronic or other technology for facilitating communication.

9. Electronic submissions and Communication

The Licensing Authority welcomes the use of electronic communication, such as email, which is considered to be an efficient and cost effective means of communication. The Licensing Authority also welcome applications, notices and representations submitted via email, or by other electronic means available, to the Licensing Service. Further information and application forms are available on the Council's website via the following link:

<https://www.buckinghamshire.gov.uk/business/licences-and-permits/>

PART B

PREMISES LICENCES

10. General

Premises licences will be subject to the requirements set out in the Gambling Act 2005 and other relevant legislation including specific mandatory and default conditions which are detailed in regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach others where it is appropriate to do so.

11. Decision-making

The Licensing Authority aims to permit the use of premises for gambling in accordance with the requirements of the Act. The Licensing Authority considers it important to emphasise that the reference to “aim to permit” under section 153 does not create a “presumption to grant”. The Licensing Authority will allow premises to be used for gambling insofar as it considers the proposed activity to be:

- in accordance with any relevant code of practice or guidance issued by the Gambling Commission
- reasonably consistent with the licensing objectives, and
- in accordance with the authority’s statement of licensing principles.

The ‘aim to permit’ framework provides wide scope for the Licensing Authority to impose conditions on a premises licence or to reject, review or revoke premises licences where there is a potential conflict with the relevant codes of practice, relevant guidance issued by the Commission, the licensing objectives or the Licensing Authority’s own statement of policy.

The general approach expressed in this policy does not override the right of any person to make an application and to have that application considered on its merits.

As far as is possible the Licensing Authority will avoid duplication with other regulatory regimes, such as planning and building control regulations.

The Licensing Authority will not take into account demand for gambling premises or representations based on moral objections when making decisions.

12. Definition of “premises”

In the Act, "premises" is defined as including "any place" and section 152 prevents more than one premises licence applying to any place. A single building could, however, be subject to more than one premises licence, provided they apply to different parts of the building and those parts can be reasonably regarded as being separate premises. In considering whether it is lawful to licence part of a building, the Licensing Authority will take into account national guidance issued by the Gambling Commission.

In deciding whether a proposed licence for part of a premises is consistent with the licensing objectives, the Licensing Authority will pay special attention to the need to protect children.

As advised by the Gambling Commission, children should be protected not only from taking part in gambling, but also from being in close proximity to gambling. Premises should be configured so that children are not invited to participate in, have accidental access to or closely observe gambling where they are prohibited from participating.

13. Split premises

The Licensing Authority will always give the closest consideration to whether a sub-division has created separate premises meriting a separate machine entitlement.

The Authority will not automatically grant a licence for sub-divided premises even if the mandatory conditions are met, particularly where the Authority considers that this has been done in order to avoid controls on the number of machines which can be provided in single premises. The Authority will consider whether the sub-division conflicts with the licensing objective of protecting the vulnerable. The Authority may also take into account other relevant factors as they arise on a case-by-case basis.

14. Premises “ready for gambling”

The Guidance states that a licence to use premises for gambling should only be issued in relation to premises that the licensing authority can be satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use.

An application for a provisional statement should be made in cases where construction of a premises is not yet complete or the building needs to be altered, or if the applicant does not yet have a right of occupation.

In deciding whether a premises licence can be granted where there are outstanding construction or alteration works at a premises, the authority will determine applications on their merits, applying a two stage consideration process ¹:

- First, whether the premises ought to be permitted to be used for gambling
- Second, in deciding whether or not to grant the application, whether appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place e.g. if a reasonably accurate statement can be provided as to when the works will be completed the licence may be issued with a future commencement date or a condition which states that the licence shall not commence until the premises have been completed in all respects in accordance with the scale plans that accompanied the licence application.

Applicants should note that the Licensing Authority is entitled to decide that it is appropriate to grant a licence subject to conditions, but it is not obliged to grant a licence.

More detailed examples of the circumstances in which such a licence may be granted can be found in Part 7 of the Gambling Commission guidance.

¹(The Queen (on the application of) Betting Shop Services Limited –v- Southend-on-Sea Borough Council [2008] EWHC 105 (Admin))

15. Risk assessment

Gambling operators, such as those operating betting shops and adult gaming centres, are required to assess local risks posed by the provision of gambling facilities at each of their premises and how these risks may undermine the licensing objectives.

Local risk assessments must take into account any relevant matters identified in the Licensing Authority's statement of licensing policy.

Risk assessments should take into account the risks presented by the local landscape, such as the premises' exposure to particular vulnerable groups and crime. For example, premises located near temporary accommodation for the homeless or addiction rehabilitation centres will require specific risk identification and appropriate control measures to be put in place.

Operators are required to produce or update a risk assessment when:

- applying for a new premises licence
- applying for a variation to a premises licence
- significant changes in the local environment or at the premises warrant the review of a risk assessment

It is the operator's responsibility to identify when significant changes require their existing risk assessment to be reviewed. To assist, the Licensing Authority will notify licensed operators when changes are made to the Local Area Profile which accompanies this policy. The characteristics identified in local area profiles are not exhaustive and operators may identify other significant factors that they need to take into account. Operators are expected to take a proactive approach in reacting to significant changes to the local environment and they should not wait to be notified by the Licensing Authority before reviewing their risk assessment to account for a change in local circumstances.

Operators will need to review their risk assessment when changes occur at their premises, arising for example from changes to layouts or working practices.

The Council expects risk assessments to be structured in a manner that offers sufficient assurance that a premises has suitable controls and procedures in place. These control measures should reflect the level of risk within the particular area, which will be determined by local circumstances.

Risk does not necessarily relate to events that have happened but also to events that could happen. Risk is related to the probability of an event happening and the likely impact of that event on one or more of the licensing objectives.

The Licensing Authority will challenge an operator's risk assessment where it can be evidenced that there are local risks that the operator has failed to take into consideration or where proposed control measures are deemed to be inadequate.

Licensees and applicants are required to share their local risk assessments with licensing authorities when applying for a premises licence, applying for a variation to an existing premises licence or otherwise at the request of the licensing authority.

It is considered to be good practice for operators to hold a copy of local risks assessments at the premises to which it relates.

Information provided within risk assessments may be used by the Licensing Authority when determining applications for new licences, variations, provisional statements and reviews.

Operators are strongly encouraged to refer to relevant information provided with the Local Area Profile in conjunction with the licensing objectives when formulating or reviewing their risk assessments.

16. Local Area Profiles

Local Area Profiles can provide significant benefits in raising awareness of local risks to the licensing objectives in an area. They enable the Licensing Authority to better serve the local community by identifying the risks within it, providing greater clarity for operators, improving decision making and encouraging a proactive approach.

The Licensing Authority, in conjunction with partner agencies, will produce and publish a Local Area Profile which will be made available on the Council's website and on request from the Licensing Service. The profile will provide geographical information, associated with key characteristics which have been identified as representing higher levels of risk to one or more of the licensing objectives.

The Licensing Authority expects operators of licensed premises to utilise the latest Local Area Profile information when formulating and reviewing their risk assessments. Operators are expected to establish whether the proposed or actual site of their gambling premises falls within a high risk area. Operators will be expected to demonstrate that they have fully considered the potential impact of the operation of gambling facilities at their premises on the promotion of the licensing objectives in the local area.

The Licensing Authority will refer to the latest Local Area Profile information when considering all licence applications.

The Licensing Authority will seek to restrict facilities for gambling in areas where it considers that vulnerable persons will be put at potential risk of harm. Each case will be decided on its merits, however, and new and existing operators will be given the opportunity to demonstrate how they might overcome Licensing Authority concerns prior to determination of any licence application.

17. Planning

The Licensing Authority will not take into account the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal.

Further, when dealing with a premises licence application for finished buildings, the Licensing Authority will not take into account whether those buildings have or comply with the necessary planning or building consents. Those matters should be dealt with under relevant planning controls and building regulation powers and do not form part of the consideration for the premises licence.

The Licensing Authority will, however, consider whether compliance with a planning or building regulation consent would interfere with compliance with licence conditions or the licensing objectives.

18. Duplication with other regulatory regimes

The Licensing Authority will seek to avoid any duplication with other statutory / regulatory systems where possible, including health and safety and fire regulation.

19. Licensing objectives

The Licensing Authority is determined that the residents of, and visitors to Buckinghamshire should be provided with high quality well managed venues for betting and gaming, whilst reducing the risk of crime and disorder and protecting children and the vulnerable. For these reasons the Licensing Authority will expect detailed plans from operators to show how the objectives will be met.

19.1 Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.

Licensees and applicants will be expected to demonstrate through their risk assessment that they have given careful consideration to this requirement and that appropriate control measures have been put in place to ensure compliance.

Licence applications, including review applications, made in areas with higher levels of crime and/or disorder associated with gambling premises will receive particular attention by the Licensing Authority.

The Licensing Authority will expect licence holders and applicants to demonstrate that they have robust control measures in place to tackle crime and disorder issues. In circumstances where the Licensing Authority considers that the proposals are inadequate, additional conditions may be imposed.

Appropriate control measures that may be considered include (but are not limited to):

- Provision of comprehensive CCTV, including details of areas covered and arrangements for operation, monitoring and maintenance.
- Conspicuous warning signs in appropriate places relating to use of CCTV, zero drug tolerance policies, zero staff abuse policy.
- The layout of the premises, enabling staff to have an unobstructed view of customers, machines, entry points and access to toilets.
- Use of fixed/secured furniture.
- Minimum staff levels and arrangements for ensuring staff safety.
- The location of gaming machines and gaming machine design.
- Robust incident reporting procedures.
- Provision of SIA registered door supervisors at key times or days of the week.
- Use of a search policy.
- Strategically placed panic buttons, burglar alarms and personal alarms
- Barring procedures and alerts systems.
- Active participation in Betwatch or similar schemes.
- Encouragement of customers to report crime and disorder issues.
- Appropriate lighting levels.
- Arrangements for monitoring the immediate vicinity of premises.

- Measures to prevent street drinking, urinating in the street, begging, drug taking, litter and obstruction of the public highway associated with the premises.
- Liaison with local police with regard to local crime trends.
- Provision of toilets, with suitable maintenance and monitoring arrangements in place.
- Comprehensive staff training including incident reporting, spotting signs of drug use, crime scene preservation, CCTV and conflict resolution.
- Removal of gambling facilities at certain times or days associated with high risk of crime and disorder.
- Use of security counter screens.

In circumstances where the Licensing Authority considers that the risk to the crime and disorder objective cannot be sufficiently mitigated by either the proposed control measures or additional conditions, an application may be refused or licence revoked in the case of a review application.

19.2 Ensuring that gambling is conducted in a fair and open way

Generally, the integrity of operators of licensed gambling premises will be vetted by the Gambling Commission. Operating and personal licences issued by the Gambling Commission need to be in place prior to licensed premises becoming operational. As a result, the Gambling Commission will generally take the lead in determining whether gambling is being conducted in a fair and open way, although the Licensing Authority will share any relevant information with the Commission in this respect to assist with decision-making and to enable them to carry out effective investigations.

The provision of unauthorised facilities for gambling can be deleterious to the fairness and transparency objective. Examples of unauthorised activity include the provision of illegal gaming machines, unlicensed betting syndicates and “underground” card schools. The Licensing Authority will take robust enforcement action where it is established that unauthorised gambling is taking place at premises within the council area.

19.3 Protecting children and other vulnerable persons from being harmed or exploited by gambling

The Act defines ‘child’ as those persons under 16 years of age and ‘young persons’ as those persons aged 16 or 17. For the purposes of this policy, the Licensing Authority considers “children” to refer to all persons under 18 years old.

The term ‘vulnerable persons’ is not defined within the Act although the Gambling Commission does offer some guidance in this respect which includes:

- People who gamble more than they want to.
- People who gamble beyond their means.
- People who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs.

The Licensing Authority considers that ‘vulnerable persons’ include those listed above but this list is not exhaustive.

The Licensing Authority is aware that the impact of gambling is complex. It is not just the gambler who may be vulnerable to harm or exploitation but also their friends, family, customers and staff at gambling facilities along with the wider society.

What constitutes 'harmed or exploited' is not defined within the Act. There are various issues associated with compulsive or problem gambling including physical, psychological and social harms.

Licensees and applicants will be expected to demonstrate through their risk assessment that they have given careful consideration to indications of deprivation in the local area and the impact of their gambling activities on young people, the homeless, the unemployed, those affected with mental health conditions, those on low incomes and those from identified vulnerable ethnic minority groups, who may be living in or visiting the local area.

Licence applications, including review applications, in areas of where there is a higher degree of concern because of increased risk of harm to or exploitation of children and/or vulnerable persons will receive particular attention by the Licensing Authority.

Licensees and applicants will be expected to demonstrate through their risk assessment that they have given careful consideration to protecting children and vulnerable persons from harm and exploitation and have robust control measures in place. In circumstances where the Licensing Authority considers that the proposals are inadequate, additional conditions may be imposed.

Appropriate control measures that may be considered include:

- Use of refusal logs to record failed proof of age ID checks
- Conspicuous signage advertising proof of age policy
- Use of till prompts to remind staff to implement proof of age policy
- Leaflets offering assistance to problem gamblers prominently displayed on the premises
- Notices displayed on the premises, in appropriate languages, to signpost support services for problem gamblers
- Documented staff training, with regular refresher training, with a focus on identifying vulnerable persons and implementing appropriate strategies for action where necessary
- Maintaining records of customer interactions where staff have concerns that a customer's behaviour may indicate problem gambling
- Regular staff meetings to discuss and identify local vulnerability issues
- Robust implementation of self-exclusion schemes, supported with signposting to appropriate sources of support and advice e.g. GamCare and Gamblers Anonymous
- Records to be maintained of self-exclusions schemes
- Rules being available in relation to the acceptance of bets, void bets, late bets and maximum pay-outs
- Written procedures in place and available in relation to handling customer complaints and the resolution of disputes and the arrangements for referring disputes to an identified independent person or body offering alternative dispute resolution services
- Windows and entrance displays designed so as not to entice passers-by

- Designing the layout, lighting and fitting out of the premises so as not to attract children and other vulnerable persons who might be harmed or exploited by gambling
- Promotional material associated with the premises will be designed not to encourage the use of the premises by children or young people if they are not legally allowed to do so
- Regular liaison with local support services to identify emerging trends and existing issues in respect of vulnerability
- Avoidance of incentives to enter or loiter within shops, for example by not offering free food and drink or prohibiting customers from bringing their own refreshments
- Active participation and support for local forums that support the licensing objectives
- Avoidance of loan working, particularly in high risk areas
- Positioning gaming machines so they are not visible to passers-by
- Daily staff diaries to record any issues of concern observed by staff or actions taken
- The provision of SIA registered door supervisors
- The use of floor walkers to interact with customers
- Monitoring outside areas for signs of customer vulnerability for example alcohol and drug use, signs of homelessness, begging, children congregating outside or children of customers left outside unsupervised
- Effective staff support systems
- Prohibition of ATMs on the premises

This list not is by no means exhaustive and is provided as a guide. Operators and applicants should also be aware that there are extensive conditions attached to operating and personal licences issued by the Gambling Commission, along with additional mandatory conditions imposed by the Act on gambling facilities and activities.

In circumstances where the Licensing Authority considers that the risk of harm or exploitation to children and other vulnerable persons cannot be sufficiently mitigated by either the proposed control measures or additional conditions, an application may be refused or licence revoked in the case of a review application.

For multi-occupied premises, consideration should also be given to the arrangements for controlling access to children and the compatibility of the activities of the occupants. In many cases separate and identifiable entrances may be required so that people do not drift inadvertently into a gambling area.

Children are not permitted to use Category C or above machines and in premises where these machines are available and children are permitted on the premises, the Licensing Authority will generally require:

- all Category C and above machines to be located in an area of the premises which is separated from the remainder of the premises by a physical barrier to prevent access other than through a designated entrance
- adults only to be admitted to the area where these machines are located
- adequate supervised access to the area where the machines are located
- the area where these machines are located is arranged so that it can be observed by the staff or the licence holder

- prominent notices displayed at the entrance to, and inside, any such areas indicating that access to the area is prohibited to persons under 18

20. Conditions

Licensed premises are subject to a variety of conditions. Premises licences granted by the Licensing Authority are subject to mandatory and default conditions as well as additional conditions which may be imposed by the Licensing Authority. Furthermore, they are subject to conditions and codes of practice by virtue of operating licences and personal licences issued by the Gambling Commission.

When considering applications, the Licensing Authority can attach conditions to any licence where it believes that the imposition of conditions will ensure that the operation of the premises is reasonably consistent with the licensing objectives. The Licensing Objectives section in this part of this policy provides further guidance on suggested control measures which may form the basis of the types of conditions imposed by the Licensing Authority. The suggested measures are not exhaustive and there may be other types of conditions considered necessary dependant on the particular circumstances. Each application will be considered on its own merits and conditions attached as appropriate.

Any conditions attached to a licence will be:

- relevant to the need to make the proposed building suitable as a gambling facility
- directly related to the premises and the type of licence applied for
- related to the scale and type of premises, and
- reasonable in all respects.

Certain matters are set out in the Act that may not be the subject of conditions:

- conditions which prevent compliance with an operating licence condition
- conditions relating to gaming machines categories, numbers or method of operation
- conditions requiring membership of a club or body in respect of any part or activity at the premises
- conditions on limits of stakes, fees, winnings or prizes.

21. Door Supervisors

The Gambling Commission advises in its Guidance to Licensing Authorities that if a licensing authority is concerned that particular premises may attract disorder or be subject to attempted unauthorised access (for example by children) it may require that the entrances to the premises are controlled by a door supervisor. In these circumstances the licensing authority is entitled to impose a condition on the premises licence to this effect.

22. Adult Gaming Centres / Licensed Family Entertainment Centres.

In relation to applications or licences for Adult Gaming Centres, the Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or exploitation from gambling and will expect the applicant to satisfy the authority that

there will be sufficient measures to ensure that children do not have access to the premises. Accordingly, the Licensing Authority will give specific consideration to the following control measures:

- Implementation of proof of age schemes
- CCTV
- Supervision of entrances / machine areas
- Location of machines
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours
- Staff training
- Measures in place for staff to recognise indications of problem gambling
- Measures to recognise and deal with children, including truants.

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

Children and young persons may enter Licensed Family Entertainment Centres (FEC's) but are not permitted to play Category C or above machines. The Council will expect the applicant to ensure that there will be sufficient measures in place to prevent children and young persons having access to the adult only gaming machine area.

23. Casinos

The Licensing Authority has not passed a 'no casino' resolution under section 166 of the Gambling Act 2005, but is aware that it has the power to do so. Should the Licensing Authority decide in the future to pass such a resolution, it will update this policy statement with details of that resolution. Any such decision would be made by the Full Council. It should also be noted that there is currently no power within the Act to issue casino licences.

24. Bingo premises

In line with national guidance, bingo can be played in any premises for which a premises licence has been granted which authorises this activity. This will be a relevant consideration where the operator of an existing bingo premises applies to vary their licence to exclude an area of the existing premises from its ambit and then applies for a new premises licence, or multiple licences, for that or those excluded areas.

Under the Act, children and young persons cannot be employed in providing any facilities for gambling on bingo premises and children cannot be employed, in any capacity, at a time when facilities for playing bingo are being offered. However, young persons may be employed in bingo premises (while bingo is being played), provided the activities on which they are employed are not connected with the gaming or gaming machines.

The Licensing Authority considers that the ability of children to enter bingo premises poses a particular risk in terms of access to gaming machines. The Licensing Authority expects applicants to propose robust procedures to ensure that no such access occurs.

25. Betting premises

Betting premises are the most common form of premises licensed by the Licensing Authority for gambling in Buckinghamshire.

Children are not permitted to enter, or be employed at, any premises with a betting premises licence.

Holders of betting premises licences may make available for use up to four gaming machines of category B, C or D. Regulations state that category B machines at betting premises are restricted to sub-category B2, B3 and B4 machines; the most common form of gaming machine in licensed betting premises, Fixed Odd Betting Terminals (FOBTs), fall under this category.

There has been much debate in relation to FOBT's (B2's) and the potential for addiction when playing these machines. The maximum permitted stake for category B2 gaming machines was reduced from £100 to £2 with effect from 1st April 2019.

Licensed betting premises are subject to a variety of conditions. Premises licences, granted by the Licensing Authority, are subject to mandatory, default and possible additional conditions imposed by the Licensing Authority. They are also subject to conditions and Licensing Codes of Practice by virtue of operating licences and personal licences issued by the Gambling Commission.

Licensed betting premises are only permitted to offer gambling facilities between 7am and 10pm unless the licensing authority has granted a variation to extend these hours. The Licensing Authority is concerned that earlier or later opening hours may attract more vulnerable people, such as those who are intoxicated or who have gambling addictions. The Licensing Authority also has concerns that licensed betting premises operators may seek to extend the permitted hours for the primary purpose of making gaming machines available to customers for longer. As a consequence, where an applicant is seeking additional hours, the Licensing Authority will expect their application to demonstrate that robust measures will be in place to protect the vulnerable and that additional hours are not being sought to take advantage of the gaming machine entitlement.

The Licensing Authority has the power to restrict the number of betting machines (bet receipt terminals), their nature and the circumstances in which they are available for use by way of conditions. Essentially, betting machines allow customers to place bets in the same way that they can at the betting shop counter without the need for staff interaction. When considering imposing conditions, the Licensing Authority will take into account the following, among other factors:

- the size and physical layout of the premises
- the number of counter positions
- the ability of staff to monitor the use of machines by children or vulnerable people, people under the influence of drink or drugs and those involved in criminal activity, for example money laundering.

26. Tracks

The Licensing Authority is aware that tracks may be subject to one or more premises licences, provided each licence relates to a specified area of the track.

The Licensing Authority will especially consider the impact upon the licensing objective of the protection of children and vulnerable persons from being harmed or exploited by gambling and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

Children are permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing take place but that they are prevented from entering areas where gaming machines (other than category D machines) are provided. The authority will therefore expect the premises licence applicant to risk assess the proposed operation and demonstrate suitable measures to ensure that children do not have access to adult-only gaming facilities.

Control measures may include:

- Proof of age schemes
- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours

This list is neither mandatory nor exhaustive but is indicative of example measures.

27. Provisional Statements

Developers may wish to apply to this authority for provisional statements before entering into a contract to buy or lease property or land to judge whether a development is viable in light of the need to obtain a premises licence. There is no need for the applicant to hold an operating licence in order to apply for a provisional statement.

Section 204 of the Act permits an application for a premises licence to be made to licensing authorities for a provisional statement in respect of premises that he or she:

- expects to be constructed
- expects to be altered, or
- expects to acquire a right to occupy.

The process for considering an application for a provisional statement is the same as that for a premises licence application and the applicant is obliged to give notice of the application in the same way. Responsible authorities and interested parties may make representations and there is a right of appeal against the decision.

In contrast to the premises licence application, the applicant does not have to hold or have applied for an operating licence from the Gambling Commission (except in the case of a track) and they do not have to have a right to occupy the premises in respect of which their provisional application is made.

The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired. Licensing authorities will be constrained in the matters they can consider when determining any subsequent premises licence

application and no further representations from relevant authorities or interested parties can be taken into account unless:

- they concern matters which could not have been addressed at the provisional statement stage, or
- they reflect a change in the applicant's circumstances.

In addition, the authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:

- which could not have been raised by objectors at the provisional statement stage
- which in the licensing authority's opinion reflect a change in the operator's circumstances, or
- where the premises have not been constructed in accordance with the plan submitted with the application. This must be a substantial change to the plan and this Licensing Authority notes that it can discuss any concerns with the applicant before making a decision.

28. Reviews

Requests for a review of a premises licence can be made by interested parties or responsible authorities. The Licensing Authority must decide whether or not to accept review applications.

These decisions will be made taking into account whether the objection or complaint relates to any of the following:

- a breach of any relevant code of practice issued by the Gambling Commission
- a breach of any relevant guidance issued by the Gambling Commission
- gambling which is not reasonably consistent with the licensing objectives, or
- gambling which is not in accordance with the authority's statement of licensing policy.

Section 198 of the Act provides reasons for the rejection of a review application by the licensing authority where it considers that the grounds on which the review is sought:

- do not raise an issue relevant to the principles to be applied in accordance with section 153,
- are frivolous,
- are vexatious,
- will certainly not cause the authority to wish to take action of a kind specified in section 202(1),
- are substantially the same as the grounds specified in an earlier application under section 197 in respect of the premises licence, or
- are substantially the same as representations made under section 161 in relation to the application for the premises licence.

Any decision by the Licensing Authority to accept a formal review application is in no way a pre-determination of the outcome.

The Licensing Authority can also initiate a review of a particular premises licence, or a particular class of premises licence on the basis of any reason which it thinks is appropriate.

The 'aim to permit' framework provides wide scope for licensing authorities to review premises licences where there is a potential conflict with the Gambling Commission's codes of practice, the Gambling Commission's Guidance to Licensing Authorities, the licensing objectives or this statement of policy.

The Licensing Authority will endeavour to actively engage with operators of licensed premises prior to discharging its powers to instigate a review. As part of this engagement process, the Licensing Authority will expect operators to make their local risk assessment available. The Licensing Authority may exercise its right to instigate a review if the operator's local risk assessment does not offer reasonable measures to address and mitigate risks.

Once a valid application for a review has been received by the Licensing Authority, representations can be made by responsible authorities and interested parties during a 28-day consultation period. The Licensing Authority must carry out the review as soon as possible after this period has passed.

The purpose of the review will be to determine whether the Licensing Authority should take any action in relation to the licence. If action is justified, the options open to the Licensing Authority are: -

- add, remove or amend a licence condition imposed by the Licensing Authority
- exclude a default condition imposed by the Secretary of State (e.g. opening hours) or remove or amend such an exclusion
- suspend the premises licence for a period of not exceeding three months, or
- revoke the premises licence.

In determining what action, if any, should be taken following a review, the Licensing Authority must have regard to the principles set out in section 153 of the Act, as well as any relevant representations.

In particular, the Licensing Authority may also initiate a review of a premises licence on the grounds that a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.

Once the review has been completed, licensing authorities must, as soon as possible, notify the decision to:

- the licence holder
- the applicant for review (if any)
- the Commission
- any person who made representations
- the chief officer of police or chief constable, and
- Her Majesty's Commissioners for Revenue and Customs

PART C

Permits / Temporary & Occasional Use Notice

29. Unlicensed Family Entertainment Centre (FEC) gaming machine permits (Statement of Principles on Permits - Schedule 10 paragraph 7)

Where a premises does not hold a premises licence but wishes to provide gaming machines, it may apply to the Licensing Authority for this permit. The applicant must demonstrate that the premises will be wholly or mainly used for making gaming machines available for use.

In accordance with national guidance and given that such premises are likely to appeal particularly to children, the Licensing Authority will give weight to matters relating to protection of children from being harmed or exploited by gambling.

Also, in accordance with national guidance, the Licensing Authority may ask applicants to demonstrate:

- that both the applicant and all staff have a full understanding of the maximum stakes and prizes that are permissible in unlicensed FECs
- that the applicant has no relevant convictions as set out in Schedule 7 of the Act

The Licensing Authority will expect the applicant to demonstrate that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include :

- A basic criminal record check for applicant and staff
- Staff training programme to include how to deal with:
 - o Unsupervised very young children being on the premises
 - o Children causing/perceived to be causing problems in or around the premises
 - o Suspected truant children
 - o SafeguardingThe licensing authority will also expect applicants to demonstrate:
- A full understanding of the maximum stakes and prizes of the gambling that is permissible in an unlicensed family entertainment centre;
- That the applicant has no relevant conviction (as set out in Schedule 7 of the Gambling Act 2005); and
- That staff are trained to have a full understanding of the maximum stakes and prizes

Licensing authorities may not attach conditions to these permits although the application may be refused if the licensing authority is not satisfied that the issues raised above have been addressed in the application.

30. (Alcohol) Licensed premises gaming machine permits - (Schedule 13 paragraph 4(1))

Automatic entitlement: 2 machines

There is provision in the Act for premises licensed to sell alcohol (for consumption on the premises) to automatically have 2 gaming machines of categories C and/or D. The premises merely need to notify the relevant licensing authority. If the licence holder transfers the alcohol premises licence the automatic entitlement also ceases. In these circumstances the new licence holder would need to notify the licensing authority of their intention to make the gaming machine available for use and paying the prescribed fee. Likewise, if the alcohol licence ceases to have effect because it is suspended, any gaming machines cannot be used.

The Licensing Authority may remove the automatic authorisation relating to any particular premises if:

- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives
- gaming has taken place on the premises that breaches a condition of either section 279 or section 282(1) of the Act
- the premises are mainly used for gaming, or
- an offence under the Act has been committed on the premises.

31. Permit: 3 or more machines

Where more than 2 machines are required, an application for a permit must be made which the Licensing Authority will consider based on the licensing objectives, any guidance issued by the Gambling Commission and *“such matters as they think relevant.”*

The Licensing Authority will consider each application on its merits, but generally the Authority will have regard to the need to protect children and vulnerable persons from harm or exploitation by gambling and so will expect the applicant to demonstrate that there will be sufficient measures in place to ensure that children and young people do not have access to the adult only gaming machines. Such measures may include the ability to supervise machines from the bar or by supervisory staff specifically trained for that purpose. In relation to the protection of vulnerable persons, applicants may wish to consider the provision of information such as leaflets or helpline numbers for organisations such as GamCare.

It should also be noted that the holder of a permit must comply with the code of practice for gaming machines in clubs and premises with an alcohol licence issued by the Gambling Commission.

32. Prize Gaming Permits

The Act states that a licensing authority may “prepare a statement of principles that they propose to apply in exercising their functions under this Schedule” which “may, in particular, specify matters that the licensing authority proposes to consider in determining the suitability of the applicant for a permit”.

The Licensing Authority will require applicants for this type of permit to set out the types of gaming that he or she is intending to offer and be able to demonstrate:

- that they understand the limits to stakes and prizes that are set out in Regulations;
- that the gaming offered is within the law

- clear policies that outline the steps to be taken to protect children from harm.

33. Club Gaming and Club Machines Permits

Club Gaming Permit (CGP)

A Club Gaming Permit is available to members' clubs, miners' welfare institutes, but not commercial clubs. It allows the club to offer:

- equal chance gaming such as poker and bingo
- up to three gaming machines in total of categories B3A, B4, C or D, and by agreement, only one machine can be of category B3A.

The Permit also allows games of chance which are specified as Pontoon and Chemin de Fer only. These games are seldom played and were specified in previous Gambling legislation.

Restrictions on Club Gaming Permits are:

- no limits on stakes and prizes, except bingo where there is a stakes and prizes limit of £2,000 in any seven-day period
- limit on participation fees per person per day; £20 for bridge and / or whist (if played on a day on which no facilities of any kinds of gaming (other than bridge or whist) are provided by the relevant club on that day), £3 for other gaming (including poker) in any other circumstances

Club Machine Permit (CMP)

A Club Machine Permit is available to members' clubs, miners' welfare institutes, and commercial clubs. It allows the club to offer:

- equal chance gaming such as poker and bingo
- up to three gaming machines in total of categories B3A, B4, C or D, but by agreement, only one machine can be of category B3A (B3A not permitted for commercial clubs).

Restrictions on the gaming are:

- limit on stakes and prizes for bingo; £2,000 in any seven-day period
- limit on stakes for poker; £10 per person per game, within a premises limit of £250 in stakes per day and £1,000 per week
- limit on prizes for poker; £250 per game
- limit on participation fees per person per day; £18 for bridge/whist (if played on a day on which no facilities of any kind of gaming (other than bridge or whist) are provided by the relevant club on that day), £1 for other gaming (including poker), £3 where it's a commercial club.

The provision of equal chance gaming must comply with the Gambling Commission's code of practice for equal chance gaming in clubs and premises with an alcohol licence. The

provision of gaming machines must comply with the code of practice for gaming machines in clubs and premises with an alcohol licence issued by the Gambling Commission.

In considering applications for permits under these provisions, the Licensing Authority will have regard to Part 25 of the national guidance issued by the Gambling Commission.

34. Temporary Use Notices

Temporary Use Notices (TUN's) should not be confused with Temporary Event Notices which are granted under the Licensing Act 2003. A TUN allows for the temporary use of premises for gambling where there is no premises licence issued under the Gambling Act 2005. Premises that might be suitable for a TUN could include hotels, conference centres and sporting venues.

The Licensing Authority can only grant a TUN to a person or company holding a relevant operating licence, for example a non-remote casino operating licence.

The regulations state that a TUN can only be used to permit the provision of facilities for equal chance gaming where the gaming produces a single winner.

In practice this often relates to poker tournaments and allows a casino operator to apply for a number of TUN's in various regional locations such as hotel event spaces, so they can hold preliminary rounds of a poker competition before holding the final in their main licensed venue.

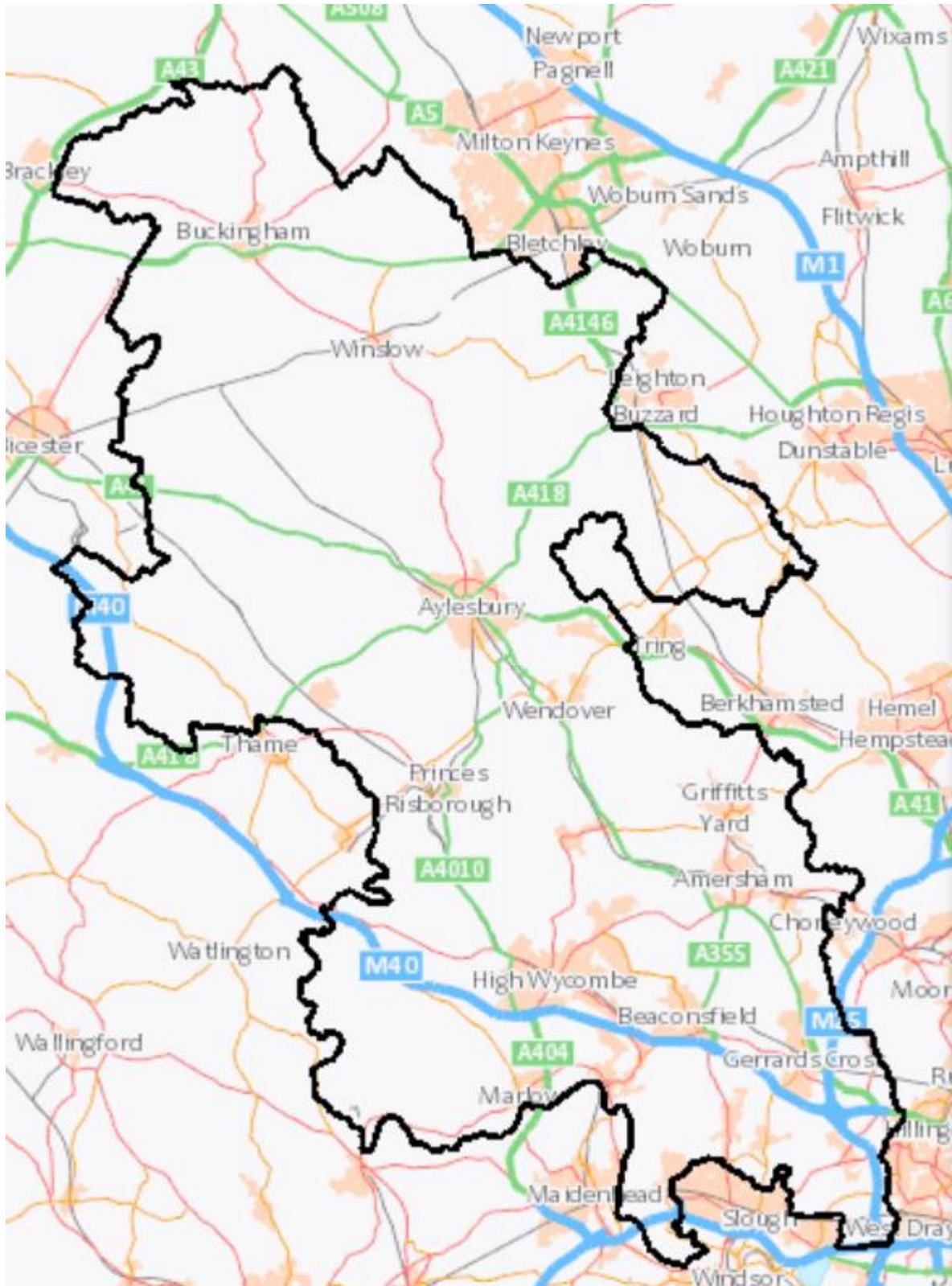
If objections are received to a TUN, the objections will be considered at a hearing, unless all parties agree that a hearing is unnecessary. The principles applied by the Licensing Authority will be those under section 153 of the Act.

35. Occasional Use Notices

Section 39 of the Act provides that where there is betting on a track on eight days or less in a calendar year, betting may be permitted by an occasional use notice. Licensing authorities have little discretion in relation to these notices apart from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. The Licensing Authority will take into consideration the definition provided of a 'track' to determine whether the applicant is permitted to avail him/herself of the notice.

Appendix 1

Buckinghamshire Council area



Appendix 2

List of Consultees

The following persons have been consulted in the preparation of this revised policy:

The Chief Officer of Police, Thames Valley Police

The Licensing Authority

The Gambling Commission

Buckinghamshire Fire and Rescue

Planning, Buckinghamshire Council

Environmental Health, Buckinghamshire Council

Buckinghamshire Safeguarding Children Board

HM Commissioners of Customs and Excise

Premises licence and permit holders under the Gambling Act 2005 within the District

Buckinghamshire Safeguarding Adult Board

One Recovery Bucks

Bucks Mind

Healthy Minds Bucks

Citizens Advice Bureaus

Gamcare

Gamblers Anonymous

Councillors Buckinghamshire Council

Town/Parish Councils

BACTA

Association of British Bookmakers Limited

The Bingo Association Limited

Appendix 3

TABLE OF DELEGATIONS OF LICENSING FUNCTIONS

| MATTER TO BE DEALT WITH | FULL COUNCIL | LICENSING PANEL (COMMITTEE FOR CASINO APPLICATIONS) | OFFICERS |
|--|--------------|---|---|
| Three year licensing policy | X | (via Executive) | |
| Policy not to permit casinos | X | (via Licensing Committee) | |
| Fee Setting - when appropriate | X | (via Licensing Committee) | |
| Application for a casino licence | | X (full Committee) | |
| Application for premises licences and Application for a variation to a licence and Application for a provisional statement and Application for club gaming/club machine permits | | Where representations have been received and not withdrawn. Where conditions are proposed to be attached or default conditions excluded under s.169(1) of the Act and the parties have not agreed to dispense with the requirement for a hearing | Where no representations received/representations have been withdrawn Where conditions are proposed to be attached or default conditions excluded under s.169(1) of the Act and all parties have agreed to dispense with a hearing Determination as to whether representation made under s. 161 is vexatious, frivolous or irrelevant will not influence the Licensing Authority's determination of the application Decision to make a representation as a |

| | | | responsible body in appropriate cases |
|---|--|--|---|
| Application for a transfer of a licence | | Where representations have been received from the Commission | Where no representations received from the Commission |
| Review of a premises licence | | X | |
| Cancellation of club gaming/ club machine permits | | X | |
| Applications for other permits | | | X |
| Cancellation of licensed premises gaming machine permits | | | X |
| Consideration of temporary use notice | | | X |
| Decision to give a counter notice to a temporary use notice | | X | |
| Decision as to whether representation is frivolous or vexatious | | | X |

Appendix 2 - Gambling fee benchmarking

| Type of Gambling premises | Maximum permitted fee | Fee level by local authority area | | | | | | | | | | | | | | | |
|----------------------------|-----------------------|-----------------------------------|----------------|---------------------|---------|------------------|------------|----------------------|----------|------------|-------------|--------------|------------|--------|-------|------------|---------|
| | | Proposed Buckinghamshir | Aylesbury Vale | Chiltern &Sth Bucks | Wycombe | RB Ken & Chelsea | East Cambs | Windsor & Maidenhead | Sth Oxon | Manchester | Bournemouth | Three Rivers | Hillingdon | Slough | York | Darlington | Preston |
| Large Casino | | | | | | | | | | | | | | | | | |
| App. Fee | £10,000 | £8,895 | | 10,000 | 6,600 | 5,270 | 10,000 | 10,000 | | | | | | | | | |
| Annual fee | £10,000 | £6,671 | | 10,000 | 6,600 | 1,474 | 10,000 | 10,000 | | | | | | | | | |
| Transfer | £2,150 | £1,475 | | 2,150 | 1,500 | 161 | 2,150 | 2,150 | | | | | | | | | |
| Variation | £5,000 | £3,595 | | 5,000 | 3,300 | 636 | 5,000 | 5,000 | | | | | | | | | |
| Prov statement | £10,000 | £8,895 | | 10,000 | 3,300 | 5,135 | 10,000 | 10,000 | | | | | | | | | |
| Re-instatement | £2,150 | £1,475 | | 2,150 | 1,500 | 161 | 2,150 | 2,150 | | | | | | | | | |
| Lic app(Prov Statement) | £5,000 | £3,595 | | 5,000 | 6,000 | 593 | 5,000 | 5,000 | | | | | | | | | |
| Licence copy | £25 | 14 | | 25 | 15 | 25 | 25 | 25 | | | | | | | | | |
| Notice of change | £50 | 28 | | 50 | 30 | 48 | 50 | 50 | | | | | | | | | |
| Small Casino | | | | | | | | | | | | | | | | | |
| App. Fee | £8,000 | £8,000 | | 8,000 | 8,000 | 3,835 | 8,000 | 8,000 | | | 7,613 | | | | | | |
| Annual fee | £5,000 | £5,000 | | 5,000 | 5,000 | 1,474 | 8,000 | 5,000 | | | 4,759 | | | | | | |
| Transfer | £1,800 | £1,475 | | 1,800 | 1,800 | 161 | 1,800 | 1,800 | | | 1,544 | | | | | | |
| Variation | £4,000 | £3,595 | | 4,000 | 4,000 | 3,700 | 4,000 | 4,000 | | | 3,180 | | | | | | |
| Prov statement | £8,000 | £8,000 | | 8,000 | 8,000 | 593 | 8,000 | 8,000 | | | 7,613 | | | | | | |
| Re-instatement | £1,800 | £1,475 | | 1,800 | 1,800 | 161 | 1,800 | 1,800 | | | 1,544 | | | | | | |
| Lic app(Prov Statement) | £3,000 | £3,000 | | 3,000 | 3,000 | 593 | 3,000 | 3,000 | | | 2,792 | | | | | | |
| Licence copy | £25 | 14 | | 25 | 15 | 25 | 25 | 25 | | | 25 | | | | | | |
| Notice of change | £50 | 28 | | 50 | 30 | 48 | 50 | 50 | | | 50 | | | | | | |
| Bingo Hall | | | | | | | | | | | | | | | | | |
| App. Fee | £3,500 | £2,112 | 1,959 | 3,500 | 2,300 | 3,405 | 3,500 | 3,500 | 3,500 | 3,500 | 2,900 | 890 | 3,500 | 2,625 | 2,800 | 1,300 | 3,500 |
| Annual fee | £1,000 | £555 | 259 | 1,000 | 660 | 1,000 | 1,000 | 1,000 | 1,000 | 1,000 | 820 | 600 | 1,000 | 750 | 840 | 600 | 1,000 |
| Transfer | £1,200 | £690 | 680 | 1,200 | 800 | 161 | 1,200 | 1,200 | 1,200 | 1,200 | 808 | 890 | 1,200 | 900 | 960 | 1,200 | 1,200 |
| Variation | £1,750 | £1,072 | 703 | 1,700 | 1,200 | 892 | 1,750 | 1,700 | 1,700 | 1,750 | 1,444 | 890 | 1,750 | 1,315 | 1,400 | 1,300 | 1,750 |
| Prov statement | £3,500 | £2,112 | 1,959 | 3,500 | 2,300 | 3,270 | 3,500 | 1,200 | 3,500 | 3,500 | 2,900 | 890 | 3,500 | 2,625 | 2,800 | 1,300 | 3,500 |
| Re-instatement | £1,200 | £690 | 687 | 1,200 | 800 | 161 | 1,200 | 1,200 | 1,200 | 759 | 808 | 890 | 1,200 | 900 | 960 | 1,200 | 1,200 |
| Lic app(Prov Statement) | £1,200 | £690 | 687 | 1,200 | 1,200 | 530 | 1,200 | 500 | 1,200 | 1,200 | 1,044 | 890 | 1,200 | 900 | 960 | | 1,200 |
| Licence copy | £25 | 14 | 17 | 25 | 15 | 25 | 25 | 25 | 25 | 25 | 25 | 25 | 25 | 25 | | 25 | 25 |
| Notice of change | £50 | 28 | 28 | 50 | 30 | 48 | 50 | 50 | 50 | 50 | 50 | 35 | 50 | 50 | | 50 | 50 |
| Adult Gaming Centre | | | | | | | | | | | | | | | | | |
| App. Fee | £2,000 | £1,512 | 1,959 | 2,000 | 1,320 | 2,000 | 2,000 | 2,000 | 2,000 | 2,000 | 1,620 | 890 | 2,000 | 1,500 | 1,600 | 1,300 | 2,000 |
| Annual fee | £1,000 | £533 | 259 | 1,000 | 660 | 809 | 1,000 | 1,000 | 1,000 | 1,000 | 820 | 600 | 1,000 | 750 | 840 | 600 | 1,000 |
| Transfer | £1,200 | £690 | 680 | 1,200 | 800 | 161 | 1,200 | 1,200 | 1,200 | 1,200 | 714 | 890 | 1,200 | 900 | 960 | 1,200 | 1,200 |
| Variation | £1,000 | £702 | 703 | 1,000 | 660 | 1,000 | 1,000 | 1,000 | 1,000 | 1,000 | 842 | 890 | 1,000 | 750 | 800 | 1,300 | 1,000 |
| Prov statement | £2,000 | £1,512 | 1,959 | 2,000 | 1,320 | 2,000 | 2,000 | 2,000 | 2,000 | 2,000 | 1,620 | 890 | 2,000 | 1,500 | 1,600 | 1,300 | 2,000 |
| Re-instatement | £1,200 | £690 | 687 | 1,200 | 800 | 161 | 1,200 | 1,200 | 1,200 | 759 | 714 | 890 | 1,200 | 900 | 960 | 1,200 | 1,200 |
| Lic app(Prov Statement) | £1,200 | £690 | 687 | 1,200 | 1,320 | 512 | 1,200 | 1,200 | 1,200 | 1,200 | 794 | 890 | 2,000 | 1,500 | 960 | | 1,200 |
| Licence copy | £25 | 14 | 17 | 25 | 15 | 25 | 25 | 25 | 25 | 25 | 25 | 25 | 25 | 25 | | 25 | 25 |
| Notice of change | £50 | 28 | 28 | 50 | 30 | 48 | 50 | 50 | 50 | 50 | 50 | 35 | 50 | 50 | | 50 | 50 |

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Appendix 2 (continued) - Gambling fee benchmarking

| Type of Gambling premises | Maximum permitted fee | Fee level by local authority area | | | | | | | | | | | | | | | |
|---------------------------------|-----------------------|-----------------------------------|----------------|---------------------|---------|------------------|------------|----------------------|----------|------------|-------------|--------------|------------|--------|-------|------------|---------|
| | | Proposed Buckinghamshire | Aylesbury Vale | Chiltern &Sth Bucks | Wycombe | RB Ken & Chelsea | East Cambs | Windsor & Maidenhead | Sth Oxon | Manchester | Bournemouth | Three Rivers | Hillingdon | Slough | York | Darlington | Preston |
| Betting premises (Track) | | | | | | | | | | | | | | | | | |
| App. Fee | £2,500 | £1,723 | 1,959 | 2,500 | 1,650 | | 2,500 | 2,500 | 2,500 | 2,500 | 2,296 | 890 | 2,500 | 1,875 | 2,000 | 1,300 | 2,500 |
| Annual fee | £1,000 | £611 | 259 | 1,000 | 660 | | 750 | 1,000 | 1,000 | 1,000 | 820 | 600 | 1,000 | 50 | 840 | 550 | 1,000 |
| Transfer | £950 | £690 | 680 | 950 | 660 | | 950 | 950 | 950 | 1,000 | 808 | 890 | 1,250 | 715 | 760 | 950 | 950 |
| Variation | £1,250 | £789 | 703 | 1,250 | 800 | | 1,250 | 1,250 | 1,200 | 1,200 | 1,092 | 890 | 950 | 940 | 1,000 | 1,300 | 1,250 |
| Prov statement | £2,500 | £1,723 | 1,959 | 2,500 | 1,650 | | 2,500 | 3,000 | 2,500 | 2,500 | 2,296 | 890 | 2,500 | 1,875 | 2,000 | 1,300 | 2,500 |
| Re-instatement | £950 | £690 | 687 | 950 | 660 | | 950 | 1,200 | 950 | 759 | 808 | 890 | 950 | 715 | 760 | 950 | 950 |
| Lic app(Prov Statement) | £950 | £690 | 687 | 950 | 600 | | 950 | 1,200 | 950 | 950 | 794 | 890 | 950 | 715 | 760 | | 950 |
| Licence copy | £25 | 14 | 17 | 25 | 15 | | 25 | 25 | 25 | 25 | 25 | 25 | 25 | 25 | | 25 | 25 |
| Notice of change | £50 | 28 | 28 | 50 | 30 | | 50 | 50 | 50 | 50 | 50 | 35 | 50 | 50 | | 50 | 50 |
| Family Ent. Centre | | | | | | | | | | | | | | | | | |
| App. Fee | £2,000 | £1,512 | 1,959 | 2,000 | 1,320 | 2,000 | 2,000 | 2,000 | 2,000 | 2,000 | 1,620 | 890 | 2,000 | 1,500 | 1,600 | 1,300 | 2,000 |
| Annual fee | £750 | £533 | 259 | 750 | 500 | 750 | 750 | 750 | 750 | 750 | 660 | 600 | 750 | 565 | 635 | 550 | 750 |
| Transfer | £950 | £690 | 680 | 950 | 660 | 161 | 950 | 950 | 950 | 950 | 714 | 890 | 950 | 715 | 760 | 950 | 950 |
| Variation | £1,000 | £702 | 703 | 1,000 | 600 | 892 | 1,000 | 1,000 | 1,000 | 1,000 | 842 | 890 | 1,000 | 750 | 800 | 1,300 | 1,000 |
| Prov statement | £2,000 | £1,512 | 1,959 | 2,000 | 1,320 | 2,000 | 2,000 | 2,000 | 2,000 | 2,000 | 1,620 | 890 | 2,000 | 1,500 | 1,600 | 1,300 | 2,000 |
| Re-instatement | £950 | £690 | 687 | 950 | 660 | 161 | 950 | 950 | 950 | 759 | 714 | 890 | 950 | 715 | 760 | 950 | 1,200 |
| Lic app(Prov Statement) | £950 | £690 | 687 | 950 | 660 | 530 | 950 | 950 | 950 | 950 | 794 | 890 | 950 | 715 | 760 | | 1,200 |
| Licence copy | £25 | 14 | 17 | 25 | 15 | 25 | 25 | 25 | 25 | 25 | 25 | 25 | 25 | 25 | | 25 | 25 |
| Notice of change | £50 | 28 | 28 | 50 | 30 | 48 | 50 | 50 | 50 | 50 | 50 | 35 | 50 | 50 | | 50 | 50 |
| Betting Prem (Other) | | | | | | | | | | | | | | | | | |
| App. Fee | £3,000 | £1,956 | 1,959 | 3,000 | 2,000 | 1,175 | 3,000 | 3,000 | 3,000 | 3,000 | 2,472 | 890 | 3,000 | 2,250 | 2,400 | 1,300 | 3,000 |
| Annual fee | £600 | £415 | 259 | 600 | 400 | 558 | 600 | 600 | 600 | 1,000 | 595 | 600 | 600 | 450 | 515 | 550 | 600 |
| Transfer | £1,200 | £690 | 680 | 1,200 | 1,000 | 161 | 1,200 | 1,200 | 1,200 | 1,200 | 808 | 890 | 1,200 | 900 | 960 | 1,200 | 1,200 |
| Variation | £1,500 | £1,072 | 703 | 1,500 | 1,000 | 407 | 1,500 | 1,500 | 1,500 | 1,500 | 1,370 | 890 | 1,500 | 1,125 | 1,200 | 1,300 | 1,500 |
| Prov statement | £3,000 | £1,956 | 1,959 | 3,000 | 2,000 | 1,040 | 3,000 | 3,000 | 3,000 | 3,000 | 2,472 | 890 | 3,000 | 2,250 | 2,400 | 1,300 | 3,000 |
| Re-instatement | £1,200 | £690 | 687 | 1,200 | 800 | 161 | 1,200 | 1,200 | 1,200 | 759 | 808 | 890 | 1,200 | 900 | 960 | 1,300 | 1,200 |
| Lic app(Prov Statement) | £1,200 | £690 | 687 | 1,200 | 1,000 | 501 | 1,200 | 1,200 | 1,200 | 950 | 1,044 | 890 | 1,200 | 900 | 960 | | 1,200 |
| Licence copy | £25 | 14 | 17 | 25 | 15 | 25 | 25 | 25 | 25 | 25 | 25 | 25 | 25 | 25 | | 25 | 25 |
| Notice of change | £50 | 28 | 28 | 50 | 30 | 48 | 50 | 50 | 50 | 50 | 50 | 35 | 50 | 50 | | 50 | 50 |
| Temporary Use Notice | | | | | | | | | | | | | | | | | |
| Grant fee | £500 | £395 | | | | | | | | | | | | | | | |
| Copy of Notice | £25 | £14 | | | | | | | | | | | | | | | |
| Notification of Change | £50 | £28 | | | | | | | | | | | | | | | |

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BUCKINGHAMSHIRE COUNCIL – LOCAL AREA PROFILE

Gambling Act 2005

1. Introduction

Buckinghamshire Council is a unitary authority created in April 2020 from Buckinghamshire County Council AND the districts of Aylesbury Vale, Chiltern, South Bucks and Wycombe.

The council area is largely rural although there are a number of significant urban areas including Aylesbury, Buckingham, Amersham, Chesham, Beaconsfield, High Wycombe and Marlow.

The Council's Corporate Plan for the authority can be accessed via the following link:
<https://www.buckinghamshire.gov.uk/your-council/corporate-plan/corporate-plan-2020-2023/>

Local Area Profiles (LAP's) are intended to assist existing and prospective operators in creating risk assessments by raising awareness of local issues in the authority area which may affect the licensing objectives. They also enable the Licensing Authority to better serve the local community by identifying risks, providing greater clarity for operators, improving decision making and encouraging a proactive approach.

It is the operator's responsibility to identify when significant changes may require existing risk assessments to be reviewed. To assist, the Licensing Authority will notify licensed operators when changes are made to the LAP. The characteristics identified in local area profiles are not exhaustive and operators may identify other significant factors that need to be taken into account. Operators are expected to take a proactive approach in reacting to significant changes to the local environment and they should not wait to be notified by the Licensing Authority before reviewing their risk assessment to account for a change in local circumstances.

The Licensing Authority will refer to information in the latest LAP when considering premises licence applications and will routinely review information in the LAP to ensure that its content remains current.

The links and signposts provided in this document are intended to assist operators and applicants to produce and update tailored risk assessments, specific to their individual premises and with regard to the Licensing Authority's Statement of Licensing Policy and the licensing objectives.

2. Gambling Commission Guidance

The Commission has introduced a new social responsibility code (10.1.1 updated June 2021) within the Licence Conditions and Codes of Practice (LCCP) which confirms that premises licence holders must conduct a local risk assessment for each of their current premises. This social responsibility code allows operators to demonstrate how they aim to address any

local risks which may affect compliance with the licensing objectives. The code can be accessed via the following link:

<https://www.gamblingcommission.gov.uk/licensees-and-businesses/guide/local-area-risk-assessments>

Gambling operators must assess any local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and must have policies, procedures and control measures in place to mitigate those risks, having taken into account all relevant information.

Risk assessments need to be site specific and not generic 'one size fits all' documents. The purpose of the local area risk assessments is to allow operators, stakeholders and local authorities to have a greater understanding of the local environment and mitigate possible risks to the licensing objectives.

3. Aylesbury Vale Zone

A full profile of the composition of the zone can be found using the following links, which provides data in respect of:

- Map of the locality
- Demographic and Public Health data
- Life style
- Local Plan
- Transport and Employment
- GP/Patient services used
- Community Assets

<https://www.buckinghamshireccg.nhs.uk/wp-content/uploads/2013/03/Locality-Profile-Aylesbury-Central-2016.docx>

<https://www.buckinghamshireccg.nhs.uk/wp-content/uploads/2013/03/Locality-Profile-Aylesbury-South-2016.pdf>

4. Amersham, Chesham and Beaconsfield & High Wycombe

A full profile of the composition of the zone can be found using the following links, which provides data in respect of:

- Map of the locality
- Demographic and Public Health data
- Life style
- Local Plan
- Transport and Employment
- GP/Patient services used

- Community Assets

<https://www.buckinghamshireccg.nhs.uk/wp-content/uploads/2016/11/Southern-GP-Locality-Profile.pdf>

<https://www.buckinghamshireccg.nhs.uk/wp-content/uploads/2016/11/Amersham-Chesham-GP-Locality-Profile.pdf>

<https://www.buckinghamshireccg.nhs.uk/wp-content/uploads/2016/12/Wycombe-GP-Locality-Profile.pdf>

5. Identifying Sensitive Locations

Specific Community Board webpages provide key information which should be considered in conjunction with the relevant legacy authority local development plans. This data should assist in identifying higher levels of risk to one or more of the licensing objectives, which are:

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
- Ensuring that gambling is conducted in a fair and open way
- Protecting children and other vulnerable persons from being harmed or exploited by gambling

Operators are expected to establish whether their gambling premises are in the vicinity of a high risk area and will be expected to demonstrate that they have fully considered the potential impact of the operation of gambling facilities at their premises on the promotion of the licensing objectives in the local area.

6. Community Boards

The licensing authority is split into 16 definable Community Board (population) zones. A full profile of the composition of each zone can be found using the following links, which provides data relating to:

- Population
- Education and Skills
- Vulnerable Groups
- The economy
- Housing
- Access and Transport
- Crime and Safety
- Communities and Environment;
- Health and Wellbeing

Information in relation to these community board areas can be found at the following links:

- [Amersham](#)
- [Aylesbury](#)
- [Beaconsfield & Chepping Wye](#)
- [Beeches](#)
- [Buckingham & Villages](#)
- [Chesham & Villages](#)
- [Denham, Gerrards Cross & The Chalfonts](#)
- [Haddenham & Waddesdon](#)
- [High Wycombe](#)
- [Missendens](#)
- [North West Chilterns](#)
- [South West Chilterns](#)
- [Wendover & Villages](#)
- [Wexham and the Ivers](#)
- [Wing & Ivinghoe](#)
- [Winslow & Villages](#)

7. Local Plan

The Council has started initial work on a new unitary Local Plan (link below) which will set out the long-term vision and strategic context for managing and accommodating growth within the district.

<https://www.buckinghamshire.gov.uk/planning-and-building-control/local-development-plans/local-development-scheme/our-current-plans-and-documents/>

Until the new Local Plan has been adopted, local profiles should be assessed in conjunction with the local development plans for the legacy council areas, as below:

Aylesbury: [Adopted Aylesbury Vale District Local Plan \(AVDLP\) 2004 | Buckinghamshire Council | Aylesbury Vale Area \(aylesburyvaledc.gov.uk\)](#)

Chiltern: [Buckinghamshire Council – Chiltern Area - Development Plan](#)

South Bucks DC: [Buckinghamshire Council – South Bucks Area - Development Plan](#)

Wycombe DC: [Wycombe development plan](#)



Report to Licensing Committee

| | |
|-----------------------------|---|
| Date: | 20 October 2021 |
| Reference number: | N/A |
| Title: | Implementation of Policy & Fees regarding Fit and Proper Persons for Mobile Home Parks |
| Cabinet Member(s): | Cllr Nick Naylor, Cabinet Member for Housing, Homelessness & Regulatory Services |
| Contact officer: | Jacqui Bromilow, Head of Environmental Health |
| Ward(s) affected: | None specific (has potential to affect all wards) |
| Recommendations: | To accept the policy and suggested fee of £112 per application. |
| Reason for decision: | The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person)(England) Regulations 2020 legislation requires owner to register a person to manage qualifying mobile home parks with the local authority. This paper outlines the policy and associated fees to enable compliance with the legislation. |

1. Executive summary

- 1.1 This report gives an overview of the legislation and provides the rationale for the proposed fee which will apply to applications made. These are new regulations which support existing measures regarding the control and management of mobile home sites.

2. Content of report

- 2.1 The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person (England) Regulations 2020 (hereafter called “the Regulations”), prohibit the use of

land as a residential mobile home site unless the local authority is satisfied that the owner or manager of the site is a fit and proper person to manage the site. The aim of this legislation is to improve the standards of mobile home site management.

- 2.2 The Regulations were made on 23 September 2020 and contained two key dates. From 1 July 2021 the Council should be able to receive an application in preparation of the second key date of 1 October 2021 where all site owners must submit an application for a relevant person to be assessed by the local authority to be deemed as a fit and proper person. The details of this person will then be placed on a public register.
- 2.3 The function of caravan/mobile home site licencing falls within the Housing and Regulatory Services Directorate. Between March 2020 and July 2021 the service has been disproportionately affected by Covid-19 pandemic as it was the service that was enforcing the coronavirus legislation affecting businesses, dealing with public enquiries as well as monitoring compliance at large events. As a result, the Council was not in a position to receive applications from 1 July 2021.
- 2.4 The service has had a number of enquiries from mobile home site operators regarding the application process. All contacts have been informed of the reasons why it has not been possible to make an application between 1 July and 1 October 2021.
- 2.5 The Regulations apply to all relevant protected sites other than those which are non-commercial family-occupied sites. It applies to both residential parks which are used exclusively for residential purposes and those which are mixed use (residential and holiday let). It is anticipated that there will be less than 40 applications.
- 2.6 The Regulations require site owners to apply to the local authority for the relevant person, either the site owner or a nominated manager, to be included on a register of fit and proper persons. Persons may only apply if they hold, or have applied for, a site licence as per the Caravan Sites and Control of Development Act 1960.
- 2.7 Local authorities must consider the application (which includes the submission of a DBS check) and will then determine whether the applicant meets the criteria to be included on the fit and proper person register. The local authority may apply conditions to the register's entry. The local authority may determine the length of time that a person may be included on the register but it must be no more than 5 years. The applicant can reapply before the current entry expires. The applicant has a right of appeal against a decision or a condition.
- 2.8 If a person fails the assessment the site owner will be asked for an alternative person to apply to be entered on the register. Should the site owner not be able to appoint

a relevant person, the local authority may manage the site with the consent of the owner.

- 2.9 The Regulations enable the local authority to set a fee. It is estimated the cost of processing an application will equate to approximately 2.5 hours. As this is a new area of work for the authority this will be monitored and the fees reviewed if necessary.
- 2.10 It is proposed that the fee is set at £112 per application and where there are no conditions the entry on the register would last 5 years.
- 2.11 A benchmarking exercise has been undertaken and the fees set by some other local authorities can be found in Appendix 1. The websites of 24 local authorities were reviewed including all the neighbouring councils to Buckinghamshire. The range of fees ranged from free of charge to £427. The average charge for the 13 local authorities who had published fees is £247.59.
- 2.12 The Council's constitution requires matters concerning caravan site licensing and associated fees are determined by licensing committee.
- 2.13 Appendices 2 and 3 contains the policy and fee policy which is proposed.

3. Other options considered

- 3.1 Another option considered is not to charge a fee and evaluate a fee structure based upon evidence. This approach was felt not to be appropriate as the fee is only collected once every 5 years therefore the service should be provided using an estimated cost recovery model. The mobile home sites are being operated as a commercial entity and therefore it is not an unreasonable expense.
- 3.2 The local authority has a legal duty to publish a register of fit and proper persons and therefore it is not a viable option not to have appropriate policies in place.

4. Legal and financial implications

- 4.1 It is anticipated the level of income overall generated by this legislation is approximately £4000, although it's important to note this is a cost neutral service.
- 4.2 The Regulations place a legal duty on local authorities to assess applications and to publish a register of people who are deemed to meet the fit and proper person criteria. If the Council does not accept applications it could be legally challenged.
- 4.3 The policy incorporates the legislation and associated guidance published by the Government on the .gov.uk website (links in Section 9 – Background Papers).

5. Corporate implications

- a) Property - none
- b) HR - none
- c) Climate change - none
- d) Sustainability - none
- e) Equality (does this decision require an equality impact assessment) – none anticipated (the requirement does not apply to sites which are non-commercially occupied)
- f) Data (does this decision require a data protection impact assessment) – Data from application forms will be stored on the departmental database and information published on our website in compliance with the Regulations
- g) Value for money – this is a cost neutral policy. Fees will be monitored.

6. Local councillors & community boards consultation & views

- 6.1 Cllr Naylor and Cllr Wallace have been contacted regarding the proposal for the policy and fees associated with this legal requirement.

7. Communication, engagement & further consultation

- 7.1 Following the licensing committee on 20 October 2021 information will be available on our website to enable affected site owner to make applications.
- 7.2 It is noted that the policies and arrangements for caravan site licensing varied within the former district councils. It is proposed that the policies regarding caravan site licensing is reviewed and harmonised. As part of this the fees associated with the licensing of caravan sites will be reviewed. This would also encompass a review of the fees associated with processing the fit and proper person applications to which this report appertains. The revised policy would be brought to a future Licensing Committee prior to adoption.

8. Next steps and review

- 8.1 Following the Licensing Committee on 20 October 2021 it is anticipated a policy and fee structure will be agreed and adopted. The Council's website will be updated to enable applications to be received and to enable the mobile site owners to comply with the legislative requirements placed upon them.
- 8.2 The level of fees will be reviewed next year to ensure that the fee enables full cost recovery.

9. Background papers

9.1 Information is available on the Government's website and provides full information regarding the requirements of the Regulations

<https://www.gov.uk/government/publications/mobile-homes-fit-and-proper-person-test-guidance-for-local-authorities/mobile-homes-a-guide-for-local-authorities-on-the-fit-and-proper-person-test>

A copy of the Regulations -

<https://www.legislation.gov.uk/uksi/2020/1034/contents/made>

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| LA | Fee (£'s) | Buckinghamshire Proposed fee (£'s) | Difference | Notes |
|------------------------|-----------|--|------------|---|
| Neighbouring LAs | | | | |
| West Northants | No fee | | | |
| Vale of White Horse | £233 | £112 | £122 | Additional annual fee of £88 |
| Central Beds | £120.40 | £112 | £8.40 | |
| South Oxfordshire | £233 | £112 | £122 | Additional annual fee of £88 |
| Wokingham | £118 | £112 | £6 | Based on 2 hours. Additional hours charged at £59/ph or part thereof. |
| Slough | | | | Information not found on website |
| Windsor and Maidenhead | | | | Information not found on website |
| Three Rivers | | | | Information not found on website |
| Dacorum | | | | Information not found on website |
| Cherwell | | | | Information not found on website |
| Milton Keynes | | | | Information not found on website |
| | Other LAs | | | |
| Horsham | £230 | £112 | £118 | |
| New Forrest | £214 | £112 | £102 | |
| Runnymede | £372 | £112 | £260 | Additional charge of £110 if over 25 units |
| Test Valley | £224 | £112 | £112 | |
| Oxford City | no fee | | (£112) | |
| Harrogate | £244.30 | £112 | £132.30 | |
| Tandridge | £386 | £112 | £274 | |
| West Norfolk | £230 | £112 | £118 | |
| East Cambs | no fee | | (£112) | |
| Herefordshire | £187 | £112 | £75 | |
| York | £427 | £112 | £315 | |
| Castle Point | no fee | | (£112) | |

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Caravan Sites and Control of Development Act, 1960 –
Fit and Proper Person Test

**BUCKINGHAMSHIRE COUNCIL
DETERMINATION POLICY**

Introduction

The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020, (“the Regulations”). require the manager of a site to be a Fit and Proper Person. Local authorities are accordingly required to introduce a fit and proper person test for mobile home site owners, or the person appointed to manage the site, unless they are eligible for an exemption under the Regulations¹.

The Regulations, made on 23 September 2020, allow local authorities to receive applications from site owners, or the person appointed to manage the site, from 1 July 2021.

Buckinghamshire Council must be satisfied that the site owner “*is a fit and proper person to manage the site*” or, if the owner does not manage the site, “*that a person appointed*” to do so by the site owner “*is a fit and proper person to do so*” or has, with the site owner’s consent, “*appointed a person to manage the site.*”

Where a site owner or their manager fails the fit and proper person test, and they are unable to identify and appoint a suitable alternative manager, who must pass the fit and proper person assessment, Buckinghamshire Council can instead appoint a person to manage the site, but only with the consent of the site owner.

Principally, the fit and proper person test applies to a “relevant protected site.” A relevant protected site is a site, which requires a licence and which is not solely for holiday purposes or is otherwise not capable of being used all year round. The fit and proper person requirement will ensure that site owners, or their managers, have integrity and follow best practice. Additionally, it provides the safeguard that such individuals will not pose a risk to the welfare or safety of persons occupying mobile homes on the site i.e. park home owners.

The Evidence

When conducting the fit and proper person assessment, Buckinghamshire Council must consider the following points relevant to the application:

1. **Is the individual able to conduct effective management of the site.** This includes, but is not limited to, securing compliance with the site licence and the long-term maintenance of the site. It follows that, Buckinghamshire Council must have regard to:
 - (i) whether the person has a sufficient level of competence to

¹ *i.e. it is a non-commercial, family occupied site under Regulation 3

- manage the site;
- (ii) the management structure and funding arrangements for the site or
- (iii) the proposed management structure and funding arrangements.

(a) Competence to manage the site

This includes reviewing the competency of the appointed individual. The individual must have sufficient experience in site management, or have received sufficient training, and be fully aware of the relevant law as well as health and safety requirements.

The management structure and funding arrangements for the site

Buckinghamshire Council must consider whether relevant management structures are in place and whether they are adequate to ensure effective management of the site. The applicant is expected to have a robust management plan which should address the following points:

- the pitch fee payment;
- proximity of the manager to the site;
- manager's contact details for residents (including out of office and emergency contact details);
- the complaints procedure;
- maintenance;
- staffing;
- refuse/recycling removal.

It is advisable that the site is managed by an applicant based in the UK and a management structure would be unlikely to be suitable if the applicant is an individual, or a company (including its directors), which does not reside or have a permanent UK address. The applicant's interest in the land will also have an important impact, as would their financial standing, management structures and competence, all of which could contribute to the overall assessment of their suitability to manage the site effectively.

(c) The proposed management structure and funding arrangements in place for managing the site

Buckinghamshire Council must consider whether the applicant has sufficient funds (or has access to sufficient funds) to manage the site and comply with licence obligations. Evidence of these funds should be readily available.

2. Personal information relating to the applicant concerned. This would include a criminal record check and should include evidence that the applicant:

- (a) has not committed any offence involving fraud or other dishonesty, violence, firearms or drugs or any offence listed in Schedule 3 to the Sexual Offences Act 2003 (offences attracting notification requirements);
- (b) has not contravened any provision of the law relating to housing, caravan sites, mobile homes, public health, planning or environmental health or of landlord and tenant law;

- (c) has not contravened any provision of the Equality Act 2010 in, or in connection with, the carrying on of any business;
- (d) has not harassed any person in, or in connection with, the carrying on of any business;
- (e) is not or has not been within the past 10 years, personally insolvent;
- (f) is not or has not been within the past 10 years, disqualified from acting as a company director;
- (g) has the right to work in the United Kingdom and,
- (h) is a member of any redress scheme enabling complaints to be dealt with in connection with the management of the site (when this is in place).

Buckinghamshire Council has a duty to investigate any conduct which could amount to harassment and any evidence obtained will be reviewed to determine whether it is sufficient to be used to prosecute a site owner. Buckinghamshire Council may also rely on convictions by the courts as evidence of harassing behaviour.

Buckinghamshire Council may have records of previous harassment complaints made against a site owner or their manager. Even if no action was taken on these complaints this information may be taken into consideration in the fit and proper person determination. These complaints may identify further potential risks and can also provide an indication of potential underlying problems with the management of the site or the site owner's lack of experience/skills in dealing with customers. Buckinghamshire Council may also consider addressing any underlying issues by attaching conditions to the individual's entry on the register.

3. Where any other local authority has rejected a person's application to be included in a register Buckinghamshire Council may consider the local authority's reasons for the rejection.

Items to take into consideration

4. "The applicant" is defined at paragraph 2 of the Regulations as "the person who makes an application under regulation 6".
5. The "relevant person" is also defined at paragraph 2 of the Regulations to mean "the subject of the fit and proper person assessment under Regulation 7".
6. The conduct of any person associated or formerly associated with the relevant person (whether on a personal, work or other basis) ("the associate") is also an important factor to be considered in the fit and proper person assessment, if the conduct of the associate is relevant to the question of whether the person undergoing the assessment is a fit and proper person.
7. Site owners may be required to provide details of any current or former associates of the relevant person in the application form. Those associates will not include other current joint owners as that information would have already needed to have been provided in their own application forms.
8. The Council will not routinely require information of all current or past associates of the site owner. However, the Council consider it is advisable that, prior to making any final decisions, it considers the conduct of past and current associates relevant to that individual's application. The site owner may be asked to provide additional information during the application process.

9. Buckinghamshire Council will be required to establish whether an individual is considered to be an associate of the relevant person and then whether their conduct is relevant to the application. A relevant associate could be defined as any individual who may have played a part, directly or indirectly, in a decision or action, which has had an impact on residents' rights, or the quiet enjoyment of their homes.
10. The Regulations are drafted widely and Buckinghamshire Council is able to decide the matters it deems relevant to the fit and proper person application. These matters may include, but are not limited to:
- current or previous issues, or events, that have occurred in relation to the park site or any other park site owned or managed by the site owner or site manager.
 - the site owner's conduct regarding other businesses, outside of the park homes sector, if it has implications on the financial and management arrangements of the site in question.
 - Issues of poor management practice where it raises questions of suitability or management competency
 - Any other matters which Buckinghamshire Council believe to be of relevance to the applicant's conduct, competence and their suitability to manage the site
11. Buckinghamshire Council will aim to obtain evidence to support any additional matters that they require to be taken into consideration when considering an application to ensure that the process is objective and transparent. The evidence could include previous tribunal and court decisions, documents or records from Companies House, or other public bodies or financial institutions.

Applications

12. The Regulations use various terms in the application process and these are outlined below:

"Relevant person" is defined in paragraph 2 of the Regulations and is "the subject of the fit and proper person assessment under Regulation 7". Please note that this could be the site owner or person appointed to manage the site by the site owner.

"Relevant officer" is defined in paragraph 1 of Schedule 2 of the Regulations, where the applicant is a company, a relevant officer will be a director or other officer of the company; or, where the applicant is a partnership, a partner; or, where the applicant is a body corporate, a member of the management committee of that body.

"Required Information" is defined in paragraph 14 of Schedule 2 of the Regulations (please note the Regulations incorrectly state that this information is contained in paragraph 13) as:

- the person's name and business contact details;
- details of the person's role or proposed role in relation to the management of the site;
- where the person has not yet been appointed, the address, telephone number and email address (if any) at which the person may be contacted in respect of the application;
- details of each relevant protected site (other than that to which the registration application relates) — for which the person holds a licence issued under section 3 of the Caravan Sites

and Control of Development Act 1960, or in which the person has a legal estate or equitable interest, or which the person manages.

The application for inclusion in the fit and proper register, must therefore include the following:

13. The applicant and site details required

Details of the site and the applicant:

- (1) The applicant's name and business contact details.
- (2) Where the applicant is not an individual, the following information in relation to the individual completing the application on behalf of the applicant and each relevant officer:
 - (i) the person's name;
 - (ii) details of the person's role (if any) in relation to the management of the site.
- (3) The name and address of the site.
- (4) Evidence of the applicant's legal estate or equitable interest in the site.
- (5) Confirmation that the applicant is the occupier within the meaning of section 1 of the Caravan Sites and Control of Development Act 1960.
- (6) The name and business contact details of any other person that has a legal estate or equitable interest in the site.

14. Other Relevant Protected Sites

Information must be provided for the name and address of each other relevant protected sites:

- (1) for which the applicant holds a licence issued under section 3 of the Caravan Sites and Control of Development Act 1960;
- (2) in which the applicant has a legal estate or equitable interest; or
- (3) that the applicant manages.

15. The applicant must clearly specify whether their application is made in respect of either the applicant, or site owner, or the person that the applicant or site owner has appointed to manage the site.

16 Information relating to the site manager

In circumstances where a "site manager" has been appointed to manage a site more information is needed. The person who is applying for the site manager to be registered as a fit and proper person (the relevant person) must provide the following information: the site manager's name and details of that person's role (if any) in relation to the management of the site.

If the site manager has appointed or intends to appoint a further individual ("A"), 'Required Information' would also be needed from A. And where A is not a relevant officer of the site manager, the relevant officer to whom A is accountable for the day-to-day management of the site, should be the one to provide the Required Information.

17. Additional information when the applicant is the relevant person and an individual

When the applicant is the relevant person, and is an individual, and the applicant has appointed, or intends to appoint, someone else (“B”) to be responsible for the day-to-day management of the site, ‘Required Information’ would be needed from B. If B is not an individual but is, instead, for example, a company, and B has appointed an individual (“C”) to do the day-to-day management, ‘Required Information’ would be needed from C. Where C is not a Relevant officer of a company, the relevant officer to whom C is accountable for the day-to-day management of the site would also need to provide the Required information.

18. Additional information where applicant is relevant person and not an individual

When the applicant is the relevant person but is not an individual and the applicant has appointed or intends to appoint someone else (“B”) to be responsible for the day-to-day management of the site, Required Information would be needed from this person. If B is not a Relevant officer of the applicant the person to whom B is accountable for the day-to-day management of the site (“C”) would also need to provide the Required Information. Where B itself is not an individual, the individual (“D”) that B has appointed or intends to appoint to be responsible for the day-to-day management of the site would also need to provide the Required Information. Where D is not a relevant officer of B, the relevant officer to whom D is accountable for the day-to-day management of the site would also need to provide the Required Information.

19. The Regulations prohibit the operation of a relevant protected site unless the site owner or its site manager (whatever the management structure might be) has been assessed by Buckinghamshire Council as a fit and proper person to do so. This has been included to ensure that consistent standards are applied to companies and other organisations that are not individuals.

Criminal record certificate/s

20. Criminal Records Certificates must be issued under section 113A (1) of the Police Act 1997 and will be required where: (a) the Relevant person is an individual and (b) for each individual in relation to whom the applicant is required to provide information for example, a site manager or individuals A, B, C or D as outlined above.

21. Buckinghamshire Council has the discretion to require the criminal record to be basic or enhanced.

22. The certificate must have been issued no more than six months before the date of the application. It is incumbent upon the site owner to ensure that any certificates provided meet this requirement.

Declaration

23. A declaration made and signed by the “appropriate person”, which means:

- (a) where the applicant is a company, a director or other officer of the company;
- (b) where the applicant is a partnership, one of the partners;
- (c) where the applicant is a body corporate and the conduct of the management of the body is vested in its members, a member;
- (d) where the applicant is not a body falling within (a) to (c) above, a member of the management committee;
- (e) where the applicant is an individual, that individual.

24. Where the applicant is not the relevant person, the declaration must confirm that the applicant has made all reasonable enquires into the matters mentioned in paragraph 9 of the Regulations and considerations relevant to the fit and proper person assessment as set out below.
25. The declaration should also state that the information provided in the application is correct and complete to the best of the applicant's knowledge and belief.

Considerations relevant to fit and proper person assessment

26. Proper management of the site includes, but is not limited to, securing compliance with the site licence and the long term maintenance of the site.
27. To be able to secure the proper management of the site, Buckinghamshire Council must (amongst other things) have regard to whether the relevant person has a sufficient level of competence to manage the site and the management structure or proposed management structure and funding arrangements.

Decisions, notification and rights of appeal

28. Buckinghamshire Council must make a decision on the application in a timely and practicable manner and either:
 - (a) where the decision is to grant the application unconditionally and include the relevant person on the register for 5 years, serve a final decision notice on the applicant; or
 - (b) otherwise, serve a preliminary decision notice on the applicant.
29. On receipt of an application Buckinghamshire Council may:
 - (a) grant the application unconditionally;
 - (b) grant the application subject to conditions; or
 - (c) reject the application.

Granting the application unconditionally

30. Where Buckinghamshire Council is satisfied that the applicant meets the fit and proper person test unconditionally, they must include the applicant on the register for 5 years. The authority must issue a final decision notice to the applicant to inform them of its decision.
31. The final decision notice must clearly state:
 - (a) the date the final decision notice is served;
 - (b) the final decision;
 - (c) the reasons for the decision;
 - (d) when the decision is to take effect;
 - (e) information about:
 - (i) the right of appeal to the First Tier Tribunal; and
 - (ii) the period within which an appeal may be made.

To include the applicant on the register subject to certain condition(s)

32. In some circumstances, Buckinghamshire Council can specify that the individual for the fit and proper person test will only be successful if certain conditions are met. If these

conditions are satisfied, Buckinghamshire Council can grant an application subject to those condition(s). Buckinghamshire Council can also grant an application for less than 5 years.

33. Buckinghamshire Council may decide to include the person on a register subject to condition(s), if it would only be satisfied that the person would meet the fit and proper requirement if the condition(s) were complied with. Where conditions are imposed Buckinghamshire Council will ensure that it provides A clear and justifiable reasons for attaching any condition(s) and that any conditions imposed can be enforced by Buckinghamshire Council. An applicant will have a right of appeal to the First Tier Tribunal.
34. Conditions will be clearly stated so the applicant’s understands what is required and to ensure that they are enforceable.

An example of the requirements are included in the Table 1 below.

Table 1

| Specific | The condition sets out clearly the specific actions a relevant person is being asked to take to address an issue |
|-------------------|--|
| Measurable | The conditions the outcome(s) expected. |
| Achievable | The applicant should be reasonably expected to be able to achieve the condition. For example, it may not be reasonable to expect a site owner of one small site to have the same resources to introduce the same procedures as a medium sized company. |
| Realistic | The condition is appropriate and aligns with the overall aims of the test. The applicant should have a clear understanding of how the required outcome can be reached and that there are no circumstances or factors which would make the achievement of the outcome impossible or unlikely. |
| Timebound | A clear timescale in which the task/action must be completed. |

What can a condition relate to?

35. The fit and proper person test is aimed at ensuring that the person managing the site is competent and the conditions should relate directly to the person’s ability to secure the proper management of the site.
36. Where a person has contravened legislation, or committed offences set out in paragraph 2 above, it is not recommended that conditions are set in relation to those matters. This is because such a condition would be unlikely to meet the tests set out above in paragraph 34. For example, if a person has committed fraud or violence, that specific incident cannot be reversed by requiring the person to perform a specific task.
37. In cases where the person has committed those listed offences or contravened legislation, these breaches will be considered by Buckinghamshire Council together with all the other information available, when reaching their preliminary decision.
38. An example of a condition could relate to the payment of an annual fee. A condition can also be set with respect to ensuring the relevant person has the ability to secure the proper management of the site. In summary, conditions can relate to any factors which are relevant to the person’s competence to manage the site, the management structure, or funding arrangements for the site, an associated person’s influence, and any other relevant factors.

39. **Example 1** – A local authority has evidence of a site owner’s failure over a certain period of time to address residents’ complaints. This is an example of poor management which could be resolved by the site owner implementing an adequate complaints procedure. A condition could be attached requiring the site owner to *“implement an effective and accessible three stage complaints process for residents by xx date and provide the LA with quarterly reports of complaints and outcomes, from that date and for the first year”*.

If the condition is met within the specified time frame, the local authority can record this in the register. If, at a future date, it is found that the site owner failed to implement a complaints procedure, a further opportunity to comply may be given and this could include a new condition of the site owner providing quarterly reports of complaints and outcomes for each year. The site owner could also be expected to complete a relevant “CPD customer service/Dealing with complaints” course by a certain period. However, should the local authority consider the actions as unlikely to achieve the desired outcome, the site owner could be removed from the register.

40. **Example 2** – If, when considering an application, certain documents or information are unavailable to the applicant, because of delays from third parties, the local authority may wish to attach a condition to the entry on the register that the site owner “is to provide the authority by registered post, with the original xx document by xx date”.
41. **Example 3** - An associated person has been visiting the park and, through their action ‘X’, has caused distress to the residents impacting their well-being and security. A condition could be attached to the register requiring the site owner to put measure(s) in place by xxx date preventing the associated person, or any other person, from carrying out action X on the site.

Decisions not to include the applicant on the register

42. Should Buckinghamshire Council determine that the applicant does not meet the requirements, and attaching conditions would not be appropriate, Buckinghamshire Council can refuse to grant the application.
43. Where Buckinghamshire Council makes a decision to include the applicant on the register, subject to conditions, or not to include the applicant on the register, a preliminary decision notice to the applicant must be issued.
44. The preliminary decision notice will clearly state:
- (a) the date the preliminary decision notice is served;
 - (b) the preliminary decision;
 - (c) the reasons for it;
 - (d) the date it is proposed that the final decision will have effect;
 - (e) information about the right to make written representations
 - (f) where the preliminary decision is to refuse the application, the consequences of causing or permitting the land to be used as a relevant protected site in contravention of the regulations; and
 - (g) where the preliminary decision is to grant the application subject to conditions, the consequences of failing to comply with any conditions.

Right to make a representation

45. An applicant who receives a preliminary decision notice will have 28 days in which to make representations to Buckinghamshire Council. The 28-day period begins with the day after the day on which the notice was served.
46. Buckinghamshire Council is obliged to consider and take any representations it receives into account before making a final decision.

Final decision notice

47. Buckinghamshire Council must, as soon as reasonably practicable, after the end of the period allowed for making representations, make a final decision and serve the decision notice on the applicant.
48. The final decision notice must set out:
 - (a) the date the final decision notice is served;
 - (b) the final decision;
 - (c) the reasons for it;
 - (d) when the decision is to take effect;
 - (e) information about the right of appeal and the period within which an appeal may be made;
 - (f) where the decision is to refuse the application, the consequences of causing or permitting the land to be used as a relevant protected site in contravention of the regulations; and
 - (g) where the decision is to grant the application subject to conditions, the consequences of failing to comply with any condition.

Appeals

49. The applicant can decide to appeal the decision by making an application to the First-tier Tribunal (Property Chamber) ("the tribunal") within specific timeframes set by the tribunal. The applicant is permitted to appeal against any decisions served by Buckinghamshire Council. These could include:
 - (a) including the relevant person on the register for an effective period of less than 5 years;
 - (b) including the relevant person on the register subject to conditions; and
 - (c) rejecting the application.
50. Where an applicant accepts Buckinghamshire Council's decision not to include the person originally stated in the application on the register, they will be required to seek alternative management arrangements to comply with the fit and proper person requirement. If they fail to do so they will be committing an offence.
51. An appellant will not be able to claim compensation for losses incurred pending the outcome of an appeal.

Withdrawal or amendment of notice

52. There may be circumstances where Buckinghamshire Council may decide not to continue or to withdraw a previously agreed action such as after serving:
 - (a) a preliminary decision notice but before service of the final decision notice;

- (b) a final decision notice but before the decision to which it relates takes effect; or
 - (c) a notice of proposed action but before the proposed action is taken.
53. To withdraw or amend a notice, Buckinghamshire Council must serve notice to the person on whom the original notice was served.
54. There are no requirements for notices to contain specific information, however, Buckinghamshire Council will ensure that a withdrawal or amendment notice states:
- (a) That it is withdrawing/amending the original notice (a copy of the original notice should be attached for reference);
 - (b) the reasons for withdrawing the notice;
 - (c) the date it takes effect; and,
 - (d) the implications of the decisions in relation to the person's entry on the register.

Removal from the register

55. If, after a person is included in the register, new evidence relevant to the person's inclusion becomes available, Buckinghamshire Council may decide to:
- (a) remove the person from the register;
 - (b) impose a condition on the inclusion of the person in the register (whether or not there are conditions already imposed);
 - (c) vary a condition; or
 - (d) remove a condition.
56. Buckinghamshire Council will use its judgement when determining whether to review an entry and consider any subsequent actions are required. Any such decision will be related to the person being a fit and proper person rather than, for example, site licensing issues which are governed separately. If Buckinghamshire Council decides to take any of the actions listed in paragraph 55 (a) to (c) above, Buckinghamshire Council must serve a notice of any proposed action on the occupier.
57. The notice of proposed action must clearly state:
- (a) the date the notice of proposed action is served;
 - (b) the action Buckinghamshire Council proposes to take;
 - (c) the reasons for it;
 - (d) the date it is proposed that Buckinghamshire Council will take the action;
 - (e) information about the right to make written representations;
 - (f) where the proposed action requires the removal of a person from the register, the consequences of causing or permitting the land to be used as a relevant protected site in contravention of the regulations; and
 - (g) where the proposed action is to impose a condition on the inclusion of a person in the register or to vary a condition, the consequences of failing to comply with said conditions.
58. A notice of proposed action is not required if Buckinghamshire Council decides to remove a condition attached to an entry. A removal of a condition is viewed widely as being a positive step, which is unlikely to be opposed. It is for that reason that a notice of proposed action is not required. As good practice though, The Council will endeavour to make the site owner or their manager aware of the decision in writing and also ensure the register is updated.

Notice of action taken

59. Where a notice of proposed action is given, the occupier will have 28 days, starting from the day after the notice is served, in which to make representations.
60. Buckinghamshire Council must, as soon as reasonably practicable after the end of the 28-day period, decide whether to carry out the proposed action.
61. Where Buckinghamshire Council decides to take the action, it must serve a further notice on the occupier, indicating the action that has been taken, within the period of 5 working days beginning with the day after the day on which the action was taken.
62. The notice of action must set out—
- (a) the date the notice of action is served;
 - (b) the fact that they have taken the action;
 - (c) the reasons for doing so;
 - (d) the date the action was taken;
 - (e) information about the right of appeal and the period within which an appeal may be made;
 - (f) where the action is to remove a person from the register, the consequences of causing or permitting the land to be used as a relevant protected site in contravention of regulations; and
 - (g) where the action is to impose a condition on the inclusion of a person in the register or to vary a condition, the consequences of failing to comply with any condition.

Offences

63. There are 3 offences which can be committed within the Regulations. They are as follows:
- Operating a site in contravention of the fit and proper person regulations - The site owner will have certain defences under the Regulations in any proceedings brought against them.
 - Withholding information or including false or misleading information in the registration application - The site owner will not have any defences under the Regulations in any proceedings brought against them for this offence.
 - Failing to comply with a specified condition - The site owner will have certain defences under the Regulations in any proceedings brought against them.
64. Buckinghamshire Council is responsible for enforcing the regulations. A site owner found guilty of any of the above offences will be liable on summary conviction to a level 5 (unlimited) fine.

Defences

65. In certain circumstances a site owner may have a defence where they have breached the regulations

Relevant periods in specific circumstances

66. The below table outlines limited circumstances where a site owner may have a defence.

| Row | Circumstance | Relevant period for making an application in the circumstance |
|-----|---|---|
| 1 | the occupier held a site licence immediately before the day on which regulation 4 (operating a site without being a fit and proper person) came into force on 1 October 2021. | From 1 st July 2021 before 1 October 2021, the day on which regulation 4 came into force |
| 2 | the period of a person's inclusion in the register in relation to the site has come to an end other than as a result of action by the local authority under regulation 8(1)(a)(removal from the fit and proper register after new relevant evidence becomes available). | not less than two months before the end of the period of the person's inclusion in the register |
| 3 | at the time that the occupier became entitled to within the period of 3 months possession of the land it was in use as a relevant protected site; and within the period of 28 days beginning with the day after the day on which the person became the occupier of the land the occupier notifies the relevant local authority of its intention to make an application under regulation 6 (application for inclusion in the register) | beginning with the day after the day on which the person became the occupier of the land |
| 4 | at the time that the occupier became entitled to possession of the land it was in use as a relevant protected site; and the occupier does not give the notification referred to in row 3 above | within the period of 28 days beginning with the day after the day on which the person became the occupier of the land |
| 5 | a person appointed to manage the site no longer does so; and within the period of 28 days beginning with the day after the relevant day the occupier notifies the relevant local authority that the person no longer does so | within the period of 3 months beginning with the day after the relevant day |
| 6 | a person appointed to manage the site no longer does so; and the occupier does not give the notification referred to in row 5 above | within the period of 28 days beginning with the day after the relevant day |
| 7 | the breach of regulation 4(1) (operating a site without being a fit and proper person) arises because the local authority has removed a person from the register; and within the period of 28 days beginning with the relevant day in relation to the local authority's decision the occupier notifies the relevant local authority of its intention to make a new application under regulation 6 (application for inclusion in the register) in relation to the site | within the period of 3 months beginning with the relevant day |
| 8 | the breach of regulation 4(1) arises because the local authority has removed a person from the register; and the occupier does not give the notification referred to in row 7 above | within the period of 28 days beginning with the relevant day |
| 9 | the breach of regulation 4(1) (operating a site without being a fit and proper person) arises because the local authority has rejected an in-time application; and within the period of 28 days beginning with the relevant day in relation to the rejected application the | within the period of 3 months beginning with the relevant day |

| | | |
|----|---|--|
| | occupier notifies the relevant local authority of its intention to make a new application under regulation 6 | |
| 10 | the breach of regulation 4(1) (operating a site without being a fit and proper person) arises because the local authority has rejected an in-time application; and the occupier does not give the notification referred to in row 9 above | within the period of 28 days beginning with the relevant day |

The Fit and Proper Persons Register

67. Buckinghamshire Council must set up and maintain a register of persons who they are satisfied are fit and proper persons to manage a site in their area. This register must be open to inspection by the public during normal office hours. This register also must be published online.

68. The register will provide a record of the outcome (as discussed above) of the fit and proper person tests Buckinghamshire Council have carried out for sites, and the register must include the following:

- (a) the name and business contact details of the person;
- (b) the name and address of the relevant protected site to which the application relates;
- (c) the status of the person (site owner or manager of the site);
- (d) the dates of the first and last day of the period for which the person's inclusion in the register has effect;
- (e) whether any condition is attached to the person's inclusion in the register; and
- (f) where any condition is attached to the person's inclusion in the register—
 - (i) the number of any such conditions;
 - (ii) the dates of the first and last day of the period for which any such condition applies (if applicable); and
 - (iii) the date any condition is varied or satisfied (if applicable).

69. Where a person has met the fit and proper person test, the register will give details of that person and of the site, including decisions made on how long a person's inclusion is for, up to a maximum of 5 years.

70. In order to comply with the fit and proper person requirement a site owner must at least two months before the period (e.g. 5 years) comes to an end submit a new application for the person (or alternative) to be included in the register.

71. Where there are rejected applications, the following information must be included in the register:

- (a) the name and address of the site to which the application relates;
- (b) that an application in respect of the site has been rejected; and
- (c) the date on which the application was rejected.

Details of the rejected application will remain on the register until a successful fit and proper person application is made in respect of the owner or manager of the site.

It must be noted that the name of the rejected applicant will not be included on the register. Local authorities will however be able to consider requests for further information about the entry on the register, for example, the details of the specific conditions attached and any

additional information, on a case by case basis and in accordance with data protection legislation.

72. Where Buckinghamshire Council has, with the site owner's consent, appointed a person to manage the site, Buckinghamshire Council must include the following information:

- (a) the name and business contact details of the person;
- (b) the name and address of the site which the person has been appointed to manage;
- (c) the status of the person;
- (d) the dates of the first and last day of the period for which the person's inclusion in the register has effect;
- (e) whether any condition is attached to the person's inclusion in the register; and
- (f) where any condition is attached to the person's inclusion in the register—
 - (i) the number of any such conditions;
 - (ii) the dates of the first and last day of the period for which any such condition applies (if applicable); and
 - (iii) the date any condition is varied or satisfied (if applicable).

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Caravan Sites and Control of Development Act, 1960
Fit and Proper Person Test

**BUCKINGHAMSHIRE FIT AND PROPER PERSON
FEE POLICY**

Introduction

1. This policy applies in respect of a “relevant protected site” which is defined in the Caravan Sites and Control of Development Act 1960 (“The Act”) as a site, which requires a licence, which is not solely for holiday purposes or is otherwise not capable of being used all year round. A relevant protected site cannot operate unless the local authority is satisfied that the manager qualifies as a fit and proper person, *Sections 12A -12E of the Caravan Sites and Control of Development Act 1960*, as implemented by *Section 8 Mobile Homes Act 2013* (subject to paragraph 10 below).
2. A site owner under the *Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 (SI 2020/1034)* (“the Regulations”) must apply to their local authority for the “relevant person” (themselves or their appointed manager) to be added to the register of fit and proper persons managing sites in their area (“the register”).
3. The site owner may only apply to be added to the register if they hold, or have applied for, a site licence for the site. This provision also applies where the site owner or site manager is a registered company.
4. The Regulations permit the local authority (in this case Buckinghamshire Council) to determine the fee for an application or registration for someone to be added to the register.
5. It is important to highlight that this fee policy will refer to any annual fee to recover costs which Buckinghamshire Council may have incurred, or which will be incurred, in processing the application. Where the Council appointing a person to manage a site with the site owner’s consent the Council may recover from the occupier the reasonable costs incurred or to be incurred in making the appointment
6. Site owners will be required to submit a completed application from 1 July 2021 until October 2021 (3 months) and pay the fee, outlined as per the schedule below, to Buckinghamshire Council, which will also include any additional fees such as an annual site fee.

Fees for Fit and Proper Persons Register Applications

Initial application fee

7. Buckinghamshire Council operates a fixed initial application fee policy which must be paid at the point of making the application. Upon receipt of a completed application form, relevant supporting documents and the correct fee, Buckinghamshire Council will notify the applicant

that payment has been received and their application is in progress. To arrive at a fixed fee, Buckinghamshire Council has estimated the average time to conduct a fit and proper person assessment and checks required to be included on the register and has applied hourly rates based on the posts that will be involved in conducting these assessments. These calculations are outlined in the fees schedule.

8. Buckinghamshire Council will take into account the following matters on which costs are incurred, or likely to be incurred (by various departments, including costs incurred by outsourcing contracts), when determining its fee policy for consideration of applications for entry on a fit and proper person register:
 - (a) Initial enquiries;
 - (b) letter writing/ telephone calls etc to make appointments and requesting any documents or other information from the site owner or from any third party in connection with the fit and proper process;
 - (c) sending out forms;
 - (d) updating files/ computer systems and websites;
 - (e) processing the application fee;
 - (f) land registry searches;
 - (g) time for reviewing necessary documents and certificates;
 - (h) preparing preliminary and final decision notices;
 - (i) review by manager or lawyers; review any representations made by applicants or responses from third parties;
 - (j) updating the public register;
 - (k) carrying out any risk assessment process considered necessary and
 - (l) reviews of decisions or in defending appeals.
9. Charges will be limited to recovering the costs of exercising the fit and proper person test function and not recovering other costs that have already been charged for by other service areas. The fees schedule outlines the above and provides transparent justification for the fee to be imposed upon receipt of the initial application. The purpose of the fees schedule is to demonstrate that the fees imposed are fair and transparent and to provide justification as to why a site is required to pay the fee.

Additional considerations for an application fee:

10. Buckinghamshire Council will be required to conduct relevant background checks regarding the applicant's background in management and their financial standing. The results of these checks will allow Buckinghamshire Council to decide whether or not to accept the application. The time taken for these checks should be accounted for in the fee, irrespective whether or not the entry on the register is granted.
11. In the event that a prospective applicant contacts Buckinghamshire Council before making an application in order to ascertain the likelihood of the success of their application, Buckinghamshire Council is expected to provide informal advice. Any preliminary advice provided by Buckinghamshire Council may be accounted for in the fee and cannot be charged separately.

Annual fee for an existing entry on the register:

12. Buckinghamshire Council has determined not to charge an annual fee for simple inclusion on the Fit and Proper Person (F&PP) register. In the event that conditions are added to a F&PP determination, Buckinghamshire Council will charge an annual fee (as per the fees schedule) due to the additional work relating to these matters.
13. The annual fee is to be paid on 1ST October

Such other matters as the local authority considers to be relevant

An appointed manager fee

14. This is where Buckinghamshire Council agrees, following the site owner's consent, to appoint an individual to manage a site. In this event, the applicable recoverable costs will be agreed in advance with the site owner, including any component which is to be paid in advance of this agreement.

Revising Fees

15. Buckinghamshire Council may revise its fees policy and will be required to publish the revised policy. Any changes will need to be justifiable and reasonable, ensuring full transparency for the site owner. The purpose of publishing the fee policy is to show that the fees imposed by Buckinghamshire Council are fair and transparent so that anyone required to pay a fee can understand the charges.

Amending conditions attached to an entry on a register

16. Buckinghamshire Council may alter the conditions attached to an entry on a register (by adding new conditions or by changing or deleting existing ones), following a review. Buckinghamshire Council must notify the site owner of its interim decision (except in the case where it is deleting a condition) and consider any representations made by the site owner before reaching a final decision. If the site owner is unhappy with Buckinghamshire Council's decision, they will have a right of appeal to the First-Tier Tribunal (Property Chamber). There are no requirements for a site owner to make an application for a condition to be altered. Any costs involved with amending existing conditions or adding new conditions to an entry must also be factored into the cost of calculating the annual fee.

Site visits – Officer and travel time

17. Officer time can be considered as part of the fee where site visits are required to ascertain whether site condition(s) are met. Travel time and fuel costs can be taken into account.

Payment of fees

18. Buckinghamshire Council is not required to consider an application for entry on the register unless that application is accompanied by the correct fee. If the correct fee is not paid, the application will not be valid.
19. In this event, Buckinghamshire Council will notify the applicant within fourteen days of receipt of the application that their application is not valid. If Buckinghamshire Council decides not to approve an application, the applicant is not entitled to a refund of the fee

paid. In the event that a request is made for a withdrawal of a F&PP application within fourteen days of submission of that application, a refund may be applicable, based on the calculations of work already undertaken (up to a maximum of 50% of the application fee). The annual fee, where applicable, will be set as a condition to any entry being added to the register

Limits on charges

20. Any charges will be limited to recovering the costs of exercising the Council's function in applying the F&PP test as it relates to the operation of relevant protected sites.