

**MINUTES OF A MEETING OF THE  
LICENSING AND APPEALS COMMITTEE  
HELD ON WEDNESDAY 7 APRIL 2010 FROM 7.00PM TO 7.55PM**

*Present:- Pauline Helliar-Symons (Chairman), Kay Gilder, Mike Gore, Kirsten Miller, Sam Rahmouni, Malcolm Storry and Bob Wyatt*

*Also present:- Julia O'Brien, Principal Environmental Health Officer  
Mandy Dorman, Animal Warden  
Madeleine Shopland, Senior Democratic Services Officer  
Jayne Squires, Licensing Officer*

**PART I**

**40. MINUTES**

The Minutes of the meeting of the Committee held on 21 January 2010 were confirmed as a correct record and signed by the Chairman.

**41. APOLOGIES**

Apologies for absence were submitted from Councillors Bowring, Bradley, Cockroft, Haines, Patman and Stretton.

**42. DECLARATIONS OF INTEREST**

Sam Rahmouni declared a personal and prejudicial interest in item 46.00 Taxis Vehicle Age Policy and item 47.00 Fees and Tariffs following Consultation on the grounds that he was a part time School & Community Services Driver. He left the room during these items and took no part in the discussion of these items.

**43. PUBLIC QUESTION TIME**

There were no public questions received.

**44. MEMBER QUESTION TIME**

There were no Member questions received.

**45. TAXIS – VEHICLE AGE POLICY**

Sam Rahmouni left the room and was not present during the discussion and decision making for this item and for item 47.00 Fees and Tariffs following Consultation Exercise.

The Committee examined a report on Taxis – Vehicle Age Policy.

During the discussion of this item the following points were made:

- At present there was no age restriction on vehicles that could be licensed as Hackney Carriage vehicles so long as they are wheelchair accessible. Some drivers had expressed concerns over the condition of older vehicles.
- At the January 2009 Committee meeting, officers were asked to provide figures relating to how many vehicles failed their six monthly checks.
- There had been 119 failures of vehicles over 5 years old out of 380 tests. There had been 350 issues within the various sections of the Hackney Carriage/Private Hire Vehicle test, such as steering, brakes and paintwork faults. There had been 22 failures of vehicles under 5 years old out of 380 tests. Within these there had been

56 issues within the various sections of the Hackney Carriage/Private Hire Vehicle test. The Committee that these issues were not directly related to the age of the vehicles.

- Members were disappointed that reasons for the failure of the checks included problems such as tyres and lighting faults, which could potentially be resolved prior to the vehicle check.
- The Committee were asked to consider whether they thought it necessary to introduce an age limit for Hackney Carriage vehicles and if so what this limit would be.
- It was noted that the Mayor of London had suggested introducing a 15 year age limit on Taxi and Private Hire vehicles in London by 2012, moving to a 10 year age limit by 2015.
- Private Hire vehicles were not licensed if they were 8 years or older from the date of first registration. A number of Members were concerned that it be very expensive for drivers to replace their vehicles after 8 years if a similar policy was put in place for Hackney Carriage vehicles.
- Some Members questioned the need for an upper age limit for vehicles and pointed out that faults were picked up at 6 monthly checks. A Member commented that vehicles could possibly scrape through the 6 monthly checks and then would not be tested for another 6 months. She went on to state that it was also important to consider that older cars often produced greater pollution.
- After some discussion the Committee agreed that an upper age limit of 15 years old be put in place. The Principal Environmental Health officer commented that the majority of vehicles would have been replaced by the time they had reached that age. Members asked that this age limit be reviewed in a year's time and that officers provide figures of the number of vehicles which failed the 6 month check and the reasons for these failures. The Chair requested that these results be broken down into the cars under 5 years old, 5-8 years old, 8-10 years old, 10-12 years old and cars which were 12-15 years old.
- The Committee were informed that some of the Hackney Carriage vehicles registered in Wokingham were conversions and not purpose built vehicles.
- The Principal Environmental Health Officer stressed that if a vehicle failed its check it should not be driven until any problems had been resolved.

**RESOLVED:-** That:

- 1) an upper age limit of 15 years old be put on Hackney Carriage Vehicles;
- 2) the upper age limit be reviewed in a year's time.
- 3) in a year's time officers provide figures of the number of vehicles which had failed the 6 month checks and the reasons for these failures and that these results be broken down into the cars under 5 years old, cars 5-8 years old, cars 8-10 years old, cars 10-12 years old and cars which were 12-15 years old;

**46. FEES AND TARIFFS FOLLOWING CONSULTATION EXERCISE**

The Committee considered a report on the results of a consultation exercise undertaken with drivers, operators and in the local paper with a view to an increase in the fees charged for the taxi/private hire licensing service. *Members were reminded that a revised set of fees had been agreed at the Committee's January meeting.* It had been agreed that drivers, operators and the public (via the local newspaper) would be consulted with on the proposals. It was noted that no objections had been received.

**RESOLVED:-** That:

- 1) the proposed schedule of taxi licence fees be agreed with effect from 5 May 2010;
- 2) the proposed schedule of Hackney Carriage tariffs be agreed with effect from 5 May 2010.

**47. RESPONSE TO THE CONSULTATION CONCERNING PET SHOP CONDITIONS**

Members were reminded that a consultation exercise had been undertaken with the pet shop trade to ascertain their views on suggested amendments to pet shop licence conditions. These revisions were designed to prevent the trade in puppies originating from puppy farms. The Committee considered the consultation responses, the additional standard licensing conditions proposed prior to the consultation process and those recommended following the consultation exercise.

During the discussion of this item the following points were made:

- A Member asked how the conditions would be enforced and what the cost to the Council would be. The Principal Environmental Health Officer commented that the Licensing team inspected the pet shops on an ad hoc basis and also as part of a planned inspections programme. There would be no additional cost to the Council.
- The Council's vet had suggested that conditions previously proposed which related to dogs not being sourced from breeders whose dogs were kept at a location over 45 miles away from the pet shop and that a DNA profile of both parents be provided, were impractical.
- In response to a Member question regarding the age at which puppies could be sold and vaccinated, the Animal Warden indicated that puppies could be vaccinated at 8 weeks old, although at 10 weeks was preferred. They could be sold once vaccinated. The sale of puppies under the age of 8 weeks was not recommended.
- The Committee discussed microchipping. The Animal Warden commented that it should be possible to track back to the breeder using the microchip. Ensuring that the breeder was responsible was also discussed.

**RESOLVED:-** That;

- 1) the additional standard conditions be agreed subject to the following:
  - a) that condition 3 be expanded so that it indicates by that breeder shown to be responsible, for example by being part of Kennel Clubs Accredited Breeder Scheme.
  - b) that puppies should be microchipped prior to arriving at the licensed premises and the condition relating to microchipping include the sentence 'The microchip must be registered by the licensee to the purchaser on a database compliant with the Microsoft Advisory Group Code of Practice prior to the sale of the dog.'
  - c) that the pet shop shall be required to ensure that the purchaser is aware of their responsibilities under Animal Welfare Act 2006. Under the Act pet owner has a legal duty to ensure animal welfare of his animals. Welfare needs to include proper diet, somewhere suitable to live, any need to house with or apart from other animals, allowing animals to express normal behaviour and protection from pain, suffering, injury and disease.

#### **48. HEARINGS UPDATE**

Since the last meeting of the Committee two School Transport Appeals had taken place. A review of a premises licence and an appeal against the suspension of a dual driver badge had also taken place.

**RESOLVED:-** That the verbal update on Licensing and Appeals hearings held since the last meeting of the Licensing and Appeals Committee, be noted.

#### **49. BERKSHIRE WIDE TRAINING**

Members were reminded that a Berkshire wide training session on licensing had taken place on 8 March 2010. The Committee were informed of various changes to aspects of licensing law such as the change to the role of Members as interested parties. It was noted that a more detailed training session would be held in June.

**RESOLVED:-** That the update on the Berkshire wide training carried out on 8 March 2010, be noted.

*These are the Minutes of a meeting of the Licensing and Appeals Committee*

*If you need help in understanding this document or if you would like a copy of it in large print please contact one of our Team Support Officers.*

**MINUTES OF A MEETING OF THE  
LICENSING AND APPEALS COMMITTEE  
HELD ON THURSDAY 20 MAY 2010**

**DURING THE ADJOURNMENT OF THE ANNUAL COUNCIL MEETING**

*Present:- Chris Bowring, Mike Gore, Kate Haines, Pauline Helliard Symons, Ken Maill, Kirsten Miller, Barrie Patman, Chris Singleton, Sam Rahmouni, Malcolm Storry, Dee Tomlin and Bob Wyatt*

**1. ELECTION OF CHAIRMAN FOR THE 2010/2011 MUNICIPAL YEAR**

**RESOLVED:** That Barrie Patman be elected Chairman of the Committee for the 2010/2011 municipal year.

**2. APPOINTMENT OF VICE-CHAIRMAN FOR THE 2010/2011 MUNICIPAL YEAR**

**RESOLVED:** That Chris Bowring be appointed Vice-Chairman of the Committee for the 2010/2011 municipal year.

**3. APOLOGIES**

There was an apology for absence from Kay Gilder.

**4. DECLARATION OF INTEREST**

There were no declarations of interest.

*These are the Minutes of a Meeting of the Licensing and Appeals Committee*

*If you need help in understanding this document or if you would like a copy of it in large print please contact one of our Team Support Officers.*

<b>TITLE</b>	Licensing Act 2003 – Policy Review
<b>FOR CONSIDERATION BY</b>	Licensing and Appeals Committee on 3 June 2010
<b>WARD</b>	None Specific
<b>GENERAL MANAGER</b>	Mark Moon
<b>LEAD MEMBER</b>	UllaKarin Clark, Executive Member for Community Development and HR

**OUTCOME**

A draft policy for formal consultation, with responses and amended draft to a meeting of this Committee on 6 September for consideration and recommendation to Council on 23 September for adoption.

**RECOMMENDATION**

Members are recommended to agree to the attached draft policy going to consultation with the statutory consultees.

**SUMMARY OF REPORT**

- The current policy expires in September of this year and must be reviewed.
- This report presents the current Licensing Act policy for review prior to consultation.
- The consultation responses will be presented to a meeting of this Committee in September for consideration and amendment to the policy as seen appropriate before recommending adoption to Council later in that month.

## Background

The Licensing Authority is obliged to have a current policy in place at all times and the maximum life of a policy is three years. As the existing policy was adopted in September 2007 a review and adoption is necessary this year.

The existing policy has been used by members of the Hearings Sub-Committees and has been found to be suitable for its purpose. The original policy was subject to an extensive consultation exercise in 2004, receiving over 700 responses, to the best of our knowledge, more than 10 times the response rate of the next highest in the country, and then reviewed in 2007 and re-adopted without amendment.

The statutory guidance was amended in March 2010, however the changes do not affect the consultation draft as they involve specific changes to mandatory licence conditions which are not included in the policy document.

We have to carry out a consultation exercise on this review of the policy, although the requirements are less than for the original policy. The following organisations must be consulted:

- The chief officer of police;
- The fire authority;
- Persons/bodies representative of local holders of premises licences;
- Persons/bodies representative of local holders of club premises certificates;
- Persons/bodies representative of local holders of personal licences; and
- Persons/bodies representative of businesses and residents in its area.

Following the consultation exercise the policy, together with any consultation responses, will be presented to a meeting of this Committee in September for consideration and amendment to the policy as seen appropriate before recommending adoption to Council later in that month.

The proposed timetable is:

7 June	Consultation exercise begins
Mid August	Consultation exercise ends
6 September	Consideration by Licensing and Appeals Committee
23 September	Consideration for adoption by Council

### Analysis of Issues

There has been pressure for the Council to adopt a Special Policy for a specific area of the Borough; however this has not been included in the consultation draft. Responses from the consultees will no doubt include details of their proposals in this regard.

<b>Reasons for considering the report in Part 2</b>
---

Not applicable
----------------

<b>List of Background Papers</b>
----------------------------------

Existing Licensing Policy
Revised Guidance issued under section 182 of the Licensing Act 2003 – March 2010

<b>Contact</b> Steve Richardson	<b>Service</b> Place and Neighbourhoods
<b>Telephone No</b> 0118 974 6378	<b>Email</b> steve.richardson@wokingham.gov.uk
<b>Date</b> 20 May 2010	<b>Version No.</b> 0.1

# **Wokingham Borough Council**

## **Licensing Policy**

**September 2007**

# Contents

Section		Page
1	The Four Licensing Objectives	3
2	Terminology	4
3	General Considerations	5
4	Activities Regulated by this Policy	7
	<b>Licensing Objectives</b>	
5	1.The Prevention of Crime and Disorder	8
6	2. Public Safety	8
7	3. The Prevention of Public Nuisance	9
8	4. Protection of Children from Harm	9
9	Operating Hours	11
10	Cumulative Impact	11
11	Licensing and Appeals Committee	12
12	Licensing Decisions	13
13	Licensing Conditions	14
14	Enforcement	14
15	Policy Review	14

# 1

## The Four Licensing Objectives

All the Council's actions under the Licensing Act 2003 will be to achieve the licensing objectives. Only these matters may be taken into consideration, and no others, when determining a course of action. Each objective is of equal importance.

The four licensing objectives are:

- 1 The prevention of crime and disorder
- 2 Public safety
- 3 The prevention of public nuisance,  
and
- 4 The protection of children from harm

## **2 Terminology**

Throughout this Policy the following terms are used which are defined in the Licensing Act 2003. For simplicity abbreviated meanings are given below, although these meanings should not be used as a replacement for the legal definitions:

**Licensable Activity** – One or more of:

- a) The sale by retail of alcohol
- b) The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club
- c) The provision of regulated entertainment
- d) The provision of late night refreshment

### **Licence**

A Premises Licence, Club Premises Certificate or a Personal Licence

### **Licensee and Licence Holder**

A person or organisation that holds a Premises Licence, Club Premises Certificate or a Personal Licence.

### **Regulated Entertainment**

Entertainment provided for the public, members of a qualifying club and their guests, or for profit; and being:

- a) A performance of a play
- b) An exhibition of a film
- c) An indoor sporting event
- d) A boxing or wrestling entertainment
- e) A performance of live music
- f) Any playing of recorded music
- g) A performance of dance
- h) Activities similar to e,f or g above

### **Late Night Refreshment**

The supply to the public of hot food or drink after 23.00 and before 05.00.

### 3 General Considerations

3.1 The Council recognises that licensed activities are an important part in the cultural life of our community and make an important contribution to the economy of the Borough. In regulating activities under this legislation it acknowledges that a balance must be struck between the legitimate objectives of applicants and the desires of the population as a whole, and in particular those members of the public living, working or engaged in normal activity in the area concerned. A balance must be struck between these, often conflicting, positions and all views will be taken into account when making licensing decisions or determining a course of action.

3.2 This policy relates to the provisions of the Licensing Act 2003 and subordinate legislation made under that Act and nothing in this policy is intended to indicate that the requirement of any other enactment is superseded or duplicated.

3.3 It is the responsibility of the applicant to ensure that they comply with all relevant legislation. Examples of other areas where legislation may apply to licence holders and potential licence holders are:

- Building Regulations
- Disability Discrimination
- Environmental Protection
- Food Safety
- Health and Safety At Work
- Fire Safety Legislation
- Town and Country Planning
- Working Time Legislation

3.4 It is acknowledged that public concern over disorder in particular may be thought to be a result of licensing legislation only. The council can only have regard to the provisions of the Licensing Act 2003 when determining an application. However the Council also realises that other mechanisms exist to control bad and unlawful behaviour such as: planning controls, town centre management arrangements, and Police enforcement powers.

3.5 It is the responsibility of the licence holder to ensure that staff are sufficiently trained to fulfil their duties and to fully comply with the requirements of the licence.

3.6 Each application considered under this policy will be on its individual merits.

3.7 In imposing conditions to any licence the Council recognises that the licensee is only responsible for those matters under the licensee's control and that conditions can only be imposed as a result of relevant representations. Any conditions set will be proportionate and necessary to secure the licensing objectives.

3.8 The Council recognises the need to encourage and promote live music, dancing and theatre and is aware of the need to avoid measures which deter these activities. To this end the Council, as the Licensing Authority, will consider applications for publicly owned land and buildings to facilitate their use by performers and entertainers without the need for them to individually apply for a licence or give a temporary event notice.

3.9 The Council is conscious of Race Relations legislation and when considering licensing matters will have regard to the elimination of unlawful discrimination and the need to promote equality of opportunity and good relations between persons of different racial groups. In all its work the Council has regard to its race equality scheme.

3.10 Advice on the application of the Licensing Act 2003 and whether or not an activity requires a licence can be obtained from the Licensing and Safety Team of the Planning, Regulation and Enforcement Service who can be contacted:

By telephone: 0118 974 6358

By e-mail: [Licensing@wokingham.gov.uk](mailto:Licensing@wokingham.gov.uk)

By fax: 0118 974 6401

By letter: Licensing and Safety  
Wokingham Borough Council  
Shute End  
Wokingham  
Berks RG40 1WN

Website: [www.wokingham.gov.uk](http://www.wokingham.gov.uk)

## **5 Activities Regulated by this Policy**

This Policy sets out the Council's position regarding regulation of activities under the Licensing Act 2003. The following are covered by this Policy:

### **Premises Licences**

i.e. – A premises where one or more of the following takes place:

- The sale of alcohol by retail
- The provision of regulated entertainment
- The provision of late night refreshment

### **Club Premises Certificates**

i.e. A club premises is a premises which is occupied by and habitually used for the purposes of a club which has met the criteria to become a 'qualifying club'

### **Permitted Temporary Activities**

i.e. Use of premises for licensable activities for:

- a period of less than 96 hours, and for
- fewer than 500 persons

### **Personal Licences**

i.e. a licence which authorises an individual to supply alcohol, or authorise the supply of alcohol

## **5 Licensing Objective 1 –**

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

5.1 The Council is committed to work to reduce crime and disorder in the Borough and will consider these matters when fulfilling its functions as required by the Crime and Disorder Act 1998. When applying conditions the Council will be mindful of the local community safety strategy.

5.2 The Council acknowledges that its duties under the Licensing Act 2003 are a key way of reducing crime and disorder in the Borough and through this mechanism will seek to bring about improvements, with particular emphasis on alcohol-related disorder and anti-social behaviour.

5.3 Licence Holders play a key role in the prevention of crime and disorder and will be expected to address these issues in their Operating Schedule.

5.4 The Council encourages the use of Closed Circuit Television (CCTV) surveillance as a deterrent to crime and disorder. The Council may require the installation of a suitable CCTV system to the specification of the Thames Valley Police if it is believed that this will reduce the incidence of crime and disorder.

5.5 The Council encourages the usage of community watch schemes. The active membership of schemes such as 'pubwatch' and the like will be seen as an indicator of attempts to reduce crime and disorder.

5.6 When considering new or proposed premises the Council will expect the building design to be agreed with the Police Prevention & Design Officer and/or Crime Reduction Advisor with a view to designing out crime.

5.7 The Council supports the establishment and implementation of an enforcement protocol agreed with the Thames Valley Police for the reduction of crime and disorder associated with any licenced activities.

## **6 Licensing Objective 2 –**

### **Public Safety**

6.1 The Council is committed to ensuring public safety in licensed premises by working in partnership with the Royal Berkshire Fire and Rescue Service and other responsible authorities.

6.2 Conditions relating to public safety measures may be attached to a licence in order to meet any requirement identified by the Royal Berkshire Fire and Rescue Service or other responsible authority. These conditions may include an occupancy limit where this would enable one or more of the licensing objectives to be met.

6.3 The Council encourages measures to promote anti-drink/driving campaigns.

6.4 Special effects, such as smoke, lasers, or foam may be controlled by the use of conditions.

NB There is an overriding legal duty to comply with the provisions of Health and Safety at Work legislation, including risk-assessment and control.

## **7 Licensing objective 3 –**

### **The Prevention of Public Nuisance**

7.1 The Council is committed to minimising the adverse impact of licensable activity, whilst not unduly restricting the reasonable provision of licensed activity. In considering applications the Council will seek to ensure that personal and public amenity are maintained.

7.2 The nuisances which the Council will seek to control are, among others:

- Noise and vibration
- Light
- Odour
- Litter
- Anti-social behaviour
- Unreasonable disturbance from customers arriving and leaving premises
- Impact of customer parking

## **8 Licensing Objective 4 –**

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

8.1 For the purposes of this Policy a child is a person who has not yet reached their 18<sup>th</sup> birthday.

8.2 *Harm is taken to mean activities that may damage the moral, psychological or physical wellbeing of a child.* Activities that have the potential to cause harm to children include:

- Entertainment or services of an adult or sexual nature
- Underage sales or drinking of alcohol
- Drug taking or dealing
- A strong element of gambling
- The consumption of alcohol on a premises where this is the exclusive or primary purpose of the premises
- Tobacco smoking
- Excessive noise
- Particular hazards, such as falls from height

8.3 It is expected that any operating schedule will demonstrate how the licensee will ensure that no harm comes to any child by virtue of the licensable activities. These may include:

- Limiting the hours that children may be present
- Excluding children when particular specified activities are taking place
- Limiting the parts of the premises to which children have access
- Age limitations
- Excluding under 18's from the premises when licensable activities are taking place
- Requiring that an accompanying adult be present
- Arrangements for restricting children from viewing age-restricted films
- Arrangements to ensure that sufficient adult staff are present to ensure that the children are protected from harm

8.4 The Council may impose conditions to ensure that no harm comes to any child by virtue of the licensable activities, although conditions cannot require that children be admitted, which is a matter for the licensee to determine.

8.5 To ensure that a licensee complies with this requirement the Council encourages the use of 'Proof of Age' schemes.

8.6 The Council commends the work done by the Portman Group and supports the application of their Code of Practice which seeks to control the Naming, Packaging and Promotion of Alcoholic Drinks in a manner which may appeal to or attract minors.

8.7 In respect of Licensing matters the Council, as the Licensing Authority, recognises the Wokingham Safeguarding Children Board as the Responsible Authority in relation to the protection of children.

## **9 Operating Hours**

9.1 The Council recognises that one important aspect of the Licensing Act 2003 provisions is the abolition of national operating times for premises selling alcohol. The Council is mindful of the view that longer licensing hours for the sale of alcohol will help ensure that the problems arising when large numbers of customers leave premises simultaneously are avoided.

9.2 With regard to shops, stores and supermarkets selling alcohol the norm will be that they may sell alcohol at any time they are open for trading unless there are good reasons for restricting those hours.

9.3 The Council will only determine the operating hours of any licensable activity if there is the belief that by limiting the operating hours one or more of the Licensing Objectives will be met.

9.4 The licensing hours for each case will be considered on the individual merits of the application.

## **10 Cumulative Impact**

10.1 The Council recognises that the commercial demand for another premises in an area is not a matter for Licensing considerations. This matter is properly a matter for the planning process and the market.

10.2 The Council also recognises that where there are several premises providing licensable activity in the same vicinity the cumulative impact may have an adverse effect on the community, in particular from nuisance and disorder. Accordingly the Council may refuse additional applications if it believes that to grant a licence would undermine one or more of the Licensing Objectives and representations have been received from a responsible authority or an interested party, and the Council is satisfied that the criteria set out in the legislation are met. Reference to the General Considerations section of this Policy will demonstrate that each application will however be considered on its own merits.

10.3 If the Council considers that a 'Special Policy' is needed to deal with the cumulative impact of licensed premises it will only do so following consultation as specified in the Licensing Act 2003 and following the proper process.

10.4 The Council will expect licensees and potential licensees in an area to communicate with each other and to prepare their Operating Schedules so that they complement each other and collectively meet the Licensing Objectives.

## **11 Licensing and Appeals Committee**

11.1 Arrangements will be made for the Licensing and Appeals Committee to receive information on:

- Crime Prevention
- Planning Strategies
- Transport Strategies and Plans
- Tourism Strategies
- Race Equality Schemes
- Cultural Strategies
- Employment in the Borough
- Arts Development

11.2 In addition the Licensing and Appeals Committee will provide information to the Planning Committee regarding the situation with licensed premises in the Borough, and in particular alcohol related crime and disorder.

11.3 To avoid duplication and inefficiency the planning, building control and licensing regimes will be properly separated. It is expected that planning consent for a particular undertaking would normally be received prior to consideration of a licence application.

## 12 Licensing Decisions

12.1 The Council will seek to carry out its responsibilities under the Licensing Act 2003 speedily, efficiently and cost-effectively. To do this functions are delegated from the Licensing and Appeals Committee to either Sub-Committees or officers as appropriate. Licensing decisions will be delegated in the following manner, however the definitive delegations are included within the Council's Scheme of Delegations which can be found on the Council's website – [www.wokingham.gov.uk](http://www.wokingham.gov.uk):

Matter to be dealt with	Full Committee	Sub-Committee	Officers
Policy Decisions	All cases		
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 complaint is irrelevant, frivolous, vexatious etc			All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application		All cases	
Determination of a police objection to a temporary event notice		All cases	

## **13 Licensing Conditions**

13.1 Many licences are issued subject to conditions. These conditions are applied to a licence to ensure that one or more of the Licensing Objectives are met. The conditions applied to a licence will relate to that particular licence and will not be simply a standard set of conditions.

13.2 The Council will utilise the pools of conditions in the statutory guidance from which the majority of licence conditions will be drawn. Notwithstanding this, conditions specific to a licence may also be applied which are not from this set of model conditions.

13.3 It must however be noted that the attachment of conditions, or the compliance with them, will not relieve anyone of their statutory duties under other legislation, see section 3 – General Considerations.

## **14 Enforcement**

14.1 Enforcement by the Council will be in accordance with the Public Protection Service Enforcement Policy and in compliance with the National Enforcement Concordat.

14.2 The Public Protection Enforcement Policy is available at the Council offices and can be found on the Council's website at [www.wokingham.gov.uk](http://www.wokingham.gov.uk)

14.3 The Enforcement Concordat is based on the principles that businesses should:

- Receive clear explanations from enforcers of what they need to do and by when;
- Have opportunities to resolve differences before enforcement action is taken – unless immediate action is needed;
- Receive an explanation of their rights of appeal.

## **15 Policy Review**

15.1 The Council's Statement of Licensing Policy will be published every three years.

15.2 During this period the Policy will be kept under review and the Council may make such revisions as it considers appropriate. The Policy, complete with revisions, may be viewed on the Council's website [www.wokingham.gov.uk](http://www.wokingham.gov.uk) , and is available at the Council's offices.

**TITLE** Minor Variations under the Licensing Act 2003

**FOR CONSIDERATION BY** Licensing and Appeals Committee on 3 June 2010

**WARD** None Specific

**GENERAL MANAGER** Mark Moon

**LEAD MEMBER** Executive Member for Community Development and HR, UllaKarin Clark

**OUTCOME**

The delegation of decisions relating to minor variation applications to officers.

**RECOMMENDATION**

The Committee is recommended to delegate decisions relating to minor variation applications to the Council's Licensing Officers.

**SUMMARY OF REPORT**

The Licensing Act 2003 has been amended by the insertions of sections 41A to 41C (premises licence) and 86A to 86C (club premises certificate) relating to minor variations. The statutory guidance for to the Act has been amended to address the minor variations procedures.

The Government recommends, as detailed in the statutory guidance to the Act, that decisions regarding minor variations should be delegated to licensing officers. The Committee is recommended to delegate decisions relating to minor variations to the Council's Licensing Officers.

## Background

- 1.1 The Licensing Act 2003 Guidance envisages 4 main types of minor variation application:
  - Minor changes to the structure or layout of a premises
  - Small adjustments to licensing hours
  - Conditions: removal of out of date irrelevant or unenforceable conditions or volunteering of conditions
  - Licensable activities: adding certain licensable activities
  
- 1.2 However an application may not be made under the new provisions if the effect of the variations proposed in it would be:-
  - to extend the total hours permitted under the licence for licensable activities;
  - to vary substantially the premises to which a premises licence or club premises certificate relates;
  - to change the name of the Designated Premises Supervisor;
  - to extend the sale of alcohol between 11pm and 7am and/or increase the total licensing hours;
  - to remove certain mandatory conditions relating to the sale of alcohol.
  - to add the supply of alcohol as an authorised activity
  
- 1.3 Variations of the kind described in the preceding paragraph must still be made through the normal variations procedures set out in the 2003 Act.
  
- 1.4 On receipt of an application for a minor variation the licensing authority should consider whether the variation would impact adversely on the licensing objectives. If there is any doubt about the impact of the variation on the licensing objectives the licensing authority should consult the relevant responsible authority. Representations received from interested parties within the prescribed timeframe should also be considered.
  
- 1.5 The licensing authority must process and determine the application within 15 working days (beginning on first working day after authority has received the application). The first 10 working days of the 15 working day period constitute a consultation period in which Interested Parties can make representations. A determination cannot be made during the 10 day consultation period. Any representations received should be taken into account when a determination is made. However, there is no right to a hearing.
  
- 1.6 If the licensing authority does not respond to the application within the 15 working days the application should be treated as refused and the application fee returned to the applicant. The licensing authority and applicant can agree that the undetermined application be treated as a new application.
  
- 1.7 Licensing Authorities cannot impose their own conditions on the licence through

the minor variations process. If the licensing officer believes that the proposed variation would negatively impact on the licensing objectives they should refuse the application. Applicants may volunteer conditions as part of the minor variations process. These conditions may arise from their own risk assessment or from informal discussions with the licensing authority or responsible authorities.

<b>Reasons for considering the report in Part 2</b>
None

<b>List of Background Papers</b>
None

<b>Contact</b> Madeleine Shopland	<b>Service</b> Democratic Services
<b>Telephone No</b> 0118 974 6319	<b>Email</b> Madeleine.shopland@wokingham.gov.uk
<b>Date</b> 14 April 2010	<b>Version No.</b> 1

<b>TITLE</b>	<b>Removal of the requirement for a Designated Premises Supervisor in Community Premises under the Licensing Act 2003</b>
<b>FOR CONSIDERATION BY</b>	<b>Licensing and Appeals Committee on 3 June 2010</b>
<b>WARD</b>	<b>None Specific</b>
<b>GENERAL MANAGER</b>	<b>Mark Moon</b>
<b>LEAD MEMBER</b>	<b>Executive Member for Community Development and HR, UllaKarin Clark</b>

**OUTCOME**

The delegation of decisions relating to the removal of the requirement for a Designated Premises Supervisor (DPS) in certain Community Premises applications to officers.

**RECOMMENDATION**

The Committee is recommended to delegate decisions relating to the removal of the requirement for a Designated Premises Supervisor (DPS) in certain Community Premises applications to the Council's Licensing Officers.

**SUMMARY OF REPORT**

The Licensing Act 2003 has been amended by The Legislative Reform (Supervision of Alcohol Sales in Church and Village Halls &c. ) Order 2009 by insertions of sections 25A (grant of premises licence), 41D (variation of premises licence) and 52A (review) relating to applications for licences in respect of Community Premises. In the Order are also miscellaneous amendments to section 193 which include a definition of community premises and management committee

The statutory guidance to the Act has been amended to address the removal of the requirement for a DPS in certain Community Premises procedure.

The Government recommends, as detailed in the statutory guidance to the Act, that decisions regarding removal of the DPS should be delegated to licensing officers. The Committee are therefore recommended to delegate such decisions to the Council's Licensing Officers.

## Background

The Legislative Reform (Supervision of Alcohol Sales in Church and Village Halls &c.) Order 2009 amends the Licensing Act 2003.

The effect of the Order is to allow licensing authorities in some circumstances to allow certain community premises which have or are applying for a Premises Licence that authorises the sale of alcohol to apply that the requirement that there should be a DPS to be removed and an alternative condition put on the Licence that all sales of alcohol have to be supervised and authorised by the licence holder i.e the management committee.

Community Premises are defined as premises that are or form part of a church hall, chapel hall or other similar building or a village hall, parish hall or community hall or other similar building.

Where it is not clear whether a premises are a "Community Premises" the licensing authority should approach the matter on a case by case basis with the main consideration being how the premises are predominantly used – for example are they made available for community benefit most of the time and accessible by a broad range of persons and sectors of that community.

The process requires the completion of a new form which is prescribed in regulations. Where the management committee of community premises is applying for authorisation for the sale of alcohol for the first time it should include the form with the premises licence or premises licence variation application. Where a community premises already has a premises licence to sell alcohol, but wishes to remove the mandatory condition for a DPS and replace with the new mandatory condition, it should submit the form on its own.

The licensing authority must be satisfied that the arrangements for the management of the premises by the committee or board are sufficient to ensure the adequate supervision of the supply of alcohol on the premises. These arrangements must be set out in the application form. The management committee will collectively be responsible for ensuring compliance with licence conditions and sales of alcohol although there would not necessarily be any need for an individual member to always be present at the premises.

The police can object to a request for inclusion of the new alternative mandatory licence condition on the grounds of crime and disorder and any responsible authority can seek reinstatement of the conditions through licence review. If the police issue a notice seeking the refusal of the application to include the new mandatory condition, the licensing authority must hold a hearing to reach a decision on whether to grant the application.

<b>Reasons for considering the report in Part 2</b>
None

<b>List of Background Papers</b>
----------------------------------

The Legislative Reform (Supervision of Alcohol Sales in Church and Village Halls &c.) Order 2009 Explanatory Document by the Department for Culture, Media and Sport
--

<b>Contact</b> Madeleine Shopland	<b>Service</b> Democratic Services
<b>Telephone No</b> 0118 974 6319	<b>Email</b> Madeleine.shopland@wokingham.gov.uk
<b>Date</b> 21 May 2010	<b>Version No.</b> 1