



WOKINGHAM BOROUGH COUNCIL

A Meeting of the **LICENSING AND APPEALS COMMITTEE**
will be held in Council Chamber - Civic Offices on
TUESDAY 4 SEPTEMBER 2018 AT 7.00 PM

A handwritten signature in black ink, appearing to read 'Manjeet Gill', is written over a light grey rectangular background.

Manjeet Gill
Interim Chief Executive
Published on 24 August 2018

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WOKINGHAM BOROUGH COUNCIL

Our Vision

A great place to live, an even better place to do business

Our Priorities

Improve educational attainment and focus on every child achieving their potential

Invest in regenerating towns and villages, support social and economic prosperity, whilst encouraging business growth

Ensure strong sustainable communities that are vibrant and supported by well designed development

Tackle traffic congestion in specific areas of the Borough

Improve the customer experience when accessing Council services

The Underpinning Principles

Offer excellent value for your Council Tax

Provide affordable homes

Look after the vulnerable

Improve health, wellbeing and quality of life

Maintain and improve the waste collection, recycling and fuel efficiency

Deliver quality in all that we do

MEMBERSHIP OF THE LICENSING AND APPEALS COMMITTEE

Councillors

Barrie Patman (Chairman)	Bill Soane (Vice-Chairman)	Chris Bowring
Rachel Burgess	Lindsay Ferris	Mike Haines
John Halsall	Emma Hobbs	John Jarvis
Abdul Loyes	Malcolm Richards	Rachelle Shepherd-DuBey
Chris Smith	Oliver Whittle	

ITEM NO.	WARD	SUBJECT	PAGE NO.
13.		APOLOGIES To receive any apologies for absence.	
14.		MINUTES OF PREVIOUS MEETING To confirm the Minutes of the Meeting held on 27 June 2018.	5 - 14
15.		DECLARATION OF INTEREST To receive any declarations of interest.	
16.		PUBLIC QUESTION TIME To answer any public questions A period of 30 minutes will be allowed for members of the public to ask questions submitted under notice. The Council welcomes questions from members of the public about the work of this committee. Subject to meeting certain timescales, questions can relate to general issues concerned with the work of the Committee or an item which is on the Agenda for this meeting. For full details of the procedure for submitting questions please contact the Democratic Services Section on the numbers given below or go to www.wokingham.gov.uk/publicquestions	
17.		MEMBER QUESTION TIME To answer any member questions	
18.	None Specific	CRITERIA POLICY FOR LICENSED VEHICLES To receive and consider a report outlining the proposal of a criteria policy for licensed vehicles.	15 - 24
19.	None Specific	CUMULATIVE IMPACT ASSESSMENT To consider a report regarding the Cumulative Impact Assesment.	25 - 28
20.	None Specific	EXCLUSION OF THE PRESS AND PUBLIC	

The Committee may exclude the press and public in order to discuss the legal implications, which will be provided by a legal advisor, of agenda item 19 and to do so it must pass a resolution in the following terms:

That under Section 100A (4) of the Local Government Act 1972, the public be excluded from the meeting for the following item of business on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 5 of Part 1 of Schedule 12A of the Act (as amended) as appropriate.

21.	None Specific	REVIEW OF STATEMENT OF LICENSING POLICY To receive and consider the review of Statement of Licensing Policy report.	29 - 54
22.	None Specific	REVIEW OF STATEMENT OF GAMBLING PRINCIPLES To receive a report containing the review of Statement of Gambling Principles.	55 - 80
23.	None Specific	ANNUAL REPORT To consider the Licensing Committee's Annual Report.	81 - 86
24.	None Specific	LICENSING COMMITTEE FORWARD PLAN To consider the Licensing Committee's forward plan.	87 - 88

Any other items which the Chairman decides are urgent.

A Supplementary Agenda will be issued by the Chief Executive if there are any other items to consider under this heading.

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**MINUTES OF A MEETING OF THE
LICENSING AND APPEALS COMMITTEE
HELD ON 27 JUNE 2018 FROM 7.00 PM TO 9.35 PM**

Committee Members Present

Councillors: Rachel Burgess, Lindsay Ferris, John Halsall, John Jarvis, Abdul Loyes, Barrie Patman, Malcolm Richards, Rachelle Shepherd-DuBey, Chris Smith, Bill Soane and Oliver Whittle

Officers Present

Luciane Bowker, Democratic & Electoral Services Specialist
Laura Driscoll, Principal Officer, Public Protection Partnership
Julia O'Brien, Licensing Team Manager
Neil Allen, Legal Advisor to the Committee

1. ELECTION OF CHAIRMAN

Councillor Barrie Patman was elected Chairman of the Licensing and Appeals Committee for the 2018/19 municipal year.

2. APPOINTMENT OF VICE-CHAIRMAN

Councillor Bill Soane was appointed Vice-Chairman of the Licensing and Appeals Committee for the 2018/19 municipal year.

3. APOLOGIES

Apologies for absence were submitted from Councillors Chris Bowring, Mike Haines and Emma Hobbs.

4. MINUTES OF PREVIOUS MEETING

The Minutes of the meeting of the Committee held on 21 March 2018 were confirmed as a correct record and signed by the Chairman.

5. DECLARATION OF INTEREST

Councillor John Halsall stated that he had no pecuniary interest in any event or license, except indirectly through one of the clubs for which he was a member or for one of the landowners who let their land.

He declared a personal interest in relation to the Cumulative Impact Assessment and stated that he had been a resident in Remenham for almost forty years and previously Henley. He had been a Henley Royal Regatta competitor. He was a member of Henley Royal Regatta, Henley Rowing Club, Leander and Upper Thames Rowing Club, for whom he had been the licensee, the event's organiser and one of the founder members. He rowed practically every day from Upper Thames. He had coached for Leander and Upper Thames. He had umpired for most events on the reach. He was the Chairman of Remenham Parish Council, a member of the Remenham Farm Residents Association and the neighbour of Remenham Farm. He was or had been friends with all the landowners and many of the licensees.

Councillor Halsall left the room during the discussion of item 9.

6. PUBLIC QUESTION TIME

There were no public questions.

7. MEMBER QUESTION TIME

There were no Member questions.

8. CRITERIA POLICY FOR LICENSED VEHICLES

The Committee considered the Criteria Policy for Licensed Vehicles report which was set out in agenda pages 13-52.

Laura Driscoll, Principal Officer, Public Protection Partnership introduced the report and stated that the report contained the criteria proposal and the results of the consultation.

Laura Driscoll stated that the proposal included dimensions for wheelchair accessibility, as per the Committee's request. The dimensions were based on guidelines issued in the Republic of Ireland.

During the discussion of the item the following comments were made:

- In response to a question Julia O'Brien, Licensing Team Leader stated that West Berkshire did have a wheelchair accessibility policy. All vehicles in their fleet were wheelchair compliant, apart from 4 vehicles which had a swivel seat and had a protected plate;
- Councillor Ferris asked if there was a list of models that the drivers could use as a guide to buy their vehicles. He was also interested to know if the assessments that had been carried out had been undertaken under this guidelines which had not yet been approved;
- Laura Driscoll stated that the issue was that models varied depending on which year they were produced and the commercial model. She stated that measurements were a more reliable method and she expected that anyone looking to purchase a vehicle would be able to use it;
- Julia O'Brien confirmed that the assessments had been carried out against the current policy;
- Julia O'Brien informed that most of the fleet had now been checked by the RAC (on behalf of the Licensing Authority), 75 vehicles had been checked with 5 still outstanding. The result was that 45% of the cars that were checked were compliant;
- Councillor Soane asked what would happen if a driver purchased a vehicle in accordance to this guidelines and then subsequently the government issued a different policy;
- Councillor Richards pointed out that the government usually allowed for a period of around two years so that people could adjust to the new policy;
- Councillor Shepherd-DuBey suggested that training should be given to drivers in relation to Special Educational Needs (SEN) students, especially those involved in school transport. Julia O'Brien stated that such training was already in place and that all drivers undertook disability awareness training;
- Councillor Richards stated that it was necessary to include within the guidelines the recommended ramp gradient;
- Councillor Burgess asked if consideration in relation to the financial impact on current drivers had been taken into account;
- Laura Driscoll stated that it was for the Committee to decide how this new policy would apply to current vehicles. She recommended that a significant amount of time be allowed for drivers to comply so that drivers did not incur in an immediate financial burden;

- Councillor Halsall felt uneasy expressing an opinion in this matter which involved an environmental impact and the livelihood of drivers. He proposed that a working group be set up to look at this issue in more detail;
- Councillor Ferris stated that he was not sure the figures were correct or not, but it was a starting point. He believed that it was a good idea to set up a working group and that a representative from the trade should be invited to take part;
- In response to a question Julia O'Brien stated that the main issue with deferring a decision was that drivers would still not be certain which vehicles they should buy;
- Laura Driscoll stated that one option was to ask that all vehicles be purposefully built, however this option would be unpopular because such cars were more expensive;
- Councillor Richards suggested adding the measurements as an appendix to the policy in order to facilitate changes as and when necessary;
- Members stated that in drawing up the policy, consideration in relation to the environment should be given;
- Councillor Halsall stated that in his personal experience the sizes and technology of wheelchairs had changed considerably in recent years; therefore he was concerned with adding measurements to the policy.

Members were in favour of deferring the decision and to create a working group to look at the proposed policy in more details. It was agreed that existing licences would be extended until a new policy was adopted.

RESOLVED That:

- 1) A working group will be formed to discuss the proposed Criteria Policy for Licensed Vehicles;
- 2) The working group will include elected Members, Licensing Officers, Environment Officers and a representative from the trade;
- 3) The working group's recommendations will be brought back for the Committee's consideration at its September meeting.

9. REVIEW OF STATEMENT OF LICENSING POLICY

The Committee considered the Review of Statement of Licensing Policy report which was set out in agenda pages 53-100.

Julia O'Brien, Licensing Team Manager stated that the Council was required to review its Statement of Licensing Policy (SLP) every five years. The SLP outlined the general approach of the licensing authority when making decisions under the Licensing Act 2003, the policy could be reviewed and revised by the authority at any time. The current Wokingham SLP must undergo a review and be re-published by the end of September 2018.

Julia O'Brien stated that a consultation had taken place and the comments received were attached to the report, as well as the Officer's analysis of the comments.

Some of the consultees had asked the Chairman for permission to speak at the meeting, in view of the high level of interest the Chairman agreed to allow them to make a statement to the Committee.

The speakers were called in the order in which the requests were received.

Sue Dowling addressed the Committee and these were some of the main points put forward by her:

- The suggestion of the CIP was not clear during the consultation process;
- There was not a high concentration of licences in the Remenham area, with only six licensed premises which authorised daily licensable activities;
- There needed to be evidence to support consultation as stated in the House of Commons briefing paper which was circulated to the Committee;
- The evidence should be strong enough to stand up to scrutiny; it should include statistics on anti-social behaviour for example;
- It had not been possible to draft a response as there had not been any evidence put forward;
- The Henley Regatta had a good track record;
- Due to the lack of evidence it was inappropriate to introduce a CIP;
- None of the responsible authorities were in favour of the introduction of a CIP;
- The statistics provided by Thames Valley Police showed that crime and disorder in the area were decreasing and not increasing;
- The limited licences amounted to approximately 20 days a year.

Councillor Whittle asked Sue Dowling what impact the CIP would have on the Henley Regatta. Sue Dowling stated that she was not in a position to respond, however there could be a financial implication and a detrimental effect to Henley. She stated that the licences brought life to the town, attracting visitors, investment and infrastructure.

In response to a question the Chairman confirmed that there would be further opportunity to discuss the other elements of the SLP, this meeting was considering the CIP element of it only.

James Rankin addressed the Committee and these were some of the main points put forward by him:

- He was concerned that Councillor Halsall had taken part in discussions in relation to CIP at previous meetings as he clearly had a connection with Remenham. He was seeking to ascertain that Councillor Halsall would not take part in the discussion of the item as this may raise the perception of bias;
- Evidence should have been provided before the consultation took place; it was not good enough to just decide that it may be a good idea to introduce a CIP and go out to consultation;
- The legislation introducing Cumulative Impact Assessments (CIA) was introduced in April 2018 and set out very strict criteria to justify CIAs;
- The proper procedures had not been followed with respect to the consultation;
- The email which was sent out on 9 May 2018 setting out the consultation contained insufficient or no information; it also incorrectly referred to CIP rather than CIA;
- CIA had replaced CIP and there was a significant difference which was not just the name, but it represented important reforms of the way in which cumulative impact measures may be adopted by licensing authorities;
- There had been fatal failures in the process which undermined the process;
- The consultation period was not long enough and the relevant people such as local residents, licence holders and businesses had not been consulted;

- The consultation needed to include a map clearly indicating the area, it was not sufficient to just say Remenham;
- The consultation should have included information in relation to which types of licensable activities were being questioned;
- There were weak grounds for CIP in Remenham, this was something that happened in larger cities;
- Thames Valley Police had made no response to the consultation;
- The issue of overcrowding which had been raised three years ago had now been resolved;
- Issues with current licences could be challenged through hearings and cumulative impact could be taken into account.

In response to a question James Rankin stated that he represented The Copas Partnership who had been operating events in Henley for approximately 40 years.

Michael Dudley addressed the Committee and these were some of the main points put forward by him:

- 18 months ago he stood in a Sub-Committee hearing in relation to Henley Swim and was told that cumulative impact could not be taken into account because Wokingham did not have a CIP. This advice was given by the Legal advisor to the Panel;
- He was seeking reassurance that in future hearings the cumulative impact would be taken into account;
- He stated that he did not have a problem with the current licences, but he was looking into the future and potential new licences;
- The adoption of a CIP would not affect the current licences, it would not be retrospective;
- Although there were only 20 days of events, there was the setting up and taking down days which should also be considered;
- The Henley Regatta attracted approximately 100.000 people and the Rewind Festival around 40.000 people and most people travelled by car creating public nuisance and safety concerns;
- This level of activity was a public nuisance;
- The main access to the area was through Remenham Lane or Remenham Church Lane, which were totally unsuited to such volumes of traffic;
- There were no trains or buses and there was a major problem with traffic;
- He believed that traffic was a licensing issue, if licences were not issued there would not be a problem with traffic;
- He pointed out that the high volume of traffic created a health and safety concern, with emergency vehicles not being able to attend promptly to emergencies.

In response to a comment the Chairman explained that cumulative impact polices were designed to deal areas in which events happened concurrently.

Anthony West addressed the Committee and these were some of the main points put forward by him:

- He concurred with all the points raised by Michael Dudley;
- He emphasized that although there were only 20 days of events, this did not account for the setting up and taking down time. The Henley Regatta for example, started

setting in April and only finished in August, therefore amounting to a cumulative impact effect;

- The residents of the parish of Remenham had been suffering public nuisance for a number of years;
- He believed the CIP should be adopted to consider future applications.

Councillor Halsall explained that he had not previously declared an interest because the Committee had not previously been required to make a decision in relation to the adoption of a CIP.

Councillor Halsall circulated a paper containing his statement which he then read out to the Committee, and these were some of the main points put forward by him:

- The allegation that the process was not followed correctly could be disputed;
- The legislation permitted the adoption of a CIP in rural areas and the responses that indicated the contrary were incorrect;
- All licensing determinations should be considered on case-by-case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be;
- The authority's decision should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve;
- The purpose of incorporating Cumulative Impact Assessments (CIA) (as they are now called) in the Act itself is purely to improve transparency and to ensure that the policy is based on evidence. The Act simply sets out a statutory process by which a CIA should be introduced, but it does not raise the bar as to when it would be appropriate to do so. Nor does the new legislation say anything about when or where it might be appropriate to introduce a CIA;
- This Committee has significant evidence upon which to base the introduction of a CIA in Remenham;
- It is up to the Committee to consider the whole of the evidence before reaching a decision;
- There is no law or policy that dictates that CIAs cannot be introduced in rural areas, nor that they can only relate to premises with permanent licences;
- In deciding whether to consult upon and then ultimately publish a CIA, the licensing authority has to look at the area that it has in mind and decide whether it is appropriate to limit the number or types of new licences that it might grant in that area in the future. As part of the cumulative impact it would consider any evidence that is part of that impact, including any relevant existing licences that are contributing to the impact;
- The introduction of a CIA is intended to bring balance between the introduction of new businesses and the interest of existing residents;
- The CIA would redress the balance from permissively allowing every new licence that came along to be granted, adding to the cumulative impact to a situation where every new applicant would have to demonstrate that they would not add to the saturated situation that currently exists;
- It is true that cumulative impact can always be raised as an issue in any application, even in the absence of a policy such as a CIA. But the difference with the introduction of a policy is that the burden of proof switches to the applicant to show that they will not add to cumulative impact, rather than, as currently being upon residents to prove that the new application will add to cumulative impact;

- The representations indicate that the “current system is working”. It might be said to be working for new applicants, but it most certainly is not working for the residents and constituents of Remenham;
- The cumulative impact that is suffered in Remenham as a result of the concentration of licences is overwhelming, it is an exceptional situation in a rural area.

Councillor Halsall left the room and the Committee carried out a discussion.

During the discussion of the item the following comments were made:

- Neil Allen, Legal advisor the Committee advised the Committee that a decision was required as to whether to carry on with an assessment on the possibility of drafting CIA or not;
- Neil Allen stated that If the Committee were to decide to carry on with the assessment, all the various points that were raised would be carefully taken into account with Legal professional advice; this would then be submitted to the Committee again at a later date;
- Councillor Shepherd-DuBey was concerned with the claim that the consultation had not been adequate. Neil Allen stated that he could not at this stage comment on it;
- Councillor Richards asked how long it would take if the process had to be re-started with another consultation. Neil Allen stated that there was no set period of time;
- Councillor Richards asked if, cumulative impact could be considered at hearings if the CIP was not adopted. Neil Allen stated that new legislation had been issued in April and any lawyer present at a hearing would be able to advise;
- In response to a question Neill Allen confirmed that a CIA would not affect existing licences but it could affect new licences;
- Councillor Ferris stated that he understood the issues raised by the Remenham residents and he believed that something needed to done to contain the problem. However, he was concerned that the consultation may not have been carried out properly and may have to be undertaken again;
- Councillor Shepherd-DuBey was interested to know if the consultation had been done under the new or old legislation. Laura Driscoll stated that she was not certain and would have to refer back to her notes. In response to a question Laura Driscoll stated that she had not consulted with Legal before setting up the consultation;
- Councillor Loyes asked if there were any time constraints in making a decision. Neil Allen stated that the SLP had to be re-published by September, however the consideration as to whether to adopt a CIP or not could be undertaken at any time.

After much debate the Chairman stated that there were three possible alternatives:

- To decide that there is not enough evidence to move forward towards drafting a CIA;
- To decide that there is enough evidence to move forward towards drafting a CIA but the process needs straightening out; or
- To decide that more evidence is needed in order to decide whether to move forward or not and defer the decision.

The Chairman urged the Committee to consider the implication of their decision. He pointed out that it was important to make sure that all processes were followed correctly and that the Legal assistance that was required would be costly. It was imperative to avoid a situation where the Council may be putting itself at risk of expensive legal challenges.

Neill Allen stated that although the SLP had to be revised every five years, it could be reviewed at any time by the Local Authority.

Councillor Whittle pointed out that the recommendation in the report was specifically in relation to CIA to Remenham. Laura Driscoll stated that there no significant proposed changes to the SLP. She stated that the CIA could be split from the SLP in a future report.

In response to a question Neil Allen stated that CIAs had to relate to a specific area.

Councillor Ferris stated that he felt that there was insufficient information available to allow for a decision to be made at this point in time.

Councillor Shepherd-DuBey urged the Licensing department to engage with the Legal department before bringing back a paper to the Committee.

Councillor Smith believed that there was enough evidence to proceed with the drafting of a CIA. However, upon being put to the vote the majority voted to defer the decision to the next meeting, with more robust information being requested.

RESOLVED That: The consideration of the drafting of a Cumulative Impact Assessment for the Remenham area be deferred to the next meeting of the Committee.

10. REVIEW OF STATEMENT OF GAMBLING PRINCIPLES

The Committee considered the Review of Statement of Gambling Principles which was set out in agenda pages 101-106

Laura Driscoll explained that there was a legal requirement to review the Local Authority Gambling Statement every three years. The present statement was published to take effect from the end of January 2016, therefore it was time to undertake a review in order to have it re-published to take effect by the end of January 2019.

Laura Driscoll stated that there were no significant changes from the previous policy. The results from the consultation were listed in the report and the comments were fair.

Laura Driscoll stated that the final version of the Statement would be brought back to the Committee in September, prior to it being referred to Council for approval in November.

In response to a question Laura Driscoll stated that there were around 10 gambling premises in the Borough.

RESOLVED That the Committee endorses the proposed amendments contained in the report.

11. SUB-COMMITTEE PROCEDURE

The Committee considered the Sub-Committee Procedure report which was set out in agenda pages 117-122.

Laura Driscoll proposed to change paragraph 1.1 of the procedure to three working days, and Members were in agreement to change it.

During the discussion of the item the following comments were made:

- Councillor Halsall disagreed with the proposal that the Sub-Committee be selected by Democratic Services, he believed that there should be a rotation system;
- Luciane Bowker, Democratic and Electoral Services Specialist explained the selection process was based on:
 - Members availability to attend hearings during the day
 - Avoidance of conflict of interest
 - Attendance to training
 - Cross-party representation
- Members noted that on certain occasions it was also important to consider continuity;
- Going forward, Luciane Bowker offered to send an email to all Members of the Licensing and Appeals Committee and select on a first come first serve basis (bearing in mind any conflict of interest). Members were in agreement with this.

Luciane Bowker pointed out that the proposed procedure excluded the time limitation for representations. Laura Driscoll confirmed that she had had legal advice on this issue, and she had been advised that it was better not to have a time limit. It would be at the Chairman's discretion to keep the time equally fair to both parties. Members were in favour of this.

RESOLVED That:

- 1) The Committee approves the information and Procedure document subject to the following amendments:
 - a) When a Sub-Committee meeting is required, Democratic Services will notify all Members of the Licensing and Appeals Committee via email and select the Panel on a first come first serve basis (provided that the other legal requirements are met)
 - b) Paragraph 1.1 will be amended to read: *"The applicant will normally be required to attend the meeting in person. They will be entitled to be represented by a solicitor or counsel or by any other individual provided that the name of any such person is given to Democratic Services three clear working days in advance of the hearing."*

12. LICENSING COMMITTEE FORWARD PLAN

The Committee considered the forward plan for the 2018/19 municipal year.

Laura Driscoll referred to the list of forthcoming items listed in the report. She stated that the Fees and Charges would be amalgamated between the three authorities who formed the Public Protection Partnership (PPP), this would be discussed at the September meeting.

Members asked that the Fees and Charges report include benchmarking with authorities outside of PPP.

Laura Driscoll informed that training sessions would be available at the three authorities, the dates would be confirmed shortly.

Councillor Whittle asked that Licensing Officers consulted with Wokingham Town Council and Woodley Town Council in relation to Street Trading.

Councillor Halsall asked that a list of Wokingham's licensing policies be circulated to the Committee.

In response to a question Laura Driscoll stated that she intended to produce a briefing note on Pet Shops, with an update containing the new government legislation in relation to animal licensing.

Laura Driscoll explained that in order to enable the Statement of Licensing Policy to be submitted to Council in November, it was necessary to change the date of the next meeting to a week earlier. Members agreed to change the date of the next meeting to 4 September 2018.

RESOLVED That:

- 1) The Committee noted the forward plan report;
- 2) The date of the next meeting be changed to 4 September 2018.

TITLE	Criteria Policy for Licensed Vehicles
FOR CONSIDERATION BY	Licensing and Appeals Committee 4 September 2018
WARD	None-specific
DIRECTOR	Sean Murphy - Public Protection Manager

OUTCOME / BENEFITS TO THE COMMUNITY

It is good practice to keep policies under review and where necessary update them so they better reflect the present need within the local area and national agenda. The amendments proposed to the policy are with a view to improving the quality and overall standard of the vehicles being licensed by the Council, and also allow the licensing of electric vehicles. The other changes proposed seek to provide clarity in respect of tinted windows and wheelchair accessibility to ensure licence holders are clear about the requirements for a vehicle to be suitable for licensing.

RECOMMENDATION

That the Committee agrees the proposed amendments to the criteria policy for licensing of vehicles as outlined at Annex A, subject to and any further amendments the Committee may wish to make.

SUMMARY OF REPORT

The comments received during the consultation process are attached as annexes to the report, and have been summarised below with officer observations on those comments.

Background

Attached at Annex A is the document which was sent out for consultation, with the proposed amendments shown in bold italics under the relevant current section. In addition, notes from the recent Task and Finish Group have been added to confirm recommendations from the Group.

The responses to the consultation are attached at Annexes B to H. Five of the responses (Annexes B to F) are individual responses from licensed drivers. A response was received from Wokingham Borough Hackney Carriage Association on behalf of their members (approximately 50 licensed drivers) and this is at Annex G. One further response was received from the Environmental Quality Team, which can be found at Annex H.

The key issues highlighted in the responses at Annexes B to G appear to be as outlined in the following table, with officer response to the comments as appropriate in the second column.

Annex	Comment	Officer response
B	Would like exception made for existing licensed vehicle which has tinted windows and no air conditioning for passenger comfort	
C, D, F and H	<p>Against proposed reduction of age limit, existing licensed vehicles should be entitled to remain licensed up to 15 years of age.</p> <p>Mileage checks will encourage mileage tampering.</p> <p>An independent organisation should assess the vehicle for suitability.</p>	<p>The proposed extension to age limits as set out in 2.5.4 seeks to allow extensions where appropriate.</p> <p>Mileages can be recorded on inspections to ensure there is a history and pattern of use, to prevent mileage tampering.</p> <p>Officers will look into the use of an independent organisation to carry out age of vehicle extension inspections, but it should be noted that this may not be viable and may carry an additional cost which would fall on the trade to cover.</p>
C	Neighbouring authorities do not have a wheelchair policy	West Berkshire does have a wheelchair accessibility policy along with Bracknell Forest and Reading. According to DfT statistics, 58% of licensed taxis in England were wheelchair accessible at the end of March 2017, and 183 authorities (62%) required wheelchair accessible vehicles in all or part of their fleet.
D	Decision made by the Council under s163 of the Equality Act is illegal	This part of the Equality Act is not in force; officers compiling this report are not aware of any suggestion that we are using said provision.
D, G	Council should make provision for hybrid and electric vehicles (annex D suggests these cannot take wheelchair users)	It has been noted that electric wheelchair accessible 'TX' vehicles are already in operation in London, and the Nissan eNV-200 is another example of an electric wheelchair accessible vehicle.
E	Suggestion that vehicles with M1 certification are suitable for wheelchair access	Definition of category M1 by VCA: Vehicles designed and constructed for the carriage of passengers and comprising no more than eight seats in addition to the driver's seat.

<p>E, F and G</p>	<p>Comments on size requirements for wheelchair space</p>	<p>The initial proposed size requirements came from the DfT, in respect of public service vehicles.</p> <p>However following additional research and the comments received, it is proposed to amend the measurements to the following:</p> <p><u>The door shall be of minimum usable dimensions 745mm wide x 1350mm high to gain access to the wheelchair space. The wheelchair space shall be at least 1250mm long x 780mm wide with 1370mm headroom minimum.</u></p> <p>Using the eNV-200 as mentioned above, this has the following specification:</p> <p style="padding-left: 40px;">Entry height: 1418mm Headroom: 1470mm Floor length: 1250mm Door width: N/K Ramp width: 735mm</p> <p>And same for the TX vehicle:</p> <p style="padding-left: 40px;">Entry height: 1370mm Headroom: N/K Floor length: 1280mm Door width: 842mm Ramp width: 714mm</p>
<p>E, F</p>	<p>Comments on the proposed list of designated vehicles under the Equality Act 2010</p>	<p>Section 167 of the Act permits authorities to maintain a designated list of wheelchair accessible taxis and PHVs. Whilst authorities are under no specific legal obligation to maintain a list under section 167, the Government recommends strongly that we do so. Without such a list the requirements of section 165 of the Act do not apply, and drivers may continue to refuse the carriage of wheelchair users, fail to provide them with assistance, or to charge them extra. The list will help ensure that passengers in wheelchairs are better informed about the accessibility of the taxi and PHV fleet in their area, confident of receiving the assistance they need to travel safely, and not charged more than a non-wheelchair user for the same journey.</p>

G	Written confirmation of vehicles which meet each Euro NCAP category will be useful	Officers will look to develop this if the policy is introduced. There is a similar document already in use in other local authority areas
G	Dispensation vehicles should not be allowed to breach the VOSA guidelines in respect of tinted windows	The proposal for dispensation vehicles to be exempt is only in respect of rear windows – the VOSA guidelines do not cover these windows
G	Vehicle type approval – does this affect existing vehicles?	To clarify, this is in respect of new vehicle licences issued and would not be applied retrospectively, and seeks to avoid situations where drivers may purchase an unsuitable vehicle. The policy is flexible to allow other type approvals if the vehicle meets all requirements and has certification to prove the vehicle is fit for purpose
G	All new hackney carriages should be wheelchair accessible, have ECWVTA certification and be either hybrid, electric or capable of producing zero emissions	
G	All licensed vehicles should be transferable	
G	There should be a specific tariff for Henley Regatta	Not relevant to vehicle policy, but officers will consider as a future item
G	Smaller engine sizes should be incorporated	This is the reason behind the suggestion to remove vehicle engine size and replace with Euro NCAP categories which denote the size of vehicles deemed appropriate for use as licensed vehicles, to ensure passenger comfort
G	Driver appearance and dress code	Not relevant to vehicle policy, but officers will consider as a future item
G	Licensed vehicles user surveys	The consultation was added to the Council's portal, no comments were received from the public

Analysis of Issues

If the authority does not have a robust policy in place then there is an increased risk of successful challenges to decisions made by the Council.

FINANCIAL IMPLICATIONS OF THE RECOMMENDATION

The Council faces severe financial challenges over the coming years as a result of the austerity measures implemented by the Government and subsequent reductions to public sector funding. It is estimated that Wokingham Borough Council will be required to make budget reductions in excess of £20m over the next three years and all Executive decisions should be made in this context.

	How much will it Cost/ (Save)	Is there sufficient funding – if not quantify the Shortfall	Revenue or Capital?
Current Financial Year (Year 1)	No impact	N/A	N/A
Next Financial Year (Year 2)	No impact	N/A	N/A
Following Financial Year (Year 3)	No impact	N/A	N/A

Other financial information relevant to the Recommendation/Decision

None

Cross-Council Implications

There are no implications arising from the recommendation in this report.

Reasons for considering the report in Part 2

None

List of Background Papers

TXD059 Hackney Carriage and Private Hire Licensing Policy

Contact Laura Driscoll	Service Public Protection Partnership
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Date 7 August 2018	Version No. 1.1

**Excerpt from TXD059
Policy in relation to Hackney Carriage and Private Hire Vehicle Licences**

2.2 Vehicle Standards

2.2.1 No vehicle shall be licensed unless it;

- i. has undertaken and passed the Hackney Carriage and Private Hire Vehicle Test, at a Wokingham Borough Council nominated garage.
- ii. is right hand drive, except where the vehicle is a stretch limousine
- iii. can carry a minimum of four passengers (excluding the driver)
- iv. has a minimum of four doors for driver and passenger access and egress.
- v. has an engine capacity of 1599cc or above
- vi. provides a clear seat width of at least 16 inches for each passenger
- vii. has a seat depth of at least 17.5 inches
- viii. has a knee space of at least 21.5 inches (measured from the rear of the seat in front to the front of seat)
- ix. has a rear height of at least 30 inches (top of the seat to the roof; measured from the point of contact between the seat cushion and the back of the seat).
- x. has no more than 8 passenger seats (in addition to the driver's seat).
- xi. has provision for every passenger to wear a seat belt. A sign must be displayed inside the vehicle requiring seat belts to be worn.

Amend to remove from 2.2.1 (iii-x) and replace with the following:

From *date TBC*, new vehicle licences shall only be issued for vehicles which fall within the following Euro NCAP categories:

- (i) Large family***
- (ii) Executive***
- (iii) Small MPV (for 4 passengers only)***
- (iv) Large MPV***
- (v) Large Off-Road 4x4***

Any vehicles which do not fall within the appropriate Euro NCAP may be considered for licensing on a case by case basis. In particular it is envisaged that exceptions could be made for 'green' vehicles such as the Toyota Prius. However these vehicles will only be licensed for an appropriate number of passengers depending on the number of seats and internal dimensions of the vehicle, with a minimum seat width and depth of 16" (41cm) per passenger. It is recommended that prior to purchasing any such vehicle, advice be sought from the Licensing Team.

Notes from Task and Finish Group Meeting:

- LD to check whether vehicles in the Business and Family Van class could also be licensed – this would include the V class Mercedes

2.2.2 Vehicles with tinted windows will be considered, however, the glass on the driver's compartment must satisfy the standards contained in the Road Vehicles (Construction and Use) Regulations 1986.

Amend to remove and replace with the following:

All licensed vehicles (except for private hire vehicles with a dispensation) must meet the following requirements:

(i) Light transmitted through the windscreen must be at least 75%

(ii) All other windows (both front and rear) must allow at least 70% of light to be transmitted

Where currently licensed vehicles have factory tinted/privacy glass fitted and are able to provide documentary evidence of this, they will remain licensed until the vehicle reaches the maximum licensable age in accordance with the existing age of vehicle policy.

Where currently licensed vehicles have had a tinted film fitted to the vehicle (i.e. not factory fitted at time of manufacture), they will be required to have the film removed prior to the next vehicle inspection. Failure to do so will result in the vehicle failing the inspection.

Notes from Task and Finish Group Meeting:

- To add a note to the policy that any windows or glass replaced on a vehicle must maintain compliance with the above specification

2.5 Age of vehicles

2.5.2 When making a Hackney Carriage vehicle licence application, a vehicle must be less than five years old from the date of first registration, unless the application is for the renewal of a licence. No Hackney Carriage vehicle licence will be issued for a vehicle that exceeds 15 years old, from the date of first registration.

Amend to remove and replace with the following:

When making a Hackney Carriage vehicle licence application, a vehicle must be less than five years old from the date of first registration, unless the application is for the renewal of a licence. No Hackney Carriage vehicle licence will be issued for a vehicle that exceeds 10 years old from the date of first registration.

Add new condition 2.5.4 as follows:

2.5.4 In cases where a vehicle has done an abnormally low mileage and is in exceptional condition (see below), it may, on application, be granted an extension on the age limit. Any such application must be received in writing by the Licensing Team at least 3 months prior to the date upon which the vehicle reaches its age of vehicle expiry date. The vehicle may be subjected to a visual inspection. The vehicle owner will receive a decision in writing within 10 working days after the inspection. Any extensions granted may be subject to certain conditions.

Abnormally Low Mileage

The Council will not regard a vehicle as having travelled an abnormally low mileage in the following circumstances:

- 1. A vehicle intended for normal private use with a mileage in excess of 200,000 miles, or**
- 2. A wheelchair accessible vehicle with a mileage in excess of 300,000 miles, or**
- 3. A private hire vehicle which meets the criteria to be licensed with a dispensation with a mileage in excess of 300,000 miles.**

Exceptional Condition

A vehicle will not be regarded as in “exceptional condition” unless documentary evidence has been presented to the Council that the vehicle has been regularly serviced and maintained in line with the manufacturer’s servicing schedule.

When considering the exterior and interior of the vehicle the following matters will be taken into consideration in judging if the condition is exceptional. A single item, depending upon the extent of damage or cosmetic appearance, will not necessarily result in refusal to extend the use of the vehicle but 2 or more items in all areas will require correction, replacement or repair for an extension to be granted.

Exterior of vehicle

- 1. The exterior paintwork on the vehicle should not:**
 - a) shows signs of rusting**
 - b) be faded or show signs of mismatched paint repairs**
 - c) have 5 or more stone chips greater than 2mm in length in any direction**
 - d) have 8 or more stone chips of any size**
 - e) have any scratches, cracks or abrasions where the top layer of paint has been removed.**
- 2. The exterior bodywork of the vehicle should not:**
 - a) have 2 or more dents greater than 10mm in length in any direction**
 - b) have 4 or more dents less than 10mm in length in any direction**
 - c) have fittings that are missing, broken or damaged.**
- 3. Have wheels and wheel trims that have significant damage which detracts from the overall excellent condition of the vehicle.**
- 4. The vehicle must be submitted for inspection in a clean state such that an effective inspection is possible. Should the vehicle be submitted in an unclean state then the application shall be refused.**
- 5. The engine compartment must not be in a dirty condition or have evidence of leaks including water, oil or hydraulic fluids.**

Interior of vehicle

- 6. The seating and carpet areas of the vehicle shall not show signs of:**
 - a) staining**

- b) *damp*
 - c) *fraying or ripping of the material*
 - d) *seat covers that are loose or badly fitted.*
7. *The seats should provide sufficient support for comfortable travel and should not demonstrate excessive compression of the seating area or wear within the support mechanism.*
 8. *Interior panels and fittings within the vehicle should not be damaged nor show excessive wear, or staining.*
 9. *The interior of the vehicle should not have damp or other obnoxious smells.*

Notes from Task and Finish Group Meeting:

- Southampton has different age policy for hybrid/electric vehicles – could consider a higher age of vehicle for hybrid and electric vehicles
- Suggest amend the above to remove the mileage requirement and require the driver to have an independent advanced vehicle inspection – such as that carried out by the RAC for £239 – with the cost to be borne by the vehicle proprietor

2.9 Disabled Access

2.9.1 Vehicle Standards

A Hackney Carriage Vehicle licence will not be issued (other than by way of renewal) to any vehicle, unless it is accessible for disabled persons. All vehicles subject to a Hackney Carriage Vehicle application and those Private Hire Vehicles which have been adapted or manufactured for disabled access must comply with the following standards in addition to those detailed in the paragraphs above;

- i. The vehicle must be able to accommodate a fully grown adult passenger **whilst seated** in their wheelchair (i.e. there must be adequate headroom for the passenger).
- ii. Seats should not have to be removed to in order to accommodate a wheelchair.
- iii. The ramp(s) must be carried within the vehicle at all times. There should be suitable means of securing the ramp(s) safely away, this should include an adequate locking device to ensure that the ramp(s) do not slip or tilt when they are used.
- iv. There must be a means of securing both the wheelchair and its occupant when the vehicle is in motion.
- v. Seats must be suitable to allow all persons, in particular the elderly and disabled, easy access into and egress out of the vehicle. Additional handholds/grab rails and a portable step should be provided if necessary.

Amend to add the following to 2.9.1

All wheelchair accessible vehicles must be capable of accommodating an adult in a DfT reference wheelchair in the passenger compartment. A wheelchair space shall not be less than—

(i) 1300mm measured in the longitudinal plane of the vehicle;

- (ii) 750mm measured in the transverse plane of the vehicle; and***
- (iii) 1500mm measured vertically from any part of the floor of the wheelchair space;***

Any entrance or exit which is intended to provide access for a wheelchair user shall have a clear unobstructed width of not less than 800mm.

The door shall be of minimum usable dimensions 745mm wide x 1350mm high to gain access to the wheelchair space. The wheelchair space shall be at least 1250mm long x 780mm wide with at least 1370mm headroom minimum from floor to ceiling.

2.9.2 Vehicle Type Approval

Where a vehicle has been manufactured for disabled access, the applicant will need to provide a VCA certificate confirming that the vehicle has been built in compliance with British Safety and Environmental Standards.

Amend to remove and replace with the following:

All vehicles that are designed to accommodate wheelchair users must have all modifications and adaptations, including all seats, seat belts and anchorages, retested to meet either the European Whole Vehicle Type Approval or the UK Low Volume Type Approval in the M1 category (evidence of this must be produced). Those vehicles which have not been “type approved” to the M1 category (e.g. conversions) must be presented with approved certification that the specific vehicle meets the requirements of that category. Vehicles may be inspected for suitability by an officer. It is recommended that prior to purchasing any new vehicle, advice be sought from the Licensing Team.

NB A technical specification with regard to the dimensions and standards required of wheelchair accessible vehicles may be introduced by the Department for Transport under the Act at some time in the future.

Notes from Task and Finish Group Meeting:

- LD to investigate possibility of having a specific rank gradient condition
- Amended wording of measurements condition to remove the word ‘headroom’ and replace with ‘floor to ceiling’
- This requirement would come into effect immediately for any new vehicles, and within a certain time period for existing vehicle licences, such as 3 or 5 years.

TITLE	Cumulative Impact Assessment
FOR CONSIDERATION BY	Licensing and Appeals Committee 4 September 2018
WARD	None-specific
DIRECTOR	Sean Murphy - Public Protection Manager

OUTCOME / BENEFITS TO THE COMMUNITY

Section 14.24 of the guidance issued under section 182 of the Licensing Act 2003 ('s182 Guidance') states as follows: "A cumulative impact assessment (CIA) may be published by a licensing authority to help it to limit the number or types of licence applications granted in areas where there is evidence to show that the number or density of licensed premises in the area is having a cumulative impact and leading to problems which are undermining the licensing objectives".

RECOMMENDATION

That the Committee determines one of the following courses of action:

- 1) To pursue the making of a cumulative impact assessment for the Remenham area, or;
- 2) To stop the current consultation and process and recommence following the revised s182 Guidance, or;
- 3) To stop the current consultation and process altogether, whilst acknowledging that the process could be commenced in the future for any part of the borough, should circumstances arise that suggest a cumulative impact assessment should be considered.

SUMMARY OF REPORT

The process of consideration of a CIA for Remenham began prior to amendments to the Licensing Act 2003 and revisions to the s182 Guidance which took place in April 2018. The amended legislation and revised s182 Guidance contain specific instructions on the development of CIAs and the Committee must therefore determine the appropriate course of action from the above options.

Background

Further to the report brought before the Committee in June, it was noted that there have been changes to the process in respect of cumulative impact, which took effect from 6 April 2018.

As a result of section 141(3) of the Policing and Crime Act 2017, a new section 5A was added to the Licensing Act to place CIAs on a statutory footing, and s5A(1) states as follows: *A licensing authority may publish a document ("a cumulative impact assessment") stating that the licensing authority considers that the number of relevant authorisations in respect of premises in one or more parts of its area described in the assessment is such*

that it is likely that it would be inconsistent with the authority's duty under section 4(1)[to promote the licensing objectives] to grant any further authorisations in respect of premises in that part or those parts.

Section 5A(5) confirms the persons who must be consulted, and s5A(6) confirms the information to be provided for the purposes of the consultation, including the reasons why it is considering publishing a CIA, a general indication of the area concerned and whether it considers that the CIA will relate to all licences or only licences of a particular kind.

In addition, the guidance issued under s182 of the Licensing Act 2003 was revised and published which sets out how a CIA should be adopted, with a detailed set of steps detailed at 14.34 which act as a checklist for the consultation process and guidance at 14.29-14.33 on the gathering of evidence to be considered.

Analysis of Issues

The legal implications will be provided by the legal advisor to the Committee in Part 2.

Should the Licensing Committee resolve to pursue a cumulative impact assessment for the Remenham area, or indeed any other area, this would have resource implications for officers, in addition to external legal advice that would be required.

Also, s5A of the Licensing Act 2003 would also require that where a licensing authority publishes a CIA, it must, before the end of every three year period, carry out a further consultation and consider whether it remains of the opinion stated in the assessment. This is likely to require the collation of up to date evidence in respect of cumulative impact in the specific area and must be repeated at least once every three years if a CIA has been published.

FINANCIAL IMPLICATIONS OF THE RECOMMENDATION

The Council faces severe financial challenges over the coming years as a result of the austerity measures implemented by the Government and subsequent reductions to public sector funding. It is estimated that Wokingham Borough Council will be required to make budget reductions in excess of £20m over the next three years and all Executive decisions should be made in this context.

	How much will it Cost/ (Save)	Is there sufficient funding – if not quantify the Shortfall	Revenue or Capital?
Current Financial Year (Year 1)	Legal advice (estimated between £5000-£10000) and significant officer resources	N - Additional officer resource may need to be brought in to carry out the work involved	R
Next Financial Year (Year 2)	No impact	N/A	N/A
Following Financial Year (Year 3)	N/A	N/A	N/A

Other financial information relevant to the Recommendation/Decision

None

Cross-Council Implications

There are no implications arising from the recommendation in this report.

Reasons for considering the report in Part 2

The Committee may go into part 2 in order to discuss the legal implications which will be provided by a legal advisor.

List of Background Papers

Statement of Licensing Policy (Sept 2013)
Section 182 Guidance (April 2018)

Contact Laura Driscoll	Service Public Protection Partnership
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Date 14 August 2018	Version No. 1.1

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TITLE	Review of Statement of Licensing Policy
FOR CONSIDERATION BY	Licensing and Appeals Committee 4 September 2018
WARD	None-specific
DIRECTOR	Sean Murphy - Public Protection Manager

OUTCOME / BENEFITS TO THE COMMUNITY

Wokingham Borough Council is required to prepare and publish a Statement of Licensing Policy ('SLP') every five years in accordance with section 5 of the Licensing Act 2003 ('the Act'). The SLP outlines the general approach of the licensing authority when making licensing decisions under the Act and can be reviewed and revised by the authority at any time. The Wokingham Borough Council SLP must undergo a review and be re-published by the end of September 2018.

RECOMMENDATION

That the Committee approves the revised Statement of Licensing Policy at Annex A, prior to it being referred to Council in September.

SUMMARY OF REPORT

This report introduces the revised SLP which has been updated to reflect the results of the consultation exercise carried out as required by legislation.

Background

Further to the report brought before the Committee in June, the SLP has been given a substantial overhaul following reflection on the comments made. In addition to general re-formatting, updates and addition of minor areas of clarification, the material changes are as follows:

- Revised section 1, which previously simply outlined the licensing objectives and now introduces the policy and explains its purpose and scope;
- Added section 2 which outlines the principles and process of licensing – this includes some sections from throughout the previous policy;
- Added section 3 about making an application, including the recommendation that applicants for large scale events should refer the event to the Safety Advisory Group in advance of making an application;
- Added section 4 to clarify the suggested requirements for an operating schedule;
- Revised and expanded sections 5 to 8 on the licensing objectives;
- Added a new section 9 reference representations and mediation;
- Revised section 11 on decision making, which incorporates the previous sections 11 and 12, and move the table of delegations to Appendix A;
- Added sections 12-14 on temporary event notices, personal licences and club premises certificates;

- Added sections 15-17 to deal with management of licensed premises, complaints, enforcement, inspections and reviews, which incorporates the previous section 14 on enforcement, and;
- Added a glossary at Appendix B.

Analysis of Issues

The SLP must, by law, be revised and re-published to take effect from the end of September 2018.

FINANCIAL IMPLICATIONS OF THE RECOMMENDATION

The Council faces severe financial challenges over the coming years as a result of the austerity measures implemented by the Government and subsequent reductions to public sector funding. It is estimated that Wokingham Borough Council will be required to make budget reductions in excess of £20m over the next three years and all Executive decisions should be made in this context.

	How much will it Cost/ (Save)	Is there sufficient funding – if not quantify the Shortfall	Revenue or Capital?
Current Financial Year (Year 1)	No impact	N/A	N/A
Next Financial Year (Year 2)	No impact	N/A	N/A
Following Financial Year (Year 3)	No impact	N/A	N/A

Other financial information relevant to the Recommendation/Decision

None

Cross-Council Implications

There are no implications arising from the recommendation in this report.

Reasons for considering the report in Part 2

None

List of Background Papers

Statement of Licensing Policy (Sept 2013)
Section 182 Guidance (April 2018)

Contact Laura Driscoll	Service Public Protection Partnership
Telephone No 01344 352517	Email laura.driscoll@westberks.gov.uk
Date 14 August 2018	Version No. 1.4



**WOKINGHAM
BOROUGH COUNCIL**

**Statement of
Licensing Policy
(Licensing Act 2003)**

September 2018

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1. Introduction, Purpose and Scope

- 1.1 The Licensing Act 2003 ('the Act') requires Wokingham Borough Council ('the Council'), as the Licensing Authority, to publish a 'Statement of Licensing Policy' ('policy') every five years. In creating this policy, the Licensing Authority is seeking to protect and where possible to improve the look and feel of Wokingham borough, attracting visitors and making it a stimulating and enjoyable place in which to live, study and work.
- 1.2 The main purpose of this policy is to provide clarity to applicants, responsible authorities, elected Members and other persons on how the Council will determine applications made under the Act. It will also inform elected Members of the parameters within which licensing decisions can be made.
- 1.3 An effective licensing policy, alongside other initiatives, will work towards promoting the positive aspects of deregulation under the Act, such as promoting leisure provision and encouraging the regeneration of the town centre as well as controlling any negative impacts such as increase in crime and disorder, noise, nuisance and anti-social behaviour.
- 1.4 The Licensing Authority is committed to promoting a broad range of entertainment, recognising the wider cultural benefits for local communities. Live performance is central to the development of cultural diversity and vibrant, exciting communities, particularly traditional entertainment such as circuses and street arts. The Licensing Authority recognises that artistic freedom of expression is a fundamental right and should be greatly valued.
- 1.5 The Council recognises that licensed activities make an important contribution to the economy of the Borough. By 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.
- 1.6 It should be understood that this policy cannot anticipate every scenario that may arise and as such there may be circumstances where the policy may be departed from in the interests of the promotion of the licensing objectives and where it is deemed appropriate to do so. In such cases the Council will give full reasons for departing from this policy.
- 1.7 The Council will carry out its licensing functions under the Act with a view to promoting the four licensing objectives, which are:
 - (a) Prevention of Crime and Disorder;
 - (b) Public Safety;
 - (c) Prevention of Public Nuisance; and
 - (d) Protection of Children from Harm.

- 1.8 The Licensing Authority is committed to working in close partnership and communicating with all licensees, responsible authorities and other persons where appropriate in order that they have a clear understanding of the legislative requirements. The Licensing Authority will continue to develop close working partnerships with other appropriate agencies and responsible authorities.
- 1.9 This policy is not intended to duplicate existing legislation and regulatory regimes that already place obligations on employers and operators, for example, the Health and Safety at Work etc. Act 1974 and the Regulatory Reform (Fire Safety) Order 2005. In addition, it should be noted that the planning and licensing regimes are separate. There is no legal basis for the Licensing Authority to refuse a licence application because it does not have planning permission.
- 1.10 The Council is conscious of the need to promote equality and when considering licensing matters will give due regard to the prevention of discrimination and promotion of equality of opportunity.
- 1.11 In determining the policy, the Council has taken into consideration any comments made by consultees, the statutory guidance issued under section 182 of the Act and the experience of administering and enforcing the Act since its introduction.
- 1.12 This policy takes effect on 23 September 2018 and will remain in force for a period of no more than five years. During this time it will be subject to regular review and updating or modification as appropriate, for example to take account of any changes in licensing legislation, with appropriate consultation on any material changes.
- 1.13 Comments on the policy may be made in writing to the Licensing Authority at any time. Contact details can be found towards the end of this document. All comments received will be carefully considered and, where appropriate, included in the policy.

2. Licensing Principles and Process

- 2.1 The Council is the Licensing Authority under the Act and is responsible for granting premises licences, club premises certificates, personal licences and acknowledging temporary event notices in the borough. The aim of the licensing process is to regulate licensable activities so as to promote the licensing objectives.
- 2.2 There are four main licensable activities under the Act:
- (a) retail sales of alcohol;
 - (b) the supply of alcohol by or on behalf of a club
 - (c) the provision of regulated entertainment; and
 - (d) the provision of late night refreshment.
- 2.3 This policy sets out the process the Council will adopt in dealing with licence applications and will be used as a basis in coming to consistent and transparent decisions in respect of licence applications. The overriding principle adopted by the Council will be that each application is determined on its merits. Every

application will be treated fairly and objectively, taking into account the four licensing objectives, the policy and the statutory guidance issued under section 182 of the Act.

- 2.4 Each of the four licensing objectives is of equal importance and will be considered in relation to matters centred on the premises or within the control of the licensee and the effect which the operation of that business has on the vicinity. The Licensing Authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the area concerned. The Act is not a primary mechanism for controlling general nuisance unconnected to licensable activities or the licensing objectives.
- 2.5 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 recognises that other mechanisms exist to control disorderly behaviour, e.g. planning controls, town centre management arrangements, confiscation of alcohol from adults and children in designated areas, and Police enforcement powers.
- 2.6 When determining applications, the Licensing Authority must be satisfied that the applicant's operating schedule (please see section 4) seeks to promote the four licensing objectives. The Licensing Authority will make decisions guided by this policy but will not fetter its right to discretion. In the interests of the safety and wellbeing of all users of the facilities it licenses, the Licensing Authority expects licensees to adopt best practices for their industry. This policy further outlines the expectations of the Licensing Authority and should assist applicants.
- 2.7 The Licensing Authority recognises that conditions attached to various authorisations will be focussed on matters which are within the control of the licence holders. Conditions shall be proportionate and appropriate to achieve the promotion of the licensing objectives, and shall be tailored to suit the circumstances and premises.

3. Making an Application

- 3.1 The relevant application forms and associated documents are obtainable from the Council's website or from the licensing team on request. It is strongly recommended that all applicants consult with the Licensing Authority prior to submitting an application. It may be appropriate to submit a draft application for comments.
- 3.2 A plan must be attached to an application for a premises licence or a club premises certificate. The plans do not have to be professionally drawn, however they must be to scale and contain the relevant information as required under regulation. The plan should be at a scale of 1:100; however the Council will accept plans of an alternative scale provided this is approved prior to submitting the application.

- 3.3 Where a licensed premises is being constructed, extended or structurally changed, the applicant may apply for a provisional statement. This will be processed in the same way as a new licence application. However the provisional statement will not automatically be converted into a full licence on completion of works, and the applicant will have to submit a new licence application. It is acknowledged that unless representations are made at the provisional statement stage, or are not made without reasonable excuse, and neither the premises/vicinity has changed nor the type of licensable activities taking place, the licence will be granted. The applicant will be required to submit a full schedule of works, including a statement of the licensable activities for which the premises are proposed to be used as well as the plans and proposed hours of use, in order to allow the Licensing Authority to make an informed decision.
- 3.4 Where conditions have not been adhered to in the past, the Licensing Authority will expect applicants to have taken action to address those issues. Applications may be refused where there are significant outstanding issues.
- 3.5 In particular, for large scale events, it is suggested that the event should be referred to the Safety Advisory Group in advance of submission of an application.
- 3.6 With regard to shops, stores and supermarkets, the normal scenario will be for such premises to provide sales of alcohol for consumption off the premises at any time when the retail outlet is open for shopping unless representations raise reasons, based on the licensing objectives, for restricting those hours.
- 3.7 In some circumstances, flexible licensing hours for the sale of alcohol can help to ensure that concentrations of customers leaving premises simultaneously are avoided.

4. The Operating Schedule

- 4.1 All applicants for the grant or variation of a premises licence or club premises certificate are required to provide an operating schedule as part of their application. This is a key document and, if prepared comprehensively, will form the basis on which premises can be licensed without the need for additional extensive conditions. The Council expects an operating schedule to indicate the steps that the applicant proposes to take to promote the licensing objectives. This should follow a thorough risk assessment relating to the specific premises and licensable activities proposed to take place.
- 4.2 Applicants are strongly recommended to discuss their operating schedule with the responsible authorities prior to submitting the application. The Licensing Team can assist in co-ordinating this process.
- 4.3 The complexity and detail required in the operating schedule will depend upon the nature and use of the premises. It must include details of the following:
- (a) Full details of the licensable activities to be carried on at and the intended use of the premises;
 - (b) The times during which licensable activities will take place;
 - (c) Any other times when the premises are to be open to the public;

- (d) Where the licence is only required for a limited period, that period;
- (e) Where the licensable activities include the supply of alcohol, the name and address of the individual proposed to be designated premises supervisor;
- (f) Whether alcohol will be supplied for consumption on or off the premises or both; and
- (g) The steps the applicant proposes to promote the licensing objectives.

4.4 Where measures to promote the licensing objectives are included in the operating schedule, these may be used to form conditions attached to the licence and should therefore be clear, concise and unambiguous.

4.5 The following guidance is intended to assist applicants by setting out criteria and considerations that they should bear in mind when drawing up an operating schedule. They alert applicants to any matters that responsible authorities are likely to consider when deciding whether to make representations on an application or whether to call for a review of the premises licence.

4.6 A pool of model conditions is available on request from the Licensing Team. Individuals preparing operating schedules are at liberty to use these conditions, or volunteer any other measures(s) to promote the licensing objectives.

5. Licensing Objective 1: Prevention of Crime and Disorder

5.1 The Licensing Authority is committed to reducing crime and disorder to improve the quality of life for the people of Wokingham borough. Good management and practice procedures in licensed premises can make an important contribution to lessening the impact that consumption of alcohol can have on crime and disorder. The Licensing Authority and Thames Valley Police through their Community Safety Partnership will regularly monitor and review crime statistics within the borough and their association with alcohol. When applying conditions, the Council will be mindful of the local Community Safety Strategy.

5.2 Licensees are encouraged to work in partnership with a local Pubwatch scheme to form strategies for actively preventing crime and disorder issues. This scheme encourages the sharing of information and seeks to address matters such as underage sales, drunkenness, illegal drug use and anti-social behaviour.

5.3 Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to reduce or prevent crime and disorder on and in the vicinity of their premises, relevant to the individual style and characteristics of their premises and event; for example

- Prevention of use, sale or supply of illegal drugs on the premises, and procedures and provision for storage of seized items.
- Prevention of drunkenness and alcohol abuse such as drinking games and irresponsible drinks promotions.
- Security features such as provision and storage of CCTV - capable of retaining recording images for a period of 31 days from the date

of an event and to an identifiable standard (bearing in mind the need to comply with data protection regulations)

- A prescribed capacity limit
- Use of door staff to control entry to the premises
- Procedures for ejection or dispersal of persons from the premises
- Procedures for dealing with harassment, discrimination and inappropriate behaviour.
- Use of polycarbonate/plastic containers and toughened glass and prevention of persons taking drinks from the premises in open containers
- Display of crime prevention notices
- An appropriate ratio of tables and chairs to customers based on capacity

5.4 Wherever possible, applicants are expected to be aware of local groups known to incite violence or hatred or take part in extremist activities in order to prevent the likelihood of meetings resulting in crime and disorder. Licensees will be expected to take into consideration the potential impact on privacy or religious freedom and the ethnic and cultural composition of the local area when hosting these meetings. The Licensing Authority recognises the need to promote the elimination of unlawful discrimination and equality of opportunity and recommends licensees seek guidance from the Equality and Human Rights Commission <http://www.equalityhumanrights.com/> or by contacting them on 0808 800 0082.

6. Licensing Objective 2: Public Safety

6.1 When visiting licensed premises, members of the public have a right to be confident that due consideration has been given to their physical safety. Where an applicant identifies an issue in regard to public safety (including fire safety) which is not covered by existing legislation, the applicant should identify in their operating schedule the steps which will be taken to ensure public safety. Such steps will be dependent on the individual style and characteristics of the premises and/or event(s) to be held. It should be noted there is an overriding legal duty to comply with the provisions of Health and Safety at Work legislation, including risk-assessment and control.

6.2 The Licensing Authority has a Safety Advisory Group ('SAG') and, where appropriate, applicants are encouraged to seek the group's advice on issues of public safety. For example, a licensee who wishes to stage a licensable public event which is not specifically indicated in the operating schedule may be invited to approach the SAG. When applying for licensable events on Local Authority property, the applicant may be required to present an event plan to the SAG.

6.3 Applicants may wish to consider inclusion of the following steps within their operating schedule with a view to the safety of persons attending the premises:

- Evacuation procedures including measures for disabled persons
- Maintenance of alarm systems and emergency lighting
- Maintenance of all escape routes and exits
- Safety checks and records in a log book
- Access for emergency vehicles

- First aid equipment and trained first aiders
- Appropriate lighting and ventilation and monitoring of noise levels
- Checks on temporary electrical installations
- Use of special effects such as lasers, pyrotechnics and smoke machines
- Control of any animals at the premises
- Use of door supervisors or stewards
- Procedures to ensure safety of women and vulnerable persons
- Provision of potable water

6.4 For indoor sports entertainment or where special provision must be made for the safety of the public, applicants may wish to consider inclusion of the following steps within their operating schedule:

- Provision of qualified medical practitioners
- Where a ring is involved, that it be constructed and inspected by a competent person and any material used to be flame retardant
- Where there is wrestling or similar entertainment that the public do not occupy any seat within 2.5 metres of the ring
- Where there is a water sports event, appropriate provision of staff adequately trained to be available and remain in the vicinity at all times.

7. Licensing Objective 3: The Prevention of Public Nuisance

7.1 The Licensing Authority interprets 'public nuisance' in its widest sense, and takes it to include such issues as noise, light, odour, litter and anti-social behaviour. Public nuisance could include low-level nuisance perhaps affecting a few people living locally as well as major disturbance affecting the whole community.

7.2 The Council is committed to minimising the adverse impact of licensable activity, whilst not unduly restricting the reasonable provision of licensed activity. It is noted that there are mechanisms other than the licensing regime that are available for addressing public nuisance away from the licensed premises. Examples include planning controls and Public Spaces Protection Orders.

7.3 The Licensing Authority, whilst recognising the need to treat every application on its own merits, should be satisfied that the type of licensable activities proposed and hours of operation will be suitable for the location in which the premises are situated (e.g. areas of dense residential accommodation). Playing of music can cause nuisance both through noise breakout and by its effect on patrons, who become accustomed to high sound levels and to shouting to make themselves heard, which can lead to them being noisier when leaving premises. Other major sources of noise nuisance are vehicles collecting customers, the slamming of car doors and the sounding of horns. These noises can be particularly intrusive at night when ambient noise levels are lower.

7.4 Where premises are located near to noise-sensitive areas, e.g. residential premises, nursing homes, hospitals or places of worship, the licensee should initially identify any particular issues (having regard to their particular type of premises and/or activities) which are likely to adversely affect the promotion of the

objective to prevent public nuisance. Such steps as are required to deal with these identified issues should be included within the applicant's operating schedule.

7.5 In considering applications, the Licensing Authority will expect to see, where appropriate, evidence that the following matters have been addressed in the operating schedule:

- Measures to reduce noise and vibration escaping from the premises; including noise from music and voices whether or not amplified
- Consideration of the licensed hours and restrictions on when licensable activities can take place both indoors and outdoors
- Monitoring checks and logs of any checks carried out
- Prevention of noise from deliveries or waste collections, or disposal of glass bottles etc., at unsociable hours
- Measures to encourage quick and quiet dispersal by customers and staff including provision for access to book taxis, lowering the volume of music during the last 30 minutes before closing time and procedures for the safe removal and dispersal of persons ejected from the premises
- Measures to control light to ensure that it does not stray outside the boundary of the premises so as to give rise to problems to local residents and businesses
- Measures to control nuisance that might be associated with the use of the external areas, particularly late at night, including supervision of the areas and specified times during which food and drink will not be permitted to be consumed in the external areas.
- Measures to control litter and odour associated with use of the premises.

8. Licensing Objective 4: Protection of Children from Harm

8.1 This objective includes the protection of children from moral, psychological and physical harm. The applicant should initially identify any particular issues (having regard to their particular type of premises and/or activities) which are likely to cause concern in relation to children. Applicants will be expected to consider the risk of children being exposed to alcohol, drugs, gambling, activities of an adult and/or sexual nature and exposure to excessive noise or incidents of violence and disorder. Such steps as are required to deal with these identified concerns should be included within the applicant's operating schedule.

8.2 The provisions of the Act are that unaccompanied children under 16 should not be on 'premises being used exclusively or primarily for the supply of alcohol' (e.g. 'alcohol led' premises such as pubs, bars and nightclubs). In addition, it is an offence to allow unaccompanied children under 16 on premises licensed to sell alcohol for consumption on the premises after midnight but before 05:00.

8.3 Where appropriate, applicants should state in their operating schedule:

- (a) whether or not they will admit children to any or all parts of the licensed premises;
- (b) where children are to be admitted, the steps that will be taken to protect children from harm, for example supervision requirements, provision of designated areas for children and families, and hours during which children will not be permitted to be on the premises.

The applicant will also be expected to consider provision for lost and found children (in particular at large public events).

- 8.4 Where appropriate, the Licensing Authority will expect the applicant to evidence how they will supervise children who are performing in an event with regulated entertainment event and what consideration will be given to the welfare of children at attractions or performances likely to attract children. Where children are supervised, the Licensing Authority will expect the operating schedule to demonstrate that these supervisors have been appropriately checked by the Disclosure and Barring Service.
- 8.5 Where events are taking place that are provided solely or mainly for children, for example an under-18s disco, the expectation is that no alcohol will be served.
- 8.6 Applicants are required, where appropriate, to set out in their operating schedule the arrangements they have in place to prevent the sale of alcohol and age-restricted items to children. This should include an age-monitoring scheme, such as Challenge 25. The Licensing Authority recommends use of any of the following as an acceptable proof of age:
- (a) Passport
 - (b) Photocard driving licence issued in the European Union
 - (c) Proof of Age Standards Scheme Card (PASS)
 - (d) Official ID card issued by HM Forces or by a European Union country bearing a photo and date of birth of holder.

Consideration should also be given to training (including refresher training) for staff, and records to evidence this training. In addition there should be means of recording challenges and/or refusals relating to potential sales of alcohol to underage persons.

- 8.7 Where there are off-licence sales, the Licensing Authority would expect the operating schedule to demonstrate how the licensee will discourage the sale of alcohol to customers on behalf of children in the vicinity ('proxy sales'). For example, if the licensee has any suspicions of this activity to ask the customer if they have been approached by children to purchase alcohol and if necessary contact the Police.
- 8.8 Applicants from retail outlets which use self-scanning devices or which offer delivery of alcohol will be expected to demonstrate how they are going to prevent the purchase or delivery of alcohol by persons under the age of 18.
- 8.9 The Licensing Authority will also expect applicants to set out in their operating schedule the measures that they will take to ensure that alcohol is not sold by

persons under 18 unless specifically approved by a responsible person, or they are working as a waiter/waitress in a specially designated part of the premises and alcohol is sold only with a table meal.

- 8.10 Where appropriate, the Licensing Authority would expect applicants to demonstrate in their operating schedule that they will observe industry best practice guidance on the naming, packaging and promotion of alcoholic drinks to prevent children from being enticed into purchasing these products.
- 8.11 Licensees are encouraged to inform the appropriate agencies where it has been highlighted that children have tried to purchase alcohol and/or illegal substances.
- 8.12 In relation to exhibition of film, the Licensing Authority will expect the operating schedule to demonstrate that entry shall be controlled to protect children from exposure to strong language, sexual content and other inappropriate matters.
- 8.13 The Licensing Authority proposes to abide by the recommendations of the British Board of Film Classification, but the Licensing Authority reserves the right to re-classify any film. Information regarding such classifications will be published on the Council's website. All requests for a classification must be accompanied by a synopsis of the film and a full copy of the film in DVD or other appropriate format, and submitted at least 28 days before the proposed screening. Failure to submit a request in time may result in the Council being unable to classify the film. Requests shall be assessed against the BBFC guidelines and the licensing objectives.
- 8.14 The Licensing Authority recognises the Wokingham Safeguarding Children Board as the competent body and responsible authority to advise matters relating to the protection of children from harm.
- 8.15 In considering applications, the Licensing Authority will expect to see, where appropriate, evidence that the following matters have been addressed in the operating schedule:
 - 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 18s 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

9. Representations and Mediation

9.1 Where relevant representations have been submitted, the Licensing Authority shall aim to facilitate negotiations between the applicant, objectors and any relevant responsible authorities prior to the hearing. Hearings may be avoided when all parties arrive at an amicable solution to the issues raised through negotiation.

9.2 In determining the grant or variation of a licence, the following responsible authorities may make representations:

- (a) Thames Valley Police
- (b) Royal Berkshire Fire and Rescue Service
- (c) Environmental Health (or for Council-operated premises, the Health and Safety Executive)
- (d) Trading Standards
- (e) Environmental Protection
- (f) Public Health
- (g) Local Safeguarding Children Board
- (h) Planning Authority

In addition to this, any other person may make a representation.

The Licensing Authority will consider any relevant representations received. Any of these individuals or groups may request a representative to make representations on his or her behalf. This could be a legal representative, a friend, an MP or a Ward Councillor.

9.4 The Licensing Authority itself is able to make representations, but this is likely to be limited to few cases, for example to ensure appropriate and proportionate conditions are included on a licence where the operating schedule is not clear. If the Licensing Authority makes a representation there shall be a separation of responsibilities between the officer exercising that role and those who are administering the application to ensure procedural fairness and eliminate conflicts of interest.

9.5 For a representation to be relevant it must:

- (a) relate to the effect of the grant of the application on the promotion of the licensing objectives;
- (b) not be 'frivolous or vexatious', and
- (c) in the case of a review, must not be 'repetitious' if the representation is from a person other than a responsible authority, and
- (d) if it concerns the designated premises supervisor, be made by a chief officer of police and include a statement explaining the reasons for the objection.

Representations can include positive/supportive representations as well as objections.

9.6 The Licensing Authority is responsible for considering representations in the context of this policy and legal requirements in order to determine whether they

are relevant. The Licensing Authority authorises suitably qualified staff to discharge duties as appropriate to their seniority, professional qualification and/or experience.

- 9.7 Where a representation is received, the Licensing Authority will need to consider if it is frivolous or vexatious. The Licensing Authority may also consider the representation to be 'irrelevant' if it does not directly relate to the application and its impact on the promotion of the licensing objectives. If the decision is made that a representation is frivolous, vexatious, and/or irrelevant, the person making the representation will be informed of this in writing with full reasons being given for the decision.

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, but more 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 other person. In addition, the Council has to be satisfied that the criteria set out in the legislation are met. As detailed earlier in this Policy, each application will 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 within an area to communicate with each other and prepare their Operating Schedules so that they complement each other and collectively meet the Licensing Objectives.

11. Decision Making

- 11.1 The Council will seek to carry out its responsibilities under the Licensing Act 2003 efficiently and cost-effectively. To do this, functions are delegated from the Licensing and Appeals Committee to either Sub-Committees or officers, as set out in the table at Appendix A.
- 11.2 In determining the application the Licensing Authority will consider:
- (a) the case and evidence presented by all parties;
 - (b) the promotion of the four licensing objectives;
 - (c) guidance issued by central Government; and
 - (d) the Licensing Authority's own Statement of Licensing Policy.

and will take such of the following steps as it considers necessary for the

promotion of the licensing objectives:

- to grant the licence subject to the operating schedule modified to such extent as the sub-committee considers necessary for the promotion of the licensing objectives, and subject to the relevant mandatory conditions;
- to exclude from the scope of the licence any of the licensable activities to which the application relates;
- to refuse to specify a particular person as the designated premises supervisor;
- to reject the application.

11.3 If it is reasonably considered that the licensing objectives cannot be met unless additional specific conditions are attached, then the Licensing Authority may consider attaching those which are appropriate for the promotion of the licensing objectives, proportionate to the individual style and characteristics of the event or premises concerned.

11.4 The decision of the Sub-Committee shall be accompanied with clear, cogent reasons for that decision, having had due regard to the Human Rights Act 1998 and all other relevant legislation. The decision and reasons for that decision will be sent to the applicant and those who have made relevant representations, and a summary of the decision shall be posted on the Licensing Authority's website as soon as is reasonably possible after the decision has been confirmed.

11.5 Anyone aggrieved by a decision of the Council has a right of appeal as set out in the Act. The Council will inform the appropriate parties of their right of appeal in accordance with the Act when confirming a decision of the Sub-Committee.

11.6 Where no relevant representations are received, the licence will be issued automatically with such conditions that are mandatory and those arising from the operating schedule. The Council has no discretion in such circumstances to refuse the application or to alter or add to the conditions offered through the operating schedule.

12. Temporary Event Notices

12.1 Temporary event notices (TENs) may be used to authorise licensable activities at premises where there are 499 persons or fewer (including any staff and volunteers) present. TENs are not applications for permission to hold an event; they are notices of intention to hold an event. If there are 500 or more persons present at the event, a premises licence will be required.

12.2 In accordance with the 2003 Act, any individual person aged 18 or over may give a TEN, whether or not they hold a personal licence. An individual who is not a personal licence holder may only give a TEN 5 times a year, and a personal licence holder no more than 50 times a year. However, no more than 15 TENs covering a maximum of 21 days may be given in respect of any particular premises in a single calendar year.

- 12.3 Organisers of temporary events are encouraged to submit their TEN as soon as is reasonably practicable in order for the Police and Environmental Protection to consider whether or not they have any concerns about the event and, if they have, to enable all parties to try and take steps to resolve those concerns. The TEN form is available on the Council's website.
- 12.4 Although the legal requirement is 10 clear working days (or 5 clear working days for late TENs) not including the date of receipt or the date of the event, the Licensing Authority recommends that at least 2 months' notice be given to hold such events, to allow sufficient time for organisers to plan their events safely, for appropriate publicity and for consultation with responsible authorities and interested parties. Any longer period than this may mean that organisers do not have all the details available at the time of submitting the notice, and any lesser time means that planning may be rushed and haphazard.
- 12.5 The processing of TENs by the Council is controlled by a strict statutory timetable; therefore, the Council will not accept a notice unless it is complete in all respects at the time of submission.
- 12.6 In the event of an objection, the Licensing Authority will hold a hearing and give a decision not less than 24 hours before the event is due to take place.
- 12.7 Organisers of events are reminded of the police powers to close down events with no notice on the grounds of disorder, the likelihood of disorder, or public nuisance. Therefore, the Licensing Authority expects organisers to be aware of the relevant offences under the Licensing Act 2003, for example sales of alcohol to children or to intoxicated persons.
- 12.8 Where exceptional events of local, national or international significance arise, for example a one-off local festival or World Cup, the Secretary of State may make a licensing order to allow premises to open for specified extended hours.

13. Personal Licences

- 13.1 Personal licences authorise individuals to sell or supply alcohol, or authorise the sale or supply of alcohol for consumption on or off a premises at which a premises licence is in force for that activity.
- 13.2 Personal licence applicants with relevant unspent criminal convictions are required to notify the Licensing Authority of the nature of those convictions at the time of application. Where a personal licence holder is convicted of a relevant offence during the period when their application is being considered, the licence holder is required to advise the Licensing Authority forthwith.
- 13.3 Where the Police believe that the grant of a personal licence would undermine the crime prevention objective, they will issue an objection notice. The Licensing Authority will arrange for a hearing to take place at which the application will be determined.
- 13.4 It is an offence for a personal licence holder who is convicted of a relevant offence not to inform the issuing Licensing Authority in order that their licence can

be amended. The personal licence holder must also notify the Court that they hold a personal licence.

14. Club Premises Certificates

- 14.1 In order for qualifying clubs to supply alcohol and provide other licensable activities at their premises, a club premises certificate is required. Qualifying conditions are specified in section 61 of the Act and the Licensing Authority must be satisfied that these conditions have been met, including evidence that the club is non-profit making.
- 14.2 The Act does not require any member or employee to hold a personal licence in order to supply alcohol to members or sell alcohol to guests on the premises to which the certificate relates, nor is there a requirement for the club to specify a designated premises supervisor. Where a club intends to admit the general public to an event where licensable activities will take place, then a premises licence or a TEN will be required.

15. Management of Licensed Premises

- 15.1 A critical element of the proper control of licensable activity and a premises where such activity is provided is good management. The Council encourages all licence holders to consider what skills and competencies are required for the safe delivery of regulated activities and secure appropriately trained staff.
- 15.2 Within all licensed premises, whether or not alcohol is to be sold, the Council will expect there to be proper management arrangements in place which will ensure that there is an appropriate number of responsible, trained/instructed persons at the premises to ensure the proper management of the premises and of the activities taking place, as well as adherence to all statutory duties and the terms and conditions of the premises licence.
- 15.3 Any premises where alcohol is sold under a premises licence must have a designated premises supervisor (DPS) who must be a personal licence holder. The DPS will be named in the premises licence, a summary of which must be displayed on the premises.
- 15.4 The Council will normally expect the DPS to have been given the day-to-day responsibility for running the premises and as such it is expected that the DPS would usually be present at the licensed premises on a regular basis. The licence holder will also be expected to ensure that the DPS has experience commensurate with the size, capacity, nature and style of the premises and licensable activities to be provided. Where the DPS is not available at the premises for whatever reason, the Licensing Authority will expect his or her full contact details to be available at the premises and made known to at least one individual who will be present at the premises.
- 15.5 The Act does not require a DPS or any other personal licence holder to be present on the premises at all times when alcohol is sold. However every sale of alcohol must be made or authorised by a person who holds a personal licence on the premises, or by the DPS under authority that has been delegated (or must be

made or authorised by the management committee in the case of community premises). The Licensing Authority recommends that if the DPS authorises persons to make sales of alcohol, that this is done in writing, that the document of authorisation is kept on the premises and that all staff are made aware of the location of the document. Where the DPS has delegated responsibility for the sale of alcohol, they still have a duty of responsibility for the action of those they have authorised to make those sales.

16. Complaints, Enforcement and Inspections

- 16.1 Complainants are encouraged in the first instance to raise any concerns directly with the licensee or business concerned. Complaints may be sent to the Licensing Team, Wokingham Borough Council, PO Box 155, Shute End, Wokingham, RG40 1WW or licensing@wokingham.gov.uk for investigation.
- 16.2 Where there are any issues identified or need for improvement at a premises, officers and responsible authorities will seek to work with the licence holder to address these concerns and to achieve a resolution through informal means wherever possible.
- 16.3 The Council undertakes proactive risk-based inspections of all licensed premises to ensure continued promotion of the licensing objectives and compliance with licence conditions. Premises that consistently fail inspections may be subject to a licence review or other enforcement action. Where one-off events are taking place, the Licensing Authority may also carry out inspections to ensure promotion of the licensing objectives.
- 16.4 In terms of enforcement, the aim is to target those premises which are causing problems within the community, whilst supporting well managed premises and activities which provide opportunities for the enjoyment of leisure time without having a negative impact.
- 16.5 Protocols for enforcement will be established between responsible authorities and the Licensing Authority in order to ensure efficient and targeted action for specific problems and high risk premises that require greater attention, whilst allowing a lighter touch in respect of well run, low risk premises. This does not prevent action being taken by any individual authority at any time should offences become apparent. In most cases, a graduated form of response is expected to resolving issues of non-compliance although it is recognised that in serious cases a prosecution or a review application will be the most appropriate means of disposal.
- 16.6 In addition to the Council's enforcement policy, which is available at www.westberks.gov.uk, the licensing authority will also have regard to the Regulators' Compliance Code and the Enforcement Concordat and any decision to instigate legal proceedings will take account of the criteria set down in the Code of Crown Prosecution and Attorney General Guidelines.

17. Reviews of Premises Licences

- 17.1 At any stage following the grant of a premises licence, a responsible authority or other person may ask the Council to review the licence because of a problem arising at the premises in connection with one or more of the four licensing objectives. However it is hoped that this can be avoided by dealing with issues in an informal manner wherever possible, and that reviews will be a measure of last resort.
- 17.2 In every case, the application for review must be relevant to the promotion of the licensing objectives. A hearing will be held to determine the application unless all parties agree that a hearing is not necessary.
- 17.3 Where the request originates from any person other than a responsible authority (e.g. a local resident, residents' association, local business or trade association) the licensing authority must consider whether the request for review is vexatious, frivolous or repetitious. A Licensing Authority may refuse an application for a review on any of these grounds and will give reasons to the applicant for such a refusal.

18. Early Morning Restriction Orders (EMROs)

- 18.1 The Licensing Act sets out powers conferred on licensing authorities to make early morning alcohol restriction orders. These powers are designed to help licensing authorities address specific problems caused by late night supply of alcohol in their areas allowing licensing authorities to restrict the sale of alcohol in the whole or a part of their areas between midnight and 06:00 hours. Licensing Authorities may make an EMRO in relation to problem areas if they have evidence that the order is appropriate for the promotion of the licensing objectives.
- 18.2 At the time of writing this policy the Licensing Authority has no plans to make an EMRO in any part of Wokingham borough. However, the situation will be kept under review and should evidence emerge that suggests that the sale of alcohol between midnight and 06:00 hours is creating specific problems the Council will consider whether the introduction of an EMRO is appropriate. In considering the appropriateness of an EMRO the licensing authority will consider evidence from partners, including responsible authorities and local Community Safety Partnerships or other sources. If a proposal to implement an EMRO arises in the future the Licensing Authority will advertise and consult about its proposal in accordance with legislation and national guidance.

19. Late Night Levy (LNL)

- 19.1 Late night levy powers will allow licensing authorities to raise a contribution from late opening alcohol retailers (from midnight to 06:00 hours) towards policing the late night economy. This is a power that licensing authorities can choose whether to adopt for their areas. If adopted the powers must apply to the whole of the licensing authority's area. Income from the net levy is to be split between the Police and the Licensing Authority on the basis of a minimum 70% allocated to the Police and a maximum 30% allocated to the licensing authority.

- 19.2 At the time of writing this policy the Licensing Authority has no plans to collect a LNL. However the situation will be kept under review and prior to making a decision to implement a LNL, the licensing authority would have discussions with the Police and Crime Commissioner (PCC) and local police to decide whether it is appropriate to introduce a LNL. If a proposal to implement a LNL arises in the future, the licensing authority will consult the PCC, the police, licence holders and others about its proposal.

Appendix A Delegation of Functions

Matter to be dealt with	Licensing Sub-Committee	Officers
Application for personal licence with unspent conviction for relevant/foreign offence or immigration penalty	If a police or Secretary of State objection	If no objection made
Decision to suspend or revoke personal licence where there is unspent conviction for relevant/foreign offence or immigration penalty	All cases	
Application for premises licence/club premises certificate or 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 for minor variation application		All cases
Decision whether to consider other responsible authorities on minor variation application		All cases
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 authority considering the application	All cases	
Determination of an objection to a temporary event notice	All cases	
Decision to make a representation as a licensing authority		All cases
Power to suspend a licence for non-payment of annual fees and associated actions		All cases
Power to impose existing premises licence or club premises certificate conditions on a TEN where all parties agree a hearing is unnecessary		All cases
Determination of application to vary premises licence at community premises to include alternative licence condition	If police objection	All other cases

Appendix B Glossary

Capacity Limit	Where the Licensing Authority and/or Fire Authority have set a limit on the number of people allowed in a premises or part of a premises, to prevent overcrowding which can lead to crime and disorder and concerns over public safety.
Child	Any person who is under the age of 18 years.
Club Premises Certificate	A certificate authorising the supply of alcohol to members of a qualifying club, the sale of alcohol to guests on the premises and the provision of regulated entertainment without the need for any member or employee to hold a personal licence.
Council	As far as this policy is concerned, any reference to the Council shall be interpreted as the Licensing Authority.
Cumulative Impact	Where there is a potential impact on the promotion of the licensing objectives due to a significant number of licensed premises concentrated in one area.
Designated Premises Supervisor	A specified individual, holding a personal licence, who is responsible for the day-to-day running of the business and whose name will appear on the premises licence.
Late Night Refreshment	The supply of hot food and drink between the hours of 23.00 and 05.00 for consumption on or off the premises.
Licence Types	<ul style="list-style-type: none"> • Premises Licence • Club Premises Certificate • Personal Licence • Provisional Statement • Temporary Event Notice
Licensable Activities	<ul style="list-style-type: none"> • 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 a club • The provision of regulated entertainment • The provision of late night refreshment
Licensing Objectives	<ul style="list-style-type: none"> • Prevention of Crime and Disorder • Public Safety • Prevention of Public Nuisance • Protection of Children from Harm
Licensing Qualification	Qualification accredited by the Secretary of State and a requirement for a personal licence.
Operating Schedule	This forms part of the completed application form for a premises licence and must promote the licensing objectives. See section 4 for more information.
Personal Licence	This authorises individuals to sell or supply alcohol or authorise the sale or supply of alcohol for consumption on or off the premises for which a premises licence is in force for the carrying on of that activity.

Premises Licence	A licence in respect of any premises, including land or buildings under public ownership within the community that are to be used for one or more licensable activities. Valid for an indefinite period unless revoked or surrendered.
Proprietary Clubs	Clubs run by individuals, partnerships or businesses for the purpose of making a profit.
Provisional Statement	Where premises are being constructed or extended or substantial structure changes are proposed.
Qualifying Club	Where members have joined together for particular social, sporting or political purposes and then combine to buy alcohol in bulk as members. Examples of qualifying clubs are: <ul style="list-style-type: none"> • Political clubs • Royal British Legion • Working men's clubs • Social and sports clubs A qualifying club can, however, obtain a premises licence if it wishes to offer its facilities commercially for use by the general public.
Regulated Entertainment	Entertainment that is provided to members of the public or to members of a qualifying club, or entertainment held with a view to profit. This includes plays, films, indoor sporting events, performance of dance and live and recorded music. For more detailed advice on whether a specific activity constitutes regulated entertainment, please contact the Licensing Team.
Relevant Offences	As set out in Schedule 4 to the Licensing Act 2003.
Relevant Representations	Representations (objections) made by a responsible authority or any other person which are deemed as relevant
Responsible Authorities	This group can make representations and includes bodies such as: <ul style="list-style-type: none"> • The Chief Officer of Police • The Fire Authority • The Local Enforcement Agency for the Health and Safety at Work etc. Act 1974 • The Weights and Measures Authority • The Planning Authority • Environmental Health • Public Health • The body responsible for matters relating to the Protection of Children from Harm - the Local Safeguarding Children Board • The Licensing Authority
SAG	Safety Advisory Group. An advisory body whose purpose is to offer advice and guidance on event organisation.
Temporary Event Notice	A notice of intention to carry on of the sale of alcohol, provision of regulated entertainment or late night refreshment at a premises not otherwise authorised by a premises licence or club premises certificate.

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TITLE	Review of Statement of Gambling Principles
FOR CONSIDERATION BY	Licensing and Appeals Committee 4 September 2018
WARD	None-specific
DIRECTOR	Sean Murphy - Public Protection Manager

OUTCOME / BENEFITS TO THE COMMUNITY

Section 349 of the Gambling Act 2005 ('the Act') requires all licensing authorities to prepare and publish a statement of the principles that they propose to apply in exercising their functions under the Act ('Statement'). The Statement will last for a maximum of three years and can be reviewed and revised by the authority at any time.

The present Statement was published to take effect from the end of January 2016 and therefore must undergo a review and be re-published to take effect by the end of January 2019.

RECOMMENDATION

That the Committee approves the revised Statement of Gambling Principles at Annex A, prior to it being referred to Council in November

SUMMARY OF REPORT

This report introduces the revised Statement which has been updated to reflect the results of the consultation exercise carried out as required by legislation.

Background

Further to the report brought before the Committee in June, the Statement has been updated having taken account of the comments received during the consultation period.

In addition to general re-formatting and minor points of clarification or update, the material changes are as follows:

- Revised section 1.1 to clarify the purpose of the Statement;
- Added section 1.4 to clarify licensable activities and those areas of responsibility of the licensing authority;
- Added reference to the 'Primary Authority' scheme in 1.8;
- Adding additional guidance on local risk assessments in 1.9;
- Added section 2.11 reference track betting licence (this section previously advised it would be completed should an application be received, but the applicant would need to know the authority's position to take into account prior to making an application, and to review the Statement is not something that can be done at short notice and without referral through full Council);
- Added 4.1 on decision making and 4.2 on appeals;

- Added a set of appendices including details of consultees on the policy, the map of the borough, the delegations for decision making and a glossary.

Analysis of Issues

The Statement must, by law, be revised and re-published to take effect from the end of January 2019.

FINANCIAL IMPLICATIONS OF THE RECOMMENDATION

The Council faces severe financial challenges over the coming years as a result of the austerity measures implemented by the Government and subsequent reductions to public sector funding. It is estimated that Wokingham Borough Council will be required to make budget reductions in excess of £20m over the next three years and all Executive decisions should be made in this context.

	How much will it Cost/ (Save)	Is there sufficient funding – if not quantify the Shortfall	Revenue or Capital?
Current Financial Year (Year 1)	No impact	N/A	N/A
Next Financial Year (Year 2)	No impact	N/A	N/A
Following Financial Year (Year 3)	No impact	N/A	N/A

Other financial information relevant to the Recommendation/Decision

None

Cross-Council Implications

There are no implications arising from the recommendation in this report.

Reasons for considering the report in Part 2

None

List of Background Papers

Statement of Gambling Principles (Nov 2015)

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Date 16 August 2018	Version No. 1.3



**WOKINGHAM
BOROUGH COUNCIL**

**Statement of
Licensing Policy
(Licensing Act 2003)**

September 2018

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1. Introduction, Purpose and Scope

- 1.1 The Licensing Act 2003 ('the Act') requires Wokingham Borough Council ('the Council'), as the Licensing Authority, to publish a 'Statement of Licensing Policy' ('policy') every five years. In creating this policy, the Licensing Authority is seeking to protect and where possible to improve the look and feel of Wokingham borough, attracting visitors and making it a stimulating and enjoyable place in which to live, study and work.
- 1.2 The main purpose of this policy is to provide clarity to applicants, responsible authorities, elected Members and other persons on how the Council will determine applications made under the Act. It will also inform elected Members of the parameters within which licensing decisions can be made.
- 1.3 An effective licensing policy, alongside other initiatives, will work towards promoting the positive aspects of deregulation under the Act, such as promoting leisure provision and encouraging the regeneration of the town centre as well as controlling any negative impacts such as increase in crime and disorder, noise, nuisance and anti-social behaviour.
- 1.4 The Licensing Authority is committed to promoting a broad range of entertainment, recognising the wider cultural benefits for local communities. Live performance is central to the development of cultural diversity and vibrant, exciting communities, particularly traditional entertainment such as circuses and street arts. The Licensing Authority recognises that artistic freedom of expression is a fundamental right and should be greatly valued.
- 1.5 The Council recognises that licensed activities make an important contribution to the economy of the Borough. By 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.
- 1.6 It should be understood that this policy cannot anticipate every scenario that may arise and as such there may be circumstances where the policy may be departed from in the interests of the promotion of the licensing objectives and where it is deemed appropriate to do so. In such cases the Council will give full reasons for departing from this policy.
- 1.7 The Council will carry out its licensing functions under the Act with a view to promoting the four licensing objectives, which are:
 - (a) Prevention of Crime and Disorder;
 - (b) Public Safety;
 - (c) Prevention of Public Nuisance; and
 - (d) Protection of Children from Harm.

- 1.8 The Licensing Authority is committed to working in close partnership and communicating with all licensees, responsible authorities and other persons where appropriate in order that they have a clear understanding of the legislative requirements. The Licensing Authority will continue to develop close working partnerships with other appropriate agencies and responsible authorities.
- 1.9 This policy is not intended to duplicate existing legislation and regulatory regimes that already place obligations on employers and operators, for example, the Health and Safety at Work etc. Act 1974 and the Regulatory Reform (Fire Safety) Order 2005. In addition, it should be noted that the planning and licensing regimes are separate. There is no legal basis for the Licensing Authority to refuse a licence application because it does not have planning permission.
- 1.10 The Council is conscious of the need to promote equality and when considering licensing matters will give due regard to the prevention of discrimination and promotion of equality of opportunity.
- 1.11 In determining the policy, the Council has taken into consideration any comments made by consultees, the statutory guidance issued under section 182 of the Act and the experience of administering and enforcing the Act since its introduction.
- 1.12 This policy takes effect on 23 September 2018 and will remain in force for a period of no more than five years. During this time it will be subject to regular review and updating or modification as appropriate, for example to take account of any changes in licensing legislation, with appropriate consultation on any material changes.
- 1.13 Comments on the policy may be made in writing to the Licensing Authority at any time. Contact details can be found towards the end of this document. All comments received will be carefully considered and, where appropriate, included in the policy.

2. Licensing Principles and Process

- 2.1 The Council is the Licensing Authority under the Act and is responsible for granting premises licences, club premises certificates, personal licences and acknowledging temporary event notices in the borough. The aim of the licensing process is to regulate licensable activities so as to promote the licensing objectives.
- 2.2 There are four main licensable activities under the Act:
- (a) retail sales of alcohol;
 - (b) the supply of alcohol by or on behalf of a club
 - (c) the provision of regulated entertainment; and
 - (d) the provision of late night refreshment.
- 2.3 This policy sets out the process the Council will adopt in dealing with licence applications and will be used as a basis in coming to consistent and transparent decisions in respect of licence applications. The overriding principle adopted by the Council will be that each application is determined on its merits. Every

application will be treated fairly and objectively, taking into account the four licensing objectives, the policy and the statutory guidance issued under section 182 of the Act.

- 2.4 Each of the four licensing objectives is of equal importance and will be considered in relation to matters centred on the premises or within the control of the licensee and the effect which the operation of that business has on the vicinity. The Licensing Authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the area concerned. The Act is not a primary mechanism for controlling general nuisance unconnected to licensable activities or the licensing objectives.
- 2.5 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 recognises that other mechanisms exist to control disorderly behaviour, e.g. planning controls, town centre management arrangements, confiscation of alcohol from adults and children in designated areas, and Police enforcement powers.
- 2.6 When determining applications, the Licensing Authority must be satisfied that the applicant's operating schedule (please see section 4) seeks to promote the four licensing objectives. The Licensing Authority will make decisions guided by this policy but will not fetter its right to discretion. In the interests of the safety and wellbeing of all users of the facilities it licenses, the Licensing Authority expects licensees to adopt best practices for their industry. This policy further outlines the expectations of the Licensing Authority and should assist applicants.
- 2.7 The Licensing Authority recognises that conditions attached to various authorisations will be focussed on matters which are within the control of the licence holders. Conditions shall be proportionate and appropriate to achieve the promotion of the licensing objectives, and shall be tailored to suit the circumstances and premises.

3. Making an Application

- 3.1 The relevant application forms and associated documents are obtainable from the Council's website or from the licensing team on request. It is strongly recommended that all applicants consult with the Licensing Authority prior to submitting an application. It may be appropriate to submit a draft application for comments.
- 3.2 A plan must be attached to an application for a premises licence or a club premises certificate. The plans do not have to be professionally drawn, however they must be to scale and contain the relevant information as required under regulation. The plan should be at a scale of 1:100; however the Council will accept plans of an alternative scale provided this is approved prior to submitting the application.

- 3.3 Where a licensed premises is being constructed, extended or structurally changed, the applicant may apply for a provisional statement. This will be processed in the same way as a new licence application. However the provisional statement will not automatically be converted into a full licence on completion of works, and the applicant will have to submit a new licence application. It is acknowledged that unless representations are made at the provisional statement stage, or are not made without reasonable excuse, and neither the premises/vicinity has changed nor the type of licensable activities taking place, the licence will be granted. The applicant will be required to submit a full schedule of works, including a statement of the licensable activities for which the premises are proposed to be used as well as the plans and proposed hours of use, in order to allow the Licensing Authority to make an informed decision.
- 3.4 Where conditions have not been adhered to in the past, the Licensing Authority will expect applicants to have taken action to address those issues. Applications may be refused where there are significant outstanding issues.
- 3.5 In particular, for large scale events, it is suggested that the event should be referred to the Safety Advisory Group in advance of submission of an application.
- 3.6 With regard to shops, stores and supermarkets, the normal scenario will be for such premises to provide sales of alcohol for consumption off the premises at any time when the retail outlet is open for shopping unless representations raise reasons, based on the licensing objectives, for restricting those hours.
- 3.7 In some circumstances, flexible licensing hours for the sale of alcohol can help to ensure that concentrations of customers leaving premises simultaneously are avoided.

4. The Operating Schedule

- 4.1 All applicants for the grant or variation of a premises licence or club premises certificate are required to provide an operating schedule as part of their application. This is a key document and, if prepared comprehensively, will form the basis on which premises can be licensed without the need for additional extensive conditions. The Council expects an operating schedule to indicate the steps that the applicant proposes to take to promote the licensing objectives. This should follow a thorough risk assessment relating to the specific premises and licensable activities proposed to take place.
- 4.2 Applicants are strongly recommended to discuss their operating schedule with the responsible authorities prior to submitting the application. The Licensing Team can assist in co-ordinating this process.
- 4.3 The complexity and detail required in the operating schedule will depend upon the nature and use of the premises. It must include details of the following:
- (a) Full details of the licensable activities to be carried on at and the intended use of the premises;
 - (b) The times during which licensable activities will take place;
 - (c) Any other times when the premises are to be open to the public;

- (d) Where the licence is only required for a limited period, that period;
- (e) Where the licensable activities include the supply of alcohol, the name and address of the individual proposed to be designated premises supervisor;
- (f) Whether alcohol will be supplied for consumption on or off the premises or both; and
- (g) The steps the applicant proposes to promote the licensing objectives.

4.4 Where measures to promote the licensing objectives are included in the operating schedule, these may be used to form conditions attached to the licence and should therefore be clear, concise and unambiguous.

4.5 The following guidance is intended to assist applicants by setting out criteria and considerations that they should bear in mind when drawing up an operating schedule. They alert applicants to any matters that responsible authorities are likely to consider when deciding whether to make representations on an application or whether to call for a review of the premises licence.

4.6 A pool of model conditions is available on request from the Licensing Team. Individuals preparing operating schedules are at liberty to use these conditions, or volunteer any other measures(s) to promote the licensing objectives.

5. Licensing Objective 1: Prevention of Crime and Disorder

5.1 The Licensing Authority is committed to reducing crime and disorder to improve the quality of life for the people of Wokingham borough. Good management and practice procedures in licensed premises can make an important contribution to lessening the impact that consumption of alcohol can have on crime and disorder. The Licensing Authority and Thames Valley Police through their Community Safety Partnership will regularly monitor and review crime statistics within the borough and their association with alcohol. When applying conditions, the Council will be mindful of the local Community Safety Strategy.

5.2 Licensees are encouraged to work in partnership with a local Pubwatch scheme to form strategies for actively preventing crime and disorder issues. This scheme encourages the sharing of information and seeks to address matters such as underage sales, drunkenness, illegal drug use and anti-social behaviour.

5.3 Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to reduce or prevent crime and disorder on and in the vicinity of their premises, relevant to the individual style and characteristics of their premises and event; for example

- Prevention of use, sale or supply of illegal drugs on the premises, and procedures and provision for storage of seized items.
- Prevention of drunkenness and alcohol abuse such as drinking games and irresponsible drinks promotions.
- Security features such as provision and storage of CCTV - capable of retaining recording images for a period of 31 days from the date

of an event and to an identifiable standard (bearing in mind the need to comply with data protection regulations)

- A prescribed capacity limit
- Use of door staff to control entry to the premises
- Procedures for ejection or dispersal of persons from the premises
- Procedures for dealing with harassment, discrimination and inappropriate behaviour.
- Use of polycarbonate/plastic containers and toughened glass and prevention of persons taking drinks from the premises in open containers
- Display of crime prevention notices
- An appropriate ratio of tables and chairs to customers based on capacity

5.4 Wherever possible, applicants are expected to be aware of local groups known to incite violence or hatred or take part in extremist activities in order to prevent the likelihood of meetings resulting in crime and disorder. Licensees will be expected to take into consideration the potential impact on privacy or religious freedom and the ethnic and cultural composition of the local area when hosting these meetings. The Licensing Authority recognises the need to promote the elimination of unlawful discrimination and equality of opportunity and recommends licensees seek guidance from the Equality and Human Rights Commission <http://www.equalityhumanrights.com/> or by contacting them on 0808 800 0082.

6. Licensing Objective 2: Public Safety

6.1 When visiting licensed premises, members of the public have a right to be confident that due consideration has been given to their physical safety. Where an applicant identifies an issue in regard to public safety (including fire safety) which is not covered by existing legislation, the applicant should identify in their operating schedule the steps which will be taken to ensure public safety. Such steps will be dependent on the individual style and characteristics of the premises and/or event(s) to be held. It should be noted there is an overriding legal duty to comply with the provisions of Health and Safety at Work legislation, including risk-assessment and control.

6.2 The Licensing Authority has a Safety Advisory Group ('SAG') and, where appropriate, applicants are encouraged to seek the group's advice on issues of public safety. For example, a licensee who wishes to stage a licensable public event which is not specifically indicated in the operating schedule may be invited to approach the SAG. When applying for licensable events on Local Authority property, the applicant may be required to present an event plan to the SAG.

6.3 Applicants may wish to consider inclusion of the following steps within their operating schedule with a view to the safety of persons attending the premises:

- Evacuation procedures including measures for disabled persons
- Maintenance of alarm systems and emergency lighting
- Maintenance of all escape routes and exits
- Safety checks and records in a log book
- Access for emergency vehicles

- First aid equipment and trained first aiders
- Appropriate lighting and ventilation and monitoring of noise levels
- Checks on temporary electrical installations
- Use of special effects such as lasers, pyrotechnics and smoke machines
- Control of any animals at the premises
- Use of door supervisors or stewards
- Procedures to ensure safety of women and vulnerable persons
- Provision of potable water

6.4 For indoor sports entertainment or where special provision must be made for the safety of the public, applicants may wish to consider inclusion of the following steps within their operating schedule:

- Provision of qualified medical practitioners
- Where a ring is involved, that it be constructed and inspected by a competent person and any material used to be flame retardant
- Where there is wrestling or similar entertainment that the public do not occupy any seat within 2.5 metres of the ring
- Where there is a water sports event, appropriate provision of staff adequately trained to be available and remain in the vicinity at all times.

7. Licensing Objective 3: The Prevention of Public Nuisance

7.1 The Licensing Authority interprets 'public nuisance' in its widest sense, and takes it to include such issues as noise, light, odour, litter and anti-social behaviour. Public nuisance could include low-level nuisance perhaps affecting a few people living locally as well as major disturbance affecting the whole community.

7.2 The Council is committed to minimising the adverse impact of licensable activity, whilst not unduly restricting the reasonable provision of licensed activity. It is noted that there are mechanisms other than the licensing regime that are available for addressing public nuisance away from the licensed premises. Examples include planning controls and Public Spaces Protection Orders.

7.3 The Licensing Authority, whilst recognising the need to treat every application on its own merits, should be satisfied that the type of licensable activities proposed and hours of operation will be suitable for the location in which the premises are situated (e.g. areas of dense residential accommodation). Playing of music can cause nuisance both through noise breakout and by its effect on patrons, who become accustomed to high sound levels and to shouting to make themselves heard, which can lead to them being noisier when leaving premises. Other major sources of noise nuisance are vehicles collecting customers, the slamming of car doors and the sounding of horns. These noises can be particularly intrusive at night when ambient noise levels are lower.

7.4 Where premises are located near to noise-sensitive areas, e.g. residential premises, nursing homes, hospitals or places of worship, the licensee should initially identify any particular issues (having regard to their particular type of premises and/or activities) which are likely to adversely affect the promotion of the

objective to prevent public nuisance. Such steps as are required to deal with these identified issues should be included within the applicant's operating schedule.

7.5 In considering applications, the Licensing Authority will expect to see, where appropriate, evidence that the following matters have been addressed in the operating schedule:

- Measures to reduce noise and vibration escaping from the premises; including noise from music and voices whether or not amplified
- Consideration of the licensed hours and restrictions on when licensable activities can take place both indoors and outdoors
- Monitoring checks and logs of any checks carried out
- Prevention of noise from deliveries or waste collections, or disposal of glass bottles etc., at unsociable hours
- Measures to encourage quick and quiet dispersal by customers and staff including provision for access to book taxis, lowering the volume of music during the last 30 minutes before closing time and procedures for the safe removal and dispersal of persons ejected from the premises
- Measures to control light to ensure that it does not stray outside the boundary of the premises so as to give rise to problems to local residents and businesses
- Measures to control nuisance that might be associated with the use of the external areas, particularly late at night, including supervision of the areas and specified times during which food and drink will not be permitted to be consumed in the external areas.
- Measures to control litter and odour associated with use of the premises.

8. Licensing Objective 4: Protection of Children from Harm

8.1 This objective includes the protection of children from moral, psychological and physical harm. The applicant should initially identify any particular issues (having regard to their particular type of premises and/or activities) which are likely to cause concern in relation to children. Applicants will be expected to consider the risk of children being exposed to alcohol, drugs, gambling, activities of an adult and/or sexual nature and exposure to excessive noise or incidents of violence and disorder. Such steps as are required to deal with these identified concerns should be included within the applicant's operating schedule.

8.2 The provisions of the Act are that unaccompanied children under 16 should not be on 'premises being used exclusively or primarily for the supply of alcohol' (e.g. 'alcohol led' premises such as pubs, bars and nightclubs). In addition, it is an offence to allow unaccompanied children under 16 on premises licensed to sell alcohol for consumption on the premises after midnight but before 05:00.

8.3 Where appropriate, applicants should state in their operating schedule:

- (a) whether or not they will admit children to any or all parts of the licensed premises;
- (b) where children are to be admitted, the steps that will be taken to protect children from harm, for example supervision requirements, provision of designated areas for children and families, and hours during which children will not be permitted to be on the premises.

The applicant will also be expected to consider provision for lost and found children (in particular at large public events).

- 8.4 Where appropriate, the Licensing Authority will expect the applicant to evidence how they will supervise children who are performing in an event with regulated entertainment event and what consideration will be given to the welfare of children at attractions or performances likely to attract children. Where children are supervised, the Licensing Authority will expect the operating schedule to demonstrate that these supervisors have been appropriately checked by the Disclosure and Barring Service.
- 8.5 Where events are taking place that are provided solely or mainly for children, for example an under-18s disco, the expectation is that no alcohol will be served.
- 8.6 Applicants are required, where appropriate, to set out in their operating schedule the arrangements they have in place to prevent the sale of alcohol and age-restricted items to children. This should include an age-monitoring scheme, such as Challenge 25. The Licensing Authority recommends use of any of the following as an acceptable proof of age:
- (a) Passport
 - (b) Photocard driving licence issued in the European Union
 - (c) Proof of Age Standards Scheme Card (PASS)
 - (d) Official ID card issued by HM Forces or by a European Union country bearing a photo and date of birth of holder.

Consideration should also be given to training (including refresher training) for staff, and records to evidence this training. In addition there should be means of recording challenges and/or refusals relating to potential sales of alcohol to underage persons.

- 8.7 Where there are off-licence sales, the Licensing Authority would expect the operating schedule to demonstrate how the licensee will discourage the sale of alcohol to customers on behalf of children in the vicinity ('proxy sales'). For example, if the licensee has any suspicions of this activity to ask the customer if they have been approached by children to purchase alcohol and if necessary contact the Police.
- 8.8 Applicants from retail outlets which use self-scanning devices or which offer delivery of alcohol will be expected to demonstrate how they are going to prevent the purchase or delivery of alcohol by persons under the age of 18.
- 8.9 The Licensing Authority will also expect applicants to set out in their operating schedule the measures that they will take to ensure that alcohol is not sold by

persons under 18 unless specifically approved by a responsible person, or they are working as a waiter/waitress in a specially designated part of the premises and alcohol is sold only with a table meal.

- 8.10 Where appropriate, the Licensing Authority would expect applicants to demonstrate in their operating schedule that they will observe industry best practice guidance on the naming, packaging and promotion of alcoholic drinks to prevent children from being enticed into purchasing these products.
- 8.11 Licensees are encouraged to inform the appropriate agencies where it has been highlighted that children have tried to purchase alcohol and/or illegal substances.
- 8.12 In relation to exhibition of film, the Licensing Authority will expect the operating schedule to demonstrate that entry shall be controlled to protect children from exposure to strong language, sexual content and other inappropriate matters.
- 8.13 The Licensing Authority proposes to abide by the recommendations of the British Board of Film Classification, but the Licensing Authority reserves the right to re-classify any film. Information regarding such classifications will be published on the Council's website. All requests for a classification must be accompanied by a synopsis of the film and a full copy of the film in DVD or other appropriate format, and submitted at least 28 days before the proposed screening. Failure to submit a request in time may result in the Council being unable to classify the film. Requests shall be assessed against the BBFC guidelines and the licensing objectives.
- 8.14 The Licensing Authority recognises the Wokingham Safeguarding Children Board as the competent body and responsible authority to advise matters relating to the protection of children from harm.
- 8.15 In considering applications, the Licensing Authority will expect to see, where appropriate, evidence that the following matters have been addressed in the operating schedule:
 - 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 18s 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

9. Representations and Mediation

- 9.1 Where relevant representations have been submitted, the Licensing Authority shall aim to facilitate negotiations between the applicant, objectors and any relevant responsible authorities prior to the hearing. Hearings may be avoided when all parties arrive at an amicable solution to the issues raised through negotiation.
- 9.2 In determining the grant or variation of a licence, the following responsible authorities may make representations:
- (a) Thames Valley Police
 - (b) Royal Berkshire Fire and Rescue Service
 - (c) Environmental Health (or for Council-operated premises, the Health and Safety Executive)
 - (d) Trading Standards
 - (e) Environmental Protection
 - (f) Public Health
 - (g) Local Safeguarding Children Board
 - (h) Planning Authority

In addition to this, any other person may make a representation.

The Licensing Authority will consider any relevant representations received. Any of these individuals or groups may request a representative to make representations on his or her behalf. This could be a legal representative, a friend, an MP or a Ward Councillor.

- 9.4 The Licensing Authority itself is able to make representations, but this is likely to be limited to few cases, for example to ensure appropriate and proportionate conditions are included on a licence where the operating schedule is not clear. If the Licensing Authority makes a representation there shall be a separation of responsibilities between the officer exercising that role and those who are administering the application to ensure procedural fairness and eliminate conflicts of interest.
- 9.5 For a representation to be relevant it must:
- (a) relate to the effect of the grant of the application on the promotion of the licensing objectives;
 - (b) not be 'frivolous or vexatious', and
 - (c) in the case of a review, must not be 'repetitious' if the representation is from a person other than a responsible authority, and
 - (d) if it concerns the designated premises supervisor, be made by a chief officer of police and include a statement explaining the reasons for the objection.

Representations can include positive/supportive representations as well as objections.

- 9.6 The Licensing Authority is responsible for considering representations in the context of this policy and legal requirements in order to determine whether they

are relevant. The Licensing Authority authorises suitably qualified staff to discharge duties as appropriate to their seniority, professional qualification and/or experience.

- 9.7 Where a representation is received, the Licensing Authority will need to consider if it is frivolous or vexatious. The Licensing Authority may also consider the representation to be 'irrelevant' if it does not directly relate to the application and its impact on the promotion of the licensing objectives. If the decision is made that a representation is frivolous, vexatious, and/or irrelevant, the person making the representation will be informed of this in writing with full reasons being given for the decision.

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, but more 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 other person. In addition, the Council has to be satisfied that the criteria set out in the legislation are met. As detailed earlier in this Policy, each application will 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 within an area to communicate with each other and prepare their Operating Schedules so that they complement each other and collectively meet the Licensing Objectives.

11. Decision Making

- 11.1 The Council will seek to carry out its responsibilities under the Licensing Act 2003 efficiently and cost-effectively. To do this, functions are delegated from the Licensing and Appeals Committee to either Sub-Committees or officers, as set out in the table at Appendix A.
- 11.2 In determining the application the Licensing Authority will consider:
- (a) the case and evidence presented by all parties;
 - (b) the promotion of the four licensing objectives;
 - (c) guidance issued by central Government; and
 - (d) the Licensing Authority's own Statement of Licensing Policy.

and will take such of the following steps as it considers necessary for the

promotion of the licensing objectives:

- to grant the licence subject to the operating schedule modified to such extent as the sub-committee considers necessary for the promotion of the licensing objectives, and subject to the relevant mandatory conditions;
- to exclude from the scope of the licence any of the licensable activities to which the application relates;
- to refuse to specify a particular person as the designated premises supervisor;
- to reject the application.

11.3 If it is reasonably considered that the licensing objectives cannot be met unless additional specific conditions are attached, then the Licensing Authority may consider attaching those which are appropriate for the promotion of the licensing objectives, proportionate to the individual style and characteristics of the event or premises concerned.

11.4 The decision of the Sub-Committee shall be accompanied with clear, cogent reasons for that decision, having had due regard to the Human Rights Act 1998 and all other relevant legislation. The decision and reasons for that decision will be sent to the applicant and those who have made relevant representations, and a summary of the decision shall be posted on the Licensing Authority's website as soon as is reasonably possible after the decision has been confirmed.

11.5 Anyone aggrieved by a decision of the Council has a right of appeal as set out in the Act. The Council will inform the appropriate parties of their right of appeal in accordance with the Act when confirming a decision of the Sub-Committee.

11.6 Where no relevant representations are received, the licence will be issued automatically with such conditions that are mandatory and those arising from the operating schedule. The Council has no discretion in such circumstances to refuse the application or to alter or add to the conditions offered through the operating schedule.

12. Temporary Event Notices

12.1 Temporary event notices (TENs) may be used to authorise licensable activities at premises where there are 499 persons or fewer (including any staff and volunteers) present. TENs are not applications for permission to hold an event; they are notices of intention to hold an event. If there are 500 or more persons present at the event, a premises licence will be required.

12.2 In accordance with the 2003 Act, any individual person aged 18 or over may give a TEN, whether or not they hold a personal licence. An individual who is not a personal licence holder may only give a TEN 5 times a year, and a personal licence holder no more than 50 times a year. However, no more than 15 TENs covering a maximum of 21 days may be given in respect of any particular premises in a single calendar year.

- 12.3 Organisers of temporary events are encouraged to submit their TEN as soon as is reasonably practicable in order for the Police and Environmental Protection to consider whether or not they have any concerns about the event and, if they have, to enable all parties to try and take steps to resolve those concerns. The TEN form is available on the Council's website.
- 12.4 Although the legal requirement is 10 clear working days (or 5 clear working days for late TENs) not including the date of receipt or the date of the event, the Licensing Authority recommends that at least 2 months' notice be given to hold such events, to allow sufficient time for organisers to plan their events safely, for appropriate publicity and for consultation with responsible authorities and interested parties. Any longer period than this may mean that organisers do not have all the details available at the time of submitting the notice, and any lesser time means that planning may be rushed and haphazard.
- 12.5 The processing of TENs by the Council is controlled by a strict statutory timetable; therefore, the Council will not accept a notice unless it is complete in all respects at the time of submission.
- 12.6 In the event of an objection, the Licensing Authority will hold a hearing and give a decision not less than 24 hours before the event is due to take place.
- 12.7 Organisers of events are reminded of the police powers to close down events with no notice on the grounds of disorder, the likelihood of disorder, or public nuisance. Therefore, the Licensing Authority expects organisers to be aware of the relevant offences under the Licensing Act 2003, for example sales of alcohol to children or to intoxicated persons.
- 12.8 Where exceptional events of local, national or international significance arise, for example a one-off local festival or World Cup, the Secretary of State may make a licensing order to allow premises to open for specified extended hours.

13. Personal Licences

- 13.1 Personal licences authorise individuals to sell or supply alcohol, or authorise the sale or supply of alcohol for consumption on or off a premises at which a premises licence is in force for that activity.
- 13.2 Personal licence applicants with relevant unspent criminal convictions are required to notify the Licensing Authority of the nature of those convictions at the time of application. Where a personal licence holder is convicted of a relevant offence during the period when their application is being considered, the licence holder is required to advise the Licensing Authority forthwith.
- 13.3 Where the Police believe that the grant of a personal licence would undermine the crime prevention objective, they will issue an objection notice. The Licensing Authority will arrange for a hearing to take place at which the application will be determined.
- 13.4 It is an offence for a personal licence holder who is convicted of a relevant offence not to inform the issuing Licensing Authority in order that their licence can

be amended. The personal licence holder must also notify the Court that they hold a personal licence.

14. Club Premises Certificates

- 14.1 In order for qualifying clubs to supply alcohol and provide other licensable activities at their premises, a club premises certificate is required. Qualifying conditions are specified in section 61 of the Act and the Licensing Authority must be satisfied that these conditions have been met, including evidence that the club is non-profit making.
- 14.2 The Act does not require any member or employee to hold a personal licence in order to supply alcohol to members or sell alcohol to guests on the premises to which the certificate relates, nor is there a requirement for the club to specify a designated premises supervisor. Where a club intends to admit the general public to an event where licensable activities will take place, then a premises licence or a TEN will be required.

15. Management of Licensed Premises

- 15.1 A critical element of the proper control of licensable activity and a premises where such activity is provided is good management. The Council encourages all licence holders to consider what skills and competencies are required for the safe delivery of regulated activities and secure appropriately trained staff.
- 15.2 Within all licensed premises, whether or not alcohol is to be sold, the Council will expect there to be proper management arrangements in place which will ensure that there is an appropriate number of responsible, trained/instructed persons at the premises to ensure the proper management of the premises and of the activities taking place, as well as adherence to all statutory duties and the terms and conditions of the premises licence.
- 15.3 Any premises where alcohol is sold under a premises licence must have a designated premises supervisor (DPS) who must be a personal licence holder. The DPS will be named in the premises licence, a summary of which must be displayed on the premises.
- 15.4 The Council will normally expect the DPS to have been given the day-to-day responsibility for running the premises and as such it is expected that the DPS would usually be present at the licensed premises on a regular basis. The licence holder will also be expected to ensure that the DPS has experience commensurate with the size, capacity, nature and style of the premises and licensable activities to be provided. Where the DPS is not available at the premises for whatever reason, the Licensing Authority will expect his or her full contact details to be available at the premises and made known to at least one individual who will be present at the premises.
- 15.5 The Act does not require a DPS or any other personal licence holder to be present on the premises at all times when alcohol is sold. However every sale of alcohol must be made or authorised by a person who holds a personal licence on the premises, or by the DPS under authority that has been delegated (or must be

made or authorised by the management committee in the case of community premises). The Licensing Authority recommends that if the DPS authorises persons to make sales of alcohol, that this is done in writing, that the document of authorisation is kept on the premises and that all staff are made aware of the location of the document. Where the DPS has delegated responsibility for the sale of alcohol, they still have a duty of responsibility for the action of those they have authorised to make those sales.

16. Complaints, Enforcement and Inspections

- 16.1 Complainants are encouraged in the first instance to raise any concerns directly with the licensee or business concerned. Complaints may be sent to the Licensing Team, Wokingham Borough Council, PO Box 155, Shute End, Wokingham, RG40 1WW or licensing@wokingham.gov.uk for investigation.
- 16.2 Where there are any issues identified or need for improvement at a premises, officers and responsible authorities will seek to work with the licence holder to address these concerns and to achieve a resolution through informal means wherever possible.
- 16.3 The Council undertakes proactive risk-based inspections of all licensed premises to ensure continued promotion of the licensing objectives and compliance with licence conditions. Premises that consistently fail inspections may be subject to a licence review or other enforcement action. Where one-off events are taking place, the Licensing Authority may also carry out inspections to ensure promotion of the licensing objectives.
- 16.4 In terms of enforcement, the aim is to target those premises which are causing problems within the community, whilst supporting well managed premises and activities which provide opportunities for the enjoyment of leisure time without having a negative impact.
- 16.5 Protocols for enforcement will be established between responsible authorities and the Licensing Authority in order to ensure efficient and targeted action for specific problems and high risk premises that require greater attention, whilst allowing a lighter touch in respect of well run, low risk premises. This does not prevent action being taken by any individual authority at any time should offences become apparent. In most cases, a graduated form of response is expected to resolving issues of non-compliance although it is recognised that in serious cases a prosecution or a review application will be the most appropriate means of disposal.
- 16.6 In addition to the Council's enforcement policy, which is available at www.westberks.gov.uk, the licensing authority will also have regard to the Regulators' Compliance Code and the Enforcement Concordat and any decision to instigate legal proceedings will take account of the criteria set down in the Code of Crown Prosecution and Attorney General Guidelines.

17. Reviews of Premises Licences

- 17.1 At any stage following the grant of a premises licence, a responsible authority or other person may ask the Council to review the licence because of a problem arising at the premises in connection with one or more of the four licensing objectives. However it is hoped that this can be avoided by dealing with issues in an informal manner wherever possible, and that reviews will be a measure of last resort.
- 17.2 In every case, the application for review must be relevant to the promotion of the licensing objectives. A hearing will be held to determine the application unless all parties agree that a hearing is not necessary.
- 17.3 Where the request originates from any person other than a responsible authority (e.g. a local resident, residents' association, local business or trade association) the licensing authority must consider whether the request for review is vexatious, frivolous or repetitious. A Licensing Authority may refuse an application for a review on any of these grounds and will give reasons to the applicant for such a refusal.

18. Early Morning Restriction Orders (EMROs)

- 18.1 The Licensing Act sets out powers conferred on licensing authorities to make early morning alcohol restriction orders. These powers are designed to help licensing authorities address specific problems caused by late night supply of alcohol in their areas allowing licensing authorities to restrict the sale of alcohol in the whole or a part of their areas between midnight and 06:00 hours. Licensing Authorities may make an EMRO in relation to problem areas if they have evidence that the order is appropriate for the promotion of the licensing objectives.
- 18.2 At the time of writing this policy the Licensing Authority has no plans to make an EMRO in any part of Wokingham borough. However, the situation will be kept under review and should evidence emerge that suggests that the sale of alcohol between midnight and 06:00 hours is creating specific problems the Council will consider whether the introduction of an EMRO is appropriate. In considering the appropriateness of an EMRO the licensing authority will consider evidence from partners, including responsible authorities and local Community Safety Partnerships or other sources. If a proposal to implement an EMRO arises in the future the Licensing Authority will advertise and consult about its proposal in accordance with legislation and national guidance.

19. Late Night Levy (LNL)

- 19.1 Late night levy powers will allow licensing authorities to raise a contribution from late opening alcohol retailers (from midnight to 06:00 hours) towards policing the late night economy. This is a power that licensing authorities can choose whether to adopt for their areas. If adopted the powers must apply to the whole of the licensing authority's area. Income from the net levy is to be split between the Police and the Licensing Authority on the basis of a minimum 70% allocated to the Police and a maximum 30% allocated to the licensing authority.

19.2 At the time of writing this policy the Licensing Authority has no plans to collect a LNL. However the situation will be kept under review and prior to making a decision to implement a LNL, the licensing authority would have discussions with the Police and Crime Commissioner (PCC) and local police to decide whether it is appropriate to introduce a LNL. If a proposal to implement a LNL arises in the future, the licensing authority will consult the PCC, the police, licence holders and others about its proposal.

Appendix A Delegation of Functions

Matter to be dealt with	Licensing Sub-Committee	Officers
Application for personal licence with unspent conviction for relevant/foreign offence or immigration penalty	If a police or Secretary of State objection	If no objection made
Decision to suspend or revoke personal licence where there is unspent conviction for relevant/foreign offence or immigration penalty	All cases	
Application for premises licence/club premises certificate or 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 for minor variation application		All cases
Decision whether to consider other responsible authorities on minor variation application		All cases
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 authority considering the application	All cases	
Determination of an objection to a temporary event notice	All cases	
Decision to make a representation as a licensing authority		All cases
Power to suspend a licence for non-payment of annual fees and associated actions		All cases
Power to impose existing premises licence or club premises certificate conditions on a TEN where all parties agree a hearing is unnecessary		All cases
Determination of application to vary premises licence at community premises to include alternative licence condition	If police objection	All other cases

Appendix B Glossary

Capacity Limit	Where the Licensing Authority and/or Fire Authority have set a limit on the number of people allowed in a premises or part of a premises, to prevent overcrowding which can lead to crime and disorder and concerns over public safety.
Child	Any person who is under the age of 18 years.
Club Premises Certificate	A certificate authorising the supply of alcohol to members of a qualifying club, the sale of alcohol to guests on the premises and the provision of regulated entertainment without the need for any member or employee to hold a personal licence.
Council	As far as this policy is concerned, any reference to the Council shall be interpreted as the Licensing Authority.
Cumulative Impact	Where there is a potential impact on the promotion of the licensing objectives due to a significant number of licensed premises concentrated in one area.
Designated Premises Supervisor	A specified individual, holding a personal licence, who is responsible for the day-to-day running of the business and whose name will appear on the premises licence.
Late Night Refreshment	The supply of hot food and drink between the hours of 23.00 and 05.00 for consumption on or off the premises.
Licence Types	<ul style="list-style-type: none"> • Premises Licence • Club Premises Certificate • Personal Licence • Provisional Statement • Temporary Event Notice
Licensable Activities	<ul style="list-style-type: none"> • 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 a club • The provision of regulated entertainment • The provision of late night refreshment
Licensing Objectives	<ul style="list-style-type: none"> • Prevention of Crime and Disorder • Public Safety • Prevention of Public Nuisance • Protection of Children from Harm
Licensing Qualification	Qualification accredited by the Secretary of State and a requirement for a personal licence.
Operating Schedule	This forms part of the completed application form for a premises licence and must promote the licensing objectives. See section 4 for more information.
Personal Licence	This authorises individuals to sell or supply alcohol or authorise the sale or supply of alcohol for consumption on or off the premises for which a premises licence is in force for the carrying on of that activity.

Premises Licence	A licence in respect of any premises, including land or buildings under public ownership within the community that are to be used for one or more licensable activities. Valid for an indefinite period unless revoked or surrendered.
Proprietary Clubs	Clubs run by individuals, partnerships or businesses for the purpose of making a profit.
Provisional Statement	Where premises are being constructed or extended or substantial structure changes are proposed.
Qualifying Club	Where members have joined together for particular social, sporting or political purposes and then combine to buy alcohol in bulk as members. Examples of qualifying clubs are: <ul style="list-style-type: none"> • Political clubs • Royal British Legion • Working men's clubs • Social and sports clubs A qualifying club can, however, obtain a premises licence if it wishes to offer its facilities commercially for use by the general public.
Regulated Entertainment	Entertainment that is provided to members of the public or to members of a qualifying club, or entertainment held with a view to profit. This includes plays, films, indoor sporting events, performance of dance and live and recorded music. For more detailed advice on whether a specific activity constitutes regulated entertainment, please contact the Licensing Team.
Relevant Offences	As set out in Schedule 4 to the Licensing Act 2003.
Relevant Representations	Representations (objections) made by a responsible authority or any other person which are deemed as relevant
Responsible Authorities	This group can make representations and includes bodies such as: <ul style="list-style-type: none"> • The Chief Officer of Police • The Fire Authority • The Local Enforcement Agency for the Health and Safety at Work etc. Act 1974 • The Weights and Measures Authority • The Planning Authority • Environmental Health • Public Health • The body responsible for matters relating to the Protection of Children from Harm - the Local Safeguarding Children Board • The Licensing Authority
SAG	Safety Advisory Group. An advisory body whose purpose is to offer advice and guidance on event organisation.
Temporary Event Notice	A notice of intention to carry on of the sale of alcohol, provision of regulated entertainment or late night refreshment at a premises not otherwise authorised by a premises licence or club premises certificate.

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TITLE	Annual Report
FOR CONSIDERATION BY	Licensing and Appeals Committee 4 September 2018
WARD	None-specific
DIRECTOR	Sean Murphy - Public Protection Manager

OUTCOME / BENEFITS TO THE COMMUNITY

The Licensing Service considers and issues a range of licences and permits required by businesses in order that they can deliver a range of services and goods to residents and visitors to Wokingham Borough. Legislation requiring a licence/permit for a business activity is generally enacted on health and safety grounds to protect users of a service or those that might be affected due to their proximity to the licensed premises or their interaction with a licensed person.

The service is aware that the licensing function, whilst offering protection, can also act as a barrier to others who wish to deliver services or supply goods and every effort is made to assist businesses to understand and progress rapidly through the licensing process. The service therefore has a number of functions including business advice, processing of applications, monitoring compliance and where necessary taking enforcement action.

RECOMMENDATION

That the Committee notes the content of this report.

SUMMARY OF REPORT

This report details the activities carried out by the Licensing Service of the Public Protection Partnership in the Wokingham borough during the period 1 April 2017 to 31 March 2018.

Background

Attached as Annex A are figures for the number of applications for licences, registrations, permits and consents that were processed between 1 April 2017 – 31 March 2018, along with details of numbers for the previous three years for comparison purposes. This is a single indicator of the number of transactions that the Licensing Section has with businesses operating within the Borough. In addition, Annex B shows the current total of licences that were valid during 1 April 2017 – 31 March 2018.

A further aspect is that of assisting businesses to grow whilst complying with the legal requirements and conditions. Officers regularly meet with applicants or licence holders to give guidance. The PPP dealt with 184 complaints and requests for service relating to licensing in Wokingham Borough 2017/2018 (compared with 240 in 2016/2017).

Officers use a risk based assessment programme to visit licensed premises to check compliance and provide assistance and advice for those businesses. In 2017/18 officers carried out 144 inspections (101 in 2016/17). A number of these visits were carried out with Home Office Immigration Compliance and Enforcement, in their new role as a responsible authority under the Licensing Act 2003.

Officers initially deal with non-compliance by working with the business to raise standards and further unannounced visits may be made to verify improvement. Where non-compliance continues, officers use an Enforcement Policy which provides for a stepped process to include warnings, cautions, review, suspension or revocation of a licence or finally prosecution. In the last year officers suspended 58 licences.

Over the course of the year, the following licences and applications were considered by Licensing Sub-Committees:

- 2 new premises licences – both granted subject to conditions;
- 2 film classifications – given ratings of 12A and U;
- 1 new street trading consent – granted subject to standard conditions;
- 2 private hire school and community services driver appeals – granted subject to conditions;
- 5 hackney carriage vehicle licence appeals – 1 refused and 4 granted subject to conditions.

One other area of work not covered within the above is monitoring for compliance with licence conditions at a number of licensed events, such as Marvellous Festival and Henley Regatta.

In addition, there were two licensing training sessions arranged for Members of the Committee, one in Wokingham and one in Newbury. There is a plan for a number of additional training sessions over the course of the next year.

Analysis of Issues

There are no implications arising from the recommendation in this report.

FINANCIAL IMPLICATIONS OF THE RECOMMENDATION

The Council faces severe financial challenges over the coming years as a result of the austerity measures implemented by the Government and subsequent reductions to public sector funding. It is estimated that Wokingham Borough Council will be required to make budget reductions in excess of £20m over the next three years and all Executive decisions should be made in this context.

	How much will it Cost/ (Save)	Is there sufficient funding – if not quantify the Shortfall	Revenue or Capital?
Current Financial Year (Year 1)	No impact	N/A	N/A
Next Financial Year (Year 2)	No impact	N/A	N/A
Following Financial Year (Year 3)	No impact	N/A	N/A

Other financial information relevant to the Recommendation/Decision
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None

Cross-Council Implications

There are no implications arising from the recommendation in this report.

Reasons for considering the report in Part 2

None

List of Background Papers

None

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Date 20 August 2018	Version No. 1.4
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Numbers of applications per year

Licence Type	2017/2018	2016/2017	2015/2016	2014/2015
Animal Boarding Establishment	7	1	5	0
Home Boarding Licence	35	5	1	1
Pet Shop Licence	14	1	0	0
Riding Establishment	4	0	3	0
Dermal Personal Registration	15	9	25	3
House to House Collections	9	9	18	2
Street Collections	59	62	98	36
Street Trading Consent	21	3	0	2
Licensed Premises Gaming Machine Permit	4	5	1	2
Notification of 2 or less gaming machines	3	3	4	0
Club Gaming Permits (Non-fast track)	0	1	0	0
Club Machine Permits (Non-fast track)	0	1	0	0
Small Society Lottery	71	38	17	4
Gambling Premises	0	1	2	1
Personal Licence	100	92	161	63
Scrap Metal Dealer - Site	3	3	1	5
Scrap Metal Dealer - Mobile	0	4	0	5
Premises Licence	84	52	42	44
Premises Licence Application (No alcohol)	3	2	3	1
Club Premises Certificate	3	0	3	1
Dual Driver	26	25	138	19
Private Hire Driver	28	19	120	26
Private Hire Operator	15	19	21	9
Hackney Carriage Vehicle	70	14	16	11
Private Hire Vehicle Licence	118	61	53	43
School And Community Services Driver	7	8	32	9
School And Community Services Vehicle	43	13	14	12
School And Community Services Operator	0	2	2	0
Private Hire Vehicle	35	14	8	6
Temporary Event Notice	429	392	384	386
GRAND TOTALS:	1206	859	1172	691

Total number of licences current from 1 April 2017 – 31 March 2018

Licence Type	Total
Animal Boarding Establishment	8
Home Boarding Licence	30
Pet Shop Licence	13
Riding Establishment Licence	6
Dermal Personal Registration	61
House to House Collections	15
Street Collections	35
Street Trading Consent	34
Club Gaming Permits	1
Club Machine Permits	7
Licensed Premises Gaming Machine Permit	17
Notification of 2 or less gaming machines	61
Small Society Lottery	150
Gambling Premises	8
Personal Licence	1519
Scrap Metal Dealer - Site	10
Scrap Metal Dealer - Mobile	6
Premises Licence	324
Premises Licence Application (No alcohol)	70
Club Premises Certificate	36
Dual Driver	200
Private Hire Driver	158
Private Hire Operator	40
Hackney Carriage Vehicle	92
Private Hire Vehicle Licence	138
School And Community Services Driver	47
School And Community Services Vehicle	63
School And Community Services Operator	3
Private Hire Vehicle	59
Temporary Event Notice	47
GRAND TOTALS:	3258

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TITLE	Licensing Committee Forward Plan
FOR CONSIDERATION BY	Licensing and Appeals Committee 4 September 2018
WARD	None-specific
DIRECTOR	Sean Murphy - Public Protection Manager

OUTCOME / BENEFITS TO THE COMMUNITY
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Not applicable.

RECOMMENDATION

That the Committee notes the report, and provides comments to the Chairman on both the list below and any further items they would like to see considered at forthcoming Committee meetings

SUMMARY OF REPORT

This report sets out the forward plan for the next Committee meeting on 13 November.
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Background

Matters currently on the list to be considered for the next meeting of this Committee on 13 November 2018 are as follows:

- Fees and charges – information on the fees and charges recommended by the Public Protection Partnership for adoption by the Council;
- Driver policy – to amend this to remove the ban on drivers holding a licence in more than one area (as this is contrary to Competition and Markets Authority advice), and to consider an exemption for chauffeur drivers from the geographical part of the knowledge test;
- Street trading conditions – plus consideration of introduction of a formal policy
- Committee constitution – to review the terms of reference of the Committee to ensure it is up to date.

The next meeting after November is 19 March 2019.

Analysis of Issues

There are no implications arising from the recommendation in this report.

FINANCIAL IMPLICATIONS OF THE RECOMMENDATION

The Council faces severe financial challenges over the coming years as a result of the austerity measures implemented by the Government and subsequent

reductions to public sector funding. It is estimated that Wokingham Borough Council will be required to make budget reductions in excess of £20m over the next three years and all Executive decisions should be made in this context.

	How much will it Cost/ (Save)	Is there sufficient funding – if not quantify the Shortfall	Revenue or Capital?
Current Financial Year (Year 1)	No impact	N/A	N/A
Next Financial Year (Year 2)	No impact	N/A	N/A
Following Financial Year (Year 3)	No impact	N/A	N/A

Other financial information relevant to the Recommendation/Decision
None

Cross-Council Implications
There are no implications arising from the recommendation in this report.

Reasons for considering the report in Part 2
None

List of Background Papers
None

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Date 14 August 2018	Version No. 1.2