



NOTICE OF MEETING

LICENSING SUB-COMMITTEE

MONDAY, 5 SEPTEMBER 2016 AT 9.30 AM

THE EXECUTIVE MEETING ROOM - THIRD FLOOR, THE GUILDHALL

Telephone enquiries to Jane Di Dino 023 9283 4060

Email: jane.didino@portsmouthcc.gov.uk

Committee Members Councillors Julie Swan (Chair), Hannah Hockaday (Vice Chair), Dave Ashmore, Jennie Brent, Ken Ellcome, Paul Godier, Scott Harris, Steve Hastings, Suzy Horton, Leo Madden, Lee Mason, Stephen Morgan, Steve Pitt, David Tompkins and Gerald Vernon-Jackson.

The panel today consists of: Councillors Dave Ashmore, Ken Ellcome and Scott Harris
The reserve member is Councillor Hannah Hockaday

(NB This Agenda should be retained for future reference with the minutes of this meeting.)

Please note that the agenda, minutes and non-exempt reports are available to view online on the Portsmouth City Council website: www.portsmouth.gov.uk

Licensing Sub Committee meetings are digitally recorded.

A G E N D A

- 1 Declarations of Members' Interests.**
- 2 Appointment of Chair.**
- 3 Licensing Act 2003 - Application for the variation of a premises licence
Zanzi, 4-8 Guildhall Walk, Portsmouth PO1 2DD. (Pages 1 - 230)**

Purpose.

The purpose of this report is for the committee to consider an application for the variation of a premises licence under the Licensing Act 2003 ("the Act"). The matter has been referred to the committee for determination following formal representations being made by responsible authorities namely the Licensing Authority, Public Health and the Chief Officer of Police.

The committee is asked to determine the matter.

Members of the public are now permitted to use both audio visual recording devices and social media during this meeting, on the understanding that it neither disrupts the meeting or records those stating explicitly that they do not wish to be recorded. Guidance on the use of devices at meetings open to the public is available on the Council's website and posters on the wall of the meeting's venue.

Agenda Item 3

REPORT TO: LICENSING SUB-COMMITTEE 05 SEPTEMBER 2016

REPORT BY: LICENSING MANAGER

REPORT AUTHOR: MR DEREK STONE

**Licensing Act 2003 – Application for variation of a premises licence
Zanzi, 4-8 Guildhall Walk, Portsmouth PO1 2DD**

1. PURPOSE OF REPORT

The purpose of this report is for the Committee to consider an application for the variation of a premises licence under the Licensing Act 2003 (“the Act”). The matter has been referred to the Committee for determination following formal representations being made by responsible authorities namely the Licensing Authority, Public Health and the Chief Officer of Police.

2. THE APPLICATION

The variation application has been made by Ms Hoi Man Yan the current licence holder for the premises situated in Guildhall Walk, which is within the special policy area (See Paragraph 13.1 to 13.6 Statement of licensing policy together with supporting information at appendix B of this policy and updated supporting information attached as **appendix E**)

The applicant has requested that the licence be varied in respect of the above premises so as to permit the following:

- To extend the hours for the sale of alcohol, regulated entertainment and late night refreshment to 02:00 hours Sunday - Thursday and 04:00 hours Friday and Saturday together with stated non-standard timings for bank holidays.
- To extend the hours of opening and closing for an additional 30 minutes beyond the terminal hour for licensable activities as set out above.
- The removal of conditions 3 and 8 in Annex 2 (conditions consistent with the operating schedule) of the licence.
- Amendment of condition 3 in Annex 3 (Conditions attached after a hearing by the licensing authority) of the licence.
- Permit off sales of alcohol
- Imposition of additional conditions as set out in the operating schedule for the promotion of the licensing objectives.

3. BACKGROUND INFORMATION

This application has been submitted in accordance with the provisions of Part 3 of the Act and associated Regulations.

A copy of the variation application is attached as **appendix A** together with a copy of the current premises licence as **appendix B**. This includes the conditions previously imposed and a plan of the building.

I can confirm that public notice has been given by way of press notice, premises notice and local ward councillors have been informed. There are no grounds therefore for the committee to reject the application for non-compliance with the advertising requirements prescribed by the act and regulations.

Zanzi is located within Guildhall Walk with venues Hampshire Boulevard, Astoria, Lyberry, Brewhouse Kitchen, Rednex 44, Yates and the Theatre Royal to the south, Sainsbury's with off sales until 10pm opposite and Isambard Kingdom Brunel and Fleet Popworld to the north all with differing operating hours (see **appendix D** for these times)

Zanzi itself has been trading since September 2015 with Stuart Weston as the Designated Premises Supervisor. The venue operates on two floors with a capacity set at 200.

4. OPERATING SCHEDULE – PROMOTION OF LICENSING OBJECTIVES

Whilst the applicant has completed the operating schedule and identified the steps intended to be taken (and as appropriate to promote the licensing objectives) in support of this variation application, this has given rise to the representations made by the Licensing manager, Public Health and Police on the grounds that the applicant has failed to adequately demonstrate that the proposed measures are sufficient to negate any cumulative impact.

5. RELEVANT REPRESENTATIONS BY RESPONSIBLE AUTHORITIES

There are three representations submitted by three of the statutory responsible authorities, Licensing Authority, Public Health and the Chief Officer of Police. Attached to the police representation (police appendix A) is data showing recorded incidents within the SPA between 24/07/15 to 24/07/16

All representations are attached as **appendix C**.

Para 9:11

Responsible authorities under the 2003 act are automatically notified of all new applications. While all responsible authorities may make representations regarding applications for licences and full variation applications, it is the responsibility of each responsible authority to determine when they have appropriate grounds to do so.

Para 9:12

In their role as a responsible authority, the police are an essential source of advice and information on the impact and potential impact of licensable activities, particularly on crime and disorder objective. The police have a key role in managing the night-time economy and should have good working relationships with those operating in their local area. The police should be the licensing authority's main source of advice on matters relating to the promotion of the crime and disorder licensing objective, but may also be able to make relevant representations with regard to the other licensing objectives if they have evidence to support such representations. The licensing authority should accept all reasonable and proportionate representations made by the police unless the authority has evidence that to do so would not be appropriate for the promotion of the licensing objectives. However it remains incumbent on the police to ensure that their representation can withstand the scrutiny to which they would be subject at a hearing.

Para 9:20

Where a local authority's Director of Public Health in England exercises its functions as a responsible authority, it should have sufficient knowledge of the licensing policy and health issues to ensure it is able to fulfil those functions. If the authority wishes to make representations, the DPH will need to decide how best to gather and coordinate evidence from other bodies which exercise health functions in the area, such as emergency departments and ambulance services.

Para 9:21

Health bodies may hold information which other responsible authorities do not, but which would assist a licensing authority in exercising its functions. This information may be used by the health body to make representations in its own right or to support representations by other responsible authorities, such as the police. Such representations can potentially be made on the grounds of all four licensing objectives. Perhaps the most obvious example is where drunkenness leads to accidents and injuries from violence, resulting in attendances at emergency departments and the use of ambulance services. Some of these incidents will be reported to the police, but many will not. Such information will often be relevant to the public safety and crime and disorder objectives.

Para 9:22

Health bodies are encouraged to make representations in respect of any of the four licensing objectives without necessarily seeking views from other responsible authorities where they have appropriate evidence to do so.

As a consequence, both responsible authorities and the committee should consider what appropriate steps need to be taken in such cases to promote the licensing objectives. It may be that no extra steps are required.

6. RELEVANT REPRESENTATIONS BY OTHER PERSONS

There are no other representations.

7. POLICY AND STATUTORY CONSIDERATIONS

When determining the application to vary the premises licence the Committee must have regard to:

- Promotion of the licensing objectives which are;
 - prevention of crime and disorder
 - public safety
 - prevention of public nuisance
 - protection of children from harm
- The Licensing Act 2003;
- Judgements of the High Court, (your legal adviser will give you guidance should this become necessary).
- Its Statement of Licensing Policy;
- The statutory guidance issued by the Home Secretary in accordance with section 182 of the Act; and
- The representations, including supporting information, presented by all the parties.

Statement of Licensing Policy

The Statement of Licensing Policy lays down a general approach to the determination of licensing applications and any such application will be considered on its individual merits. Equally, any person permitted by the Act to make relevant representations to the Committee will have those representations considered on their individual merit.

The Committee should consider the fundamental principles set out in its policy, particularly paragraphs 4.6 and 4.7 which are reproduced below:

- 4.6 *Whether or not incidents can be regarded as being “in the vicinity” of licensed premises is a question of fact and will depend on the particular circumstances of the case. In cases of dispute, the question will ultimately be decided by the courts. In addressing this matter, 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.*

4.7 *Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned. Nonetheless, it is a key aspect of such control and licensing law will always be part of the overall approach to the management of the evening and night-time economy in town and city centres.*

The committee should also have regard to paragraphs 7.1 to 7.6 in relation to such circumstances where it may be appropriate to consider the imposition of conditions on a premises licence

Statutory Guidance

The updated statutory guidance issued by the Home Secretary in accordance with section 182 of the Act, which came into force in March 2015, refers to the consideration of applications for the grant or variation of premises licences in Chapter 9.

Members may wish to consider the following extracts from the statutory guidance when determining this application:

Para 9.36

"... As a matter of practice, licensing authorities should seek to focus the hearing on the steps considered appropriate to promote the particular licensing objective or objectives that have given rise to the specific representation and avoid straying into undisputed areas. A responsible authority or other person may choose to rely on their written representations. They may not add further representations to those disclosed to the applicant prior to the hearing, but they may expand on their existing representation..."

Para 9.41

"Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case-by-case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representation made by the applicant or premises user as the case may be".

Para 9.42

"The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve"

Para 9.43

"Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. While this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider

the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters.

As with the consideration of licence variations, the licensing authority should consider wider issues such as other conditions already in place to mitigate potential negative impact on the promotion of the licensing objectives and the track record of the business.

Further advice on determining what is appropriate when imposing conditions on a licence or certificate is provided in Chapter 10. The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination."

Para 10:13 (Hours of Trading)

The Government acknowledges that different licensing strategies may be appropriate for the promotion of the licensing objectives in different areas. The 2003 Act gives the licensing authority power to make decisions about the hours during which premises can conduct licensable activities as part of the implementation of its licensing policy statement. Licensing authorities are best placed to make decisions about appropriate opening hours in their areas based on their local knowledge and in consultation with responsible authorities. However, licensing authorities must always consider each application and must not impose predetermined licensed opening hours, without giving individual consideration to the merits of each application.

Para 10.14

"Where there are objections to an application to extend the hours during which licensable activities are to be carried on and the licensing authority determines that this would undermine the licensing objectives, it may reject the application or grant it with appropriate conditions and/or different hours from those requested".

Members may also wish to consider Chapter 11 of the statutory guidance in respect of reviews of premises licences. Paragraphs 11.1 and 11.2 of the guidance states:

Para 11.1

"The proceedings set out in the 2003 Act for reviewing premises licences and club premises certificates represent a key protection for the community where problems associated with the licensing objectives occur after the grant or variation of a premises licence or club premises certificate".

Para 11.2

At any stage, following the grant of a premises licence or club premises certificate, a responsible authority, or other person, may ask the licensing authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives.

Para 13.20 to 13.41

These paragraphs will assist members with regard to the cumulative impact of a concentration of licensed premises.

Para 13:30 in particular states

The effect of adopting a special policy of this kind is to create a rebuttable presumption that applications for the grant or variation of premises licences which are likely to add to the existing cumulative impact will normally be refused or subject to certain limitations, following relevant representations, unless the applicant can demonstrate in the operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives. Applicants should give consideration to potential cumulative impact issues when setting out the steps they will take to promote the licensing objectives in their application.

A copy of the Statement of Licensing Policy, statutory guidance, the Act and the pool of model conditions has been supplied to each of the Members' Rooms and further copies will be available for reference at the hearing.

Determination of an application

Where an application to vary a premises licence has been made in accordance with section 34 of the Act and where relevant representations have been made, the licensing authority must hold a hearing to consider them, unless the applicant, each person who has made representations and the licensing authority agree that a hearing is unnecessary.

After having regard to the representations, the Committee may take such steps, if any, as it considers appropriate for the promotion of the licensing objectives which are:

- To modify the conditions of the licence
- To reject the whole or part of the application
-

And for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.

In discharging its duty in accordance with the above, the Committee may vary a premises licence so that it has effect subject to different conditions in respect of:

- different parts of the premises concerned;
- different licensable activities.

Appeal Provisions

Schedule 5, part 1, of the Act sets out the appeal provisions in relation to the determination of an application to vary a premises licence.

Where the Licensing Authority rejects (in whole or in part) an application, the applicant may appeal against the decision to the Magistrates' Court.

Should the committee grant (in whole or in part) an application, the applicant may

appeal against any decision to modify the conditions of the licence.

Where a person who made relevant representations in relation to the application contends that:

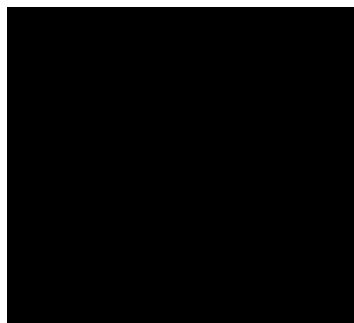
- a) that any variation made ought not to have been made, or
- b) that, on varying the licence, the Licensing Authority ought not to have modified the conditions of the licence, or ought to have modified them in a different way, under section 4(a) of that section,

He may appeal against the decision.

8. APPENDICES

- A.** Copy of the application form for the variation of a premises licence
- B.** Copy of current premises licence
- C.** Copies of representations
- D.** Licensed Venues in Guildhall Walk and hours of operation
- E.** Update to the supporting information for the Special Policy Area

THE COMMITTEE IS REQUESTED TO DETERMINE THE APPLICATION



For Licensing Manager
And on Behalf of Head of Service



Application to vary a premises licence under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.-

I, Ms Hoi Man Yan being the premises licence holder, apply to vary a premises licence under section 34 of the Licensing Act 2003 for the premises described in Part 1 below.

Premises licence number	16/02515/LAPRMV
-------------------------	-----------------

Part 1 – Premises Details

Zanzi 4-8 Guildhall Walk, Portsmouth	
Post town	Post code PO1 2DD

Telephone number at premises (if any)	
Non-domestic rateable value of premises	

Part 2 – Applicant Details

Daytime contact telephone number			
Email address (optional)			
Current postal address if different from premises address	[Redacted]		
Post town	Southsea	Post code	[Redacted]

Part 3 – Variation

Please tick yes

Do you want the proposed variation to have effect as soon as possible?	<input checked="" type="checkbox"/>
--	-------------------------------------

If not, when do you want the variation to take effect from	Day	Month	Year
	<input type="text"/>	<input type="text"/>	<input type="text"/>

<p>Please describe briefly the nature of the proposed variation (please read guidance note 1)?</p> <p>To extend the hours for the sale of alcohol and regulated entertainment as detailed to 02:00 Sunday to Thursday and 04:00 Friday and Saturday and 0400 Thursday before Good Friday and any Sunday immediately before a Bank Holiday, until 0600 on New Years Eve and to add facilities for off sales.</p> <p>Revise condition 3 to permit the service of Champagne, wine and spirit bottles to customers to share in an area designated by the premises as a VIP area.</p>
--

If your proposed variation would mean that 5,000 or more people are expected to attend the premises at any one time, please state the number expected to attend.

Not Applicable

Part 4 – Operating Schedule

Please complete those parts of the Operating Schedule, which would be subject to change if this application to vary is successful

Provision of regulated entertainment – please tick Yes

- a) plays (if ticking yes, fill in box A)

--
- b) films (if ticking yes, fill in box B)

--
- c) indoor sporting events (if ticking yes, fill in box C)

--
- d) boxing or wrestling entertainment (if ticking yes, fill in box D)

--
- e) live music (if ticking yes, fill in box E)

✓

- f) recorded music (if ticking yes, fill in box F)

✓

- g) performances of dance (if ticking yes, fill in box G)

✓

- h) anything of a similar description to that falling within (e), (f) or (g) (if ticking yes, fill in box h)

✓

Provision of late night refreshment (if ticking yes, fill in box I)

✓

Supply of alcohol (if ticking yes, fill in box J)

✓

In all cases complete boxes K, L and M.

A

Plays			<u>Will the performance of a play take place indoors or outdoors or both – please tick</u> (please read guidance note 2)	Indoors	
Standard days and timings (please read guidance note 6)				Outdoors	
Day	Start	Finish		Both	
Mon			<u>Please give further details here</u> (please read guidance note 3)		
Tue					
Wed			<u>State any seasonal variations for performing plays</u> (please read guidance note 4)		
Thur					
Fri			<u>Non standard timings. Where you intend to use the premises for the performance of plays at different times to those listed in the column on the left, please list</u> (please read guidance note 5)		
Sat					
Sun					

B

Films			Will the performance of films take place indoors or outdoors or both – please tick (please read guidance note 2)	Indoors	
Standard days and timings (please read guidance note 6)				Outdoors	
Day	Start	Finish		Both	
Mon			Please give further details here (please read guidance note 3)		
Tue			State any seasonal variations for the exhibition of films (please read guidance note 4)		
Wed					
Thur					
Fri			Non standard timings. Where you intend to use the premises for the exhibition of films at different times to those listed in the column on the left, please list (please read guidance note 5)		
Sat					
Sun					

C

Indoor Sporting Events			Please give further details (please read guidance note 3)		
Standard days and timings (please read guidance note 6)					
Day	Start	Finish			
Mon					
Tue			State any seasonal variations for indoor sporting events (please read guidance note 4)		
Wed			Non standard timings. Where you intend to use the premises for indoor sporting events at different times to those listed in the column on the left, please list (please read guidance note 5)		
Thur					
Fri					
Sat					
Sun					

D

Boxing or wrestling entertainments			Will the boxing or wrestling entertainment take place indoors or outdoors or both – please tick (please read guidance note 2)	Indoors	
Standard days and timings (please read guidance note 6)				Outdoors	
Day	Start	Finish		Both	
Mon			Please give further details (please read guidance note 3)		
Tue			State any seasonal variations for boxing or wrestling (please read guidance note 4)		
Wed					
Thur					
Fri			Non standard timings. Where you intend to use the premises for boxing or wrestling entertainment at different times to those listed in the column on the left, please list (please read guidance note 5)		
Sat					
Sun					

E

Live music			Will the performance of live music take place indoors or outdoors or both – please tick (please read guidance note 2)	Indoors	✓
Standard days and timings (please read guidance note 6)				Outdoors	
				Both	
Day	Start	Finish	<u>Please give further details</u> (please read guidance note 3)		
Mon	19:00	02:00			
Tue	19:00	02:00			
Wed	19:00	02:00	<u>State any seasonal variations for the performance of live music</u> (please read guidance note 4)		
Thur	19:00	02:00			
Fri	19:00	04:00			
Sat	19:00	04:00	<u>Non standard timings. Where you intend to use the premises for the performance of live music at different times to those listed in the column on the left, please list</u> (please read guidance note 5)		
Sun	19:00	02:00	Thursday before Good Friday and Sunday before a Bank Holiday until 04:00 and until 0600 on New Years Eve		
			An additional hour on the evening with BST commences.		

F

Recorded music			Will the playing of recorded music take place indoors or outdoors or both – please tick (please read guidance note 2)	Indoors	✓
Standard days and timings (please read guidance note 6)				Outdoors	
				Both	
Day	Start	Finish	<u>Please give further details</u> (please read guidance note 3)		
Mon	19:00	02:00			
Tue	19:00	02:00			
Wed	19:00	02:00	<u>State any seasonal variations for the playing of recorded music</u> (please read guidance note 4)		
Thur	19:00	02:00			
Fri	19:00	04:00			
Sat	19:00	04:00	<u>Non standard timings. Where you intend to use the premises for the playing of recorded music at different times to those listed in the column on the left, please list</u> (please read guidance note 5)		
Sun	19:00	02:00	Thursday before Good Friday and Sunday before a Bank Holiday until 04:00 and until 0600 on New Years Eve		
			An additional hour on the evening with BST commences.		

G

Performances of dance			Will the performance of dance take place indoors or outdoors or both – please tick (please read guidance note 2)	Indoors	✓
Standard days and timings (please read guidance note 6)				Outdoors	
				Both	
Day	Start	Finish	<u>Please give further details</u> (please read guidance note 3)		
Mon	19:00	02:00			
Tue	19:00	02:00			
Wed	19:00	02:00	<u>State any seasonal variations for the performance of dance</u> (please read guidance note 4)		
Thur	19:00	02:00			
Fri	19:00	04:00			
			<u>Non standard timings. Where you intend to use the premises for the performance of dance at different times to those listed in the</u>		

Sat	19:00	04:00	column on the left, please list (please read guidance note 5)
Sun	19:00	02:00	
			Thursday before Good Friday and Sunday before a Bank Holiday until 04:00 and until 0600 on New Years Eve
			An additional hour on the evening with BST commences.

H

Anything of a similar description to that falling within (e), (f) or (g) Standard days and timings (please read guidance note 6)			Please give a description of the type of entertainment you will be providing.		
Day	Start	Finish	Will the performance of dance take place indoors or outdoors or both – please tick (please read guidance note 2)	Indoors	✓
Mon	19:00	02:00		Outdoors	
Tue	19:00	02:00	Please give further details (please read guidance note 3)		
Wed	19:00	02:00			
Thur	19:00	02:00	State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g) (please read guidance note 4)		
Fri	19:00	04:00			
Sat	19:00	04:00	Non standard timings. Where you intend to use the premises for the entertainment of a similar description to that falling within (e), (f) or (g) at different times to those listed in the column on the left, please list (please read guidance note 5)		
Sun	19:00	02:00	Thursday before Good Friday and Sunday before a Bank Holiday until 04:00 and until 0600 on New Years Eve		
			An additional hour on the evening with BST commences.		

I

Late night refreshment Standard days and timings (please read guidance note 6)			Will the provision of late night refreshment take place indoors or outdoors or both – please tick (please read guidance note 2)	Indoors	✓
				Outdoors	
Day	Start	Finish	Please give further details (please read guidance note 3)		
Mon	23:00	02:00			
Tue	23:00	02:00			
Wed	23:00	02:00	State any seasonal variations for provision of late night refreshment (please read guidance note 4)		
Thur	23:00	02:00			
Fri	23:00	04:00	Non standard timings. Where you intend to use the premises for the provision of late night refreshment at different times to those listed in the column on the left, please list (please read guidance note 5)		
Sat	23:00	04:00			
Sun	23:00	02:00	Thursday before Good Friday and Sunday before a Bank Holiday until 04:00 and until 0600 on New Years Eve		
			An additional hour on the evening with BST commences.		

J

Supply of alcohol			Will the supply of alcohol be for consumption (please read guidance note 7)	On the premises	
Standard days and timings (please read guidance note 6)				Off the premises	
				Both	✓
Day	Start	Finish	State any seasonal variations for the supply of alcohol (please read guidance note 4)		
Mon	10:00	02:00	<p>Non standard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed in the column on the left, please list (please read guidance note 5)</p> <p>Thursday before Good Friday and Sunday before a Bank Holiday until 04:00 and until 0600 on New Years Eve</p> <p>An additional hour on the evening with BST commences.</p>		
Tue	10:00	02:00			
Wed	10:00	02:00			
Thur	10:00	02:00			
Fri	10:00	04:00			
Sat	10:00	04:00			
Sun	12:00	02:00			

K

<p>Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children (please read guidance note 8)</p> <p>N/A</p>

L

Hours premises are open to the public			State any seasonal variations (please read guidance note 4)
Standard days and timings (please read guidance note 6)			
Day	Start	Finish	
Mon	19:00	02:30	<p>Non standard timings. Where you intend the premises to be open at different times to those listed in the column on the left, please list (please read guidance note 5)</p> <p>Thursday before Good Friday and Sunday before a Bank Holiday until 04:30 and until 0630 on New Years Eve</p> <p>An additional hour on the evening with BST commenes.</p>
Tue	19:00	02:30	
Wed	19:00	02:30	
Thur	19:00	02:30	
Fri	19:00	04:30	
Sat	19:00	04:30	
Sun	19:00	02:30	

Please identify those conditions currently imposed on the licence which you believe could be removed as a consequence of the proposed variation you are seeking

Condition 3 and 8 at Annex 2 can be removed and the times stated in the non-standard hours which will be clearer.

Condition 3 will not be removed but it is proposed to change it to allow the service of Champagne, wine and spirit bottles to customers in VIP booths.

Please tick yes

• I have enclosed the premises licence

• I have enclosed the relevant part of the premises licence

If you have not ticked one of these boxes please fill in reasons for not including the licence, or part of it, below.

Reasons why I have failed to enclose the premises licence or relevant part of premises licence

M

Please describe any additional steps that you intend to take in order to promote the four licensing objectives if the proposed variation is granted:

a) **General – all four licensing objectives (b, c, d, e) (please read guidance note 9)**

A notice will be displayed at the entrance of the premises advising that CCTV is in operation.

Non-alcoholic beverages including soft drinks shall be available at all times when the sale of alcohol is permitted.

Door supervisors shall assist in managing customers leaving the venue and those remaining in the vicinity of the premises. This shall include active management of those persons queuing at the designated taxi stands appointed by the City Council and located within the cumulative impact area of Guildhall Walk and White Swan Road and assisting any other person with responsibility for the taxi queue, whether that be taxi marshalls or door supervisors from other premises. This assistance must continue for at least 15 minutes after the venue has closed.

Any drinks promotion shall cease at 2am

b) **The prevention of crime and disorder**

No customers carrying open or sealed bottles shall be admitted to the premises at any times that the premises are open to the public save for any customer who has consumed alcohol in an external area at the front of the premises which has for the time being in place a licence issued by the Council to place tables and chairs in that area. No customers shall leave the premises with glassware or glass bottles save for those consuming alcohol in the external area at the front of the premises before 9pm. After 9pm no customer shall leave with glassware or glass bottles for any reason.

c) **Public safety**

Revising condition 3 at Annex 3 to include the following " This condition does not include the provision of wine bottles, champagne bottles and spirit bottles and consumed in toughened glassware provided in an area set aside by the premises licence holder as a VIP area and served to that area by a member of staff.

d) **The prevention of public nuisance**

--

e) **The protection of children from harm**

--

- | | |
|---|-------------------------------------|
| | Please tick yes |
| <input type="checkbox"/> I have made or enclosed payment of the fee | <input checked="" type="checkbox"/> |
| <input type="checkbox"/> I have sent copies of this application and the plan to responsible authorities and others where applicable | <input checked="" type="checkbox"/> |
| <input type="checkbox"/> I understand that I must now advertise my application | <input checked="" type="checkbox"/> |
| <input type="checkbox"/> I have enclosed the premises licence or relevant part of it or explanation | <input checked="" type="checkbox"/> |
| <input type="checkbox"/> I understand that if I do not comply with the above requirements my application will be rejected. | <input checked="" type="checkbox"/> |

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION.

Part 5 – Signatures (please read guidance note 10)


Signature of applicant (the current premises licence holder) or applicant's Solicitor or other duly authorised agent (see guidance note 11) If signing on behalf of the applicant please state in what capacity

Signature	[REDACTED]
Date	11/7/2016
Capacity	Solicitor/Agent

Where the premises licence is jointly held signature of 2nd applicant (the proposed current premises licence holder) or 2nd applicant's Solicitor or other authorised agent (please read guidance note 18) If signing on behalf of the applicant please state in what capacity

Signature	
-----------	--

Date	
Capacity	

Contact name (where not previously given) and address for correspondence associated with this application (please read guidance note 13)			
Blake Morgan LLP New Kings Court, Tollgate, Chandler's Ford 			
Post town	Eastleigh	Postcode	SO53 3LG
Telephone number (if any)		Tel: 02380 908090	
If you would prefer us to correspond with you by e-mail, your e-mail address (optional)			

Notes for guidance

This application cannot be used to vary the licence so as to extend the period for which the licence has effect or to vary substantially the premises to which it relates. If you wish to make that type of change to the premises licence you should make a new premises licence application under section 17 of the Licensing Act

1. Describe the premises. For example the type of premises, its general situation and layout and any other information which would be relevant to the licensing objectives. Where your application includes off-supplies of alcohol and you intend to provide a place for consumption of these off-supplies you must include a description of where the place will be and its proximity to the premises
2. Where taking place in a building or other structure please tick as appropriate. Indoors may be in a tent.
3. For example state type of activity to be authorised, if not already stated, and give relevant further details, for example (but not exclusively) whether or not music will be amplified or unamplified.
4. For example (but not exclusive), where the activity will occur on additional days during the summer months.
5. For example (but not exclusively), where you wish the activity to go on longer on a particular day, e.g. Christmas Eve.
6. Please give timings in 24 hour clock (e.g. 16:00) and only give details for days of the week when you intend the premises to be used for the activity
7. If you wish people to be able to consume alcohol on the premises please tick on, if you wish people to be able to purchase alcohol to consume away from the premises please tick off. If you wish people to be able to do both please tick both.
8. Please give information about anything to occur at the premises or ancillary to the use of the premises which may give rise to concern in respect of children regardless of whether you intend children to have access to the premises, for example (but not exclusively) nudity or semi nudity, films for restricted age groups, the presence of gaming machines
9. Please list here steps you will take to promote all four licensing objectives together
10. The application form must be signed
11. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so
12. Where there is more than one applicant, both applicants or their respective agents must sign the application form
13. This is the address which we shall use to correspond with you about this application

This page is intentionally left blank



Portsmouth
CITY COUNCIL

PREMISES LICENCE

Licensing Act 2003

Part 1 – Premises Details

Postal address of premises, or if none, ordnance survey map reference or description

Address: Zanzi
4-8 Guildhall Walk
Portsmouth
PO1 2DD

Map Ref (E) : 464029
Map Ref (N): 100096
UPRN: 001775033963

Telephone

Where the licence is time limited the dates

This licence is **NOT** time limited

Licensable activities authorised by the licence

- ▶ Sale by retail of alcohol
- ▶ Late night refreshment
- ▶ Performance of dance
- ▶ Performance of live music
- ▶ Playing of recorded music
- ▶ Other similar music or dance Entertainment

The times the licence authorises the carrying out of licensable activities

- ▶ Sale by retail of alcohol

Sunday	12:00 until 00:30
Monday to Thursday	10:00 until 01:00
Friday and Saturday	10:00 until 02:00
- ▶ Performance of dance

Sunday	19:00 until 00:30
Monday to Thursday	19:00 until 01:00
Friday and Saturday	19:00 until 02:00
- ▶ Performance of live music

Sunday	19:00 until 00:30
Monday to Thursday	19:00 until 01:00
Friday and Saturday	19:00 until 02:00

▶ Playing of recorded music	
Sunday	19:00 until 00:30
Monday to Thursday	19:00 until 01:00
Friday and Saturday	19:00 until 02:00
▶ Other similar music or dance Entertainment	
Sunday	19:00 until 00:30
Monday to Thursday	19:00 until 01:00
Friday and Saturday	19:00 until 02:00
▶ Late night refreshment	
Sunday	23:00 until 01:00
Monday to Thursday	23:00 until 01:30
Friday and Saturday	23:00 until 02:30

The opening hours of the premises

▶ Sunday	12:00 until 01:00
▶ Friday and Saturday	10:00 until 02:30
▶ Monday to Thursday	10:00 until 01:30

Where the licence authorises supplies of alcohol whether these are on and / or off supplies

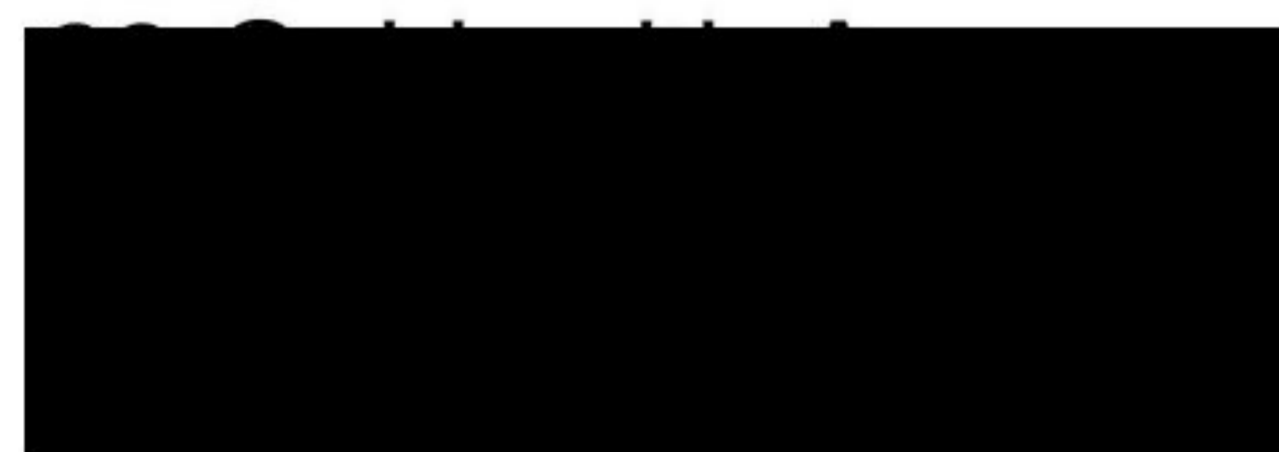
Alcohol is supplied for consumption **on** the premises

Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence

Name: Ms Hoi Man Yan

Address:



Telephone:

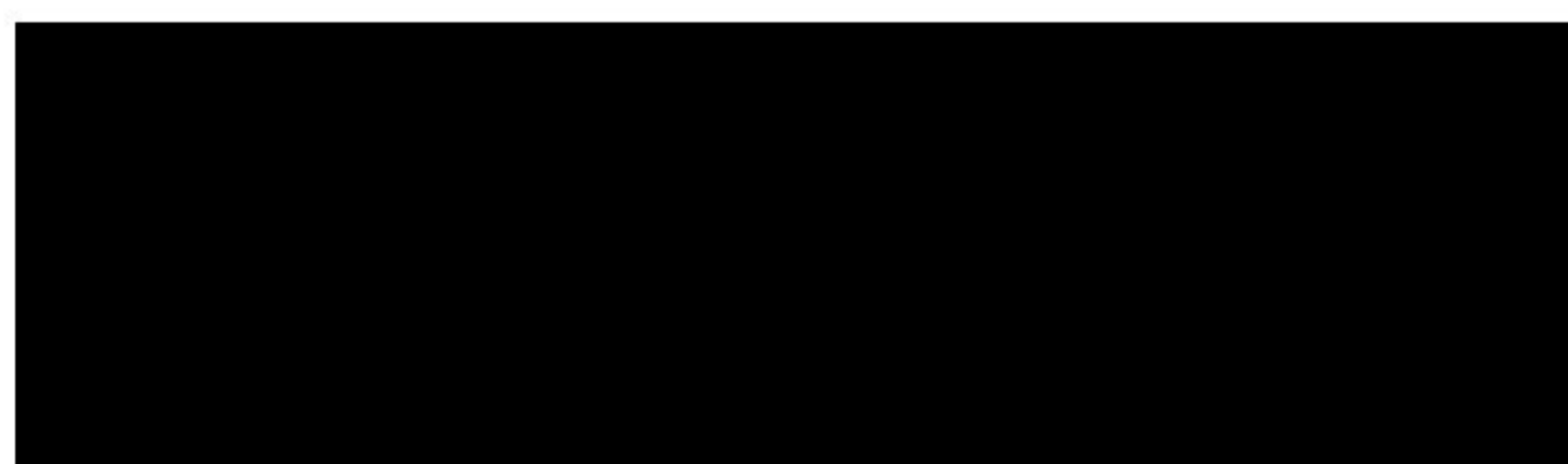
Email:

Registered number of holder, for example company number, charity number (where applicable)

Name, address and telephone number of designated premises supervisor where the premises licence authorises the supply of alcohol

Name: Mr Stuart Ian Weston

Address:



Telephone:



Email:

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises the supply of alcohol

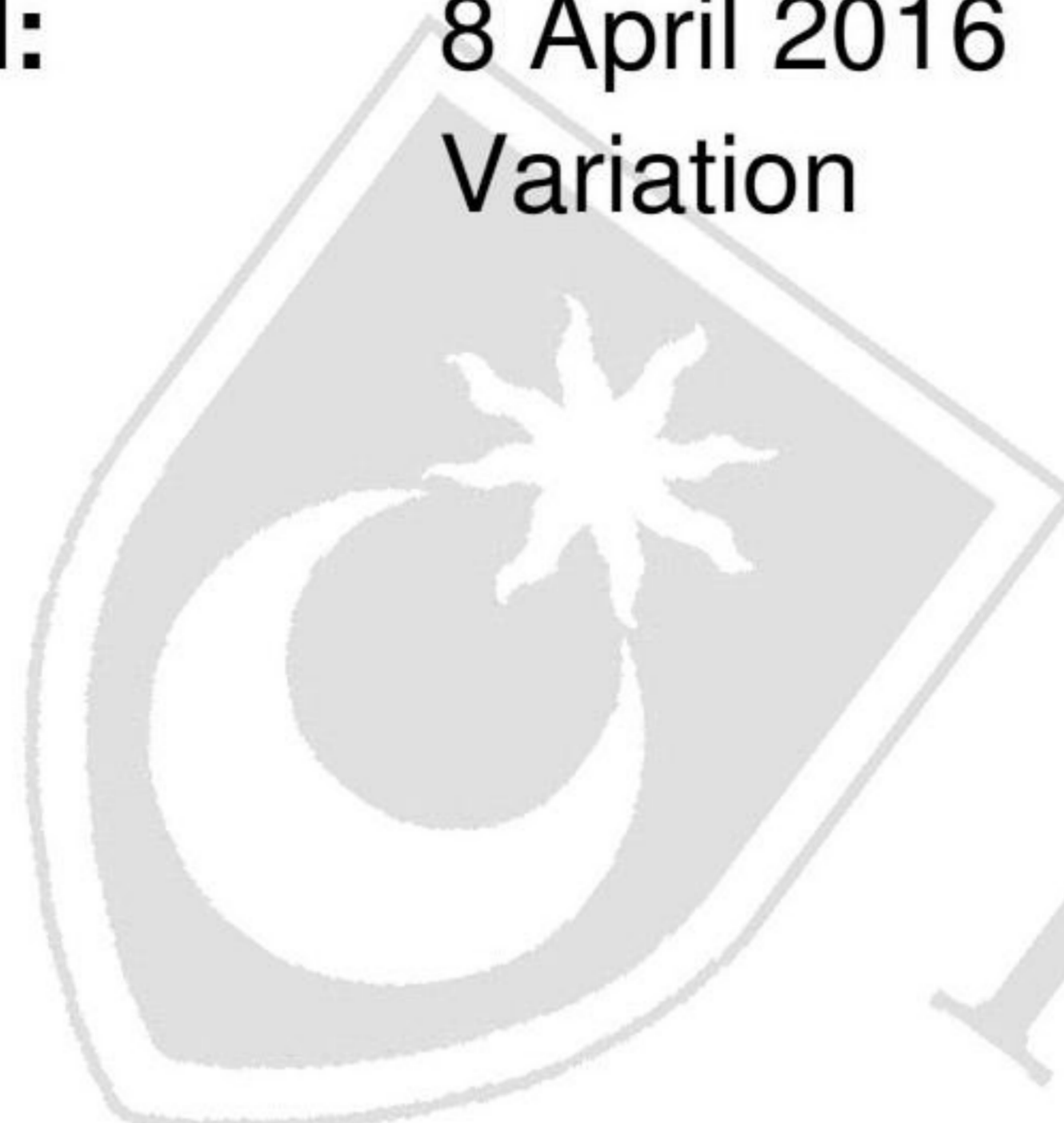
Personal Licence No: [REDACTED]
Issuing Authority: Portsmouth City Council

Granted by Portsmouth City Council, as licensing authority pursuant to the Licensing Act 2003 as amended and regulations made thereunder

Date Licence granted: 24 October 2005

Date last amended: 8 April 2016

Type: Variation



Signed on behalf of the Head of Service
(Authorised Officer)

Portsmouth City Council is committed to complying with the Freedom of Information Act 2000 (FOIA) which applies to all recorded information that it holds or is held on its behalf. Information that is provided to or held by the City Council will be processed and disclosed strictly in accordance with the FOIA, the Data Protection Act 1998 or other appropriate legislation.

This authority is under a duty to protect the public funds it administers, and to this end may use the information you have provided on this form for the prevention and detection of fraud. It may also share this information with other bodies responsible for auditing or administering public funds for these purposes. For further information go to www.portsmouth.gov.uk and search for 'National Fraud Initiative'.

Annex 1 – Mandatory Conditions

01 No supply of alcohol may be made under the premises licence:

- (a) at a time when there is no designated premises supervisor in respect of the premises licence, or
- (b) at a time when the designated premises supervisor does not hold a personal licence or his/her personal licence is suspended.

02 Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

03 (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises:

(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to:

(i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or

(ii) drink as much alcohol as possible (whether within a time limit or otherwise);

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;

(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;

(d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;

(e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

04 The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

05 (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either:

- (a) a holographic mark, or
- (b) an ultraviolet feature.

06 The responsible person must ensure that:

(a) Where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures:

- (i) beer or cider: 1/2 pint;
- (ii) gin, rum, vodka or whisky: 25ml or 35 ml; and
- (iii) still wine in a glass: 125 ml;

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

07 (1) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

(2) For the purposes of the condition set out in paragraph 1

(a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

(b) "permitted price" is the price found by applying the formula -

$$P = D + (D \times V)$$

where -

- (i) P is the permitted price,
- (ii) D is the rate of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
- (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -

- (i) the holder of the premises licence,

(ii) the designated premises supervisor (if any) in respect of such a licence, or
(iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) "valued added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

(3) Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

(4) (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

-- END --

Annex 2 – Conditions consistent with the operating schedule

01 A log book shall be kept on the premises in which shall be entered particulars of any unusual occurrences (such as fires, the breakdown of any of the lighting services or water supply), fire drills and of every test of vital equipment. The log book shall be kept available and be produced for inspection when required by a Fire Officer, Police Officer or by any authorised Officer of the Licensing Authority.

02 All lavatories, WC's and urinals in the premises shall at all times be kept in good order and repair and be properly cleaned, ventilated, disinfected and supplied with water (not and cold) and the doors leading into these facilities shall be suitable marked. No fee shall be payable for the use of these facilities.

03 In relation to only the morning on which British Summer Time begins, the permitted hours for the provision of music, singing and dancing at licensed premises normally open between 01:30 and 02:00 hours shall extend to one hour after the normally specified terminal hour.

04 The CCTV system as installed shall be maintained in a satisfactory working condition and the recordings of which are to be kept for a minimum of thirty one days. No changes shall be made to the system without the prior approval of the Council in consultation with the Chief Officer of Police.

05 A Noise Limiting Device approved by the City Solicitor shall be installed, set and maintained to the satisfaction of the City Solicitor to ensure that any music played within the premises is inaudible within any noise sensitive premises.

06 The maximum permitted occupancy for the premises shall not exceed 200 persons.

07 There shall be no entry or re-entry to the premises by customers an hour before the premises is closed to the public.

08 On Sundays immediately before Bank Holidays, other than Easter Sunday, the permitted hours shall extend until 02:00 hours the following morning.

-- END --

Annex 3 – Conditions attached after a hearing by the licensing authority

01 Club Scan

All customers entering the premises after 2100 hours until the closing time of the venue will be asked to produce photographic identification and agree to the said identification being used for scanning. Customers who do not agree to this will be refused entry. All identification provided by customers shall be scanned electronically.

The premises licence holder will provide and maintain in good working order an electronic scanning device, such as Clubscan. If the equipment fails the Police Licensing Department will be notified immediately in writing or by email and the equipment must be repaired or replaced within 72 hours. Police will continue to be notified every 72 hours until such time as the system is fully operational, when the police shall be informed of such.

02 CCTV

A recording CCTV system shall be installed and fully operational whilst the venue is open to the public.

The recording equipment will be stored and operated in a secure environment with limited access, to avoid damage, theft, unauthorised viewing and to maintain the integrity of the system.

A record will be kept of any access made to information held on the system.

The system will be maintained and serviced every 12 months.

The system clock will be checked regularly for accuracy taking account of GMT and BST.

The CCTV system will have sufficient storage capacity for 31 days of good evidential quality images.

Access

Police and authorised Officers of Portsmouth City Council shall have access to data from the systems quickly and easily and therefore provision will be made for someone to have access to the secure area at all times and also be able to operate the equipment and to supply footage in a format which can be easily viewed by police.

All operators will receive training from the installer when equipment is installed and this training will be cascaded down to new members of staff.

An operator's manual will be available to assist in replaying and exporting data (particularly important with digital systems).

The CCTV must remain satisfactory to police and subject to police approval in order to remain operating under this premises licence.

03 Polycarbonate drinking Vessels

From 2100 hours onwards until the closing time of the venue, polycarbonate drinking vessels to be used and where commercially available polycarbonate bottles to be used and no glass bottles shall be dispensed to customers and therefore either plastic bottles must be used or the beverage decanted from the glass bottle.

04 Training

All staff engaged in the sale of alcohol must undertake and pass a recognised approved training course relating to the sale/supply of alcohol prior to engaging in the sale of alcohol. This training must be assessed as acceptable to Trading Standards of Portsmouth City Council.

05 Floor walker

On Fridays and Saturdays and on promoter-led events, one floor walker will be on duty in the venue.

Whilst on duty they will be employed on that role and no other role. They will be identifiable by wearing a red shirt with floor supervisor written on it in white stencilling.

On a daily basis the identity of the floor walkers will be logged in a register and the register signed by the floor walkers at the commencement of their duty. The register will be signed by the floor walkers at 30 minute intervals. This register will be available on request to Police and Licensing Authority officers.

A written floor walker policy will be produced which shall include the role profile and tasks of the floor walkers. This policy must be agreed in writing with the police.

06 Pubwatch membership

The premises licence holder shall ensure that a representative of the premises (whenever possible the DPS) attends regular Pubwatch meetings or meetings of any similar scheme, so long as such a scheme is in existence and welcomes participation by the premises licence holder.

The DPS will ensure that descriptions of disorderly/banned individuals are circulated to other licensed venues via the Pubwatch or similar scheme. The DPS will work in cooperation with Hampshire Constabulary and other licensed venues by refusing entry to any person who has been included on the 'banned list.

07 First Aid Training

A designated first aider shall be on duty at all times that the venue is open to the public. The first aider shall be a member of staff who is qualified to a nationally recognised Health and Safety at Work standard by a nationally recognised training provider.

08 Body worn video

When the venue is open to the public and operating under its premises licence and when SIA door staff are required under the same licence at least one door supervisor who is on duty on the main entrance of the venue will wear and operate body worn video recording equipment.

The camera will be able to download good evidential quality images to a hard drive and the images shall be retained until the evening on the same working day. The images and audio recordings shall be made available to police on request and be supplied in an easily readable format

The equipment will be maintained and the images will be made immediately available to the police at all times on request. Where the equipment fails the Licensing Department of the police, will be notified immediately in writing or by e-mail and the equipment must be repaired or replaced within 72 hours.

09 Door supervisors

This condition will be part of the written Door supervision policy which shall be agreed with the police in writing. It will be readily available to door supervisors, who when designated as using the equipment, must sign and agree compliance with before commencing duty at the main entrance. This policy must be available on request to Police and Licensing Authority officers. The licence holder shall maintain a duty register giving details of each and every person employed in the role of a security/door person and shall provide upon request by any Police Officer or Council Officer, the following details:

- a) The licence number, name, date of birth and residential address of that person;
- b) The time at which he/she commenced that period of duty, with a signed acknowledgement by that person;
- c) The time at which he/she finished the period of duty, with a signed acknowledgement by that person;
- d) Any times during the period of duty when he/she was not on duty;
- e) If that person is not an employee of the licence holder, the name of the person by whom that person is employed or through whom the services of that person were engaged;
- f) The register shall be so kept that it can be readily inspected by an authorised officer of the Council or Police Officer;
- g) The duty register shall comprise of a bound, consecutively page-numbered book and the licence holder shall ensure that this register is kept in a secure environment in order to prevent unauthorised access or alterations to same.

-- END --

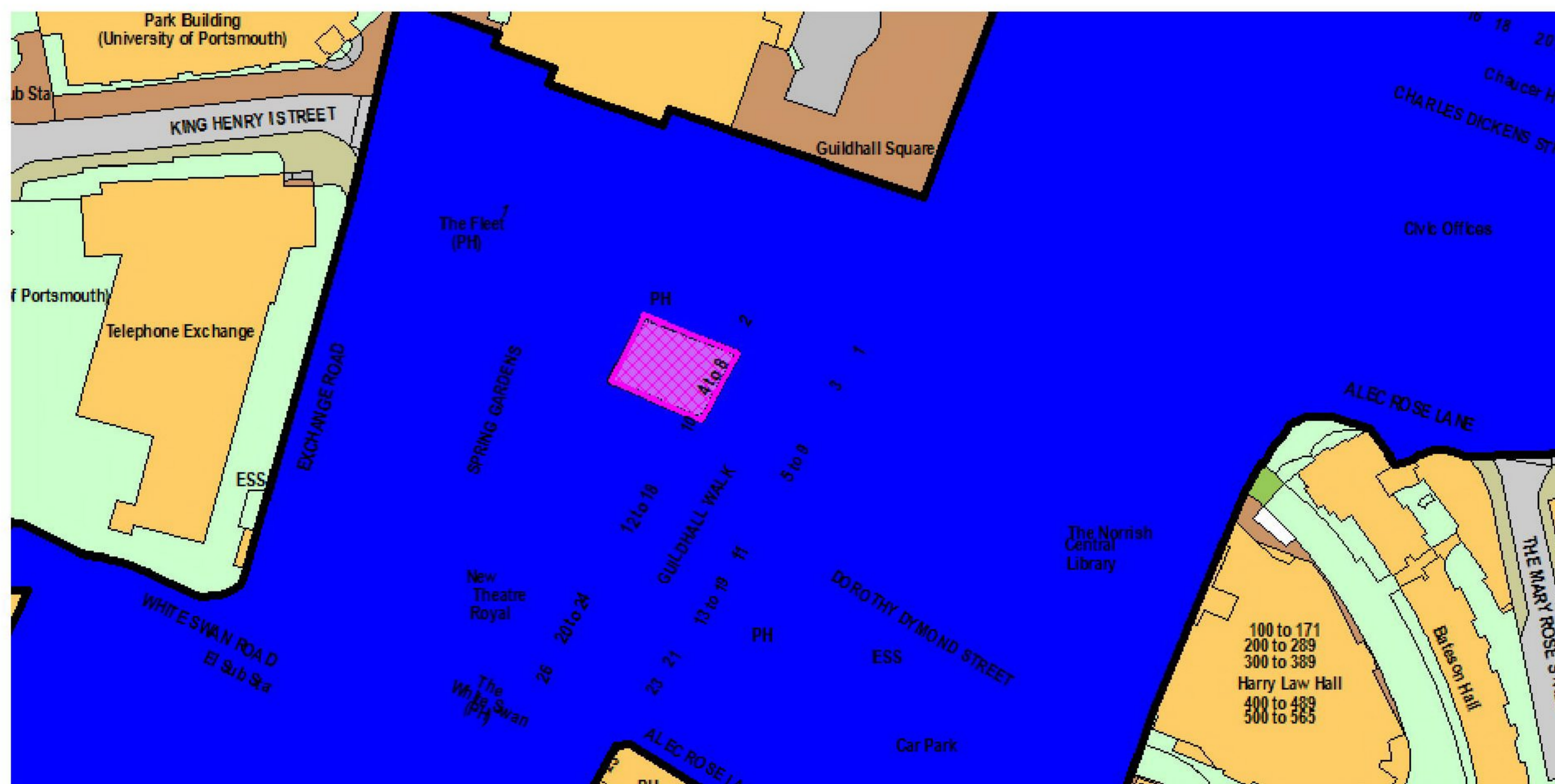
Annex 4 – Premises and location plan

Premises Plan(s)

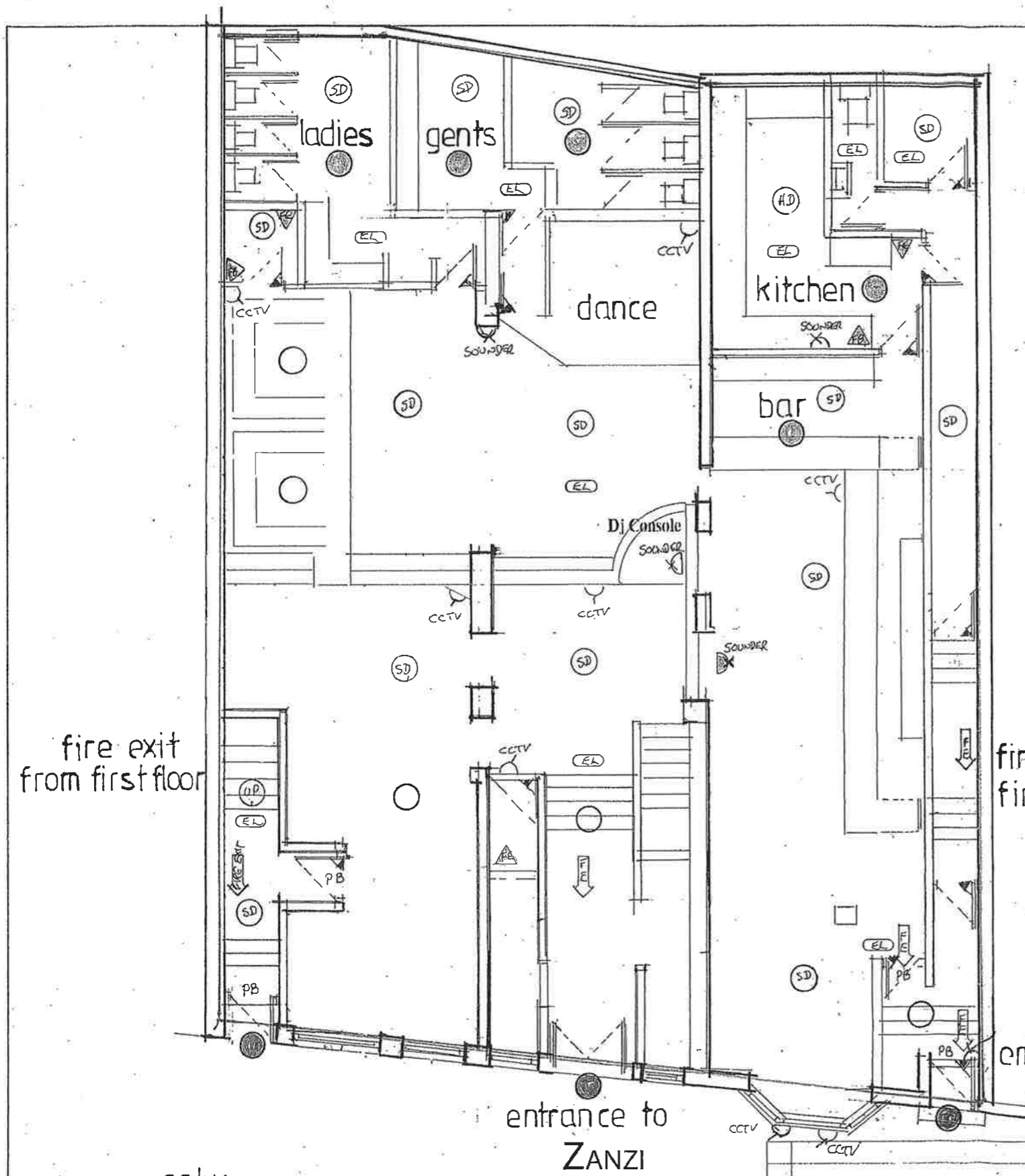
These will either be shown below or attached as a separate part of the premises licence authorisation.



Location Plan: 4-8 Guildhall Walk Portsmouth



REPRODUCED FROM THE ORDNANCE SURVEY MAPPING WITH PERMISSION OF THE CONTROLLER OF HER MAJESTY'S STATIONERY OFFICE © CROWN COPYRIGHT. UNAUTHORISED REPRODUCTION INFRINGES CROWN COPYRIGHT AND MAY LEAD TO PROSECUTION OR CIVIL PROCEEDINGS. LICENCE AGREEMENT NUMBER LA100019671- PORTSMOUTH CITY COUNCIL



Notes for licensing purposes.

- Red outline - Extent of premises outlined in red. See also Ordnance Survey site plan.
- Red - The location of points of access and egress from the property.
- Orange - Licensing activity relating to the sale of alcohol, location of bars for the sale of and consumption of alcohol.
- Yellow - Steps, stairs and changes in levels.
- Blue - Toilet facilities for the public use.
- Purple - Location of fire fighting equipment
 1. Fire safety equipment
 2. Fire extinguishers
 3. Fire doors
 4. Alarms
- Green - Kitchen location and food preparation for the public areas.

Licensing areas for the premises known as **Zanzi**

4-8 Guildhall Walk

emergency: Portsmouth

- cctv
- emergency light
- smoke detector
- illuminated fire exit
- sounder
- fire extinguisher
- water
- fire blanket

Ground Floor Plan

Scale 1:100

project			
title		drawing no.	
revision suffix			
SURVEY	DESIGN	WORKING DRAWING	
FEASIBILITY	TENDER	AS-BUILT	
Rev	REVISION DETAILS	Amended by	Approved by
		date	scale

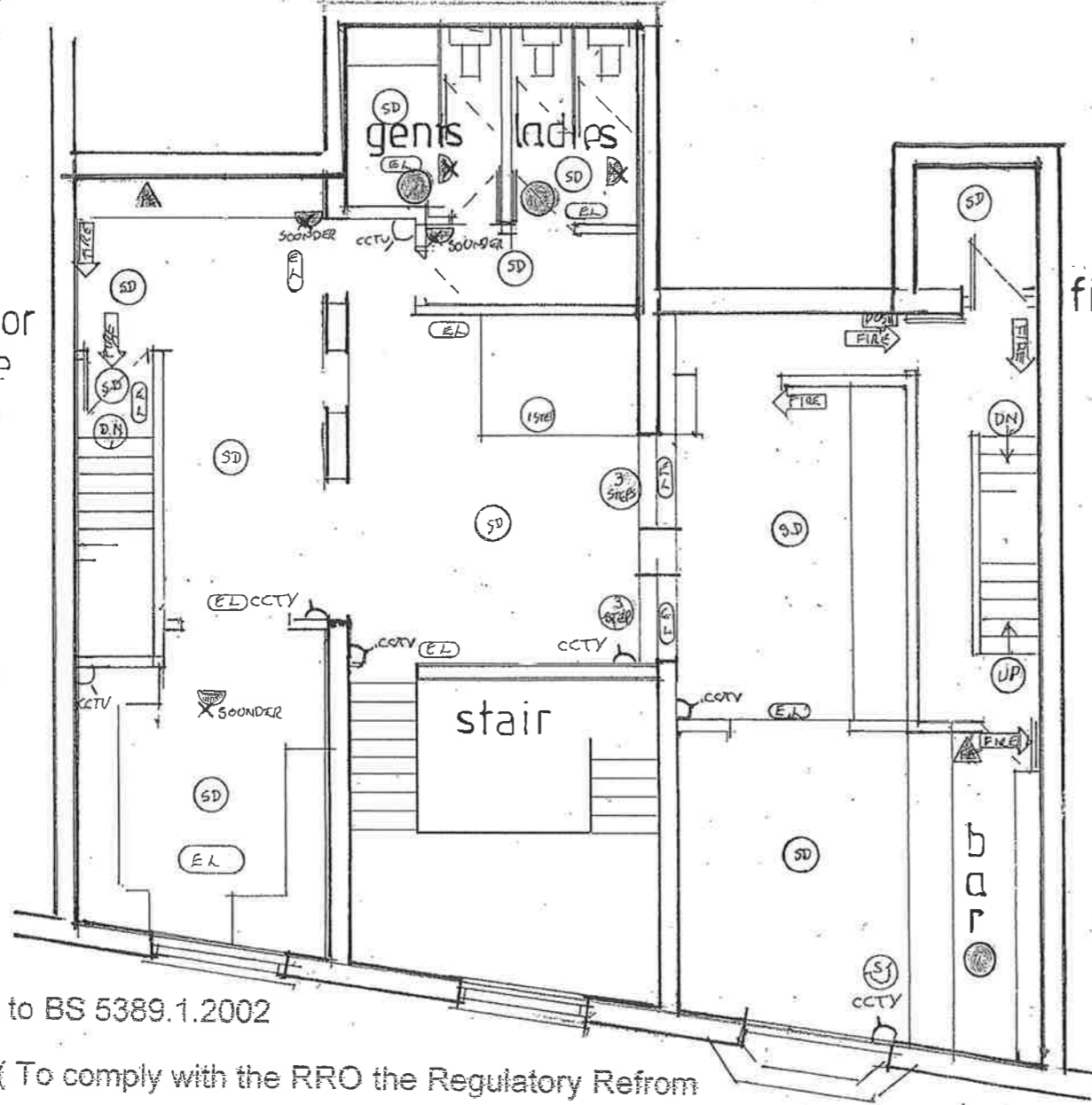
This page is intentionally left blank

Appendix B

Fire Alarm and Evacuation Strategy.

The fire alarm is to BS 5389. 1.2002, and is an L1 system. The evacuation strategy is for a full evacuation of both floors / all areas when an alarm is raised.

first floor entrance



Notes for licensing purposes.

- Red outline - Extent of premises outlined in red. See also Ordnance Survey site plan.
 - Red - The location of points of access and egress from the property.
 - Orange - Licensing activity relating to the sale of alcohol, location of bars for the sale of and consumption of alcohol.
 - Yellow - Steps, stairs and changes in levels.
 - Blue - Toilet facilities for the public use.
 - Purple - Location of fire fighting equipment
1. Fire safety equipment
 2. Fire extinguishers
 3. Fire doors
 4. Alarms
- Green - Kitchen location and food preparation for the public areas.

Fire alarm to conform to BS 5389.1.2002

Fire risk assessment (To comply with the RRO the Regulatory Refrom Order 2009

Licensing areas for the premises known as **Zanzi**

4-8 Guildhall Walk

Portsmouth

First Floor Plan

- ⊙ - smoke detector
- E.E.S.D. - illuminated fire exit sign
- E.L. - emergency light
- △ - fire extinguisher
- ⊘ - sounder

Emergency Lighting to BS 5266.1.1999

Battery maintained emergency lighting over all exit doors.

project			
title		drawing no.	
Scale 1.100			
revision suffix			
SURVEY	DESIGN	WORKING DRAWING	
FEASIBILITY	TENDER	AS-BUILT	
Rev	REVISION DETAILS	Amended by	Approved by date
			scale

This page is intentionally left blank

Licensing Sub-Committee
Portsmouth City Council
Civic Offices
Guildhall Square
Portsmouth
Hants
PO1 2AL

Licensing Service

Civic Offices
Guildhall Square
Portsmouth
PO1 2AL

Phone: 023 [REDACTED]

Our Ref: 16/02515/LAPRMV

Date: 26 July 2016

Dear Licensing Sub-Committee Members

**Licensing Act 2003 - Application to vary premises licence
Zanzi 4-8 Guildhall Walk Portsmouth PO1 2DD**

I refer to the recent application by Ms Hoi Man Yan for the variation of the premises licence in respect of Zanzi, 4-8 Guildhall Walk, Portsmouth, PO1 2DD.

The application seeks, by way of variation to the licence:

- to extend the hours for the sale of alcohol, regulated entertainment and late night refreshment to 02:00 hours Sunday - Thursday and 04:00 hours Friday and Saturday together with stated non-standard timings for bank holidays;
- Extend the hours of opening and closing for an additional 30 minutes beyond the terminal hour for licensable activities as set out above;
- Removal of conditions 3 and 8 in Annex 2 (Conditions consistent with the operating schedule) of the licence;
- Amendment of condition 3 in Annex 3 (Conditions attached after a hearing by the licensing authority) of the licence;
- Permit off sales of alcohol
- Imposition of additional conditions as set out in the operating schedule for the promotion of the licensing objectives.

On behalf of the Licensing Authority I would wish to make formal representations in respect of part of this application on the following grounds:

- Prevention of crime and disorder
- Prevention of public nuisance

This representation has been made on the basis that the applicant has failed to adequately demonstrate that the proposed variation in terms of extending the hours for licensable

activities, hours of opening and closing and to permit the off sales of alcohol will not have a negative cumulative impact on the promotion of the licensing objectives, in particular the prevention of crime and disorder and prevention of public nuisance.

As members will be aware the Licensing Authority has adopted a special policy in relation to cumulative impact and these premises are located within that specific area. As the Statutory Guidance issued by the Home Office under section 182 of the Licensing Act 2003 states; **the effect of adopting a special policy of this kind is to create a rebuttable presumption that applications for the grant or variation of premises licence which are likely to add to the existing cumulative impact will normally be refused or subject to certain limitations.**

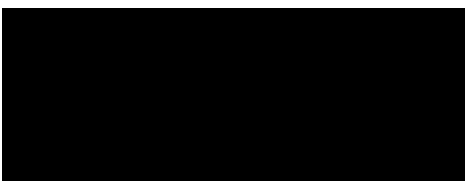
I have given careful consideration to the circumstances of this particular application on behalf of the Licensing Authority, and, specifically whether there is any justification for departure from the special policy presumption in this case.

I am of the opinion that the parts of the variation application relating to the removal of conditions 3 and 8 in Annex 2 (Conditions consistent with the operating schedule) of the licence and amendment of condition 3 in Annex 3 (Conditions attached after a hearing by the licensing authority) of the licence will not add to the existing cumulative impact and therefore I would not wish to make representations in terms of those proposals.

However, having regard to the cumulative impact policy and the information submitted by the Chief Officer of Police and the Director of Public Health, it is clear that the evidential basis for adopting such a special policy in relation to cumulative impact remains a valid consideration within the Licensing Authority's statement of licensing policy.

Given the likely negative effect of the proposed increase in licensing hours and the addition of off sales to the premises licence, I am not satisfied that the applicant has adequately demonstrated in the application that the measures proposed within the operating schedule are sufficient to negate any cumulative impact and therefore request that the application to vary the premises licence is refused (with the exception of the variations referred to above in relation to amendment of conditions).

Yours sincerely



Nickii Humphreys
Licensing Manager

Email: Licensing@portsmouthcc.gov.uk

Public Health Team

Portsmouth City Council Licensing
Department
07 August 2016

Safer Portsmouth Partnership
Portsmouth City Council
Civic Offices, Guildhall Square,
Floor 2 Core 3-4

Phone: [REDACTED]
[REDACTED]

Dear Licensing Manager

Re: Public Health Representation regarding extension of licensable hours for 'Zanzi' 4-8 Guildhall Walk Portsmouth PO1 2DD 16/03605/LAPREM

This representation is made on behalf of the acting/interim director of Public Health for Portsmouth City Council and concerns the licensing objectives

- Prevention of crime and disorder
- Public Safety
- Prevention of Public nuisance

The Guildhall Walk and its surrounding roads are subject to a cumulative impact policy (CIP) based on continuous incidents of disorder and violence centered largely around the night time economy. Whilst the nature of the CIP does not necessarily require responsible authorities to provide evidence in support of their representations, at the time of writing this representation I have requested and am awaiting a breakdown of ambulance call out data and hospital admissions from the CIP area and will make this data available to the Licensing Committee at the time of any hearing - This data will give the Committee the most accurate picture of how much strain the CIP area places on the City's emergency services at this time.

The effect of adopting a CIP is to create a rebuttable presumption that applications for new premises licenses or variations that are likely to add to the existing cumulative impact will normally be refused, following relevant representations, unless the applicant can demonstrate in their operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives.

It is my belief that the applicants have not demonstrated how their request for extra licensable hours will mitigate any negative impact on the licensing objectives. This is not a criticism on the venue as it operates at the present time, but an acknowledgement that any increase in hours (by any venue) could potentially lead to an increase or exasperation of existing crime, disorder and hospital admissions.

Kind regards

Rob Anderson-Weaver
Public Health team PCC

Email: Robert.anderson-weaver@portsmouthcc.gov.uk

This page is intentionally left blank



Portsmouth City Council Licensing Service
Core 5, Lower Ground Floor
Civic Offices
Portsmouth
Hampshire
PO1 2AL

Telephone

101

Direct Dial

[REDACTED]

Fax

[REDACTED]

Text Relay

18001 101

Email Address

[REDACTED]

Our ref:

8 August 2016

Your ref:

Dear Sir/Madam

Re: Application for a Variation of Premises Licence, Zanzi, Guildhall Walk, Portsmouth

On Behalf of the Chief Officer of Police, I make representations in relation to the application for a variation of premises licence at Zanzi, Guildhall Walk, Portsmouth.

I make these representations under the grounds of:

- 1) The prevention of crime and disorder

Summary of Premises

Zanzi is currently a 200 person capacity licensed premises set on 2 floors in Guildhall Walk, Portsmouth. It currently operates as a night club. It is currently licensed under the Licensing Act 2003 to sell alcohol and regulated entertainment until 01:00 Monday to Thursday, 02:00 Friday and Saturday and 00:30 hours Sunday.

The premises has been open in its current guise since 2015. Iris Yan is the current Premises Licence Holder. The Designated Premises Supervisor is Stuart Weston. Prior to taking over the operation of the premises Iris Yan was involved in the operation of Mini Box and Club 8.

The premises is split into two areas.

Ground Floor – Consists of the DJ booth, bar and dancefloor along with seating.

First Floor – Consists of bar and dancefloor along with seating – Used to be Heaven Sent (a Sexual Entertainment Venue) however this Sexual Entertainment Licence is believed (whilst still active) to be held by a person with no business interest in the premises. Police are advised by Mr Weston the DPS that the premises will not revert back to being used for entertainment of this nature.

Entry and exit to the premises is always via the front of the building. To the side of the entrance is a cordoned off smoking area.

The demographic of the premises is predominantly student and local based. The Chief Officer of Police own understanding of the premises, is that it very rarely, if at all reaches capacity and has struggled since opening as Zanzi to reach its capacity of 200 persons on a regular basis.

The Chief Officer of Police also understands that the applicant is seeking to extend the premises hours as it feels that this would get more footfall with a later closing time. This would undoubtedly take



advantage of other venues in the area which close before 04:00 hours and gain the custom of these persons prior to leaving the Guildhall Walk Area.

Other premises which shut between 02:00 and 04:00 are:

- Liquid (03:00) – Capacity around 1800
- Popworld (03:00) – Capacity around 350
- Yates (03:00) – Capacity of around 350
- Skye Bar (02:00) – Capacity of around 200
- Astoria (02:00) – Capacity of around 1000

These premises are all within a short distance from Zanzi. If the applicant is seeking to capitalise on these extra two hours of trade then this may impact on the Cumulative Impact of the premises as 5 premises with a combined capacity of around 3,700 would be closing within an hour of a 200 person capacity. This realistically would impact cumulatively on the area and directly on the premises as potentially these people would be drawn to an open premises. If you also factor in any night which includes a busy late event at the Guildhall then the number will be around 5,700. This increase has the potential to increase the risk of crime and disorder at the premises, which so far has been minimal over the last 12 months.

Licence Conditions

Zanzi has already on its premises a set of conditions which include:

- CCTV
- No entry or re-entry in the last hour of operation
- ID scanning device to be in operation
- Polycarbonate drinking vessels to be utilised
- Floor walkers to be used weekends
- Pubwatch membership
- One SIA required to operate BWV
- A door supervisor condition

General Working Relationship with the premises

Is a positive one. The Designated Premises Supervisor will engage with the Police Licensing team and this is a positive thing. However it is quite clear that the premises is one which does not reach capacity on a regular basis and so the Police are unable to provide any evidence with regards to how the premises is managed when at capacity and as a result at its most vulnerable.

The Chief Officer of Police is aware that the DPS attends pub watch on a regular basis and more recently has been working with the pub watch chair in order to organise regular taxi marshalls at peak times in Guildhall Walk. However the Chief Officer of Police must make it very clear that this appears to be since the application process was initiated. The Chief Officer of Police has noted that prior to the application the premises have been rather quiet on this issue.

Pre Application Contact

Pre Application contact has been performed by the applicant in accordance with Home Office guidance.

Concerns were initially raised by the Police Licensing Team with some of what had been stated by the applicants about the premises which the Police Licensing Team felt was inaccurate and misleading.

Most notably this was to do with the applicant stating that they were predominantly a Chinese Community Centre. Whilst the Police Licensing Team accepted that some members of the Chinese Community do indeed use the premises, the majority of the clientele at the premises has been noted as being White and student based and the premises is quite clearly a night club in the middle of a Cumulative Impact Zone and not as stated to the Police, a Chinese Community Centre.



The Police Licensing Team also raised that other premises previously operated by the applicants in the city (Minibox) were also at one point or another presented initially as a Chinese Community Centre despite the premises quite clearly being operated as a night club with again a student and local to Portsmouth demographic. The applicant stated that this was an error and miscommunication on their behalf and apologised for the mistake.

The Police Licensing Team have also raised the concerns regarding the potential management structure of the premises. This relates to a male by the name of Thomas Ho Pong Yan who is the brother of Iris Yan, the Premises Licence Holder.

Mr Yan the former Premises Licence Holder of Mini Box was prosecuted in 2013 by Police after the discovery that the premises licence had lapsed and for a number of months and that Mr Yan knowing this, had continued to operate the premises and perform licensable activity. Upon interviewing Mr Yan under caution, he admitted offences under the Licensing Act 2003 and was later convicted of these offences after pleading guilty to these in court. Mr Yan later applied for a new licence at Mini box. This matter went to committee as the Police Licensing Team made representations and the committee took the decision to prevent him from being DPS or have any involvement in the management of the premises.

The Police Licensing team have been advised by the applicants that whilst Mr Yan may work from time to time at the premises, he will not be in charge of the day to day management. That will rest firmly on the shoulders of Iris Yan and Stuart Weston the Premises Licence Holder and DPS respectively.

As part of the pre application process it was made clear to the applicants that the Chief Officer of Police had concerns around the cumulative impact zone and that the applicant would be expected with any application to show a clear response to how the premises would not impact in a negative way, cumulatively in the area.

Nothing was agreed between the Chief Officer of Police and the applicant.

Application submitted in July 2016

In July 2016 the applicant submitted the major variation to the Police Licensing Team.

Main Changes

- Change of hours to extend opening hours from 02:00 – 04:00 hours Friday and Saturday
- Change of hours to extend opening hours from 01:00 – 02:00 hours Sunday to Thursday.
- Allow till 06:00 on New Years Eve
- To add Off Sales to the licence
- To change a condition to allow glass in a “VIP” area at the premises after 21:00

Proposed changes to the premises licence

Through the application the applicant is offering the following conditions to be placed on to the premises licence:

- Imposition of signage to alert customers that CCTV is in operation
- Soft drinks will be available for sale all the while alcohol is sold
- Door supervisors to assist with customer egress including monitoring and managing the taxi rank.
- After 21:00 hours, no glass to be taken out of the premises
- Allowing customers to have access to glass champagne bottles, wine bottles, spirit bottles and toughened glasses, but only inside a VIP area within the premises.

Cumulative Impact Zone

Set up in 2010 to combat the increase in violence in the NTE in the Guildhall Walk area which culminated in two tragic deaths as a direct result of violent incidents within licensed premises.

The Cumulative Impact Zone restricts the application for new licensed premises within the area and also restricts the application for an extension of hours for existing premises. It does this by putting the onus



on the applicant to show that any application will not impact negatively on the licensing objectives rather than the usual process of the onus being on the person who makes the representation.

Following a successful application by another premises in the immediate area to extend their opening hours a decision was made to revisit the figures and extend the CIZ further. This was performed in 2014.

It is also important to note that over the next two years a number of student living accommodations are to be opened within walking distance of the premises. This will undoubtedly increase the foot fall to the CIZ and potentially as a result increase the likelihood of crime and disorder.

Annex A

This details the crime statistics within the CIZ for a period of the last 12 months. It also shows that within the last 12 months there have been no incidents reported to the Police which are directly attributable to Zanzi.

CIZ Figures

The main points for the CIZ figures are as follows:

- Distinct increase in violent crimes between the day time and night time economies within the same area with the NTE showing higher levels of violence by almost 50% in some cases . This indicates that there is a clear issue with violence between 20:00 and 06:00 hours being more than the day time, every single day of the week in the area.
- Violence is at its peak between 20:00 – 06:00 hours Friday and Saturday (when the applicant wishes to extend their own hours for an extra 2 hours until 04:00 hours in the morning)
- Police figures also show that violent crime has been reduced since the implementation of the CIZ. However these figures also show that violent crime is still an issue within the CIZ, particularly within the late night/early morning hours.
- In the last year violent crime has risen a small amount. Currently it is not known whether this is due to an increase in footfall as the economy begins to pick up, a change in reporting crime by the Police or both.

Zanzi

Over the last year no incidents whatsoever have been reported to the Police and can be attributed to the premises via the Police Record Management System.

Whilst this is a positive thing it is the Chief Officer of Police belief that this is predominantly down to a lack of custom rather than a premises which has clear, positive strategy to prevent crime and disorder.

The applicants have also taken the opportunity to utilise Temporary Event Notices on a number of occasions over the last 12 months. These Temporary Event Notices have all been over the busiest periods of the year for the on licensed trade and have finished between 04:00 and 06:00 hours. Again there have no reported incidents to the Police noted on the Police Record Management System for these premises.

Summary

Following this information the Chief Officer of Police has concerns with regards to the application and from the information to hand does not feel that the granting of the application will promote the licensing objectives. The Chief Officer of Police also believes that the application fails to adequately demonstrate that the premises will not cause a negative cumulative impact on the premises. This is for the following reasons:

- The figures provided in Annex A show a higher proportion of violent crime at the time the applicant wishes to increase their hours. The figures show that there is a clear issue with violence between 20:00 – 06:00 hours every day of the week and that this is higher than the day time ours. This will incur a negative cumulative impact on the area.



- The applicant wishes to trade during a time when a number of other premises are closing. This has the potential for around 5,700 persons to be looking for a premises to continue drinking. This will undoubtedly increase the chances of persons being refused entry and issues with crime and disorder resulting due to this. This will incur a negative cumulative impact on the area and also a negative impact on the licensing objectives at the premises.
- The DPS has previously stated that the premises needs the extra hours to remain open. This raises concerns that the premises is seeking to trade on the back of persons who will be leaving other premises in drink. Again this increases the chances of persons being turned away and issues with crime and disorder resulting due to this.
- The last entry to the premises being extended to 03:00 hours is designed to capture those persons leaving other premises. This will increase issues with crime and disorder when those who are already drunk are turned away.

The applicant has also not provided any detail in the application as to how the granting of the variation will not cause a negative cumulative impact on the area.

The conditions offered up by the premises also do not provide reassurance that there will be no negative cumulative impact on the area if the application is granted. The conditions are vague and also there is a lack of detail around how the applicant will manage certain aspects of the proposed changes.

The issue the Chief Officer of Police takes with the conditions are as follows:

- Premises wish to allow glass to be given to customers in a designated VIP area. However there is no detail as to how the applicant will manage the VIP area in a way which is responsible and promotes the licensing objectives.
- Premises have stated that they will provide door supervisors to assist with customer egress including monitoring and managing the taxi rank. However once again there is a lack of detail as to how this will be managed, how many door supervisors they will use, what times they will be in place and how long they will be in place for.

As a result of the above information, the Chief Officer of Police believes that should the application be granted in its current format, there will be a negative cumulative impact on the area. The Chief Officer of Police also believes that the granting of this application in its current format will lead to a negative impact on the promotion of the licensing objectives at the premises, most notably the promotion of crime and disorder.

As such the Chief Officer of Police respectfully recommends that the application is refused.

Yours Sincerely

PC 21945 Rackham
Licensing and Alcohol Harm Reduction
Hampshire Constabulary



This page is intentionally left blank

Police Appendix A

Data relating to Application from Zanzi to extend hours from 02:00 – 04:00 Friday and Saturday

Figures Relate to Incidents reported to Police within the SPA between 24/07/2015 and 24/07/2016 which are likely to be offences committed under the influence of alcohol

SPA Figures

Total Number of Incidents recorded on RMS

3729

Total Number between 06:00 – 20:00 (Day time)

1762

Total Number between 20:00 – 06:00 (Night time)

1967

Breakdown of Incidents between 06:00 – 20:00

Abduction – 1
Arson – 1
ASB – 299
Assault – 146
Assault Police – 17
Collapse Illness/Injury – 2
Concern for Safety – 10
Criminal Damage – 63
Dispute – 46
Drug Offences – 39
False Imprisonment – 1
Firearms Offences – 2
Going Equipped – 7
Harrasment – 10
Impairment – 2
Indecency – 5
Mental Health – 38
Rape – 4
Not Stated – 128
Offensive Weapon – 10
Other Crime – 43
Public Order – 106
Receiving Stolen Goods – 4
Robbery (Personal) – 4
Sex Offender Offences – 3
Suspicious Incidents – 132
Threatening Telephone Calls – 7

Theft – 627
Threats to Life – 5

Breakdown of Incidents between 20:00 – 06:00

Arson – 1
ASB – 260
Assault – 525
Assault Police – 28
Blackmail – 1
Concern for Safety – 10
Criminal Damage – 78
Dispute Incidents – 34
Driving Complaint – 27
Drug Offences – 120
Firearms Offences – 1
Harrasment – 7
Impairment – 11
Indecency – 18
Kidnapping – 1
Mental Health – 21
Rape – 7
Not Stated – 425
Offensive Weapon – 7
Other Crime – 43
Public Order – 71
Robbery – 4
Dispersals – 5
Sex Offender Offences – 13
Suspicious Incidents – 64
Threatening Telephone Calls – 2
Theft – 175
Threat to Life – 2
Wounding – 6

Break Down of Incidents Monday 06:00 – 20:00 Day

ASB – 45
Assault – 25
Assault Police – 7
Concern for Safety – 1
Criminal Damage – 7
Dispute – 8
Drug Offences – 9
Firearms Offences – 1
Harrasment – 3
Making Off without Payment – 1
Mental Health – 3
Missing Persons – 4
Not Stated – 19

Offensive Weapon – 3
Other Crime – 7
Public Order – 19
Rape – 1
Road Related Incidents – 5
Suspicious Incidents – 14
Threatening Telephone Calls – 2
Theft – 98

Break Down of Incidents Monday 20:00 – 06:00 Night

ASB – 20
Assault – 28
Concern for Safety – 1
Criminal Damage – 7
Dispute – 1
Drug Offences – 6
Impairment – 1
Mental Health – 1
Not Stated – 11
Other Crime – 4
Public Order – 6
Rape – 1
Suspicious Incidents – 7
Theft – 15

Break Down of Incidents Tuesday 06:00 – 20:00 Day

ASB – 45
Assault – 24
Assault Police – 1
Collapse Illness Injury - 1
Concern for Safety – 2
Criminal Damage – 6
Dispute – 8
Driving Complaint – 2
Drug Offences – 5
False Imprisonment – 1
Going Equipped– 1
Harrassment - 1
Indecency – 2
Making off without payment - 1
Mental Health – 7
Missing Persons – 2
Not Stated – 30
Other Crime – 4
Obtaining by Deception – 1
Offensive Weapon – 2
Other Crime – 9

Public Order – 18
Suspicious Incidents – 23
Theft – 92

Break Down of Incidents Tuesday 20:00 – 06:00 night

ASB – 22
Assault – 34
Assault Police – 5
Concern for Safety – 1
Criminal Damage – 5
Dispute – 2
Drug Offences – 8
Indecency – 1
Mental Health – 3
Missing Persons – 1
Not Stated – 12
Other Crime – 4
Obtaining by Deception – 1
Other Crime – 1
Public Order – 11
Road Related Incidents – 1
Suspicious Incidents – 5
Threatening Telephone Calls - 1
Theft – 6

Break Down of Incidents Wednesday 06:00 – 20:00 Day

ASB – 41
Assault – 18
Concern for Safety – 4
Criminal Damage – 12
Custodial – 1
Dispute – 5
Drug Offences – 7
Going Equipped for Stealing – 2
Harassment - 2
Impairment - 1
Indecency – 1
Mental Health – 4
Missing Persons – 3
Not Stated – 20
Other Crime – 4
Offensive Weapon - 2
Other Crime – 6
Public Order – 15
Rape - 1
Road Related Incidents – 4
Robbery - 1

Suspicious Incidents – 15
Threatening Telephone Calls - 1
Theft – 97
Threats to Life – 1

Break Down of Incidents Wednesday 20:00 – 06:00 Night

ASB – 20
Assault – 36
Assault Police - 2
Concern for Safety – 4
Criminal Damage – 8
Dispute – 2
Drug Offences – 6
Impairment – 2
Indecency – 3
Mental Health – 2
Not Stated – 11
Offensive Weapon - 2
Other Crime – 1
Public Order – 4
Robbery – 1
Sex Offender Offences - 1
Suspicious Incidents – 5
Theft – 18
Wounding - 1

Break Down of Incidents Thursday 06:00 – 20:00 Day

Abduction - 1
Action Fraud – 2
Arson – 1
ASB – 55
Assault – 23
Assault Police - 1
Concern for Safety – 2
Criminal Damage – 7
Dispute – 9
Drug Offences – 4
Going Equipped – 2
Firearms Offences – 1
Harassment - 2
Mental Health – 9
Not Stated – 19
Obtaining by Deception – 1
Offensive Weapon - 2
Other Crime – 11
Public Order – 14
Sex Offender Offences – 1
Suspicious Incidents – 21

Threatening Telephone Calls - 3
Theft – 98
Threats to Life – 2

Break Down of Incidents Thursday 20:00 – 06:00Night

ASB – 21
Assault – 34
Assault Police - 5
Concern for Safety – 1
Criminal Damage – 7
Dispute – 3
Drug Offences – 1
Firearms Offences – 1
Indecency - 3
Mental Health – 2
Missing Persons – 1
Not Stated – 5
Other Crime – 4
Public Order – 4
Rape - 2
Robbery - 1
Sex Offender Offences – 1
Suspicious Incidents – 5
Threatening Telephone Calls - 1
Theft – 21

Break Down of Incidents Friday 06:00 – 20:00 Day

ASB – 40
Assault – 25
Assault Police - 4
Concern for Safety – 2
Criminal Damage – 17
Dispute – 7
Driving Complaint – 1
Going Equipped– 1
Harassment – 2
Mental Health – 5
Not Stated – 14
Other Crime – 4
Offensive Weapon - 2
Public Order – 18
Sex Offender Offences – 1
Suspicious Incidents – 22
Threatening Telephone Calls - 1
Theft – 112
Threats to Life – 1

Break Down of Incidents Friday 20:00 – 06:00Night

ASB – 42
Assault – 74
Assault Police - 1
Concern for Safety – 1
Criminal Damage – 18
Dispute – 4
Drug Offences - 20
Harassment – 1
Impairment – 3
Indecent Assault – 6
Mental Health – 1
Missing Persons – 2
Not Stated – 48
Offensive Weapon - 1
Other Crime – 4
Public Order – 11
Rape – 1
Robbery - 1
Dispersals – 1
Sex Offender Offences – 2
Suspicious Incidents – 9
Theft – 34
Wounding - 1

Break Down of Incidents Saturday 06:00 – 20:00 Day

ASB – 38
Assault – 15
Assault Police – 1
Burglary Dwelling - 1
Concern for Safety – 1
Collapse Illness – 1
Concern for Safety - 1
Criminal Damage – 9
Dispute – 5
Drug Offences - 7
Mental Health – 5
Missing Persons – 4
Not Stated – 14
Offensive Weapon – 1
Other Crime – 1
Public Order – 14
Road Related Incidents - 3
Robbery - 1
Suspicious Incidents – 24
Theft – 66
Threats to Life – 1

Break Down of Incidents Saturday 20:00 – 06:00 Night

ASB – 65
Assault – 163
Assault Police - 9
Concern for Safety – 2
Criminal Damage – 17
Dispute – 10
Drug Offences - 50
Harassment – 3
Impairment – 1
Indecent Assault – 3
Mental Health – 2
Not Stated – 111
Offensive Weapon - 2
Other Crime – 17
Public Order – 16
Rape – 2
Robbery - 1
Dispersals – 4
Sex Offender Offences – 3
Suspicious Incidents – 8
Theft – 37
Wounding - 3

Break Down of Incidents Sunday 06:00 – 20:00 Day

ASB – 35
Assault – 15
Assault Police – 3
Criminal Damage – 5
Custodial - 2
Dispute – 4
Drug Offences – 7
Going Equipped– 3
Impairment – 1
Indecent Assault – 2
Mental Health – 5
Missing Persons – 1
Not Stated – 12
Offensive Weapon - 1
Other Crime – 4
Public Order – 8
Rape – 2
Robbery – 1
Sex Offender Offences – 1
Suspicious Incidents – 13
Theft – 63

Break Down of Incidents Sunday 20:00 – 06:00 Night

ASB – 47
Assault – 134
Assault Police – 6
Blackmail - 1
Concern for Safety - 2
Criminal Damage – 10
Dispute – 7
Drug Offences – 27
Harrasment - 1
Impairment – 4
Indecent Assault – 1
Kidnapping - 1
Mental Health – 8
Not Stated – 85
Offensive Weapon - 2
Other Crime – 11
Public Order – 15
Robbery – 1
Sex Offender Offences – 1
Suspicious Incidents – 14
Theft – 27
Threat to Kill – 1
Wounding – 1

Total Number of Reported Incidents at Zanzi over 12 Month Period

0

Percentage of which compared to rest of SPA

0%

Break down of incidents on day by day basis and Summary of Incidents

0

This page is intentionally left blank

Appendix D

Licensed venues in Guildhall Walk Alcohol sales and Opening hours

Venue	Alcohol sales	Opening hours
<i>Hampshire Boulevard</i>	Sunday to Thursday 11:00 until 02:00 Friday and Saturday 11:00 until 02:30	Sunday to Thursday 11:00 to 03:00 Friday and Saturday 11:00 until 03:30
<i>Astoria</i>	Sunday 12:00 until 00:30 Monday to Saturday 10:00 until 02:00	Sunday 12:00 until 03:30 Monday to Saturday 10:00 until 03:30
<i>Lyberry</i>	Sunday 12:00 until 02:00 Monday to Thursday 10:00 until 02:00 Friday and Saturday 10:00 until 04:00	Sunday 12:00 until 02:45 Monday to Thursday 10:00 until 02:45 Friday and Saturday 10:00 until 04:45
<i>Brewhouse (White Swan)</i>	Monday to Sunday 09:00 until 00:30	Monday to Sunday 09:00 until 01:00
<i>Rednex44</i>	Monday to Wednesday 11:00 until 01:00 Thursday to Sunday 11:00 until 02:00	Monday to Wednesday 10:30 until 02:00 Thursday to Sunday 10:00 until 03:00

Venue	Alcohol sales	Opening hours
<i>Yates</i>	Monday to Wednesday 09:00 until 23:59 Thursday 09:00 until 01:00 Friday and Saturday 09:00 until 03:00 Sunday 09:00 until 00:30	Monday to Wednesday 07:00 until 01:00 Thursday 07:00 until 02:00 Friday and Saturday 07:00 until 03:30 Sunday 07:00 until 01:30
<i>New Theatre Royal</i>	Monday to Sunday 09:00 until 02:00	Monday to Sunday 00:00 until 23:59
<i>Zanzi</i>	Sunday 12:00 until 00:30 Monday to Thursday 10:00 until 01:00 Friday and Saturday 10:00 until 02:00	Sunday 12:00 until 01:00 Monday to Thursday 10:00 until 01:30 Friday and Saturday 10:00 until 02:30
<i>Isambard Kingdom Brunel</i>	Monday to Sunday 09:00 until 02:00	Monday to Sunday 07:00 until 03:00
<i>Fleet Pop World</i>	Sunday 10:00 until 01:00 Monday to Saturday 10:00 until 03:00	Sunday 10:00 until 01:30 Monday to Saturday 10:00 until 03:30

Licensing Act 2003

Section 5: Statement of Licensing Policy

www.portsmouth.gov.uk



This statement of licensing policy will remain in force from
7 January 2011 until 06 January 2014

Contents

Item	Page
1.0 The licensing objectives	4
2.0 Background information about Portsmouth	5
3.0 Consultation on the Statement of Licensing Policy	6
4.0 Fundamental principles	7
5.0 Licensable activities	8
6.0 Duplication	9
7.0 Standardised conditions	9
8.0 Mandatory conditions	10
9.0 Enforcement	11
10.0 Need for licensed premises	12
11.0 The cumulative impact of a concentration of licensed premises	12
12.0 Limitations on special policies relating to cumulative impact	13
13.0 Special policy relating to cumulative impact in Portsmouth	14
14.0 Other mechanisms for controlling cumulative impact	15
15.0 Licensing hours	16
16.0 Children	16
17.0 Responsible authority and children	18

Item	Page
18.0 Children and cinemas	18
19.0 Integration of strategies	19
20.0 Crime prevention	19
21.0 Cultural strategies	19
22.0 Transport	19
23.0 Tourism and employment	19
24.0 Planning and building control	19
25.0 Promotion of racial equality	20
26.0 Live music, dancing and theatre	21
27.0 The licensing process and applications	21
28.0 The review process	26
29.0 Administration, exercise and delegation of functions	28
30.0 Contact details / advice and guidance	30
Appendix A - Map of Portsmouth area	32
Appendix B - Supporting information and map for Special Policy Area relating to cumulative impact in Portsmouth	33



1.0 Licensing objectives

- 1.1 Portsmouth City Council is the Licensing Authority for the Licensing Act 2003 (“the Act”) for the administrative area of Portsmouth as shown on the map at Appendix A. Any references to “the Licensing Authority” in this document refers to Portsmouth Licensing Authority.
- 1.2 When carrying out its functions under the Act, the Licensing Authority will promote and have regard to the licensing objectives set out in the Act. These are:
 - The prevention of crime and disorder;
 - Public safety;
 - The prevention of public nuisance; and
 - The protection of children from harm.
- 1.3 Each objective is of equal importance.

2.0 Background information about Portsmouth

2.1 The City of Portsmouth is situated in the ceremonial County of Hampshire which contains 11 District Councils in total. It is at the heart of Britain's southern coastline, with long established direct rail and road links to London, the Midlands and Wales and close to three international airports.

Portsmouth is undergoing rapid change, growing in confidence and developing a renewed sense of itself. As the UK's only island city, this waterfront city combines centuries of maritime history with an attractive contemporary lifestyle.

A significant naval port for centuries, it is home to the world's oldest dry dock, which is still in use today, and to world-famous historic ships, including Admiral Lord Nelson's flagship, HMS Victory, HMS Warrior 1860 and King Henry VIII's Mary Rose. Now new investment around the harbour has transformed the waterfront and attracts generations of new visitors to the city.

In recent years the city has hosted major international events including the International Fleet Review and in 2005 the events to mark 200 years after the Battle of Trafalgar. Portsmouth is also fast becoming the home of ocean racing, hosting the Global Challenge yacht race in 2004/5 and in 2006 the city is the only UK port chosen to host the Volvo Ocean Race.

The Spinnaker Tower at Gunwharf Quays opened in 2005 and is a new icon for the city and the south coast. At 170 metres high, it has already changed the skyline forever and provides an unparalleled view of Portsmouth and the surrounding area from its three observation decks.

This dynamic waterfront city still has an important role as a major dockyard and home base for the Royal Navy. BAE Systems has brought shipbuilding back to the city and in 2006 HMS Clyde was the first ship launched here for 40 years. The council-owned commercial port also continues to thrive and serves more destinations on the continent with freight and passenger traffic than any other UK port.

Portsmouth has a population of 200,000 in an area of only 4,196 hectares, which makes it one of the most densely occupied cities in the country outside London.

Portsmouth offers a vibrant mix of entertainment facilities for residents and visitors alike. This ranges from theatres, restaurants, cinemas and concert venues to club premises, bars, nightclubs and pubs in various locations around the city. The provision of such facilities contributes much to the growth of the local economy for Portsmouth and offers an important role for employment within the city.

3.0 Consultation on the Statement of Licensing Policy

- 3.1 Section 5 of the Act requires a Licensing Authority to prepare and publish a statement of its licensing policy every three years. Such a policy must be published before the authority carries out any function in respect of individual applications made under the terms of the Act.
- 3.2 During the three year period, the policy must be kept under review and the Licensing Authority may make any revisions to it as it considers appropriate, for instance in the light of feedback from the local community on whether the statutory objectives are being met.
- 3.3 The first statutory three year period began on 7 January 2005. Subsequent three year periods, e.g. beginning 7 January 2008 etc, are fixed and would not be altered by any other revisions that the Licensing Authority may choose to make within a period, or by any determination of a new policy.
- 3.4 This policy will commence on 7 January 2011 and remain in force for three years but will be kept under review subject to further consultation as referred to above.
- 3.5 Where revisions are made to the Statutory Guidance by the Secretary of State, it will be for the Licensing Authority to determine whether revisions to its licensing policy statement are appropriate.
- 3.6 Where the Licensing Authority determines a new policy that will apply from the beginning of the next three year period it may also decide that any changes should also apply immediately as a revision to the current policy. However, to do so, the Licensing Authority would have to be very clear at the time of consultation that the proposed changes were intended to constitute both the new policy for the next three year period and apply in the interim as a revision to the existing policy.
- 3.7 The longer the time between the consultation and the start of the next three year period, the less likely it is that the Licensing Authority could rely on it for that purpose without consulting again.
- 3.8 Before determining its policy for any three year period or if revising a policy within a period, the Licensing Authority must consult the persons listed in section 5(3) of the Act. These are:
- The chief officer of police for Hampshire Constabulary;
 - The chief officer of Hampshire Fire and Rescue Service;
 - Persons/bodies representative of local holders of premises licences;
 - Persons/bodies representative of local holders of club premises certificates;
 - Persons/bodies representative of local holders of personal licences; and
 - Persons/bodies representative of businesses and residents in its area.
- 3.9 The views of all these persons/bodies listed shall be given appropriate weight when the policy is determined. It is recognised that in some areas it may be difficult to identify persons or bodies that represent all parts of the industry affected by the provisions of the Act but the Licensing Authority will make all reasonable efforts to do so.
- 3.10 The Licensing Authority is aware that the terms of the Act do not prevent them consulting other bodies or persons before determining its policy.
- 3.11 In circumstances where the Licensing Authority has recently revised its policy within a three year period following a consultation exercise it may not consider that further changes are necessary when determining the policy for the next three year period. As such, it may decide on a simple consultation with those persons listed in section 5(3) of the Act.
- 3.12 When carrying out its functions the Licensing Authority shall have regard to its Statement of Licensing Policy and the Statutory Guidance issued by the Secretary of State. However, this policy and the Guidance cannot anticipate every set of circumstances which may arise. Accordingly, the Licensing Authority may depart from them if they have reason to do so. In that event, the Licensing Authority will give full reasons for having done so.

3.13 Further advice can be obtained from:

The Licensing Manager
 Legal, Licensing & Registrars
 Civic Offices
 Guildhall Square
 Portsmouth PO1 2AL

Tel: 023 9283 4607 Fax: 023 9283 4811
 Email: Licensing@portsmouthcc.gov.uk

4.0 Fundamental principles

- 4.1 This Statement of Licensing Policy has been prepared in accordance with the provisions of the Act and the Statutory Guidance issued under section 182 of the Act by the Secretary of State. This policy should be read as a whole and in conjunction with the Act and the Statutory Guidance which is obtainable from 2-4 Cockspur Street, London, SW1Y 5DH or online at www.culture.gov.uk.
- 4.2 This statement is intended to assist officers and members in determining applications and to set down those factors that will normally be taken into consideration. Equally, this document seeks to provide clarity for applicants, residents and other occupiers of property and investors, in order to enable them to plan a move to, remain or invest in the city with some measure of certainty.
- 4.3 This policy sets out a general approach to making licensing decisions and it will not ignore or be inconsistent with provisions in the Act. It will not undermine the right of any individual to apply under the terms of the Act for a variety of permissions and to have any such application considered on its individual merits.
- 4.4 Similarly, it will not override the right of any person to make representations on an application or to seek a review of a licence or certificate where provision has been made for them to do so in the Act.
- 4.5 The conditions attached to various authorisations will be focused on matters which are within the control of individual licensees and others with relevant authorisations, i.e. the premises and its vicinity.

4.6 Whether or not incidents can be regarded as being "in the vicinity" of licensed premises is a question of fact and will depend on the particular circumstances of the case. In cases of dispute, the question will ultimately be decided by the courts. In addressing this matter, 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.

4.7 Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned. Nonetheless, it is a key aspect of such control and licensing law will always be part of the overall approach to the management of the evening and night-time economy in town and city centres.



5.0 Licensable activities

5.1 The Licensing Authority is responsible for considering all applications for licensable activities as defined in section 1 of the act.

5.2 The purpose of licensing is to regulate the carrying on of licensable activities on licensed premises, by qualifying clubs and at temporary events.

Licensable activities are:

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

5.3 Subject to certain conditions, definitions and exemptions contained in sections 173-175 of the act, the provision of regulated entertainment for the public, or club members or with a view to profit, is defined as:

- A performance of a play;
- An exhibition of a film;
- An indoor sporting event;
- A boxing or wrestling entertainment (indoor and outdoor);
- A performance of live music;
- Any playing of recorded music;
- A performance of dance;
- Entertainment of a similar description to that falling within the performance of live music, the playing of recorded music or the performance of dance; or
- Provision of facilities for making music or the provision of facilities for dancing or entertainment of a similar kind.

5.4 Late night refreshment, which is subject to certain exemptions, is defined in schedule 2 of the Act and relates to the supply of hot food or drink to members of the public on or from any premises for consumption on or off the premises between the hours of 11pm and 5am.

5.5 The incidental performance of live music and incidental playing of recorded music may not be regarded as the provision of regulated entertainment activities under the Act in certain circumstances. In cases of doubt, operators should seek the advice of the Licensing Authority.



6.0 Duplication

- 6.1 The Licensing Authority will seek to avoid attaching conditions that duplicate other regulatory regimes as far as possible.
- 6.2 However, these provisions will not always adequately address specific issues that arise on the premises in connection with certain types of licensable activities. Therefore it may be necessary for the Licensing Authority to consider the imposition of conditions, if not volunteered by the applicant in their operating schedule and following relevant representations, if they are considered necessary for the promotion of the licensing objectives and are not already provided for in any other legislation.

7.0 Standardised conditions

- 7.1 Where responsible authorities and interested parties do not raise any representations about the application made to the Licensing Authority, it is the duty of the Authority to grant the licence or certificate subject only to conditions that are consistent with the operating schedule and any mandatory conditions prescribed in the Act itself.
- 7.2 A key concept underscoring the Act is for conditions to be tailored to the specific premises concerned. This effectively rules out standardised conditions which ignore these individual aspects. The Licensing Authority recognises that conditions must be proportionate and properly recognise significant differences between venues.
- 7.3 The Licensing Authority will not impose any conditions unless its discretion has been engaged following the receipt of relevant representations and it has been satisfied at a hearing of the necessity to impose conditions. It will then only impose conditions that are necessary to promote one or more of the four licensing objectives. Such conditions will need to be expressed in unequivocal and unambiguous terms to avoid legal dispute.

- 7.4 It is possible that in certain cases, because the test is one of necessity, where there are other legislative provisions which are relevant and must be observed by the applicant, no additional conditions at all are needed to promote the licensing objectives.
- 7.5 The Licensing Authority wishes to work in partnership with all parties to ensure that the licensing objectives are promoted collectively. To support this aim and to minimise disputes and the necessity for hearings, the Licensing Authority believes it would be sensible for applicants to seek the views of the key responsible authorities before formally submitting applications but wish to point out that there is no legal requirement to do so.
- 7.6 Whilst the Licensing Authority will not use standardised conditions, it may draw from a pool of conditions where it is appropriate to do so and which will be based on the model pool of conditions contained within the Statutory Guidance. Applicants and others may also wish to refer to these conditions as appropriate.

8.0 Mandatory conditions

8.1 By virtue of new provisions within the Policing & Crime Act 2009, the Licensing Act 2003 has been amended by statutory order to provide for the imposition of further mandatory conditions for those premises authorising the sale or supply of alcohol on the premises. Five new conditions have now been prescribed under the 2010 Order.

From 6 April 2010 the following additional conditions apply to current authorisations:

Irresponsible drink promotions

8.2 Responsible persons' shall take all reasonable steps to ensure that staff do NOT carry out, arrange or participate in any irresponsible promotion encouraging the sale or supply of alcohol for consumption on the premises, which carries a significant risk of leading or contributing to:

- Crime and disorder
- Prejudicing public safety
- Causing a public nuisance
- Causing harm to children

(The above are the statutory licensing objectives).

8.3 The types of activities that might lead to a breach of the licensing objectives are:

- Games encouraging individuals to drink alcohol either within a time limit or to drink as much as possible;
- The provision of unlimited quantities of alcohol either free or at fixed/discounted prices to the public or to a group (with an exemption for alcohol consumed at a table meal);
- provision of free/discounted alcohol as a prize to "reward" the purchase of alcohol over a period of 24 hours or less;
- provision of free/discounted alcohol in relation to the viewing of a sporting event where the provision is dependent on the outcome of a race, competition etc;
- alcohol sales associated with promotional posters/flyers, which condone antisocial behaviour or drunkenness.

8.4 **Dispensing of alcohol direct by one person into the mouth of another**

(Note: There is an exemption for persons being unable to drink without assistance by reason of disability).

8.5 **Provision of free tap water on request**

(Note: Where reasonably available).

In section 153(4) of the Licensing Act 2003, "responsible person" means:

(a) In relation to licensed premises:

- (i) the holder of a premises licence in respect of the premises;
- (ii) the designated premises supervisor (if any) under such a licence; or
- (iii) any individual aged 18 or over who is authorised for the purposes of this section by such a holder or supervisor.

(b) In relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables him to prevent the supply in question.

Note: (c) refers to permitted temporary activities and is not relevant for these purposes.



- 8.6 From 1 October 2010 the following further mandatory conditions apply:
- 8.7 **Age verification policy**
Any person who appears to be under 18 must produce, on request (and before being served alcohol) identification bearing their photo, date of birth and a holographic mark.
(Note: This condition applies also to those premises which permit the sale or supply of alcohol for consumption off the premises.)
- 8.8 **Alcoholic drinks in certain measures**
Responsible persons must ensure that customers are made aware of the availability of alcoholic drinks in other prescribed measures as shown:
- beer or cider; half pint
 - gin, rum, vodka or whisky; 25ml or 35ml
 - still wine in a glass; 125ml
- 8.9 The above information provided in relation to the new mandatory conditions is only intended to be a summary of the main provisions and therefore applicants and licence holders should refer to the Act and the current statutory guidance issued by the Secretary of State. In addition, the Home Office has published non-statutory guidance which is available at www.homeoffice.gov.uk/drugs/alcohol/alcohol-licensing-conditions/
- 8.10 The Licensing Authority expects that applicants, licence and certificate holders will familiarise themselves with the new provisions and will ensure that all relevant staff are provided with adequate training and support as regards the new arrangements.
- 9.3 The principle of risk assessment and targeting will prevail and inspections will not be undertaken routinely but when and if they are judged necessary.
- 9.4 The Licensing Authority will maintain close links with the police, trading standards officers and other relevant organisations concerning the extent of unlawful sales and consumption of alcohol by minors and will seek to be involved in the development of any strategies to control or prevent unlawful activities.
- 9.5 The Licensing Authority will process personal information in accordance with the Data Protection Act 1998. The personal details provided by applicants will be held on a database and where the law allows, may be shared with other departments within the council to update details they hold. The Licensing Authority may also be required to disclose personal information to third parties (such as Police, Department for Work and Pensions or Audit Commission for the National Fraud Initiative) for the purposes of preventing or detecting crime or apprehending or prosecuting offenders.
- 9.6 From time to time and when judged necessary to do so, authorised officers of the Licensing Authority and responsible authorities will undertake unannounced inspections or test purchase visits to licensed premises in order to ensure compliance with the provisions of the Licensing Act 2003 and any other associated legislation.
- 9.7 The Licensing Authority will receive, from time to time, reports from its officers on any formal enforcement proceedings instigated against licence holders in relation to offences under the Act.

9.0 Enforcement

- 9.1 The Licensing Authority will establish protocols with the local police and the other enforcing authorities as appropriate on enforcement issues.
- 9.2 These protocols will provide for the targeting of agreed problem and high risk premises which require greater attention, while providing a lighter touch for low risk premises which are well run.

10.0 Need for licensed premises

- 10.1 The Licensing Authority is aware that there can be confusion about the difference between “need” and the “cumulative impact” of premises on the licensing objectives, for example, on crime and disorder. “Need” concerns the commercial demand for another pub or restaurant or hotel. This is not a matter for a Licensing Authority in discharging its licensing functions or for its licensing policy. “Need” is a matter for the Planning Authority and for the market.

11.0 The cumulative impact of a concentration of licensed premises

- 11.1 “Cumulative impact” is not mentioned specifically in the Act but, in accordance with the Statutory Guidance, means the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. The cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for the Licensing Authority to consider in developing its licensing policy statement.
- 11.2 In some areas, where the number, type and density of premises selling alcohol for consumption on the premises are unusual, serious problems of nuisance and disorder may be arising or have begun to arise outside or some distance from licensed premises. For example, concentrations of young drinkers can result in queues at fast food outlets and for public transport. Queuing in turn may be leading to conflict, disorder and anti-social behaviour. While more flexible licensing hours may reduce this impact by allowing a more gradual dispersal of customers from premises, it is possible that the impact on surrounding areas of the behaviour of the customers of all premises taken together will still be greater in these cases than the impact of customers of individual premises. These conditions are more likely to occur in town and city centres, but may also arise in other urban centres and the suburbs.
- 11.3 The Licensing Authority recognises that there should be an evidential basis for the decision to include a special policy within the statement of licensing policy. For example, Crime and Disorder Reduction Partnerships will often have collated information which demonstrates cumulative impact as part of their general role on anti-social behaviour; and crime prevention strategies may have already identified cumulative impact as a local problem. Similarly, environmental health officers may be able to demonstrate concentrations of valid complaints relating to noise disturbance.



- 11.4 The steps to be followed in considering whether to adopt a special policy within the statement of licensing policy are summarised below:
- Identify concern about crime and disorder or public nuisance;
 - Consider whether there is good evidence that crime and disorder or nuisance are happening and are caused by the customers of licensed premises, or that the risk of cumulative impact is imminent;
 - Identify the boundaries of the area where problems are occurring;
 - Consult with those specified in section 5(3) of the Act, and subject to the outcome of the consultation;
 - Include and publish details of special policy in licensing policy statement.
- 11.5 After considering the available evidence and consulting those individuals and organisations mentioned above and any others, the Licensing Authority may be satisfied that it is appropriate and necessary to include an approach to cumulative impact in the licensing policy statement.
- 11.6 The effect of adopting a special policy of this kind is to create a rebuttable presumption that applications for new premises licences or club premises certificates or variations that are likely to add to the existing cumulative impact will normally be refused, following relevant representations, unless the applicant can demonstrate in their operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives.
- 11.7 This presumption does not relieve responsible authorities or interested parties of the need to make a relevant representation, referring to information which had been before the Licensing Authority when it developed its statement of licensing policy, before a Licensing Authority may lawfully consider giving effect to its special policy. If there are no representations, the Licensing Authority must grant the application in terms that are consistent with the operating schedule submitted.
- 11.8 Once adopted, special policies shall be reviewed regularly to assess whether they are needed any longer or need expanding.
- 11.9 The absence of a special policy does not prevent any responsible authority or interested party making representations on a new application for the grant, or variation, of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives.

12.0 Limitations on special policies relating to cumulative impact

- 12.1 It is not normally justifiable to adopt a special policy on the basis of a concentration of shops, stores or supermarkets selling alcohol for consumption off the premises. Special policies will usually address the impact of a concentration of licensed premises selling alcohol for consumption on the premises. However, if consideration is to be given by the Licensing Authority to including such premises within a special policy, then that policy will highlight those specific problems relating to the impact of off licence premises which may include such matters as underage sales, proxy purchasing, street drinking and “pre-loading”.
- 12.2 A special policy shall never be absolute. The circumstances of each application shall be considered properly and applications for licences and certificates that are unlikely to add to the cumulative impact on the licensing objectives will be granted.
- 12.3 After receiving representations in relation to a new application for or a variation of a licence or certificate, the Licensing Authority will consider whether it would be justified in departing from its special policy in the light of the individual circumstances of the case. The impact can be expected to be different for premises with different styles and characteristics. For example, while a large nightclub or high capacity public house might add to problems of cumulative impact, a small restaurant or a theatre may not. If the Licensing Authority decides that an application should be refused, it will still need to show that the grant of the application would undermine the promotion of one of the licensing objectives and that necessary conditions would be ineffective in preventing the problems involved.

12.4 The Licensing Authority will not use special policies:

- As a ground for revoking an existing licence or certificate when representations are received about problems with those premises -

The “cumulative impact” on the promotion of the licensing objectives of a concentration of multiple licensed premises should only give rise to a relevant representation when an application for the grant or variation of a licence or certificate is being considered. A review of a licence or certificate must relate specifically to individual premises, and by its nature, “cumulative impact” relates to the effect of a concentration of many premises. Identifying individual premises in the context of a review would inevitably be arbitrary;

- To justify rejection of applications to vary an existing licence or certificate -

Except where those modifications are directly relevant to the policy (as would be the case with an application to vary a licence with a view to increasing the capacity limits of the premises) and are strictly necessary for the promotion of the licensing objectives;

- To justify or include provisions for a terminal hour in a particular area –

For example, it would be wrong not to apply the special policy to applications that include provision to open no later than, for example, midnight, but to apply the policy to any other premises that propose opening later. The effect would be to impose a fixed closing time akin to that under the “permitted hours” provisions of the Licensing Act 1964. Terminal hours dictated by the Licensing Act 1964 were abolished to avoid the serious problems that arise when customers exit licensed premises simultaneously. Attempting to fix a terminal hour in any area would therefore directly undermine a key purpose of the 2003 Act.

- To impose quotas – based on either the number or capacity of those premises – that restrict the consideration of any application on its individual merits or which seek to impose limitations on trading hours in particular areas –

Quotas that indirectly have the effect of pre-determining the outcome of any application should not be used because they have no regard to the individual characteristics of the premises concerned. Public houses, nightclubs, restaurants, hotels, theatres, concert halls and cinemas all sell alcohol, serve food and provide entertainment but with contrasting styles and characteristics. Proper regard should be given to those differences and the differing impact they will have on the promotion of the licensing objectives.

13.0 Special policy relating to cumulative impact in Portsmouth

- 13.1 Having regard to the evidence currently available, the Licensing Authority considers that there is one specific area of Portsmouth where it is both appropriate and necessary to introduce a special policy in order to promote the licensing objectives. The area where this special policy will have effect is the Guildhall area as set out in the map and supporting information attached as Appendix B to this policy.
- 13.2 This special policy has specifically been re-evaluated in the Summer of 2010 as part of the overall review of the statement of licensing policy and the evidence provided by the Chief Officer of Police shows that violent crime offences associated with licensed premises are still at such a level to justify retention of the current special policy area.
- 13.3 The area to the North of Guildhall Walk has, since the Licensing Authority originally adopted a special policy relating to cumulative impact, seen an increase in licensed premises. This has brought about a resultant increase in violent crime within those areas.

13.4 The area to the south of Guildhall Walk, including St Michael's Road, Cambridge Road and Hampshire Terrace, contains several licensed premises and is located on the perimeter of the previous special policy area. Within this area are "feeder bars" for the main Guildhall Walk late night venues. The statistical data submitted by the Chief Officer of Police show that violent crime occurs within those areas and should form part of the special policy area.

13.5 The special policy applies to the following 12 roads:

- Alec Rose Lane;
- Cambridge Road;
- Commercial Road;
- Guildhall Walk;
- Hampshire Terrace;
- King Henry 1st Street;
- Stanhope Road;
- St Michael's Road;
- White Swan Road;
- Willis Road; and
- Wiltshire Street

13.6 The Licensing Authority, therefore, will normally refuse the grant of new premises licences or club premises certificates or variations whenever it receives relevant representations about the cumulative impact on the licensing objectives which it concludes after hearing those representations should lead to refusal.

14.0 Other mechanisms for controlling cumulative impact

14.1 Once away from the licensed premises, a minority of customers will behave badly and unlawfully. Other mechanisms exist both within and outside the licensing regime that are available for addressing such issues that include:

- Planning controls;
- Positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the local authority;
- The provision of CCTV surveillance in town centres, ample taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols;
- Powers of local authorities to designate parts of the local authority area as places where alcohol may not be consumed publicly;
- Police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices;
- The prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk;
- The confiscation of alcohol from adults and children in designated areas;
- Police powers to close down instantly for up to 24 hours any licensed premises or temporary event on grounds of disorder, the likelihood of disorder or noise emanating from the premises causing a nuisance;
- The power of the police, other responsible authorities or a local resident or business to seek a review of the licence or certificate in question;
- Other local initiatives that similarly address these problems.

15.0 Licensing hours

- 15.1 With regard to licensing hours, the Licensing Authority will consider the individual merits of each application.
- 15.2 In some circumstances, flexible licensing hours for the sale of alcohol can help to ensure that the concentrations of customers leaving premises simultaneously are avoided. This can help to reduce the friction at late night fast food outlets, taxi ranks and other sources of transport which lead to disorder and disturbance.
- 15.3 The Licensing Authority is aware that the Government wants to ensure that licensing hours should not inhibit the development of thriving and safe evening and night-time local economies which are important for investment and employment locally and attractive to domestic and international tourists.
- 15.4 Providing consumers with greater choice and flexibility is an important consideration, but should always be balanced carefully against the duty to promote the four licensing objectives and the rights of local residents to peace and quiet.
- 15.5 However, in addition to the above statement, when considering applications, the Licensing Authority will take the following factors into account:
- Any cumulative impact policy;
 - Residential amenity and character or function of a particular area; and
 - Nature of proposed activities to be provided at the premises.
- Consideration will be given to imposing stricter conditions in respect of noise control, if not volunteered by the applicant in their operating schedule and following relevant representations, where premises are situated in mainly residential areas. However, this will not limit opening hours without regard to the individual merit of any application.

- 15.6 In general, shops, stores and supermarkets will be able to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are good reasons, based on the licensing objectives, for restricting those hours. For example, a limitation may be appropriate following police representations in the case of some shops known to be a focus of disorder and disturbance because youths gather there.

16.0 Children

- 16.1 The Act details a number of offences designed to protect children in licensed premises and the Licensing Authority will work closely with the police and other relevant agencies to ensure the appropriate enforcement of the law, especially relating to the sale and supply of alcohol to children.
- 16.2 The Act made it an offence to permit children under the age of 16 who are not accompanied by an adult to be present on the premises being used exclusively or primarily for supply of alcohol for consumption on those premises under the authorisation of a premises licence, club premises certificate or where that activity is carried on under the authority of a temporary event notice.
- 16.3 In addition, it is an offence to permit the presence of children under 16 who are not accompanied by an adult between midnight and 5 am at other premises supplying alcohol for consumption on the premises under the authority of any premises licence, club premises certificate or temporary event notice.
- 16.4 Outside of these hours, the offence does not prevent the admission of unaccompanied children under 16 to the wide variety of premises where the consumption of alcohol is not the exclusive or primary activity. Between 5am and midnight, the offence would not necessarily apply to many restaurants, hotels, cinemas and even many pubs where the main business activity is the consumption of both food and drink. This does not mean that children should automatically be admitted to such premises and the following paragraphs are therefore of great importance notwithstanding the new offences created by the Act.

- 16.5 It is not intended that the definition “exclusively or primarily” in relation to the consumption of alcohol should be applied in a particular way by reference to turnover, floor space or any similar measure. The expression should be given its ordinary and natural meaning in the context of the particular circumstances. It will normally be quite clear that the business being operated at the premises is predominantly the sale and consumption of alcohol. Mixed businesses may be harder to pigeonhole and it would be sensible for both operators and enforcement agencies to consult where necessary about their respective interpretations of the activities taking place on the premises before any moves are taken which might lead to prosecution.
- 16.6 The fact that the new offence may effectively bar children under 16 accompanied by an adult from premises where the consumption of alcohol is the exclusive or primary activity does not mean that the Act automatically permits unaccompanied children under the age of 18 to have free access to other premises or to the same premises even if they are accompanied or to premises where the consumption of alcohol is not involved. Subject only to the provision of the Act and any licence or certificate conditions, admission will always be at the discretion of those managing the premises. The Act includes on the one hand, no presumption of giving children access or on the other hand, no presumption of preventing their access to licensed premises. Each application and the circumstances obtaining at each premises must be considered on its own merits.
- 16.7 The Licensing Authority therefore, will not seek to limit the access of children to any premises unless it is necessary for the prevention of physical, moral or psychological harm to them. This Statement of Licensing Policy cannot anticipate every issue of concern that could arise in respect of children in relation to individual premises and as such general rules cannot be set. Consideration of the individual merits of each application will remain the best mechanism for judging such matters.
- 16.8 However, areas which will give rise to particular concern in respect of children will include premises:
- Where entertainment or services of an adult or sexual nature are commonly provided;
 - Where there have been convictions of members of the current staff at the premises for serving alcohol to minors or with a reputation for underage drinking;
 - With a known association with drug taking or dealing ²;
 - When there is a strong element of gambling on the premises (but not, for example, the simple presence of a small number of cash prize gaming machines); and
 - Where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.
- 16.9 In the context of the above paragraph, it is not possible to give an exhaustive list of what amounts to entertainment or services of an adult or sexual nature. Applicants, responsible authorities and licensing authorities will need to apply common sense to this matter. However, such entertainment or services, for example, would generally include topless bar staff, striptease, lap-, table or pole-dancing, performances involving feigned violence or horrific incidents, feigned or actual sex acts or fetishism, or entertainment involving strong and offensive language.

² Following its commencement on 20th January 2004, a new power is available under the Anti-Social Behaviour Act 2003 to close premises where there is the production, supply or use of Class A drugs and serious nuisance or disorder. This power provides an extra tool to the police to enable rapid action against a premises where there is a Class A drug problem, enabling its closure in as little as 48 hours should this be necessary

16.10 The Licensing Authority may consider a range of alternatives available for limiting the access of children where that is necessary for the prevention of harm to children. These, which can be adopted in combination, include:

- Limitations on the hours when children may be present;
- Limitations excluding the presence of children under certain ages when particular specified activities are taking place;
- Limitations on the parts of premises to which children might be given access;
- Age limitations (below 18);
- Requirements for accompanying adults (including, for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult); and
- Full exclusion of those people under 18 from the premises when any licensable activities are taking place.

16.11 Conditions requiring the admission of children to any premises cannot be attached to licences or certificates. Where no licensing restriction is necessary, this should remain a matter for the discretion of the individual licensee or club or person who has given a temporary event notice. Venue operators seeking premises licences and club premises certificates may also volunteer such prohibitions and restrictions in their operating schedules because their own risk assessments have determined that the presence of children is undesirable or inappropriate. Where no relevant representations are made to the Licensing Authority, these volunteered prohibitions and restrictions will become conditions attached to the licence or certificate and will be enforceable as such. No other conditions concerning the presence of children on premises may be imposed by the Licensing Authority in these circumstances.

16.12 A child is any person under the age of 18 years unless otherwise stated.

17.0 Responsible authority and children

17.1 The Licensing Authority has determined that the Directorate of Children, Families and Learning is the body that is competent to Act as the responsible authority in relation to the protection of children from harm.

18.0 Children and cinemas

18.1 In the case of premises giving film exhibitions, the Licensing Authority will expect licensees or clubs to include in their operating schedules arrangements for restricting children from viewing age-restricted films classified according to the recommendations of the British Board of Film Classification (“BBFC”) or the Licensing Authority itself using the BBFC film classification categories.

18.2 The Act also provides that it is mandatory for a condition to be included in all premises licences and club premises certificates authorising the exhibition of films for the admission of children to the exhibition of any film to be restricted in accordance with the recommendations given to films either by a body designated under section 4 of the Video Recordings Act 1984 – the BBFC is the only body which has been so designated – or by the Licensing Authority itself.

19.0 Integration of strategies

- 19.1 The Licensing Authority will secure the proper integration of its Statement of Licensing Policy with local crime prevention, planning, transport, tourism, race equality schemes and cultural strategies together with any other plans introduced for the management of town centres and the night-time economy. Whilst many of these strategies are not directly related to the promotion of the four licensing objectives, they indirectly impact upon them. The Licensing Authority recognises the importance of co-ordination and integration of such policies, strategies and initiatives.
- 19.2 The Licensing Authority recognises the connection between excessive alcohol consumption, poor health and cost to the Health Authority. As part of a wider package of initiatives the council is aiming to deal with the negative effects of alcohol consumption through its Alcohol Strategy.

20.0 Crime prevention

- 20.1 Conditions that are attached to premises licences and club premises certificates will, so far as possible, reflect local crime prevention strategies. For example, the provision of CCTV cameras in certain premises. Where appropriate, and in order to maximise the effectiveness of reducing crime, misuse of drugs and the fear of crime, the Licensing Authority shall work together with the Safer Portsmouth Partnership (SPP) to achieve these outcomes.

21.0 Cultural strategies

- 21.1 The Licensing Authority will have regard to the cultural strategy of Portsmouth City Council and will monitor the impact of licensing on the provision of regulated entertainment, in particular, live music and dancing. Part of the implementation of the council's cultural strategy is to take account of the need to encourage and promote a broad range of entertainment.

- 21.2 The Licensing Authority will ensure that only necessary, proportionate and reasonable licensing conditions will be imposed that restrict these events. Where there is any indication that events are being deterred by licensing requirements, the Licensing Authority may re-visit its policy with a view to investigating how the situation might be reversed.

22.0 Transport

- 22.1 In order to disperse people from the city centre swiftly and safely to avoid concentrations which produce disorder and disturbance, the Licensing Authority will liaise with the police and other statutory agencies responsible for transportation and associated matters and will provide reports to the Traffic and Transportation Executive to assist in the formulation and development of their policies. The Licensing Authority may also liaise with suppliers of public transport such as bus companies, taxi proprietors, private hire operators and their appropriate trade organisations.

23.0 Tourism and employment

- 23.1 The Licensing Committee shall receive, when appropriate, reports on the needs of the local tourist economy to ensure that these are taken into account in their considerations.
- 23.2 The Licensing Committee shall be kept apprised of the local employment situation and, where appropriate, the need for new investment and employment.

24.0 Planning and building control

- 24.1 Planning, building control and licensing regimes will be properly separated to avoid duplication and inefficiency.
- 24.2 Applications for premises licences for permanent commercial premises should normally be from businesses with planning consent for the property concerned. However, applications for licences may be made before any relevant planning permission has been sought or granted by the Planning Authority.

- 24.3 The planning and licensing regimes involve consideration of different (albeit related) matters. For instance, licensing considers public nuisance whereas planning considers amenity. As such licensing applications shall not be a re-run of the planning application and will not cut across decisions taken by the Planning Committee or following appeals against decisions taken by that committee. The Licensing Committee are not bound by decisions made by the Planning Committee, and vice versa.
- 24.4 The granting by the Licensing Committee of any variation of a licence which involves a material alteration to a building will not relieve the applicant of the need to apply for planning permission or building control where appropriate.
- 24.5 In circumstances when, as a condition of planning permission, a terminal hour has been set for the use of premises for commercial purposes and where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission will be liable to prosecution under planning law.
- 24.6 Officers from planning and licensing services will regularly share intelligence information and will provide evidence to the appropriate regulatory authority where it is considered that premises are operating in breach of either their planning permission or in contravention of conditions attached to authorisations.
- 24.7 Proper integration will be assured by the Licensing Committee and where appropriate may provide regular reports to the Planning Committee on the situation regarding licensed premises in the area, including the general impact of alcohol related crime and disorder. This would be to enable the Planning Committee and/or its officers to have regard to such matters when taking its decisions and avoid any unnecessary overlap.
- 24.8 In order to ensure the proper integration of strategies dealing with licensed premises, specifically those operating within the night-time economy or cumulative impact area, the Planning Authority will consult with the Licensing Authority in respect of all planning applications associated with A3, A4 and A5 uses in so far as they relate to any of the licensing objectives.
- 24.9 The Planning Authority may also make representations as a responsible authority as long as they relate to the licensing objectives. The Licensing Authority recognises that nuisance and crime and disorder are matters that share common ground within the planning and licensing regimes. However concerns relating to the character and function of an area and aspects of amenity that do not constitute a public nuisance are outside the scope of the licensing regime and will be dealt with separately by the Planning Authority. The Licensing Authority therefore recognises that a combination of licensing and planning powers together with effective management of the street environment is required to overcome these problems.

25.0 Promotion of racial equality

- 25.1 The Race Relations Act 1976, as amended by the Race Relations (Amendment) Act 2000, places a legal obligation on public authorities to have due regard to the need to eliminate unlawful discrimination; and to promote equality of opportunity and good relations between persons of different racial groups.



26.0 Live music, dancing and theatre

- 26.1 As part of implementing local authority cultural strategies, proper account will be taken of the need to encourage and promote a broad range of entertainment, particularly live music, dancing and theatre, including the performance of a wide range of traditional and historic plays, for the wider cultural benefit of communities. A natural concern to prevent disturbance in neighbourhoods will always be carefully balanced with these wider cultural benefits, particularly those for children.
- 26.2 In determining what conditions should be attached to licences and certificates as a matter of necessity for the promotion of the licensing objectives, the Licensing Authority is aware of the need to avoid measures which deter live music, dancing and theatre by imposing indirect costs of a disproportionate nature.
- 26.3 To ensure that cultural diversity thrives, Portsmouth City Council has obtained premises licences for numerous public spaces within the Portsmouth area so that performers and entertainers have no need to obtain a premises licence or give a temporary event notice for types of regulated entertainment. However, permission will still be required from the local authority for entertainment that is proposed to be provided in these areas.
- 26.4 DCMS has established a Register of Local Authority Licensed Public Spaces in England and Wales. This is to help event organisers and touring entertainment providers determine whether their event could take place in a particular local authority area without the need for a separate authorisation. It also directs them to the appropriate person to find out more information and to obtain permission to use the space. The register and further details are available on the DCMS website www.culture.gov.uk.
- 26.5 The Violent Crime Reduction Act 2006 amends the Criminal Justice and Police Act 2001 to clarify when and where a Designated Public Places Order (DPPO) would apply. The effect of the amendment is that where a local authority occupies or manages premises, or where premises are managed on its behalf, and it licences that place for alcohol sales, the DPPO will not apply when the licence is being used for alcohol sales (or 30 minutes after), but the place will be subject to the DPPO at all other times. This allows local authorities to promote community events whilst still using DPPOs to tackle the problems of anti-social drinking.
- 26.6 When one part of a local authority seeks a premises licence of this kind from the Licensing Authority, the Licensing Committee and its officers will consider the matter from an entirely neutral standpoint. If relevant representations are made, for example, by local residents or the Police, they will be considered fairly by the Committee. Anyone making a representation who is genuinely aggrieved by a positive decision in favour of a local authority application by the licensing authority would be entitled to appeal to the Magistrates' Court and thereby receive an independent review of any decision.

27.0 The licensing process and applications

- 27.1 The Licensing Authority will expect applicants for licences to show in their operating schedule what steps they will take to promote the licensing objectives having regard to the type of premises, the licensable activities to be provided, the operational procedures, the nature of the location and needs of the local community.
- 27.2 Applicants are strongly advised to make themselves aware of any relevant planning and transportation policies, local crime prevention strategies, tourism and cultural strategies and take these factors into consideration, where appropriate, when formulating their operating schedule.

Temporary event notices

- 27.3 Organisers of large events (in particular major festivals and carnivals) or temporary events are strongly advised to contact the Licensing Authority and responsible authorities at the earliest opportunity to discuss licensing matters and to provide as much advance notice as is reasonably practical. Whilst the Act dictates that any Temporary Event Notice (TEN) must be given to the Licensing Authority no later than 10 working days before the day on which the event period begins, in some cases this time period would not allow enough time for the premises user to liaise with the relevant authorities (ie, Police, Fire, Public Protection) to ensure that the event passes off safely and with minimum disturbance to local residents. In such cases it is recommended that premises users should give at least 20 working days notice of such events.
- 27.4 Whilst the Licensing Authority recognises that it cannot attach any terms, limitations or restrictions on the carrying on of licensable activities at such events provided under the authority of a TEN and that only the police can serve a counter notice in those circumstances where they are satisfied that the crime prevention objective would be undermined, it will notify the Head of Public Protection of every TEN received, and also other responsible authorities where merited, for information purposes only. This is because the Public Protection Service may have concerns regarding the event which they may seek to address through other mechanisms.

The responsible authorities may also wish to offer, where appropriate, advice regarding matters which will include proper regard for the concerns of local residents, other legislative requirements regarding health and safety, noise pollution, erection of temporary structures, other permissions such as road closures or use of pyrotechnics in public places, having regard to local byelaws and the need to prevent anti-social behaviour by those attending such events.

Prevention of crime and disorder

- 27.5 Licensed premises, especially those offering late night/early morning entertainment, alcohol and refreshment for large numbers of people, can be a source of crime and disorder problems. The Licensing Authority recognises the concerns of the police in respect of extended hours and licence holders need to consider the increased responsibility and accountability that is required in order to promote the licensing objectives. The Licensing Authority will expect operating schedules to satisfactorily address these issues when considering the design of the premises and throughout the daily operation of the business.
- 27.6 The Licensing Authority may, after receiving relevant representations, give consideration to attaching conditions to licences to prevent crime and disorder from occurring both inside and immediately outside the premises, and these may include conditions drawn from the model pool of conditions relating to crime and disorder contained within the DCMS Guidance together with the consideration of other options such as a period of calming music, supply of food and non-alcoholic drinks.
- 27.7 Whenever any persons are employed at licensed premises to carry out any security activity, they must be licensed by the Security Industry Authority (SIA). The Licensing Authority may consider that certain premises require strict supervision for the purpose of promoting one or more of the licensing objectives. In such cases, if not volunteered by the applicant in their operating schedule and following relevant representations, the Licensing Authority may impose a condition that SIA licensed door supervisors must be employed at the premises either at all times or at such times as certain licensable activities are being carried out.
- 27.8 The Licensing Authority recognises that there is no obligation under the Act requiring the holder of a premises licence or club premises certificate to remain open for the entire period permitted by his licence or certificate. However, when considering the times during which it is proposed that the relevant licensable activities are to take place, it would be helpful in terms of assisting in the management of the evening and late night economy if applicants limited such

applications to the actual hours within which they have a reasonable expectation of operating.

- 27.9 Large capacity “vertical drinking” premises sometimes referred to as High Volume Vertical Drinking establishments (HVVDs) are premises with exceptionally high occupant capacities, used primarily or exclusively for the sale and consumption of alcohol, and have little or no provision of seating for patrons. Where it is considered necessary and appropriate to do so and following representations concerning the promotion of prevention of crime and disorder at such premises (if not volunteered by the venue operator), the Licensing Authority may attach conditions to premises licences which require compliance with:
- A prescribed capacity;
 - An appropriate ration of tables and chairs to customers based upon the capacity; and
 - The presence of SIA licensed security teams to control entry for the purpose of compliance with the capacity limit and to refuse entry to those individuals who appear drunk or disorderly or both.

Public safety

- 27.10 The Act encompasses a wide range of premises that require licensing, which includes public houses, nightclubs, cinemas, concert halls, theatres, cafes/restaurants and fast food outlets/ takeaways. Each of these types of premises presents a range of risks, with many common to most premises and others unique to specific operations. It is therefore essential that premises are constructed or adapted and operated so as to recognise and safeguard occupants against such risks.
- 27.11 It is essential that operating schedules satisfactorily address these issues and the Licensing Authority will expect the operating schedule to identify how the premises will be properly managed and maintained to ensure public safety at all times.

Prevention of public nuisance General

- 27.12 The Act requires the Licensing Authority (following receipt of relevant representations)

and responsible authorities, through representations, to make judgements about what constitutes public nuisance and what is necessary to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, the Licensing Authority and responsible authorities focus on impacts of the licensable activities at the specific premises on persons living and working (including doing business) in the vicinity that are disproportionate and unreasonable. The Licensing Authority regards the control of noise, light, odour and litter as an essential aspect of good neighbourliness, contributing to the sustainability of residential and commercial communities.

- 27.14 Public nuisance can arise from a number of sources which includes, but is not limited to:
- Noise from music, singing and speech originating from inside a building.
 - Noise from music, singing and speech originating from outside a building.
 - Activity within gardens and play areas
 - Rowdy behaviour
 - Use of car parks and access roads
 - Delivery/collection/storage activities
 - Staff activity
 - Cleaning/wash-up activities
 - Plant and machinery
 - Licensed premises, especially those operating late at night and in the early hours of the morning, can give rise to a range of nuisances impacting on people living, working or sleeping in the vicinity of the premises.
- 27.15 Historically, the primary cause of public nuisance from licensed venues has been regulated entertainment and the impact of loud music upon nearby residents. Whilst there is still the same level of nuisance occurring, improved liaison and cohesion between responsible authorities and strong enforcement of nuisance legislation, has to some extent, helped to address issues at an earlier stage. However other sources of nuisance have now replaced music as the principal source of complaint.

Smoking ban – associated noise issues

27.16 As mentioned in paragraph 4.6 of this document, licensing law is not the primary mechanism for the general control of individuals once they are away from a licensed premises and therefore beyond the direct control of individual licensees or certificate holders. This Statement of Licensing Policy builds on the previous statement to reflect the experience of the council in the three years since the ban on smoking in premises was introduced.

27.17 Since its introduction there has been an increase in the number of premises which have amended their operating practices to secure a facility for patrons to be able to smoke (other than inside the premises). Our experience suggests that whilst there is little non-compliance regarding smoke free premises there has been a displacement effect which has led to an increase in complaints regarding nuisance from outside areas. Officers are seeking to support licensees, residents and patrons equally whilst not adversely affecting the licensees' trading position or residents' enjoyment of their properties. In some cases this has prompted licensees to seek to vary licences, or apply for planning consent, to accommodate approved smoking shelters in beer gardens and other outside areas. It is preferable to contain the activities of patrons within the curtilage of the licensed premises by attaching conditions to the licence, where necessary.

There are however premises which do not have outside areas and patrons have to smoke outside on the highway which may give rise to public nuisance. Applicants should consider what steps they can take in order to promote the licensing objectives. Licensees are responsible for behaviour of patrons in the vicinity of their premises and failure to promote the licensing objectives could lead to a review of the licence or certificate.

27.18 Eating and drinking outdoors is increasingly popular, and together with the smoking ban, has increased the number of people outside premises. The noise of people socialising outdoors can cause public nuisance, even if they are not badly behaved. In addition, the blocking of footways, and more occasionally roadways,

by people either standing about drinking and smoking or using tables and chairs has the potential to give rise to public nuisance.

Regulated entertainment

27.19 The Licensing Authority is concerned that licensed premises where musical or other amplified entertainment is provided may give rise to significant levels of noise nuisance particularly when they are structurally attached to noise sensitive premises such as residential premises. The control of structure borne noise transmission can be hard to predict and difficult to control.

27.20 Where an application is made in relation to premises where residential or other noise sensitive premises are structurally attached, the Licensing Authority will expect the applicant to demonstrate that all reasonable steps have been taken to ensure that adequate protection against noise nuisance can be achieved. Financial prudence indicates that the potential of noise or other nuisance should be considered at an early stage so that applicants reduce to a minimum the likelihood of failed applications or costly remedial measures in the event of justifiable complaint. Applicants are therefore advised to consult the Good Practice Guide on the Control of Noise from Pubs and Clubs (March 2003) published by the Institute of Acoustics and available at www.ioa.org.uk which contains useful advice for applicants and local authorities. The British Beer and Pub Association (BBPA) have also produced guidance which is available from their website at www.beerandpub.com.

Odour nuisance

27.21 Public odour nuisance can be caused by a variety of activities associated with licensed premises. This includes:

- Inadequate storage of food waste
- Cooking activities
- Cooking extract systems

Prevention of nuisance – operating schedule

- 27.22 The applicant's operating plan should identify and assess the potential risks of public nuisance arising from each part of the intended activity and set out the measures that they intend to take to minimize the risk to an acceptable level. These measures may include:
- Restricting the type of musical entertainment provided
 - Layout of the premises or site (e.g. exit locations)
 - Design of the building or site (e.g. sound insulation measures)
 - Design of plant or equipment
 - Provision of devices limiting noise levels
 - Provisions to monitor noise
 - Operational measures
 - Management measures
 - Measures to prevent the transmission of sound (e.g. acoustic barriers)
 - Staff training
 - Operational times / Scheduling of activities
- 27.23 The complexity and detail of this part of the operating schedule will depend upon the significance of any risk of public nuisance being caused. Where there is a high risk of public nuisance and to prevent the possibility of representations being submitted by responsible authorities or interested parties, it is recommended that applicants should give careful consideration to the provision of a technical acoustic report as part of the operating schedule. In particular, where applications are submitted to operate licensed premises between hours that include any part of the hours between 11pm and 8am applicants will be expected to demonstrate that operating during these hours will not have an adverse effect on the licensing objectives and set out the steps which they propose to take to secure these objectives.
- 27.24 The Licensing Authority will, if not volunteered by the applicant in their operating schedule and following relevant representations, consider attaching conditions to licences and permissions to prevent public nuisance, which include:
- Keeping doors and windows at the premises closed, or to use noise limiters on amplification equipment used at the premises;
 - Displaying prominent, clear and legible notices to be displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly;
 - Placing restrictions on the use of beer gardens and other external areas particularly at night;
 - Taking steps to reduce the impact of smokers and non smokers congregating outside the premises; this may include preventing alcohol from being consumed on the highway, reducing the level of amenities and the use of curfews for external areas, and providing additional staff to control such activities;
 - Providing guidance on the use of explosives, pyrotechnics and fireworks of a similar nature which could cause disturbance in surrounding areas;
 - Ensuring that the placing of refuse – such as glass bottles – into receptacles outside the premises takes place at times that will minimise disturbance to nearby properties;
 - Venting premises to ensure that noxious smells from licensed premises are not permitted to cause a nuisance to nearby properties;
 - Ensuring that flashing or particularly bright lights on or outside licensed premises do not cause a nuisance to nearby properties. Consideration of the imposition of such a condition will be appropriately balanced against the benefits of the prevention of crime and disorder.

Prevention of nuisance – open spaces

27.25 The use of our open spaces, notably Southsea Common, Castle Field and the Bandstand for regulated entertainment has the potential to adversely affect local residents. In striking a balance between the promotion of cultural and commercial activity in public open spaces and the impact that such events have on residents over a wide area the council will take into account the effect over a period of time of events which have already taken place or are planned upon these areas. The role of the council as Licensing Authority is to maintain an appropriate balance between the legitimate aspirations of those providing entertainment on these areas with the needs of residents and other users of the city. When considering applications for events in these areas and following representations being made, the council will satisfy itself that adequate measures to prevent public nuisance are in place and will be maintained.

Protection of children from harm

27.26 Having regard to the Statutory Guidance issued in accordance with section 182 of the act, there is an expectation that applicants will have regard to this policy when making applications and equally that they should be aware of the expectations of the Licensing Authority and the responsible authorities about the steps that are necessary for the promotion of the licensing objectives.

27.27 The Trading Standards Service consider that an applicant's operating plan should be precise and clear about the measures proposed to be taken in relation to the protection of children from harm, particularly the prevention of under-age and proxy sales. Consideration should be given to the following matters:

- Provision of sufficient training for frontline staff;
- Adequate supervision of the premises, particularly late at night or in the early hours of the morning;
- Layout of the premises or site;
- An appropriate age identification policy.

27.28 The Licensing Authority will expect applicants for licences to demonstrate that they have ensured that all their frontline staff have received or will receive adequate training on the law with regard to age restricted sales and that this has been properly documented and training records kept. It is also expected that licence holders will ensure that all frontline staff receive refresher training on an ongoing basis and, in addition, where there is an identified need to do so.

27.29 The Licensing Authority will expect applicants and premises licence holders to take reasonable steps as may be necessary to prevent underage drinking and proxy sales of alcohol to children both within the licensed premises itself and in the vicinity, where and to the extent that these matters are within their control.

27.30 Further advice and guidance on preparing operating plans, examples of best practice, including age verification policies and availability of accredited training for licence holders and front line staff is available on the council's website at www.portsmouth.gov.uk (trading standards).

28.0 Licence review process

28.1 The proceedings set out in the Act for reviewing premises licences represent a key protection for the community where problems associated with the licensing objectives are occurring after the grant or variation of a premises licence.

28.2 At any stage, following the grant of a premises licence, a responsible authority or an interested party may ask the Licensing Authority to review the licence because of a matter arising at the premises in connection with any of the four licensing objectives.

28.3 In addition, a review of the licence will normally follow any action by the Chief Officer of Police to close down the premises for up to 24 hours on the grounds of disorder or noise nuisance as a result of a notice of the Magistrates' Court's determination sent to the Licensing Authority.

- 28.4 Licensing officers may not initiate their own reviews of premises licences, but elected members of the Licensing Authority may request reviews if they are concerned about licensed activities at a premises or such matters are brought to their attention. Officers of the local authority who are specified as responsible authorities under the act, such as environmental health officers, may also request reviews on any matter which relates to the promotion of one or more of the licensing objectives.
- 28.5 Representations made by a department of the local authority which is a responsible authority will be treated by the Licensing Authority in precisely the same way that they would treat representations made by any other body or individual.
- 28.6 In every case, the representation must relate to particular premises for which a premises licence is in existence and must be relevant to the promotion of the licensing objectives. After a licence or certificate has been granted or varied, a complaint relating to a general (crime and disorder) situation in a town centre should generally not be regarded as a relevant representation unless it can be positively tied or linked by a causal connection to particular premises, which would allow for a proper review of the licence or certificate. For instance, a geographic cluster of complaints, including along transport routes related to an individual public house and its closing time could give grounds for a review of an existing licence as well as direct incidents of crime and disorder around a particular public house.
- 28.7 Representations must be in writing and may be amplified at the subsequent hearing or may stand in their own right. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing.
- 28.8 It is important to recognise that the promotion of the licensing objectives relies heavily on a partnership between licence holders, authorised persons, interested parties and responsible authorities in pursuit of common aims. It is therefore equally important that reviews are not used to drive a wedge between these groups in a way that would undermine the benefits of co-operation. The Licensing Authority recognises that it is good practice for authorised persons and responsible authorities to give licence holders early warning of their concerns about problems identified at the premises concerned and of the need for improvement. A failure to respond to such warnings is expected to lead to a decision to request a review.
- 28.9 Where the request originates with an interested party (e.g. a local resident, residents' association, local business or trade association) the Licensing Authority must first consider whether the complaint made is relevant, vexatious, frivolous or repetitious.
- 28.10 When a Licensing Authority receives a request for a review from a responsible authority or an interested party or in accordance with the closure procedures, it must arrange a hearing. The arrangements for hearings must follow the provisions set out within statutory regulations. It is very important that the premises licence holder is fully aware of the representations made in respect of the premises, any evidence supporting the representations and that they or their legal advisor have therefore been able to prepare a response.
- 28.11 The Act provides a range of powers for the Licensing Authority on determining a review that it may exercise where it considers them necessary for the promotion of the licensing objectives.
- 28.12 There may be occasions where the Licensing Authority may decide that no action is necessary if it finds that the review does not require it to take any steps necessary to promote the licensing objectives. Equally, there is nothing to prevent a Licensing Authority from issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time.

28.13 Where the Licensing Authority considers that action under its statutory powers is necessary, it may take any of the following steps:

- To modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
- To exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption);
- To remove the designated premises supervisor, for example, because it considers that the problems are the result of poor management;
- To suspend the licence for a period not exceeding three months;
- To revoke the licence.

28.14 In deciding which of these powers to invoke, the Licensing Authority will so far as possible seek to establish the cause or causes of the concerns which the representations identify. The remedial action taken will generally be directed at these causes and will always be no more than a necessary and proportionate response.

29.0 Administration, exercise and delegation of functions

29.1 The Act provides that the functions of the Licensing Authority (including its decisions) are to be undertaken by its Licensing Committee (except those relating to the making of a statement of licensing policy or where another of its committees has the matter referred to it). The Licensing Committee may delegate these functions to sub-committees or in appropriate cases, to officers. As many of the decisions and functions will be purely administrative in nature and in the interests of speed, efficiency and cost effectiveness, the Licensing Authority shall undertake a process of delegation of its functions. The delegation of functions is set in the table at 29.3 opposite.

29.2 The Licensing Committee shall receive regular reports on decisions made by officers in order that they maintain an overview of the general situation.



29.3 Delegation of Functions

Matter to be dealt with	Full Committee	Sub-Committee	Officers
Application for a personal licence		If a police objection	If no objection made
Application for personal licence with unspent convictions (upon receipt of an objection notice from Police)		All cases	
Application for premises licence or club premises certificate		If a relevant representation made	If no relevant representation made
Application for a provisional statement		If a relevant representation made	If no relevant representation made
Application to vary premises licence or club premises certificate		If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor		If a police objection	All other cases
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If a police objection	All other cases
Application for interim authority		If a police objection	All other cases
Application to review premises licence or club premises certificate		All cases	
Consideration of interim steps and application for summary review of a premises licence		All cases	
Decision on whether a complaint is irrelevant, frivolous, vexatious etc.			All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application.		All cases	
Determination of a police objection to a temporary event notice		All cases	
Application for a minor variation of a premises licence or club premises certificate			All cases
Removal of the requirement for a Designated Premises Supervisor (DPS) and Personal Licence at Community Premises		If a police objection	All other cases

30.0 Contact details/advice and guidance

- 30.1 Applicants can obtain further details about the licensing and application process, including application forms, fees and details regarding each type of application from:

The Licensing Service
Portsmouth City Council
Legal, Licensing & Registrars
Civic Offices

Guildhall Square
Portsmouth PO1 2AL

Tel: 023 9283 4607 Fax: 023 9283 4811

Email: licensing@portsmouthcc.gov.uk
Web: www.portsmouth.gov.uk/living

- 30.2 Applicants may also submit electronic applications and payments online via Businesslink at www.businesslink.gov.uk or via the council's website at www.portsmouth.gov.uk/living

- 30.3 Contact details for all the responsible authorities are provided below:

Head of Planning Services

Portsmouth City Council
Civic Offices
Guildhall Square
Portsmouth PO1 2AU

Tel: 023 9283 4334

Fax: 023 9283 4660

Email: planning@portsmouthcc.gov.uk

Public Protection Service

Environmental Protection Division

Portsmouth City Council
Civic Offices
Guildhall Square
Portsmouth PO1 2AZ

Tel: 023 9268 8366

Email: publicprotection@portsmouthcc.gov.uk

Public Protection Service

Commercial Division

Portsmouth City Council
Civic Offices
Guildhall Square
Portsmouth PO1 2AZ

Tel: 023 9268 8362

Email: publicprotection@portsmouthcc.gov.uk

Public Protection Service

Trading Standards Division

Portsmouth City Council
Civic Offices
Guildhall Square
Portsmouth PO1 2AZ

Tel: 023 9283 4689

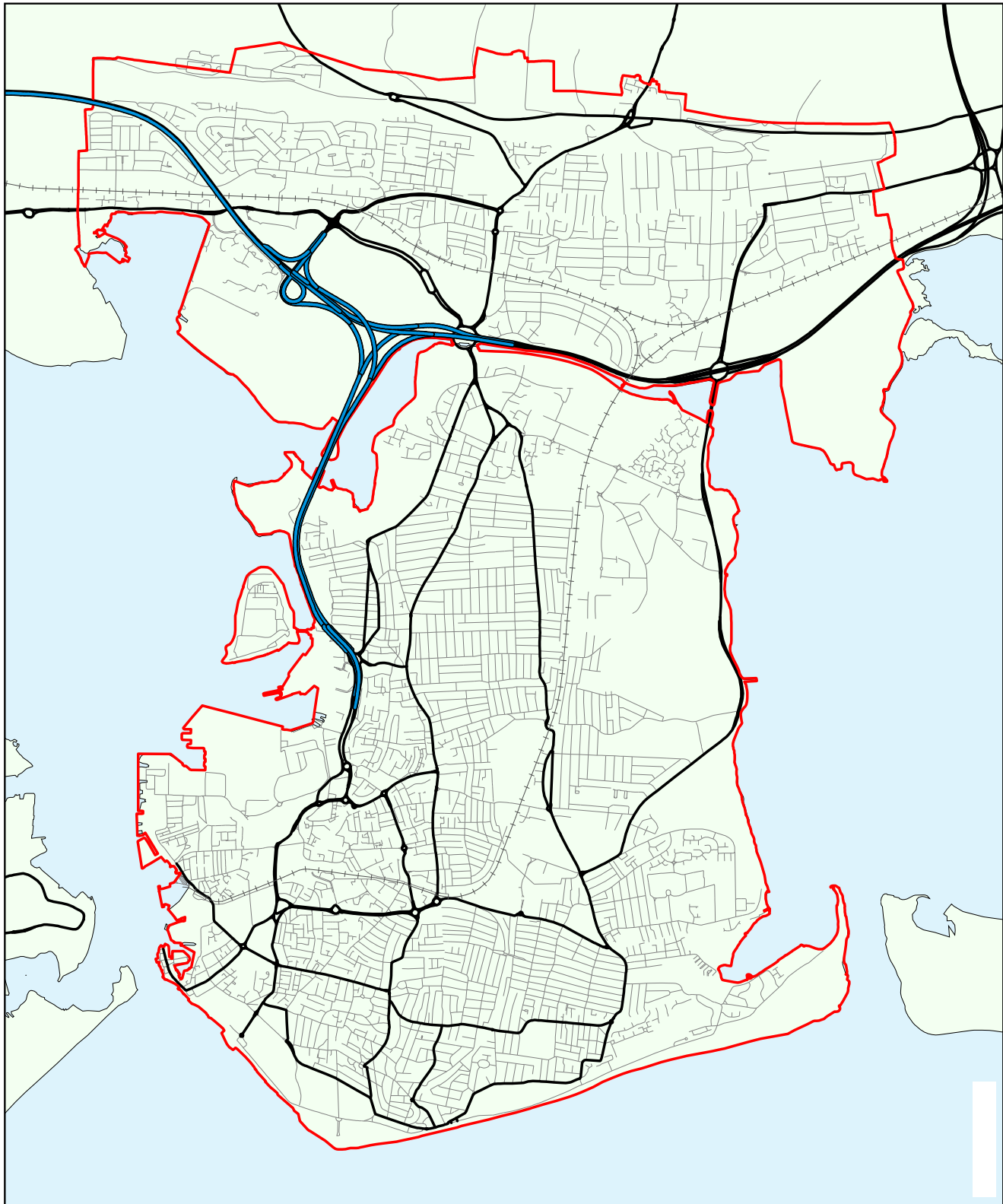
Email: trading.standards@portsmouthcc.gov.uk

<p>The Chief Officer of Police Hampshire Constabulary Licensing Unit Southsea Police Station 259 Highland Road Eastney Portsmouth PO4 9EX Tel: 0845 045 4545 Direct Dial: 023 9289 9080 Fax: 023 9289 3285 Email: portsmouth.licensing@hampshire.pnn.police.uk</p>	<p>The Chief Fire Officer Hampshire Fire and Rescue Service Service Delivery (Community Safety Delivery), Protection Department Southsea Fire Station Somers Road Southsea PO5 4LU Tel: 023 9285 5180 Fax: 023 9288 5175 Email: csprotection.admin@hantsfire.gov.uk</p>
<p>Director of Children, Families & Learning Portsmouth City Council Civic Offices Guildhall Square Portsmouth PO1 2EP Tel: 023 9282 2251</p>	<p>Where relevant: (Copies of applications should, in most cases, only be served on the Health and Safety Executive in respect of premises operated by crown bodies (including the military), local authorities, the police, hospitals, schools and universities.)</p> <p>Health and Safety Executive Priestley House Priestley Road Basingstoke Hants RG24 9NW Tel: 01256 404000 Fax: 01256 404100 Email: eselicensing@hse.gsi.gov.uk</p>

In respect of vessels only:

<p>Navigation Authority: Queen's Harbour Master Semaphore Tower PP70 HMS Nelson HM Naval Base Portsmouth PO1 3LT Tel: 023 9272 3124 www.qhmpoportsmouth.com</p>	<p>Environment Agency Hampshire and IOW Area Office Wessex Business Park Wessex Way Colden Common Winchester Hants SO21 1WP Tel: National Call Centre 08708 506 506 (Mon – Fri 8am-6pm)</p>	<p>Maritime and Coastguard Agency Spring Place 105 Commercial Road Southampton Hants SO15 1EG Tel: 0870 6006505 Email: www.infoline@mcga.gov.uk</p>
---	--	--

Appendix A – Map of Portsmouth area



Portsmouth
CITY COUNCIL

Prepared for: **LICENSING OFFICE**
Prepared by: Geographic Information Service

Title: **PORTSMOUTH CITY COUNCIL
ADMINISTRATIVE AREA**

Drg No:

Scale: 1:54000

Date: 18/12/2009

N

Based or reproduced from Ordnance Survey 1:1250 Base Map with the permission of HMSO © Crown copyright reserved.
Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Licence No. 100019671

Appendix B – Supporting information and map of Special Policy Area relating to cumulative impact in Portsmouth

Special Policy Area – Portsmouth City Centre Area

Introduction

The aim of this report is to provide an updated report³ regarding the extent and nature of Violent Crime offences recorded within the Night Time Economy (NTE) centred on the Guildhall Walk area. The purpose is to identify evidence in support of a Special Policy Area.

A Special Policy Area (SPA), by identifying the levels and locations of crime and disorder caused by customers of licensed premises, can provide grounds for rebuttal for applications for new licenses or variations to existing licenses, unless the applicant can demonstrate that there will be no negative impact on one or more licensing objectives.

Methodology

Violent Crime data has been extracted from the Record Management System (RMS) using Business Objects (BO) for a six month period between 1 January and 30 June 2010.

Geographical Spread

The main Night Time Economy (NTE) area for Portsmouth is centred on the Guildhall Walk area of the city centre. This area (as shown in the following map) incorporates 12 roads, these being:

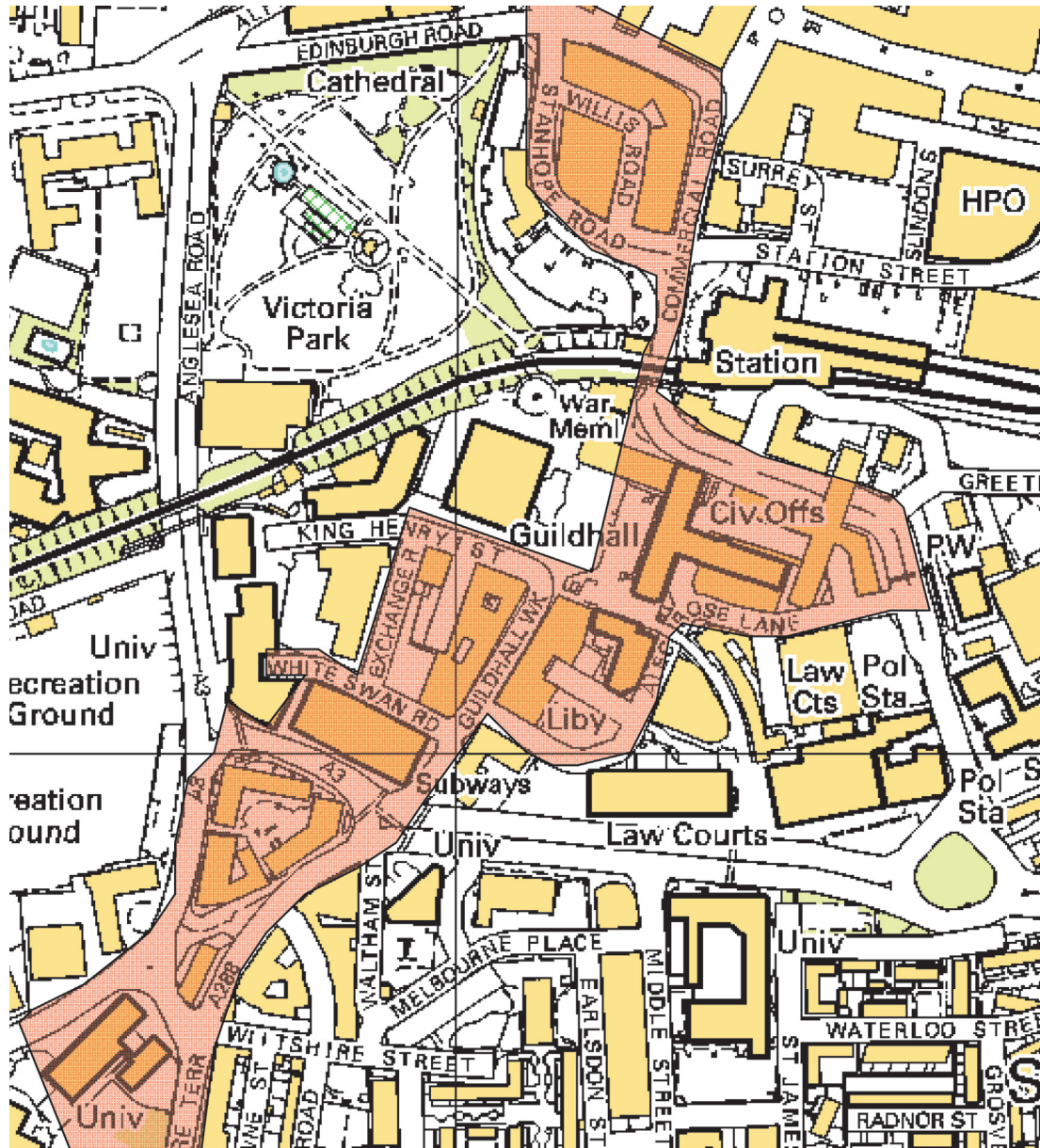
- 1) Alec Rose Lane
- 2) Cambridge Rd
- 3) Commercial Rd
- 4) Guildhall Square
- 5) Guildhall Walk
- 6) Hampshire Terrace
- 7) King Henry 1st St
- 8) Stanhope Rd
- 9) St Michaels Rd
- 10) White Swan Rd
- 11) Willis Rd
- 12) Wiltshire St

³ This report has been requested by the Licensing Department to update a previously commissioned report produced by Senior Analyst 10203 Paul Moorman in 2007.

A total of 20 licensed premises⁴ are located within these roads, with several others being situated on the

periphery. Licensed premises within the SPA can accommodate in excess of 10,000 patrons.

Figure 1.0 – Map of Special Policy Area



Following beat boundary changes, the SPA now sits within PC04 (city centre)⁵. This is a strictly commercial area incorporating businesses operating within the separate Day Time and Night Time economies.

The NTE attracts a number of local residents including university students and naval personnel, as well as a number of visitors from outside of Portsmouth.

⁴ These licensed premises include: Club 8, Terrace Bar, Fleet/Babylon, Fuzzy Duck/Heaven Sent, Isambard Kingdom Brunel, Portsmouth Guildhall, Kraken Wakes, Roast Bar, Route 66, V Bar, Walkabout, White Swan, Yates Wine Lodge, Drift in the City, Liquid & Envy, Martha's, Hampshire Boulevard, Student Union, The Trafalgar, Scandals

⁵ At the time of writing this report in 2007, this beat boundary had not been created and so the SPA transcended across beat boundaries of PC01 (Charles Dickens East) and PC03 (St Thomas)

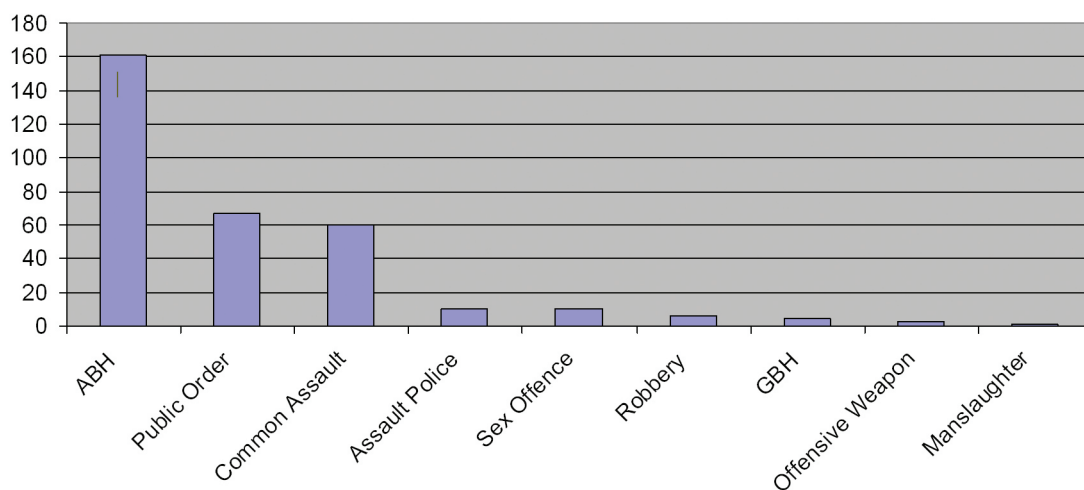
Offence summary

Violent Crime consists of 3 sub-categories; violence against the person (VAP) offences, sexual offences and robbery offences. Each of the sub-categories is comprised of a number of separate Home Office classifications.

A total of 322 violent crime offences have been recorded in this area during the specified period. This accounts for 70.8% of the total number of offences to have occurred within PC04 during this period.

The number of offences contributing to each category is shown in the following chart:

Figure 1.1 – Violent crime in SPA by type



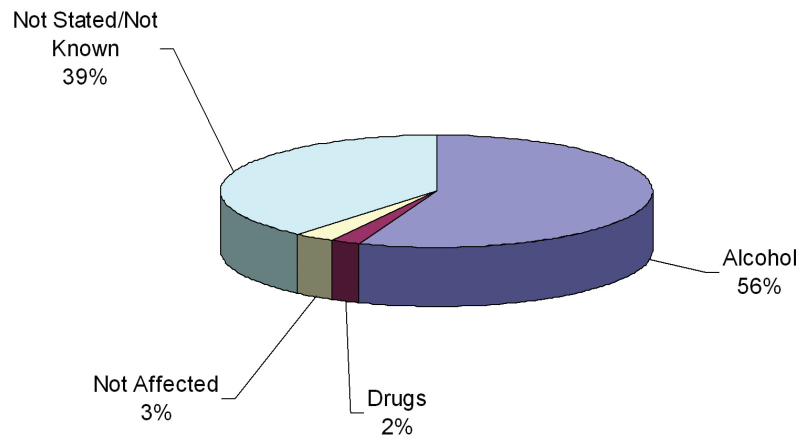
The above chart identifies that by far, ABH is the highest violent crime type to be recorded in the SPA, accounting for 50% (n.161) of the total recorded for this area. This is followed by reports of public order offence and incidents of common assault accounting for 20.8% (n.67) and 18.6% (n.60) respectively.

Whilst there are far fewer incidents of serious violence (GBH section 20 and above), sex offences and reports

of robbery recorded in the SPA, these are obviously regarded as being at the more serious end of the offence spectrum, combining a greater impact on the victim, coupled with more resource intensive police investigations.

The number of offences recorded where the offender has been affected by alcohol has been researched to help identify a connection to the NTE.

Figure 1.2 – Alcohol affected offenders



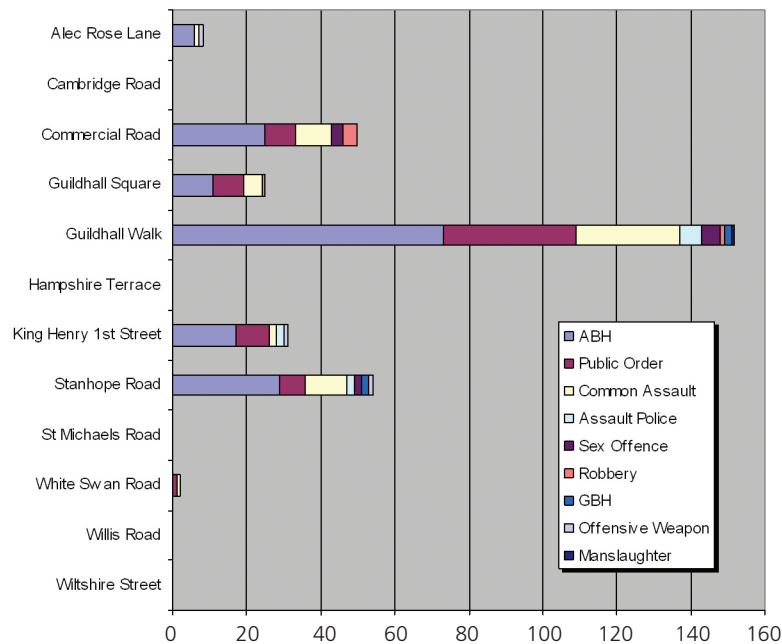
The above chart identifies that over half of offenders where known to have been affected by alcohol.

The number of offenders recorded as not being affected by alcohol is extremely low.

Offence distribution

The below table identifies the type of offences recorded for each road:

Figure 1.3 – Offence types by location



The above chart identifies the top 5 violent crime locations for the SPA are:

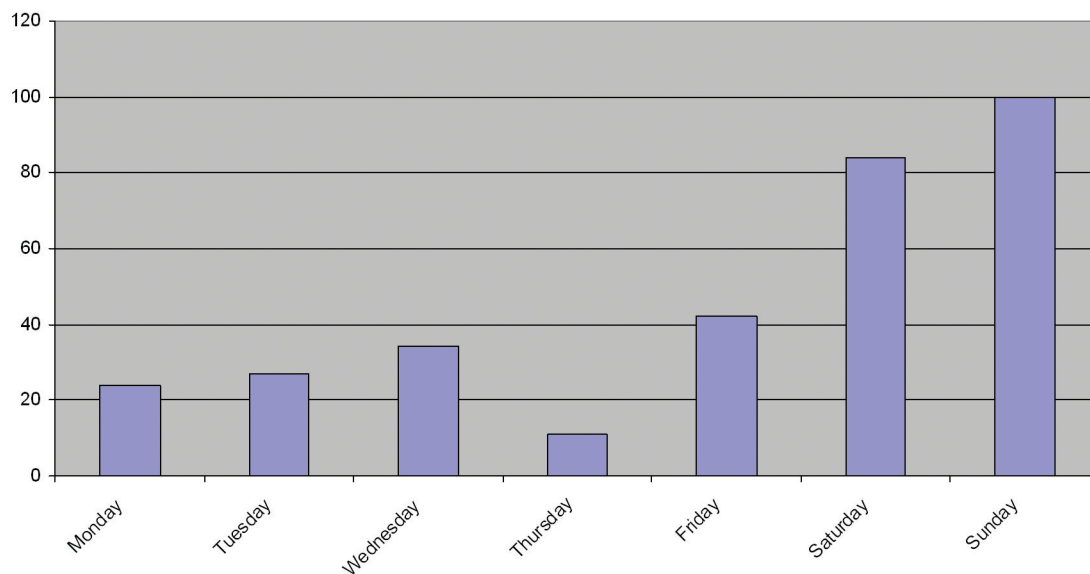
- Guildhall Walk (47.2%, n.152)
- Stanhope Road (16.8%, n.54)
- Commercial Road (15.5%, n.50)
- King Henry 1st Street (9.6%, n.31)
- Guildhall Square (7.8%, n.25)

These 5 roads account for 96.9% (n.312) of offences in the SPA area. Guildhall Walk accounts for almost half of all violent crime recorded in the SPA. This may correlate to the high concentration of licensed premises along this particular road, resulting in a higher concentration of recorded offences.

Temporal analysis

Temporal analysis was undertaken to identify the peak times and days for offences to occur in the SPA, to identify any relation between peak offence times and core licensing hours.

Figure 1.4 – Peak day analysis

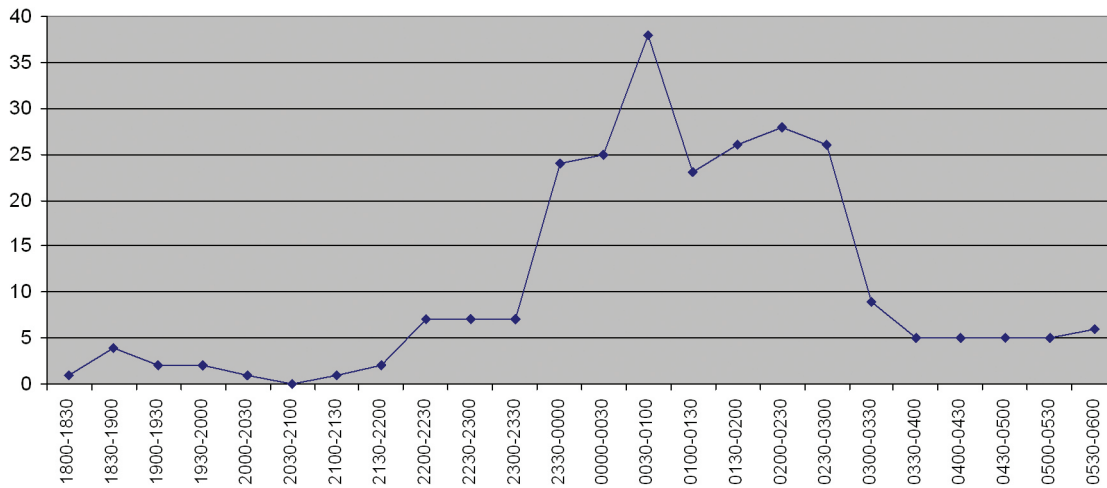


The above chart identifies that offences peak significantly over the weekend with Saturday and Sunday accounting for 26.1% (n.84) and 31.1% (n.100). It is thought such peaks in offending on Sunday relates to offences occurring into the early hours following a night out on the Saturday evening.

An slight increase in offences is noticeable on a Friday in comparison to other weekdays. Peak time analysis identifies that offences will be carried over from Friday night to the early hours of Saturday morning, augmenting that days total.

Ordinarily, the days associated with the bulk of activity in a NTE would be Friday and Saturday, as this is the end of the working week and at a time when many people receive their wages. Other peaks may become apparent on themed nights, such as student night, where free entry to clubs or discounted drinks prices, are used as an incentive to draw customers

Figure 1.5 – Peak time analysis



Peak time analysis was conducted for a 12 hour period from early evening through to the morning. This incorporated 259 offences, (just over 80%). The above chart identifies that offences peak significantly between 2330-0300hrs within the SPA, with 59%

(n.190) of all reported incidents occurring within this 3 and a half hour window. These times may correlate with a peak in movement within the SPA as people begin to make their way home and the NTE draws to a close.

Conclusion

The SPA incorporates the main NTE area in Portsmouth, situated in the busy city centre. The large number of licensed premises within the SPA can accommodate in the region of 10,000 persons a night. This is augmented by a number of licensed premises being situated on the periphery of the area. There will undoubtedly be a high level of movement throughout this area of persons affected by alcohol.

During the last strategic period, PC04, which incorporates the SPA, recorded the highest level of violent crime offences in Portsmouth⁶. This is believed to be as a direct result of the presence of the NTE. The analysis within this document further supports these findings.



Legal, Licensing & Registrars
Portsmouth City Council
Civic Offices
Guildhall Square
Portsmouth
PO1 2AL

Tel: 023 9283 4604 Fax: 023 9283 4811
Email: Licensing@portsmouthcc.gov.uk

www.portsmouth.gov.uk

You can get this Portsmouth City Council information in large print, Braille, audio or in another language by calling 9283 4604.



Corporate member of
Plain English Campaign
Committed to clearer communication.

264



Update to the supporting information for the Special Policy Area relating to cumulative impact in Portsmouth

2013/14

Background

The aim of this report is to provide updated information about the extent and nature of violent crime in the Special Policy Area (SPA) which is centred around the Guildhall area.

An SPA can provide grounds for rebuttal for applications for new licenses or variations to existing licenses unless the applicant can demonstrate that there will be no negative impact on one or more of the licensing objectives.¹

The SPA is a very specific area relating to the following roads: Alec Rose Lane, Cambridge Road, Commercial Road, Guildhall Square, Guildhall Walk, Hampshire Terrace, King Henry 1st Street, Stanhope Road, St Michaels Rd, White Swan Road, Willis Road, Wiltshire Street. Although this is similar to the Evening and Late Night Economy Partnership (ELNEP) areas of Guildhall and Commercial Road there are differences in the roads included and the time parameters and so the exact numbers of offences in the SPA will differ.

There are currently 15 licensed premises in the SPA: Astoria, Brew House, Club 8, Fleet/Pop World, Fuzzy Duck/Heaven Sent, Hampshire Boulevard, Isambard Kingdom Brunel, Liquid and Envy, Lyberry Bar, Portsmouth Guildhall, Scandals, Sky Bar, The Student Union, The Trafalgar and Yates Wine Lodge.

Violence in Portsmouth

Violent crime consists largely of assaults but also includes most serious violence, harassment, public order, robbery and sexual offences and accounts for 29% of the total crime in Portsmouth in 2013/14.

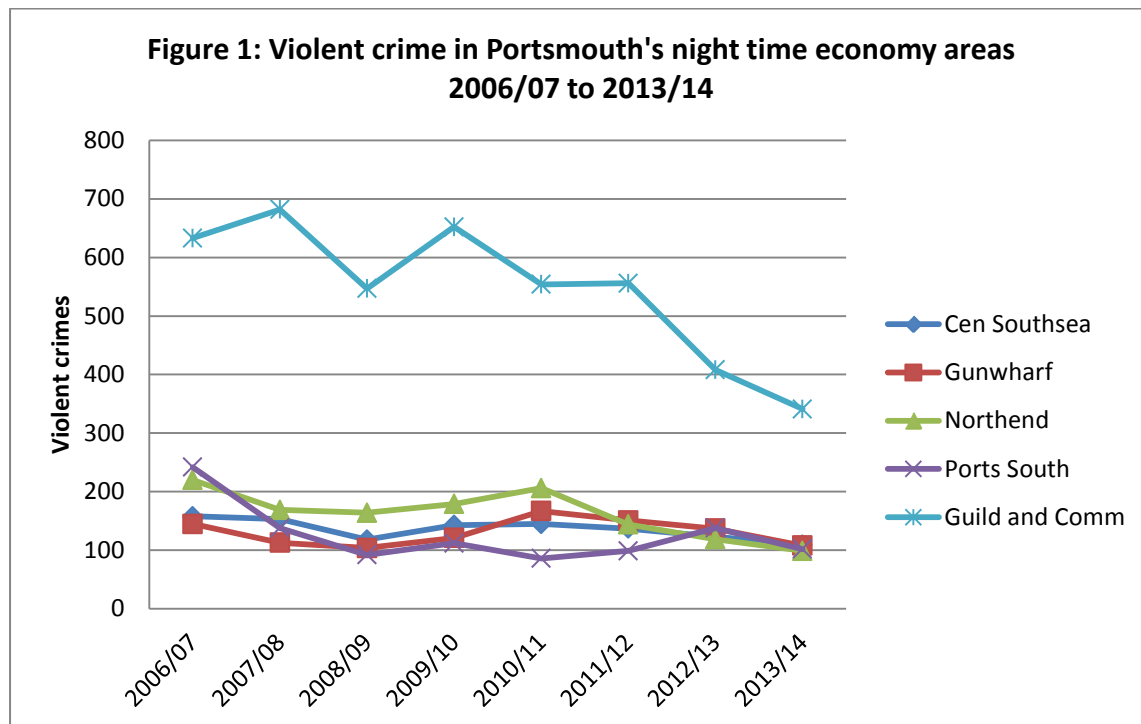
In 2013/14, 4,870 violent offences were reported to police which was 8% (n395) less than the previous year and 22% less than the baseline year of 2007/08 (n1,384).² However, the

¹ See Portsmouth City Council 'Licensing Act 2003 - Statement of licensing Policy' 2011 for further details about Licensing policy.

² From iQuanta website: <https://iquanta.projectfusion.com> accessed July 2014.

rate of violent crime for Portsmouth is 23.5 per 1,000 and is higher than the average rate for other similar areas³ (20.4 per 1,000 - ranging from 11 to 25.9).

Using the local ELNEP parameters⁴ (See appendix A) there were 759 violence crimes in the night time economy (NTE) during 2013/14. This is an 18% (n166) reduction from 2012/13 and almost 40% (n496) fall since 2007/8. More violent crimes occur in the Guildhall and Commercial Road areas than the other key NTE areas, but this area has seen the largest percentage reduction since 2007/08. This is likely to be at least in part due to partnership work and focus on this area. There are also a few premises which are currently closed but could re-open which could be contributing to this reduction.



Between April and October 2013, there were 1,107 night-time (21.00-05.00) ambulance call-outs in the Portsmouth area. Of these, at least 37.5% (n415) were alcohol related, which represents a 39.3% (n117) increase on the same period in 2012 (n298). The highest proportion (16.2%, n67) of alcohol related, night-time call-outs in 2013 came from the 'PO1 2' postcode area (an area which includes the Guildhall night time economy area). This represents a 97.1% (n33) increase from 2012 (11.4%, n34).

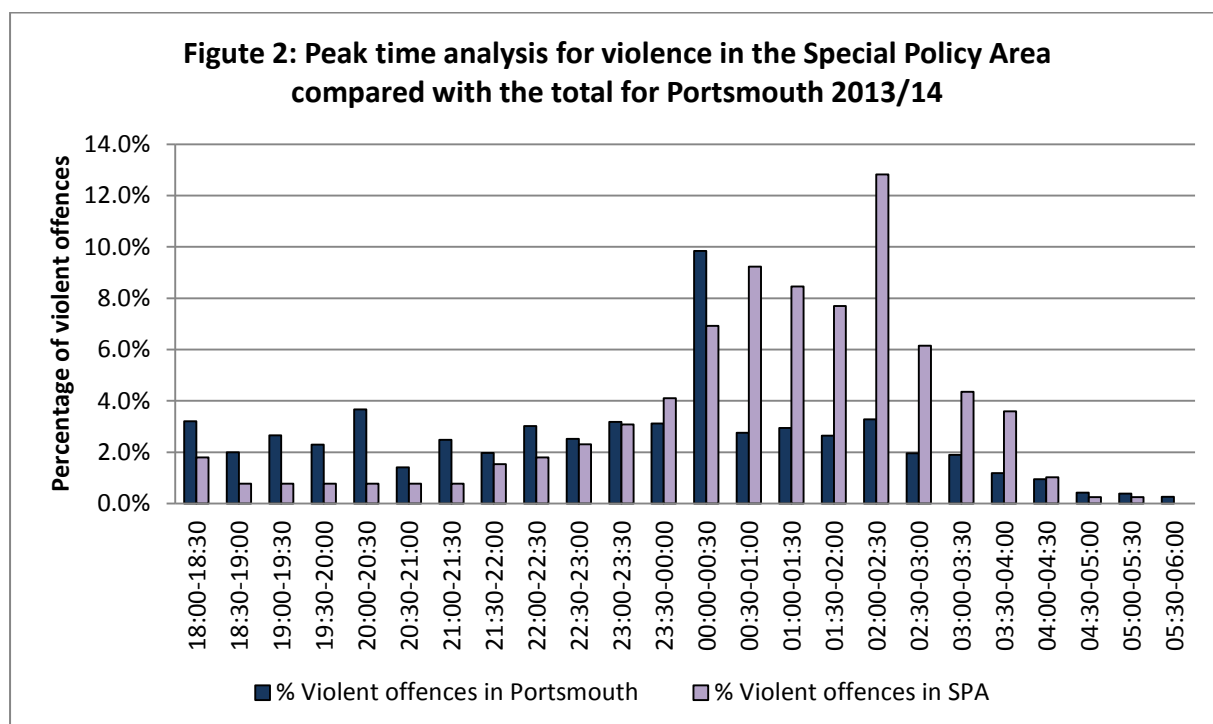
³ SPP similar areas are Brighton & Hove, Bristol, Bournemouth, Plymouth, Portsmouth, Southend-On-Sea, Sheffield and Southampton.

⁴ Please contact the csresearchers@portsmouthcc.gov.uk for further information about the ELNEP parameters or refer to Appendix C of the Safer Portsmouth Partnership Update to the Strategic Assessment of Crime, Anti-social behaviour, substance misuse and re-offending.

Analysis of violence in the SPA

A total of 390⁵ violent offences took place in the SPA in 2013/14. This is approximately 8% of all violent crime which occurred in Portsmouth. Most of these (80%, n312) offences took place in the evening and night, between 6pm and 6am. This is a larger proportion than for Portsmouth as a whole, where 60% (n2980) offences took place in the evening or night.

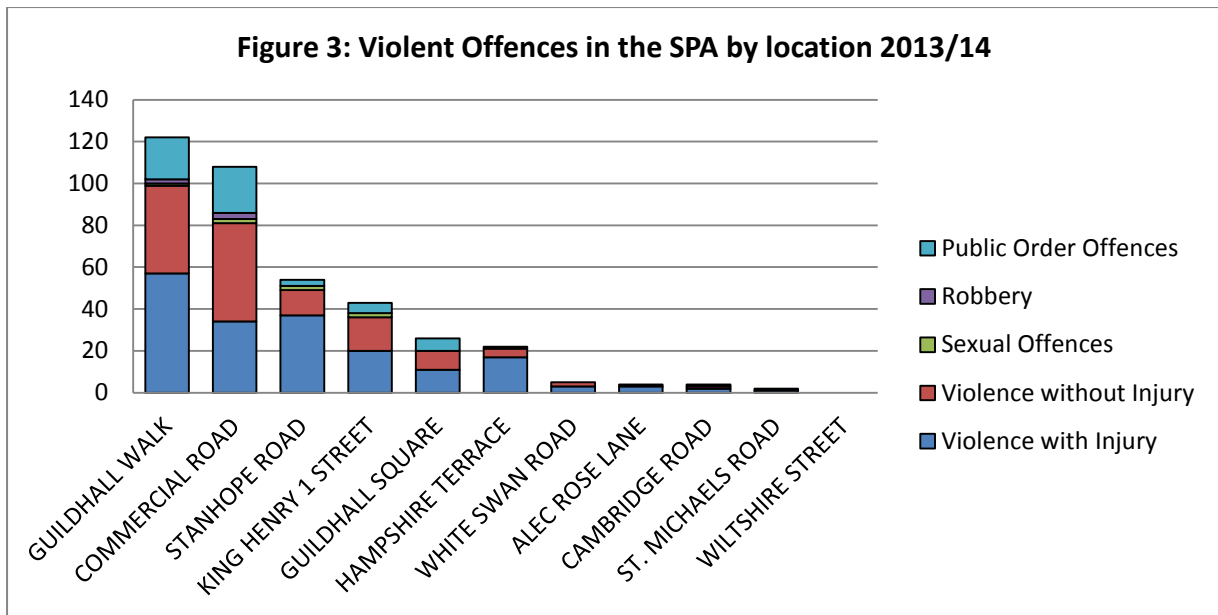
As can be seen from Figure 2 below, a much larger proportion of violence in Portsmouth occurs between midnight and 12.30am than at any other time. The pattern of violence is different in the SPA where violent crime builds up to the first peak at 12.30am, drops slightly then experiences a much larger peak at between 2 and 2.30am.



Offences in the SPA peaked significantly over the weekend with most offences occurring on Saturday (27%, n104) and Sunday (21%, n83). The high proportion on Sunday is due to many offences taking place in the early hours of the morning after a Saturday night out.

Most violent offences in the SPA took place in Guildhall Walk and Commercial Rd (see Figure 2 below). These offences were largely violence with and without injury, and public order offences.

⁵ The data in this report was provided by Hampshire Constabulary's Eastern Area Research Team but the analysis was conducted by the SPP Community Safety Research Team unless otherwise stated.



Conclusion

In summary, although we have seen reductions in violence across Portsmouth in the last few years, we still have a higher rate of violence than many other similar areas. Guildhall and Commercial Road account for the highest proportion of violence of all the night time economy areas.

The reductions in violence that have been seen in the SPA are likely to be due to partnership working in the area and closure of some premises. Furthermore, data from the ambulance service has shown an increase in alcohol related call-outs in the postcode area which includes Guildhall Walk and Commercial Road. Therefore, it is recommended that all partners maintain their focus on this area and that it remains an SPA.

Appendix A - Late Night Economy parameters (Previously ELNEP)

ported HO Class Code	ported Short HO Class Desc
104/25	ASSAULT A DESIGNATED PERSON OR HIS ASSISTANT IN THE EXERCISE
8/6	ASSAULT OCCASIONING ACTUAL BODILY HARM
104/23	ASSAULT ON CONSTABLE (POLICE ACT 1996)
34/22	ASSAULT WITH INTENT TO ROB ~ PERSONAL
105/8	ASSAULTING A DESIGNATED OR ACCREDITED PERSON IN THE EXECUTIO
8/31	BREACH OF RESTRAINING ORDER
125/9	CAUSE INTENTIONAL HARASSMENT, ALARM, DISTRESS
5/11	CAUSING DANGER TO ROAD USERS
105/1	COMMON ASSAULT AND BATTERY
88/9	EXPOSURE-INTENTIONAL-MALE OR FEMALE GENITALS
125/11	FEAR OR PROVOCATION OF VIOLENCE
195/94	HARASSMENT (PROTECTION FROM HARASSMENT ETC)
125/12	HARASSMENT, ALARM OR DISTRESS
8/26	HAVING AN ARTICLE WITH A BLADE OR POINT IN A PUBLIC PLACE
24/19	KEEPING A BROTHEL USED FOR PROSTITUTION
8/11	POSSESS OFFENSIVE WEAPON WITHOUT LAWFUL AUTHORITY OR REASC
125/58	PRE 1/4/10. RACIALLY AGGRAVATED HARASSMENT, ALARM OR DISTRES
19/8	RAPE OF FEMALE OVER 16 YEARS
34/21	ROBBERY PERSONAL
22/12	SEX ACTIVITY WITH A FEMALE CHILD UNDER 16 - PENETRATION - OF
20/6	SEXUAL ASSAULT OF A FEMALE CHILD UNDER 13
20/5	SEXUAL ASSAULT ON A FEMALE 13+
20/3	SEXUAL ASSAULT ON A FEMALE 13+ BY PENETRATION
17/15	SEXUAL ASSAULT ON A MALE AGED 13+
17/13	SEXUAL ASSAULT ON A MALE AGED 13+ BY PENETRATION
17/16	SEXUAL ASSAULT ON A MALE CHILD UNDER 13
3/1	THREATS TO KILL
8/60	WEF 1/4/10. RACIALLY AND/OR RELIGIOUSLY AGGRAVATED ABH (8J).

8/57	WEF 1/4/10. RACIALLY AND/OR RELIGIOUSLY AGGRAVATED COMMON AS
66/91	WEF 1/4/10. RACIALLY AND/OR RELIGIOUSLY AGGRAVATED FEAR/PROV
8/56	WEF 1/4/10. RACIALLY AND/OR RELIGIOUSLY AGGRAVATED HARASSMEN
125/82	WEF 1/4/10. RACIALLY AND/OR RELIGIOUSLY AGGRAVATED HARASSMEN
8/55	WEF 1/4/10. RACIALLY AND/OR RELIGIOUSLY AGGRAVATED INTENTION
8/1	WOUND OR INFLICT GBH WITH OR WITHOUT WEAPON
5/1	WOUNDING WITH INTENT TO DO GBH

Measured between: 20.00 – 05.00

In the following areas:

Guildhall Square: Alec Rose Lane, Dorothy Diamond Street, Guildhall Square, Guildhall Walk, King Henry 1st Street, White Swan Road, Winston Churchill Avenue.

Commercial Road: Commercial Place, Commercial Road, Edinburgh Road, Stanhope Road.

Central Southsea: Albert Road, Albert Grove, Elm Grove, Highland Road, Fawcett Road, Victoria Grove, Duncan Road

Portsmouth South: Clarendon Mews, Clarendon Place, Clarendon Road, Granada Road, Palmerston Road, South Parade (incl Pier), Osbourne Road

Gunwharf: Gunwharf Keys, Gunwharf Road, The Canalside, The Plaza (East Side Plaza), The Hard, The Waterfront, Central Square, Gunwharf Quays Plaza, Vulcan Square, Ordnance Row, St George's Road.

Northend: Fratton Road, Kingston Crescent, Kingston Road, London Avenue, London Road



Home Office

Revised Guidance issued under section 182 of the Licensing Act 2003

March 2015

Paper to lie before both Houses of Parliament for 40 days during which time either House may resolve that the Guidance be not issued.

Revised Guidance issued under section 182 of the Licensing Act 2003

Presented to Parliament pursuant to section 182 (4) of the Licensing Act 2003

March 2015



© Crown copyright 2015

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit nationalarchives.gov.uk/doc/open-government-licence/version/3 or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: psi@nationalarchives.gsi.gov.uk.

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This publication is available at www.gov.uk/government/publications

Any enquiries regarding this publication should be sent to us at The Alcohol Team, The Home Office, 5th Floor, Fry Building (North West), 2 Marsham Street, London, SW1P 4DF.
Email: AlcoholStrategy@homeoffice.gsi.gov.uk

Print ISBN 9781474116794
Web ISBN 9781474116800

ID 16031501 03/15

Printed on paper containing 75% recycled fibre content minimum

Printed in the UK by the Williams Lea Group on behalf of the Controller of Her Majesty's Stationery Office

Contents

1.	Introduction	1
2.	The licensing objectives	6
3.	Licensable activities	13
4.	Personal licences	17
5.	Who needs a premises licence?	25
6.	Club premises certificates	30
7.	Temporary Event Notices (TENs)	33
8.	Applications for premises licences	39
9.	Determining applications	55
10.	Conditions attached to premises licences and club premises certificates	63
11.	Reviews	75
12.	Appeals	81
13.	Statements of licensing policy	83
14.	Licence fees	96
15.	Regulated entertainment	98
16.	Early morning alcohol restriction orders	115

1. Introduction

The Licensing Act 2003

1.1 The Licensing Act 2003 (referred to in this Guidance as the 2003 Act), its explanatory notes and any statutory instruments made under it may be viewed online at www.legislation.gov.uk. The statutory instruments include regulations setting out the content and format of application forms and notices. The Home Office has responsibility for the 2003 Act. However, the Department for Culture, Media and Sport (DCMS) is responsible for regulated entertainment, for which there is provision in Schedule 1 to the 2003 Act (see Chapter 15).

Licensing objectives and aims

1.2 The legislation provides a clear focus on the promotion of four statutory objectives which must be addressed when licensing functions are undertaken.

1.3 The licensing objectives are:

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

1.4 Each objective is of equal importance. There are no other statutory licensing objectives, so that the promotion of the four objectives is a paramount consideration at all times.

1.5 However, the legislation also supports a number of other key aims and purposes. These are vitally important and should be principal aims for everyone involved in licensing work.

They include:

- protecting the public and local residents from crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises;
- giving the police and licensing authorities the powers they need to effectively manage and police the night-time economy and take action against those premises that are causing problems;
- recognising the important role which pubs and other licensed premises play in our local communities by minimising the regulatory burden on business, encouraging innovation and supporting responsible premises;
- providing a regulatory framework for alcohol which reflects the needs of local communities and empowers local authorities to make and enforce decisions about the most appropriate licensing strategies for their local area; and
- encouraging greater community involvement in licensing decisions and giving local residents the opportunity to have their say regarding licensing decisions that may affect them.

The guidance

1.6 Section 182 of the 2003 Act provides that the Secretary of State must issue and, from time to time, may revise guidance to licensing authorities on the discharge of their functions under the 2003 Act. This revised guidance comes into force as soon as it is laid. Where a licence application was made prior to the coming into force of the revised guidance, it should be processed in accordance with the guidance in force at the time at which the application was made; the revised guidance does not apply retrospectively. However, all applications received by the licensing authority on or after the date the revised guidance came into force should be processed in accordance with the revised guidance.

Purpose

- 1.7 This Guidance is provided to licensing authorities in relation to the carrying out of their functions under the 2003 Act. It also provides information to magistrates' courts hearing appeals against licensing decisions and has been made widely available for the benefit of those who run licensed premises, their legal advisers and the general public. It is a key medium for promoting best practice, ensuring consistent application of licensing powers across England and Wales and for promoting fairness, equal treatment and proportionality.
- 1.8 The police remain key enforcers of licensing law. This Guidance does not bind police officers who, within the parameters of their force orders and the law, remain operationally independent. However, this Guidance is provided to support and assist police officers in interpreting and implementing the 2003 Act in the promotion of the four licensing objectives.

Legal status

- 1.9 Section 4 of the 2003 Act provides that, in carrying out its functions, a licensing authority must 'have regard to' guidance issued by the Secretary of State under section 182. This Guidance is therefore binding on all licensing authorities to that extent. However, this Guidance cannot anticipate every possible scenario or set of circumstances that may arise and, as long as licensing authorities have properly understood this Guidance, they may depart from it if they have good reason to do so and can provide full reasons. Departure from this Guidance could give rise to an appeal or judicial review, and the reasons given will then be a key consideration for the courts when considering the lawfulness and merits of any decision taken.
- 1.10 Nothing in this Guidance should be taken as indicating that any requirement of licensing law or any other law may be overridden (including the obligations placed on any public authorities under human rights legislation). This Guidance does not in any way replace the statutory provisions of the 2003 Act or add to its scope and licensing authorities should note that interpretation of the 2003 Act is a matter for the courts. Licensing authorities and others using this Guidance must take their own professional and legal advice about its implementation.

Licensing policies

- 1.11 Section 5 of the 2003 Act requires a licensing authority to determine and publish a statement of its licensing policy at least once every five years. The policy must be published before it carries out any licensing functions under the 2003 Act.

1.12 However, determining and publishing a statement of its policy is a licensing function and as such the authority must have regard to this Guidance when taking this step. A licensing authority may depart from its own policy if the individual circumstances of any case merit such a decision in the interests of the promotion of the licensing objectives. But once again, it is important that it should be able to give full reasons for departing from its published statement of licensing policy. Where revisions to this Guidance are issued by the Secretary of State, there may be a period of time when the licensing policy statement is inconsistent with the Guidance (for example, during any consultation by the licensing authority). In these circumstances, the licensing authority should have regard, and give appropriate weight, to this Guidance and its own existing licensing policy statement.

Licensable activities

1.13 For the purposes of the 2003 Act, the following are licensable activities:

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

Further explanation of these terms is provided in Chapter 3.

Authorisations or permissions

1.14 The 2003 Act provides for four different types of authorisation or permission, as follows:

- Premises licence – to use premises for licensable activities.
- Club premises certificate – to allow a qualifying club to engage in qualifying club activities as set out in Section 1 of the Act.
- Temporary event notice – to carry out licensable activities at a temporary event.
- Personal licence – to sell or authorise the sale of alcohol from premises in respect of which there is a premises licence.

General principles

1.15 If an application for a premises licence or club premises certificate has been made lawfully and there have been no representations from responsible authorities or other persons, the licensing authority must grant the application, subject only to conditions that are consistent with the operating schedule and relevant mandatory conditions. It is recommended that licence applicants contact responsible authorities when preparing their operating schedules.

Licence conditions – general principles

- 1.16 Conditions on a premises licence or club premises certificate are important in setting the parameters within which premises can lawfully operate. The use of wording such as “must”, “shall” and “will” is encouraged. Licence conditions:
- must be appropriate for the promotion of the licensing objectives;
 - must be precise and enforceable;
 - must be unambiguous and clear in what they intend to achieve;
 - should not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation;
 - must be tailored to the individual type, location and characteristics of the premises and events concerned;
 - should not be standardised and may be unlawful when it cannot be demonstrated that they are appropriate for the promotion of the licensing objectives in an individual case;
 - should not replicate offences set out in the 2003 Act or other legislation;
 - should be proportionate, justifiable and be capable of being met;
 - cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff, but may impact on the behaviour of customers in the immediate vicinity of the premises or as they enter or leave; and
 - should be written in a prescriptive format.

Each application on its own merits

- 1.17 Each application must be considered on its own merits and in accordance with the licensing authority’s statement of licensing policy; for example, if the application falls within the scope of a cumulative impact policy. Conditions attached to licences and certificates must be tailored to the individual type, location and characteristics of the premises and events concerned. This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises where there is no need for such conditions. Standardised conditions should be avoided and indeed may be unlawful where they cannot be shown to be appropriate for the promotion of the licensing objectives in an individual case.

Additional guidance

- 1.18 From time to time, the Home Office may issue additional supporting guidance to licensing authorities and other persons on the Gov.uk website. This supporting guidance is good practice guidance and should be viewed as indicative and subject to change. Such supporting guidance will broadly reflect but will not be part of the statutory guidance issued by the Secretary of State under section 182 of the 2003 Act. Licensing authorities may wish to refer to, but are under no statutory duty to have regard to such supporting guidance issued by the Home Office.

Other relevant legislation

1.19 While licence conditions should not duplicate other statutory provisions, licensing authorities and licensees should be mindful of requirements and responsibilities placed on them by other legislation. Legislation which may be relevant includes:

- The Gambling Act 2005
- The Environmental Protection Act 1990
- The Noise Act 1996
- The Clean Neighbourhoods and Environmental Act 2005
- The Regulatory Reform (Fire Safety) Order 2005
- The Health and Safety at Work etc. Act 1974
- The Equality Act 2010

2. The licensing objectives

Crime and disorder

- 2.1 Licensing authorities should look to the police as the main source of advice on crime and disorder. They should also seek to involve the local Community Safety Partnership (CSP).
- 2.2 In the exercise of their functions, licensing authorities should seek to co-operate with the Security Industry Authority (“SIA”) as far as possible and consider adding relevant conditions to licences where appropriate. The SIA also plays an important role in preventing crime and disorder by ensuring that door supervisors are properly licensed and, in partnership with police and other agencies, that security companies are not being used as fronts for serious and organised criminal activity. This may include making specific enquiries or visiting premises through intelligence led operations in conjunction with the police, local authorities and other partner agencies. Similarly, the provision of requirements for door supervision may be appropriate to ensure that people who are drunk, drug dealers or people carrying firearms do not enter the premises and ensuring that the police are kept informed.
- 2.3 Conditions should be targeted on deterrence and preventing crime and disorder. For example, where there is good reason to suppose that disorder may take place, the presence of closed-circuit television (CCTV) cameras both inside and immediately outside the premises can actively deter disorder, nuisance, anti-social behaviour and crime generally. Some licence holders may wish to have cameras on their premises for the prevention of crime directed against the business itself, its staff, or its customers. But any condition may require a broader approach, and it may be appropriate to ensure that the precise location of cameras is set out on plans to ensure that certain areas are properly covered and there is no subsequent dispute over the terms of the condition.
- 2.4 The inclusion of radio links and ring-round phone systems should be considered an appropriate condition for public houses, bars and nightclubs operating in city and town centre leisure areas with a high density of licensed premises. These systems allow managers of licensed premises to communicate instantly with the police and facilitate a rapid response to any disorder which may be endangering the customers and staff on the premises.
- 2.5 Conditions relating to the management competency of designated premises supervisors should not normally be attached to premises licences. It will normally be the responsibility of the premises licence holder as an employer, and not the licensing authority, to ensure that the managers appointed at the premises are competent and appropriately trained. The designated premises supervisor is the key person who will usually be responsible for the day to day management of the premises by the premises licence holder, including the prevention of disorder. A condition of this kind may only be justified as appropriate in rare circumstances where it can be demonstrated that, in the circumstances associated with particular premises, poor management competency could give rise to issues of crime and disorder and public safety.

Public safety

- 2.6 Licence holders have a responsibility to ensure the safety of those using their premises, as a part of their duties under the 2003 Act. This concerns the safety of people using the relevant premises rather than public health which is addressed in other legislation. Physical safety includes the prevention of accidents and injuries and other immediate harms that can result from alcohol consumption such as unconsciousness or alcohol poisoning. Conditions relating to public safety may also promote the crime and disorder objective as noted above. There will of course be occasions when a public safety condition could incidentally benefit a person's health more generally, but it should not be the purpose of the condition as this would be outside the licensing authority's powers (be ultra vires) under the 2003 Act. Conditions should not be imposed on a premises licence or club premises certificate which relate to cleanliness or hygiene.
- 2.7 A number of matters should be considered in relation to public safety. These may include:
- Fire safety;
 - Ensuring appropriate access for emergency services such as ambulances;
 - Good communication with local authorities and emergency services, for example communications networks with the police and signing up for local incident alerts (see paragraph 2.4 above);
 - Ensuring the presence of trained first aiders on the premises and appropriate first aid kits;
 - Ensuring the safety of people when leaving the premises (for example, through the provision of information on late-night transportation);
 - Ensuring appropriate and frequent waste disposal, particularly of glass bottles;
 - Ensuring appropriate limits on the maximum capacity of the premises (see paragraphs 2.11-2.12, and Chapter 10; and
 - Considering the use of CCTV in and around the premises (as noted in paragraph 2.3 above, this may also assist with promoting the crime and disorder objective).
- 2.8 The measures that are appropriate to promote public safety will vary between premises and the matters listed above may not apply in all cases. As set out in Chapter 8 (8.33-8.41), applicants should consider when making their application which steps it is appropriate to take to promote the public safety objective and demonstrate how they achieve that.

Ensuring safe departure of those using the premises

- 2.9 Licence holders should make provision to ensure that premises users safely leave their premises. Measures that may assist include:
- Providing information on the premises of local taxi companies who can provide safe transportation home; and
 - Ensuring adequate lighting outside the premises, particularly on paths leading to and from the premises and in car parks.

Maintenance and repair

- 2.10 Where there is a requirement in other legislation for premises open to the public or for employers to possess certificates attesting to the safety or satisfactory nature of certain equipment or fixtures on the premises, it would be inappropriate for a licensing condition to require possession of such a certificate. However, it would be permissible to require as a condition of a licence or certificate, if appropriate, checks on this equipment to be conducted at specified intervals and for evidence of these checks to be retained by the premises licence holder or club provided this does not duplicate or gold-plate a requirement in other legislation. Similarly, it would be permissible for licensing authorities, if they receive relevant representations from responsible authorities or any other persons, to attach conditions which require equipment of particular standards to be maintained on the premises. Responsible authorities – such as health and safety authorities – should therefore make their expectations clear in this respect to enable prospective licence holders or clubs to prepare effective operating schedules and club operating schedules.

Safe capacities

- 2.11 “Safe capacities” should only be imposed where appropriate for the promotion of public safety or the prevention of disorder on the relevant premises. For example, if a capacity has been imposed through other legislation, it would be inappropriate to reproduce it in a premises licence. Indeed, it would also be wrong to lay down conditions which conflict with other legal requirements. However, if no safe capacity has been imposed through other legislation, a responsible authority may consider it appropriate for a new capacity to be attached to the premises which would apply at any material time when the licensable activities are taking place and make representations to that effect. For example, in certain circumstances, capacity limits may be appropriate in preventing disorder, as overcrowded venues can increase the risks of crowds becoming frustrated and hostile.
- 2.12 The permitted capacity is a limit on the number of persons who may be on the premises at any time, following a recommendation by the relevant fire and rescue authority under the Regulatory Reform (Fire Safety) Order 2005. For any application for a premises licence or club premises certificate for premises without an existing permitted capacity where the applicant wishes to take advantage of the special provisions set out in section 177 of the 2003 Act¹, the applicant should conduct their own risk assessment as to the appropriate capacity of the premises. They should send their recommendation to the fire and rescue authority which will consider it and decide what the “permitted capacity” of those premises should be.
- 2.13 Public safety may include the safety of performers appearing at any premises, but does not extend to the prevention of injury from participation in a boxing or wrestling entertainment.

Public nuisance

- 2.14 The 2003 Act enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be

¹ S 177 of the 2003 Act now only applies to performances of dance.

disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.

- 2.15 Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It may include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.
- 2.16 Conditions relating to noise nuisance will usually concern steps appropriate to control the levels of noise emanating from premises. This might be achieved by a simple measure such as ensuring that doors and windows are kept closed after a particular time, or persons are not permitted in garden areas of the premises after a certain time. More sophisticated measures like the installation of acoustic curtains or rubber speaker mounts to mitigate sound escape from the premises may be appropriate. However, conditions in relation to live or recorded music may not be enforceable in circumstances where the entertainment activity itself is not licensable (see chapter 15). Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of the specific premises and its licensable activities. Licensing authorities should avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are expensive to purchase and install and are likely to be a considerable burden for smaller venues.
- 2.17 As with all conditions, those relating to noise nuisance may not be appropriate in certain circumstances where provisions in other legislation adequately protect those living in the area of the premises. But as stated earlier in this Guidance, the approach of licensing authorities and responsible authorities should be one of prevention and when their powers are engaged, licensing authorities should be aware of the fact that other legislation may not adequately cover concerns raised in relevant representations and additional conditions may be appropriate.
- 2.18 Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, the most sensitive period for people being disturbed by unreasonably loud music is at night and into the early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. This is why there is still a need for a licence for performances of live music between 11 pm and 8 am. In certain circumstances, conditions relating to noise emanating from the premises may also be appropriate to address any disturbance anticipated as customers enter and leave.
- 2.19 Measures to control light pollution will also require careful thought. Bright lighting outside premises which is considered appropriate to prevent crime and disorder may itself give rise to light pollution for some neighbours. Applicants, licensing authorities and responsible authorities will need to balance these issues.
- 2.20 Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area, or that, if they wish to smoke, to do so at designated places on the premises instead of outside, and to respect the rights of people living nearby to a peaceful night.

Protection of children from harm

- 2.21 The protection of children from harm includes the protection of children from moral, psychological and physical harm. This includes not only protecting children from the harms associated directly with alcohol consumption but also wider harms such as exposure to strong language and sexual expletives (for example, in the context of exposure to certain films or adult entertainment). Licensing authorities must also consider the need to protect children from sexual exploitation when undertaking licensing functions.
- 2.22 The Government believes that it is completely unacceptable to sell alcohol to children. Conditions relating to the access of children where alcohol is sold and which are appropriate to protect them from harm should be carefully considered. Moreover, conditions restricting the access of children to premises should be strongly considered in circumstances where:
- adult entertainment is provided;
 - a member or members of the current management have been convicted for serving alcohol to minors or with a reputation for allowing underage drinking (other than in the context of the exemption in the 2003 Act relating to 16 and 17 year olds consuming beer, wine and cider when accompanied by an adult during a table meal);
 - it is known that unaccompanied children have been allowed access;
 - there is a known association with drug taking or dealing; or
 - in some cases, the premises are used exclusively or primarily for the sale of alcohol for consumption on the premises.
- 2.23 It is also possible that activities, such as adult entertainment, may take place at certain times on premises but not at other times. For example, premises may operate as a café bar during the day providing meals for families but also provide entertainment with a sexual content after 8.00pm. It is not possible to give an exhaustive list of what amounts to entertainment or services of an adult or sexual nature. Applicants, responsible authorities and licensing authorities will need to consider this point carefully. This would broadly include topless bar staff, striptease, lap-, table- or pole-dancing, performances involving feigned violence or horrific incidents, feigned or actual sexual acts or fetishism, or entertainment involving strong and offensive language.
- 2.24 Applicants must be clear in their operating schedules about the activities and times at which the events would take place to help determine when it is not appropriate for children to enter the premises. Consideration should also be given to the proximity of premises to schools and youth clubs so that applicants take appropriate steps to ensure that advertising relating to their premises, or relating to events at their premises, is not displayed at a time when children are likely to be near the premises.
- 2.25 Licensing authorities and responsible authorities should expect applicants, when preparing an operating schedule or club operating schedule, to set out the steps to be taken to protect children from harm when on the premises.
- 2.26 Conditions, where they are appropriate, should reflect the licensable activities taking place on the premises. In addition to the mandatory condition regarding age verification, other conditions relating to the protection of children from harm can include:
- restrictions on the hours when children may be present;
 - restrictions or exclusions on the presence of children under certain ages when particular specified activities are taking place;

- restrictions on the parts of the premises to which children may have access;
- age restrictions (below 18);
- restrictions or exclusions when certain activities are taking place;
- requirements for an accompanying adult (including for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult); and
- full exclusion of people under 18 from the premises when any licensable activities are taking place.

2.27 Please see also Chapter 10 for details about the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010.

2.28 Licensing authorities should give considerable weight to representations about child protection matters. In addition to the responsible authority whose functions relate directly to child protection, the Director of Public Health may also have access to relevant evidence to inform such representations. These representations may include, amongst other things, the use of health data about the harms that alcohol can cause to underage drinkers. Where a responsible authority, or other person, presents evidence to the licensing authority linking specific premises with harms to children (such as ambulance data or emergency department attendances by persons under 18 years old with alcohol-related illnesses or injuries) this evidence should be considered, and the licensing authority should also consider what action is appropriate to ensure this licensing objective is effectively enforced. In relation to applications for the grant of a licence in areas where evidence is presented on high levels of alcohol-related harms in persons aged under 18, it is recommended that the licensing authority considers what conditions may be appropriate to ensure that this objective is promoted effectively.

2.29 The 2003 Act provides that, where a premises licence or club premises certificate authorises the exhibition of a film, it must include a condition requiring the admission of children to films to be restricted in accordance with recommendations given either by a body designated under section 4 of the Video Recordings Act 1984 specified in the licence (the British Board of Film Classification is currently the only body which has been so designated) or by the licensing authority itself. Further details are given in Chapter 10.

2.30 Theatres may present a range of diverse activities and entertainment including, for example, variety shows incorporating adult entertainment. It is appropriate in these cases for a licensing authority to consider restricting the admission of children in such circumstances. Entertainments may also be presented at theatres specifically for children. It will be appropriate to consider whether a condition should be attached to a premises licence or club premises certificate which requires the presence of a sufficient number of adult staff on the premises to ensure the wellbeing of the children during any emergency.

Offences relating to the sale and supply of alcohol to children

2.31 Licensing authorities are expected to maintain close contact with the police, young offenders' teams and trading standards officers (who can carry out test purchases under section 154 of the 2003 Act) about the extent of unlawful sales and consumption of alcohol by minors and to be involved in the development of any strategies to control or prevent these unlawful activities and to pursue prosecutions. Licensing authorities, alongside the police, are prosecuting authorities for the purposes of these offences, except for the offences under section 147A (persistently selling alcohol to children). Where, as a matter of policy, warnings are given to retailers prior to any decision to prosecute in respect of an offence, it is important that each of the enforcement arms should be aware of the warnings each of them has given.

Table of relevant offences under the 2003 Act

Section	Offence	Prosecuting Authority
Section 145	Unaccompanied children prohibited from certain premises	Police and/or Licensing Authority
Section 146	Sale of alcohol to children	Police, Licensing Authority and/or Local Weights and Measures Authority
Section 147	Allowing the sale of alcohol to children	Police, Licensing Authority and/or Local Weights and Measures Authority
Section 147A	Persistently selling alcohol to children	Police and/or Local Weights and Measures Authority
Section 148	Sale of liqueur confectionery to children under 16. (This offence will be repealed by the Deregulation Act 2015 on 26 May 2015).	Police and/or Licensing Authority
Section 149	Purchase of alcohol by or on behalf of children	Police and/or Licensing Authority
Section 150	Consumption of alcohol by children	Police and/or Licensing Authority
Section 151	Delivering alcohol to children	Police and/or Licensing Authority
Section 152	Sending a child to obtain alcohol	Police and/or Licensing Authority
Section 153	Prohibition of unsupervised sales by children	Police and/or Licensing Authority

3. Licensable activities

Summary

- 3.1 A premises licence authorises the use of any premises (see Chapter 5) for licensable activities. Licensable activities are defined in section 1 of the 2003 Act, and a fuller description of certain activities is set out in Schedules 1 and 2 to the 2003 Act.
- 3.2 The licensable activities are:
- the sale by retail of alcohol;
 - the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club;
 - the provision of regulated entertainment; and
 - the provision of late night refreshment.

Wholesale of alcohol

- 3.3 The sale of alcohol to the general public is licensable under the 2003 Act in accordance with the definition of “sale by retail” in section 192 of the 2003 Act. This section makes it clear that, to be excluded from the meaning of “sale by retail”, a sale must be:
- made from premises owned by the person making the sale, or occupied under a lease with security of tenure; and
 - for consumption off the premises.
- 3.4 In addition, to be excluded, the sales must be sales which are made to:
- a trader for the purpose of his trade;
 - to a club for the purposes of that club;
 - to a holder of a premises licence or a personal licence for the purpose of making sales under a premises licence; or
 - a premises user who has given a temporary event notice, for the purpose of making sales authorised by that notice.
- 3.5 If an employee were buying alcohol as an “agent” for their employer and for the purposes of their employer’s trade (i.e. selling alcohol), this could be treated as a sale to a trader. If, however, an employee were buying for the employee’s own consumption, this would be a retail sale, and would require a licence.
- 3.6 The same considerations apply in the case of caterers who supply alcohol to their customers. Where a caterer purchases alcohol and then sells this alcohol to its customer, an authorisation will be required at the location where the retail sale of the alcohol is made (likely to be the caterer’s own premises). If the customer was proposing to sell the alcohol under an authorisation, it is the customer who would need an authorisation under the 2003 Act. In this case, the exemption under the 2003 Act may apply to the sale made by the caterer.

Mobile, remote, internet and other delivery sales

- 3.7 The sale by retail of alcohol is a licensable activity and may only be carried out in accordance with an authorisation under the 2003 Act. Therefore, a person cannot sell alcohol from a vehicle or moveable structure at a series of different locations (e.g. house to house), unless there is a premises licence in respect of the vehicle or moveable structure at each location at which a sale of alcohol is made in, on or from it.
- 3.8 The place where the order for alcohol, or payment for it, takes place may not be the same as the place where the alcohol is appropriated to the contract (i.e. the place where it is identified and specifically set apart for delivery to the purchaser). This position can arise when sales are made online, by telephone, or mail order. Section 190 of the 2003 Act provides that the sale of alcohol is to be treated as taking place where the alcohol is appropriated to the contract. It will be the premises at this location which need to be licensed; for example, a call centre receiving orders for alcohol would not need a licence but the warehouse where the alcohol is stored and specifically selected for, and despatched to, the purchaser would need to be licensed. These licensed premises will, as such, be subject to conditions including the times of day during which alcohol may be sold. The premises licence will also be subject to the mandatory licence conditions.
- 3.9 Persons who run premises providing 'alcohol delivery services' should notify the relevant licensing authority that they are operating such a service in their operating schedule. This ensures that the licensing authority can properly consider what conditions are appropriate. Premises with an existing premises licence, which choose to operate such a service in addition to their existing licensable activities, should contact their licensing authority for its view on whether this form of alcohol sale is already permitted or whether an application to vary the licence will be required.

Regulated entertainment

- 3.10 Schedule 1 to the 2003 Act sets out what activities are to be treated as the provision of regulated entertainment and those that are not and are therefore exempt from the regulated entertainment aspects of the licensing regime, including incidental music – (see paragraphs 15.1 to 15.3 below). Chapter 15 of this Guidance document sets out the types of entertainment regulated by the 2003 Act.

Late night refreshment

- 3.11 Schedule 2 to the 2003 Act sets out what activities are to be treated as the provision of late night refreshment and those that are not and are therefore exempt from the late night refreshment aspects of the licensing regime. The Deregulation Act, contains provisions that make changes to the requirements to licence late night refreshment. At the time of publication of this guidance (March 2015) the requirements of the Licensing Act 2003 still apply. The new provisions, should they be commenced, as intended, would allow licensing authorities to exempt the supply of late night refreshment from the requirements of Schedule 2 if it takes place: (a) on or from premises situated in an area designated by the authority; (b) on or from premises of a description designated by the licensing authority (the descriptions will be prescribed in regulations made by the Secretary of State); (c) during a period (beginning on or after 11pm and ending on or before 5am) designated by the licensing authority.

- 3.12 Schedule 2 provides a definition of what constitutes the provision of late night refreshment. It involves only the supply of 'hot food and hot drink'. Shops, stores and supermarkets selling cold food and cold drink that is immediately consumable from 11.00pm are not licensable as providing late night refreshment. The 2003 Act affects premises such as night cafés and take away food outlets where people may gather at any time from 11.00pm and until 5.00am. In this case, supply takes place when the hot food or hot drink is given to the customer and not when payment is made. For example, supply takes place when a table meal is served in a restaurant or when a take-away is handed to a customer over the counter.
- 3.13 Some premises provide hot food or hot drink between 11.00pm and 5.00am by means of vending machines. The supply of hot drink by a vending machine is not a licensable activity and is exempt under the 2003 Act provided the public have access to and can operate the machine without any involvement of the staff.
- 3.14 However, this exemption does not apply to hot food. Premises supplying hot food for a charge by vending machine are licensable if the food has been heated on the premises, even though no staff on the premises may have been involved in the transaction.
- 3.15 It is not expected that the provision of late night refreshment as a secondary activity in licensed premises open for other purposes such as public houses, cinemas or nightclubs or casinos should give rise to a need for significant additional conditions. The key licensing objectives in connection with late night refreshment are the prevention of crime and disorder and public nuisance, and it is expected that both will normally have been adequately covered in the conditions relating to the other licensable activities on such premises.
- 3.16 The supply of hot drink which consists of or contains alcohol is exempt under the 2003 Act as late night refreshment because it is caught by the provisions relating to the sale or supply of alcohol.
- 3.17 The supply of hot food or hot drink free of charge is not a licensable activity. However, where any charge is made for either admission to the premises or for some other item in order to obtain the hot food or hot drink, this will not be regarded as "free of charge". Supplies by a registered charity or anyone authorised by a registered charity are also exempt. Similarly, supplies made on vehicles – other than when they are permanently or temporarily parked – are also exempt.
- 3.18 Supplies of hot food or hot drink from 11.00pm are exempt from the provisions of the 2003 Act if there is no admission to the public to the premises involved and they are supplies to:
- a member of a recognised club supplied by the club;
 - persons staying overnight in a hotel, guest house, lodging house, hostel, a caravan or camping site or any other premises whose main purpose is providing overnight accommodation;
 - an employee supplied by a particular employer (for example, a staff canteen);
 - a person who is engaged in a particular profession or who follows a particular vocation (for example, a tradesman carrying out work at particular premises);
 - a guest of any of the above.

Unauthorised activities

- 3.19 It is a criminal offence under section 136 of the 2003 Act to carry on any of the licensable activities listed at paragraph 3.2 above other than in accordance with a licence or other authorisation under the 2003 Act. The fine for this offence is unlimited. Police and local authorities have powers to take action in relation to premises carrying on unauthorised activities.

4. Personal licences

- 4.1 This chapter provides advice about the framework for personal licences. It also contains guidance for decision-making on applications by those managing community premises (church and village halls etc.) to remove the usual mandatory conditions that relate to personal licences and the requirement for a designated premises supervisor (DPS). The Deregulation Act 2015 has removed the requirement to renew a personal licence with effect from 1 April 2015.

Requirements for a personal licence

- 4.2 The sale and supply of alcohol, because of its impact on the wider community and on crime and anti-social behaviour, carries with it greater responsibility than the provision of regulated entertainment and late night refreshment. This is why sales of alcohol may not be made under a premises licence unless there is a DPS in respect of the premises (who must hold a personal licence); and every sale must be made or authorised by a personal licence holder. The exception is only for those community premises which have successfully applied to remove the DPS requirement (see paragraph 4.34 below).
- 4.3 Any premises at which alcohol is sold or supplied where the requirement for a personal licence holder does apply may employ one or more such licence holders. For example, there may be one owner or senior manager and several junior managers holding a personal licence. However, the requirement that every sale of alcohol must at least be authorised by a personal licence holder does not mean that the licence holder has to be present on the premises or oversee each sale; it is sufficient that such sales are authorised. It should be noted that there is no requirement to have a DPS in relation to a Temporary Event Notice (TEN) or club premises certificate, and sales or supplies of alcohol authorised by a TEN or club premises certificate do not need to be authorised by a personal licence holder.

Who can apply?

- 4.4 In the case of an application for a personal licence under Part 6 of the 2003 Act, the requirements are that:
- the applicant must be aged 18 or over;
 - the applicant possesses a licensing qualification accredited by the Secretary of State (or one which is certified as if it is such a qualification or is considered equivalent) or is a person as prescribed in the Licensing Act 2003 (Personal licences) Regulations 2005²).
 - the applicant must not have forfeited a personal licence within five years of their application;
 - the applicant has paid the appropriate fee to the licensing authority; and
 - in a case in which the applicant has an unspent conviction for a relevant offence or a foreign offence, the police have not objected to the grant of the application on crime prevention grounds or the licensing authority has considered their objection but determined that the grant of the application will not undermine the crime prevention objective.

² Currently persons prescribed in regulations are: a member of the company of the Master, Wardens, Freemen and Commonalty of the Mystery of the Vintners of the City of London; a person operating under a licence granted by the University of Cambridge; or a person operating premises under a licence granted by the Board of the Green Cloth.

- 4.5 Any individual may apply for a personal licence whether or not they are currently employed or have business interests associated with the use of the licence. The issues which arise when the holder of a personal licence becomes associated with particular licensed premises and is specified as the DPS for those premises are dealt with at paragraphs 4.19 to 4.26 below. Licensing authorities may not therefore take these matters into account when considering an application for a personal licence.
- 4.6 Applicants for personal licences who are ordinarily resident in a licensing authority's area are required to make the application to that licensing authority. An applicant who is not ordinarily resident in a licensing authority's area (which may include persons living outside England and Wales), may apply for the grant of a personal licence to any licensing authority in England and Wales.

Criminal record

- 4.7 Regulations made under the 2003 Act require that, in order to substantiate whether or not an applicant has a conviction for an unspent relevant offence, an applicant for the grant or renewal of a personal licence must include a criminal conviction certificate, a criminal record certificate or the results of a subject access search of the Police National Computer by the National Identification Service to the licensing authority.
- 4.8 The requirement for an individual to establish whether or not they have unspent convictions for a relevant offence or foreign offence applies whether or not the individual has been living for a length of time in a foreign jurisdiction. It does not follow that such individuals will not have recorded offences in this country. All applicants are also required to make a clear statement as to whether or not they have been convicted outside England and Wales of a relevant offence or an equivalent foreign offence. This applies both to applicants ordinarily resident in England and Wales and any person from a foreign jurisdiction. Details of relevant offences as set out in the 2003 Act should be appended to application forms for the information of applicants, together with a clear warning that making any false statement is a criminal offence liable to prosecution.
- 4.9 Licensing authorities are required to notify the police when an applicant is found to have an unspent conviction for a relevant offence defined in the 2003 Act or for a foreign offence. The police have no involvement or locus in such applications until notified by the licensing authority.
- 4.10 Where an applicant has an unspent conviction for a relevant or foreign offence, and the police object to the application on crime prevention grounds, the applicant is entitled to a hearing before the licensing authority. If the police do not issue an objection notice and the application otherwise meets the requirements of the 2003 Act, the licensing authority must grant it.
- 4.11 A number of relevant offences never become spent. However, where an applicant is able to demonstrate that the offence in question took place so long ago and that the applicant no longer has a propensity to re-offend, a licensing authority may consider that it is appropriate to grant the application on the basis that doing so would not undermine the crime prevention objective.
- 4.12 If an application is refused, the applicant will be entitled to appeal against the decision they make. Similarly, if the application is granted despite a police objection notice, the chief officer of police is entitled to appeal against the licensing authority's determination. Licensing authorities are therefore expected to record in full the reasons for any decision which they make.

Issuing of personal licences by Welsh licensing authorities

- 4.13 All application forms in Wales should be bilingual. Proceedings before a court must be capable of being conducted in Welsh at the request of the applicant. There is a panel of Welsh speaking magistrates so this can be arranged if necessary. Licensing authorities in Wales should consider issuing personal licences in a bilingual format.

Licensing qualifications

- 4.14 Details of licensing qualifications accredited by the Secretary of State will be notified to licensing authorities and the details may be viewed on the GOV.UK website.

Relevant licensing authority

- 4.15 Personal licences remain valid unless surrendered, suspended, revoked or declared forfeit by the courts. The requirement to renew a personal licence was removed from the Licensing Act 2003 by the Deregulation Act 2015. While personal licences issued before the 2015 Act have expiry dates, these licences will remain valid and such dates no longer have an effect. Once granted, the licensing authority which issued the licence remains the “relevant licensing authority” for it and its holder, even though the individual may move out of the area or take employment elsewhere. The personal licence itself will give details of the issuing licensing authority.

Changes in name or address

- 4.16 The holder of the licence is required by the 2003 Act to notify the licensing authority of any changes to a holder’s name or address. These changes should be recorded by the licensing authority. The holder is also under a duty to notify any convictions for relevant offences to the licensing authority and the courts are similarly required to inform the licensing authority of such convictions, whether or not they have ordered the suspension or forfeiture of the licence. The holder must also notify the licensing authority of any conviction for a foreign offence. These measures ensure that a single record will be held of the holder’s history in terms of licensing matters.
- 4.17 The 2003 Act authorises the provision and receipt of such personal information to such agencies for the purposes of that Act.

Specification of new designated premises supervisors

- 4.18 Every premises licence that authorises the sale of alcohol must specify a DPS. This will normally be the person who has been given day to day responsibility for running the premises by the premises licence holder. The only exception is for community premises which have successfully made an application to remove the usual mandatory conditions set out in the 2003 Act. Guidance on such applications is set out in paragraphs 4.33 to 4.46 of this Guidance.
- 4.19 The Government considers it essential that police officers, fire officers or officers of the licensing authority can identify immediately the DPS so that any problems can be dealt with swiftly. For this reason, the name of the DPS and contact details must be specified on the premises licence and this must be held at the premises and displayed in summary form. The DPS’ personal address should not be included in the summary form in order to protect their privacy.
- 4.20 To specify a DPS, the premises licence holder should normally submit an application to

the licensing authority (which may include an application for immediate interim effect) with:

- a form of consent signed by the individual concerned to show that they consent to taking on this responsible role, and
- the relevant part (Part A) of the licence.

- 4.21 If they are applying in writing, they must also notify the police of the application. If the application is made electronically via GOV.UK or the licensing authority's own electronic facility, the licensing authority must notify the police no later than the first working day after the application is given.
- 4.22 The premises licence holder must notify the existing DPS (if there is one) of the application on the same day as the application is given to the licensing authority. This requirement applies regardless of whether the application was given by means of an electronic facility, or by some other means.
- 4.23 The general guidance in Chapter 8 on electronic applications applies in respect of new applications.
- 4.24 Only one DPS may be specified in a single premises licence, but a DPS may supervise two or more premises as long as the DPS is able to ensure that the licensing objectives are properly promoted and that each premises complies with the 2003 Act and conditions on the premises licence.
- 4.25 Where there are frequent changes of DPS, the premises licence holder may submit the form in advance specifying the date when the new individual will be in post and the change will take effect.

Police objections to new designated premises supervisors

- 4.26 The police may object to the designation of a new DPS where, in exceptional circumstances, they believe that the appointment would undermine the crime prevention objective. The police can object where, for example, a DPS is first specified in relation to particular premises and the specification of that DPS in relation to the particular premises gives rise to exceptional concerns. For example, where a personal licence holder has been allowed by the courts to retain their licence despite convictions for selling alcohol to children (a relevant offence) and then transfers into premises known for underage drinking.
- 4.27 Where the police do object, the licensing authority must arrange for a hearing at which the issue can be considered and both parties can put forward their arguments. The 2003 Act provides that the applicant may apply for the individual to take up post as DPS immediately and, in such cases, the issue would be whether the individual should be removed from this post. The licensing authority considering the matter must restrict its consideration to the issue of crime and disorder and give comprehensive reasons for its decision. Either party would be entitled to appeal if their argument is rejected.
- 4.28 The portability of personal licences between premises is an important concept under the 2003 Act. It is expected that police objections would arise in only genuinely exceptional circumstances. If a licensing authority believes that the police are routinely objecting to the designation of new premises supervisors on grounds which are not exceptional, they should raise the matter with the chief officer of police as a matter of urgency.

Police objections to existing designated premises supervisors

4.29 The 2003 Act also provides for the suspension and forfeiture of personal licences by the courts following convictions for relevant offences, including breaches of licensing law. The police can at any stage after the appointment of a DPS seek a review of a premises licence on any grounds relating to the licensing objectives if problems arise relating to the performance of a DPS. The portability of personal licences is also important to industry because of the frequency with which some businesses move managers from premises to premises. It is not expected that licensing authorities or the police should seek to use the power of intervention as a routine mechanism for hindering the portability of a licence or use hearings of this kind as a fishing expedition to test out the individual's background and character. It is expected that such hearings should be rare and genuinely exceptional.

Convictions and liaison with the courts

- 4.30 Where a personal licence holder is convicted by a court for a relevant offence, the court is under a duty to notify the relevant licensing authority of the conviction and of any decision to order that the personal licence is suspended or declared forfeit. The sentence of the court has immediate effect despite the fact that an appeal may be lodged against conviction or sentence (although the court may suspend the forfeiture or suspension of the licence pending the outcome of any appeal).
- 4.31 When the licensing authority receives such a notification, it should contact the holder and request the licence so that the necessary action can be taken. The holder must then produce the relevant licence to the authority within 14 days. It is expected that the chief officer of police for the area in which the holder resides would be advised if they do not respond promptly. The licensing authority should record the details of the conviction, endorse them on the licence, together with any period of suspension and then return the licence to the holder. If the licence is declared forfeit, it should be retained by the licensing authority.

Relevant offences

4.32 Relevant offences are set out in Schedule 4 to the 2003 Act.

Disapplication of certain mandatory conditions for community premises

- 4.33 The 2003 Act was amended in 2009 to allow certain community premises which have, or are applying for, a premises licence that authorises alcohol sales to also apply to include the alternative licence condition in sections 25A(2) and 41D(3) ("the alternative licence condition") of that Act in the licence instead of the usual mandatory conditions in sections 19(2) and 19(3). Such an application may only be made if the licence holder is, or is to be, a committee or board of individuals with responsibility for the management of the premises (the "management committee"). If such an application is successful, the effect of the alternative licence condition will be that the licence holder (i.e. the management committee) is responsible for the supervision and authorisation of all alcohol sales authorised by the licence. All such sales will have to be made or authorised by the licence holder. There will be no requirement for a DPS or for alcohol sales to be authorised by a personal licence holder.
- 4.34 Community premises are defined as premises that are or form part of a church hall, chapel hall or other similar building; or a village hall, parish hall or community hall or other similar building.

- 4.35 The process requires the completion of a form which is prescribed in regulations made under the 2003 Act. Where the management committee of a community premises is applying for authorisation for the sale of alcohol for the first time, it should include the form with the new premises licence application or the premises licence variation application. No extra payment is required beyond the existing fee for a new application or a variation.
- 4.36 Where a community premises already has a premises licence to sell alcohol, but wishes to include the alternative licence condition in place of the usual mandatory conditions in sections 19(2) and 19(3) of the 2003 Act, it should submit the form on its own together with the required fee.

Definition of community premises

- 4.37 In most instances, it should be self evident whether a premises is, or forms part of a church hall, chapel hall or other similar building; or a village hall, parish hall, community hall or other similar building.
- 4.38 Licensing authorities may have previously taken a view on how to determine whether a premises meets the definition of community premises for the purpose of the fee exemptions set out in regulation 9(2)(b) of the Licensing Act 2003 (Fees) Regulations 2005 (SI 2005/79). As the criteria are the same, premises that qualify for these fee exemptions for regulated entertainment will also be “community premises” for present purposes.
- 4.39 Where it is not clear whether premises are “community premises”, licensing authorities will need to approach the matter on a case-by-case basis. The main consideration in most cases will be how the premises are predominately used. If they are genuinely made available for community benefit most of the time, and accessible by a broad range of persons and sectors of the local community for purposes which include purposes beneficial to the community as a whole, the premises will be likely to meet the definition.
- 4.40 Many community premises such as school and private halls are available for private hire by the general public. This fact alone would not be sufficient for such halls to qualify as “community premises”. The statutory test is directed at the nature of the premises themselves, as reflected in their predominant use, and not only at the usefulness of the premises for members of the community for private purposes.
- 4.41 If the general use of the premises is contingent upon membership of a particular organisation or organisations, this would strongly suggest that the premises in question are not a “community premises” within the definition. However, the hire of the premises to individual organisations and users who restrict their activities to their own members and guests would not necessarily conflict with the status of the premises as a “community premises”, provided the premises are generally available for use by the community in the sense described above. It is not the intention that qualifying clubs, which are able to apply for a club premises certificate, should instead seek a premises licence with the removal of the usual mandatory conditions in sections 19(2) and 19(3) of the 2003 Act relating to the supply of alcohol.

Management of the premises

- 4.42 Sections 25A(1) and 41D(1) and (2) of the 2003 Act allow applications by community premises to apply the alternative licence condition rather than the usual mandatory conditions in sections 19(2) and 19(3) of the 2003 Act only where the applicant for the licence is the management committee of the premises in question. In addition, sections 25A(6) and 41D(5) require the licensing authority to be satisfied that the arrangements for the management of the premises by the committee or board are sufficient to ensure the adequate supervision of the supply of alcohol on the premises.
- 4.43 The reference to a “committee or board of individuals” is intended to cover any formally constituted, transparent and accountable management committee or structure. Such a committee should have the capacity to provide sufficient oversight of the premises to minimise any risk to the licensing objectives that could arise from allowing the responsibility for supervising the sale of alcohol to be transferred from a DPS and personal licence holder or holders. This could include management committees, executive committees and boards of trustees.
- 4.44 The application form requires applicants to set out how the premises is managed, its committee structure and how the supervision of alcohol sales is to be ensured in different situations (e.g. when the hall is hired to private parties) and how responsibility for this is to be determined in individual cases and discussed within the committee procedure in the event of any issues arising. The application form requires that the community premises submit copies of any constitution or other management documents with their applications and that they provide the names of their key officers. Where the management arrangements are less clear, licensing authorities may wish to ask for further details to confirm that the management board or committee is properly constituted and accountable before taking a decision on whether to grant the application (subject to the views of the police). Community premises may wish to check with the licensing authority before making an application. The management committee is strongly encouraged to notify the licensing authority if there are key changes in the committee’s composition and to submit a copy to the chief officer of police. A failure to do so may form the basis of an application to review the premises licence, or be taken into account as part of the consideration of such an application.
- 4.45 As the premise licence holder, the management committee will collectively be responsible for ensuring compliance with licence conditions and the law (and may remain liable to prosecution for one of the offences in the 2003 Act) although there would not necessarily be any individual member always present at the premises. While overall responsibility will lie with the management committee, where the premises are hired out the hirer may be clearly identified as having responsibility for matters falling within his or her control (e.g. under the contract for hire offered by the licence holder), much in the same way that the event organiser may be responsible for an event held under a Temporary Event Notice. Where hirers are provided with a written summary of their responsibilities under the 2003 Act in relation to the sale of alcohol, the management committee is likely to be treated as having taken adequate steps to avoid liability to prosecution if a licensing offence is committed.
- 4.46 As indicated above, sections 25A(6) and 41D(5) of the 2003 Act require the licensing authority to consider whether the arrangements for the management of the premises by the committee are sufficient to ensure adequate supervision of the supply of alcohol on the premises. Where private hire for events which include the sale of alcohol is permitted by the licence, it would be necessary to have an effective hiring agreement. Licensing authorities may wish to consider model hiring agreements that have been made available

by organisations such as ACRE and Community Matters. Such model agreements can be revised to cater for the circumstances surrounding each hire arrangement; for example to state that the hirer is aware of the licensing objectives and offences in the 2003 Act and will ensure that it will take all appropriate steps to ensure that no offences are committed during the period of the hire.

Police views

- 4.47 In exceptional circumstances, the chief officer of police for the area in which the community premises is situated can object to a request for inclusion of the alternative licence condition on the grounds of crime and disorder, and any responsible authority or other person can seek reinstatement of the mandatory conditions through a review of the licence (as provided in section 52A of the 2003 Act). The police will want to consider any history of incidents at an establishment in light of the actual or proposed management arrangements, including the use of appropriate hire agreements. If the chief officer of police issues a notice seeking the refusal of the application to include the alternative licence condition, the licensing authority must hold a hearing in order to reach a decision on whether to grant the application.

Appeals

- 4.48 Where the chief officer of police has made relevant representations against the inclusion of the alternative licence condition, or given a notice under section 41D(6) which was not withdrawn, the chief officer of police can appeal the decision of the licensing authority to allow the inclusion of the alternative licence condition. Similarly, a community premises can appeal a decision by the licensing authority to refuse to include the alternative licence condition following a hearing triggered by relevant representations or by a notice given under section 41D(6). Following a review of the licence in which the mandatory conditions are reinstated, the licence holder may appeal against the decision. If the alternative licence condition is retained on review, the applicant for the review or any person who made relevant representations may appeal against the decision.

5. Who needs a premises licence?

5.1 A premises licence authorises the use of any premises (which is defined in the 2003 Act as a vehicle, vessel or moveable structure or any place or a part of any premises) for licensable activities defined in section 1 of the 2003 Act.

Relevant parts of Act

5.2 In determining whether any premises should be licensed, the following parts of the 2003 Act are relevant:

Relevant part of Act	Description
Section 1	Outlines the licensable activities
Part 3	Provisions relating to premises licences
Part 4	Provisions for qualifying clubs
Section 173	Activities in certain locations which are not licensable
Section 174	Premises that may be exempted on grounds of national security
Section 175	Exemption for incidental non-commercial lottery (e.g. a minor raffle or tombola)
Section 176	Prohibits the sale of alcohol at motorway service areas; and restricts the circumstances in which alcohol may be sold at garages
Section 189	Special provision in relation to the licensing of vessels, vehicles and moveable structures
Section 190	Where the place where a contract for the sale of alcohol is made is different from the place where the alcohol is appropriated to the contract, the sale of alcohol is to be treated as taking place where the alcohol is appropriated to the contract
Section 191	Defines “alcohol” for the purposes of the 2003 Act
Section 192	Defines the meaning of “sale by retail”
Section 193	Defines among other things “premises”, “vehicle”, “vessel” and “wine”
Schedules 1 and 2	Provision of regulated entertainment and provision of late night refreshment

5.3 Section 191 provides the meaning of “alcohol” for the purposes of the 2003 Act. It should be noted that a wide variety of foodstuffs contain alcohol but generally in a highly diluted form when measured against the volume of the product. For the purposes of the 2003 Act, the sale or supply of alcohol which is of a strength not exceeding 0.5 per cent ABV (alcohol by volume) at the time of the sale or supply in question is not a licensable activity. However, where the foodstuff contains alcohol at greater strengths, for example, as with some alcoholic jellies, the sale would be a licensable activity.

Premises licensed for gambling

5.4 Gambling is the subject of separate legislation and licensing authorities should not duplicate any conditions imposed by this legislation when granting, varying or reviewing licences that authorise licensable activities under the 2003 Act. When making a licence application, the applicant may, in detailing the steps to be taken in promoting the licensing objectives, refer to the statutory conditions in respect of their gambling licence (where relevant). In addition, any conditions which are attached to premises licences should not prevent the holder from complying with the requirements of gambling legislation or supporting regulations. Further information about the Gambling Act 2005 can be found on the GOV.UK website.

Designated sports grounds, designated sports events and major outdoor sports stadia

5.5 Outdoor sports stadia are regulated by separate legislation and sports events taking place at outdoor stadia do not fall within the definition of the provision of regulated entertainment under the 2003 Act, with the exception of boxing or wrestling entertainment (see 15.49-15.51). Licensing authorities should therefore limit their consideration of applications for premises licences to activities that are licensable under the 2003 Act.

5.6 Major stadia will often have several bars and restaurants, including bars generally open to all spectators as well as bars and restaurants to which members of the public do not have free access. Alcohol may also be supplied in private boxes and viewing areas. A premises licence may make separate arrangements for public and private areas or for restaurant areas on the same premises. It may also designate areas where alcohol may not be consumed at all or at particular times.

5.7 Licensing authorities should be aware that paragraphs 98 and 99(c) of Schedule 6 to the 2003 Act and the repeals of section 2(1A) and section 5A of the Sporting Events (Control of Alcohol etc.) Act 1985 have not been commenced because their effect would have been different from that which Parliament had intended.

Sporting events at stadia with retractable roofs

5.8 A sporting event at a stadium or sports ground with a roof that opens and closes does not fall within the definition of an “indoor sporting event” under the 2003 Act. As a result, indoor sporting events taking place in these stadia are not ‘regulated entertainment’ and are not licensable under the 2003 Act.

Vessels

5.9 The 2003 Act applies to vessels (including ships and boats) as if they were premises. A vessel which is not permanently moored or berthed is treated as if it were premises situated in a place where it is usually moored or berthed. The relevant licensing authority for considering an application for a premises licence for a vessel is therefore the licensing authority for the area in which it is usually moored or berthed.

5.10 However, an activity is not a licensable activity if it takes place aboard a vessel engaged on an international journey. An “international journey” means a journey from a place in the United Kingdom to an immediate destination outside the United Kingdom or a journey from outside the United Kingdom to an immediate destination in the United Kingdom.

- 5.11 If a vessel is not permanently moored and carries more than 12 passengers it is a passenger ship and will be subject to safety regulation by the Maritime and Coastguard Agency (MCA).
- 5.12 When a licensing authority receives an application for a premises licence in relation to a vessel, it should consider the promotion of the licensing objectives, but should not focus on matters relating to safe navigation or operation of the vessel, the general safety of passengers, or emergency provision; all of which are subject to regulations which must be met before the vessel is issued with its Passenger Certificate and Safety Management Certificate.
- 5.13 If the MCA is satisfied that the vessel complies with Merchant Shipping standards for a passenger ship, the premises should normally be accepted as meeting the public safety objective. In relation to other public safety aspects of the application, representations made by the MCA on behalf of the Secretary of State should be given particular weight.
- 5.14 If a vessel, which is not permanently moored and carries no more than 12 passengers, goes to sea, it will be subject to the Code of Practice for the Safety of Small Commercial Sailing Vessels. This code sets the standards for construction, safety equipment and manning for these vessels and MCA will be able to confirm that it has a valid safety certificate.
- 5.15 If a vessel carries no more than 12 passengers and does not go to sea, it may be regulated or licensed by the competent harbour authority, navigation authority or local authority. The recommended standards for these vessels are set out in the (non-statutory) Inland Waters Small Passenger Boat Code, which provides best practice guidance on the standards for construction, safety equipment and manning. Some authorities may use their own local rules. MCA has no direct responsibility for these vessels and will not normally comment on a premises licence application.

International airports and ports

- 5.16 Under the 2003 Act, the Secretary of State may 'designate' a port, hoverport or airport with a substantial amount of international traffic so that an activity carried on there is not licensable. The Secretary of State may also preserve existing designations made under earlier legislation.
- 5.17 Areas at designated ports which are "airside" or "wharveside" are included in the exemption in the 2003 Act from the licensing regime. The non-travelling public does not have access to these areas and they are subject to stringent bye-laws. The exemption allows refreshments to be provided to travellers at all times of the day and night. Other parts of designated ports, hoverports and airports are subject to the normal licensing controls.

Vehicles

- 5.18 Under the 2003 Act, alcohol may not be sold on a moving vehicle and the vehicle may not be licensed for that purpose. However, licensing authorities may consider applications for the sale of alcohol from a parked or stationary vehicle. For example, mobile bars could sell alcohol at special events as long as they were parked. Any permission granted would relate solely to the place where the vehicle is parked and where sales are to take place.

- 5.19 The provision of any entertainment on premises consisting of or forming part of any vehicle while it is in motion and not permanently or temporarily parked is not regulated entertainment for the purposes of the 2003 Act.

Trains and aircraft

- 5.20 Railway vehicles and aircraft engaged on journeys are exempted from the requirement to have an authorisation to carry on licensable activities (although a magistrates' court can make an order to prohibit the sale of alcohol on a railway vehicle if this is appropriate to prevent disorder). Licensing authorities should note that some defunct aircraft and railway carriages remain in a fixed position and are used as restaurants and bars. These premises are subject to the provisions of the 2003 Act.

Garages and motorway service areas

- 5.21 Section 176 of the 2003 Act prohibits the sale or supply of alcohol at motorway service areas (MSAs) and from premises which are used primarily as a garage, or are part of premises used primarily as a garage. Premises are used primarily as a garage if they are used for one or more of the following:
- the retailing of petrol;
 - the retailing of derv;
 - the sale of motor vehicles; and
 - the maintenance of motor vehicles.
- 5.22 It is for the licensing authority to decide, based on the licensing objectives, whether it is appropriate for that premises to be granted a licence, taking into account the documents and information listed in section 17(3) and (4) which must accompany the application.
- 5.23 If a licence is granted in respect of a premises and the primary use of that premises subsequently changes (for example, the primary use becomes that of a garage rather than a shop) it would no longer be legal to sell alcohol on that premises. If a relevant representation is made, the licensing authority must decide whether or not the premises are used primarily as a garage. The licensing authority may ask the licence holder to provide further information to help establish what the primary use of the premises is.

Large scale time-limited events requiring premises licences

- 5.24 Licensing authorities should note that a premises licence may be sought for a short, discrete period. The 2003 Act provides that a temporary event notice is subject to various limitations (see Chapter 7 of this Guidance). The temporary provision of licensable activities that fall outside these limits will require the authority of a premises licence if the premises are currently unlicensed for the activities involved.

- 5.25 The procedures for applying for and granting such a licence are identical to those for an unlimited duration premises licence except that it should be stated on the application that the applicant's intention is that the period of the licence should be limited. Licensing authorities should clearly specify on such a licence when it comes into force and when it ceases to have effect. If the sale of alcohol is involved, a personal licence holder must be specified as the designated premises supervisor.

6. Club premises certificates

6.1 This Chapter covers the administration of the processes for issuing, varying, and reviewing club premises certificates and other associated procedures.

General

6.2 Clubs are organisations where members have joined together for particular social, sporting or political purposes. They may then combine to buy alcohol in bulk as members of the organisation to supply in the club.

6.3 Technically the club only sells alcohol by retail at such premises to guests. Where members purchase alcohol, there is no sale (as the member owns part of the alcohol stock) and the money passing across the bar is merely a mechanism to preserve equity between members where one may consume more than another.

6.4 Only 'qualifying' clubs may hold club premises certificates. In order to be a qualifying club, a club must have at least 25 members and meet the qualifying conditions set out in paragraph 6.9. The grant of a club premises certificate means that a qualifying club is entitled to certain benefits. These include:

- the authority to supply alcohol to members and sell it to guests on the premises to which the certificate relates without the need for any member or employee to hold a personal licence;
- the authority to provide late night refreshment to members of the club without requiring additional authorisation;
- more limited rights of entry for the police and authorised persons because the premises are considered private and not generally open to the public;
- exemption from police powers of instant closure on grounds of disorder and noise nuisance (except when being used under the authority of a temporary event notice or premises licence) because they operate under their codes of discipline and rules; and
- exemption from orders of the magistrates' court for the closure of all licensed premises in an area when disorder is happening or expected.

6.5 Qualifying clubs should not be confused with proprietary clubs, which are clubs run commercially by individuals, partnerships or businesses for profit. These require a premises licence and are not qualifying clubs.

6.6 A qualifying club will be permitted under the terms of a club premises certificate to sell and supply alcohol to its members and their guests only. Instant membership is not permitted and members must wait at least two days between their application and their admission to the club. A qualifying club may choose to apply for a premises licence if it decides that it wishes to offer its facilities commercially for use by the general public, including the sale of alcohol to them. However, an individual on behalf of a club may give temporary event notices. See Chapter 7.

- 6.7 The 2003 Act does not prevent visitors to a qualifying club being supplied with alcohol as long as they are ‘guests’ of any member of the club or the club collectively, and nothing in the 2003 Act prevents the admission of such people as guests without prior notice. The 2003 Act does not define “guest” and whether or not somebody is a genuine guest would in all cases be a question of fact.
- 6.8 There is no mandatory requirement under the 2003 Act for guests to be signed in by a member of the club. However, a point may be reached where a club is providing commercial services to the general public in a way that is contrary to its qualifying club status. It is at this point that the club would no longer be conducted in “good faith” and would no longer meet “general condition 3” for qualifying clubs in section 62 of the 2003 Act. Under the 2003 Act, the licensing authority must decide when a club has ceased to operate in “good faith” and give the club a notice withdrawing the club premises certificate. The club is entitled to appeal against such a decision to a magistrates’ court. Unless the appeal is successful, the club would need to apply for a premises licence to authorise licensable activities taking place there.

Qualifying conditions

- 6.9 Section 62 of the 2003 Act sets out five general conditions which a relevant club must meet to be a qualifying club. Section 63 also sets out specified matters for licensing authorities to enable them to determine whether a club is established and conducted in good faith – the third qualifying condition. Section 64 sets out additional conditions which only need to be met by clubs intending to supply alcohol to members and guests. Section 90 of the 2003 Act gives powers to the licensing authority to issue a notice to a club withdrawing its certificate where it appears that it has ceased to meet the qualifying conditions. There is a right of appeal against such a decision.

Associate members and guests

- 6.10 As well as their own members and guests, qualifying clubs are also able to admit associate members and their guests (i.e. members and guests from another ‘recognised club’ as defined by section 193 of the 2003 Act) to the club premises when qualifying club activities are being carried on without compromising the use of their club premises certificate.

Applications for the grant or variation of club premises certificates

- 6.11 The arrangements for applying for or seeking to vary club premises certificates are extremely similar to those for a premises licence. Clubs may also use the minor variation process to make small changes to their certificates as long as these could have no adverse impact on the licensing objectives. Licensing authorities should refer to Chapter 8 of this Guidance on the handling of such applications.
- 6.12 In addition to a plan of the premises and a club operating schedule, clubs must also include the rules of the club with their application (as well as making a declaration to the licensing authority in accordance with regulations made under the 2003 Act). On notifying any alteration to these rules to the licensing authority, the club is required to pay a fee set down in regulations. Licensing authorities cannot require any changes to the rules to be made as a condition of receiving a certificate unless relevant representations have been made. However, if a licensing authority is satisfied that the rules of a club indicate that it does not meet the qualifying conditions in the 2003 Act, a club premises certificate should not be granted.

Steps needed to promote the licensing objectives

- 6.13 Club operating schedules prepared by clubs, must include the steps it intends to take to promote the licensing objectives. These will be translated into conditions included in the certificate, unless the conditions have been modified by the licensing authority following consideration of relevant representations. Guidance on these conditions is given in Chapter 10 of this Guidance.

7. Temporary Event Notices (TENs)

7.1 This Chapter covers the arrangements in Part 5 of the 2003 Act for the temporary carrying on of licensable activities which are not authorised by a premises licence or club premises certificate.

General

- 7.2 The system of permitted temporary activities is intended as a light touch process, and as such, the carrying on of licensable activities does not have to be authorised by the licensing authority on an application. Instead, a person wishing to hold an event at which such activities are proposed to be carried on (the “premises user”) gives notice to the licensing authority of the event (a “temporary event notice” or “TEN”).
- 7.3 The TEN must be given to the licensing authority in the form prescribed in regulations made under the 2003 Act. The form requires the user to describe key aspects of the proposed event, including the general nature of the premises and the event, the licensable activities intended to be carried on at the proposed event, including whether they will include any relevant entertainment as defined in Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (i.e. displays of nudity designed to sexually stimulate any member of the audience including, but not limited to, lap dancing and pole dancing).
- 7.4 Unless it is sent electronically, it must be sent to the relevant licensing authority, to the police and “local authority exercising environmental health functions” (“EHA”) at least ten working days before the event. A premises user may also give a limited number of “late TENs” to the licensing authority less than 10 working days before the event to which they relate, although certain restrictions apply (see paragraphs 7.12-7.14). “Working day” under the 2003 Act means any day other than a Saturday, Sunday, Christmas Day, Good Friday or Bank Holiday. For limited purposes in relation to a TEN, the 2003 Act defines a “day” as a period of 24 hours beginning at midnight.
- 7.5 If a TEN is sent electronically via GOV.UK or the licensing authority’s own facility, the licensing authority must notify the police and EHA as soon as possible and no later than the first working day after the TEN is given.
- 7.6 The police or EHA (“relevant persons” for the purposes of TENs) may intervene to prevent such an event taking place by sending an objection to the licensing authority, which the licensing authority must consider on the basis of the statutory licensing objectives and decide whether the event should go ahead. A relevant person may also intervene by agreeing a modification of the proposed arrangements directly with the TENs user (see paragraph 7.36). If a relevant person sends an objection, this may result in the licensing authority imposing conditions on a TEN but only where the venue at which the event is to be held has an existing premises licence or club premises certificate. When giving a TEN, the premises user should consider the promotion of the four licensing objectives. The licensing authority may only otherwise intervene if the statutory permitted limits on TENs would be exceeded (see paragraphs 7.15-7.22).
- 7.7 A TEN does not relieve the premises user from any requirements under planning law for appropriate planning permission where it is required.

Standard and late temporary event notices

7.8 There are two types of TEN: a standard TEN and a late TEN. These are subject to different processes: a standard notice is given no later than ten working days before the event to which it relates; and a late notice is given not before nine and not later than five working days before the event.

Standard temporary event notices

- 7.9 “Ten working days” (and other periods of days which apply to other requirements in relation to TENs) exclude the day the notice is received and the first day of the event.
- 7.10 The police and EHA have a period of three working days from when they are given the notice to object to it on the basis of any of the four licensing objectives.
- 7.11 Although ten clear working days is the minimum possible notice that may be given, licensing authorities should publicise their preferences in terms of advance notice and encourage premises users to provide the earliest possible notice of events planned by them. Licensing authorities should also consider publicising a preferred maximum time in advance of an event by when TENs should ideally be given to them.

Late temporary event notices

- 7.12 Late TENs are intended to assist premises users who are required for reasons outside their control to, for example, change the venue for an event at short notice. However, late TENs may, of course, be given in any circumstances providing the limits specified at paragraph 7.15 are not exceeded.
- 7.13 Late TENs can be given up to five working days but no earlier than nine working days before the event is due to take place and, unless given electronically to the licensing authority, must also be sent by the premises user to the police and EHA. A late TEN given less than five days before the event to which it relates will be returned as void and the activities to which it relates will not be authorised.
- 7.14 A key difference between standard and late TENs is the process following an objection notice from the police or EHA. Where an objection notice is received in relation to a standard TEN the licensing authority must hold a hearing to consider the objection, unless all parties agree that a hearing is unnecessary. If the police, EHA or both give an objection to a late TEN, the notice will not be valid and the event will not go ahead as there is no scope for a hearing or the application of any existing conditions.

Limitations

- 7.15 A number of limitations are imposed on the use of TENs by the 2003 Act:
- the number of times a premises user may give a TEN is 50 times in a calendar year for a personal licence holder and five times in a calendar year for other people;
 - the number of times a premises user may give a late TEN is limited to 10 times in a calendar year for a personal licence holder and twice for other people. Late TENs count towards the total number of permitted TENs (i.e. the limit of five TENs a year for non-personal licence holders and 50 TENs for personal licence holders). A notice that is given less than ten working days before the event to which it relates, when the premises user has already given the permitted number of late TENs in that calendar year, will be returned as void and the activities described in it will not be authorised.

- the number of times a TEN may be given for any particular premises is 12 times in a calendar year (the Deregulation Act 2015 has increased this number to 15 with effect from 1 January 2016);
- the maximum duration of an event authorised by a TEN is 168 hours (seven days);
- the maximum total duration of the events authorised by TENs in relation to individual premises is 21 days in a calendar year;
- the maximum number of people attending at any one time is 499; and
- the minimum period between events authorised under separate TENs in relation to the same premises (not including withdrawn TENs) by the same premises user is 24 hours.

7.16 Any associate, relative or business partner of the premises user is considered to be the same premises user in relation to these restrictions. The 2003 Act defines an associate, in relation to the premises user, as being:

- the spouse or civil partner of that person;
- a child, parent, grandchild, grandparent, brother or sister of that person;
- an agent or employee of that person; or
- the spouse or civil partner of a person listed in either of the two preceding bullet points.

7.17 A person living with another person as their husband or wife, is treated for these purposes as their spouse. 'Civil partner' has its meaning in the Civil Partnership Act 2004.

7.18 A TEN that is given and subsequently withdrawn by the TEN user can be included within the limits of the numbers of TENs allowed in a given calendar year.

7.19 Once these limits have been reached, the licensing authority should issue a counter notice (permitted limits) if any more are given. Proposed activities that exceed these limits will require a premises licence or club premises certificate.

7.20 TENs may be given in respect of premises which already have a premises licence or club premises certificate to cover licensable activities not permitted by the existing authorisation.

7.21 In determining whether the maximum total duration of the periods covered by TENs at any individual premises has exceeded 21 days, an event beginning before midnight and continuing into the next day would count as two days towards the 21-day limitation.

7.22 There is nothing in the 2003 Act to prevent notification of multiple events at the same time, provided the first event is at least ten working days away (or five working days away in the case of a late TEN). For example, an individual personal licence holder wishing to exhibit and sell beer at a series of farmers' markets may wish to give several notices simultaneously. However, this would only be possible where the limits are not exceeded in the case of each notice. Where the events are due to take place in different licensing authority (and police) areas, the respective licensing authorities and relevant persons would each need to be notified accordingly.

Who can give a temporary event notice?

Personal licence holders

- 7.23 A personal licence holder can give a TEN at any premises on up to 50 occasions in a calendar year. This limit is inclusive of any late TENs given in the same year. The use of each TEN must of course observe the limits described above, including the limit of 12 TENs in respect of each premises in a calendar year.

Non-personal licence holders

- 7.24 The 2003 Act provides that any individual aged 18 or over may give a TEN to authorise the carrying on of all licensable activities under the Licensing Act 2003, whether or not that individual holds a personal licence. Such an individual will not, therefore, have met the requirements that apply to a personal licence holder under Part 6 of the 2003 Act. Where alcohol is not intended to be sold, this should not matter. However, many events will involve a combination of licensable activities and the 2003 Act limits the number of notices that may be given by any non-personal licence holder to five occasions in a calendar year (inclusive of any late TENs in the same year). In every other respect, the Guidance and information set out in the paragraphs above applies.

Role of the licensing authority

- 7.25 The licensing authority must check that the limitations set down in Part 5 of the 2003 Act are being observed and intervene if they are not (see paragraph 7.15). For example, a TEN would be void unless there is a minimum of 24 hours between events notified by the same premises user, or an associate or someone who is in business with the relevant premises user in respect of the same premises. This is to prevent evasion of the seven day (or 168 hour) limit on such events and the need to obtain a full premises licence or club premises certificate for more major or permanent events. In addition, for these purposes, a TEN is treated as being from the same premises user if it is given by an associate.
- 7.26 Where the application is not within the statutory parameters described earlier, the licensing authority will issue a counter notice to the premises user.
- 7.27 Where the TEN is in order, the relevant fee paid and the event falls within the prescribed limits, the licensing authority will record the notice in its register and send an acknowledgement to the premises user (which may be given electronically). The licensing authority must do so, no later than the end of the first working day following the day on which it was received (or by the end of the second working day if it was received on a non-working day), unless an objection notice is received beforehand from the police or EHA on the basis of any of the four licensing objectives (see paragraphs below).
- 7.28 If the licensing authority receives an objection notice from the police or EHA that is not withdrawn, it must (in the case of a standard TEN only) hold a hearing to consider the objection (unless all parties agree that this is unnecessary). The licensing committee may decide to allow the licensable activities to go ahead as stated in the notice. If the notice is in connection with licensable activities at licensed premises, the licensing authority may also impose one or more of the existing licence conditions on the TEN (insofar as such conditions are not inconsistent with the event) if it considers that this is appropriate for the promotion of the licensing objectives. If the authority decides to impose conditions, it must give notice to the premises user which includes a statement of conditions (a “notice (statement of conditions)”) and provide a copy to each relevant party. Alternatively, it can

decide that the event would undermine the licensing objectives and should not take place. In this case, the licensing authority must give a counter notice.

- 7.29 Premises users are not required to be on the premises during the event authorised by the TEN, but they will remain liable to prosecution for certain offences that may be committed at the premises during the period covered by it. These include, for example, the offences of the sale of alcohol to a person who is drunk; persistently selling alcohol to children and allowing disorderly conduct on licensed premises.
- 7.30 In the case of an event authorised by a TEN, failure to adhere to the requirements of the 2003 Act, such as the limitation of no more than 499 being present at any one time, would mean that the event was unauthorised. In such circumstances, the premises user would be liable to prosecution.
- 7.31 Section 8 of the 2003 Act requires licensing authorities to keep a register containing certain matters, including a record of TENs received. There is no requirement to record all the personal information given on a TEN.

Police and environmental health intervention

- 7.32 The system of permitted temporary activities gives police and EHAs the opportunity to consider whether they should object to a TEN on the basis of any of the licensing objectives.
- 7.33 If the police or EHA believe that allowing the premises to be used in accordance with the TEN will undermine the licensing objectives, they must give the premises user and the licensing authority an objection notice. The objection notice must be given within the period of three working days following the day on which they received the TEN.
- 7.34 Where a standard TEN was given, the licensing authority must consider the objection at a hearing before a counter notice can be issued. At the hearing, the police, EHA and the premises user may make representations to the licensing authority. Following the hearing, the licensing authority may decide to impose conditions which already apply to an existing premises licence or club premises certificate at the venue, or issue a counter notice to prevent the event going ahead. As noted above, there is no scope for hearings in respect of late TENs and if objections are raised by the police or EHA in relation to a late TEN, the notice will be invalid and the event will not go ahead.
- 7.35 Such cases might arise because of concerns about the scale, location, timing of the event or concerns about public nuisance. However, in most cases, where for example, alcohol is supplied away from licensed premises at a temporary bar under the control of a personal licence holder, (such as at weddings with a cash bar or small social or sporting events) this should not usually give rise to the use of these powers.

Modification

- 7.36 As noted above, the police or EHA (as “relevant persons”) may contact the premises user to discuss their objections and try to come to an agreement which will allow the proposed licensable activities to proceed. The TEN can be modified (for example, by changing the details of the parts of the premises that are to be used for the event, the description of the nature of the intended activities or their duration). The other relevant person has to agree for the modification to be made. There is no scope under the 2003 Act for the modification of a late TEN.

Applying conditions to a TEN

- 7.37 The 2003 Act provides that only the licensing authority can impose conditions to a TEN from the existing conditions on the premises licence or club premises certificate at the venue. The licensing authority can only do so:
- if the police or the EHA have objected to the TEN;
 - if that objection has not been withdrawn;
 - if there is a licence or certificate in relation to at least a part of the premises in respect of which the TEN is given;
 - and if the licensing authority considers it appropriate for the promotion of the licensing objectives to impose one or more conditions.
- 7.38 This decision is one for the licensing authority alone, regardless of the premises user's views or willingness to accept conditions. The conditions must be notified to the premises user on the form prescribed by regulations.

Hearings to impose conditions

- 7.39 Section 105 of the 2003 Act is clear that a licensing authority must hold a hearing to consider any objections from the police or EHA unless all the parties agree that a hearing is not necessary. If the parties agree that a hearing is not necessary and the licensing authority decides not to give a counter notice on the basis of the objection, it may impose existing conditions on the TEN.

Duty of premises users to keep and produce TENs

- 7.40 Where a TEN is not prominently displayed at the premises, the police and licensing officers have the right under sections 109(5) and (6) of the 2003 Act to request the premises user (or relevant nominated person who has the TEN in their custody) to produce the TEN for examination. If the police do not intervene when a TEN is given, they will still be able to rely on their powers of closure under the Anti-social Behaviour, Crime and Policing Act 2014³.

³ For further guidance on the closure power under the 2014 Act, please refer to https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/352562/ASB_Guidance_v8_July2014_final_2.pdf

8. Applications for premises licences

Relevant licensing authority

- 8.1 Premises licences are issued by the licensing authority in which the premises are situated or, in the case of premises straddling an area boundary, the licensing authority where the greater part of the premises is situated. Where the premises is located equally in two or more areas, the applicant may choose but, in these rare cases, it is important that each of the licensing authorities involved maintain close contact.
- 8.2 Section 13 of the 2003 Act defines the parties holding important roles in the context of applications, inspection, monitoring and reviews of premises licences.

Authorised persons

- 8.3 The first group –“authorised persons”– are bodies empowered by the 2003 Act to carry out inspection and enforcement roles. The police are not included because they are separately empowered by the 2003 Act to carry out their duties.
- 8.4 For all premises, the authorised persons include:
- officers of the licensing authority;
 - fire inspectors;
 - inspectors with responsibility in the licensing authority’s area for the enforcement of the Health and Safety at Work etc Act 1974; and
 - officers of the local authority exercising environmental health functions.
- 8.5 Local authority officers will most commonly have responsibility for the enforcement of health and safety legislation, but the Health and Safety Executive is responsible for certain premises. In relation to vessels, authorised persons also include an inspector or a surveyor of ships appointed under section 256 of the Merchant Shipping Act 1995. These would normally be officers acting on behalf of the Maritime and Coastguard Agency. The Secretary of State may prescribe other authorised persons by means of regulations, but has not currently prescribed any additional bodies. If any are prescribed, details will be made available on the GOV.UK website.

Responsible authorities

- 8.6 The second group –“responsible authorities”– are public bodies that must be fully notified of applications and that are entitled to make representations to the licensing authority in relation to the application for the grant, variation or review of a premises licence. These representations must still be considered ‘relevant’ by the licensing authority and relate to one or more of the licensing objectives. For all premises, responsible authorities include:
- the relevant licensing authority and any other licensing authority in whose area part of the premises is situated;
 - the chief officer of police;
 - the local fire and rescue authority;
 - the relevant enforcing authority under the Health and Safety at Work etc Act 1974;

- the local authority with responsibility for environmental health;
- the local planning authority;
- a body that represents those who are responsible for, or interested in, matters relating to the protection of children from harm;
- each local authority's Director of Public Health (DPH) in England⁴ and Local Health Boards (in Wales); and
- the local weights and measures authority (trading standards).

- 8.7 The licensing authority should indicate in its statement of licensing policy which body it recognises to be competent to advise it on the protection of children from harm. This may be the local authority social services department, the Local Safeguarding Children Board or another competent body. This is important as applications for premises licences have to be copied to the responsible authorities in order for them to make any representations they think are relevant.
- 8.8 In relation to a vessel, responsible authorities also include navigation authorities within the meaning of section 221(1) of the Water Resources Act 1991 that have statutory functions in relation to the waters where the vessel is usually moored or berthed, or any waters where it is proposed to be navigated when being used for licensable activities; the Environment Agency; the Canal and River Trust; and the Secretary of State (who in practice acts through the Maritime and Coastguard Agency (MCA)). In practice, the Environment Agency and the Canal and River Trust only have responsibility in relation to vessels on waters for which they are the navigation statutory authority.
- 8.9 The MCA is the lead responsible authority for public safety, including fire safety, affecting passenger ships (those carrying more than 12 passengers) wherever they operate and small commercial vessels (carrying no more than 12 passengers) which go to sea. The safety regime for passenger ships is enforced under the Merchant Shipping Acts by the MCA which operates certification schemes for these vessels. Fire and rescue authorities, the Health and Safety Executive and local authority health and safety inspectors should normally be able to make "nil" returns in relation to such vessels and rely on the MCA to make any appropriate representations in respect of this licensing objective.
- 8.10 Merchant Shipping legislation does not, however, apply to permanently moored vessels. So, for example, restaurant ships moored on the Thames Embankment, with permanent shore connections should be considered by the other responsible authorities concerned with public safety, including fire safety. Vessels carrying no more than 12 passengers which do not go to sea are not subject to MCA survey and certification, but may be licensed by the local port or navigation authority.
- 8.11 The Secretary of State may prescribe other responsible authorities by means of regulations. Any such regulations are published on the Government's legislation website: www.legislation.gov.uk

⁴ This change was made as a result of the commencement of measures in the Health and Social Care Act 2012 which amended the 2003 Act and further provision in the NHS Bodies and Local Authorities (Partnership Arrangements, Care Trusts, Public Health and Local Healthwatch) Regulations 2012.

Other persons

- 8.12 As well as responsible authorities, any other person can play a role in a number of licensing processes under the 2003 Act. This includes any individual, body or business entitled to make representations to licensing authorities in relation to applications for the grant, variation, minor variation or review of premises licences and club premises certificates, regardless of their geographic proximity to the premises. In addition, these persons may themselves seek a review of a premises licence. Any representations made by these persons must be 'relevant', in that the representation relates to one or more of the licensing objectives. It must also not be considered by the licensing authority to be frivolous or vexatious. In the case of applications for reviews, there is an additional requirement that the grounds for the review should not be considered by the licensing authority to be repetitious. Chapter 9 of this guidance (paragraphs 9.4 to 9.10) provides more detail on the definition of relevant, frivolous, vexatious and repetitious representations.
- 8.13 While any of these persons may act in their own right, they may also request that a representative makes the representation to the licensing authority on their behalf. A representative may include a legal representative, a friend, a Member of Parliament, a Member of the Welsh Government, or a local ward or parish councillor who can all act in such a capacity.

Who can apply for a premises licence?

- 8.14 Any person (if an individual aged 18 or over) who is carrying on or who proposes to carry on a business which involves the use of premises (any place including one in the open air) for licensable activities may apply for a premises licence either on a permanent basis or for a time-limited period.
- 8.15 "A person" in this context includes, for example, a business or a partnership. Licensing authorities should not require the nomination of an individual to hold the licence or determine the identity of the most appropriate person to hold the licence.
- 8.16 In considering joint applications (which is likely to be a rare occurrence), it must be stressed that under section 16(1)(a) of the 2003 Act each applicant must be carrying on a business which involves the use of the premises for licensable activities. In the case of public houses, this would be easier for a tenant to demonstrate than for a pub owning company that is not itself carrying on licensable activities. Where licences are to be held by businesses, it is desirable that this should be a single business to avoid any lack of clarity in accountability.
- 8.17 A public house may be owned, or a tenancy held, jointly by a husband and wife, civil partners or other partnerships of a similar nature, and both may be actively involved in carrying on the licensable activities. In these cases, it is entirely possible for the husband and wife or the partners to apply jointly as applicant for the premises licence, even if they are not formally partners in business terms. This is unlikely to lead to the same issues of clouded accountability that could arise where two separate businesses apply jointly for the licence. If the application is granted, the premises licence would identify the holder as comprising both names and any subsequent applications, for example for a variation of the licence, would need to be made jointly.

- 8.18 A wide range of other individuals and bodies set out in section 16 of the 2003 Act may apply for premises licences. They include, for example, Government Departments, local authorities, hospitals, schools, charities or police forces. In addition to the bodies listed in section 16, the Secretary of State may prescribe by regulations other bodies that may apply and any such regulations are published on the Government's legislation website. There is nothing in the 2003 Act which prevents an application being made for a premises licence at premises where a premises licence is already held.

Application forms

- 8.19 The Provision of Services Regulations 2009 require local authorities to ensure that all procedures relating to access to, or the exercise of, a service activity may be easily completed, at a distance and by electronic means. Electronic application facilities for premises licences may be found either on GOV.UK or the licensing authority's own website. It remains acceptable to make an application in writing.

Electronic applications

- 8.20 Applicants may apply using the licence application forms available on GOV.UK, or will be re-directed from GOV.UK to the licensing authority's own electronic facility if one is available. Applicants may also apply directly to the licensing authority's facility without going through GOV.UK.

Electronic applications using forms on gov.uk

- 8.21 GOV.UK will send a notification to the licensing authority when a completed application form is available for it to download from GOV.UK. This is the day that the application is taken to be 'given' to the licensing authority, even if it is downloaded at a later stage, and the application must be advertised from the day after that day (as for a written application). The licensing authority must acknowledge the application as quickly as possible, specifying the statutory time period and giving details of the appeal procedure.
- 8.22 The period of 28 consecutive days during which the application must be advertised on a notice outside the premises is, effectively, the statutory timescale by which the application must be determined (unless representations are made). This will be published on GOV.UK and must also be published on the licensing authority's own electronic facility if one exists. If no representations are made during this period, the licensing authority must notify the applicant as quickly as possible that the licence has been granted. The licensing authority must send the licence to the applicant as soon as possible after this, but the applicant may start the licensed activity as soon as they have been notified that the application is granted. The licence may be supplied in electronic or written format as long as the applicant is aware which document constitutes 'the licence'. If representations are made, the guidance in Chapter 9 applies.

Requirement to copy application to responsible authorities

- 8.23 The licensing authority must copy electronic applications, made via GOV.UK or its own facility, to responsible authorities no later than the first working day after the application is given. However, if an applicant submits any part of their application in writing, the applicant will remain responsible for copying it to responsible authorities.

Applications via the local authority electronic application facility

8.24 Where applications are made on the licensing authority's own electronic facility, the application will be taken to be 'given' when the applicant has submitted a complete application form and paid the fee. The application is given at the point at which it becomes accessible to the authority by means of the facility. The licensing authority must acknowledge the application as quickly as possible, specifying the statutory time period and giving details of the appeal procedure.

'Holding' and 'deferring' electronic applications

8.25 The Government recommends (as for written applications) that electronic applications should not be returned if they contain obvious and minor errors such as typing mistakes, or small errors that can be rectified with information already in the authority's possession. However, if this is not the case and required information is missing or incorrect, the licensing authority may 'hold' the application until the applicant has supplied all the required information. This effectively resets the 28 day period for determining an application and may be done any number of times until the application form is complete. Licensing authorities must ensure that they notify the applicant as quickly as possible of any missing (or incorrect) information, and explain how this will affect the statutory timescale and advertising requirements.

8.26 If an application has been given at the weekend, the notice advertising the application (where applicable) may already be displayed outside the premises by the time that the licensing authority downloads the application. It is therefore recommended that, if a licensing authority holds an application, it should inform the applicant that the original (or if necessary, amended) notice must be displayed until the end of the revised period. The licensing authority should also advise the applicant that they should not advertise the application in a local newspaper until they have received confirmation from the licensing authority that the application includes all the required information. To ensure clarity for applicants, the Government recommends that licensing authorities include similar advice on their electronic application facilities (where these exist) to ensure that applicants do not incur any unnecessary costs.

8.27 If an applicant persistently fails to supply the required information, the licensing authority may refuse the application and the applicant must submit a new application.

8.28 Licensing authorities may also 'defer' electronic applications once if the application is particularly complicated, for example if representations are received and a hearing is required. This allows the licensing authority to extend the statutory time period for the determination of the application by such time as is necessary, including, if required, arranging and holding a hearing. Licensing authorities must ensure that applicants are informed as quickly as possible of a decision to defer, and the reasons for the deferral, before the original 28 days has expired.

Written applications

- 8.29 A written application for a premises licence must be made in the prescribed form to the relevant licensing authority and be copied to each of the appropriate responsible authorities. For example, it would not be appropriate to send an application for premises which was not a vessel to the Maritime and Coastguard Agency. The application must be accompanied by:
- the required fee (details of fees may be viewed on the GOV.UK website);
 - an operating schedule (see below);
 - a plan of the premises in a prescribed form; and
 - if the application involves the supply of alcohol, a form of consent from the individual who is to be specified in the licence as the designated premises supervisor (DPS).
- 8.30 If the application is being made in respect of a community premises, it may be accompanied by the form of application to apply the alternative licence condition.
- 8.31 Guidance on completing premises licence, club premises certificate and minor variation forms can be found on the GOV.UK website. The Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005 contain provision about the prescribed form of applications, operating schedules and plans and are published on the legislation.gov.uk website.

Plans

- 8.32 Plans, for written and electronic applications, will not be required to be submitted in any particular scale, but they must be in a format which is “clear and legible in all material respects”, i.e. they must be accessible and provides sufficient detail for the licensing authority to be able to determine the application, including the relative size of any features relevant to the application. There is no requirement for plans to be professionally drawn as long as they clearly show all the prescribed information.

Steps to promote the licensing objectives

- 8.33 In completing an operating schedule, applicants are expected to have regard to the statement of licensing policy for their area. They must also be aware of the expectations of the licensing authority and the responsible authorities as to the steps that are appropriate for the promotion of the licensing objectives, and to demonstrate knowledge of their local area when describing the steps they propose to take to promote the licensing objectives. Licensing authorities and responsible authorities are expected to publish information about what is meant by the promotion of the licensing objectives and to ensure that applicants can readily access advice about these matters. However, applicants are also expected to undertake their own enquiries about the area in which the premises are situated to inform the content of the application.
- 8.34 Applicants are, in particular, expected to obtain sufficient information to enable them to demonstrate, when setting out the steps they propose to take to promote the licensing objectives, that they understand:
- the layout of the local area and physical environment including crime and disorder hotspots, proximity to residential premises and proximity to areas where children may congregate;
 - any risk posed to the local area by the applicants’ proposed licensable activities; and

- any local initiatives (for example, local crime reduction initiatives or voluntary schemes including local taxi-marshalling schemes, street pastors and other schemes) which may help to mitigate potential risks.
- 8.35 Applicants are expected to include positive proposals in their application on how they will manage any potential risks. Where specific policies apply in the area (for example, a cumulative impact policy), applicants are also expected to demonstrate an understanding of how the policy impacts on their application; any measures they will take to mitigate the impact; and why they consider the application should be an exception to the policy.
- 8.36 It is expected that enquiries about the locality will assist applicants when determining the steps that are appropriate for the promotion of the licensing objectives. For example, premises with close proximity to residential premises should consider what effect this will have on their smoking, noise management and dispersal policies to ensure the promotion of the public nuisance objective. Applicants must consider all factors which may be relevant to the promotion of the licensing objectives, and where there are no known concerns, acknowledge this in their application.
- 8.37 The majority of information which applicants will require should be available in the licensing policy statement in the area. Other publicly available sources which may be of use to applicants include:
- the Crime Mapping website;
 - Neighbourhood Statistics websites;
 - websites or publications by local responsible authorities;
 - websites or publications by local voluntary schemes and initiatives; and
 - on-line mapping tools.
- 8.38 While applicants are not required to seek the views of responsible authorities before formally submitting their application, they may find them to be a useful source of expert advice on local issues that should be taken into consideration when making an application. Licensing authorities may wish to encourage co-operation between applicants, responsible authorities and, where relevant, local residents and businesses before applications are submitted in order to minimise the scope for disputes to arise.
- 8.39 Applicants are expected to provide licensing authorities with sufficient information in this section to determine the extent to which their proposed steps are appropriate to promote the licensing objectives in the local area. Applications must not be based on providing a set of standard conditions to promote the licensing objectives and applicants are expected to make it clear why the steps they are proposing are appropriate for the premises.
- 8.40 All parties are expected to work together in partnership to ensure that the licensing objectives are promoted collectively. Where there are no disputes, the steps that applicants propose to take to promote the licensing objectives, as set out in the operating schedule, will very often translate directly into conditions that will be attached to premises licences with the minimum of fuss.
- 8.41 For some premises, it is possible that no measures will be appropriate to promote one or more of the licensing objectives, for example, because they are adequately covered by other existing legislation. It is however important that all operating schedules should be precise and clear about the measures that are proposed to promote each of the licensing objectives.

Variations

Introduction

8.42 Where a premises licence holder wishes to amend the licence, the 2003 Act in most cases permits an application to vary to be made rather than requiring an application for a new premises licence. The process to be followed will depend on the nature of the variation and its potential impact on the licensing objectives. Applications to vary can be made electronically via GOV.UK or by means of the licensing authority's own electronic facility following the procedures set out in Chapter 8 above.

Simplified processes

- 8.43 There are simplified processes for making applications, or notifying changes, in the following cases:
- a change of the name or address of someone named in the licence (section 33);
 - an application to vary the licence to specify a new individual as the designated premises supervisor (DPS) (section 37);
 - a request to be removed as the designated premises supervisor (section 41);
 - an application by a licence holder in relation to community premises authorised to sell alcohol to remove the usual mandatory conditions set out in sections 19(2) and 19(3) of the 2003 Act concerning the supervision of alcohol sales by a personal licence holder and the need for a DPS who holds a personal licence (sections 25A and 41D); and
 - an application for minor variation of a premises licence (sections 41A to 41C) or club premises certificate (sections 86A to 86C).
- 8.44 If an application to specify a new DPS or to remove the mandatory conditions concerning the supervision of alcohol sales is made electronically via GOV.UK or the licensing authority's own electronic facility, the authority must notify the police no later than the first working day after the application is given.
- 8.45 Where a simplified process requires the applicant (if they are not also the personal licence holder) to copy the application to the licence holder for information, this will apply regardless of whether the application is made in writing or electronically. Otherwise the general guidance set out above (paragraphs 8.21 to 8.28) on electronic applications applies.

Minor variations process

8.46 Variations to premises licences or club premises certificates that could not impact adversely on the licensing objectives are subject to a simplified 'minor variations' process. Under this process, the applicant is not required to advertise the variation in a newspaper or circular, or copy it to responsible authorities. However, they must display it on a white notice (to distinguish it from the blue notice used for full variations and new applications). The notice must comply with the requirements set out in regulation 26A of the Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005. In accordance with those regulations, the notice must be displayed for a period of ten working days starting on the working day after the minor variation application was given to the licensing authority.

- 8.47 On receipt of an application for a minor variation, the licensing authority must consider whether the variation could impact adversely on the licensing objectives. It is recommended that decisions on minor variations should be delegated to licensing officers.
- 8.48 In considering the application, the licensing authority must consult relevant responsible authorities (whether the application is made in writing or electronically) if there is any doubt about the impact of the variation on the licensing objectives and they need specialist advice, and take their views into account in reaching a decision.
- 8.49 The licensing authority must also consider any relevant representations received from other persons within the time limit referred to below. As stated earlier in this Guidance, representations are only relevant if they clearly relate to the likely effect of the grant of the variation on the promotion of at least one of the licensing objectives. In the case of minor variations, there is no right to a hearing (as for a full variation or new application), but licensing authorities must take any representations into account in arriving at a decision.
- 8.50 Other persons have ten working days from the 'initial day', that is to say, the day after the application is received by the licensing authority, to submit representations. The licensing authority must therefore wait until this period has elapsed before determining the application, but must do so at the latest within 15 working days, beginning on the first working day after the authority received the application, with effect either that the minor variation is granted or the application is refused.
- 8.51 If the licensing authority fails to respond to the applicant within 15 working days (see section 193 of the 2003 Act for the definition of working day), the application will be treated as refused and the authority must return the fee to the applicant forthwith. However, the licensing authority and the applicant may agree instead that the undetermined application should be treated as a new application and that the fee originally submitted will be treated as a fee for the new application.
- 8.52 Where an application is refused and is then re-submitted through the full variation process, the full 28 day notification period will apply from the date the new application is received and applicants should advertise the application and copy it to all responsible authorities (in accordance with the regulations applicable to full variations).
- 8.53 Minor variations will generally fall into four categories: minor changes to the structure or layout of premises; small adjustments to licensing hours; the removal of out of date, irrelevant or unenforceable conditions or addition of volunteered conditions; and the addition of certain licensable activities. In all cases the overall test is whether the proposed variation could impact adversely on any of the four licensing objectives.

Changes to structure/layout

- 8.54 Many small variations to layout will have no adverse impact on the licensing objectives. However, changes to layout should be referred to the full variation process if they could potentially have an adverse impact on the promotion of the licensing objectives, for example by:
- increasing the capacity for drinking on the premises;
 - affecting access between the public part of the premises and the rest of the premises or the street or public way, for instance, block emergency exits or routes to emergency exits; or

- impeding the effective operation of a noise reduction measure such as an acoustic lobby.

- 8.55 Licensing authorities will also need to consider the combined effect of a series of applications for successive small layout changes (for example, as part of a rolling refurbishment of premises) which in themselves may not be significant, but which cumulatively may impact adversely on the licensing objectives. This emphasises the importance of having an up-to-date copy of the premises plan available.
- 8.56 An application to remove a licensable activity should normally be approved as a minor variation. Variations to add the sale by retail or supply of alcohol to a licence are excluded from the minor variations process and must be treated as full variations in all cases.
- 8.57 For other licensable activities, licensing authorities will need to consider each application on a case by case basis and in light of any licence conditions put forward by the applicant.

Licensing hours

- 8.58 Variations to the following are excluded from the minor variations process and must be treated as full variations in all cases:
- to extend licensing hours for the sale or supply of alcohol for consumption on or off the premises between the hours of 23.00 and 07.00; or
 - to increase the amount of time on any day during which alcohol may be sold or supplied for consumption on or off the premises.
- 8.59 Applications to reduce licensing hours for the sale or supply of alcohol or, in some cases, to move (without increasing) the licensed hours between 07.00 and 23.00 will normally be processed as minor variations.
- 8.60 Applications to vary the time during which other licensable activities take place should be considered on a case-by-case basis with reference to the likely impact on the licensing objectives.

Licensing conditions

a) Imposed conditions

- 8.61 Licensing authorities cannot impose their own conditions on the licence through the minor variations process. If the licensing officer considers that the proposed variation would impact adversely on the licensing objectives unless conditions are imposed, they should refuse it.

b) Volunteered conditions

- 8.62 Applicants may volunteer conditions as part of the minor variation process. These conditions may arise from their own risk assessment of the variation, or from informal discussions with responsible authorities or the licensing authority.
- 8.63 For instance, there may be circumstances when the licence holder and a responsible authority such as the police or environmental health authority, agree that a new condition should be added to the licence (for example, that a nightclub adds the provision of late night refreshment to its licence to ensure a longer period of dispersal). Such a change would not normally impact adversely on the licensing objectives and could be

expected to promote them by preventing crime and disorder or public nuisance. In these circumstances, the minor variation process may provide a less costly and onerous means of amending the licence than a review, with no risk to the licensing objectives. However, this route should only be used where the agreed variations are minor and the licence holder and the responsible authority have come to a genuine agreement. The licensing authority should be alive to any attempts to pressure licence or certificate holders into agreeing to new conditions where there is no evidence of a problem at the premises and, if there is any doubt, should discuss this with the relevant parties.

c) Amending or removing existing conditions

- 8.64 However, there may be some circumstances when the minor variation process is appropriate. Premises may change over time and the circumstances that originally led to the condition being attached or volunteered may no longer apply. For example, there may be no need for door supervision if a bar has been converted into a restaurant. Equally some embedded conditions may no longer apply.
- 8.65 Changes in legislation may invalidate certain conditions. Although the conditions do not have to be removed from the licence, licence holders and licensing authorities may agree that this is desirable to clarify the licence holder's legal obligations. There may also be cases where it is appropriate to revise the wording of a condition that is unclear or unenforceable. This would be acceptable as a minor variation as long as the purpose of the condition and its intended effect remain unchanged. Such a change could be expected to promote the licensing objectives by making it easier for the licence holder to understand and comply with the condition and easier for the licensing authority to enforce it.

Full variations process

- 8.66 Any other changes to the licence or certificate require an application to vary under sections 34 or 84 of the 2003 Act.
- 8.67 Licensing authorities may wish to consider whether there is any likely impact on the promotion of the licensing objectives in deciding whether there is a need for an application to vary in relation to features which are not required to be shown on the plan under section 17 of the 2003 Act, but have nevertheless been included, for example, moveable furniture (altering the position of tables and chairs) or beer gardens (installation of a smoking shelter that will not affect the use of exits or escape routes).
- 8.68 However, it should be noted that a section 34 application cannot be used to vary a licence so as to:
- extend a time limited licence;
 - transfer the licence from one holder to another; or
 - transfer the licence from one premises to another.
- 8.69 If an applicant wishes to make these types of changes to the premises licence, the applicant should make a new premises licence application under section 17 of the 2003 Act; or, to transfer the licence to another holder, an application under section 42 of the 2003 Act.

Relaxation of opening hours for local, national and international occasions

- 8.70 It should normally be possible for applicants for premises licences and club premises certificates to anticipate special occasions which occur regularly each year – such as bank holidays and St. George’s or St. Patrick’s Day – and to include appropriate opening hours in their operating schedules. Similarly, temporary event notices should be sufficient to cover other events which take place at premises that do not have a premises licence or club certificate.
- 8.71 However, exceptional events of local, national or international significance may arise which could not have been anticipated when the application was first made. In these circumstances, the Secretary of State may make a licensing hours order to allow premises to open for specified, generally extended, hours on these special occasions. This avoids the need for large numbers of applications to vary premises licences and club premises certificates. Typical events might include a one-off local festival or a Royal Jubilee.

Advertising applications

- 8.72 The requirements governing the advertisement of applications for the grant, variation or review of premises licences and club premises certificates are contained in the regulations made under the 2003 Act which are published on the Government’s legislation website.
- 8.73 Applicants are required to:
- publish a notice in a local newspaper or, if there is none, in a local newsletter, circular or similar document circulating in the area in which the premises are situated; and
 - display a brief summary of the application on an A4 size notice immediately on or outside the premises.
- 8.74 As prescribed in regulations, licensing authorities must also place a notice on their website outlining key details of the application as set out in regulations, including:
- the name of the applicant or club;
 - the postal address of the premises or club premises;
 - the postal address and, where applicable, the internet address where the relevant licensing authority’s register is kept and where and when the record of the application may be inspected;
 - the date by which representations from responsible authorities or other persons should be received and how these representations should be made; and
 - that it is an offence knowingly or recklessly to make a false statement in connection with an application and the maximum fine for which a person is liable on summary conviction for the offence.
- 8.75 The summary of the application should set out matters such as the proposed licensable activities and the proposed hours of opening and should be clearly displayed for the period during which representations may be made, together with information about where the details of the application may be viewed.
- 8.76 Licensing authorities in Wales should consider encouraging applicants to provide details in the alternative language (Welsh or English) to that of the main advertisement itself where the application may be viewed. Therefore, if an applicant publishes a notice in English

they should be encouraged to provide a statement in Welsh as to where the application may be viewed, and vice versa. This would allow the reader of the notice to make enquiries to the licensing authority and find out the nature of the application.

- 8.77 Licensing authorities in Wales are also required to publish key information from licence applications in Welsh on their websites.
- 8.78 In the case of applications for premises licences involving internet or mail order sales, notices should be conspicuously displayed at the place where the alcohol is appropriated to the contract.
- 8.79 A vessel which is not permanently moored or berthed is treated as if it were a premises situated in a place where it is usually moored or berthed. The newspaper advertisement notice for such a vessel would need to be in relation to this place (where it is usually moored or berthed) and there is no provision requiring such advertising in other areas, for instance, if the vessel journeys through other licensing authority areas.
- 8.80 Arrangements should be put in place by the licensing authority for other parties to view a record of the application in the licensing register as described in Schedule 3 to the 2003 Act. Charges made for copies of the register should not exceed the cost of preparing such copies. Licensing authorities may wish to conduct random and unannounced visits to premises to confirm that notices have been clearly displayed and include relevant and accurate information.

Applications to change the designated premises supervisors

- 8.81 Chapter 4 covers designated premises supervisors and applications to vary a premises licence covering sales of alcohol by specifying a new designated premises supervisor. Chapter 4 covers applications by community premises to disapply the usual mandatory conditions in sections 19(2) and 19(3) of the 2003 Act concerning the authorisation of alcohol sales by a personal licence holder and the need for a designated premises supervisor who holds a personal licence.

Provisional statements

- 8.82 Where premises are being or are about to be constructed, extended or otherwise altered for the purpose of being used for one or more licensable activities, investors may be unwilling to commit funds unless they have some assurance that a premises licence covering the desired licensable activities would be granted for the premises when the building work is completed.
- 8.83 The 2003 Act does not define the words “otherwise altered”, but the alteration must relate to the purpose of being used for one or more licensable activities.
- 8.84 Any person falling within section 16 of the 2003 Act can apply for a premises licence before new premises are constructed, extended or changed. This would be possible where clear plans of the proposed structure exist and the applicant is in a position to complete an operating schedule including details of:
- the activities to take place there;
 - the time at which such activities will take place;
 - the proposed hours of opening;
 - where the applicant wishes the licence to have effect for a limited period, that period;

- the steps to be taken to promote the licensing objectives; and
- where the sale of alcohol is involved, whether supplies are proposed to be for consumption on or off the premises (or both) and the name of the designated premises supervisor the applicant wishes to specify.

8.85 In such cases, the licensing authority would include in the licence the date upon which it would come into effect. A provisional statement will normally only be required when the information described above is not available.

8.86 The 2003 Act therefore provides for a person, if an individual aged 18 or over, who has an interest in the premises to apply for a “provisional statement”. This will not be time limited, but the longer the delay before an application for a premises licence is made, the more likely it is that there will be material changes and that the licensing authority will accept representations. “Person” in this context includes a business.

8.87 When a hearing is held, the licensing authority must decide whether, if the premises were constructed or altered in the way proposed in the schedule of works and if a premises licence was sought for those premises, it would consider it appropriate for the promotion of the licensing objectives to:

- attach conditions to the licence;
- rule out any of the licensable activities applied for;
- refuse to specify the person nominated as premises supervisor; or
- reject the application.

It will then issue the applicant with a provisional statement setting out the details of that decision together with its reasons.

8.88 The licensing authority must copy the provisional statement to each person who made relevant representations, and the chief officer of police for the area in which the premises is situated. The licensing authority should give full and comprehensive reasons for its decision. This is important in anticipation of an appeal by any aggrieved party.

8.89 When a person applies for a premises licence in respect of premises (or part of the premises or premises which are substantially the same) for which a provisional statement has been made, representations by responsible authorities and other persons will be excluded in certain circumstances. These are where:

- the application for a licence is in the same form as the licence described in the provisional statement;
- the work in the schedule of works has been satisfactorily completed;
- given the information provided in the application for a provisional statement, the responsible authority or other person could have made the same, or substantially the same, representations about the application then but failed to do so without reasonable excuse; and
- there has been no material change in the circumstances relating either to the premises or to the area in the proximity of those premises since the provisional statement was made.

8.90 Any decision of the licensing authority on an application for a provisional statement will not relieve an applicant of the need to apply for planning permission, building control approval of the building work, or in some cases both planning permission and building control.

- 8.91 A provisional statement may not be sought or given for a vessel, a vehicle or a moveable structure (see section 189 of the 2003 Act).

Transfers of premises licences

- 8.92 The 2003 Act provides for any person who may apply for a premises licence, which includes a business, to apply for a premises licence to be transferred to them. Where the application is made in writing, the applicant must give notice of the application to the chief officer of police. Where it is made electronically via GOV.UK or the licensing authority's electronic facility, the licensing authority must notify the police no later than the first working day after the application is given. However, the responsibility to notify the DPS remains with the applicant. Otherwise the general guidance on electronic applications set out in paragraphs 8.21 to 8.28 applies.
- 8.93 In the vast majority of cases, it is expected that a transfer will be a very simple administrative process. Section 43 of the 2003 Act provides a mechanism which allows the transfer to come into immediate interim effect as soon as the licensing authority receives it, until it is formally determined or withdrawn. This is to ensure that there should be no interruption to normal business at the premises. If the police raise no objection about the application, the licensing authority must transfer the licence in accordance with the application, amend the licence accordingly and return it to the new holder.
- 8.94 In exceptional circumstances where the chief officer of police believes the transfer may undermine the crime prevention objective, the police may object to the transfer. Such objections are expected to be rare and arise because the police have evidence that the business or individuals seeking to hold the licence or business or individuals linked to such persons are involved in crime (or disorder).
- 8.95 Such objections (and therefore such hearings) should only arise in truly exceptional circumstances. If the licensing authority believes that the police are using this mechanism to vet transfer applicants routinely and to seek hearings as a fishing expedition to inquire into applicants' backgrounds, it is expected that it would raise the matter immediately with the chief officer of police.

Interim authorities

- 8.96 The 2003 Act provides special arrangements for the continuation of permissions under a premises licence when the holder of a licence dies suddenly or becomes bankrupt or mentally incapable. In the normal course of events, the licence would lapse in such circumstances. However, there may also be some time before, for example, the deceased person's estate can be dealt with or an administrative receiver appointed. This could have a damaging effect on those with interests in the premises, such as an owner, lessor or employees working at the premises in question; and could bring unnecessary disruption to customers' plans. The 2003 Act therefore provides for the licence to be capable of being reinstated in a discrete period of time in certain circumstances.
- 8.97 These circumstances arise only where a premises licence has lapsed owing to the death, incapacity or insolvency of the holder. In such circumstances, an "interim authority" notice may be given to the licensing authority within 28 consecutive days beginning the day after the licence lapsed. Where applications are made in writing, the applicant must give notice of the application to the chief officer of police. If an application is made electronically via GOV.UK or the licensing authority's electronic facility, the licensing authority must notify the police no later than the first working day after the notice is given.

- 8.98 An interim notice may only be given either by a person with a prescribed interest in the premises as set out in the regulations made under the 2003 Act (which may be viewed on www.legislation.gov.uk, the Government's legislation website); or by a person connected to the former holder of the licence (normally a personal representative of the former holder; or a person with power of attorney; or where someone has become insolvent, that person's insolvency practitioner).
- 8.99 The effect of giving the notice is to reinstate the premises licence as if the person giving the notice is the holder of the licence and thereby allow licensable activities to continue to take place pending a formal application for transfer. The maximum period for which an interim authority notice may have effect is three months.
- 8.100 The interim authority notice ceases to have effect unless, by the end of the initial period of 28 consecutive days, a copy of the notice has been given to the chief officer of police. Within two working days of receiving the copy, and if satisfied that in the exceptional circumstances of the case failure to cancel the interim authority would undermine the crime prevention objective, the police may give a notice to that effect to the licensing authority. In such circumstances, the licensing authority must hold a hearing to consider the objection notice and cancel the interim authority notice if it decides that it is appropriate to do so for the promotion of the crime prevention objective.
- 8.101 Licensing authorities should be alert to the need to consider the objection quickly. Under section 50 of the 2003 Act, where the premises licence lapses (because of death, incapacity or insolvency of the holder) or by its surrender, but no interim authority notice has effect, a person who may apply for the grant of a premises licence under section 16(1) may apply within 28 consecutive days of the lapse for the transfer of the licence to them with immediate effect pending the determination of the application. This will result in the licence being reinstated from the point at which the transfer application was received by the licensing authority. Where the application is made in writing, the person applying for the transfer must copy their application to the chief officer of police. If the application is made electronically the licensing authority must copy the application to the police.

Right of freeholders etc to be notified of licensing matters

- 8.102 A person (which will include a business or company) with a property interest in any premises situated in the licensing authority's area may give notice of their interest to the authority using a prescribed form and on payment of the relevant fee. The application may be made in writing or electronically via GOV.UK or the licensing authority's own facility, in which case the guidance at paragraphs 8.21 to 8.28 applies. Details of fees and forms are available on the GOV.UK website. It is entirely at the discretion of such persons whether they choose to register or not. It is not a legal requirement. Those who may take advantage of this arrangement include the freeholder or leaseholder, a legal mortgagee in respect of the premises, a person in occupation of the premises or any other person prescribed by the Secretary of State.
- 8.103 The notice will have effect for 12 months but a new notice can be given every year. While the notice has effect, if any change relating to the premises concerned has been made to the licensing register (which the licensing authority has a duty to keep under section 8 of the 2003 Act), the licensing authority must notify the person who registered an interest of the matter to which the change relates. The person will also be notified of their right under section 8 to request a copy of the information contained in any entry in the register. In cases relating to interim authority notices (see above), it is important that such communications are dealt with promptly.

9. Determining applications

General

9.1 When a licensing authority receives an application for a new premises licence or an application to vary an existing premises licence, it must determine whether the application has been made in accordance with section 17 of the 2003 Act, and in accordance with regulations made under sections 17(3) to (6), 34, 42, 54 and 55 of the 2003 Act. It must similarly determine applications for the grant of club premises certificates made in accordance with section 71 of the 2003 Act, and in accordance with regulations made under sections 71(4) to (7), 84, 91 and 92 of the 2003 Act. This means that the licensing authority must consider among other things whether the application has been properly advertised in accordance with those regulations.

Where no representations are made

9.2 A hearing is not required where an application has been properly made and no responsible authority or other person has made a relevant representation or where representations are made and subsequently withdrawn. In these cases, the licensing authority must grant the application in the terms sought, subject only to conditions which are consistent with the operating schedule and relevant mandatory conditions under the 2003 Act. This should be undertaken as a simple administrative process by the licensing authority's officials who should replicate the proposals contained in the operating schedule to promote the licensing objectives in the form of clear and enforceable licence conditions. Licensing authorities should not hold hearings for uncontested applications, for example in situations where representations have been made and conditions have subsequently been agreed.

Where representations are made

9.3 Where a representation concerning the licensing objectives is made by a responsible authority about a proposed operating schedule and it is relevant (see paragraphs 9.4 to 9.10 below), the licensing authority's discretion will be engaged. It will also be engaged if another person makes relevant representations to the licensing authority, which are also not frivolous or vexatious (see paragraphs 9.4 to 9.10 below). Relevant representations can be made in opposition to, or in support of, an application and can be made by any individual, body or business that has grounds to do so.

Relevant, vexatious and frivolous representations

9.4 A representation is "relevant" if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives. For example, a representation from a local businessperson about the commercial damage caused by competition from new licensed premises would not be relevant. On the other hand, a representation by a businessperson that nuisance caused by new premises would deter customers from entering the local area, and the steps proposed by the applicant to prevent that nuisance were inadequate, would be relevant. In other words, representations should relate to the impact of licensable activities carried on from premises on the objectives. For representations in relation to variations to be relevant, they should be confined to the subject matter of the variation. There is no requirement for a responsible authority

or other person to produce a recorded history of problems at premises to support their representations, and in fact this would not be possible for new premises.

- 9.5 It is for the licensing authority to determine whether a representation (other than a representation from responsible authority) is frivolous or vexatious on the basis of what might ordinarily be considered to be vexatious or frivolous. A representation may be considered to be vexatious if it appears to be intended to cause aggravation or annoyance, whether to a competitor or other person, without reasonable cause or justification. Vexatious circumstances may arise because of disputes between rival businesses and local knowledge will therefore be invaluable in considering such matters. Licensing authorities can consider the main effect of the representation, and whether any inconvenience or expense caused by it could reasonably be considered to be proportionate.
- 9.6 Frivolous representations would be essentially categorised by a lack of seriousness. Frivolous representations would concern issues which, at most, are minor and in relation to which no remedial steps would be warranted or proportionate.
- 9.7 Any person who is aggrieved by a rejection of their representations on either of these grounds may lodge a complaint through the local authority's corporate complaints procedure. A person may also challenge the authority's decision by way of judicial review.
- 9.8 Licensing authorities should not take decisions about whether representations are frivolous, vexatious or relevant to the licensing objectives on the basis of any political judgement. This may be difficult for councillors who receive complaints from residents within their own wards. If consideration is not to be delegated, contrary to the recommendation in this Guidance, an assessment should be prepared by officials for consideration by the sub-committee before any decision is taken that necessitates a hearing. Any councillor who considers that their own interests are such that they are unable to consider the matter independently should disqualify themselves.
- 9.9 It is recommended that, in borderline cases, the benefit of the doubt about any aspect of a representation should be given to the person making that representation. The subsequent hearing would then provide an opportunity for the person or body making the representation to amplify and clarify it.
- 9.10 Licensing authorities should consider providing advice on their websites about how any person can make representations to them.

The role of responsible authorities

- 9.11 Responsible authorities under the 2003 Act are automatically notified of all new applications. While all responsible authorities may make representations regarding applications for licences and club premises certificates and full variation applications, it is the responsibility of each responsible authority to determine when they have appropriate grounds to do so.

Representations from the police

9.12 In their role as a responsible authority, the police are an essential source of advice and information on the impact and potential impact of licensable activities, particularly on the crime and disorder objective. The police have a key role in managing the night-time economy and should have good working relationships with those operating in their local area⁵. The police should be the licensing authority's main source of advice on matters relating to the promotion of the crime and disorder licensing objective, but may also be able to make relevant representations with regard to the other licensing objectives if they have evidence to support such representations. The licensing authority should accept all reasonable and proportionate representations made by the police unless the authority has evidence that to do so would not be appropriate for the promotion of the licensing objectives. However, it remains incumbent on the police to ensure that their representations can withstand the scrutiny to which they would be subject at a hearing.

Licensing authorities acting as responsible authorities

9.13 Licensing authorities are included in the list of responsible authorities. A similar framework exists in the Gambling Act 2005. The 2003 Act does not require responsible authorities to make representations about applications for the grant of premises licences or to take any other steps in respect of different licensing processes. It is, therefore, for the licensing authority to determine when it considers it appropriate to act in its capacity as a responsible authority; the licensing authority should make this decision in accordance with its duties under section 4 of the 2003 Act.

9.14 Licensing authorities are not expected to act as responsible authorities on behalf of other parties (for example, local residents, local councillors or community groups) although there are occasions where the authority may decide to do so. Such parties can make relevant representations to the licensing authority in their own right, and it is reasonable for the licensing authority to expect them to make representations themselves where they are reasonably able to do so. However, if these parties have failed to take action and the licensing authority is aware of relevant grounds to make a representation, it may choose to act in its capacity as responsible authority.

9.15 It is also reasonable for licensing authorities to expect that other responsible authorities should intervene where the basis for the intervention falls within the remit of that other responsible authority. For example, the police should make representations where the representations are based on concerns about crime and disorder. Likewise, it is reasonable to expect the local authority exercising environmental health functions to make representations where there are concerns about noise nuisance. Each responsible authority has equal standing under the 2003 Act and may act independently without waiting for representations from any other responsible authority.

⁵ Elections for Police and Crime Commissioners (PCCs) in all police force areas in England and Wales (except in London, where the Mayor of London has taken on the powers of a PCC in relation to the Metropolitan Police) took place on 15th November 2012. PCCs are expected to have a central role working in partnership with local authorities, enforcement bodies and other local partners to decide on what action is needed to tackle alcohol-related crime and disorder in their areas. However, the Chief Officer of Police will remain the named responsible authority under the 2003 Act.

- 9.16 The 2003 Act enables licensing authorities to act as responsible authorities as a means of early intervention; they may do so where they consider it appropriate without having to wait for representations from other responsible authorities. For example, the licensing authority may (in a case where it has applied a cumulative impact policy) consider that granting a new licence application will add to the cumulative impact of licensed premises in its area and therefore decide to make representations to that effect, without waiting for any other person to do so.
- 9.17 In cases where a licensing authority is also acting as responsible authority in relation to the same process, it is important to achieve a separation of responsibilities within the authority to ensure procedural fairness and eliminate conflicts of interest. In such cases licensing determinations will be made by the licensing committee or sub committee comprising elected members of the authority (although they are advised by a licensing officer). Therefore, a separation is achieved by allocating distinct functions (i.e. those of licensing authority and responsible authority) to different officials within the authority.
- 9.18 In these cases, licensing authorities should allocate the different responsibilities to different licensing officers or other officers within the local authority to ensure a proper separation of responsibilities. The officer advising the licensing committee (i.e. the authority acting in its capacity as the licensing authority) must be a different person from the officer who is acting for the responsible authority. The officer acting for the responsible authority should not be involved in the licensing decision process and should not discuss the merits of the case with those involved in making the determination by the licensing authority. For example, discussion should not take place between the officer acting as responsible authority and the officer handling the licence application regarding the merits of the case. Communication between these officers in relation to the case should remain professional and consistent with communication with other responsible authorities. Representations, subject to limited exceptions, must be made in writing. It is for the licensing authority to determine how the separate roles are divided to ensure an appropriate separation of responsibilities. This approach may not be appropriate for all licensing authorities and many authorities may already have processes in place to effectively achieve the same outcome.
- 9.19 Smaller licensing authorities, where such a separation of responsibilities is more difficult, may wish to involve officials from outside the licensing department to ensure a separation of responsibilities. However, these officials should still be officials employed by the authority.

Health bodies acting as responsible authorities

- 9.20 Where a local authority's Director of Public Health in England (DPH)⁶ or Local Health Board (LHB) (in Wales) exercises its functions as a responsible authority, it should have sufficient knowledge of the licensing policy and health issues to ensure it is able to fulfil those functions. If the authority wishes to make representations, the DPH or LHB will need to decide how best to gather and coordinate evidence from other bodies which exercise health functions in the area, such as emergency departments and ambulance services.
- 9.21 Health bodies may hold information which other responsible authorities do not, but which would assist a licensing authority in exercising its functions. This information may be used by the health body to make representations in its own right or to support representations

⁶ This change was made as a result of the commencement of measures in the Health and Social Care Act 2012 which amended the 2003 Act and further provision in the NHS Bodies and Local Authorities (Partnership Arrangements, Care Trusts, Public Health and Local Healthwatch) Regulations 2012.

by other responsible authorities, such as the police. Such representations can potentially be made on the grounds of all four licensing objectives. Perhaps the most obvious example is where drunkenness leads to accidents and injuries from violence, resulting in attendances at emergency departments and the use of ambulance services. Some of these incidents will be reported to the police, but many will not. Such information will often be relevant to the public safety and crime and disorder objectives.

- 9.22 However, health bodies are encouraged to make representations in respect of any of the four licensing objectives without necessarily seeking views from other responsible authorities where they have appropriate evidence to do so. There is also potential for health bodies to participate in the licensing process in relation to the protection of children from harm. This objective not only concerns the physical safety of children, but also their moral and psychological well being.
- 9.23 Evidence relating to under 18s alcohol-related emergency department attendance, hospital admissions and underage sales of alcohol, could potentially have implications for both the protection of children from harm and the crime and disorder objectives. Health bodies can provide evidence to lead or support representations in relation to this objective. In relation to proxy purchases, data collected by health bodies could be used to inform other responsible authorities, including the police and licensing authorities, about a prevalence of proxy purchasing in a particular area. For example, the police could use this data to tackle instances of 'shoulder tapping' (where under 18s approach adults to buy alcohol on their behalf) and to suggest measures which retailers might be able to take to ensure, as far as possible, that they are not knowingly selling alcohol to an adult who is buying on behalf of a person aged under 18. Although less obvious, health bodies may also have a role to play in the prevention of public nuisance where its effect is prejudicial to health and where they hold relevant data.
- 9.24 DPHs and LHBs will need to consider how to collect anonymised information about incidents that relate to specific premises or premises in a particular area (for example, a cumulative impact zone). Many areas have already developed procedures for local information sharing to tackle violence, which could provide useful evidence to support representations. The College of Emergency Medicine has issued guidelines for information sharing to reduce community violence which recommends that data about assault victims should be collected upon admission to emergency departments, including the date, time and location of the assault – i.e. the name of the pub, club or street where the incident occurred. Sometimes, it may be possible to link ambulance callouts or attendances at emergency departments to irresponsible practices at specific premises, such as serving alcohol to people who are intoxicated or targeting promotions involving unlimited or unspecified quantities of alcohol at particular groups.

Disclosure of personal details of persons making representations

- 9.25 Where a notice of a hearing is given to an applicant, the licensing authority is required under the Licensing Act 2003 (Hearings) Regulations 2005 to provide the applicant with copies of the relevant representations that have been made.
- 9.26 In exceptional circumstances, persons making representations to the licensing authority may be reluctant to do so because of fears of intimidation or violence if their personal details, such as name and address, are divulged to the applicant.

- 9.27 Where licensing authorities consider that the person has a genuine and well-founded fear of intimidation and may be deterred from making a representation on this basis, they may wish to consider alternative approaches.
- 9.28 For instance, they could advise the persons to provide the relevant responsible authority with details of how they consider that the licensing objectives are being undermined so that the responsible authority can make representations if appropriate and justified.
- 9.29 The licensing authority may also decide to withhold some or all of the person's personal details from the applicant, giving only minimal details (such as street name or general location within a street). However, withholding such details should only be considered where the circumstances justify such action.

Hearings

- 9.30 Regulations governing hearings may be found on the www.legislation.gov.uk website. If the licensing authority decides that representations are relevant, it must hold a hearing to consider them. The need for a hearing can only be avoided with the agreement of the licensing authority, the applicant and all of the persons who made relevant representations. In cases where only 'positive' representations are received, without qualifications, the licensing authority should consider whether a hearing is required. To this end, it may wish to notify the persons who made representations and give them the opportunity to withdraw those representations. This would need to be done in sufficient time before the hearing to ensure that parties were not put to unnecessary inconvenience.
- 9.31 Responsible authorities should try to conclude any discussions with the applicant in good time before the hearing. If the application is amended at the last moment, the licensing committee should consider giving other persons time to address the revised application before the hearing commences.
- 9.32 Regulations made under the 2003 Act require that representations must be withdrawn 24 hours before the first day of any hearing. If they are withdrawn after this time, the hearing must proceed and the representations may be withdrawn orally at that hearing. However, where discussions between an applicant and those making representations are taking place and it is likely that all parties are on the point of reaching agreement, the licensing authority may wish to use the power given within the hearings regulations to extend time limits, if it considers this to be in the public interest.
- 9.33 Applicants should be encouraged to contact responsible authorities before formulating their applications so that the mediation process may begin before the statutory time limits come into effect after submission of an application. The hearing process must meet the requirements of regulations made under the 2003 Act. Where matters arise which are not covered by the regulations, licensing authorities may make arrangements as they see fit as long as they are lawful.
- 9.34 There is no requirement in the 2003 Act for responsible authorities that have made representations to attend, but it is generally good practice and assists committees in reaching more informed decisions. Where several responsible authorities within a local authority have made representations on an application, a single local authority officer may represent them at the hearing if the responsible authorities and the licensing authority agree. This local authority officer representing other responsible authorities may be a licensing officer, but only if this licensing officer is acting as a responsible authority on behalf of the licensing authority and has had no role in the licensing determination.

process. This is to ensure that the responsible authorities are represented by an independent officer separate from the licensing determination process.

- 9.35 As noted in paragraphs 9.13 to 9.19 above, where the licensing officer is acting as a responsible authority the relevant steps should be followed to ensure that this individual has no role in the decision making process regarding the licensing determination.
- 9.36 As a matter of practice, licensing authorities should seek to focus the hearing on the steps considered appropriate to promote the particular licensing objective or objectives that have given rise to the specific representation and avoid straying into undisputed areas. A responsible authority or other person may choose to rely on their written representation. They may not add further representations to those disclosed to the applicant prior to the hearing, but they may expand on their existing representation.
- 9.37 In determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the licensing authority must give appropriate weight to:
- the steps that are appropriate to promote the licensing objectives;
 - the representations (including supporting information) presented by all the parties;
 - this Guidance;
 - its own statement of licensing policy.
- 9.38 The licensing authority should give its decision within five working days of the conclusion of the hearing (or immediately in certain specified cases) and provide reasons to support it. This will be important if there is an appeal by any of the parties. Notification of a decision must be accompanied by information on the right of the party to appeal. After considering all the relevant issues, the licensing authority may grant the application subject to such conditions that are consistent with the operating schedule. Any conditions imposed must be appropriate for the promotion of the licensing objectives; there is no power for the licensing authority to attach a condition that is merely aspirational. For example, conditions may not be attached which relate solely to the health of customers rather than their direct physical safety. Any conditions added to the licence must be those imposed at the hearing or those agreed when a hearing has not been necessary.
- 9.39 Alternatively, the licensing authority may refuse the application on the grounds that this is appropriate for the promotion of the licensing objectives. It may also refuse to specify a designated premises supervisor and/or only allow certain requested licensable activities. In the interests of transparency, the licensing authority should publish hearings procedures in full on its website to ensure that those involved have the most current information.
- 9.40 In the context of variations or minor variations, which may involve structural alteration to or change of use of a building, the decision of the licensing authority will not exempt an applicant from the need to apply for building control approval, planning permission or both of these where appropriate.

Determining actions that are appropriate for the promotion of the licensing objectives

- 9.41 Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a 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.
- 9.42 The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.
- 9.43 Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. While this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters. As with the consideration of licence variations, the licensing authority should consider wider issues such as other conditions already in place to mitigate potential negative impact on the promotion of the licensing objectives and the track record of the business. Further advice on determining what is appropriate when imposing conditions on a licence or certificate is provided in Chapter 10. The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination.

Considering cases where licensing and planning applications are made simultaneously

- 9.44 Where businesses have indicated, when applying for a licence under the 2003 Act, that they have also applied for planning permission or that they intend to do so, licensing committees and officers should consider discussion with their planning counterparts prior to determination with the aim of agreeing mutually acceptable operating hours and scheme designs.

10. Conditions attached to premises licences and club premises certificates

General

- 10.1 This chapter provides further guidance in relation to conditions attached to premises licences and club premises certificates. General principles on licence conditions are set out in Chapter 1 (see paragraph 1.16).
- 10.2 Conditions include any limitations or restrictions attached to a licence or certificate and essentially are the steps or actions that the holder of the premises licence or the club premises certificate will be required to take or refrain from taking in relation to the carrying on of licensable activities at the premises in question. Failure to comply with any condition attached to a licence or certificate is a criminal offence, which on conviction is punishable by an unlimited fine or up to six months' imprisonment. The courts have made clear that it is particularly important that conditions which are imprecise or difficult for a licence holder to observe should be avoided.
- 10.3 There are three types of condition that may be attached to a licence or certificate: proposed, imposed and mandatory. Each of these categories is described in more detail below.

Proposed conditions

- 10.4 The conditions that are appropriate for the promotion of the licensing objectives should emerge initially from the risk assessment carried out by a prospective licence or certificate holder, which they should carry out before making their application for a premises licence or club premises certificate. This would be translated into the steps recorded in the operating schedule or club operating schedule, which must also set out the proposed hours during which licensable activities will be conducted and any other hours during which the premises will be open to the public.
- 10.5 It is not acceptable for licensing authorities to simply replicate the wording from an applicant's operating schedule. A condition should be interpreted in accordance with the applicant's intention.

Consistency with steps described in operating schedule

- 10.6 The 2003 Act provides that where an operating schedule or club operating schedule has been submitted with an application and there have been no relevant representations made by responsible authorities or any other person, the licence or certificate must be granted subject only to such conditions as are consistent with the schedule accompanying the application and any mandatory conditions required under the 2003 Act.
- 10.7 Consistency means that the effect of the condition should be substantially the same as that intended by the terms of the operating schedule. If conditions are broken, this may lead to a criminal prosecution or an application for a review and it is extremely important therefore that they should be expressed on the licence or certificate in unequivocal and unambiguous terms. The duty imposed by conditions on the licence holder or club must be clear to the licence holder, club, enforcement officers and the courts.

Imposed conditions

- 10.8 The licensing authority may not impose any conditions unless its discretion has been exercised following receipt of relevant representations and it is satisfied as a result of a hearing (unless all parties agree a hearing is not necessary) that it is appropriate to impose conditions to promote one or more of the four licensing objectives. This provision also applies to minor variations.
- 10.9 It is possible that in some cases no additional conditions will be appropriate to promote the licensing objectives.

Proportionality

- 10.10 The 2003 Act requires that licensing conditions should be tailored to the size, type, location and characteristics and activities taking place at the premises concerned. Conditions should be determined on a case-by-case basis and standardised conditions which ignore these individual aspects should be avoided. For example, conditions should not be used to implement a general policy in a given area such as the use of CCTV, polycarbonate drinking vessels or identity scanners where they would not be appropriate to the specific premises. Licensing authorities and other responsible authorities should be alive to the indirect costs that can arise because of conditions. These could be a deterrent to holding events that are valuable to the community or for the funding of good and important causes. Licensing authorities should therefore ensure that any conditions they impose are only those which are appropriate for the promotion of the licensing objectives.

Naming, packing and promotion in retail premises

- 10.11 The Government acknowledges that the irresponsible naming, packing or promotion of alcoholic drinks may contribute to alcohol related harms. Where there is direct evidence of specific incidents of irresponsible naming, packing or promotion of alcoholic drinks linked to the undermining of one of the licensing objectives, licensing authorities should, in the exercise of their licensing functions (in particular, in relation to an application for the grant, variation or review of a premises licence), consider whether it is appropriate to impose conditions on licences that require the licence holder to comply with the Portman Group's Retailer Alert Bulletins. This condition should be considered on a case by case basis and in the context of the promotion of the licensing objectives.
- 10.12 The Portman Group operates, on behalf of the alcohol industry, a Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks. The Code seeks to ensure that drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years old or older. Complaints about products under the Code are considered by an Independent Complaints Panel and the Panel's decisions are published on the Portman Group's website, in the trade press and in an annual report. If a product's packaging or point-of-sale advertising is found to be in breach of the Code, the Portman Group may issue a Retailer Alert Bulletin to notify retailers of the decision and ask them not to replenish stocks of any such product or to display such point-of-sale material, until there has been compliance with the decision.

Hours of trading

- 10.13 The Government acknowledges that different licensing strategies may be appropriate for the promotion of the licensing objectives in different areas. The 2003 Act gives the licensing authority power to make decisions about the hours during which premises can conduct licensable activities as part of the implementation of its licensing policy statement. Licensing authorities are best placed to make decisions about appropriate opening hours in their areas based on their local knowledge and in consultation with responsible authorities. However, licensing authorities must always consider each application and must not impose predetermined licensed opening hours, without giving individual consideration to the merits of each application.
- 10.14 Where there are objections to an application to extend the hours during which licensable activities are to be carried on and the licensing authority determines that this would undermine the licensing objectives, it may reject the application or grant it with appropriate conditions and/or different hours from those requested.
- 10.15 Shops, stores and supermarkets should normally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are good reasons, based on the licensing objectives, for restricting those hours.

The performance of plays

- 10.16 The 2003 Act provides that other than for the purposes of public safety, conditions must not be attached to premises licences or club premises certificates authorising the performance of a play⁷ which attempt to censor or modify the content of plays in any way. Any such condition would be ultra vires the 2003 Act.

Censorship

- 10.17 In general, other than in the context of film classification for film exhibitions, licensing authorities should not use their powers under the 2003 Act to seek to impose conditions which censor the content of any form of regulated entertainment. This is not a proper function of licensing law and cannot be properly related to the licensing objectives. The content of regulated entertainment is a matter which is addressed by existing laws governing indecency and obscenity. Where the concern is about protecting children, their access should be restricted where appropriate. But no other limitation should normally be imposed.

Major festivals and carnivals

- 10.18 Licensing authorities should publicise the need for the organisers of major festivals and carnivals to approach them at the earliest opportunity to discuss arrangements for licensing activities falling under the 2003 Act. For some events, the organisers may seek a single premises licence to cover a wide range of activities at varied locations within the premises. This would involve the preparation of a substantial operating schedule, and licensing authorities should offer advice and assistance about its preparation.

⁷ See chapter 15 for when a performance of a play is licensable.

- 10.19 For other events, applications for many connected premises licences may be made which in combination will represent a single festival. It is important that licensing authorities should publicise the need for proper co-ordination of such arrangements and will need to ensure that responsible authorities are aware of the connected nature of the individual applications.
- 10.20 Local authorities should bear in mind their ability to seek premises licences from the licensing authority for land or buildings under public ownership within the community in their own name.⁸ This could include, for example, village greens, market squares, promenades, community halls, local authority owned art centres and similar public areas where festivals and carnivals might take place.⁹ Performers and entertainers would then have no need to obtain a licence or give a temporary event notice themselves to enable them to give performances in these places, although they would need the permission of the local authority to put on the event.

Fixed prices

- 10.21 Licensing authorities should not attach standardised blanket conditions promoting fixed prices for alcoholic drinks to premises licences or club licences or club premises certificates in an area. This may be unlawful under current law. However, it is important to note that the mandatory conditions made under sections 19A and 73B of the 2003 Act prohibit a number of types of drinks promotions including where they give rise to a significant risk to any one of the four licensing objectives; the mandatory conditions also prohibit the sale of alcohol below the permitted price, as defined in paragraph 10.59.
- 10.22 Where licensing authorities are asked by the police, other responsible authorities or other persons to impose restrictions on promotions in addition to those restricted by the mandatory conditions, they should consider each application on its individual merits, tailoring any conditions carefully to cover only irresponsible promotions in the particular and individual circumstances of any premises where these are appropriate for the promotion of the licensing objectives. In addition, when considering any relevant representations which demonstrate a clear causal link between sales promotions or price discounting and levels of crime and disorder on or near the premises, it would be appropriate for the licensing authority to consider the imposition of a new condition prohibiting irresponsible sales promotions or the discounting of prices of alcoholic beverages at those premises. However, before pursuing any form of restrictions at all, licensing authorities should take their own legal advice.

Large capacity venues used exclusively or primarily for the “vertical” consumption of alcohol (HVVDs)

- 10.23 Large capacity “vertical drinking” premises, sometimes called High Volume Vertical Drinking establishments (HVVDs), are premises with exceptionally high capacities, which are used primarily or exclusively for the sale and consumption of alcohol, and have little or no seating for patrons. Previous research has demonstrated that the environment within such establishments can have a significant bearing on the likelihood of crime and disorder.

⁸ No licence is required for any entertainment provided by or on behalf of a local authority, see paragraphs 15.16-15.19

⁹ The register of public spaces: <https://www.gov.uk/government/publications/licensed-spaces-register>

- 10.24 Where appropriate, conditions can be attached to premises licences for the promotion of the prevention of crime and disorder at such premises that require the premises to observe:
- a prescribed capacity;
 - an appropriate ratio of tables and chairs to customers based on the capacity; and
 - a requirement that security staff holding the appropriate SIA licence or exemption are present to control entry for the purpose of compliance with the capacity limit and to deny entry to individuals who appear drunk or disorderly or both.

Sale and use of new psychoactive substances (NPS) at alcohol licensed premises such as off-licences

- 10.25 New psychoactive substances (NPS) mimic the effects of illegal drugs (like cocaine, cannabis and ecstasy) while being designed to evade controls. The sale of new psychoactive substances (NPS) – so called “legal highs” – is not regulated under the 2003 Act. However, licensing authorities may wish to consider whether conditions are appropriate to prevent the sale of such products alongside the sale of alcohol at a licensed premises, including at off-licences, or, for example, for on-trade premises to impose a door policy. Some NPS products may contain controlled drugs, and therefore be illegal, in which case the licensing authority should involve the police and consider applying for a review of the premises licence on crime and disorder grounds. But some NPS are not illegal. There is evidence that such NPS products can cause harms, particularly if taken in combination with alcohol. Further information about NPS is on the Government’s “FRANK” website: <http://www.talktofrank.com/>.
- 10.26 Licensing authorities will need to consider whether there is evidence that it would be appropriate to impose a condition of this kind specifically in order to promote one or more of the statutory licensing objectives, including public safety and protecting children from harm. Hospital admissions data or public order or nuisance data may assist or evidence that NPS are being purchased at a premises used by those under 18. Conditions must of course be tailored to the individual type, location and characteristics of the premises and events concerned and should be proportionate, justifiable and be capable of being met. As explained, in Chapter 2 (paragraph 2.6), public safety includes the prevention of accidents and injuries and other immediate harms that can result from alcohol consumption such as unconsciousness or alcohol poisoning. Conditions relating to public safety may also promote the crime and disorder objective or nuisance objective. There will be occasions when a public safety condition could incidentally benefit a person’s health more generally, but it should not be the purpose of the condition.

Mandatory conditions in relation to the supply of alcohol

- 10.27 The 2003 Act provides for the following mandatory conditions to be included in every licence and/or club premises certificate in the circumstances specified.

Designated premises supervisor

- 10.28 The 2003 Act provides that, where a premises licence authorises the supply of alcohol, it must include a condition that no supply of alcohol may be made at a time when no designated premises supervisor has been specified in the licence or at a time when the designated premises supervisor does not hold a personal licence or the personal licence has been suspended.

- 10.29 The main purpose of the ‘designated premises supervisor’ as defined in the 2003 Act is to ensure that there is always one specified individual among these personal licence holders who can be readily identified for the premises where a premises licence is in force. That person will normally have been given day to day responsibility for running the premises by the premises licence holder. The requirements set out in relation to the designated premises supervisor and authorisation of alcohol sales by a personal licence holder do not apply to community premises in respect of which a successful application has been made to disapply the usual mandatory conditions in sections 19(2) and 19(3) of the 2003 Act (see Chapter 4 of this Guidance).
- 10.30 The 2003 Act does not require a designated premises supervisor or any other personal licence holder to be present on the premises at all times when alcohol is sold. However, the designated premises supervisor and the premises licence holder remain responsible for the premises at all times including compliance with the terms of the 2003 Act and conditions attached to the premises licence to promote the licensing objectives.

Authorisation by personal licence holders

- 10.31 In addition, every premises licence that authorises the sale of alcohol must require that every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence. This in most instances will be the designated premises supervisor who must hold a valid personal licence. Any premises at which alcohol is sold or supplied may employ one or more personal licence holders. This does not mean that the condition should require the presence of the designated premises supervisor or any other personal licence holder on the premises at all times.
- 10.32 Similarly, the fact that every supply of alcohol must be made under the authority of a personal licence holder does not mean that only personal licence holders can make sales or that they must be personally present at every transaction. A personal licence holder may authorise members of staff to make sales of alcohol but may be absent at times from the premises when a transaction takes place. However, the responsible personal licence holder may not be able to escape responsibility for the actions of anyone authorised to make sales.
- 10.33 “Authorisation” does not imply direct supervision by a personal licence holder of each sale of alcohol. The question arises as to how sales can be authorised. Ultimately, whether an authorisation has been given is a question of fact that would have to be decided by the courts on the evidence before it in the course of a criminal prosecution.
- 10.34 The following factors should be relevant in considering whether or not an authorisation has been given:
- the person(s) authorised to sell alcohol at any particular premises should be clearly identified;
 - the authorisation should have specified the acts which may be carried out by the person who is authorised to supply alcohol;
 - there should be an overt act of authorisation, for example, a specific written statement given to the individual who is authorised to supply alcohol; and
 - there should be in place sensible arrangements for the personal licence holder to monitor the activity that they have authorised on a reasonably regular basis.

- 10.35 It is strongly recommended that personal licence holders give specific written authorisations to individuals whom they are authorising to retail alcohol. A single written authorisation would be sufficient to cover multiple sales over an unlimited period. This would assist personal licence holders in demonstrating due diligence should issues arise with enforcement authorities; and would protect employees if they themselves are challenged in respect of their authority to sell alcohol.
- 10.36 Written authorisation is not a requirement of the 2003 Act and its absence alone could not give rise to enforcement action.
- 10.37 It must be remembered that while the designated premises supervisor or a personal licence holder may authorise other individuals to sell alcohol in their absence, they are responsible for any sales that may be made. Similarly, the premises licence holder remains responsible for ensuring that licensing law and licence conditions are observed at the premises.

Arrangements for the mandatory licence conditions

- 10.38 The mandatory conditions made under sections 19A and 73B of the 2003 Act (the conditions governing irresponsible promotions, dispensing alcohol directly into the mouth, provision of free tap water, age verification, small measures and the prohibition on sales of alcohol below the permitted price) do not have to be physically included in the licence or certificate but nonetheless will apply to every licence and certificate authorising the sale and supply of alcohol for consumption on the premises. The mandatory conditions set out in section 19 of the 2003 Act (the requirement for a DPS and for all sales to be made or authorised by a personal licence holder) do, however, have to be physically included in the licence. The mandatory aspirational licence conditions do not apply to activities (including the supply of alcohol) authorised by a temporary event notice.
- 10.39 Whereas the initial mandatory conditions in section 19 of the 2003 Act are set out in Annex A of the licence, the additional mandatory conditions made under section 19A of the 2003 Act are treated as if they were included in existing licences and certificates on the date that those conditions came into force.
- 10.40 Following their commencement, the mandatory conditions overrode any pre-existing conditions already included in a licence or certificate insofar as the mandatory conditions were identical to, or inconsistent with or more onerous than, any pre-existing conditions. It is not necessary to record on the face of existing licences and certificates the impact that the introduction of the mandatory conditions has had on pre-existing conditions.

Irresponsible promotions

- 10.41 Under this condition, the “responsible person” (defined in the 2003 Act as the holder of a premises licence, designated premises supervisor, a person aged 18 or over who is authorised to allow the sale or supply of alcohol by an under 18 or a member or officer of a club present on the club premises who can oversee the supply of alcohol) should be able to demonstrate that they have ensured that staff do not carry out, arrange or participate in any irresponsible promotions. An irresponsible promotion is one that fits one of the descriptions below (or is substantially similar), is carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises. The aim of the condition is to prohibit or restrict promotions which encourage people to drink more than they might ordinarily do and in a manner which undermines the licensing objectives.

Drinking games

10.42 Irresponsible promotions can include activities, whether drinking games or not, which may require or encourage individuals to drink a quantity of alcohol within a time limit, or drink as much alcohol as possible within a time limit or otherwise. For example, this may include organised 'drink downing' competitions. This would not prevent the responsible person from requiring all drinks to be consumed or abandoned at, or before, the closing time of the premises. Nor does it necessarily prohibit 'happy hours' as long as these are not designed to encourage individuals to drink excessively or rapidly.

Large quantities of alcohol for free or a fixed price

10.43 Irresponsible promotions can include the provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted price, where there is a significant risk that such a promotion would undermine one or more of the licensing objectives. This includes alcohol provided to the public or to a group defined by a particular characteristic, for example, a promotion which offers women free drinks before a certain time or "all you can drink for £10". Promotions can be designed with a particular group in mind (for example, over 65s). A common sense approach is encouraged, which may include specifying the quantity of alcohol included in it or not targeting a group which could become more vulnerable or present a greater risk of crime and disorder as a result of excessive alcohol consumption.

Prizes and rewards

10.44 The sale, supply or provision of free or discounted alcohol or any other item as a prize to encourage or reward the purchase and consumption of alcohol can be within the definition of an irresponsible promotion, where there is a significant risk that such a promotion would undermine one or more of the licensing objectives. This may include promotions under which free or discounted alcohol is offered as a part of the sale of alcohol, for example, "Buy one and get two free" and "Buy one cocktail and get a second cocktail for 25p". This includes promotions which involve the provision of free or discounted alcohol within the same 24 hour period.

Posters and flyers

10.45 Irresponsible promotions can also include the sale or supply of alcohol in association with promotional materials on display in or around the premises, which can either be reasonably considered to condone, encourage or glamorise anti social behaviour or refer to the effects of drunkenness in any favourable manner.

Dispensing alcohol directly into the mouth

10.46 The responsible person (see paragraph 10.41) must ensure that no alcohol is dispensed directly into the mouth of a customer. For example, this may include drinking games such as the 'dentist's chair' where a drink is poured continuously into the mouth of another individual and may also prevent a premises from allowing another body to promote its products by employing someone to dispense alcohol directly into customers' mouths. An exception to this condition would be when an individual is unable to drink without assistance due to a disability.

Free potable water

- 10.47 The responsible person (see paragraph 10.41) must ensure that free potable water is provided on request to customers where it is reasonably available on the premises. What is meant by reasonably available is a question of fact; for example, it would not be reasonable to expect free tap water to be available in premises for which the water supply had temporarily been lost because of a broken mains water supply. However, it may be reasonable to expect bottled water to be provided in such circumstances.

Age verification

- 10.48 The premises licence holder or club premises certificate holder must ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol. This must as a minimum require individuals who appear to the responsible person (see paragraph 10.41) to be under the age of 18 years of age to produce on request, before being served alcohol, identification bearing their photograph, date of birth, and either a holographic mark or ultraviolet feature.
- 10.49 The premises licence holder or club premises certificate holder must ensure that staff (in particular, staff who are involved in the supply of alcohol) are made aware of the existence and content of the age verification policy which applies by the premises.
- 10.50 The designated premises supervisor (where there is one) must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy. This means that the DPS has personal responsibility for ensuring that staff are not only aware of, but are also applying, the age verification policy.
- 10.51 It is acceptable, and indeed encouraged, for premises to have an age verification policy which requires individuals who appear to the responsible person to be under an age greater than 18 to produce such identification on request. For example, if premises have a policy that requires any individual that appears to be under the age of 21 to produce identification that meets the criteria listed above, this is perfectly acceptable under the mandatory code.
- 10.52 Licence holders should consider carefully what steps they are required to take to comply with the age verification requirements under the 2003 Act in relation to sales of alcohol made remotely. These include sales made online, by telephone and mail order sales, and alcohol delivery services. Each of these sales must comply with the requirements of the 2003 Act. The mandatory condition requires that age verification takes place before a person is served alcohol. Where alcohol is sold remotely (for example, online) or through a telephone transaction, the sale is made at this point but the alcohol is not actually served until it is delivered to the customer. Age verification measures (for example, online age verification) should be used to ensure that alcohol is not sold to any person under the age of 18. However, licence holders should also consider carefully what steps are appropriate to ensure that age verification takes place before the alcohol is served (i.e. physically delivered) to the customer to be satisfied that the customer is aged 18 or over. It is, therefore, the responsibility of the person serving or delivering the alcohol to ensure that age verification has taken place and that photo ID has been checked if the person appears to be less than 18 years of age.

Smaller measures

- 10.53 The responsible person (see paragraph 10.41) shall ensure that the following drinks, if sold or supplied on the premises, are available in the following measures:
- Beer or cider: ½ pint
 - Gin, rum, vodka or whisky: 25ml or 35ml
 - Still wine in a glass: 125ml
- 10.54 As well as making the drinks available in the above measures, the responsible person must also make customers aware of the availability of these measures by displaying them on printed materials available to customers on the premises. This can include making their availability clear on menus and price lists, and ensuring that these are displayed in a prominent and conspicuous place in the relevant premises (for example, at the bar). Moreover, staff must make customers aware of the availability of small measures when customers do not request that they be sold alcohol in a particular measure.
- 10.55 This condition does not apply if the drinks in question are sold or supplied having been made up in advance ready for sale or supply in a securely closed container. For example, if beer is only available in pre-sealed bottles the requirement to make it available in 1/2 pints does not apply.
- 10.56 The premises licence holder or club premises certificate holder must ensure that staff are made aware of the application of this condition.

Ban on sales of alcohol below the permitted price

- 10.57 The relevant person (the holder of the premises licence, the designated premises supervisor (if any) in respect of such a licence, the personal licence holder who makes or authorises a supply of alcohol under such a licence, or any member or officer of a club present on the premises in a capacity which enables the member or officer to prevent the supply in question) shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
- 10.58 The permitted price is defined as the aggregate of the duty chargeable in relation to the alcohol on the date of its sale or supply and the amount of that duty multiplied by a percentage which represents the rate of VAT chargeable in relation to the alcohol on the date of its sale or supply. Detailed guidance on how to make this calculation and a calculator to determine permitted prices for each product are available on the Home Office website.
- 10.59 Where there is a change to the rate of duty or VAT applying to alcohol (for instance, following a Budget), the relevant person should ensure that the permitted price reflects the new rates within fourteen days of the introduction of the new rate.
- 10.60 It is still permitted to sell alcohol using promotions (as long as they are compatible with any other licensing condition that may be in force), and the relevant person should ensure that the price of the alcohol is not less than the permitted price. Detailed guidance on the use of promotions is given in the guidance document available on the Gov.uk website.

Exhibition of films

- 10.61 The 2003 Act provides that where a premises licence or club premises certificate authorises the exhibition of a film, it must include a condition requiring the admission of children to films to be restricted in accordance with recommendations given either by a body designated under section 4 of the Video Recordings Act 1984 specified in the licence (currently only the British Board of Film Classification (BBFC)) or by the licensing authority itself.
- 10.62 The effect of paragraph 5 of Schedule 1 to the 2003 Act is to exempt adverts from the definition of regulated entertainment, but not exempt them from the definition of exhibition of a film. Since the above mandatory condition applies to 'any film', it is therefore applicable to the exhibition of adverts.

Door supervision

- 10.63 Under section 21 of the 2003 Act, when a condition is included in a premises licence that at specified times an individual must be present at the premises to carry out a security activity (as defined in section 21(3)(a) by reference to the Private Security Industry Act 2001 ("the 2001 Act")), the licence must include a condition requiring that individual to be licensed by the Security Industry Authority ("the SIA") under the 2001 Act, or be entitled to carry out that activity by virtue of section 4 of the 2001 Act.
- 10.64 A premises licence need not require a person to hold a licence granted by the SIA if that person benefits from an exemption under section 4 of the 2001 Act. For example, certain employees benefit from an exemption when carrying out conduct in connection with a certified sports ground (section 4(6) to (12)). Furthermore, in certain circumstances persons benefit from an exemption where they operate under the SIA's Approved Contractor Scheme (section 15).
- 10.65 Conditions under section 21 of the 2003 Act should only relate to individuals carrying out security activities defined by section 21(3)(a) of the 2003 Act. Therefore, they should only relate to an activity to which paragraph 2(1)(a) of Schedule 2 to the 2001 Act applies (certain manned guarding activities) and which is licensable conduct within the meaning of section 3(2) of that Act. The requirement does not relate to individuals performing non-security related activities, and section 21 should not be used in relation to any such activities.
- 10.66 Section 21 of the 2003 Act continues to ensure that a premises licence need not impose such a requirement in relation to those licensed premises which the 2001 Act treats as unlicensed premises. Those are:
- premises in respect of which there is in force a premises licence authorising a performance of a play or an exhibition of a film;
 - casinos or bingo halls licensed under the Gambling Act 2005;
 - premises where a club certificate is in force when activities are being carried on under the authority of that certificate.
- See paragraph 8(3) of Schedule 2 to the 2001 Act for full details.
- 10.67 It should be noted, however, that the 2001 Act will require contractors and a small number of employees (those managing/supervising and those supplied under contract) to be licensed as manned guards (rather than door supervisors) when undertaking licensable conduct on premises to which paragraph 8(3) of Schedule 2 to the 2001 Act applies.

10.68 It is therefore important that if a licensing authority intends that individuals must be present to carry out security activities (as defined by section 21(3)(a) of the 2003 Act) this should be explicit, as should the mandatory condition for those individuals to hold an SIA licence or be entitled to carry out that activity by virtue of section 4 of the 2001 Act. On the other hand, where a licensing authority intends that individuals must be present to carry out other activities (for example, activities related to safety or steward activities to organise, advise and direct members of the public), no mandatory condition should be imposed under section 21 of the 2003 Act. In all cases it is important when determining whether or not a condition is to be imposed under section 21 of the 2003 Act to consider whether the activities of any individual working in licensed premises fall within the definition of security activities in section 21(3)(a) of the 2003 Act. (Regardless of whether a condition is imposed under section 21 of the 2003 Act, under the 2001 Act the appropriate SIA licence must be held by any individual performing an activity for which they are licensable under that Act.)

11. Reviews

The review process

- 11.1 The proceedings set out in the 2003 Act for reviewing premises licences and club premises certificates represent a key protection for the community where problems associated with the licensing objectives occur after the grant or variation of a premises licence or club premises certificate.
- 11.2 At any stage, following the grant of a premises licence or club premises certificate, a responsible authority, or any other person, may ask the licensing authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives.
- 11.3 An application for review may be made electronically, provided that the licensing authority agrees and the applicant submits a subsequent hard copy of the application, if the licensing authority requires one. The licensing authority may also agree in advance that the application need not be given in hard copy. However, these applications are outside the formal electronic application process and may not be submitted via GOV.UK or the licensing authority's electronic facility.
- 11.4 In addition, the licensing authority must review a licence if the premises to which it relates was made the subject of a closure order by the police based on nuisance or disorder and the magistrates' court has sent the authority the relevant notice of its determination, or if the police have made an application for summary review on the basis that premises are associated with serious crime and/or disorder.
- 11.5 Any responsible authority under the 2003 Act may apply for a review of a premises licence or club premises certificate. Therefore, the relevant licensing authority may apply for a review if it is concerned about licensed activities at premises and wants to intervene early without waiting for representations from other persons. However, it is not expected that licensing authorities should normally act as responsible authorities in applying for reviews on behalf of other persons, such as local residents or community groups. These individuals or groups are entitled to apply for a review for a licence or certificate in their own right if they have grounds to do so. It is also reasonable for licensing authorities to expect other responsible authorities to intervene where the basis for the intervention falls within the remit of that other authority. For example, the police should take appropriate steps where the basis for the review is concern about crime and disorder or the sexual exploitation of children. Likewise, where there are concerns about noise nuisance, it is reasonable to expect the local authority exercising environmental health functions for the area in which the premises are situated to make the application for review.
- 11.6 Where the relevant licensing authority does act as a responsible authority and applies for a review, it is important that a separation of responsibilities is still achieved in this process to ensure procedural fairness and eliminate conflicts of interest. As outlined previously in Chapter 9 of this Guidance, the distinct functions of acting as licensing authority and responsible authority should be exercised by different officials to ensure a separation of responsibilities. Further information on how licensing authorities should achieve this separation of responsibilities can be found in Chapter 9, paragraphs 9.13 to 9.19 of this Guidance.

- 11.7 In every case, any application for a review must relate to particular premises in respect of which there is a premises licence or club premises certificate and must be relevant to the promotion of one or more of the licensing objectives. Following the grant or variation of a licence or certificate, a complaint regarding a general issue in the local area relating to the licensing objectives, such as a general (crime and disorder) situation in a town centre, should generally not be regarded as a relevant representation unless it can be positively tied or linked by a causal connection to particular premises, which would allow for a proper review of the licence or certificate. For instance, a geographic cluster of complaints, including along transport routes related to an individual public house and its closing time, could give grounds for a review of an existing licence as well as direct incidents of crime and disorder around a particular public house.
- 11.8 Where a licensing authority receives a geographic cluster of complaints, the authority may consider whether these issues are the result of the cumulative impact of licensed premises within the area concerned. In such circumstances, the authority may also consider whether it would be appropriate to include a special policy relating to cumulative impact within its licensing policy statement. Further guidance on cumulative impact policies can be found in Chapter 13 of this Guidance.
- 11.9 Representations must be made in writing and may be amplified at the subsequent hearing or may stand in their own right. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing. Representations may be made electronically, provided the licensing authority agrees and the applicant submits a subsequent hard copy, unless the licensing authority waives this requirement.
- 11.10 Where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. Co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this co-operation.
- 11.11 If the application for a review has been made by a person other than a responsible authority (for example, a local resident, residents' association, local business or trade association), before taking action the licensing authority must first consider whether the complaint being made is relevant, frivolous, vexatious or repetitious. Further guidance on determining whether a representation is frivolous or vexatious can be found in Chapter 9 of this Guidance (paragraphs 9.4 to 9.10).

Repetitious grounds of review

- 11.12 A repetitious ground is one that is identical or substantially similar to:
- a ground for review specified in an earlier application for review made in relation to the same premises licence or certificate which has already been determined; or
 - representations considered by the licensing authority when the premises licence or certificate was granted; or

- representations which would have been made when the application for the premises licence was first made and which were excluded then by reason of the prior issue of a provisional statement; and, in addition to the above grounds, a reasonable interval has not elapsed since that earlier review or grant.

- 11.13 Licensing authorities are expected to be aware of the need to prevent attempts to review licences merely as a further means of challenging the grant of the licence following the failure of representations to persuade the licensing authority on an earlier occasion. It is for licensing authorities themselves to judge what should be regarded as a reasonable interval in these circumstances. However, it is recommended that more than one review originating from a person other than a responsible authority in relation to a particular premises should not be permitted within a 12 month period on similar grounds save in compelling circumstances or where it arises following a closure order.
- 11.14 The exclusion of a complaint on the grounds that it is repetitious does not apply to responsible authorities which may make more than one application for a review of a licence or certificate within a 12 month period.
- 11.15 When a licensing authority receives an application for a review from a responsible authority or any other person, or in accordance with the closure procedures described in Part 8 of the 2003 Act (for example, closure orders), it must arrange a hearing. The arrangements for the hearing must follow the provisions set out in regulations. These regulations are published on the Government's legislation website (www.legislation.gov.uk). It is particularly important that the premises licence holder is made fully aware of any representations made in respect of the premises, any evidence supporting the representations and that the holder or the holder's legal representative has therefore been able to prepare a response.

Powers of a licensing authority on the determination of a review

- 11.16 The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.
- 11.17 The licensing authority may decide that the review does not require it to take any further steps appropriate to promote the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.
- 11.18 However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate.
- 11.19 Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:
- modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;

- exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption)¹⁰;
- remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- suspend the licence for a period not exceeding three months;
- revoke the licence.

11.20 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.

11.21 For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.

11.22 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives.

11.23 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

Reviews arising in connection with crime

11.24 A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises; money laundering by criminal gangs, the sale of contraband or stolen goods, the sale of firearms, or the sexual exploitation of children. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The licensing authority's role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective.

¹⁰ See chapter 15 in relation to the licensing of live and recorded music.

- 11.25 Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. There is, therefore, no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. Some reviews will arise after the conviction in the criminal courts of certain individuals, but not all. In any case, it is for the licensing authority to determine whether the problems associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives. Where a review follows a conviction, it would also not be for the licensing authority to attempt to go beyond any finding by the courts, which should be treated as a matter of undisputed evidence before them.
- 11.26 Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives in the interests of the wider community and not those of the individual licence holder.
- 11.27 There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:
- for the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime;
 - for the sale and distribution of illegal firearms;
 - for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;
 - for prostitution or the sale of unlawful pornography;
 - by organised groups of paedophiles to groom children;
 - as the base for the organisation of criminal activity, particularly by gangs;
 - for the organisation of racist activity or the promotion of racist attacks;
 - for knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a condition on that person's leave to enter;
 - for unlawful gambling; and
 - for the sale or storage of smuggled tobacco and alcohol.
- 11.28 It is envisaged that licensing authorities, the police and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.

Review of a premises licence following closure order

- 11.29 Licensing authorities are subject to certain timescales, set out in the legislation, for the review of a premises licence following a closure order. The relevant time periods run concurrently and are as follows:
- when the licensing authority receives notice that a magistrates' court has made a closure order it has 28 days to determine the licence review – the determination must be made before the expiry of the 28th day after the day on which the notice is received;
 - the hearing must be held within ten working days, the first of which is the day after the day the notice from the magistrates' court is received;
 - notice of the hearing must be given no later than five working days before the first hearing day (there must be five clear working days between the giving of the notice and the start of the hearing).

Review of a premises licence following persistent sales of alcohol to children

- 11.30 The Government recognises that the majority of licensed premises operate responsibly and undertake due diligence checks on those who appear to be under the age of 18 at the point of sale (or 21 and 25 where they operate a Challenge 21 or 25 scheme). Where these systems are in place, licensing authorities may wish to take a proportionate approach in cases where there have been two sales of alcohol within very quick succession of one another (e.g., where a new cashier has not followed policy and conformed with a store's age verification procedures). However, where persistent sales of alcohol to children have occurred at premises, and it is apparent that those managing the premises do not operate a responsible policy or have not exercised appropriate due diligence, responsible authorities should consider taking steps to ensure that a review of the licence is the norm in these circumstances. This is particularly the case where there has been a prosecution for the offence under section 147A or a closure notice has been given under section 169A of the 2003 Act. In determining the review, the licensing authority should consider revoking the licence if it considers this appropriate.

12. Appeals

- 12.1 This chapter provides advice about entitlements to appeal in connection with various decisions made by a licensing authority under the provisions of the 2003 Act. Entitlements to appeal for parties aggrieved by decisions of the licensing authority are set out in Schedule 5 to the 2003 Act.

General

- 12.2 With the exception of appeals in relation to closure orders, an appeal may be made to any magistrates' court in England or Wales but it is expected that applicants would bring an appeal in a magistrates' court in the area in which they or the premises are situated.
- 12.3 An appeal has to be commenced by the appellant giving a notice of appeal to the designated officer for the magistrates' court within a period of 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision which is being appealed.
- 12.4 The licensing authority will always be a respondent to the appeal, but in cases where a favourable decision has been made for an applicant, licence holder, club or premises user against the representations of a responsible authority or any other person, or the objections of the chief officer of police or local authority exercising environmental health functions, the holder of the premises or personal licence or club premises certificate or the person who gave an interim authority notice or the premises user will also be a respondent to the appeal, and the person who made the relevant representation or gave the objection will be the appellants.
- 12.5 Where an appeal has been made against a decision of the licensing authority, the licensing authority will in all cases be the respondent to the appeal and may call as a witness a responsible authority or any other person who made representations against the application, if it chooses to do so. For this reason, the licensing authority should consider keeping responsible authorities and others informed of developments in relation to appeals to allow them to consider their position. Provided the court considers it appropriate, the licensing authority may also call as witnesses any individual or body that they feel might assist their response to an appeal.
- 12.6 The court, on hearing any appeal, may review the merits of the decision on the facts and consider points of law or address both.
- 12.7 On determining an appeal, the court may:
- dismiss the appeal;
 - substitute for the decision appealed against any other decision which could have been made by the licensing authority; or
 - remit the case to the licensing authority to dispose of it in accordance with the direction of the court and make such order as to costs as it thinks fit.

All parties should be aware that the court may make an order for one party to pay another party's costs.

Licensing policy statements and Section 182 guidance

- 12.8 In hearing an appeal against any decision made by a licensing authority, the magistrates' court will have regard to that licensing authority's statement of licensing policy and this Guidance. However, the court would be entitled to depart from either the statement of licensing policy or this Guidance if it considered it was justified to do so because of the individual circumstances of any case. In other words, while the court will normally consider the matter as if it were "standing in the shoes" of the licensing authority, it would be entitled to find that the licensing authority should have departed from its own policy or the Guidance because the particular circumstances would have justified such a decision.
- 12.9 In addition, the court is entitled to disregard any part of a licensing policy statement or this Guidance that it holds to be ultra vires the 2003 Act and therefore unlawful. The normal course for challenging a statement of licensing policy or this Guidance should be by way of judicial review, but where it is submitted to an appellate court that a statement of policy is itself ultra vires the 2003 Act and this has a direct bearing on the case before it, it would be inappropriate for the court, on accepting such a submission, to compound the original error by relying on that part of the statement of licensing policy affected.

Giving reasons for decisions

- 12.10 It is important that a licensing authority should give comprehensive reasons for its decisions in anticipation of any appeals. Failure to give adequate reasons could itself give rise to grounds for an appeal. It is particularly important that reasons should also address the extent to which the decision has been made with regard to the licensing authority's statement of policy and this Guidance. Reasons should be promulgated to all the parties of any process which might give rise to an appeal under the terms of the 2003 Act.

Implementing the determination of the magistrates' courts

- 12.11 As soon as the decision of the magistrates' court has been promulgated, licensing authorities should implement it without delay. Any attempt to delay implementation will only bring the appeal system into disrepute. Standing orders should therefore be in place that on receipt of the decision, appropriate action should be taken immediately unless ordered by the magistrates' court or a higher court to suspend such action (for example, as a result of an on-going judicial review). Except in the case of closure orders, the 2003 Act does not provide for a further appeal against the decision of the magistrates' courts and normal rules of challenging decisions of magistrates' courts will apply.

Provisional statements

- 12.12 To avoid confusion, it should be noted that a right of appeal only exists in respect of the terms of a provisional statement that is issued rather than one that is refused. This is because the 2003 Act does not empower a licensing authority to refuse to issue a provisional statement. After receiving and considering relevant representations, the licensing authority may only indicate, as part of the statement, that it would consider certain steps to be appropriate for the promotion of the licensing objectives when, and if, an application were made for a premises licence following the issuing of the provisional statement. Accordingly, the applicant or any person who has made relevant representations may appeal against the terms of the statement issued.

13. Statements of licensing policy

Introduction

The Licensing Act 2003

- 13.1 This chapter provides guidance on the development and preparation of local statements of licensing policy for publication by licensing authorities, the general principles that it is recommended should underpin them, and core content to which licensing authorities are free to add.

General

- 13.2 Section 5 of the 2003 Act requires a licensing authority to prepare and publish a statement of its licensing policy at least every five years. Such a policy must be published before the authority carries out any function in respect of individual applications and notices made under the terms of the 2003 Act. During the five-year period, the policy must be kept under review and the licensing authority may make any revisions to it as it considers appropriate, for instance in the light of feedback from the local community on whether the licensing objectives are being met. If the licensing authority determines and publishes its policy in this way, a new five-year period commences on the date it is published. Previously, licensing authorities were required to determine their licensing policies for each three-year period. Licensing policies published in respect of the three-year period that began on 7 January 2011 are to be treated as though they apply to a period of five years beginning at that date.
- 13.3 Where revisions to the section 182 Guidance are made by the Secretary of State, it will be for the licensing authority to determine whether revisions to its own licensing policy statement are appropriate.

Consultation on policies

- 13.4 Before determining its policy, the licensing authority must consult the persons listed in section 5(3) of the 2003 Act. These are:
- the chief officer of police for the area;
 - the fire and rescue authority for the area;
 - each local authority's Director of Public Health in England (DPH)¹¹ or Local Health Board in Wales for an area any part of which is in the licensing authority's area,
 - persons/bodies representative of local premises licence holders;
 - persons/bodies representative of local club premises certificate holders;
 - persons/bodies representative of local personal licence holders; and
 - persons/bodies representative of businesses and residents in its area.

¹¹ This change was made as a result of the commencement of measures in the Health and Social Care Act 2012 which amended the 2003 Act and further provision in the NHS Bodies and Local Authorities (Partnership Arrangements, Care Trusts, Public Health and Local Healthwatch) Regulations 2012.

- 13.5 The views of all these persons or bodies should be given appropriate weight when the policy is determined. It is recognised that in some areas, it may be difficult to identify persons or bodies that represent all parts of industry affected by the provisions of the 2003 Act, but licensing authorities must make reasonable efforts to do so. Licensing authorities should note that the terms of the 2003 Act do not prevent them consulting other bodies or persons.
- 13.6 Subject to the statutory requirements, it is for each licensing authority to determine the extent of the consultation it should undertake, and whether any particular person or body is representative of the groups described in the 2003 Act. While it is clearly good practice to consult widely, this may not always be necessary or appropriate (for example, where a licensing authority has recently carried out a comprehensive consultation in relation to a revision to its policy made within five years of a full revision to it). As such, it may decide on a simple consultation with those persons listed.
- 13.7 However, licensing authorities should consider very carefully whether a full consultation is appropriate as a limited consultation may not allow all persons sufficient opportunity to comment on and influence local policy (for example, where an earlier consultation was limited to a particular part of the policy, such as a proposal to introduce a cumulative impact policy).
- 13.8 Fee levels are intended to provide full cost recovery of all licensing functions including the preparation and publication of a statement of licensing policy, but this will be based on the statutory requirements. Where licensing authorities exceed these requirements, they will have to absorb those costs themselves.

Fundamental principles

- 13.9 All statements of policy should begin by stating the four licensing objectives, which the licensing policy should promote. In determining its policy, a licensing authority must have regard to this Guidance and give appropriate weight to the views of consultees.
- 13.10 While statements of policy may set out a general approach to making licensing decisions, they must not ignore or be inconsistent with provisions in the 2003 Act. For example, a statement of policy must not undermine the right of any person to apply under the terms of the 2003 Act for a variety of permissions and to have any such application considered on its individual merits.
- 13.11 Similarly, no statement of policy should override the right of any person to make representations on an application or to seek a review of a licence or certificate where provision has been made for them to do so in the 2003 Act.
- 13.12 Statements of policies should make clear that:
- licensing is about regulating licensable activities on licensed premises, by qualifying clubs and at temporary events within the terms of the 2003 Act; and
 - conditions attached to various authorisations will be focused on matters which are within the control of individual licence holders and others with relevant authorisations, i.e. the premises and its vicinity.
- 13.13 A statement of policy should also make clear that licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation

concerned. Nonetheless, it is a key aspect of such control and licensing law will always be part of a holistic approach to the management of the evening and night-time economy in town and city centres.

Licence conditions

- 13.14 Statements of licensing policy should reflect the general principles regarding licence conditions set out in Chapter 1 of this guidance.
- 13.15 Statements of licensing policy should include a firm commitment to avoid attaching conditions that duplicate other regulatory regimes as far as possible. Chapter 10 provides further detail on this issue.

Enforcement

- 13.16 The Government recommends that licensing authorities should establish and set out joint-enforcement protocols with the local police and the other authorities and describe them in their statement of policy. This will clarify the division of responsibilities for licence holders and applicants, and assists enforcement and other authorities to deploy resources more efficiently.
- 13.17 In particular, these protocols should also provide for the targeting of agreed problem and high-risk premises which require greater attention, while providing a lighter touch for low risk premises or those that are well run. In some local authority areas, the limited validity of public entertainment, theatre, cinema, night café and late night refreshment house licences has in the past led to a culture of annual inspections regardless of whether the assessed risks make such inspections necessary. The 2003 Act does not require inspections to take place save at the discretion of those charged with this role. Principles of risk assessment and targeted inspection (in line with the recommendations of the Hampton review) should prevail and, for example, inspections should not be undertaken routinely but when and if they are judged necessary. This should ensure that resources are used efficiently and for example, are more effectively concentrated on problem premises.

Entertainment provision

- 13.18 Statements of licensing policy should set out the extent to which the licensing authority intends to facilitate a broad range of entertainment provision for enjoyment by a wide cross-section of the public. Statements of licensing policy should address what balance is to be struck between promoting the provision of entertainment and addressing concerns relevant to the licensing objectives. Licensing authorities should be conscious that licensing policy may inadvertently deter live music by imposing indirect costs of a disproportionate nature, for example a blanket policy that any pub providing live music entertainment must have door supervisors.

The need for licensed premises

- 13.19 There can be confusion about the difference between the “need” for premises and the “cumulative impact” of premises on the licensing objectives, for example, on crime and disorder. “Need” concerns the commercial demand for another pub or restaurant or hotel and is a matter for the planning authority and for the market. This is not a matter for a licensing authority in discharging its licensing functions or for its statement of licensing policy.

The cumulative impact of a concentration of licensed premises

What is cumulative impact?

- 13.20 “Cumulative impact” is not mentioned specifically in the 2003 Act. In this Guidance, it means the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. The cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for a licensing authority to consider in developing its licensing policy statement. Cumulative impact policies (CIP) may relate to premises licensed to carry on any licensable activity, including the sale of alcohol for consumption on or off the premises, and the provision of late night refreshment. This includes late night fast food outlets which are not licensed to sell alcohol.
- 13.21 In some areas, where the number, type or density of premises selling alcohol or providing late night refreshment is high or exceptional, serious problems of nuisance and disorder may be arising or have begun to arise outside or some distance from those premises. Such problems generally occur as a result of large numbers of drinkers being concentrated in an area, for example when leaving premises at peak times or when queuing at fast food outlets or for public transport. Licensing authorities should consider whether the number of fast food outlets or off licences in an area contribute to these problems, and may choose to include them in their cumulative impact policy.
- 13.22 Queuing in itself may lead to conflict, disorder and anti-social behaviour. Moreover, large concentrations of people may also increase the incidence of other criminal activities such as drug dealing, pick pocketing and street robbery. Local services such as public transport services, public lavatory provision and street cleaning may not be able to meet the demand posed by such concentrations of drinkers leading to issues such as street fouling, littering, traffic and public nuisance caused by concentrations of people who cannot be effectively dispersed quickly.
- 13.23 Variable licensing hours may facilitate a more gradual dispersal of customers from premises. However, in some cases, the impact on surrounding areas of the behaviour of the customers of all premises taken together will still be greater than the impact of customers of individual premises. These conditions are more likely to arise in town and city centres, but may also arise in other urban centres and the suburbs, for example on smaller high streets with high concentrations of licensed premises.

Evidence of cumulative impact

- 13.24 There should be an evidential basis for the decision to include a special policy within the statement of licensing policy. Local Community Safety Partnerships and responsible authorities, such as the police and the local authority exercising environmental health functions, may hold relevant information which would inform licensing authorities when establishing the evidence base for introducing a special policy relating to cumulative impact into their licensing policy statement. Information which licensing authorities may be able to draw on to evidence the cumulative impact of licensed premises on the promotion of the licensing objectives includes:
- local crime and disorder statistics, including statistics on specific types of crime and crime hotspots;
 - statistics on local anti-social behaviour offences;

- health-related statistics such as alcohol-related emergency attendances and hospital admissions;
- environmental health complaints, particularly in relation to litter and noise;
- complaints recorded by the local authority, which may include complaints raised by local residents or residents' associations;
- residents' questionnaires;
- evidence from local councillors; and
- evidence obtained through local consultation.

13.25 The licensing authority may consider this evidence, alongside its own evidence as to the impact of licensable activities within its area, and consider in particular the times at which licensable activities are carried on. Information which may inform consideration of these issues includes:

- trends in licence applications, particularly trends in applications by types of premises and terminal hours;
- changes in terminal hours of premises;
- premises' capacities at different times of night and the expected concentrations of drinkers who will be expected to be leaving premises at different times.

13.26 Where existing information is insufficient or not readily available, but the licensing authority believes there are problems in its area resulting from the cumulative impact of licensed premises, it can consider conducting or commissioning a specific study to assess the position. This may involve conducting observations of the night-time economy to assess the extent of incidents relating to the promotion of the licensing objectives, such as incidences of criminal activity and anti-social behaviour, examples of public nuisance, specific issues such as underage drinking and the key times and locations at which these problems are occurring.

13.27 In order to identify the areas in which problems are occurring, information about specific incidents can be mapped and, where possible, a time analysis undertaken to identify the key areas and times at which there are specific issues.

13.28 After considering the available evidence and consulting those individuals and organisations listed in section 5(3) of the 2003 Act and any others, a licensing authority may be satisfied that it is appropriate to include an approach to cumulative impact in its licensing policy statement. The special policy should also be considered alongside local planning policy and other factors which may assist in mitigating the cumulative impact of licensed premises, as set out in paragraph 13.39. When the licensing authority decides to introduce an approach to cumulative impact, it may decide it is appropriate to indicate in its statement that it is adopting a special policy whereby, when it receives relevant representations, there is a rebuttable presumption that, for example, applications or variation applications which seek to extend the sale or apply of alcohol or provision of late night refreshment are refused or subject to certain limitations.

Steps to a special policy

- 13.29 The steps to be followed in considering whether to adopt a special policy within the statement of licensing policy are summarised below.
- Identify concern about crime and disorder; public safety; public nuisance; or protection of children from harm.
 - Consider whether there is good evidence that crime and disorder or nuisance are occurring, or whether there are activities which pose a threat to public safety or the protection of children from harm.
 - If such problems are occurring, identify whether these problems are being caused by the customers of licensed premises, or that the risk of cumulative impact is imminent.
 - Identify the boundaries of the area where problems are occurring (this can involve mapping where the problems occur and identifying specific streets or localities where such problems arise).
 - Consult those specified in section 5(3) of the 2003 Act, and subject to the outcome of the consultation, include and publish details of the special policy in the licensing policy statement.

Effect of special policies

- 13.30 The effect of adopting a special policy of this kind is to create a rebuttable presumption that applications for the grant or variation of premises licences or club premises certificates which are likely to add to the existing cumulative impact will normally be refused or subject to certain limitations, following relevant representations, unless the applicant can demonstrate in the operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives. Applicants should give consideration to potential cumulative impact issues when setting out the steps they will take to promote the licensing objectives in their application.
- 13.31 However, a special policy must stress that this presumption does not relieve responsible authorities (or any other persons) of the need to make a relevant representation, referring to information which had been before the licensing authority when it developed its statement of licensing policy, before a licensing authority may lawfully consider giving effect to its special policy. If there are no representations, the licensing authority must grant the application in terms that are consistent with the operating schedule submitted.
- 13.32 Once adopted, special policies should be reviewed regularly to assess whether they are needed any longer or if those which are contained in the statement of licensing policy should be amended.
- 13.33 The absence of a special policy does not prevent any responsible authority or other person making representations on an application for the grant or variation of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives.
- 13.34 Special policies may apply to the impact of a concentration of any licensed premises, including those licensed for the sale of alcohol on or off the premises, and premises licensed to provide late night refreshment. When establishing its evidence base for introducing a special policy, licensing authorities should be considering the contribution to cumulative impact made by different types of premises within its area, in order to determine the appropriateness of including different types of licensed premises within the special policy.

- 13.35 It is recommended that licensing authorities should publish contact points in their statements of licensing policy where members of public can obtain advice about whether or not activities should be licensed.

Limitations on special policies relating to cumulative impact

- 13.36 A special policy should never be absolute. Statements of licensing policy should always allow for the circumstances of each application to be considered properly and for applications that are unlikely to add to the cumulative impact on the licensing objectives to be granted. After receiving relevant representations in relation to a new application for or a variation of a licence or certificate, the licensing authority must consider whether it would be justified in departing from its special policy in the light of the individual circumstances of the case. The impact can be expected to be different for premises with different styles and characteristics. For example, while a large nightclub or high capacity public house might add to problems of cumulative impact, a small restaurant or a theatre may not. If the licensing authority decides that an application should be refused, it will still need to show that the grant of the application would undermine the promotion of one of the licensing objectives and that appropriate conditions would be ineffective in preventing the problems involved.
- 13.37 Special policies should never be used as a ground for revoking an existing licence or certificate when representations are received about problems with those premises. Where the licensing authority has concerns about the effect of activities at existing premises between midnight and 6am on the promotion of the licensing objectives in a specific area, it may introduce an Early Morning Alcohol Restriction Order (EMRO) if there is sufficient evidence to do so (see chapter 16). The “cumulative impact” on the promotion of the licensing objectives of a concentration of multiple licensed premises should only give rise to a relevant representation when an application for the grant or variation of a licence or certificate is being considered. A review must relate specifically to individual premises, and by its nature, “cumulative impact” relates to the effect of a concentration of many premises. Identifying individual premises in the context of a review would inevitably be arbitrary.
- 13.38 Special policies can also not be used to justify rejecting applications to vary an existing licence or certificate except where those modifications are directly relevant to the policy (as would be the case with an application to vary a licence with a view to increasing the capacity limits of the premises) and are strictly appropriate for the promotion of the licensing objectives.
- 13.39 Every application should still be considered individually. Therefore, special policies must not restrict such consideration by imposing quotas – based on either the number of premises or the capacity of those premises. Quotas that indirectly have the effect of predetermining the outcome of any application should not be used because they have no regard to the individual characteristics of the premises concerned.

Other mechanisms for controlling cumulative impact

13.40 Once away from the licensed premises, a minority of consumers will behave badly and unlawfully. To enable the general public to appreciate the breadth of the strategy for addressing these problems, statements of policy should also indicate the other mechanisms both within and outside the licensing regime that are available for addressing such issues. For example:

- planning control;
- positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the local authority;
- the provision of CCTV surveillance in town centres, taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols;
- powers of local authorities to designate parts of the local authority area as places where alcohol may not be consumed publicly;
- the confiscation of alcohol from adults and children in designated areas;
- police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices;
- prosecution for the offence of selling alcohol to a person who is drunk (or allowing such a sale);
- police powers to close down instantly for up to 24 hours (extendable to 48 hours) any licensed premises in respect of which a TEN has effect on grounds of disorder, the likelihood of disorder, or noise emanating from the premises causing a nuisance; and
- the power of the police, other responsible authorities or other persons to seek a review of a licence or certificate.
- Raising a contribution to policing the late night economy through the Late Night Levy.
- Early Morning Alcohol Restriction Orders (see Chapter 16).

13.41 As part of its licensing policy, the licensing authority may also wish to consider the use of alternative measures such as fixed closing times, staggered closing times and zoning within its area, providing such mechanisms are justified on the basis of the licensing objectives and are only presumptive, with final decisions continuing to be made in relation to individual premises on a case by case basis in accordance with what is appropriate to promote the licensing objectives. The licensing authority would be expected to include its intention to use such measures in its statement of licensing policy and justify doing so in order to orchestrate closing times so as to manage problems in the night-time economy based on the promotion of the licensing objectives. As with the creation of a CIP, the use of such mechanisms would create a rebuttable presumption and would apply in the event of representations being received.

Public Spaces Protection Order

13.42 The Designated Public Place Order (DPPO) has been replaced by the Public Spaces Protection Order (PSPO) in the Anti-social Behaviour Crime and Policing Act 2014¹². PSPOs can be used to restrict the drinking of alcohol in a public space where this has or is likely to have a detrimental effect on the quality of life on those in the locality, be persistent or continuing in nature, and unreasonable. Before making a PSPO, a council

¹² For full guidance on the PSPO please see the statutory guidance on the 2014 Act: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/352562/ASB_Guidance_v8_July2014_final_2_.pdf

must consult the local police. DPPOs will continue to be valid for a period of three years following commencement of the PSPO in October 2014. Once that three year period expires, they will be treated as a PSPO and enforceable as such. Where a local authority occupies or manages premises, or where premises are managed on its behalf, and it licenses that place for alcohol sales, the PSPO will not apply when the licence is being used for alcohol sales (or 30 minutes after), but the place will be subject to the PSPO at all other times¹³. This allows local authorities to promote community events while still using a PSPO to tackle the problems of anti-social drinking.

- 13.43 It should be noted that when one part of a local authority seeks a premises licence of this kind from the licensing authority, the licensing committee and its officers must consider the matter from an entirely neutral standpoint. If relevant representations are made, for example, by local residents or the police, they must be considered fairly by the committee. Anyone making a representation that is genuinely aggrieved by a positive decision in favour of a local authority application by the licensing authority would be entitled to appeal to the magistrates' court and thereby receive an independent review of any decision.

Licensing hours

- 13.44 With regard to licensing hours, the Government acknowledges that different licensing approaches may be appropriate for the promotion of the licensing objectives in different areas. The 2003 Act gives the licensing authority power to make decisions regarding licensed opening hours as part of the implementation of its licensing policy statement and licensing authorities are best placed to make such decisions based on their local knowledge and in consultation with other responsible authorities. However, licensing authorities must always consider each application and must not impose predetermined licensed opening hours, without giving individual consideration to the merits of each application.
- 13.45 Statements of licensing policy should set out the licensing authority's approach regarding licensed opening hours and the strategy it considers appropriate for the promotion of the licensing objectives in its area. The statement of licensing policy should emphasise the consideration which will be given to the individual merits of an application. The Government recognises that licensed premises make an important contribution to our local communities, and has given councils a range of tools to effectively manage the different pressures that licensed premises can bring. In determining appropriate strategies around licensed opening hours, licensing authorities cannot seek to restrict the activities of licensed premises where it is not appropriate for the promotion of the licensing objectives to do so.

Children

- 13.46 It is an offence under the 2003 Act to:
- permit children under the age of 16 who are not accompanied by an adult to be present on premises being used exclusively or primarily for supply of alcohol for consumption on those premises under the authorisation of a premises licence, club premises certificate or where that activity is carried on under the authority of a TEN; and
 - to permit the presence of children under 16 who are not accompanied by an adult between midnight and 5am at other premises supplying alcohol for consumption on the premises under the authority of any premises licence, club premises certificate or TEN.

¹³ Licensed premises in general are exempt from the effect of a PSPO.

- 13.47 Outside of these hours, the offence does not prevent the admission of unaccompanied children under 16 to the wide variety of premises where the consumption of alcohol is not the exclusive or primary activity. This does not mean that children should automatically be admitted to such premises and the following paragraphs are therefore of great importance notwithstanding the offences under the 2003 Act. The expression 'exclusively or primarily' should be given its ordinary and natural meaning in the context of the particular circumstances.
- 13.48 Where it is not clear that the business is predominately for the sale and consumption of alcohol, operators and enforcement agencies should seek to clarify the position before enforcement action is taken. Mixed businesses may be more difficult to classify and in such cases operators and enforcement agencies should consult where appropriate about their respective interpretations of the activities taking place on the premises before any moves are taken which might lead to prosecution.
- 13.49 The 2003 Act does not automatically permit unaccompanied children under the age of 18 to have free access to premises where the consumption of alcohol is not the exclusive or primary activity or to the same premises even if they are accompanied, or to premises where the consumption of alcohol is not involved. Subject only to the provisions of the 2003 Act and any licence or certificate conditions, admission will always be at the discretion of those managing the premises. The 2003 Act includes no presumption of giving children access but equally, no presumption of preventing their access to licensed premises. Each application and the circumstances of individual premises must be considered on their own merits.
- 13.50 A statement of licensing policy should not seek to limit the access of children to any premises unless it is appropriate for the prevention of physical, moral or psychological harm to them (please see Chapter 2). It may not be possible for licensing policy statements to anticipate every issue of concern that could arise in respect of children in relation to individual premises and therefore the individual merits of each application should be considered in each case.
- 13.51 A statement of licensing policy should make clear the range of alternatives which may be considered for limiting the access of children where that is appropriate for the prevention of harm to children. Conditions which may be relevant in this respect are outlined in paragraph 2.26.
- 13.52 Statements of policy should also make clear that conditions requiring the admission of children to any premises cannot be attached to licences or certificates. Where no licensing restriction is appropriate, this should remain a matter for the discretion of the individual licence holder, club or premises user.
- 13.53 Venue operators seeking premises licences and club premises certificates should consider including such prohibitions and restrictions in their operating schedules particularly where their own risk assessments have determined that the presence of children is undesirable or inappropriate.

Responsible authority and children

- 13.54 A statement of licensing policy should indicate which body the licensing authority judges to be competent to act as the responsible authority in relation to the protection of children from harm. This may be the local authority social services department, the Local Safeguarding Children Board or other competent body as agreed locally. It would be practical and useful for statements of licensing policy to include descriptions of the responsible authorities in any area and appropriate contact details.

Children and cinemas

- 13.55 The statement of policy should make clear that in the case of premises giving film exhibitions¹⁴, the licensing authority will expect licence holders or clubs to include in their operating schedules arrangements for restricting children from viewing age-restricted films classified according to the recommendations of the British Board of Film Classification or the licensing authority itself (see paragraphs 10.61 to 10.62).

Integrating strategies

- 13.56 It is recommended that statements of licensing policy should provide clear indications of how the licensing authority will secure the proper integration of its licensing policy with local crime prevention, planning, transport, tourism, equality schemes, cultural strategies and any other plans introduced for the management of town centres and the night-time economy. Many of these strategies are not directly related to the promotion of the licensing objectives, but, indirectly, impact upon them. Co-ordination and integration of such policies, strategies and initiatives are therefore important.

Planning and building control

- 13.57 The statement of licensing policy should indicate that planning permission, building control approval and licensing regimes will be properly separated to avoid duplication and inefficiency. The planning and licensing regimes involve consideration of different (albeit related) matters. Licensing committees are not bound by decisions made by a planning committee, and vice versa.
- 13.58 There are circumstances when as a condition of planning permission, a terminal hour has been set for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law. Proper integration should be assured by licensing committees, where appropriate, providing regular reports to the planning committee.

¹⁴ See paragraphs 15.22 -15.24 in relation to the licensing exemption for an exhibition of a film on community premises.

Promotion of equality

- 13.59 A statement of licensing policy should recognise that the Equality Act 2010 places a legal obligation on public authorities to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; to advance equality of opportunity; and to foster good relations, between persons with different protected characteristics. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.
- 13.60 Public authorities are required to publish information at least annually to demonstrate their compliance with the Equality Duty. The statement of licensing policy should refer to this legislation, and explain how the Equality Duty has been complied with. Further guidance is available from Government Equalities Office and the Equality and Human Rights Commission.

Administration, exercise and delegation of functions

- 13.61 The 2003 Act provides that the functions of the licensing authority (including its determinations) are to be taken or carried out by its licensing committee (except those relating to the making of a statement of licensing policy or where another of its committees has the matter referred to it). The licensing committee may delegate these functions to sub-committees or in appropriate cases, to officials supporting the licensing authority. Where licensing functions are not automatically transferred to licensing committees, the functions must be carried out by the licensing authority as a whole and not by its executive. Statements of licensing policy should indicate how the licensing authority intends to approach its various functions. Many of the decisions and functions will be purely administrative in nature and statements of licensing policy should underline the principle of delegation in the interests of speed, efficiency and cost-effectiveness.
- 13.62 The 2003 Act does not prevent the development by a licensing authority of collective working practices with other parts of the local authority or other licensing authorities for work of a purely administrative nature, e.g. mail-outs. In addition, such administrative tasks may be contracted out to private businesses. But any matters regarding licensing decisions must be carried out by the licensing committee, its sub-committees or officers.
- 13.63 Where, under the provisions of the 2003 Act, there are no relevant representations on an application for the grant of a premises licence or club premises certificate or police objection to an application for a personal licence or to an activity taking place under the authority of a temporary event notice, these matters should be dealt with by officers in order to speed matters through the system. Licensing committees should receive regular reports on decisions made by officers so that they maintain an overview of the general situation. Although essentially a matter for licensing authorities to determine themselves, it is recommended that delegation should be approached in the following way:

Table: Recommended Delegation of Functions

Matters to be dealt with	Sub Committee	Officers
Application for personal licence	If a police objection	If no objection made
Application for personal licence with unspent convictions	All cases	
Application for premises licence/club premises certificate	If a relevant representation made	If no relevant representation made
Application for provisional statement	If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate	If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor	If a police objection	All other cases
Request to be removed as designated premises supervisor		All cases
Application for transfer of premises licence	If a police objection	All other cases
Applications for interim authorities	If a police objection	All other cases
Application to review premises licence/club premises certificate	All cases	
Decision on whether a representation is irrelevant frivolous vexatious etc		All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application	All cases	
Determination of an objection to a temporary event notice	All cases	
Determination of application to vary premises licence at community premises to include alternative licence condition	If a police objection	All other cases
Decision whether to consult other responsible authorities on minor variation application		All cases
Determination of minor variation application		All cases

14. Licence fees

- 14.1 The 2003 Act requires a licensing authority to suspend a premises licence or club premises certificate if the annual fee is not paid when it is due. However, this does not apply immediately if the payment was not made before or at the time of the due date because of an administrative error, or because the holder disputed liability for the fee before or at the time of the due date. In either of these cases, there is a grace period of 21 days. This period is intended to allow the licensing authority and the licence or certificate holder an opportunity to resolve the dispute or error. If the dispute or error is not resolved during this 21-day period, the licence will be suspended.

Dispute

- 14.2 The 2003 Act describes a dispute as one relating to liability to pay the fee at all or relating to its amount. In either case, the licence or certificate holder must notify the licensing authority of the dispute on or before the date on which the fee to which it relates becomes due.

Administrative error

- 14.3 There is no definition of “administrative error” in the 2003 Act, but it can include an error on the part of the licensing authority, the licence or certificate holder, or any other person. Therefore, “administrative error” will be given its plain, ordinary meaning. An example might be where post has been misdirected.

Suspension

- 14.4 If a licensing authority suspends a licence or certificate, it must notify the holder in writing and specify the date on which the suspension takes effect; this date must be at least two working days after the day the authority gives the notice. It should be noted that this is the minimum period only, and licensing authorities should consider applying longer periods. The authority may wish to inform the police and other responsible authorities that the licence or certificate has been suspended.
- 14.5 A suspension ceases to have effect on the day on which the licensing authority receives payment of the outstanding fee from the licence or certificate holder. To enable the licence holder to demonstrate that the licence has been reinstated, the licensing authority is required to give the holder written acknowledgment of receipt as soon as practicable following receipt, and:
- a) if payment was received on a working day, no later than the end of the next working day, or
 - b) if payment was received on a day when the authority is not working, no later than the end of the second working day after the day on which the fee was received.
- 14.6 Licensing authorities may wish to consider requesting, in the notice of suspension mentioned above, that subsequent payment of the outstanding fee may be made in such manner as would most expeditiously bring it to the attention of the authority. The licensing authority may also wish to inform the police and other responsible authorities that the licence or certificate has been reinstated.

Effects of suspension

- 14.7 A premises licence or certificate that has been suspended does not have effect to authorise licensable activities. However, it can for example be subject to a hearing or, in the case of a premises licence, an application for transfer. The licence will nevertheless only be reinstated when the outstanding fee has been paid. Formally, the debt is owed by the holder who held the licence at the time it was suspended. However, it may be more likely in practice that the new holder will actually make the payment. The suspension of licences and certificates is only applicable to unpaid annual fees that become due after sections 55A and 92A of the 2003 Act came into force on 25 April 2012. In the case of a licence or certificate where more than one payment year has been missed (since the coming into force of sections 55A and 92A) payment of the outstanding fee in relation to each year will be required to reinstate the licence.

Additional fees for large scale events

- 14.8 It should be noted that premises licences for large scale events do not automatically attract the higher fee levels set out in the fee regulations made under the 2003 Act, which must be paid in addition to the standard application or variation fees when the premises licence relates to activities attracting the attendance of 5,000 or more. Venues that are permanent or purpose built or structurally altered for the activity are exempt from the additional fee.
- 14.9 Regulations prescribe that the additional fee for large scale events would not be payable where the premises is a structure which is not a vehicle, vessel or moveable structure, and has been constructed or structurally altered to allow:
- the proposed licensable activities to take place;
 - the premises to be modified temporarily, from time to time, if relevant for the proposed licensable activities;
 - the proposed number of people on the premises at any one time; and
 - the premises to be used in a manner which complies with the operating schedule.
- 14.10 The full details of where the additional fee is applicable can be found in regulations on the Government's legislation website – www.legislation.gov.uk/

15. Regulated entertainment

Types of regulated entertainment

- 15.1 Schedule 1 to the 2003 Act sets out what activities are regarded as the provision of regulated entertainment and when they are licensable and those activities which are not and therefore exempt from the regulated entertainment regime. Changes to regulated entertainment are due to take effect on 6 April 2015. Therefore, up until that date you should refer to chapter 15 of the guidance published in October 2014.
- 15.2 The descriptions of entertainment activities licensable under the 2003 Act are:
- a performance of a play;
 - an exhibition of a film;
 - an indoor sporting event;
 - a boxing or wrestling entertainment;
 - a performance of live music;
 - any playing of recorded music;
 - a performance of dance; and
 - entertainment of a similar description to a performance of live music, any playing of recorded music or a performance of dance.
- 15.3 To be licensable, one or more of these activities needs to be provided for the purpose (at least partly) of entertaining an audience; has to be held on premises made available for the purpose of enabling that activity; and must also either:
- take place in the presence of a public audience, or
 - where that activity takes place in private, be the subject of a charge made with a view to profit.
- 15.4 Guidance around what constitutes audiences and private events is at paragraphs 15.11-15.14.

Overview of circumstances in which entertainment activities are not licensable

- 15.5 There are a number of exemptions that mean that a licence (or other authorisation¹⁵) under the 2003 Act is not required. This Guidance cannot give examples of every eventuality or possible entertainment activity that is not licensable. However, the following activities are examples of entertainment which are not licensable:
- activities which involve participation as acts of worship in a religious context;
 - activities in places of public religious worship;
 - education – teaching students to perform music or to dance;
 - the demonstration of a product – for example, a guitar – in a music shop;

¹⁵ The word 'licence' is typically used as a reference to all forms of authorisation

- the rehearsal of a play or performance of music for a private audience where no charge is made with a view to making a profit;
- Morris dancing (or similar)¹⁶;
- Incidental music – the performance of live music or the playing of recorded music if it is incidental to some other activity¹⁷;
- Incidental film – an exhibition of moving pictures if it is incidental to some other activity¹⁸;
- A spontaneous performance of music, singing or dancing;
- Garden fetes – or similar if not being promoted or held for purposes of private gain;
- Films for advertisement, information, education or in museums or art galleries;
- Television or radio broadcasts – as long as the programme is live and simultaneous;
- Vehicles in motion – at a time when the vehicle is not permanently or temporarily parked;
- Games played in pubs, youth clubs etc. (e.g. pool, darts and table tennis);
- Stand-up comedy; and
- Provision of entertainment facilities (e.g. dance floors)¹⁹.

15.6 As a result of deregulatory changes that have amended the 2003 Act²⁰, no licence is required for the following activities:

- Plays: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500.
- Dance: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500²¹.
- Films: no licence is required for ‘not-for-profit’ film exhibition held in community premises between 08.00 and 23.00 on any day provided that the audience does not exceed 500 and the organiser (a) gets consent to the screening from a person who is responsible for the premises; and (b) ensures that each such screening abides by age classification ratings.
- Indoor sporting events: no licence is required for an event between 08.00 and 23.00 on any day, provided that those present do not exceed 1000.
- Boxing or wrestling entertainment: no licence is required for a contest, exhibition or display of Greco-Roman wrestling, or freestyle wrestling between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000.

¹⁶ Including any live music or playing of recorded music as an integral part of a performance of Morris dancing, or similar activity.

¹⁷ See paragraphs 15.57-15.61

¹⁸ See paragraphs 15.65-15.68

¹⁹ This was previously licensable under the 2003 Act until the commencement of the Live Music Act 2012.

²⁰ The Live Music Act 2012 (“2012 Act”) <http://www.legislation.gov.uk/ukpga/2012/2>; Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013 (“2013 Order”) <http://www.legislation.gov.uk/uksi/2013/1578/contents/made>; The Legislative Reform (Entertainment Licensing) Order 2014 (“2014 Order”) <http://www.legislation.gov.uk/uksi/2014/3253/introduction/made>; and the Deregulation Act 2015 (“2015 Act”).

²¹ But see paragraphs 15.47 -15.48 in relation to dance that is adult entertainment and remains licensable.

- Live music: no licence permission is required for:
 - a performance of unamplified live music between 08.00 and 23.00 on any day, on any premises.
 - a performance of amplified live music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500²².
 - a performance of amplified live music between 08.00 and 23.00 on any day, in a workplace²³ that is not licensed to sell alcohol on those premises, provided that the audience does not exceed 500.
 - a performance of amplified live music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
 - a performance of amplified live music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school or (iii) the health care provider for the hospital.
- Recorded Music: no licence permission is required for:
 - any playing of recorded music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500²⁴.
 - any playing of recorded music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
 - any playing of recorded music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school proprietor or (iii) the health care provider for the hospital.
- Cross activity exemptions: no licence is required between 08.00 and 23.00 on any day, with no limit on audience size for:
 - any entertainment taking place on the premises of the local authority where the entertainment is provided by or on behalf of the local authority;
 - any entertainment taking place on the hospital premises of the health care provider where the entertainment is provided by or on behalf of the health care provider;
 - any entertainment taking place on the premises of the school where the entertainment is provided by or on behalf of the school proprietor; and

²² Provided that a number of other important conditions are satisfied (see paragraphs 15.38-15.43).

²³ The Live Music Act 2012 provides that if premises are licensed under the 2003 Act, they cannot also be treated as a workplace for the purpose of the 2012 Act.

²⁴ Provided that a number of other important conditions are satisfied, see paragraphs 15.38-15.43.

- any entertainment (excluding films and a boxing or wrestling entertainment) taking place at a travelling circus, provided that (a) it takes place within a moveable structure that accommodates the audience, and (b) that the travelling circus has not been located on the same site for more than 28 consecutive days.

- 15.7 The deregulatory changes mean that, for example, an indoor sporting event that takes place between 07.00 and 23.30 on a particular day is licensable in respect of activities taking place between 07.00-08.00 and 23.00-23.30. Similarly, where the audience for a performance of dance fluctuates, those activities are licensable if, and for so long as, the number of people in the audience exceeds 500. If organisers are uncertain as to audience sizes or if audience migration is likely²⁵, it might be easier and more flexible to secure an appropriate authorisation. Examples of where a Temporary Event Notice (TEN)²⁶ could still be required include if the activity is the playing of recorded music or the exhibition of a film that requires an authorisation; or if the entertainment is not authorised by an existing licence or certificate and its conditions.
- 15.8 Of course, anyone involved in the organisation or provision of entertainment activities – whether or not any such activity is licensable under the 2003 Act – must comply with any applicable duties that may be imposed by other legislation relevant to the event (e.g. in areas such as crime and disorder, fire, health and safety, noise, nuisance and planning).²⁷ Any such person should take steps to be aware of relevant best practice, and may find responsible authorities a useful source of expert support and advice.
- 15.9 The various effects of the changes made to entertainment licensing by the set of deregulatory changes between 2012 and 2015²⁸ are described in greater detail in subsequent paragraphs:
- Music entertainment, see in particular paragraphs: 15.20-15.21; 15.26-15.33; and 15.36-15.44;
 - Plays, dance, and indoor sporting events, see in particular paragraphs: 15.34-15.35 and 15.45-15.48;
 - Local authority, hospital and school premises, see in particular paragraphs: 15.16-15.20
 - Community premises, see in particular paragraphs: 15.21-15.24 and 15.34-15.35
 - Circuses, see in particular paragraph 15.25
 - Boxing or wrestling entertainment, see in particular paragraphs: 15.49-15.51.

General circumstances in which entertainment activities are licensable

- 15.10 An authorisation for regulated entertainment is always required for entertainment activities that take place before 08.00 or after 23.00, unless exempted under any other provision of the 2003 Act, as amended²⁹.

²⁵ See paragraph 15.12

²⁶ See chapter 7

²⁷ See paragraphs 15.70-15.72 in relation to other licensing regimes

²⁸ An entertainment activity may meet the conditions of more than one exemption

²⁹ See examples at paragraph 15.5

Audience

- 15.11 For the purposes of regulated entertainment, the term “audience” refers to any person for whose entertainment (at least in part) any licensable activities are provided. An audience member need not be, or want to be, entertained: what matters is that an audience is present³⁰ and that the purpose of the licensable activity is (at least in part) intended to entertain any person present³¹. The audience will not include performers, together with any person who contributes technical skills in substantial support of a performer (for example, a sound engineer or stage technician), during any associated activities. This includes setting up before the entertainment, reasonable breaks (including intervals) between activities and packing up thereafter. Similarly, security staff and bar workers will not form part of the audience while undertaking their duties.
- 15.12 More than one entertainment activity (or for a single activity, more than one performance or event) can be held concurrently, provided that the audience for each such performance or event does not exceed the threshold at which such a performance or event becomes licensable. In some circumstances, there will be a clear distinction between performances or events; for example, their taking place in separate rooms or on separate floors. However, organisers will have to ensure that audiences do not grow or migrate, so that the audience exceeds the relevant limit for any one performance or event at any time. If there is the possibility of audience migration, it might be easier and more flexible to secure an appropriate authorisation.

Private events

- 15.13 Events held in private are not licensable unless those attending are charged for the entertainment with a view to making a profit (including raising money for charity). For example, where a party is held for friends in a private dwelling featuring amplified live music, if a charge or contribution is made solely to cover the costs of the entertainment, the activity is not regulated entertainment. Similarly, any charge made to the organiser of a private event by musicians, other performers, or their agents does not of itself make that entertainment licensable – it would only do so if the guests attending were themselves charged by the organiser for that entertainment with a view to achieving a profit. The fact that this might inadvertently result in the organiser making a profit would be irrelevant, as long as there had not been an intention to make a profit.
- 15.14 Schedule 1 to the 2003 Act also makes it clear that before entertainment is regarded as being provided for consideration, a charge has to be:
- made by or on behalf of a person concerned with the organisation or management of the entertainment; and
 - paid by or on behalf of some or all of the persons for whom the entertainment is provided.

³⁰ In some circumstances, such as un-ticketed live music events, a degree of judgement may be required as to whether persons are part of an audience. Factors to consider could include whether a person is within the perimeter of the premises, the audible range of the performance, and their visibility of the entertainment. In order to meet the definition of an entertainment activity in the 2003 Act, the activity must take place in the presence of an audience and be provided for the purpose, or for purposes which include the purpose of, entertaining that audience.

³¹ For example, a darts championship competition hosted in part to entertain an audience could be a licensable activity, but a pub game of darts played for the enjoyment of the participants is not licensable.

Circumstances in which entertainment activities are no longer licensable

15.15 No licence is required for certain entertainment activities on specified premises, as follows:

Local authorities, hospital healthcare providers and school proprietors: cross-entertainment activity exemption

15.16 No licence is required for any entertainment provided by or on behalf of a local authority, health care provider, or school proprietor to the extent that it takes place on defined premises, between 08.00-23.00 on any day provided that:

- for entertainment provided by, or on behalf of, a local authority it takes place on premises in which that authority has a relevant property interest, or is in lawful occupation;
- for entertainment provided by, or on behalf of, a health care provider it takes place on any premises forming part of a hospital in which the provider has a relevant property interest, or is in lawful occupation; and
- for entertainment provided by, or on behalf of, a school proprietor it takes place on the premises of the school.

15.17 This Guidance cannot give examples of every eventuality where entertainment is not licensable under this exemption through being provided “by or on behalf of”. It will depend on the facts in each case. However, the following are examples of activities that are not usually considered to be licensable under this exemption:

- Any entertainment activity hosted by a local authority on their own premises, where there is a significant relationship between the local authority and the provider of the entertainment (e.g. principal and agent);
- Any entertainment activity organised on a local authority’s behalf on that local authority’s premises by a cultural trust in discharge of a local authority’s discretionary power to arrange entertainment provision and support for the arts, including festivals and celebrations.
- Any entertainment activity organised by a healthcare provider on their own hospital premises in partnership with a hospital charity;
- Any entertainment event on school premises organised by the Parent Teacher Association (PTA) to benefit the school.

15.18 It is for the local authority, health care provider or school proprietor to determine whether, and on what basis, they can (or wish) to provide entertainment activity under this exemption, including consideration of issues around fundraising, profit making, governance or use of public funds. However a pure hire of premises by a third party³² does not constitute the provision of an entertainment event “on behalf of” a local authority, healthcare provider, or school proprietor and nor does commercial entertainment which the local authority³³ merely facilitates through providing a public space³⁴.

³² But see paragraph 15.20

³³ Or healthcare provider or school proprietor.

³⁴ The exemption would similarly not apply, for example, to a commercial company operating on premises belonging to a local authority under a long term lease.

15.19 All the terms used in this exemption, such as “local authority”, “health care”, “health care provider”, “hospital”, “school”, “school premises”, “school proprietor”, “domestic premises” and “relevant property interest” are defined in the 2014 Order³⁵.

Local authority, hospital and school premises: third party music entertainment

15.20 No licence is required for a performance of live music or the playing of recorded music on local authority, hospital or school premises, that are not domestic premises, between 08.00-23.00 on any day provided that:

- it is performed in front of an audience of no more than 500 people; and
- a person concerned in the organisation or management of the music entertainment has obtained the prior written consent³⁶ of the local authority, health care provider or school proprietor (as appropriate) for that entertainment to take place. It is for these “trusted providers” to determine whether, or not, they wish to make their premises available for music entertainment by a 3rd party and on what terms they deem it appropriate.

Community premises: music entertainment

15.21 No licence is required for a performance of live music or the playing of recorded music on community premises³⁷, between 08.00-23.00 on any day provided that:

- the community premises are **not** authorised, by a premises licence or club premises certificate, to be used for the supply of alcohol for consumption on the premises³⁸;
- the music entertainment is in the presence of an audience of no more than 500 people; and
- a person concerned in the organisation or management of the music entertainment has obtained the prior written consent³⁹ of the management committee of the premises, or if there is no management committee, a person who has control of the premises in connection with the carrying on by that person of a trade, business or other undertaking, or failing that a person with a relevant property interest in the premises.

Community premises: exhibition of film

15.22 No licence⁴⁰ is required for an exhibition of a film on community premises⁴¹ between 08.00-23.00 on any day provided that:

- the film entertainment is not provided with a view to profit⁴²;
- the film entertainment is in the presence of an audience of no more than 500 people;

³⁵ See footnote 20

³⁶ This requirement is designed to ensure that those responsible for the premises hosting the entertainment have considered and approved the effect of the event on other users of their premises and the wider community.

³⁷ The definition of community premises is covered in paragraphs 4.38-4.42 of this Guidance. A community premises is likely to be multi-functional and ‘other similar building’ within the definition cannot be stretched to ordinarily include a public house, a bingo hall, or other business premises or private property.

³⁸ Where a community premises is licensed for the supply of alcohol by a premises licence (or exceptionally a club premises certificate), then any performance of live music or the playing of recorded music on relevant alcohol licensed premises may be subject to the conditional deregulation described in paragraphs 15.26-15.33.

³⁹ See footnote 36

⁴⁰ However, see paragraph 15.70 in relation to copyright

⁴¹ See footnote 37

⁴² See paragraph 15.23

- the admission of children is subject to such restrictions as are necessary to comply with the recommendation issued by the BBFC or relevant licensing authority regarding the admission of children; and
- a person concerned in the organisation or management of the exhibition of the film has obtained the prior written consent⁴³ of the management committee of the premises, or if there is no management committee, a person who has control of the premises in connection with the carrying on by that person of a trade, business or other undertaking, or failing that a person with a relevant property interest in the premises.

15.23 Under this exemption, one condition is that the film entertainment is not being provided with a view to profit⁴⁴. An entry charge does not of itself make the film entertainment licensable; it is whether the organiser intended to make a profit (that includes raising money for charity). A charge or contribution that is made solely to cover the costs of the film screening⁴⁵ is consistent with ‘not being provided with a view to profit’. The ‘not with a view to profit’ condition applies solely to the activity of exhibiting the film under this exemption. A charge with a view to making a profit may legitimately be levied for any other activity or event that is distinct from film admission, such as the provision of refreshments, film talks, or a social event.

15.24 This community film exemption is also conditional on those responsible having in place operating arrangements that ensure that the age rating for the film is implemented by means of a suitable child admission policy⁴⁶. How this is achieved is a matter for the organisation or social group exhibiting the film. For example, they may operate a membership subscription scheme which pays for entry to all titles in a season and is limited to adults. It could be a children’s film club with a policy of only showing films that are suitable for all by being rated ‘U’ by the BBFC. Alternatively, the organisers could sell tickets to the public and ensure that children are only permitted to attend in accordance with any age rating for the film – i.e. a door admissions policy linked to proof of age.

Travelling circuses

15.25 Where types of entertainment are present in a performance by a travelling circus⁴⁷ they will not be licensable provided that certain qualifying conditions are met⁴⁸. The qualifying conditions are that:

- the entertainment is not an exhibition of a film or a boxing or wrestling entertainment;
- the entertainment takes place between 08.00 and 23.00 on the same day;
- the entertainment takes place wholly within a moveable structure and the audience present is accommodated wholly inside that moveable structure; and
- the travelling circus has not been located on the same site for more than 28 consecutive days.

⁴³ See footnote 36

⁴⁴ ‘not provided with a view to profit’ is the inverse of ‘with a view to profit’ mentioned in paragraph 15.13

⁴⁵ Legitimate costs of a film screening would include overheads directly relevant to providing the film entertainment (e.g. premises hire, film hire, equipment etc.)

⁴⁶ See 3rd bullet point in paragraph 15.22

⁴⁷ ‘Travelling circus’ is defined in the 2014 Order as meaning a circus which travels from site to site for the purpose of giving performances. Musical entertainment at a travelling fairground is likely to be incidental to the main attractions and rides that are not themselves regulated entertainment.

⁴⁸ There is no audience limit for this exemption, but the conditions are designed to ensure that deregulation does not have unintended consequences for the licensing objectives – e.g. only bona fide travelling circuses qualify.

Live music

15.26 Live music is licensable:

- where a performance of live music – whether amplified or unamplified – takes place before 08.00 or after 23.00 on any day;
- where a performance of amplified live music does not take place either on relevant licensed premises, or at a workplace that is not licensed other than for the provision of late night refreshment;
- where a performance of amplified live music takes place at a time when the relevant licensed premises are not open for the purposes of being used for the sale or supply of alcohol for consumption on the premises⁴⁹;
- where a performance of amplified live music takes place at relevant licensed premises, or workplaces⁵⁰, in the presence of an audience of more than 500 people⁵¹; or
- where a licensing authority intentionally removes the effect of the deregulation provided for by the 2003 Act when imposing a condition on a premises licence or club premises certificate as a result of a licence review⁵².

15.27 In any of the above circumstances, unless the performance of live music is appropriately authorised by a premises licence, club premises certificate or TEN, allowing it to take place could lead to enforcement action and, where relevant, a review of the alcohol licence or certificate.

15.28 A public performance of live unamplified music that takes place between 08.00 and 23.00 on the same day no longer requires a licence under the 2003 Act in any location. An exception to this is where a specific condition related to live music is included following a review of the premises licence or club premises certificate in respect of relevant licensed premises.

15.29 As a result of the amendments to the 2003 Act, section 177 of the 2003 Act now only applies to performances of dance⁵³.

Key terms used in relation to live music

15.30 Under the live music provisions, “music” includes vocal or instrumental music or any combination of the two. “Live music” is a performance of live music in the presence of an audience which it is intended to entertain. While a performance of live music can include the playing of some recorded music, ‘live’ music requires that the performance does not consist entirely of the playing of recorded music without any additional (substantial and continual) creative contribution being made. So, for example, a drum machine or backing track being used to accompany a vocalist⁵⁴ or a band would be part of the performance of amplified live music. The performance of a DJ who is merely playing tracks would not be classified as live music, but it might if he or she was performing a set which largely

⁴⁹ See Chapter 3 of this Guidance

⁵⁰ See paragraph 15.31

⁵¹ The 2014 Order substituted “500” for “200” that was in the 2012 Act

⁵² See paragraphs 15.55-15.56

⁵³ See paragraph 2.12. Post the 2013 Order, Section 177 can be relevant to a performance of dance after 23.00 on any day

⁵⁴ Karaoke is generally classed as a performance of live music

consisted of mixing recorded music in a live performance to create new sounds⁵⁵. There will inevitably be a degree of judgement as to whether a performance is live music (or recorded music) and organisers of events should check with their licensing authority if this consideration is relevant to whether the activity is authorised by a licence or certificate. In the event of a dispute about whether a performance is live music or not, it will be for the licensing authority initially and ultimately, for the courts to decide in the individual circumstances of any case.

- 15.31 A “workplace” is as defined in regulation 2(1) of the Workplace (Health, Safety and Welfare) Regulations 1992 and is anywhere that is made available to any person as a place of work. It is a very wide term which can include outdoor spaces, as well as the means of entry and exit.
- 15.32 A “relevant licensed premises” for the purposes of this chapter is one which is authorised to sell or supply alcohol for consumption on the premises by a premises licence or club premises certificate. Premises cannot benefit from the deregulation introduced by the 2012 Act by virtue of holding an authorisation for the sale or supply of alcohol under a TEN.⁵⁶

Recorded music

- 15.33 No licence is required for recorded music where it takes place on premises which are authorised by a premises licence or club premises certificate to be used for the supply of alcohol for consumption on the premises. However, recorded music remains licensable:
- where the playing of recorded music takes place before 08.00 or after 23.00 on any day;
 - where the playing of recorded music takes place at a time when the relevant licensed premises are not open for the purposes of being used for the sale or supply of alcohol for consumption on the premises;⁵⁷
 - where the playing of recorded music takes place at relevant licensed premises in the presence of an audience of more than 500 people; and
 - where a licensing authority intentionally removes the effect of the deregulation provided for by the 2003 Act (as amended).⁵⁸

Plays and dance

- 15.34 No licence is required for a performance of a play or dance to the extent that certain qualifying conditions⁵⁹ are satisfied. However a performance of a play or dance remains licensable:
- where the performance takes place before 08.00 or after 23.00 on any day; or
 - where the performance takes place in the presence of an audience of more than 500 people.

⁵⁵ This would include ‘scratching’

⁵⁶ TENs are covered in chapter 7

⁵⁷ See Chapter 3 of this Guidance

⁵⁸ This would be by way of imposing a condition on a premises licence or club premises certificate as a result of a licence review, see paragraphs 15.55-15.56

⁵⁹ See paragraphs 15.6 and 15.45-15.48

Indoor Sport

- 15.35 No licence is required for an indoor sporting event to the extent that certain qualifying conditions⁶⁰ are satisfied. However an indoor sporting event remains licensable:
- where the event takes places before 08.00 or after 23.00 on any day;
 - where the event takes place in the presence of more than 1000 spectators.

Licence conditions

Live Music or recorded music

- 15.36 Any existing licence conditions⁶¹ (or conditions added on a determination of an application for a premises licence or club premises certificate⁶²) which relate to live music or recorded music remain in place, but are **suspended** between the hours of 08.00 and 23.00 on the same day where the following conditions are met:
- at the time of the music entertainment, the premises are open for the purposes of being used for the sale or supply of alcohol for consumption on the premises;
 - if the music is amplified, it takes place before an audience of no more than 500 people; and
 - the music takes place between 08.00 and 23.00 on the same day.
- 15.37 Whether a licence condition relates to live or recorded music will be a matter of fact in each case. In some instances, it will be obvious that a condition relates to music and will be suspended, for example “during performances of live music all doors and windows must remain closed”. In other instances, it might not be so obvious: for example, a condition stating “during performances of regulated entertainment all doors and windows must remain closed” would be suspended insofar as it relates to music between 08.00 and 23.00 on the same day to an audience of up to 500, but the condition would continue to apply if there was regulated entertainment after 23.00.
- 15.38 More general licence conditions (e.g. those relating to overall management of potential noise nuisance) that are not specifically related to the provision of entertainment (e.g. signage asking patrons to leave quietly) will continue to have effect.
- 15.39 Chapter 9 of this Guidance sets out how a licensing authority must determine applications for a new licence or to vary an existing premises licence. Licence conditions imposed, in accordance with paragraphs 9.41 to 9.43, for live or recorded music activities will only apply if the activity meets the criteria of having more than 500 people present, and/or the activities are taking place between 23.00 and 08.00.
- 15.40 These conditions will, in effect, be suspended between 08.00 and 23.00 if a performance of live music or the playing of recorded music takes place before an audience of 500 people or fewer, but will remain on the face of the licence for when these activities may take place under other circumstances.

⁶⁰ See paragraph 15.6.

⁶¹ In relation to relevant licensed premises, see paragraph 15.32

⁶² See paragraphs 15.39-15.40

- 15.41 Where a performance of live music or the playing of recorded music on relevant licensed premises is not licensable, it remains possible for anyone to apply for a review of a licence or certificate, if there are appropriate grounds to do so.⁶³

Beer gardens

- 15.42 Beer gardens are often included as part of a premises licence or club premises certificate. Live amplified music that takes place in a beer garden is exempt from licensing requirements, provided the beer garden is included in the licence or certificate applying to the relevant licensed premises, and the performance takes place between 08.00 and 23.00 on the same day before an audience of 500 people or fewer.
- 15.43 Where a beer garden does not form part of the relevant licensed premises and so is not included in plans attached to a premises licence or club premises certificate, it is nevertheless very likely that it will be a workplace⁶⁴. Paragraph 12B of Schedule 1 to the 2003 Act says that a performance of live music in a workplace that does not have a licence (except to provide late night refreshment) is not regulated entertainment if it takes place between 08.00 and 23.00 on the same day in front of an audience of no more than 500 people. Note that the exemption in paragraph 12B does not apply to the playing of recorded music.
- 15.44 However, a licensing authority may, where justified⁶⁵, impose a licence condition that relates to the performance of live music in an unlicensed beer garden being served by any associated premises licence or club premises certificate. Provided such a condition is lawfully imposed, it takes effect in accordance with its terms.

Plays, dance and indoor sport

- 15.45 Where qualifying conditions are satisfied⁶⁶, any current licence condition that relates to a performance of a play or dance, or an indoor sporting event for which a licence is no longer required will (except in the circumstances described in the next paragraph) have no effect.
- 15.46 Where, however, these non-licensable activities take place at the same time as other activities for which a licence is required (e.g. the sale or supply of alcohol for consumption on the premises), conditions included in a licence may nevertheless apply to the non-licensable activities in the circumstances set out in paragraphs 15.52 and 15.53 (conditions relating to other non-licensable activities).
- 15.47 Dance that is sufficiently sexual in nature continues to be regulated. Performances of dance which are “relevant entertainment” within the meaning of the Local Government (Miscellaneous Provisions) Act 1982 (“the 1982 Act”) are not deregulated, regardless of the size of the audience or the time of day. “Relevant entertainment” is defined in the 1982 Act as a live performance or live display of nudity that, ignoring financial gain, can

⁶³ See paragraphs 15.55-15.56 and chapter 11.

⁶⁴ A beer garden is one example of a potential workplace, see paragraph 15.31. Whether other outdoor spaces (such as seating adjacent to a premises, a smoking shelter, or a car park) constitute a workplace, part of the licensed premises, or neither, will be a matter of fact in each case.

⁶⁵ Including on a licence review

⁶⁶ See paragraph 15.6

be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience.⁶⁷

- 15.48 In almost all cases where a performance of dance is potentially licensable as both the provision of **relevant** entertainment (under the 1982 Act) and **regulated** entertainment (under the 2003 Act), the 1982 Act disapplies the entertainment licensing regime in the 2003 Act in favour of its stricter regime for the control of sex establishments. However, an authorisation under the 2003 Act rather than the 1982 Act will continue to be required where:
- the premises are not licensed as a sex entertainment venue under the 1982 Act, and
 - relevant entertainment has been provided at those premises on no more than 11 occasions in any 12 month period, with none of those occasions lasting longer than 24 hours or taking place within a month of any other such occasion.

Boxing or wrestling entertainment and conditions relating to combined fighting sports

- 15.49 An indoor boxing or wrestling entertainment cannot also be an indoor sporting event, and any contest, exhibition or display that combines boxing or wrestling with one or more martial arts ('combined fighting sports') is – whether indoors or not – a boxing or wrestling entertainment.
- 15.50 Where a premises licence or club premises certificate purports to authorise a boxing or wrestling entertainment or combined fighting sports as an 'indoor sporting event', the 2013 Order provides that the authorisation will be treated as having authorised those activities as a boxing or wrestling entertainment. Those activities will continue to be subject to any relevant conditions attached to that authorisation.
- 15.51 A contest, exhibition or display of Greco-Roman wrestling, or of freestyle wrestling, between two participants (regardless of their sex) does not require a licence provided that certain qualifying conditions are met. They are that:
- it takes place in the presence of no more than 1,000 spectators;
 - it takes place between 08.00 and 23.00 on the same day; and
 - it take place wholly inside a building and the spectators present at that entertainment are accommodated wholly inside that building.

Conditions relating to other non-licensable activities

- 15.52 If appropriate for the promotion of the licensing objectives, and if there is a link to remaining licensable activities, conditions that relate to non-licensable activities can be added to or altered on that premises licence or club premises certificate at review following problems occurring at the premises. This has been a feature of licence conditions since the 2003 Act came into force. A relevant example could be the use of conditions relating to large screen broadcasts of certain sporting events which, combined with alcohol consumption, could create a genuine risk to the promotion of the licensing objectives. It is also not uncommon for licence conditions relating to the sale of alcohol to restrict access to outside areas, such as unlicensed beer gardens, after a certain time.

⁶⁷ Home Office Guidance is available at: <http://webarchive.nationalarchives.gov.uk/20100413151441/http://crimereduction.homeoffice.gov.uk/crimereduction057a.pdf>

- 15.53 Similarly, while karaoke no longer needs licensing as the provision of entertainment facilities⁶⁸ (and will generally be classed as a performance of live music⁶⁹) it might, for example, be possible on review to limit the use or volume of a microphone made available for customers on an ‘open-mic’ night (which encompasses more than just live music), if a problem had occurred because of customers purchasing alcohol for consumption on the premises becoming louder and less aware of causing noise nuisance later in the evening. Another example might be a condition restricting access to a dance floor at certain times, where the presence of customers in close proximity who had been consuming alcohol on the premises had led to serious disorder. In the first instance it is for the licensing authority to satisfy itself that a particular condition is appropriate and lawful in each case.

Removing licence conditions

- 15.54 A licence holder who wishes to remove conditions relating to activities that are no longer licensable⁷⁰ may apply to the licensing authority for a licence variation. In the course of considering such applications, licensing authorities should remove such conditions unless there are sufficiently serious and specific concerns about the effects of hosting deregulated entertainment activities along with the remaining licensable activities taking place in the premises.

Licence reviews: Live and recorded music

- 15.55 On a review of a premises licence or club premises certificate, section 177A(3) of the 2003 Act permits a licensing authority to lift the suspension⁷¹ and give renewed effect to an existing condition relating to music. Similarly, under section 177A(4), a licensing authority may add a condition relating to music as if music were regulated entertainment, and as if that premises licence or club premises certificate licensed the music. In both instances the condition should include a statement that Section 177A does not apply to the condition.
- 15.56 An application for a review in relation to relevant premises can be made by a licensing authority, any responsible authority or any other person. Applications for review must still be relevant to one or more of the licensing objectives and meet a number of further requirements⁷².

Incidental music

- 15.57 The performance of live music or playing of recorded music is not regulated entertainment under the 2003 Act if it is ‘incidental’ to another activity “which is not itself a description of entertainment falling within paragraph 2” of Schedule 1 to the 2003 Act.
- 15.58 The incidental music exemption can apply to an indoor sporting event or a performance of a play or dance for which no licence is required, as it takes place between 08.00 and 23.00 on the same day and before an audience which does not exceed the relevant

⁶⁸ As a result of the 2012 Act

⁶⁹ Karaoke is generally classed as a ‘performance of live music’, and provided that it is genuinely taking place, it is not likely to be classed as the ‘playing of recorded music’

⁷⁰ A licence holder may favour removal if the previously licensable activity has “grandfather” conditions that are out of date, or unclear. Where such a condition in relation to live or recorded music is suspended, then the licence holder may wish to avoid any prospect of the condition being given renewed effect (were a suspension to be lifted following a licence review).

⁷¹ See paragraph 15.38.

⁷² See Chapter 11 for more information about reviews under the 2003 Act.

limit. This is because such an activity is no longer a description of entertainment within the meaning of paragraph 2 of Schedule 1 to the 2003 Act. This means that, while a performance of live music or the playing of recorded music cannot be incidental to a boxing or wrestling entertainment⁷³ such music may be within the scope of the incidental music exemption for an indoor sporting event or performance of a play or dance for which no licence is required.

- 15.59 Whether or not music is “incidental” to another activity will depend on the facts of each case. In considering whether or not live or recorded music is incidental, one relevant factor could be whether, against a background of the other activities already taking place, the addition of music will create the potential to undermine the promotion of one or more of the four licensing objectives of the 2003 Act. Other factors might include some or all of the following:
- Is the music the main, or one of the main, reasons for people attending the premises and being charged?
 - Is the music advertised as the main attraction?
 - Does the volume of the music disrupt or predominate over other activities, or could it be described as ‘background’ music?
- 15.60 Conversely, factors which would not normally be relevant in themselves include:
- the number of musicians, e.g. an orchestra providing incidental music at a large exhibition;
 - whether musicians are paid;
 - whether the performance is pre-arranged; and
 - whether a charge is made for admission to the premises.
- 15.61 In any disputed case, it will be for the licensing authority initially and, ultimately, for the courts to consider whether music is “incidental” in the individual circumstances of any case.

Busking

- 15.62 Busking or street performance is the practice of performing in public spaces for money. Performances are not limited to music or singing and can take the form of a wide range of activities that people find entertaining.
- 15.63 Busking is generally **not** licensable under the 2003 Act as:
- it often occurs in a place that is not a premises made available (at least in part) for the purposes of providing entertainment⁷⁴;
 - the entertainment is usually incidental to another activity, such as shopping or sightseeing, as there are few circumstances in which anyone would go out specifically to watch buskers; and
 - any unamplified live music is not licensable between 08.00 and 23.00⁷⁵.

⁷³ And as such, the music entertainment needs to be authorised under the 2003 Act. This would include music during a Greco-Roman or freestyle wrestling entertainment. While, depending on the circumstances, the Greco-Roman or freestyle wrestling may, or may not be licensable, it is still within the ‘description’ of a ‘wrestling entertainment’.

⁷⁴ See paragraph 15.3

⁷⁵ See paragraph 15.28

- 15.64 Local authorities may have policies on busking, including codes of conduct or permit regimes and occasionally byelaws and legislation specific to a local authority – although many localities have no policy or restrictions.

Incidental film

- 15.65 An exhibition of a film within the meaning of paragraph 15 of Schedule 1 to the 2003 Act is not regulated entertainment if it is ‘incidental’ to another activity “which is not itself a description of entertainment falling within paragraph 2” of Schedule 1 to the 2003 Act.
- 15.66 The incidental film exemption can apply to an indoor sporting event or a performance of a play or dance for which no licence is required as it takes place between 08.00 and 23.00 on the same day before an audience which does not exceed the relevant limit. Such activities would no longer be a description of entertainment within the meaning of paragraph 2 of Schedule 1 to the 2003 Act. This means that, while any exhibition of moving pictures cannot be incidental to a boxing or wrestling entertainment⁷⁶, such film displays may be within the scope of the incidental film exemption for an indoor sporting event or performance of a play or dance for which no licence is required.⁷⁷
- 15.67 Whether or not an exhibition of moving pictures is “incidental” to another activity will depend on the facts of each case. In considering whether or not film is incidental, one relevant factor could be whether, against a background of the other activities already taking place, the addition of an exhibition of moving images will create the potential to undermine the promotion of one or more of the four licensing objectives of the 2003 Act. This would mean that if the BBFC or the relevant licensing authority has given an age rating to a film, video, or music video, then to qualify for the “incidental film” licensing exemption, the admission of children to the premises will need to be restricted in accordance with the appropriate age rating. But that is one aspect of one relevant factor. Other factors to consider in assessing whether film is incidental might include some or all of the following:
- Is the film the main, or one of the main, reasons for people attending the premises and being charged?
 - Is the film advertised as the main attraction?
 - Does the screening of the film predominate over other activities, or could it be described as ‘background’ images?
 - Does the appearance of moving pictures within another entertainment activity, for which no licence is required (e.g. a performance of a play or dance⁷⁸), undermine the promotion of the licensing objectives?
- 15.68 In any disputed case, it will be for the licensing authority initially and, ultimately, for the courts to consider whether film is “incidental” in the individual circumstances of any case.

⁷⁶ And as such, the film display needs to be authorised under the 2003 Act. This would include moving pictures during a Greco-Roman or freestyle wrestling entertainment. While, depending on the circumstances, the Greco-Roman or freestyle wrestling may, or may not be licensable, it is still within the ‘description’ of a ‘wrestling entertainment’.

⁷⁷ For indoor sporting events, it takes place between 08.00 and 23.00 in front of an audience which does not exceed 1,000.

⁷⁸ See paragraph 15.34

Entertainment activity provided as part of childcare

15.69 Entertainment activity that is provided as part of childcare will generally not be licensable. This includes entertainment activity in a nursery or private home. In addition, paragraph 5 of Schedule 1 to the 2003 Act includes a licensing exemption for an exhibition of a film where the main purpose is to provide education. Education will generally include all forms of pre-school child and day care. Furthermore, an exhibition of a film, or the playing of live or recorded music, will generally be incidental to the activity of childcare and so the incidental music and film exemption in paragraph 7 of Schedule 1 will also apply⁷⁹. This will generally be the case for any entertainment activity organised as part of wraparound childcare⁸⁰, including breakfast clubs, after school clubs or holiday clubs linked to the child's school or based in the local community.

Other Licensing regimes

Copyright

15.70 The deregulation of licensing for the provision of entertainment under the 2003 Act does not remove the requirement for licences for the use of copyright works. Entertainment activities as described in paragraph 15.2 may require music and screening licences for example. The acquisition of such licences will make the entertainment compliant with the Copyright, Designs and Patents Act 1988.⁸¹

Leafleting

15.71 The deregulation of entertainment licensing does not remove the prohibition on the unauthorised distribution of free printed matter in an area that has been designated under Schedule 3A of the Environmental Protection Act 1990⁸². The organisers of the event or entertainment may need to obtain consent from the relevant principal litter authority before giving out free printed promotional material (leaflets, flyers, cards etc.) in a public place in certain areas.

Child performers

15.72 Child performance legislation⁸³ requires that a licence must be obtained from a child's home local authority before a child can take part in certain types of performance and activities. A licence may be required whether or not any payment is made for the child to perform. The deregulation of entertainment licensing does not alter the regulations on when children can take part in performances⁸⁴.

⁷⁹ See paragraphs 15.57-15.68

⁸⁰ Childcare for school aged children around traditional school hours

⁸¹ Further information concerning how to acquire such licences can be found on <http://www.copyrights.co.uk>

⁸² <http://www.legislation.gov.uk/ukpga/1990/43/schedule/3A>

⁸³ Children and Young Persons Act 1993 and 1963; The Children (Performance) Regulations 1968 as amended.

⁸⁴ The Children (Performances) Regulations 1968

16. Early morning alcohol restriction orders

General

- 16.1 This chapter provides guidance to licensing authorities about Early Morning Alcohol Restriction Orders (“EMROs”). The power conferred on licensing authorities to make, vary or revoke an EMRO (or propose to take any of these steps) is set out in sections 172A to 172E of the 2003 Act. The exercise of the licensing authority’s functions may be delegated by its committee to a sub-committee, other than the decision to make, vary or revoke an EMRO (which is exercised by its full council). This power enables a licensing authority to prohibit the sale of alcohol for a specified time period between the hours of 12am and 6am in the whole or part of its area, if it is satisfied that this would be appropriate for the promotion of the licensing objectives.
- 16.2 EMROs are designed to address recurring problems such as high levels of alcohol-related crime and disorder in specific areas at specific times; serious public nuisance; and other instances of alcohol-related anti-social behaviour which is not directly attributable to specific premises.
- 16.3 An EMRO:
- applies to the supply of alcohol authorised by premises licences, club premises certificates and temporary event notices;
 - applies for any period beginning at or after 12am and ending at or before 6am. It does not have to apply on every day of the week, and can apply for different time periods on different days of the week;
 - applies for a limited or unlimited period (for example, an EMRO could be introduced for a few weeks to apply to a specific event);
 - applies to the whole or any part of the licensing authority’s area;
 - will not apply to any premises on New Year’s Eve (defined as 12am to 6am on 1 January each year);
 - will not apply to the supply of alcohol by those who provide hotel or similar accommodation to their residents between 12 am and 6am, provided the alcohol is sold at those times only through mini-bars and/or room service; and
 - will not apply to a relaxation of licensing hours by virtue of an order made under section 172 of the 2003 Act.

The EMRO process

- 16.4 An EMRO can apply to the whole or part of the licensing authority’s area. The area may, for example, comprise a single floor of a shopping complex or exclude premises which have clearly demonstrated to the licensing authority that the licensable activities carried on there do not contribute to the problems which form the basis for the proposed EMRO.
- 16.5 If the licensing authority already has a Cumulative Impact Policy (“CIP”) in its Licensing Policy Statement (see Chapter 13 of this Guidance), it should consider the relationship between the CIP and proposed EMRO area, and the potential overall impact on its local licensing policy.

- 16.6 Introducing an EMRO is a licensing function. Therefore, this is not the responsibility of a council's executive. The final decision to make an EMRO (or to vary or revoke one) must be made by the full council of the licensing authority. Any preceding steps, including advertising the proposed EMRO, holding hearings and making a determination to put before the full council for its final decision, are for the licensing committee of the licensing authority. The licensing committee may delegate these steps to the licensing sub-committee or officers as it sees fit.

Evidence

- 16.7 When establishing its evidence base for making an EMRO, a licensing authority⁸⁵ may wish to consider the approach set out in paragraphs 13.24 to 13.28 of this Guidance which includes indicative types of evidence, although this should not be considered an exhaustive list of the types of evidence which may be relevant. These matters are not necessarily determinative. They include but are not necessarily limited to:
- local crime and disorder statistics, including statistics on specific types of crime and crime hotspots, statistics on local anti-social behaviour offences,
 - environmental health complaints, particularly in relation to litter and noise;
 - complaints recorded by the local authority, which may include complaints raised by local residents or residents' associations;
 - residents' questionnaires;
 - trends in licence applications, particularly trends in applications by types of premises and terminal hours;
 - changes in terminal hours of premises;
 - capacities of different premises at different times of night and the expected concentrations of drinkers who will be expected to be leaving premises at different times.
- 16.8 Before a licensing authority makes a determination to recommend to the full council that it makes a proposed EMRO, it should be satisfied that it has sufficient evidence to demonstrate that making the EMRO would be appropriate for the promotion of the licensing objectives. The requirement to take an evidence-based decision to promote the licensing objectives should enable licensing authorities to draw on their experience from other licensing decisions they make under the 2003 Act, such as the determination of applications for the grant of premises licences. The licensing authority should consider evidence from partners, including from responsible authorities and local Community Safety Partnerships, alongside its own evidence, to determine whether an EMRO would be appropriate for the promotion of the licensing objectives.

⁸⁵ The final decision to make an EMRO (or to vary or revoke one) must be made by the full council of the licensing authority. However, all preceding steps, including advertising the proposed EMRO, holding hearings and making a determination to put before the full council for its final decision, are for the licensing committee of the licensing authority. The licensing committee may delegate these steps to the licensing sub-committee or officers as it sees fit.

Introducing an EMRO

16.9 An EMRO is a powerful tool which will prevent licensed premises in the area to which the EMRO relates from supplying alcohol during the times at which the EMRO applies. The licensing authority should consider whether other measures may address the problems that they have identified as the basis for introducing an EMRO. As set out in paragraphs 9.41-9.43 of this Guidance, when determining whether a step is appropriate to promote the licensing objectives, a licensing authority is not required to decide that no lesser step will achieve the aim. They should, however, consider whether taking that step is reasonable, justified and proportionate. The introduction of an EMRO may have far-reaching, wider impacts on the socio-economic circumstances in an area. In considering whether the introduction of an EMRO is an appropriate step to promote the licensing objectives, based on whether this is reasonable, justified and proportionate, a licensing authority may hold informal discussions early in the process with a range of interested partners; these include, but are not limited to, premises that may be affected by the introduction of the EMRO. Other measures that could be taken instead of making an EMRO might include:

- working in partnership with licensed premises on voluntary measures and encouraging the creation of business-led best practice schemes in the area;
- reviewing licences of specific problem premises;
- introducing a CIP;
- use of the new closure power in the Anti-social Behaviour, Crime and Policing Act 2014 which replaces section 161 of the 2003 Licensing Act. This new closure power can be used to protect victims and communities by quickly closing premises that are causing nuisance or disorder. Further guidance on this power can be found on the gov.uk website, under the Anti-social Behaviour, Crime and Policing Act: anti-social behaviour guidance;
- use of other mechanisms such as those set out in paragraph 13.39 of this Guidance

16.10 If the licensing authority has identified a problem in a specific area attributable to the supply of alcohol at two or more premises in that area, and has sufficient evidence to demonstrate that it is appropriate for the promotion of the licensing objectives, it can propose making an EMRO. The licensing authority should first decide on the matters which must be the subject of the proposal. These are:

- the days (and periods on those days) on which the EMRO would apply;
- the area to which the EMRO would apply;
- the period for which the EMRO would apply (if it is a finite period); and
- the date from which the proposed EMRO would apply.

In relation to the date when it plans to introduce the EMRO, the licensing authority should note that this may change when it is specified in the final order without the need to formally consult on the new date (as if it was a new proposal), provided it does not adversely affect any person as described in paragraph 16.21.

Advertising an EMRO

- 16.11 The proposed EMRO must be advertised. The licensing authority should include a short summary of the evidence and the manner in which representations can be made in the document, as well as the details of the proposed EMRO. The proposal must be advertised for at least 42 days (a reference in this Chapter to a period of “days” means a period comprising calendar days and not only working days). The licensing authority must publish the proposal on its website and in a local newspaper. If no newspaper exists, it must be published in a local newsletter, circular or similar document. The licensing authority must also send a notice of the proposal to all affected people in its area. They are:
- holders of (and applicants for) premises licences or club premises certificates to which the proposed EMRO would apply;
 - premises users in relation to TENs to which the proposed EMRO would apply;
 - those who have received a provisional statement in respect of a premises to which the proposed EMRO would apply.
- 16.12 Licensing authorities must, moreover, display a notice of the proposal in the area to which the EMRO would apply, in a manner which is likely to bring the proposal to the attention of those who may have an interest in it.
- 16.13 The licensing authority should also inform responsible authorities in its area and neighbouring licensing authorities of its proposal to make an EMRO. It may also like to consider what further steps could be taken, in any particular case, to publicise the proposal in order to draw it to the wider attention of any other persons who are likely to have an interest in it.

Representations

- 16.14 Those who are affected by a proposed EMRO, responsible authorities or any other person have 42 days (starting on the day after the day on which the proposed EMRO is advertised) to make relevant representations. To be considered a relevant representation, a representation must:
- be about the likely effect of the making of the EMRO on the promotion of the licensing objectives;
 - be made in writing in the prescribed form and manner, setting out the EMRO to which it relates and the nature of the representation;
 - be received within the deadline; and
 - if made by a person other than a responsible authority, not be frivolous or vexatious. Chapter 9 of this Guidance gives further advice on determining whether a representation is frivolous or vexatious.

Representations can be made in relation to any aspect of the proposed EMRO. If a licensing authority decides that a representation is not relevant, it should consider informing the person who has made that representation.

- 16.15 Responsible authorities may wish to make representations, as may affected persons (as set out in the above paragraph).

- 16.16 Others may also wish to make representations about the proposed EMRO. These persons could include, but are not limited to:
- residents;
 - employees of affected businesses;
 - owners and employees of businesses outside the proposed EMRO area; and
 - users of the late night economy.

Hearings

- 16.17 If a relevant representation or representations are received, the licensing authority must hold a hearing to consider them (unless the authority and anyone who has made representations agree that this is unnecessary). The licensing authority should consider, based on the number of relevant representations received by it and any other circumstances it considers appropriate, whether to hold the hearing over several days, which could be arranged to take place other than on consecutive working days.
- 16.18 As described in paragraph 16.6, a hearing to consider representations in relation to an EMRO may be held by the licensing committee, the licensing sub-committee or an officer of the licensing authority. It is recommended, however, that such hearings be conducted by the licensing committee or sub-committee.
- 16.19 Licensing committees or sub-committees⁸⁶ should be familiar with the hearing process as it has similarities with other processes under the 2003 Act. Further guidance on hearings can be found in Chapter 9 of this Guidance (paragraphs 9.30 to 9.40). However, licensing authorities should note the following key points in relation to a hearing about a proposed EMRO:
- the hearing must be commenced within 30 working days, beginning with the day after the end of the period during which representations may be made;
 - the hearing does not have to take place on consecutive working days, if an authority considers this to be necessary to enable it to consider any of the representations made by a party or if it considers this approach to be in the public interest;
 - a licensing committee or sub-committee must make its determination within 10 working days of the conclusion of the hearing;
 - the licensing committee or sub-committee is not required to notify those making representations of its determination; and
 - the licensing authority may give notices in relation to a hearing by electronic means provided it is satisfied that the text of the notice is capable of being accessed by the recipient, it is legible in all material respects and is capable of being reproduced in written form (e.g. printed by the recipient).
- 16.20 The licensing committee or sub-committee will determine the manner in which the hearing will be conducted in accordance with the Licensing Act 2003 (Hearings) Regulations 2005. If a licensing committee or sub-committee determines that a representation is frivolous or vexatious, it must notify in writing the person who made the representation.

⁸⁶ This could also be done by a licensing officer, however, it is recommended that representations in relation to an EMRO are conducted by the licensing committee or sub-committee.

16.21 As a result of the hearing, the licensing committee or sub-committee has three options:

- to determine that the proposed EMRO is appropriate for promotion of the licensing objectives;
- to determine that the proposed EMRO is not appropriate for the promotion of the objectives and therefore that the process should be ended;
- to determine that the proposed EMRO should be modified.

In the final case, if the authority proposes that the modified EMRO should differ from the initial proposal in relation to the area specified, any day not in the initial proposal or the period of any day specified, the authority should advertise what is in effect a new proposal to make an EMRO in the manner described above, so that further representations may be made.

However, there will be cases in which it may be possible to modify the terms of a proposed EMRO without being required to formally consult. This may arise where the modified terms would not have a more adverse effect on any person (primarily, if not solely, licensed premises which will be subject of the EMRO) than the EMRO in the terms in which it was originally proposed. Such cases may include the following:

- the modification may shorten the period during which the EMRO would apply or reduce the number of days on which it applies, provided these periods were a part of the original proposal. For example, a change to an EMRO applying on Fridays and Saturdays to just applying on Saturdays may not require re advertisement and consultation of the EMRO design, whereas changing the days the EMRO applies on from Fridays and Saturdays to just Thursdays might reasonably be expected to require further consultation;
- the date on which the EMRO commences is later than that described in the original proposal;

Licensing authorities should consider very carefully in each case (including in relation to legality) whether further consultation on a proposed modification to the EMRO is necessary.

Final EMRO

16.22 If the licensing authority determines that the proposed EMRO is appropriate for the promotion of the licensing objectives, its determination must be put to the full council for its final decision. There is no time specified in legislation by which the full council must make this decision. This is intended to reflect the fact that the licensing authority may only meet in full council infrequently.

16.23 The matters set out in the final order must be no different from the matters set out in the proposal to make the order, subject to the caveat described above in paragraph 16.21. The order must be set out in the prescribed form and contain the prescribed content.

16.24 No later than 7 days after the day on which the EMRO is made, the licensing authority must send a notice to all affected persons of the EMRO, and make the order available for at least 28 days on its website and by displaying a notice in the EMRO area. A licensing authority should retain details of the EMRO on its website for as long as the EMRO is in force. It is recommended that the licensing authority advises neighbouring licensing authorities and the Secretary of State that the order has been made, the nature of the order and when (and for how long) it will take effect.

- 16.25 The licensing authority should monitor the effectiveness of the EMRO to ensure it continues to be appropriate for the promotion of the licensing objectives and periodically review whether it is appropriate to continue to apply it. The licensing authority should consider setting out its policy in relation to reviewing EMROs (if any) in its statement of licensing policy.
- 16.26 The variation or revocation of an order requires the licensing authority to undertake the same process as that which applied on its introduction; that is after gathering the appropriate evidence, it advertises its new EMRO proposal, following the process set out above so that those affected and anyone else can make representations.
- 16.27 If an order applies for a finite period, the order will cease to apply on its last day. If the licensing authority wishes to introduce a further (new) EMRO, it must follow the full process for proposing a new EMRO.
- 16.28 Licensing authorities should update their statement of licensing policy (in accordance with section 5 of the 2003 Act) to include reference to the EMRO as soon as reasonably possible.

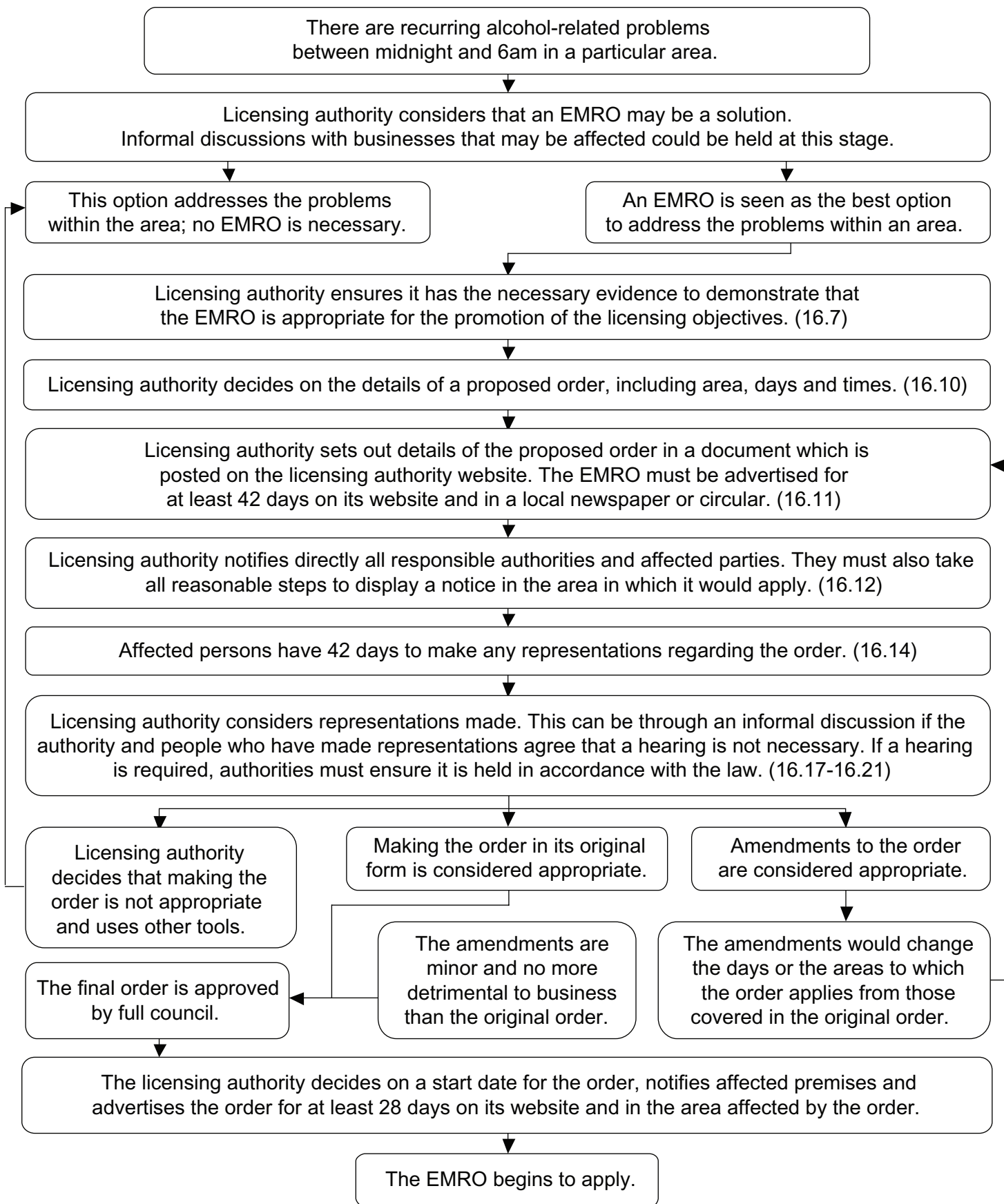
Exceptions to an EMRO

- 16.29 EMROs will not apply on New Year's Eve in recognition of its status as a national celebration. The supply of alcohol to residents through mini-bars and room service in premises with overnight accommodation will also not be subject to an EMRO.

Enforcement of EMROs

- 16.30 The sale or supply of alcohol in contravention of an EMRO is an 'unauthorised licensable activity' which is an offence under section 136 of the 2003 Act. Moreover, it may result in a closure notice being served on the premises under section 19 of the Criminal Justice and Police Act 2001 as a precursor to an application for a closure order under section 21 of that Act. This may alternatively, result in the licence being reviewed on crime prevention grounds. Further information on reviews can be found in Chapter 11 of this Guidance.
- 16.31 An EMRO overrides all authorisations to supply alcohol under the 2003 Act (including temporary event notices). It is immaterial whether an authorisation was granted before or after an EMRO was made as there are no authorisations that have the effect of authorising the sale of alcohol during the EMRO period, with the only exception being a licensing hours order made under section 172 of the 2003 Act.

EMRO Process Flowchart





This page is intentionally left blank