

OADBY & WIGSTON BOROUGH COUNCIL

# STATEMENT OF LICENSING POLICY 2020-2025



Policy Version Number: 2.0  
Policy Owner: Head of Law and Democracy  
Date of Approval: 2019  
Date of Policy Review: 2025



**Oadby & Wigston**  
BOROUGH COUNCIL

# Contents

	Page Number
PART 1.0: Introduction	3
PART 2.0: The Role of this Policy	3
PART 3.0: Licensable Activities	3
PART 4.0: Sale and Supply of Alcohol	4
PART 5.0: Regulated Entertainment	4
PART 6.0: Late Night Refreshment – <b>Local Powers to Deregulate</b>	5
PART 7.0: Carrying Out Licensable Activities	5
PART 8.0: Types of Authorisation	6
PART 9.0: Premises Licences	7
PART 10.0: Club Premises Certificates	7
PART 11.0: Temporary Event Notices	8
PART 12.0: Personal Licences – <b>New Applications</b>	9
PART 13.0: <b>Personal Licences – Suspension and Revocation</b>	10
PART 14.0: Designated Premises Supervisor	13
PART 15.0: <b>Immigration Act 2016 – Entitlement to Work</b>	13
PART 16.0: Application process	14
PART 17.0: Operating Schedule	17
PART 18.0: Representations	17
PART 19.0: Determining and Granting Applications	18
PART 20.0: Conditions	19
PART 21.0: Mandatory Conditions	20
PART 22.0: Alternative Mandatory Condition	21
PART 23.0: Annual Fees	21
PART 24.0: Suspension of Premises Licences and Club Premises Certificates	22
PART 25.0: Other Applications	23
PART 26.0: Responsible Authorities and the Licensing Objectives	24
PART 27.0: Steps to Promote the Licensing Objectives	25
PART 28.0: Reviews of Premises Licences	30
PART 29.0: Early Morning Restriction Orders	31
PART 30.0: Late Night Levy	32
PART 31.0: Cumulative Impact	33
PART 32.0: Other Regulatory Regimes	35
PART 33.0: Live Music Act 2012 and Other Entertainment Licensing Deregulation	37
PART 34.0: Delegation of Functions	38
PART 35.0: Enforcement	40
PART 36.0: Duration and Review of Policy	41

## 1.0 Introduction

Oadby and Wigston Borough Council (“the Council”) is the Licensing Authority under the Licensing Act 2003 (“the Act”) for the Borough of Oadby and Wigston (“the Borough”).

The Act came into force on 24 November 2005 and merged six separate licensing regimes into one Act (alcohol, entertainment, cinemas, theatres, late night refreshment houses and night café).

The Licensing Authority is under a duty to carry out its functions under the Act with a view to promoting the four Licensing Objectives:

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

When making decisions to grant, refuse, revoke or add conditions to Licences, the Act requires the Licensing Authority to have regard to:

- Its own Statement of Licensing Policy (this “Policy”); and
- Guidance issued by the Secretary of State.

## 2.0 The Role of this Policy

The Licensing Authority is required by Section 5 of the Act to determine and publish a Statement of Licensing Policy every five years and to have regard to it when determining applications made under the Act.

This policy will:

- Be used as a guide by members of the Licensing Authority in their decision making;
- Inform applicants about how applications will be considered;
- Inform applicants of the expectations the Licensing Authority will have of them;
- Inform residents and local businesses about how applications are considered and how they can engage in the Licensing process; and
- Be used to support decisions made by the Licensing Authority should its decisions be challenged.

## 3.0 Licensable Activities

There are three broad categories of licensable activity under the Act.

- The sale and/or supply of alcohol.
- The provision of regulated entertainment .
- The provision of late night refreshment .

## 4.0 Sale and/ or Supply of Alcohol

A licence is needed for alcohol to be sold by retail from any premises whether or not that alcohol is sold for consumption off the premises, on the premises or both.

The sale by retail of alcohol requires two forms of permission, a premises licence for the premises and an individual holding a personal licence to authorise the sale of alcohol. One individual holding a personal licence must be named on the licence as the designated premises supervisor.

The supply of alcohol by or on behalf of a members club to, or to the order of, a member of that club requires only a club premises certificate .

## 5.0 Regulated Entertainment

A number of entertainment activities are regulated by the Act. These are:

- The performance of a play
- The exhibition of a film
- Indoor sporting events
- The provision of live music
- The provision of recorded music
- Boxing, wrestling or mixed martial arts
- Performance of dance

### **Exempt Entertainment**

There are a number of exemptions as to when entertainment is deemed not to be regulated under the Act and does not require a licence . Individuals and businesses should ensure that they are aware of all the legislative requirements that apply to an exemption and can evidence that any exempt entertainment is carried out in accordance with them. The person providing the activity should take their own legal advice before providing an activity if they are unsure if it requires a licence or not .

## 6. Late Night Refreshment

The provision of hot food and the provision of hot drink is licensable between the hours of 23:00 and 05:00. This means that during these times a number of businesses such as restaurants, take-aways, hotels and bars will require a licence.

The Licensing Authority has no ability to regulate activities relating to the provision of hot food and drink outside of the above times.

Conditions attached to a premises licence that authorises late night refreshment will only apply to the provision of hot food and drink between the hours of 23:00 and 05:00.

### Late Night Refreshment – Local Powers to Deregulate

Section 71 of the Deregulation Act 2015 inserted paragraph 2A into Schedule 2 of the Licensing Act 2003 in relation to the provision of late night refreshment.

This amendment created a discretionary power to licensing authorities to exempt premises, in certain circumstances, from the requirement to have a licence to provide late night refreshment.

The powers allow a relevant Licensing Authority to exempt the supply of late night refreshment if it takes place:

- On or from premises which are wholly situated in a designated area;
- On or from premises which are of a designated description; or
- During a designated period (beginning no earlier than 23:00 and ending no later than 05:00).

The Licensing Authority does not currently consider it appropriate to exercise the discretionary powers within paragraph 2A of Schedule 2 to the licensing Act 2003.

If the Licensing Authority was going to consider exercising the powers in the future, it would only do so having carefully considered the risks to the promotion of the licensing objectives and having carried out a comprehensive consultation exercise with relevant stakeholders.

## 7. Carrying out Licensable Activities

It is the position of the Licensing Authority that persons carrying out licensable activities do so in full knowledge and understanding of the legal requirements. The onus is on the businesses or individuals carrying out the activities to make appropriate enquiries as to whether or not they need an authorisation from the Licensing Authority before they carry out that activity.

Where an authorisation is held the Licensing Authority expects that the licence or certificate holder or the premises user understands how to comply with the terms of it and the legislation it is granted under or will have sought advice from the Licensing Authority on how to comply.

This Policy is available from the Council Offices and its website and is the primary source of information provided by the Council as to the Act and its application in the Borough. It is expected that before carrying out any licensable activity individuals and businesses will have consulted this Policy and if unsure will have asked relevant questions in writing of the Licensing Authority.

This Policy is not, and cannot be, a thorough examination and explanation of the Act, its regulations and the various decisions that have been and will in the future be made on the interpretation of the Act by the Courts. Applicants and businesses are encouraged to obtain their own separate and independent legal advice where they believe it is necessary.

## 8. Types of Authorisations

There are four types of authorisations for licensable activities:

- Premises licences;
- Club premises certificates;
- Temporary event notices; and
- Personal licences.

All licensable activities will require an authorisation for the premises from which those activities are provided on or carried out from and this can be authorised by a premises licence, club premises certificate or temporary event notice.

The Act provides for a two-tiered licensing system where the licensable activity involves the sale by retail of alcohol (namely premises licences and personal licences).

A personal licence is required where the sale of alcohol is provided from a premises authorised to sell alcohol under a premises licence. In such cases a personal licence holder must be named on the premises licence as the Designated Premises Supervisor (DPS).

A personal licence holder is not required to authorise the sales of alcohol from premises that hold a club premises certificate or from premises carrying out activities under a Temporary Event Notice provided that the alcohol is sold or supplied in accordance with that authorisation.

The permissions are explained further below.

## 9. Premises Licences

Premises licences are the most common type of authorisation for licensable activities and are necessary for businesses such as pubs, nightclubs, supermarkets, off- licences, restaurants, take-aways, hotels, theatres, cinemas and many other types of premises.

The Act allows for any person who uses or carries on a business from a premise to apply for a premises licence, whether it is an individual partnership or company. Additionally a number of other legal entities including a recognised members club, charity, educational and health institutions may apply.

A premises licence can authorise all types of licensable activities other than the supply of alcohol under member's clubs conditions which can only be authorised by a club premises certificate.

Additionally a provisional premises licence can be applied for in certain instances, such as when the applicant is not in a position to use a premise for licensed purposes (i.e. it is yet to be built) but wishes to ensure that he can get the appropriate permission.

## 10. Club Premises Certificates

Club premises certificates ("CPC's") are similar to a premises licence but can only be applied for by, and granted to, qualifying clubs. These are, ordinarily, traditional working men's clubs and institutes that are governed by club rules.

The key difference between such clubs and other businesses or individuals that require a licence, is that the members of the club collectively own and hold the possessions of the club. Alcohol, therefore, is not sold but supplied to members.

The holding of a CPC means that the club does not require a personal licence holder to be present or to be named on the premises licence as the DPS as the members of the club share the responsibility for any offences committed.

There are more restrictions and limitations imposed on a CPC than a premises licence. A qualifying club must have at least 25 members at all times, it cannot admit non-members to the premises unless as a bona fide guest of a member, and new members cannot be supplied with alcohol unless 48 hours have elapsed since their application to become a member was approved by the Club. The Club must also have and maintain club rules that comply with the requirements of the Act.

A members club is permitted to apply for and hold a premises licence, rather than a CPC if they wish, but only a members club can hold a CPC.



## 11. Temporary Event Notices

A Temporary Event Notice (TEN) allows licensable activities to be carried out on a temporary basis without the applicant applying for a permanent permission such as a premises licence or club premises certificate.

Despite using the term “event” the Act does not require an actual event to take place or be intended in order for the authorisation to be applied for. TEN’s can be used for a variety of instances such as a local park fete, the sale of wine at a church gathering or for extending the hours of premises licence.

A TEN is simply a notice given by an individual who signs to state that they will be responsible for providing licensable activities on the occasion stated. The Notice must be served in accordance with strict statutory timescales, on the Licensing Authority, the Police and the Council’s Environmental Health Team.

The Licensing Authority does not approve or grant a validly given notice but simply acknowledges that it has been received.

If the notice is not served correctly and within the prescribed timescales it is invalid. The Licensing Authority is not under a duty to inform the person who served the notice that it is invalid. It is the responsibility of the person giving the notice to ensure that they have served it correctly and are authorised to carry out the licensable activities they require before they do so.

If the notice served exceeds the permitted requirements of the Act the Licensing Authority is required to serve a ‘Counter Notice’ on the notice giver. These permitted requirements are amended from time to time but relate the number of notices that can be given to an individual not holding a personal licence, the number of notices that can be given by a personal licence holder, the period of time that one notice can cover and the number of notices that can be given in respect of one premises licence.

Carrying out licensable activities without an authorisation is a criminal offence that can result in a custodial sentence and/or a substantial fine.

A TEN must be served on the Licensing Authority, Police and Environmental Health at least 10 clear working days before the day of the event. “Clear working days” does not include the date the notice was given or the day of the event.

If an objection is made against the application by the Police or Environmental Health the Council is required to hold a hearing.

The Act also provides for a “Late TEN” to be given with 5 clear working days’ notice. However, if either the Police or Environmental Health object to the notice the event cannot go ahead and the person who served the notice has no right of appeal.



The Licensing Authority recommends that as much notice as possible is given as this allows for any errors or omissions to be rectified.

## 12.0 Personal Licences – New Applications

A personal licence is a licence issued to an individual authorising them to make or authorise the sale of alcohol in accordance with a premises licence. Every premises licence that authorises the sale of alcohol must specify an individual who acts as the designated premises supervisor (DPS). The DPS must hold a personal licence.

Applications for personal licences should be made to the Licensing Authority for the area where the applicant is ordinarily resident at the time they make their application.

- a) The applicant is aged 18 or over;
- b) The applicant is entitled to work in the United Kingdom;
- c) The applicant possesses a licensing qualification or is a person of a prescribed description;
- d) The applicant has not forfeited a personal licence in the five year period prior to their application being made;
- e) The applicant has not been convicted of any relevant offence or any foreign offence or required to pay an immigration penalty.

The Licensing Authority must reject an application if the applicant fails to meet one or more of the requirements set out in (a) to (d) above.

Where the applicant meets the requirement in (a) to (d) but does not meet the requirements of (e), the Licensing Authority must give the chief officer of police for its area a notice to this effect. Having received such a notice, if the chief officer of police is satisfied that the granting of the application would undermine the crime prevention objective, he must within 14 days give the Licensing Authority a notice to that effect.

Where the applicant fails to meet the requirements of (e) as a result of a conviction for an immigration offence or because they have been required to pay an immigration penalty, the Licensing Authority must give a notice to the Secretary of State for the Home Department to that effect. The Home Office may object to an application on the grounds that granting the personal licence would be prejudicial to the prevention of illegal working in licensed premises.

Where an objection to the grant of a personal licence is received from either the chief officer of police or the Home Office, the applicant is entitled to a hearing before the Licensing Authority. If no objections are received, the Licensing Authority must grant the application.

At a hearing to determine a personal licence application to which the chief officer of police or Home Office have objected, the Licensing Authority will have regard to all of the circumstances including the following:

- The need to assess each case on its merits;
- The duty to promote the crime prevention objective;
- The objection notice given by the Police or Home Office;
- The guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003;
- The seriousness of the relevant offence;
- The sentence or penalty imposed on the applicant for the relevant offence;
- Any representations made by the applicant; and
- Any other evidence as to the previous character of the applicant.

If, having considered all of the circumstances, the Licensing Authority considers that it is appropriate for either the promotion of the crime prevention objective or for the prevention of illegal working in licensed premises to reject the application, it must do so. In all other cases the application must be granted.

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 or an objection from the Home Office, the chief officer of police or Home Office are entitled to appeal against the Licensing Authority's determination. The Licensing Authority will therefore record in full the reasons for any decision it makes.

## 13.0 Personal Licences – Suspension and Revocation

Section 138 of the Policing and Crime Act 2017 amended the Licensing Act 2003 and gave the power to a Licensing Authority to suspend or revoke personal licence that it has issued with effect from 6 April 2017.

When a Licensing Authority has granted a personal licence and becomes aware that the licence holder has been convicted of a relevant offence or foreign offence or been required to pay an immigration penalty, a Licensing Authority may revoke the licence or suspend it for a period of up to six months. This applies to convictions received and civil immigration penalties which a person has been required to pay at any time before or after the licence was granted, as long as the conviction was received after 6 April 2017, or the requirement to pay the civil penalty arose after 6 April 2017. Only magistrates' courts can order the forfeiture or suspension of a personal licence for convictions received prior to 6 April 2017.

The process which must be undertaken by the Licensing Authority to suspend or revoke a personal licence is set out at section 132A of the 2003 Act. The decision to revoke or suspend a personal licence must be made by the licensing committee or sub-committee, but the actions required before making a final decision may be made by a licensing officer.

The Licensing Authority may not take action if the licence holder has appealed against the conviction or the sentence imposed in relation to the offence, until the appeal is disposed of. Where an appeal is not lodged, the Licensing Authority may not take action until the time limit for making an appeal has expired.

If a Licensing Authority is considering revoking or suspending a personal licence, the authority must give notice to the licence holder. This notice must invite the holder to make representations about the conviction, any decision of a court in relation to the licence, or any decision by an appellate court if the licence holder has appealed such a decision. The licence holder may also decide to include any other information, for example, about their personal circumstances.

The licence holder must be given 28 days to make their representation, beginning on the day the notice was issued. The Licensing Authority does not need to hold a hearing to consider the representations. Before deciding whether to revoke or suspend the licence the Licensing Authority must consider any representations made by the licence holder, any decisions made by the court or appellate court in respect of the personal licence of which the Licensing Authority is aware, and any other information which the Licensing Authority considers relevant.

The Licensing Authority may not be aware of whether the court considered whether to revoke or suspend the licence, and there is no obligation on the Licensing Authority to find this out before making a decision themselves. Where the Court has considered the personal licence and decided not to take action, this does not prevent the Licensing Authority from deciding to take action itself. Licensing authorities have different aims to courts in that they must fulfil their statutory duty to promote the licensing objectives, and therefore it is appropriate for the Licensing Authority to come to its own decision about the licence.

If the Licensing Authority, having considered a suspension and revocation and subsequently considered all the information made available to it, proposed not to revoke the licence it must give notice to the chief officer of police in the Licensing Authority's area, and invite the chief officer to make representations about whether the licence should be suspended or revoked, having regard to the prevention of crime. The chief officer may make representations within the period of 14 days from the day they received the notice from the Licensing Authority.

Any representations made by the chief officer of police must be taken into account by the Licensing Authority in deciding whether to suspend or revoke the licence.

Convictions may come to light via police in another area, for example if the personal licence holder no longer lives in the area of the Licensing Authority which issued the licence, or if the offence took place in another police force area. In this instance it would be good practice for the police providing the information to notify the police force in the Licensing Authority area, because it is the local chief officer who must provide representations if the Licensing Authority proposes not to revoke the licence.

Where the licence holder is convicted of immigration offences or has been required to pay a civil penalty for immigration matters, the Licensing Authority should notify Home Office Immigration Enforcement and allow representations to be made in the same way.

In deciding whether to suspend or revoke a personal licence, the Licensing Authority will have regard to all of the circumstances including the following:

- The need to assess each case on its merits;
- The duty to promote the licensing objectives;
- The guidance issued by the Secretary of State under section 182 of the Licensing Act 2003;
- The seriousness of the relevant offence;
- The sentence or penalty imposed on the licence holder for the relevant offence;
- Any representations made by the Police or Home Office Immigration Enforcement;
- Any representations made by the holder of the licence; and
- Any evidence as to the previous character of the holder of the licence.

The Licensing Authority must notify the licence holder and the chief officer of police of the decision made (even if the police did not make representations). The licence holder may appeal the Licensing Authority's decision to revoke or suspend their personal licence. A decision to revoke or suspend the licence does not take effect until the end of the period allowed for appealing the decision (21 days); or if the decision is appealed against, until the appeal is disposed of.

If the personal licence holder is a DPS, the Licensing Authority may notify the premises licence holder once the decision to revoke or suspend the licence has been made if it becomes necessary to do so in order for the Licensing Authority to be able to carry out their functions.

The Licensing Authority may also notify any person who has declared an interest in the premises under section 178 of the 2003 Act if it becomes necessary to do so in order for the Licensing Authority to be able to carry out their functions.

## 14. Designated Premises Supervisor

The designated premises supervisor (DPS) is an important role created by the Act and applies only when a premises licence authorises the sale and/or supply of alcohol. In order to be able sell or supply alcohol from the premises an individual holding a personal licence must be named on the premises licence as the DPS. This is because all sales of alcohol must be made or at least authorised by a personal licence holder and gives certainty to the responsible authorities that a personal licence holder will be at the premises.

There can only be one DPS named on the licence although more than one personal licence holder can work and authorise sales from the premises. The Licensing Authority recommend that all premises have more than one personal licence holder employed to ensure appropriate cover for annual leave and sickness.

The DPS is only required to hold a personal licence and consent to being named on the premises licence. The Act places no further obligation on the DPS to either be at the premises, to manage the premises or to authorise the sale of alcohol. It is permissible for the DPS to simply be a figurehead named on the licence and for another personal licence holder to be employed to authorise the sale of alcohol.

However, the intention of the role of the DPS, as expressed by the Government's guidance, is that the person in day to day control of the premises should be named on the licence as a contact point for all authorities and bears a level of individual responsibility for the activities carried out from the premises. Normally this will be the manager of the premises.

The expectation of the Licensing Authority is that the DPS will be a responsible person and will ensure that the provision of all licensable activities from the premises do not undermine the licensing objectives. The DPS should take the lead on training and authorising other members of staff in their duties under the Act and ensure that the terms and conditions of the premises licence and the Act are complied with.

The Licensing Authority expects that the DPS will take regular training and remain up to date with the Act and other applicable legislation affecting their role of responsibility. The Licensing Authority would be concerned, should its discretion be engaged, that a DPS has not continued with a course of regular training unless satisfied that the DPS has exceptional experience that makes such training unnecessary.

## 15. Immigration Act 2016 – Entitlement to Work

Section 36 of and Schedule 4 to the Immigration Act 2016 made a number of amendments to the Licensing Act 2003 to introduce immigration safeguards in respect of licensing applications made in

England and Wales on or after 6 April 2017. The intention of these changes is to prevent illegal working in premises licensed for the sale of alcohol or late night refreshment.

The statutory prevention of crime and disorder licensing objective in the Licensing Act 2003 includes the prevention of immigration crime and the prevention of illegal working in licensed premises. The Council will work with the Home Office (Immigration Enforcement) as well as the police, in respect of these matters.

Section 36 of and Schedule 4 to the Immigration Act 2016 (the 2016 Act) amended the 2003 Act to provide that in England and Wales:

- Premises licences to sell alcohol or provide late night refreshment and personal licences cannot be issued to an individual who does not have permission to be in the UK, or is not entitled to undertake work relating to the carrying on of a licensable activity;
- Licences issued to those with limited permission to be in the UK will lapse when their permission to be in the UK and work in a licensable activity comes to an end;
- Immigration offences, including civil penalties, are 'relevant offences' as defined by the 2003 Act;
- The Home Secretary (in practice Home Office (Immigration Enforcement)) was added to the list of responsible authorities in the licensing regime, which requires Home Office (Immigration Enforcement) to receive premises licence applications (except regulated entertainment only licences) and applications to transfer premises licences, and in some limited circumstances personal licence application, and permits Home Office (Immigration Enforcement) to make appropriate representations and objections to the grant of a licence; and
- Immigration officers are permitted to enter premises which they have reason to believe are being used to sell alcohol or provide late night refreshment, to investigate whether immigration offences are being committed in connection with the licensable activity.

The Licensing Authority will have regard to any guidance issued by the Home Office in relation to the immigration related provisions now contained in the Licensing Act 2003.

The Licensing Authority will also work in partnership with the Home Office (Immigration Enforcement) and Leicestershire Police with a view to preventing illegal working in premises licensed for the sale of alcohol or late night refreshment.

## 16.0 Application Process

Before applying for a licence or certificate it is recommended that potential applicants ensure that they are familiar with this Policy and discuss their application with the responsible authorities who

are able to advise them on the measures that they would expect to see offered in their application. References to a premises licence in this part of the Policy should also be taken as including club premises certificates as the process is largely the same.

The statutory process for applying for a premises licence can take some time and must be followed by applicants carefully. If the application is not made and advertised as prescribed by the regulations the application will be deemed invalid and the Licensing Authority will be unable to grant the licence.

Applicants are therefore advised to consider carefully the statutory process and seek their own independent legal advice.

### **The Application Form**

Applications must be on a prescribed form and be accompanied by the statutory fee. The application form, known as an operating schedule, must be accompanied by a plan of the premises (in the statutory prescribed form) and if the sale or supply of alcohol will be a licensable activity a form of consent from the proposed DPS must be submitted. Clubs applying for a CPC will not require a DPS consent form but will instead need to provide a copy of their club rules to prove that they are a qualifying club under the Act.

The Applicant must complete the relevant application form correctly. If the application form is not completed correctly the application may be rejected as invalid. Where there are very minor omissions or mistakes within an application form that in the opinion of the relevant Licensing Officer do not affect the consideration of the application by other responsible authorities or other persons, the Licensing Officer will allow the application to be amended.

For example, spelling mistakes, address errors and other inconsequential matters will be allowed to be corrected rather than resulting in rejection.

The Applicant is required to state the steps proposed to be taken to promote the licensing objectives. The failure to do this for a new premises licence application will result in the application being rejected. Where a variation application has been submitted the applicant may choose not to state any further steps and rely on those already conditioned to the licence – it is however recommended that the applicant makes this intention clear to avoid representations. Further details about promoting the objectives follow.

If the application includes the sale of alcohol a consent form signed by the proposed DPS must also be provided. If at the time of the application the proposed DPS does not hold a personal licence (for instance he or she is in the process of applying for it) the application will still be valid. However if the licence is granted no sale of alcohol will be able to be made until the DPS has been granted their personal licence.



The applicant must also provide a plan of the premises that he wishes to licence in accordance with the regulations. If a plan does not accord with the regulations the application will be invalid. The regulations vary from time to time but are available from the Council or the Governments website.

### **Service of Applications**

An applicant is required to serve his application on the statutory responsible authorities. All responsible authorities must be given a copy of the application on the same day that the Licensing Authority is served with the application. The 28 day representation period cannot begin until all responsible authorities have a copy of the application.

### **Representation Period**

Once an application has been made there will be a period of 28 days in which representations can be made either in support of or against an application. The application must be advertised by the applicant to start this period.

### **Advertising the Application**

The process of advertising the application is designed to bring the application to the attention of persons that may be affected by it, such as local residents and local businesses – known in the Act as “other persons”.

The Applicant is required to advertise his application in two ways. Firstly the applicant must display a blue notice on or near the premises in the prescribed form. Where the premises to be licensed are set back from the public highway, obscured or situated within private grounds, the applicant must place a blue notice on the nearest public highway.

The Applicant is also required to advertise the making of the application in a local newspaper that circulates in the area on one working day, within the first 10 working days of the application being given to the Licensing Authority.

It is expected that the Applicant will ensure that he makes every effort to bring an application to the attention of other persons by displaying the blue notice in an appropriate position.

### **Invalid Advertising**

If the Licensing Authority is not satisfied that the application has been advertised correctly in accordance with the regulations the application will be deemed invalid and rejected. In most cases, rather than return the application, the Licensing Authority will simply request that the applicant re-advertises the application in the correct manner and the 28 day representation period will begin again.

## 17. Operating Schedule

The operating schedule is a mandatory requirement of a premises licence application and the prescribed form allows the applicant to detail this. It will include details such as descriptive information about the premises, the proposed licensable activities, details of any risks associated with the location or size of the premises, and the times that the proposed licensable activities will occur. Importantly the Applicant must also state the steps that will be taken to promote the licensing objectives.

Stating the steps that will be taken to promote the licensing objectives is the Applicants opportunity to show the responsible authorities and other persons who may have concerns that they have considered carefully the provision of the proposed activities and their impact on the local area and can prevent the licensing objectives from being undermined.

The measures offered in the operating schedule will be translated into conditions on the premises licence and will therefore be binding on the Applicant should the licence be granted.

An incomplete or inadequate operating schedule is likely to result in representations being made against the application and will either delay the grant of the licence or result in its refusal.

It is recommended that before submitting an application the Applicant considers very carefully what they propose to do and discuss their application with the responsible authorities prior to making it.

It is expected that Applicants will outline clear steps within their operating schedule as to the measures that they will take to promote the licensing objectives. Responsible Authorities will rightly have concerns where it appears to them that the Applicant wishes to be considered responsible enough to be licensed to provide licensable activities but cannot take the time to think carefully about the implications of them doing so.

## 18.0 Representations

During the 28 day representation period responsible authorities and other persons may write to the Licensing Authority either objecting to or supporting the application. A valid representation must be made in writing and within the 28 day representation period and the representation must relate to the effect of the application on the licensing objectives.

Representations may suggest conditions or actions that may be taken to remedy the concern. Responsible authorities will have received a copy of the application and will be able to consider more carefully the application made. Persons other than the responsible authorities will not normally have seen the application just the blue notice displayed at the premises or the advert in the

local newspaper. It is therefore recommended that before a representation is made the application is viewed either at the Council Offices, or, if available, on the Council's website.

Applicants should note that their application is a public document and may be shown to other members of the public and may be viewed on the Council website.

The Act permits the Council to ignore representations that are in its opinion vexatious or frivolous.

Persons who submit a representation against an application should be aware that the applicant has a right to see these representations under the Act as they are submitted against the grant of an application that the applicant is legally entitled to apply for and be granted. In rare instances a person submitting a request can express a wish to remain anonymous and the Council will consider this request in line with the Government's guidance. If the Council determines that it will not permit a person to be anonymous it will advise the individual and give them the opportunity to either confirm that they wish the objection to be treated as a relevant representation under the Act and provided to the applicant or to withdraw their representation.

Decisions on whether or not a representation is valid in accordance with the Licensing Act 2003 will be made by the appropriate Officer dealing with the application in consultation, where necessary, with the relevant advice from the Head of Law and Governance.

## 19.0 Determining and Granting Applications

Where there has not been any representations made against an application the Act provides that the Licensing Authority must grant the application. The application will be granted on the terms applied for and subject to the mandatory licensing conditions prescribed by regulations and the measures offered in the applicant's Operating Schedule.

Where relevant representations have been submitted and are not resolved between the applicant and the objector the Act requires the Licensing Authority to hold a hearing within statutory timescales.

If a representation is submitted by a responsible authority or other person outlining concerns about the application but suggests steps or conditions that can be taken by the Applicant to resolve those concerns the Licensing Authority will permit the Applicant to amend their operating schedule to incorporate the proposed suggestions or conditions. If the responsible authority or other person is content and withdraws their representation and both parties agree a hearing is not necessary the application will be determined by the Licensing Authority without a hearing.

It is considered that the above is the most sensible and efficient way to promote the licensing objectives and is the least inconvenient and cost effective method of giving action to Parliaments intention.

The Licensing Authority will not however allow an applicant to amend their Operating Schedule to place them in a better position than that which has been advertised or which is likely to affect other persons differently than that advertised.

The hearing process allows the Council to consider the application and representations that have been made and determine the application on its individual merits in order to promote the licensing objectives.

Hearings will normally be heard before a sub-committee of Councils Licensing and Regulatory Committee. The Council has published a Code of Practice for Licensing Hearings, which explains how hearings will be held and should be referred to for further details.

When making decisions at a hearing the sub-committee will do so as permitted by the Act and based on the individual merits of the application, having had regard to this policy and the Governments guidance and giving due consideration to the representations submitted.

Any person who has made a representation and the applicant are invited to the hearing and can, if they chose, be represented by any of their choosing whether legally qualified or not.

It is not mandatory for those who have applied for a licence or those who have submitted a representation in respect of one to attend a hearing. However, the Licensing Authority assume that those who have engaged the statutory process and who have been notified in writing of the date and time of the hearing within the statutory timescales have had sufficient opportunity to attend and the Council will in most cases decide to hold the hearing in their absence.

## 20.0 Conditions

Conditions on premises licences are necessary to promote the licensing objectives and will be attached to premises licences and club premises certificates by one of the following methods:

- A mandatory condition imposed under the Act;
- A condition offered in the applicants operating schedule;
- Following a licensing sub-committee hearing; or
- Following a review hearing.

Applicants should be aware that the Licensing Authority is required to attach conditions to a licence that are consistent with the applicants operating schedule.

When the discretion of the Licensing Authority has been engaged by the making of a relevant representation or by the application to review a premises licence the relevant sub-committee determining the application may attach such conditions to the licence which it deems appropriate for the promotion of the licensing objectives.

The Licensing Authority will however ensure that all conditions placed on a licence once its discretion has been engaged are tailored to the individual characteristics of the premises to be licensed and based upon the merits of that application and the representations received in respect of that application.

The Act is not the primary mechanism for the general control of nuisance, crime and anti-social behaviour by individuals once they are beyond the direct control of the individual, club or business holding the licence. No condition will be attached to a licence requiring a licence holder to resolve issues beyond their control.

## 21.0 Mandatory Conditions

The Licensing Act 2003 (Mandatory Conditions) Order 2014 sets out the mandatory licence conditions relating to irresponsible marketing of alcohol that apply to all licensed premises and those with a club premises certificate. These conditions include:

- Ban irresponsible promotions;
- Ban the dispensing of alcohol directly into the mouth;
- Selling or supplying alcohol in association with promotional posters or flyers;
- Provision of free or discounted alcohol as a prize to reward purchase of alcohol over 24-hour period;
- Ensure that customers have access to free tap water so that they can space out their drinks and not get intoxicated too quickly;
- Require an age verification policy to be in place to prevent underage sales; and
- Ensure that customers have the opportunity to choose small measures of beers, ciders, spirits and wine.

Substantially similar activities to those described are also prohibited.

In respect of on-trade premises, such as a pub, hotel or bar, or a member's club, all five conditions apply. In the case of off-trade premises, such as an off-licence or supermarket, only the conditions relating to age verification apply.

The legislation makes clear that an irresponsible promotion is one that is "carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children."

If there is any doubt as to whether the promotion planned falls foul of the mandatory conditions, operators are advised to discuss proposals with the Council or Police beforehand.

These conditions apply to all licence holders specified within the mandatory conditions. Where the Home Secretary makes changes to the mandatory conditions after the grant of a licence, it is for the licence holder to ensure compliance with those conditions. Unless instructed by legislation to do so, the Licensing Authority are not obliged to inform licence holders of any changes to the mandatory conditions.

## 22.0 Alternative Mandatory Condition

The 'alternative mandatory condition' applies only to a premises licence and permits a licence holder or applicant for a licence, in respect of a community premises to replace the mandatory requirement of the DPS with the alternative condition that the supply of alcohol will be made or authorised by a management committee instead.

This can be applied for at the time of a new premises licence or by submitting a variation application.

## 23.0 Annual Fees

All holders of a premises licence or CPC are required to pay a statutory prescribed fee each year on the anniversary of the issue date of their premises licence or CPC. The fee is based on the rateable value of the premises and is set by the Government through the regulations that are issued under the Act.

Under the regulations premises that have a high rateable value and that are primarily used for the supply of alcohol for consumption on the premises are required to pay either double or triple their prescribed annual fee.

The payment of the annual fee is a statutory requirement and an obligation on the licence holder. The Licensing Authority are not responsible for reminding licence holders of their statutory duty to pay their annual fee.

## 24.0 Suspension of Licences and Club Premises Certificates where Annual Fee is not Paid

As a result of powers introduced under the Police Reform and Social Responsibility Act 2011, the Licensing Authority must suspend premises licences and club premises certificates if the holder of the relevant authorisation fails to pay their annual fee.

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 will be used by the Licensing Authority to contact the licence or certificate holder in attempt to resolve the dispute or error. If the dispute or error is not resolved during this 21 day period, the licence or certificate will be suspended.

When suspending a licence or certificate a notice of suspension will be given in writing to the licence or certificate holder. The Police and any other relevant responsible authorities will also be notified of the suspension at the same time.

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.

Once payment has been received, a written acknowledgement will be given to the licence/certificate holder and the suspension will be lifted. The Police and any other relevant responsible authorities will be notified that the suspension has been lifted at the same time. Continuing to trade after a premises licence or CPC has been suspended is a criminal offence and will result in a prosecution. The holder of a licence or certificate who is prosecuted for carrying out activities whilst a licence is suspended may in addition, or as an alternative to prosecution, have their premises licence reviewed.



## 25.0 Other Applications

There are a number of other applications that may be served in respect of premises licences (and CPC's).

### **Minor Variation**

The Minor variations procedure under Section 41A of the Act allows small changes to be made to a premises licence after it has been granted.

Minor variations may be suitable for small changes such as the alteration of plans where small refurbishment has taken place, the removal of conditions, addition of conditions, removal of licensable activities or the alteration of hours or addition of activities (in certain circumstances).

The Licensing Authority will not accept as a minor variation any application to remove conditions imposed by the Licensing Authority within the preceding two years unless satisfied that the reason(s) those conditions were imposed in the first place are no longer appropriate due to a change in style or management of the premises.

The Act prevents the Licensing Authority from accepting as a minor variation any application to extend the hours in which alcohol can be sold within, or to amend the hours that alcohol can be sold between the hours of 23:00 and 07:00.

The applicant must advertise a minor variation by placing a notice on their premises for 10 working days and the Licensing Authority must determine the application within 15 days. Upon receipt of a minor variation application the relevant Licensing Officer will determine whether the application is suitable for variation, and if so, will consult with any responsible authority they feel appropriate. If the Licensing Officer believes that the granting of the application could undermine the licensing objectives the application will be rejected.

### **Full Variations**

Any changes that are required to be made to a premises licence that are not minor or do not relate the change of a DPS will be required to be submitted as a major variation. The process for this is the same as applying for a new premises licence or CPC.

### **Transfer of Premises Licence**

Premises licences may be transferred from the premises licence holder to another person upon the application of that person. The applicant will need to obtain the premises licence and the consent of the existing premises licence holder in order to make the application and be in position to use the premises for licensable activities.

Where the consent of the premises licence holder cannot be obtained the Licensing Authority may exempt the applicant from the requirement if the applicant can satisfy the authority that he has taken all reasonable steps to do so.

The Police may object to an application in exceptional circumstances where they believe that the granting of the licence will undermine the licensing objectives of the prevention of crime and disorder.

#### **Variation of Designated Premises Supervisor**

Whilst on a number of occasions the DPS will be the same person as the premises licence holder on others the DPS will simply be an employee and may be changed regularly. The premises licence holder is therefore able to submit an application to replace the DPS named on the licence with another person providing that other person holds a personal licence and consents to being named as the DPS.

The Police may object to an application in exceptional circumstances where they believe that the granting of the licence will undermine the licensing objective prevention of crime and disorder.

## **26.0 Responsible Authorities and the Licensing Objectives**

The Licensing Authority is required to carry out its functions under the Act with a view to promoting the licensing objectives. The Licensing Authority also expects that holders of premises licences, personal licences, club premises certificates and those who have given Temporary Event Notices to actively promote the four licensing objectives.

Where the discretion of the Licensing Authority is engaged and it is considering whether to grant an application for a licence or certificate, to revoke a licence or certificate or to add conditions to a licence or a certificate the Licensing Authority will consider carefully the evidence before it.

#### **Licensing Objective - Prevention of crime and disorder**

The Licensing Authority expects that on issues of Crime and Disorder the Leicestershire Police will be the primary source of information and evidence that the objectives will be undermined.

#### **Licensing Objective - Public safety**

The Licensing Authority expects that on issues of public safety the primary responsible authorities will be the Leicestershire Fire and Rescue Service and the Councils Environmental Health team.

### **Licensing Objective - Prevention of public nuisance**

It is expected that the primary responsible authority that will deal with public nuisance concerns is the Councils Environmental Health Team. However it is also acknowledged that the Councils Planning Team may also have concerns or evidence about the effect of licensed premises on the amenity of its local area .

### **Licensing Objective - Protection of children from harm**

The Leicestershire Police are also the responsible authority that take the lead on child protection issues within the Borough and will be the primary source of evidence for concerns in this regard . It is also noted that the Leicestershire Trading Standards Service are the primary authority for dealing with the sale and supply of alcohol to under age persons from Off Licences within the Borough.

Whilst the above sets out who the Licensing Authority expect and acknowledge as being the appropriate authority for responding to applications and providing evidence under the above four objectives it does not stop any other responsible authority or other person raising issues under any of the objectives and providing evidence to the Licensing Authority.

In the absence of any evidence the Licensing Authority will ordinarily assume that where the primary responsible authority for relevant objective above has not raised concerns there is on the balance of probabilities likely not to be any .

The Licensing Authority is also a responsible authority in its own right and able to object to applications and review premises licences and CPC's. The Licensing Authority will not however use these powers where they should rightly be exercised by one of the above responsible authorities unless it considers it appropriate to do so .

## **27.0 Steps to Promote the Licensing Objectives**

Licence applications should be accompanied by an Operating Schedule that includes the steps that the licensee proposes to take to promote the 4 licensing objectives .

The Licensing Authority strongly recommends that the process of developing the operating schedule includes a thorough risk assessment with regard to the licensing objectives, which will assist in identifying those steps.

Applicants for licences are urged to discuss their proposals with the responsible authorities prior to submitting an application. This will enable them to seek advice on the production of their operating

schedule and may avoid the need for a hearing in response to representations made by the authorities.

Examples as to the steps that may be required by the above authorities to promote the licensing objectives and which may reduce objections to applications follow below.

It is for the applicant to decide which of these are appropriate for inclusion in their operating schedule for the premises, based on the exact circumstances involved. The Licensing Authority can only impose conditions that have been offered in the operating schedule of an application, or following a hearing in which the Authority has agreed with a representation. If the licensing application complies with all other legal requirements, and there are no relevant representations, then the Licensing Authority must grant the application.

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

#### **Closed Circuit Television (CCTV)**

CCTV cameras can be an important means of deterring and detecting crime at, and immediately outside, licensed premises. The Licensing Authority will therefore support the provision of CCTV in town centre premises including take-aways or restaurants open late at night. The CCTV should be installed and maintained on the advice of the Leicestershire Police Crime Prevention Officer.

#### **Glassware**

Although the **original** legislation which enabled the implementation of street drinking bans has been **repealed (Designated Public Places Orders)** and the Council has not yet found it necessary to replace them with **Public Space Protection orders**, the Licensing Authority **still** considers that it is still appropriate for town centre premises to adopt a policy of prohibiting open containers of alcohol being taken from the premises. This approach will also prevent the use of these containers as offensive weapons. In certain circumstances polycarbonate glasses may be sensible, such as where there are incidents of violence or events are held which make it dangerous to use glass.

#### **Irresponsible sales**

Mandatory conditions prevent the holding of irresponsible drink promotions from licensed premises. The Licensing Authority expect the management of licensed premises to be responsible and not to sell alcohol to those who are already drunk or to engage in promotions that will encourage excessive drinking.

Premises licensed to sell alcohol for consumption off the premises should ensure that their promotions do not fall below the mandatory condition specifying minimum prices and do not market their alcohol in a way that encourages bulk buying or purchases by children.

### **Drugs**

The Licensing Authority expects all premises licensed within the Borough to have a firm anti-drugs policy and to report all suspected drug related activity to the Police.

### **Door Staff**

The use of Security Industry Authority (SIA) registered door staff can assist licence holders in controlling entry into its premises, verifying the age of customers and controlling customers inside and outside. Door staff can also assist in making customers feel safe within premises.

### **Age Policy**

A mandatory conditions imposed on all licences that sell alcohol requires premises licence holders to have an age verification policy. The Licensing Authority encourages all licence holders and applicants to adopt a 'Challenge 25' policy in order to ensure that underage sales are prevented.

### **Pub Watch**

Licence holders running pubs and clubs are encouraged to participate in the Oadby and Wigston Pub Watch group where best practice and concerns within in the local area can be shared.

### **Public Safety**

The Health and Safety at Work Act and the Regulatory Reform (Fire Safety) Order 2005 are aimed at protecting public safety and the Licensing Authority does not intend to duplicate requirements of existing statutory provisions. However, premises will be expected to ensure a level of compliance that promotes public safety.

Licence holders should have documented risk assessments for their day to day business and carry out further risk assessments should they be intending to carry out events or functions that they do not normally hold.

Such steps may include the setting of a capacity limit for all, or separate parts, of the premises or the use of door staff or stewards to control admission and to control customers inside premises and at outdoor events.

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

The Licensing Authority recommends that before an application is made, the applicant identifies the impact that their potential licence would have on its neighbourhood and identify controls to minimise that impact. Advice and assistance in undertaking this task should be sought from the Environmental Healthteam.

The primary sources of public nuisance occur from entertainment activities and the noise of customers. The later into the evening such activities occur the more likely it is to be considered a nuisance. A nuisance is also more likely to arise where the premises are situated within a residential area as opposed to a more commercial town centre.

To control such nuisance it may be appropriate for there to be a limitation on hours of operation or on the hours of certain activities. For instance, it may be appropriate to allow premises to open until midnight but for entertainment activities to cease at 23:00 p.m. Measures such as keeping windows and doors closed when entertainment occurs, positioning speakers away from neighbouring properties or the use of a noise limiter may be of consideration.

Steps to prevent noise, disturbance and anti-social behaviour arising from the external use of the premises such as people arriving at, or leaving the premises, the opening and closing of car doors or the use of smoking shelters and beer gardens also need to be considered.

Stricter controls offered by an applicant will be seen as appropriate in areas that are closer in proximity to residential accommodation.

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

Licences may be sought for a wide variety of premises and it is not possible for a Policy to anticipate every situation where children may be at risk. The Licensing Authority will not seek to limit the access of children to licensed premises unless it is necessary to protect children from harm.

The Licensing Authority considers that it will be appropriate for the protection of children to restrict access of children to premises where:

- Entertainment or services of an adult or sexual nature are provided.
- There have been convictions or fixed penalty notices issued due serving alcohol to minors.
- There is a strong element of gambling on the premises in excess of that considered by the Licensing Authority to be ancillary to the general use of the premises.
- Where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.

Conditions will not be imposed on a license so as to require the admission of children as that is a matter for the discretion of the licensee.

### **Children and films**

Licence holders for premises authorised to show films are expected to prevent children from viewing films outside of the British Board of Film Classification or other film classification board approved by the Licensing Authority.

### **Children and Entertainment Events**

Where a significant number of unaccompanied children will be present during an entertainment event, the Licensing Authority will expect that an adequate number of adult staff are present to control and ensure the safety of the children.

### **Proof of Age Cards**

The Licensing Authority expects all responsible licensed premises to have an adopted age verification policy evidenced in writing. The authority would suggest as best practice that premises that sell alcohol adopt the “Challenge 25” and only accept photographic ID as proof of age. The most reliable proof of age includes a passport, a photographic driving licence, or a proof of age card complying with the Proof of Age Standards Scheme (PASS).

### **Refusals Registers**

All licence holders of premises that authorise the sale of alcohol are expected to maintain and use written refusals registers. This requires the licence holder, DPS, or members of staff to record all occasions where a customer has sought to purchase alcohol and has been refused.



Some operators may go one step further and maintain a written challenge register and record all people challenged for appropriate ID and the outcome, whether acceptable ID was shown and the sale made or the sale refused.

## 28.0 Reviews of Premises Licences

Once a licence has been granted the Act allows for the licence to be reviewed by one or more of the Responsible Authorities or any other person affected by its activities such as a resident or local business.

This ensures that those who hold a premises licence continue to operate in such a manner that does not undermine the licensing objectives.

If a review has been applied for a further hearing will be held before a sub-committee of the Licensing Authority to consider the evidence of the alleged activities or conduct undermining the licensing objectives.

Where a standard review of a premises licence has been applied for the Licensing Authority are responsible for advertising the review by placing a notice on the premises and on its website.

The Licensing Authority will check the notice displayed on the premises regularly but is aware that the licence holder may be tempted to remove the notice in order to frustrate the Licensing Authority in complying with the regulations and determining the review application.

The Council does not believe that it is in the interest of the licensing objectives and the residents of the borough to have a review delayed in such a manner so as to allow premises to continue to trade when concerns have been raised that it is undermining the licensing objectives. In such instances the Council will use its best endeavours to ensure that it complies with the regulations but will not deem the review application to be invalidated when intentionally frustrated by the licence holder of the premises being reviewed.

Where there are more serious instances of crime and disorder occurring from a premises within the Borough the Leicestershire Police have powers to call for a Summary Review to enable the Licensing Authority to hold a hearing within 48 hours to put in place interim steps that must be followed by the licence holder until a full hearing can be heard, which must be within 28 days of the application for review having been made.

It is not mandatory for a premises licence holder who is having their premises licence reviewed to attend the hearing; however, the Licensing Authority assumes that those who intend to operate

legally and responsibly will attend in order to work with the Licensing Authority and other responsible authorities. The Licensing Authority will therefore take into consideration the evidence before it as to the alleged incidents undermining the objectives, the risks to members of the public of such incidents being allowed to continue and the licence holders conduct and communication with the authorities leading up to the review. The Licensing Authority will either adjourn the hearing or continue with it in the applicant's absence where it is of the opinion that it is appropriate, necessary and proportionate to do so for the promotion of the licensing objectives.

## 29.0 Early Morning Restriction Orders

The Police Reform and Social Responsibility Act 2011 inserted section 172A into the Act which enables the Licensing Authority to make an early morning restriction order (EMRO). An EMRO will be made by the Licensing Authority if it deems it appropriate for the promotion of the licensing objectives and if made will restrict the sale of alcohol during a specified period between midnight and 6am.

If an EMRO is in effect, it will prevent the sale or supply of alcohol during the times specified in that Order and will override the provisions of any premises licences, club premises certificates and temporary event notices that may have been granted.

The intention of such an Order is to reduce alcohol related issues in local areas and the problems caused by late night drinking.

Prior to making an Order the Licensing Authority is required to follow a statutory process that requires the proposed order to be advertised for a minimum of 42 days on its website, in a local newspaper and by sending notice of the Order to all affected licence holders.

During this 42 day period representations either for or against the proposed Order can be submitted in writing to the Licensing Authority. Representations will be considered at a hearing.

After a hearing the Licensing Authority will then determine whether or not to go ahead with making the Order and if it does so must ensure that it is advertised for at least further 28 days before it comes into effect.

EMROs do not apply to the following:

- Premises which are a hotel, guest house, lodging house or hostel where the supply of alcohol from midnight – 6am is made only to guests staying at the hotel who shall consume it in their room;

- Premises which are authorised to supply alcohol for consumption from midnight – 6am on New Year’s Day, but are not authorised to supply alcohol at these times on any other day of the year; or
- To the sale and or supply of alcohol provided at time authorised by a licensing hours orders made by the Secretary of State under s172 of the Licensing Act 2003 for special occasions deemed to be of ‘exceptional international, national or local significance’ by the Secretary of State (unless the licensing hours order provides otherwise).

The making of an EMRO is a restriction that is contrary to the original intention of the Act by recreating arbitrary fixed trading hours and affects the rights of businesses in the area. The Licensing Authority will not make such an Order lightly and will require evidence to be placed before it that it is appropriate for the licensing objectives for such an Order to be made. The Licensing Authority will normally expect the Police to provide the majority of this evidence but will consider the evidence of any other authority or person on its own merits.

If the licensing objectives are being undermined within the Borough or in a part of the Borough that suggests an EMRO is necessary, the Licensing Authority will expect the Responsible Authorities to have at first worked with those premises in the Borough or part of the Borough that are causing the concerns to resolve the issues. The Licensing Authority shall be satisfied that sufficient efforts have been made to promote the licensing objectives without requiring an Order before such an Order is made.

## 30.0 Late Night Levy

The cost of policing the night-time economy can result in members of the public unfairly contributing to costs of public authorities resulting from the business activities of premises that profit from the provision of licensable activities late at night.

A late night levy (LNL) is a contribution from the holders of a premises licence or club premises certificates that hold ‘late night authorisations’ and operate during the hours of midnight and 6am to the policing of the late night economy.

In deciding whether to impose this levy, the Licensing Authority will consider;

- the costs of policing and any other such arrangements which would be required to address crime or disorder in relation to the supply of alcohol from midnight – 6am; and
- the desire to raise revenue for the local policing body for the purposes of reducing crime and public nuisance, promoting public safety and the cleaning of any relevant highways or land in the area.

A LNL would apply to the whole of the Borough. The amount payable by each premises is prescribed by regulations and will vary based on the rateable value of the premises.

The Licensing Authority is required to decide the date on which the LNL will come into force, the times of the 'late night supply period' and any permitted exemption/reduction categories and the amount of the net amount of LNL payments which is to be given to the local policing body.

Before introducing a LNL, the Licensing Authority is required to consult the Chief Officer of Leicestershire Police and those that hold a relevant premises licence or CPC will be required to pay the levy should it come to affect. The Licensing Authority will also advertise the proposed LNL on its website and in a local newspaper or other such circular/document.

The Regulations provide for the following categories of premises to be exempt from the requirement to pay a levy:

- Hotels, guest houses, lodging houses, hostels
- Theatres
- Cinemas
- Bingo halls
- Community Amateur Sports Clubs (CASCs)
- Community premises
- Country village pubs
- Business Improvement Districts (BIDs)
- Premises authorised to supply alcohol between midnight – 6am on New Year's Day but otherwise not authorised to do so on any other day of the year

The regulations also provide that reductions to the levy will be given to premises that are members of a relevant arrangement authorised by the Licensing Authority – such as a best practice scheme or premises that are in receipt of Small Business Rate Relief and have a rateable value of less than £12,000.

Presently the Licensing Authority are not satisfied that the costs of policing the night time economy in the Borough justify the imposition of a LNL.

## 31.0 Cumulative Impact

The Licensing Authority recognises that there can be confusion about the difference between "need" and "cumulative impact" of premises on the licensing objectives; for example, on crime and disorder. "Need" concerns the commercial demand for another pub, restaurant, etc. and is not a

matter for a Licensing Authority in discharging the licensing functions or for this statement of licensing policy, but is a matter for planning committees and for the commercial market.

Cumulative impact is the potential impact on the promotion of the licensing objectives of a number of licensed premises concentrated in one area.

In some areas where the number, type or density of licensed premises, such as those selling alcohol or providing late night refreshment, is high or exceptional, serious problems of nuisance and disorder may 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.

Queuing in itself may lead to conflict, disorder and anti-social behaviour. Moreover, large concentrations of people may also attract criminal activities such as drug dealing, pick pocketing and street robbery. Local services such as public transport, 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.

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 be greater than the impact of customer 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.

With effect from 6 April 2018, the Policing and Crime Act 2017 introduced the concept of cumulative impact assessments into the Licensing Act 2003 by inserting into the Act a new section: 5A.

A cumulative impact assessment (CIA) may be published by a Licensing Authority to help it to limit the number of types of licence applications granted in areas where there is evidence to show that the number or density of licensed premises in the area is having a cumulative impact and leading to problems which are undermining the licensing objectives. CIAs relate to applications for new premises licences and club premises certificates and applications to vary existing premises licences and club certificates in a specified area. At the current time the Licensing Authority has not published a CIA as there is not currently an evidential basis on which to base such a decision.

If the Licensing Authority were to consider the publication of a CIA in the future, it would do so in accordance with the requirements of section 5A of the Licensing Act 2003 and with regard to the guidance issued by the Secretary of State under section 182 of the Licensing Act 2003.

## 32.0 Other Regulatory Regimes

### **Gambling Act 2005**

The Gambling Act 2005 provides a variety of exemptions and special provisions for premises that hold a premises licence or club premises certificate.

Further details on such provisions are available from the Council by viewing its Statement of Gambling Policy or from the Gambling Commission.

When providing activities under the Gambling Act from a licensed premises the designated premises supervisor (DPS) takes on a special role for compliance (known as the designated person) and is legally responsible for ensuring that those activities are carried out in accordance with the Gambling Act and the codes of practice issued under it.

The Licensing Authority are aware that whilst small scale gambling within bars and clubs can be an enjoyable pastime for many people there is the potential for alcohol to play a role in customers gambling more than they can afford. The Licensing Authority therefore expects premises that provide gambling related facilities to act responsibly.

The Licensing Authority believes that a failure to organise gambling related activities responsibly undermines the licensing objectives and if such conduct results in the review of a premises licence the Licensing Authority may revoke the premises licence or remove the designated premises supervisor from the licence.

### **Planning**

Licensing and planning are separate regulatory regimes with separate considerations. Premises conducting licensable activities will require the appropriate planning permission as well as a licence under the Act. The grant of one does not avoid the need for the other.

Planning considerations are not considerations for the Licensing Authority. However, where a representation is made by the Local Planning Authority suggesting that planning permission is not likely to be granted as it will have an effect on the local amenity (i.e. cause public nuisance) and undermine the licensing objectives the Licensing Authority will consider the evidence and expertise of the planning authority.

When making such a decision the Licensing Authority will consider whether or not it is appropriate for the promotion of the licensing objectives to grant a licence for premises in excess of the hours permitted under planning legislation for that premises. A key consideration will be the evidence of the planning authority as to the reasons why such consent will not be granted and how those reasons relate to the licensing objectives.

### **Building Control**

Building regulations are separate to the licensing regime and Building Control are not a responsible authority and unable to object to licence applications or review premises licences. However, building regulations are designed to ensure the safety of members of the public within premises and evidence of lack of compliance with, or failure to correctly carry out work required by Building Control could be used by the Fire and Rescue Service or Environmental Health as evidence of a public safety risk to review or object to a premises licence.

It is therefore imperative that applicants for licences and existing licence holders ensure that they comply with building regulations.

### **Fire Safety**

The Regulatory Reform (Fire Safety) Order 2005 requires business operators to carry out a thorough assessment of the risks of fire to members of the public on their premises.

It is not the place of the Leicestershire Fire and Rescue service or the Licensing Authority to carry out, or condition, these assessments, as it is a legal duty under the above Order. Failure to do so by a licence holder will endanger members of the public and is a ground for the Licensing Authority to hear a review of a premises licence upon the application of a responsible authority.

### **Health and Safety**

Licensed premises, as an employer of staff and by inviting members of the public onto their premises, have a number of duties under health and safety legislation. This legislation relates to numerous areas such as the hours worked by staff, the risks of broken glass to staff members and customers, food safety and hygiene and many more areas. Applicants and licence holders should ensure that they are familiar with the appropriate and relevant legislation and are able to comply with it.

### **Duplication**

The Licensing Authority recognises that it is unnecessary and inappropriate to duplicate existing legislative requirements by placing similar conditions on a premise licence. However, in certain instances it may be appropriate for the promotion of the licensing objectives where it is clear to the Licensing Authority that the applicant or licence holder lacks the knowledge and awareness of the legislation and to not condition the premises licence would undermine the licensing objectives.



## 33. Live Music Act 2012 and Other Entertainment Licensing Deregulation

The Live Music Act 2012 came into force on 1 October 2012 and is designed to encourage more performances of 'live' music. The Act removes the licensing requirements for:

- Amplified 'live' music between 8am and 11pm before audiences of no more than 200 people on premises authorised to sell alcohol for consumption on the premises;
- Amplified 'live' music between 8am and 11pm before audiences of no more than 200 people in workplaces not otherwise licensed under the 2003 Act (or licensed only for the provision of late night refreshment);
- Unamplified 'live' music between 8am and 11pm in all venues; and
- The provision of entertainment facilities.

Where licensable activities continue to take place on premises, any licence conditions relating to 'live' music will be suspended, but it will be possible to impose new or reinstate existing conditions following a review.

When considering whether an activity constitutes the provision of regulated entertainment each case will be treated on its own merits. There will inevitably be a degree of judgement as to whether a performance is live music or not, so organisers are encouraged to check with the Licensing Authority if in doubt.

There was a further deregulation of entertainment licensing when the Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013 came into force on 27 June 2013. The effect of the order is that no authorisation is required for the following activities to the extent that they take place between 8am and 11pm on any day:

- A performance of a play in the presence of any audience of no more than 500 people;
- An indoor sporting event in the presence of any audience of no more than 1000 people; and
- A performance of dance in the presence of any audience of no more than 500 people.

Entertainment licensing requirements were further deregulated as a result of the Legislative Reform (Entertainment Licensing) Order 2014 which came into force on 6 April 2015. This Order deregulated entertainment licensing in the following ways:

- The provision of regulated entertainment by or on behalf of local authorities, health care providers, or schools on their own defined premises became exempt from entertainment licensing between 8am and 11pm on the same day, with no audience limit.
- The audience limit for a performance of live amplified music in relevant alcohol licensed premises or in a workplace between 8am and 11pm on the same day was raised from 200 to 500.
- Local authorities, health care providers, and schools are now exempt from entertainment licensing when making their own defined premises available to third parties for live and

recorded music activities between 8am and 11pm on the same day for audiences of up to 500.

- Community premises not licensed to supply alcohol are now exempt from entertainment licensing requirements for live and recorded music between 8am and 11pm on the same day for audiences of up to 500.
- Travelling circuses are now exempt from entertainment licensing in respect of all description of entertainment, except an exhibition of a film or boxing or wrestling entertainment, where the entertainment or sport takes place between 8am and 11pm on the same day, with no audience limit.
- Greco-Roman and freestyle wrestling are now deregulated between 8am and 11pm for audiences of up to 1000 people.
- An exhibition of a film that is incidental to another activity (where that other activity is not itself a description of entertainment set out in paragraph 2 of Schedule 1 to the 2003 Act) is now exempt from licensing.

The exhibition of films in community premises has also been deregulated as a result of section 76 of the Deregulation Act 2015.

No licence is required for an exhibition of a film on community premises between 8am and 11pm on any day provided that:

- The film entertainment is not provided with a view to profit;
- The film entertainment is in the presence of an audience of no more than 500 people;
- 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 prior written consent 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.

#### Sexual Entertainment Venues

The Council has adopted a policy in relation to sexual entertainment Venues.

## 34.0 Delegation of Functions

<b>Matter to be dealt with</b>	<b>Full Committee</b>	<b>Sub Committee</b>	<b>Officers</b>
Application for personal licence		If the Police or Home Office give an objection notice	If no objection notice is given by the Police or Home Office

Decision whether to suspend or revoke a personal licence		All cases	
Application for premises licence/club premises certificate		If relevant representations are made	If no relevant representations are made or all representations made are withdrawn
Application for provisional statement		If relevant representations are made	If no relevant representations are made or all representations made are withdrawn
Application to vary premises licence/club premises certificate		If relevant representations are made	If no representations are made or all representations made are withdrawn
Application to vary designated personal licence holder		If the Police or Home Office give an objection notice	If no objection notice is given by the Police or Home Office
Application for the mandatory alcohol condition under the Licensing Act 2003 requiring a Designated Premises Supervisor in respect of a premises licence to be disappplied		If a Police representation is made	All other cases
Decision whether to consult other responsible authorities on minor variation application			All cases
Determination of minor variation application			All cases
Request to be removed as Designated Premises Supervisor			All cases
Application for transfer of premises licence		If the Police or Home Office give an objection notice	If no objection notice is given by the Police or Home Office

Application for interim authority		If the Police or Home Office give an objection notice	If no objection notice is given by the Police or Home Office
Application to review premises licence/ club premises certificate		All cases	
Decision on whether a complaint or objection is irrelevant, frivolous, vexatious, etc.			All cases
Decision for Licensing Authority to act in their capacity as a responsible authority			All cases
Acknowledgement of receipt of a temporary events notice			All cases
Determination of a Police or Environmental Health objection to a temporary events notice		All cases	
Decision to suspend a licence or certificate for non-payment of the annual fee			All cases

## 35.0 Enforcement

The Licensing Authority believes that legislative requirements and the need for certain activities to be licensed are undermined if not proactively enforced. The Licensing Authority also accepts that excessive enforcement can be burdensome to businesses within the Borough.

Enforcement activities will be targeted and risk assessed so that premises that promote the licensing objectives well and work with the Authority are not unduly troubled and more focus is placed on those businesses that undermine the objectives.

The Licensing Authority will ensure compliance with Council's Corporate Enforcement Policy as may be amended from time to time. The Licensing Authority aims to ensure that enforcement is open, fair, reasonable and proportionate.

Enforcement activities by the Licensing Team will be designed to ensure compliance with the conditions attached to licences and the requirements of the Licensing Act itself.

The Licensing Authority also acknowledges that the responsible authorities set out in the Act have a legislative duty to take the lead on issues within their remit. Where concerns are identified by the Licensing Team that relate to the role and duties of another responsible authority the Licensing Team will expect that authority to lead on the investigation and resolution of the issues.

The Authority recognises that other controls are available outside of the Act to promote the Licensing objectives and responsible authorities should not use the Act as a more convenient method to resolve issues that are better suited for resolution under other legislation which they have the power to enforce.

## 36.0 Duration and Review of this Policy

---

The Act requires the Licensing Authority to keep this Policy under review and to formally review and adopt a new Policy at least every 5 years.

Before adopting a new Policy the Licensing Authority are required to at least consult with the Leicestershire Police, the Leicestershire Fire and Rescue Service, the Local Health Board, individuals or organisations representative of licence holders within the Borough and individuals or organisations representative of businesses and residents within the Borough.

Minor changes may be made to this Policy by the Licensing Authority without consultation where those changes are simply to keep this Policy updated with legislative amendments or to clarify and make clear a Policy intention already expressed in this document and having already been consulted on.