

28 September 2022

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| Committee | Licensing |
| Date | Thursday, 6 October 2022 |
| Time of Meeting | 2:30 pm |
| Venue | Tewkesbury Borough Council Offices, Severn Room |

ALL MEMBERS OF THE COMMITTEE ARE REQUESTED TO ATTEND

Agenda

1. ANNOUNCEMENTS

When the continuous alarm sounds you must evacuate the building by the nearest available fire exit. Members and visitors should proceed to the visitors' car park at the front of the building and await further instructions (during office hours staff should proceed to their usual assembly point; outside of office hours proceed to the visitors' car park). Please do not re-enter the building unless instructed to do so.

In the event of a fire any person with a disability should be assisted in leaving the building.

2. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

To receive apologies for absence and advise of any substitutions.

3. DECLARATIONS OF INTEREST

Pursuant to the adoption by the Council on 26 June 2012 of the Tewkesbury Borough Council Code of Conduct, effective from 1 July 2012, as set out in Minute No. CL.34, Members are invited to declare any interest they may have in the business set out on the Agenda to which the approved Code applies.



| Item | Page(s) |
|--|----------------|
| 4. MINUTES | 1 - 22 |
| <p>To approve the Minutes of the Licensing Committee meeting held on 9 June 2022, and the Special Licensing Committee meeting held on 25 August 2022; the Licensing Sub-Committee (Licensing Act 2003 and Gambling Act 2005) meeting held on 28 July 2022; and the Licensing Sub-Committee (Street Trading and Hackney Carriage and Private Hire Vehicles, Drivers and Operators) meetings held on 11 August and 8 September 2022.</p> | |
| 5. REVIEW OF TEWKESBURY BOROUGH COUNCIL'S STATEMENT OF LICENSING POLICY UNDER THE LICENSING ACT 2003 | 23 - 111 |
| <p>To consider the revised Statement of Licensing Policy attached at Appendix B to the report and to recommend to Council that it be approved.</p> | |
| 6. REVIEW OF TEWKESBURY BOROUGH COUNCIL'S STATEMENT OF PRINCIPLES UNDER THE GAMBLING ACT 2005 | 112 - 162 |
| <p>To consider the draft revised Statement of Principles under the Gambling Act 2005, as set out at Appendix B to the report, and to recommend to Council it be adopted and that the Council continues to adopt a "no- casino resolution" for inclusion in the published Gambling Act 2005 Licensing Policy Statement.</p> | |
| 7. UPDATE ON MANDATORY SAFEGUARDING AND EQUALITY AWARENESS TRAINING REQUIREMENT | 163 - 165 |
| <p>To consider the progress made with regard to all licensed drivers undertaking safeguarding and equality awareness training and to note the extension of the deadline for existing drivers to 30 June 2023.</p> | |
| 8. SEPARATE BUSINESS | |
| <p>The Chair will move the adoption of the following resolution:</p> <p>That under Section 100(A)(4) Local Government Act 1972, the public be excluded for the following items on the grounds that they involve the likely disclosure of exempt information as defined in Part 1 of Schedule 12A of the Act.</p> | |
| 9. SEPARATE MINUTES | 166 - 175 |
| <p>To approve the separate Minutes of the Licensing Sub-Committee (Street Trading and Hackney Carriage and Private Hire Vehicles, Drivers and Operators) meetings held on 11 August and 8 September 2022.</p> | |

DATE OF NEXT MEETING

THURSDAY, 16 FEBRUARY 2023

COUNCILLORS CONSTITUTING COMMITTEE

Councillors: K Berliner, G F Blackwell, G J Bocking (Chair), C L J Carter, P A Godwin, D W Gray, E J MacTiernan (Vice-Chair), J W Murphy, P W Ockelton, C Reid, R J G Smith, C Softley, R J Stanley, M G Sztymiak and M J Williams

Substitution Arrangements

The Council has a substitution procedure and any substitutions will be announced at the beginning of the meeting.

Recording of Meetings

In accordance with the Openness of Local Government Bodies Regulations 2014, please be aware that the proceedings of this meeting may be recorded and this may include recording of persons seated in the public gallery or speaking at the meeting. Please notify the Democratic Services Officer if you have any objections to this practice and the Chair will take reasonable steps to ensure that any request not to be recorded is complied with.

Any recording must take place in such a way as to ensure that the view of Councillors, Officers, the public and press is not obstructed. The use of flash photography and/or additional lighting will not be allowed unless this has been discussed and agreed in advance of the meeting.

TEWKESBURY BOROUGH COUNCIL

**Minutes of a Meeting of the Licensing Committee held at the Council Offices,
Gloucester Road, Tewkesbury on Thursday, 9 June 2022 commencing at 2:30 pm**

Present:

Chair
Vice Chair

Councillor G J Bocking
Councillor E J MacTiernan

and Councillors:

C L J Carter, P A Godwin, D W Gray, J W Murphy, C Reid, R J Stanley, M G Sztymiak
and M J Williams

LIC.3 ANNOUNCEMENTS

3.1 The evacuation procedure, as noted on the Agenda, was taken as read.

LIC.4 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

4.1 Apologies for absence were received from Councillors K Berliner, G F Blackwell, P W Ockelton, R J G Smith and C Softley. There were no substitutes for the meeting.

LIC.5 DECLARATIONS OF INTEREST

5.1 The Committee's attention was drawn to the Tewkesbury Borough Council Code of Conduct which was adopted by the Council on 26 June 2012 and took effect from 1 July 2012.

5.2 There were no declarations of interest made on this occasion.

LIC.6 MINUTES

6.1 The Minutes of the Licensing Committee meetings held on 17 February and 17 May 2022 and the Licensing Sub-Committee (Street Trading and Hackney Carriage and Private Hire Vehicles, Drivers and Operators) meetings held on 9 March and 20 April 2022, copies of which had been circulated, were approved as correct records and signed by the Chair subject to amendments to LIC.19.1 and LIC.21.1 to change 14 October 2022 to 14 October 2021.

LIC.7 REVIEW OF TEWKESBURY BOROUGH COUNCIL'S HACKNEY CARRIAGE (TAXI) TABLE OF FARES

7.1 The report of the Licensing Operations and Development Team Leader, circulated at Pages No. 7-11, reviewed Tewkesbury Borough Council's Hackney Carriage (Taxi) table of fares. Members were asked to agree that the proposed increase to the tariff be advertised as a public notice in accordance with the requirements of Section 65 of the Local Government (Miscellaneous Provisions) Act 1976 and, subject to no objections being received from the public within 14 days of publication of the notice, that authority be delegated to the Licensing Operations and

Development Team Leader to implement the proposed tariff taking effect from 1 July 2022.

- 7.2 The Licensing Operations and Development Team Leader advised that the authority was required to review the Hackney Carriage table of fares; the fares had not been reviewed since 2012 and there had been no increase since that time. It was noted there was only one licensed Hackney Carriage driver in the borough. The proposed table of fares was set out at Page No. 9, Paragraph 2.2 of the report and, if Members were happy with the suggested increase, this would be subject to a 14 day public consultation. It was proposed that, subject to no comments being received during that time, authority be delegated to the Licensing Operations and Development Team Leader to implement the tariff.
- 7.3 A Member sought clarification as to when the figures had been calculated as the cost of living was rising at such a rapid rate. The Licensing Operations and Development Team Leader advised that the figures had been reviewed about a month ago. Another Member noted that the request to urgently review the tariff had come from the licensed hackney carriage driver and he asked whether that driver was happy with the rates proposed. In response, the Licensing Operations and Development Team Leader explained that the driver had wanted Tewkesbury Borough Council's rates to be aligned with Cheltenham Borough Council; however, Cheltenham Borough was a much more condensed area than Tewkesbury Borough. Officers had drawn up the proposal as set out in the report which had been sent to the driver who had confirmed he was satisfied. A Member asked what the reason was for the lack of licensed hackney carriage drivers in Tewkesbury Borough and was advised that the trade within the borough was predominantly private hire. Historically, Tewkesbury Borough Council had lower standards in terms of vehicles and drivers than the other authorities within the county; however, that had started to be addressed with the adoption of the Gloucestershire Common Standards earlier in the year. It was hoped that increasing the fares might attract more taxi drivers to the area. A Member asked how private hire fares were determined and was informed these were for pre-booked journeys so a price had to be agreed before the journey – this could be higher or lower than taxi fares. Private hire vehicles could choose to have a meter but, if they did, it had to be set to the same as hackney carriage fares.
- 7.4 A Member asked when the table of fares could be reviewed again and the Licensing Operations and Development Team Leader advised that, if the proposed tariff was adopted, it would be re-looked at in two to three months time due to the cost of living. She provided assurance that fares could be reduced if the cost of living fell significantly. The tariff would then be reviewed on a two to three month basis over the course of the next year.
- 7.5 It was
- RESOLVED** That it be **AGREED**:
- i) that the proposed increase to the Hackney Carriage tariff be advertised as a public notice in accordance with the requirements of Section 65 of the Local Government (Miscellaneous Provisions) Act 1976; and
 - ii) subject to no objections being received from the public within 14 days of publication of the notice, that authority be delegated to the Licensing Operations and Development Team Leader to implement the proposed tariff taking effect from 1 July 2022.

LIC.8 REVIEW OF TEWKESBURY BOROUGH COUNCIL'S STATEMENT OF LICENSING POLICY UNDER THE LICENSING ACT 2003

- 8.1 The report of the Licensing Operations and Development Team Leader, circulated at Pages No. 12-101, asked Members to approve the draft Statement of Licensing Policy, as set out at Appendix B to the report, for statutory consultation.
- 8.2 The Licensing Operations and Development Team Leader advised that licensing authorities had a statutory obligation under the Licensing Act 2003 to review its Statement of Licensing Policy every five years. The Council's current Statement of Licensing Policy was published in October 2014 and expired on 7 January 2019; however, due to COVID and staffing levels within the team, a review had not been carried out until now. A revised draft Statement of Licensing Policy was attached at Appendix B to the report and Members were advised there had been no significant changes to legislation or Government guidance during the past eight years so only minor changes were proposed to reflect current best practice. If Members were satisfied with the revisions, the draft Statement of Licensing Policy would be subject to a 12 week consultation and would be brought back to the Licensing Committee later in the year for Members to consider any comments.
- 8.3 A Member drew attention to Page No. 59, Paragraph 6.1 which stated that "*prior to the publication of this Policy the Licensing Authority consulted with the persons and organisations stipulated in Appendix 7 of the policy*" and he asked how many categories of people had been consulted. In response, the Licensing Operations and Development Team Leader clarified that consultation had not yet been undertaken but, subject to approval by the Licensing Committee today, the list of groups and organisations set out at Appendix 7 of the policy would be consulted. The Member asked how consultation would take place and was advised that the list of groups and organisations would be contacted by email along with Town and Parish Councils and Borough Councillors. The consultation would also be advertised on the Council's website and at the Council Offices. The Member went on to draw attention to Page No. 59, Paragraph 7.1 which stated that "*The policy takes effect xx...*" and asked when that would be. The Licensing Operations and Development Team Leader advised that the policy would take effect from the date it was adopted which was hoped to be by the end of the year. With regard to Page No. 63, Paragraph 11.5 which set out that premises licensed to sell alcohol beyond 11pm in Tewkesbury may be required to become a member of the Pubwatch scheme, a Member asked who determined if that was required and how it was enforced. He also pointed out that it should state Tewkesbury *Borough* unless it was specifically referring to premises within Tewkesbury Town. The Licensing Operations and Development Team Leader explained that Gloucestershire Police was consulted on premises licence applications and, depending on the type of premises, may require them to become part of the scheme. She undertook to amend the wording to clarify that it applied to premises in Tewkesbury Borough.
- 8.4 A Member drew attention to Page No. 33, Paragraph 23, which related to alcohol pricing as he was aware of the potential introduction of minimum unit pricing which he understood had been trialled and was due to roll-out across England. The Licensing Operations and Development Team Leader undertook to ask for an update from the Local Government Association and report back to Members.
- 8.5 It was

RESOLVED

That the draft Statement of Licensing Policy, as set out at Appendix B, be **APPROVED** for statutory consultation subject to an amendment to Page No. 63, Paragraph 11.5 bullet point two to read: "Premises licensed to sell alcohol beyond 11pm in Tewkesbury *Borough* may be required to become members of the Pubwatch scheme (or equivalent)..."

LIC.9 REVIEW OF TEWKESBURY BOROUGH COUNCIL'S STATEMENT OF PRINCIPLES UNDER THE GAMBLING ACT 2005

- 9.1 Attention was drawn to the report of the Licensing Operations and Development Team Leader, circulated at Pages No. 102-152, which asked Members to approve the draft Statement of Principles under the Gambling Act 2005, as attached at Appendix B to the report, for statutory consultation.
- 9.2 The Licensing Operations and Development Team Leader explained that, under the Gambling Act 2005, the Council as the Licensing Authority had a statutory obligation to review its Statement of Principles every three years. Tewkesbury Borough Council's current Statement of Principles had expired on 30 January 2022; however, due to the pandemic and staffing issues, no review had taken place in 2021. A revised draft Statement of Principles was attached at Appendix B to the report. Members were advised that there were no significant changes in terms of how the Gambling Act was administered in Tewkesbury Borough but it had been brought up to date in terms of legislation and best practice. If Members were satisfied with the revisions, the draft Statement of Principles would be subject to a 12 week consultation and would be brought back to the Licensing Committee later in the year for Members to consider any comments.
- 9.3 A Member asked whether every Council had to have a Statement of Principles and what made Tewkesbury Borough Council's different from other authorities. In response, the Licensing Operations and Development Team Leader confirmed that every Council had its own Statement of Principles which varied depending on the gambling practices in the local area, for instance, Cheltenham Borough had a lot more gambling premises than Tewkesbury Borough and therefore would have different requirements. The Member asked if there had been any deficiencies in the existing policy which had needed to be addressed through revision and the Licensing Operations and Development Team Leader advised that there had been nothing wrong with the document itself but it had been updated in terms of the guidance for local authorities. She advised that further updates may be necessary when the Council was in a position to undertake more enforcement work and the Statement of Principles could be reviewed at any point.
- 9.4 A Member noted that the Statement of Principles included the regulation of gambling machines (fruit machines) but made no mention of having them in takeaway food premises so he questioned whether that was legal. The Licensing Operations and Development Team Leader confirmed that, since the Gambling Act 2005 had come into force on 1 September 2007, it was illegal to have gambling machines in takeaway food shops and other non-arcade premises such as cafes and restaurants, taxi offices etc. She undertook to include a sentence in the document to reflect that.
- 9.5 It was
- RESOLVED** That the draft Statement of Principles under the Gambling Act 2005, as set out at Appendix B to the report, be **APPROVED** for statutory consultation, subject to an amendment to include a sentence to reflect that it was illegal to have gambling machines in takeaway food shops and other non-arcade premises such as cafes and restaurants, taxi offices etc.

LIC.10 SEPARATE BUSINESS

10.1 On a proposal from the Chair, it was

RESOLVED That, under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following items on the grounds that they involve the likely discussion of exempt information as defined in Part 1 of Schedule 12A of the Act.

LIC.11 SEPARATE MINUTES

11.1 The separate Minutes of the meetings of the Licensing Sub-Committee (Hackney Carriage and Private Hire Vehicles, Drivers and Operators) held on 9 March and 20 April 2022, copies of which had been circulated, were approved as correct records and signed by the Chair.

The meeting closed at 2:50 pm

TEWKESBURY BOROUGH COUNCIL

Minutes of a Meeting of the Special Licensing Committee held at the Council Offices, Gloucester Road, Tewkesbury on Thursday, 25 August 2022 commencing at 2:30 pm

Present:

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| Chair | Councillor G J Bocking |
| Vice Chair | Councillor E J MacTiernan |

and Councillors:

G F Blackwell, P A Godwin, D W Gray, J W Murphy, P W Ockelton, C Reid, R J G Smith, M G Sztymiak and M J Williams

LIC.12 ANNOUNCEMENTS

12.1 The evacuation procedure, as noted on the Agenda, was advised to those present.

LIC.13 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

13.1 Apologies for absence were received from Councillors K Berliner and C Softley. There were no substitutes for the meeting.

LIC.14 DECLARATIONS OF INTEREST

14.1 The Committee's attention was drawn to the Tewkesbury Borough Council Code of Conduct which was adopted by the Council on 26 June 2012 and took effect from 1 July 2012.

14.2 There were no declarations of interest made on this occasion.

LIC.15 AMENDMENT TO CURRENT VEHICLE REQUIREMENTS FOR HACKNEY CARRIAGE (TAXI) AND PRIVATE HIRE VEHICLES

15.1 Attention was drawn to the report of the Licensing Operations and Development Team Leader, circulated at Pages No. 1-4, which asked Members to approve the proposed amendment to the current Hackney Carriage (Taxi) and Private Hire Licensing Policy in relation to vehicle requirements, as set out at Paragraph 3.2 of the report, for a 12 week consultation with licence holders.

15.2 The Licensing Operations and Development Team Leader advised that, where vehicles were converted from goods vehicles (N1) to passenger vehicles (M1), they should obtain a Basic Individual Vehicle Approval (IVA) test at a Driver and Vehicle Standards Agency (DVSA) approved test station. In autumn 2021, the Interim Licensing Team Leader had discovered that a number of licensed private hire vehicles were N1 category vehicles as seen on the V5 logbook; this meant they had not been through any testing to ensure they were safe which meant there was a risk to public safety. All licence holders had been written to in October 2021 informing them of the requirement to obtain updated V5s to demonstrate that the conversions were safe and complied with M1 standards; however, representations made by the trade stated that the DVLA was reluctant to update V5s and that this

request could not be met. Counsel advice had subsequently been sought which was clear that the Council should satisfy itself as quickly as possible that the vehicles were safe for use, whilst also updating its policy so the requirement was adhered to when licensing vehicles.

- 15.3 Throughout June/July 2022, all relevant vehicles had been tested by an approved garage in Gloucestershire so all were safe to be on the road but a Basic IVA needed to be obtained from the DVSA; whilst the check carried out by the garage was to IVA standard, the garage was not DVSA approved. It was proposed to include this as a requirement within the Hackney Carriage (Taxi) and Private Hire Licensing Policy and all licence holders had been made aware of that. The proposed wording of the requirement was set out at Paragraph 3.2 of the report and included a list of acceptable approvals e.g. new vehicles may have a European Whole Vehicle Type approval which was a different type of document where conversion had taken place; this wording reflected that within the policies of the other licensing authorities in Gloucestershire.
- 15.4 With regard to insurance, a Member asked whether the Council would be liable if a vehicle without the right paperwork was involved in an accident. In response, the Licensing Operations and Development Team Leader clarified that there was no legal requirement to obtain a Basic IVA. As the vehicles had been tested and were now deemed as being safe to be on the road, Officers were satisfied this was not a risk to the authority. It was noted that licence holders had also been asked to notify their insurance companies so they were aware that the vehicles had been converted.
- 15.5 It was
- RESOLVED** That the proposed amendment to the current Hackney Carriage (Taxi) and Private Hire Licensing Policy in relation to vehicle requirements, as set out at Paragraph 3.2 of the report, be **APPROVED** for a 12 week consultation with licence holders.

LIC.16 HACKNEY CARRIAGE (TAXI) AND PRIVATE HIRE LICENSING POLICY REVIEW STAGE 2 - CCTV

- 16.1 The report of the Licensing Operations and Development Team Leader, circulated at Pages No. 5-13, asked Members to approve a public consultation on CCTV in taxi and private hire vehicles as detailed at Appendix A to the report.
- 16.2 The Licensing Operations and Development Team Leader advised that the Licensing Committee had adopted the Gloucestershire Common Standards for taxi and private hire licensing in October 2021 – this was the first stage of work undertaken by the Gloucestershire Licensing Officer Group to consider and comply with the statutory standards issued by the Department of Transport in 2020. Following on from that work, a second stage of the Common Standards was now being undertaken in relation to the recommendation that all licensing authorities should consult on the impact of having CCTV in vehicles. The Gloucestershire Licensing Officer Group had come up with the proposed consultation questions set out at Pages No. 11-13 of the report with the aim of identifying if there was local evidence that would support each local authority introducing a mandatory CCTV policy. It was intended that each of the Gloucestershire licensing authorities would use the same consultation document and consult at the same time and the Gloucestershire Licensing Officer Group would meet to discuss the responses before looking at any further steps.

- 16.3 A Member asked what views had been expressed to date and the Licensing Operations and Development Team Leader advised it was very mixed, some did not want CCTV due to the financial implications - it was noted that a decent system could be purchased for around £300 – whereas the Police were quite keen to introduce it. She pointed out that Gloucestershire County Council already had a requirement for CCTV to be used for school contracts. The Member felt that the views of passengers would be important but they were not necessarily easy to reach so he asked how it was proposed to consult with them. The Licensing Operations and Development Team Leader indicated that it was intended to work with the Communications team to promote the consultation on social media and the Council's website. Another Member asked who was collating the responses and whether the Licensing Committee would be able to see the responses received by the other Gloucestershire licensing authorities. The Licensing Operations and Development Team Leader advised that there was a lot of work still to do but she undertook to keep Members updated and indicated that the responses would be brought back to the Committee in due course.
- 16.4 A Member drew attention to Page No. 13 of the report and indicated there was a typographical error in question 2 under the 'Extra Questions for licence holders' section where 'have' had been placed at the end of the sentence. The Licensing Operations and Development Team Leader undertook to ensure this was amended. It was subsequently

RESOLVED That a public consultation on CCTV in taxi and private hire vehicles be **APPROVED** as detailed at Appendix A to the report, subject to an amendment to Page No. 13, question 2 as follows: Do you **have** a CCTV system installed in your current licensed vehicle?**have**

The meeting closed at 2:40 pm

TEWKESBURY BOROUGH COUNCIL

Minutes of a Meeting of the Licensing Sub-Committee (Licensing Act 2003 and Gambling Act 2005) held at the Council Offices, Gloucester Road, Tewkesbury on Thursday, 28 July 2022 commencing at 2:30 pm

Present:

Chair

Councillor G F Blackwell

and Councillors:

J W Murphy and R J Stanley (Substitute for P W Ockelton)

LSB/A.1 ELECTION OF CHAIR

1.1 It was proposed, seconded and

RESOLVED That Councillor G F Blackwell be appointed as Chair for the meeting.

LSB/A.2 ANNOUNCEMENTS

2.1 The evacuation procedure, as noted on the Agenda, was advised to those present.

LSB/A.3 DECLARATIONS OF INTEREST

3.1 The Committee's attention was drawn to the Tewkesbury Borough Council Code of Conduct which was adopted by the Council on 26 June 2012 and took effect from 1 July 2012.

3.2 There were no declarations of interest made on this occasion.

LSB/A.4 PREMISES LICENCE APPLICATION - REF: 22/00773/LIQPRM - THE COURT, TITHE BARN, BROCKWORTH COURT, COURT ROAD, BROCKWORTH, GL3 4QU

4.1 The report of the Licensing Operations and Development Team Leader, circulated at Pages No. 1-73, outlined an application for a premises licence in respect of The Court, Tithe Barn, Brockworth Court, Court Road, Brockworth, GL3 4QU. The Licensing Sub-Committee was asked to determine the application by either granting the application as applied for; granting the application but with modifications to times or conditions appropriate to promote the licensing objectives; or, rejecting all or part of the application.

4.2 The Chair asked all parties present to identify themselves and explained the procedure that would be followed by the Sub-Committee. The Environmental Health Manager advised that an application had been received under the Licensing Act 2003 for a premises licence for The Court, Tithe Barn, Brockworth Court, Court Road, Brockworth. The application sought authorisation for the sale of alcohol, live music (indoors only) and recorded music (indoors only) between the hours of 1100-2330 on Wednesday and Saturday. As part of the application process, the applicant had provided an operating schedule which set out the steps they intended to take to

promote the four licensing objectives: prevention of crime and disorder; prevention of public nuisance; protection of children from harm; and public safety. During the consultation period, comments had been received from the Environmental Health Authority and the Chief of Police and a number of conditions had subsequently been agreed with the applicant, as set out at Pages No. 2-4, Paragraphs 2.2-2.3 of the report. No comments had been received from any of the other statutory consultees but five representations were received from other persons in relation to the application and they were set out at Appendix D to the report. The Sub-Committee was asked to determine the application either by granting the application as applied for; granting the application but with modification to times or conditions appropriate to promote the licensing objectives; or rejecting all, or part, of the application.

- 4.3 The Chair invited questions for the Environmental Health Authority as the responsible authority present at the meeting. A Member noted that the hours applied for were 1100-2330 and she asked whether the doors would actually close at 2330 hours. In response, the Environmental Health Manager confirmed that the cessation of the licensable activities would be at 2330 hours rather than that being the time when people exited the building. The Member observed that the application was for Wednesdays and Saturdays and queried whether a further application would be required if the applicant wanted to extend the licensable activities to other days of the week. The Environmental Health Manager clarified that another application would be required to vary the licence in that scenario. It would also be possible to apply for a Temporary Events Notice (TEN); it was noted that, if a premises licence was in place, the Police or Environmental Health could submit an objection requesting that licence conditions be applied to the TEN.
- 4.4 In questioning the responsible authorities, a Member asked what measures would be put in place as part of the noise management plan. In response, the Environmental Health Officer advised that a full noise management plan was awaited from the venue and would include those items which had been agreed as conditions, for instance, ensuring all external windows and doors were kept shut when regulated entertainment was being provided; displaying prominent, clear and legible notices at all exits requesting patrons to vacate the premises quietly, installation of a tamper-proof noise limiting device – it was noted that Environmental Health would work with the applicant to set the levels and there would be a requirement for at least one noise check to be conducted by the Premises Licence Holder, or a responsible person nominated by them, after 2230 hours outside the premises close to the nearest noise sensitive receptors when regulated entertainment was taking place. A Member asked whether the noise limiting device was set to a standard decibel level and the Environmental Health Officer advised that an assessment was made based on what was reasonable taking into account the applicant's needs and the impact on neighbours – it did not need to be set to a standard decibel level. Another Member asked how long Environmental Health would continue to visit the site and was advised that the initial setting-up of equipment involved an Officer going out on site – once it had been set to an agreed level that was where it would stay unless there were any significant changes to the licence in future. A Member noted that the equipment was required to be tamper-proof and asked what prevented it from being altered. The Environmental Health Officer advised that a limited number of specified people should have access to the equipment; it should not be accessible to members of the public – how the access was limited depended on the type of system used. A Member raised concern that, although it was intended to keep windows and doors closed at the venue, people would inevitably be going in and out for cigarettes etc. which would impact on local residents and he asked if it was possible to set the noise limiter based on a more realistic scenario when the doors/windows were open. In response, the Environmental Health Officer confirmed that the system would be set with the doors and windows closed as they would only be expected to be open momentarily for exit

and egress when music was being played. In response to a query, the Environmental Health Officer confirmed that, should the licence be granted, it could not be used until the noise management plan had been agreed.

- 4.5 A Member noted that the venue had hosted a number of permitted events under TENs and she asked how many of the proposed licence conditions were already in place for TEN events. In response, the Environmental Health Officer clarified there were no strict conditions to follow for TENs which were based on more informal agreements. Having a premises licence in place would provide an opportunity for mitigation over and above the statutory noise regime. A Member understood it was possible to buy directional speakers and he asked if that was something which could be considered. The Environmental Health Officer confirmed they were available but whether they were beneficial depended on the layout of the venue; however, he provided assurance that it did not matter what direction the speakers faced as it would be captured by the noise limiter so that was the crucial element. Another Member drew attention to Page No. 6, Paragraph 5.4.3 of the report which stated that more sophisticated measures, like the installation of rubber curtains or rubber speaker mounts, to mitigate sound escape may be appropriate and she asked whether it would be possible to require further measures to be put in place if those initially agreed proved not to be adequate. The Environmental Health Officer advised that the paragraph referred to related guidance and it was considered that the conditions proposed would be sufficient to mitigate any substantial concern – it was very rare to have to go back and ask for additional measures, although that was potentially something which could be considered if there did prove to be an issue once the licence had been granted and was in operation.
- 4.6 The Chair invited the local resident present at the meeting to address the Sub-Committee. The local resident explained that the 20 months she had been living at the property had been miserable due to the high levels of disturbance caused by noise functions at the Tithe Barn and she had been reduced to tears many times. She had complained to the Council on 13 July and had noise monitoring equipment installed in her house as events had gone on until 2330, 2345 and 0015 hours. She indicated that her house was a three storey building and the noise travelled incredibly far – she had been forced to move her son's nursery from the back of the house to the front as a result. Whilst she appreciated this was a business opportunity for the applicant and she did not want to stand in the way of that, it was very tough for residents and she pointed out that her neighbours felt the same sense of dread when they saw a sign for a wedding at the venue. It was not just the noise from music which was a problem but the disturbance from guests singing and leaving the venue – the car park was almost directly behind her property. She indicated that she had attended the meeting as she wanted to put a human voice to her representation and convey what an incredibly difficult year it had been due to the number of events and their frequency. She had particular concerns about the reference to 'summer months' and which months that actually covered and what would happen if the noise conditions imposed were not met, for instance, if doors were left open due to extremely hot weather as had been experienced recently – she could not stop the event as that would be ruining someone's wedding day and she could not go to the venue and say it was a problem. One of her neighbours had echoed these concerns in a written representation.
- 4.7 The Chair invited the applicant's representative to make their case. The applicant's representative advised that she was the applicant's business partner and sister. The premises had been a wedding venue for over 11 years and was a much-needed resource for the local economy, creating work for local suppliers such as caterers etc. Their bars had been operating for seven years, serving around 250 events, and had never had any problems. Currently, the TENs applied for required licensable activities to cease at 2330 hours and, whilst she could not speak for other bars using the venue, she confirmed they had adhered to that. She explained that, going

forward, if the licence was granted, theirs would be the only bar working from the venue so she could say with confidence that the music and bar would stop at 2330 hours. She indicated that she would welcome the introduction of a noise limiter as that would avoid them having to turn the microphone down.

- 4.8 In response to a query regarding the other bars using the venue, the applicant's representative explained that currently any bar could apply to use the venue under a TEN so it was not always their bar in the venue; however, she clarified that the owner of the venue would like them to be the only bar working from there so, if the premises licence was granted, it would only be them working from the venue going forward. A Member asked how many TENs the applicant had applied for this year and the applicant's representative indicated that she was unsure of the exact number but thought it was around four. A Member asked whether any formal complaints had been received in relation to those events and the applicant's representative confirmed she was not aware of any. Another Member asked if the Environmental Health team knew of any complaints being made at times the applicant had been using the venue and the Environmental Health Officer advised that they were not necessarily made aware of which bar was at the venue at a particular time. The Licensing Officer indicated that the Tithe Barn was a popular venue for weddings and engagement parties so there was a lot of rotation from various people. A TEN was a notification to the Licensing Authority which was not able to refuse them although the Police or Environmental Health did have the option to make representations against them with an option for a counter-notice to be served, although that was very rare. The Licensing Officer went on to advise that it was the premises which was granted the licence and Members were required to make a decision based on how the noise impacted residents and the surrounding area so it was irrelevant if it was the applicant holding the TENs at the time of any complaints or someone else. A Member noted there was a lot of residential development within the area surrounding the venue over the last couple of years so a greater number of properties were potentially being impacted by functions at the venue so he asked whether any additional measures had been put in place to mitigate noise impacts as a result of that. The Environmental Health Officer confirmed this was outside of the licensing regime; whilst there was an ongoing investigation within Environmental Health, no statutory nuisance had been established up to this point so it was not in a position to ask for further action to be taken. The Member recognised it may not be possible to compel any action but the owners must be aware of the complaints from residents so he asked if they had put in place any measures as a result. The Licensing Officer indicated that was not something she was able to answer; however, she pointed out that, if there was a premises licence in place, it would allow better management of the premises if any complaints were received as the Licensing Authority would be able to step in and take enforcement action for breach of condition. A Member asked what the impact would be if the premises licence was granted and the Environmental Health investigation subsequently established a statutory nuisance and the Environmental Health Officer explained that situation should not arise as the Licensing team would be involved before it reached that stage; nevertheless, it was a possibility and he pointed out that the more mitigation measures added as conditions, the less likely it was that a statutory nuisance would be established.
- 4.9 A Member noted that the application form referred to the 'summer wedding season' and she asked if it was intended to hold weddings at the venue outside of that period. The applicant's representative explained that May to September tended to be the key time for weddings. She explained that they had been operating on Wednesdays and Saturdays to try to catch up with some of the COVID backlog but the applicant would be happy to drop Wednesdays and for the premises licence to apply to Saturdays only as they did not want to be a nuisance to anyone. A Member raised concern that people often placed large orders at the bar just before it closed

so they may still be drinking beyond 2330. The applicant's representative confirmed that did happen and there was no rule preventing that; however, music would stop and the bar would close at 2330 hours when the staff would start to close down; they were last to leave and would normally be in the van and ready to go by 0000-0015 hours. Another Member indicated that, in his experience, people would carry on for as long as the music lasted so he asked if the applicant would have any objection to the licensable activities stopping earlier than 2330 hours in order to ensure that people had all left the venue before midnight. The applicant's representative reiterated there had never been an issue with getting people out of the venue and she pointed out that there tended to be a lot fewer guests at 2330 hours compared to 1900 hours, some of whom were staying in the bed and breakfast accommodation which was available at the venue. It would be a less attractive venue to book if the licensable activities were required to stop before 2330 hours. The Licensing Officer pointed out that the Live Music Act 2012 permitted live music until 2300 hours so it was more about the dispersal of guests as noise could be caused by people leaving the premises. The Legal Adviser clarified that the venue could have live music until 2300 hours without a licence – the application was seeking an additional 30 minutes.

- 4.10 In response to a query about what action was taken by the applicant to prevent disturbance which may result in complaints, the applicant's representative advised that they did not serve anyone who was drunk and kept doors closed – the bar was in a separate hall from the music and they made sure the doors between the two were kept shut as much as possible, although there would always be people going in and out. The applicant's representative indicated that, should the premises licence be granted, they would be the only bar using the venue, therefore any complaints received could confidently be attributed to them in future.
- 4.11 The Legal Adviser asked the local resident whether the applicant's offer to restrict the licence to Saturdays only had changed their objection in any way. The local resident confirmed that it would certainly be preferable - she was a teacher so being kept awake on weeknights was a problem. She welcomed the discussion about stopping the licensable activities earlier than 2330 but indicated that she was not here to ruin a business opportunity and, ultimately, granting the premises licence seemed to offer greater control than a TEN. The Licensing Officer clarified that granting the premises licence would not prevent TENs for events on other nights of the week. A Member noted that the owner had stated they only wanted the applicant to work from the venue so they would be the only bar there; however, she asked whether other events which did not require a bar would be able to go ahead. The applicant's representative explained that the Tithe Barn was used solely as a wedding venue and not for any other events. The Member understood it had previously been used as a village hall and the applicant's representative confirmed that was no longer the case. In response to a query as to whether the applicant had signed a contract with the owners, the applicant's representative advised it was a verbal contract but they had a very good relationship with the owners so were happy it was a concrete offer and she was sure they would be very happy to put it in writing. A Member asked whether planning permission was required for change of use if the premises licence application was successful and the applicant's representative confirmed that was correct.
- 4.12 A Member noted that some of the written representations from other persons stated that the statutory notice put up by the Licensing Authority was inaccessible due to being on a private driveway and one posted on the gate had been removed within 24 hours so she asked how that had been addressed to ensure the application had been properly advertised. The Licensing Officer explained that she had spoken to the applicant during the consultation process and asked him to put up the notice and requested photographic evidence of that. Given that the notice had been displayed off-road and was not visible to the public, she had asked for a duplicate notice to be displayed on the gate at the front and photographic evidence had been provided of

that showing the area and where it was displayed so she was satisfied that met the Licensing Authority's requirements. She pointed out that the application had also been advertised in the local newspapers, which was another requirement of the application process, and it was available on the Council's website.

- 4.13 The Chair invited the applicant's representative to make any final comments. In summing up, the applicant's representative indicated that they were willing to work with the Licensing Authority to meet its requirements and she hoped that removing Wednesdays from the application would help to alleviate some of the concerns of the local residents.
- 4.14 The Chair indicated that the Sub-Committee would retire to make its decision.
- 4.15 When the meeting reconvened, the Chair advised that, having considered the application; the evidence provided; the representations made by all parties, including those made at the hearing; the provisions of the Licensing Act 2003, the obligation to promote the four licencing objectives; the relevant sections of the Council's Statement of Licensing Policy and the Statutory Guidance it was

RESOLVED That the premises licence be **GRANTED** as set out in the attached Decision Notice.

The meeting closed at 4:15 pm

DECISION NOTICE

COMMITTEE: Licensing Sub-Committee (Licensing Act 2003 and Gambling Act 2005)

DATE: Thursday, 28 July 2022

Premises: The Court, Tithe Barn, Brockworth Court, Court Road, Brockworth, GL3 4QU.

Applicant: Carl Richardson

Application for a premises licence under the Licensing Act 2003.

Present: Councillors G F Blackwell (Chair), J W Murphy and R J Stanley.

Representatives of applicant: Applicant's business partner.

Responsible Authorities: Environmental Health Officer, Tewkesbury Borough Council.

Other parties addressing the Sub-Committee: One resident of Plough Close.

SUMMARY OF REPRESENTATIONS

1. Three responsible authorities had made representations in relation to the application: Environmental Health Authority, Gloucestershire Constabulary and the Local Planning Authority.
2. The Environmental Health Authority and Gloucestershire Constabulary subsequently agreed conditions for inclusion within the Operating Schedule.
3. Five representations had been received from other persons in relation to the application all objecting to the application.

THE APPLICATION

Relevant licensable activities and hours applied for:

| | | |
|---------------------------|------------------------|------------------------------|
| Sale by retail of alcohol | Wednesday and Saturday | 11:00 – 23:30 (on sales) |
| Live music | Wednesday and Saturday | 11:00 – 23:30 (indoors only) |
| Recorded music | Wednesday and Saturday | 11:00 – 23:30 (indoors only) |

AMENDMENT TO THE APPLICATION BY THE APPLICANT

| | | |
|---------------------------|----------|------------------------------|
| Sale by retail of alcohol | Saturday | 11:00 – 23:30 (on sales) |
| Live music | Saturday | 11:00 – 23:30 (indoors only) |
| Recorded music | Saturday | 11:00 – 23:30 (indoors only) |

DECISION

Having considered the application; the evidence provided; the representations made by all parties, including those made at the hearing; the provisions of the Licensing Act 2003, the obligation to promote the four licencing objectives; the relevant sections of the Council's Statement of Licensing Policy and the Statutory Guidance it was resolved that the premises licence be **GRANTED** in accordance with the application set out, subject to the following amendments and conditions:

AMENDMENTS AND ADDITIONAL CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE AS AMENDED BY THE SUB-COMMITTEE

1. All mandatory conditions to be added to the licence.
2. The licence will run from 1 May to 30 September in every year.
3. The licence will be for Saturdays only.
4. A noise management plan is to be produced in writing and must be agreed with the Environmental Health Authority prior to licensable activity taking place.
5. The Premises Licence Holder will ensure that notices are displayed at all exits requesting persons leaving the premises do so quietly and do not cause unnecessary disturbance to the neighbourhood.

CONDITIONS CONSISTENT WITH THOSE RECOMMENDED BY THE RESPONSIBLE AUTHORITIES AND AGREED WITH THE APPLICANT

1. All external windows and doors must be kept shut at all times when regulated entertainment is being provided. Doors may be opened for normal entrance and egress of people but must be shut immediately thereafter.
2. The location and orientation of loudspeakers must be as specified on the attached premises plan.
3. Prominent, clear and legible notices shall be displayed at all exits requesting patrons to respect the needs of local residents and to vacate the premises quietly.
4. There shall be no deliveries or collections relating to licensable activities at the premises will take place between the hours of 2100 and 0800 on any day.
5. There shall be no emptying of recycling (Inc bottle bins) or waste bins between the hours of 2000 and 0800 on any day.
6. The Premises Licence Holder (PLH) or a responsible person nominated by the PLH shall maintain a log of complaints in respect to nuisance. The log should be kept for a continuous 12 month period and be made available for inspection by officers of Tewkesbury Borough Council. (The complaint log shall include name and address of complainant, date/ time, nature of complaint and action to remedy, where applicable).

7. A tamper-proof noise limiting device must be installed and must operate at all times regulated entertainment takes place at the premises and set to levels agreed in writing with the Environmental Health Department of Tewkesbury Borough Council. All musical entertainment (live and recorded) will need to use the noise-limiting device.
8. The Premises Licence Holder (PLH) shall provide a Noise Management Plan which will need to be agreed in writing with Environmental Health Department of Tewkesbury Borough Council.
9. When regulated entertainment is taking place, the Premises Licence Holder (PLH) or a responsible person nominated by PLH shall conduct at least one noise check after 2230 hours outside the premises close to the nearest noise sensitive receptors (houses). Noise checks shall be logged and kept for a minimum of 12 months. (The noise check log shall include staff member, exact location, date/time, weather conditions, noise levels observed and corrective actions if applicable).
10. The Premises Licence Holder shall ensure that a notice shall be displayed at all times requesting customers leave quietly and avoid causing nuisance to local neighbours.
11. Doors and windows at the premises are to remain closed after 2300 hours, save for access and egress.
12. The premises will adopt a 'Challenge 25' policy. This means that if a customer purchasing alcohol appears to be under the age of 25, they will be asked for proof of their age, to prove that they are 18 years or older. Posters will be on display advising customers of the 'Challenge 25' policy. The only forms of identification that will be accepted at the premises are a passport, UK photo-card driving licences, military ID and cards bearing the 'PASS' hologram.
13. The Premises Licence Holder shall operate and maintain an up to date 'Register of Refusals' of Sale of Alcohol / Incident Book indicating the date, time and reason(s) for refusal / incident that has taken place. The Designated Premises Supervisor (DPS) shall check the book once a month ensuring that it is up to date. The DPS will sign and date the book each time it is checked. The book shall be made available for inspection upon the request of a duly authorised officer of the Licensing Authority or Police.
14. The Designated Premises Supervisor (DPS) shall ensure that all staff concerned in the sale of alcohol are trained in their responsibilities under the Licensing Act 2003, particularly concerning drunk sales, underage sales and proxy sales. Training will include challenging every individual who appears to be under 25 years of age, and to refuse service where individuals cannot produce acceptable means of identification, and using the refusal register. Such training (including any refresher training) will be logged and provided not less than every twelve/six/three months. The training log shall be made available for inspection by Police and "authorised persons" immediately upon request.
15. Notices must be displayed in prominent positions indicating that the Challenge 25 policy is in force.
16. Spillages and breakages will be removed as soon as possible to reduce the risk to patrons and staff.
17. The premises will have adequate safety and firefighting equipment and such equipment will be maintained in good operational order.
18. Staff will be trained on matters of safety, evacuation and use of emergency equipment as required.
19. The DPS shall ensure there is a well-stocked First Aid box available on the premises at all times and all staff shall be informed of its location.

REASON

The Licensing Sub-Committee considered that it must carry out its functions with a view to promoting the four licensing objectives, as set out in Section 4(2) of the Licensing Act 2003. The Sub-Committee could not take into account representations which did not relate to one or more of those licensing objectives and it was acknowledged that any representations received must be relevant and evidenced-based.

Other Persons' Objections

In making oral representations to the Sub-Committee, the Other Persons highlighted a number of concerns, including:

1. The fears of a detrimental impact on the neighbours if the application was to be granted.
2. The potential impact of noise and disorder in connection with business.
3. The potential adverse impacts on local residents from late night opening of the premises.
4. The potential anti-social behaviour of attendees near the homes of the residents because of the close proximity of the premises.

Applicant's Submissions

The applicant's business partner informed the Sub-Committee that the applicant had been running weddings from this premises for the last seven years without any issue and stated that "summer months" referred to May – September.

The applicant had operated many successful events under Temporary Event Notices (TENs) and there has been no evidence of any of the licensing objectives being undermined at any point.

Consideration

In determining the application, the Licensing Sub-Committee considered the fact that no Responsible Authorities had objected to the application. It also considered the steps put forward by the applicant to promote the licensing objectives, both in the application and in the compromise with the Environmental Health Authority in respect of a noise management plan being put in place to alleviate concerns raised in the objections.

Furthermore, the Sub-Committee could see there was no substantial evidence at this time to show that the applicant had not run the premises in accordance with the licensing legislation or that this was going to change in the future.

The Sub-Committee recognised the concerns expressed by objectors and offered its sympathies to them but hoped the fact that a Wednesday night was no longer part of the application and the implementation of a noise management plan would alleviate some of their concerns.

APPEAL

All parties were reminded of their rights of appeal against the Licensing Authority's decision pursuant to Section 181 of and Schedule 5 to the Licensing Act 2003. An appeal must be made to the Magistrates' Court and commenced within 21 days of notification of the authority's decision.

REVIEW

All parties were reminded of the procedures contained within the Licensing Act 2003 relating to the potential review of a premises licence. This provision allowed the public, businesses or Responsible Authorities to apply for a review of a premises licence where problems arose, in relation to the licensing objectives: crime and disorder, risks to public safety, public nuisance or failure to protect children from harm.

The Licensing Authority respectfully reminded all parties that, for any review to be successful in restricting a licence, evidence would need to be collected of incidents occurring that demonstrated that the licensing objectives were not being adequately promoted.

LSB/B.4 SEPARATE BUSINESS

4.1 On a proposal from the Chair, it was

RESOLVED That, under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following items on the grounds that they involve the likely discussion of exempt information as defined in Part 1 of Schedule 12A of the Act.

LSB/B.5 APPLICATION FOR A PRIVATE HIRE DRIVER'S LICENCE

(Exempt – Paragraph 2 of Part 1 of Schedule 12A of the Local Government Act 1972 – Information which is likely to reveal the identity of an individual)

5.1 The Sub-Committee **REFUSED** a private hire driver's licence as the applicant could not be considered a fit and proper person to hold a such a licence.

LSB/B.6 APPLICATION FOR A PRIVATE HIRE DRIVER'S LICENCE

(Exempt – Paragraph 2 of Part 1 of Schedule 12A of the Local Government Act 1972 – Information which is likely to reveal the identity of an individual)

6.1 The Sub-Committee **GRANTED** a private hire driver's licence for a period of one year.

LSB/B.7 APPLICATION FOR A PRIVATE HIRE DRIVER'S LICENCE

(Exempt – Paragraph 2 of Part 1 of Schedule 12A of the Local Government Act 1972 – Information which is likely to reveal the identity of an individual)

7.1 The Sub-Committee **REFUSED** an application for a private hire driver's licence as the applicant could not be considered a fit and proper person to hold a such a licence.

LSB/B.8 APPLICATION FOR A PRIVATE HIRE DRIVER'S LICENCE

(Exempt – Paragraph 2 of Part 1 of Schedule 12A of the Local Government Act 1972 – Information which is likely to reveal the identity of an individual)

8.1 The Sub-Committee **GRANTED** a private hire driver's licence for a period of one year.

The meeting closed at 12:33 pm

TEWKESBURY BOROUGH COUNCIL

| | |
|----------------------------------|---|
| Report to: | Licensing Committee |
| Date of Meeting: | 6 October 2022 |
| Subject: | Review of Tewkesbury Borough Council's Statement of Licensing Policy under the Licensing Act 2003 |
| Report of: | Licensing Operations and Development Team Leader |
| Head of Service/Director: | Head of Community Services |
| Lead Member: | Lead Member for Clean and Green Environment |
| Number of Appendices: | 2 |

Executive Summary:

A draft revised Statement of Licensing Policy was approved by the Licensing Committee for consultation at its meeting on 9 June 2022. Following the consultation, Members are asked to consider the final draft Policy and recommend it to Council for approval.

Recommendation:

To CONSIDER the revised Statement of Licensing Policy, attached at Appendix B, and to RECOMMEND TO COUNCIL that it be APPROVED.

Financial Implications:

None arising directly from this report.

Legal Implications:

The Licensing Act 2003 came into force on 24 November 2005 and transferred the responsibility for licensing premises and persons selling alcohol from the courts to local authorities.

A requirement of the legislation is that all local authorities (or Licensing Authorities as they are known under the Act) must draft, consult on and publish a 'Statement of Licensing Policy'. The Statement of Licensing Policy must have regard to the content of a set of guidance notes published by the Secretary of State.

The Act requires each authority to review its Statement of Licensing Policy whenever necessary and, in any case, every five years. The document is three years overdue.

Environmental and Sustainability Implications:

None arising directly from this report.

Resource Implications (including impact on equalities):

None.

Safeguarding Implications:

None.

Impact on the Customer:

None.

1.0 INTRODUCTION

1.1 Section 5 of the Licensing Act 2003 requires a Licensing Authority to determine and publish a Statement of its Licensing Policy at least once every five years. Failure to do so would mean the authority could not continue its licensing functions under the Act. Tewkesbury Borough Council's current Statement of Licensing Policy was published in October 2014 and expired on 7 January 2019.

1.2 Tewkesbury Borough Council's Statement of Licensing Policy was reviewed by the Licensing Operations and Development Team Leader and, as there has been no significant changes to the legislation or Home Office guidance during the past eight years, only minor amendments were made to reflect best practice.

1.3 The draft revised Statement of Licensing Policy was considered by the Licensing Committee at its meeting on 9 June 2022 where it was approved for a 12 week consultation.

2.0 REVISED STATEMENT OF LICENSING POLICY

2.1 Following the Licensing Committee meeting in June, a full consultation was carried out as set out at Paragraph 3 of this report.

2.2 The final draft Statement of Licensing Policy is attached at **Appendix B** for consideration. In accordance with the Licensing Act 2003, the Statement of Licensing Policy must be adopted by Council. As such, the Licensing Committee is asked to consider the revised document and recommend to Council that it be approved.

3.0 CONSULTATION

3.1 A 12 week consultation was carried out between 13 June and 4 September 2022 with the following consultees:

- the Chief Officer of Police for the area;
- the Fire and Rescue Authority for the area;
- each local authority's Director of Public Health in England (DPH);
- persons/bodies representative of local premises licence holders;
- persons/bodies representative of local club premises certificate holders;
- persons/bodies representative of local personal licence holders; and
- persons/bodies representative of businesses and residents in its area.

3.2 No consultation responses were received.

4.0 ASSOCIATED RISKS

4.1 None

5.0 MONITORING

5.1 None

6.0 RELEVANT COUNCIL PLAN PRIORITIES/COUNCIL POLICIES/STRATEGIES

6.1 [Tewkesbury Borough Council plan — Tewkesbury Borough Council](#)

Background Papers: [Licensing Committee 9 June 2022](#)

Contact Officer: Licensing Operations and Development Team Leader
01684 272143 michelle.bignell@tewkesbury.gov.uk

Appendices: Appendix A – Tewkesbury Borough Council’s Current Statement of Licensing Policy
Appendix B – Tewkesbury Borough Council’s Draft Revised Statement of Licensing Policy



LICENSING ACT 2003

STATEMENT OF LICENSING POLICY 2014 - 2019

**Licensing Team, Tewkesbury Borough Council, Council Offices,
Gloucester Road, Tewkesbury, Gloucestershire, GL20 5TT**

www.tewkesbury.gov.uk/licensing

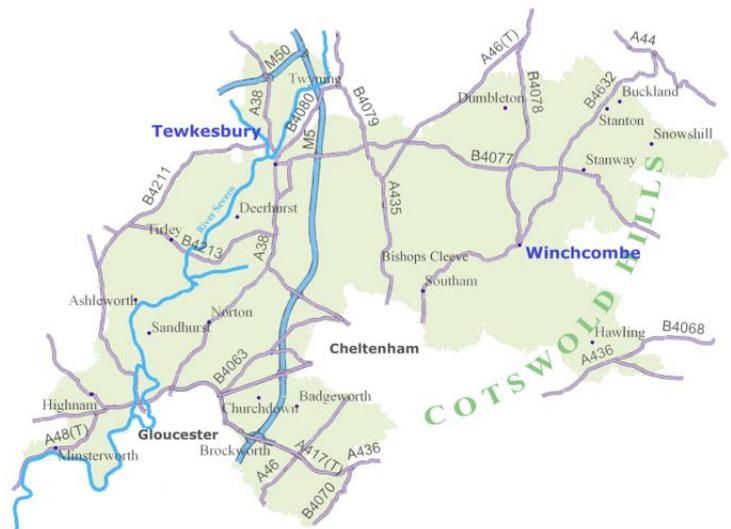
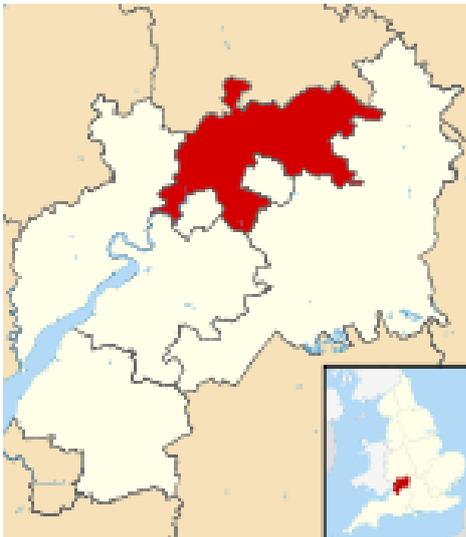
Revised with effect from October 2014

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1.0 Introduction

- 1.1 Tewkesbury Borough Council (the Council) is a Licensing Authority under the Licensing Act 2003 and therefore has responsibilities for the administration and enforcement of the act within the borough of Tewkesbury.
- 1.2 These include, among other duties, the granting of premises licences, club premises certificates, temporary events notices and personal licences in the borough in respect of the sale and/or supply of alcohol, the provision of regulated entertainment and late night refreshment.
- 1.3 Tewkesbury Borough covers an area of 160 sq miles in North Gloucestershire. The borough is situated within the Severn Vale and stretches south beyond the outskirts of Cheltenham and Gloucester with borders alongside the county of Worcestershire to the north. It occupies the northern gateway into the south west region.
- 1.4 The borough is predominantly rural in nature with the largest towns / villages being Tewkesbury, Winchcombe, Bishops Cleeve and Churchdown.



2.0 Licensing objectives and aims

2.1 The Licensing Act 2003 provides a clear focus on the promotion of four key licensing objectives. As a Licensing Authority, Tewkesbury Borough Council will always seek to carry out its licensing functions with a view to promoting these four objectives.

2.2 The licensing objectives are:

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

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

2.4 However, the Licensing Authority recognises that the legislation also supports a number of other key aims and purposes. It is recognised that these are also vitally important and should be aims for everyone involved in licensing work.

2.5 They include:

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

3.0 Scope of the Licensing Authority's functions

3.1 As a Licensing Authority, the Council is responsible for the authorisation of 'licensable activities'. The licensable activities that are required to be authorised under the act are as follows:

- The provision of regulated entertainment;
 - a) A performance of a play.
 - b) An exhibition of a film.
 - c) An indoor sporting event.
 - d) A boxing or wrestling entertainment; a contest, exhibition or display which combines boxing or wrestling with one or more martial arts ("combined fighting sports").
 - e) A performance of live music.
 - f) Any playing of recorded music.
 - g) A performance of dance.
 - h) Entertainment of a similar description to a performance of live music, any playing of recorded music or a performance of dance.
- Late night refreshment
 - i) The provision of late night refreshment.
- Sale or supply of alcohol
 - j) The sale by retail of alcohol or The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club.

3.2 The Licensing Authority is responsible for four different types of authorisation or permission, as follows:

- Premises licence – to use premises for licensable activities.
- Club premises certificate – to allow a qualifying club to use premises for qualifying club activities.
- Temporary event notice – to carry out licensable activities on a temporary basis for an event.
- Personal licence – to allow a person to sell or authorise the sale of alcohol from premises in respect of which there is a premises licence.

4.0 Purpose of the statement of licensing policy

- 4.1 This statement of policy has been prepared and updated in accordance with the latest amended provisions of the 2003 Act and the latest revised guidance issued under section 182 of the act. The statement sets out the principles the Licensing Authority will generally apply to promote the licensing objectives when making decisions on applications made under the act.
- 4.2 The main purpose of this policy is to provide clarity to applicants, members of the public and responsible authorities on how the Licensing Authority will determine applications for the supply of alcohol, the provision of regulated entertainment and the provision of late night refreshment and also to provide a basis for all licensing decisions taken by the Licensing Authority. It will also inform elected members of the parameters within which licensing decisions can be made.
- 4.3 This policy sets out the process the Licensing Authority will adopt in dealing with licence applications with particular regard to the various types of premises and permissions and the various conditions that can be attached to licences if relevant representations are made. It also highlights the Council's undertaking to avoid duplication with other statutory provisions and its commitment to work in partnership with other agencies and organisations.
- 4.4 When carrying out its licensing functions the Council will always have regard to this statement of policy and the guidance issued by the Secretary of State under section 182 of the Licensing Act 2003.
- 4.5 The Licensing Authority may depart from this policy or the guidance if the individual circumstances of any case merit such a decision in the interests of promoting the four licensing objectives. Whenever the Licensing Authority takes a decision to depart from this policy or the guidance, clear reasons will be given.
- 4.6 The statement of policy took effect on 17 October 2014 and will be kept under review. A revised statement of policy will be published no later than January 2019.

5.0 General principles

- 5.1 Every application received by the Licensing Authority will be considered on its own individual merits.
- 5.2 If an application for a premises licence or club premises certificate has been made lawfully and there have been no representations from responsible authorities or other persons, the Licensing Authority must grant the application, subject only to conditions that are consistent with the operating schedule and any relevant mandatory conditions.
- 5.3 The Licensing Authority will aim to carry out its licensing functions in a way that promotes tourism, increases leisure and culture provision and encourages economic development within the borough.
- 5.4 However the Licensing Authority will also always try and balance the needs of the wider community, local community and commercial premises, against the needs of those whose quality of life may be adversely affected by the carrying on of licensable activities, particularly within residential areas.

- 5.5 In particular the Licensing Authority will attempt to control any potential negative impacts from the carrying on of licensable activities, such as increased crime and disorder, anti-social behaviour, noise, nuisance, risks to public safety and harm to children.
- 5.6 The Licensing Authority's aim is to facilitate well run and managed premises with licence holders displaying sensitivity to the impact of the premises on local residents.
- 5.7 The Licensing Authority acknowledges that licensing law is not the primary mechanism for the general control of anti-social behaviour by individuals once they are beyond the direct control of the individual, club or business holding the authorisation concerned. As a matter of policy, however, the Licensing Authority expects every holder of an authorisation to be responsible for minimising the impact of their activities and anti-social behaviour by their patrons within the immediate surroundings of their premises.
- 5.8 "Need" concerns the commercial demand for another pub, restaurant or hotel and is a matter for the planning authority and for the market. Need is not a matter that the Licensing Authority can consider in carrying out its licensing functions.

6.0 Applications for premises licences and club premises certificates

- 6.1 The relevant application forms and associated documents can be obtained from the Licensing Authority's website at www.tewkesbury.gov.uk/licensing or from licensing officers during normal office hours.
- 6.2 Along with the application form, applicants must also submit an operating schedule and plans of the premises to which the application relates. Plans will not be required to be submitted in any particular scale, but they must be in a format which is "clear and legible in all material respects", i.e. they must be accessible and provides sufficient detail for the Licensing Authority to be able to determine the application, including the relative size of any features relevant to the application. The Licensing Authority does not require plans to be professionally drawn as long as they clearly show all the prescribed information.
- 6.3 Applicants are expected to demonstrate the positive steps that they will take to promote the four licensing objectives in the operating schedule.

7.0 Operating schedules

- 7.1 The operating schedule is a key document and, if prepared comprehensively, will form the basis on which premises may be licensed without the need for additional extensive conditions. All applicants for the grant or variation of a premises licence or club premises certificate are required to provide an operating schedule as part of their application. The Licensing Authority expects an operating schedule to indicate the positive steps that the applicant proposes to take to promote the licensing objectives.
- 7.2 In completing an operating schedule, applicants are expected to have regard to this statement of licensing policy and to demonstrate suitable knowledge of their local area when describing the steps that they propose to take in order to promote the licensing objectives.
- 7.3 Where requested, the Licensing Authority provides general advice on the drafting of operating schedules and applicants are strongly recommended to discuss their operating schedules with the Licensing Authority and other responsible authorities prior to submitting them.

7.4 The complexity and detail required in the operating schedule will depend upon the nature and use of the premises concerned. For premises such as a public house where regulated entertainment is not provided, only a relatively simple document may be required. However for an operating schedule accompanying an application for a major entertainment venue or event, it will be expected that issues such as public safety and the prevention of crime and disorder will be addressed in detail.

7.5 The operating schedule must be set out on the prescribed form and include a statement of the following:-

- Full details of the licensable activities to be carried out and the intended use of the premises.
- The times during which the licensable activities will take place.
- Any other times when the premises are to be open to the public.
- Where the licence is only required for a limited period, that period.
- Where the licensable activities include the supply of alcohol, the name and address of the individual to be specified as the designated premises supervisor.
- Whether alcohol will be supplied for consumption on or off the premises or both.
- The steps which the applicant proposes to promote the licensing objectives.

7.6 For some premises, it is possible that no measures will be appropriate to promote one or more of the licensing objectives, for example, because they are adequately covered by other existing legislation. It is however important that all operating schedules should be precise and clear about the measures that are proposed to promote each of the licensing objectives.

8.0 Representations

8.1 When an application is made for the grant, variation or review of a premises licence or club premises certificate, representations about the application can be made by responsible authorities or other persons.

8.2 Representations must be made to the Licensing Authority within the statutory period of 28 days beginning on the day after the relevant application is received by the Licensing Authority. Representations must be made in writing.

8.3 Representations can be made either be in support of an application or to express objections to an application being granted. However the Licensing Authority can only accept "relevant representations." A representation is "relevant" if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives.

8.4 An example of a representation that would not be relevant would be a representation from a local businessperson about the commercial damage that competition from a new licensed premise would do to their own business. On the other hand, a representation by a businessperson that nuisance caused by new premises would deter customers from

entering the local area, and the steps proposed by the applicant to prevent that nuisance were inadequate, would be a relevant representation.

- 8.5 In other words, representations should relate to the impact of licensable activities carried on from premises on the licensing objectives.
- 8.6 For representations in relation to variations to be relevant, they should be confined to the subject matter of the variation.
- 8.7 Whilst the Licensing Authority expects representations to be evidence based, there is no requirement for a responsible authority or other person to produce a recorded history of problems at a premises to support their representations, and it is recognised that in fact this would not be possible for new applications.

9.0 Representations from responsible authorities

- 9.1 Responsible authorities are a group of public bodies that must be fully notified of applications and that are entitled to make representations to the Licensing Authority in relation to the application for the grant, variation or review of a premises licence or club premises certificate. A full list of contact details for the responsible authorities can be found at Appendix 3.
- 9.2 Whilst all responsible authorities may make representations regarding applications for licences and club premises certificates and full variation applications, it is the responsibility of each responsible authority to determine when they have appropriate grounds to do so.
- 9.3 The Licensing Authority recognises that every responsible authority can make representations relating to any of the four licensing objectives.
- 9.4 The Licensing Authority recognises that the police should be its main source or advice on matters relating to the promotion of the crime and disorder licensing objective, but also may be able to make relevant representations with regards to the other licensing objectives if they have evidence to support such representations.
- 9.5 The Licensing Authority will accept all reasonable and proportionate representations made by the police unless it has evidence that do so would not be appropriate for the promotion of the licensing objectives. However the Licensing Authority will still expect any police representations to be evidence based and able to withstand scrutiny at a hearing.
- 9.6 The Licensing Authority recognises Gloucestershire Safeguarding Children Board as being the body that is competent to advise it on the licensing objective of the protection of children from harm.
- 9.7 The Licensing Authority recognises that, although public health is not a licensing objective, Primary Care Trusts, ambulance services and A&E departments may share information regarding accidents and injuries from violence as a result of drunkenness. This information would assist the Licensing Authority in exercising its functions.
- 9.7 Following the Police Reform and Social Responsibility Act 2011, the Licensing Authority and the local primary care trusts became responsible authorities and can therefore make representations if it deems it necessary to do so.

- 9.8 The Licensing Authority also expects that other responsible authorities should intervene where the basis for the intervention falls within the remit of that other responsible authority. Each responsible authority has equal standing under the 2003 act and may act independently without waiting for representations from any other responsible authority.
- 9.9 In cases where a Licensing Authority is also acting as responsible authority in relation to the same process, the Licensing Authority will seek to achieve a separation of responsibilities within the authority to ensure procedural fairness and eliminate conflicts of interest. This will be achieved by allocating the different responsibilities to different licensing officers or other officers within the local authority to ensure a proper separation of responsibilities. As Tewkesbury Borough Council is a relatively small Licensing Authority, this may involve allocating responsibilities to officials from outside the licensing department to ensure a separation of responsibilities. However, these officials would still be officials employed by the authority.

10.0 Representations from other persons

- 10.1 Relevant representations about applications can also be made by any other person, regardless of their geographical position in relation to the relevant premises. However the Licensing Authority will usually give greater weight to representations that are made by people who can demonstrate that they would be directly affected by the carrying on of licensable activities at the premises concerned.
- 10.2 The Licensing Authority will also reject as invalid, any representations from other persons that are deemed to be frivolous or vexatious. A representation might be considered to be vexatious if it appears to be intended to cause aggravation or annoyance, whether to a competitor or other person, without reasonable cause. Frivolous representations are essentially categorised by a lack of seriousness. Frivolous representations would concern issues which, at most, are minor and in relation to which no remedial steps would be warranted or proportionate.
- 10.3 Decisions as to the validity of representations will normally be made by officers of the Licensing Authority. In borderline cases, the benefit of the doubt about any aspect of a representation will be given to the person making that representation. The subsequent hearing would then provide an opportunity for the person or body making the representation to amplify and clarify it.
- 10.4 Any person who is aggrieved by a rejection of their representations on either of these grounds may lodge a complaint through the authority's corporate complaints procedure. A person may also challenge such a decision by way of judicial review.
- 10.5 Where a notice of a hearing is given to an applicant, the Licensing Authority is required to provide the applicant with copies of the relevant representations that have been made.
- 10.6 The Licensing Authority will normally provide copies of the relevant representations to the applicant in full and without redaction. However in exceptional circumstances, where a person satisfies the Licensing Authority that they have genuine reasons to fear intimidation or violence if their personal details, such as name and address, are divulged to the applicant, the copies of the representations may be redacted accordingly.
- 10.7 In such circumstances the Licensing Authority can provide details to the applicant (such as street name or general location within a street), so that the applicant can fully prepare their response to any particular representation.

10.8 Alternatively persons may wish to contact the relevant responsible authority or their local councillor with details of how they consider that the licensing objectives are being undermined so that the responsible authority may make representations on their behalf if appropriate and justified.

11.0 Licensing hours

11.1 The Licensing Authority recognises the variety of premises for which licences are sought and that fixed and artificially early closing times in certain areas can lead to peaks of disorder and disturbance on the streets when people tend to leave licensed premises at the same time.

11.2 When determining what licensing hours are appropriate for a premises the Licensing Authority will always consider each application on its own merits and will not impose predetermined licensed opening hours, without giving individual consideration to the merits of each application. The Licensing Authority will take into account requests for licensable hours in the light of:

- Environmental quality.
- Residential amenity.
- The character or function of a particular area.
- The nature of the proposed activities to be provided at the premises.

11.3 Consideration may be given to imposing stricter restrictions on licensing hours when it is appropriate to control noise and disturbance from particular licensed premises, such as those in mainly residential areas.

11.4 The Licensing Authority wants all licensees and their customers to continue to enjoy the benefits of the pattern of extended hours for public holidays and major horse racing events at Cheltenham that has been established in Gloucestershire. The Licensing Authority will therefore normally allow, subject to application, reasonable extensions to licensing hours on licences and certificates for premises on public holidays and during the two major racing festivals at Cheltenham Racecourse that take place in March and November.

11.5 In accordance with established practice, the Licensing Authority encourages applicants, to include measures of good practice in their operating schedules such as a policy of prohibiting new persons from being admitted to their premises after 11pm in order to reduce the risk of disorder and disturbance to members of the public late at night, where this is appropriate to the premises concerned.

11.6 Generally the Licensing Authority will consider licensing shops, stores and supermarkets to sell alcohol for consumption off the premises during the normal hours they intend to open for shopping purposes. There may, however, be instances where it is considered that there are good reasons for restricting those hours, for example, where police representations are made in respect of isolated shops known to be the focus of disorder and public nuisance.

12.0 Conditions on licences and certificates

12.1 Conditions on a premises licence or club premises certificate are important in setting the parameters within which premises can lawfully operate. The Licensing Authority will ensure any conditions that are imposed on a premises licence or club premises certificate:

- Are appropriate for the promotion of the licensing objectives.
- Are precise and enforceable.
- Are unambiguous and clear in what they intend to achieve.
- Do not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation.
- Are tailored to the individual type, location and characteristics of the premises and events concerned.
- Are not to be standardised and may be unlawful when it cannot be demonstrated that they are appropriate for the promotion of the licensing objectives in an individual case;
- Do not replicate offences set out in the 2003 Act or other legislation.
- Are proportionate, justifiable and be capable of being met, (for example, whilst beer glasses may be available in toughened glass, wine glasses may not).
- Do not seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff, but may impact on the behaviour of customers in the immediate vicinity of the premises or as they enter or leave; and
- Are written in a prescriptive format.

12.2 Although the Licensing Authority may use standardised forms of wording in conditions to cover commonly arising situations and circumstances, “blanket conditions” will not be applied to licences and specific conditions may be drawn up and applied to meet local need and circumstances.

12.3 If necessary for the promotion of the licensing objectives, and if there is a link to remaining licensable activities, conditions that relate to non-licensable activities may be added to or altered on that premises licence or club premises certificate at review following problems occurring at the premises. This has been a feature of licence conditions since the 2003 act came into force. An example could be the use of conditions relating to large screen broadcasts of certain sporting events which, combined with alcohol consumption, create a genuine risk to the promotion of the licensing objectives. It is also not uncommon for licence conditions relating to the sale of alcohol to restrict access to outside areas, such as unlicensed beer gardens, after a certain time.

13.0 Late night refreshment

13.1 The 2003 act requires that premises selling hot food or drink for consumption by members of the public on or off the premises, between the hours of 11pm and 5am must have a premises licence.

13.2 Such premises include those dedicated to providing this service, any premises including restaurants, takeaways, hot food delivery providers and mobile vans trading during these hours.

13.3 Premises engaged in the late night provision of hot food and drink are covered by the 2003 act to enable appropriate controls to be introduced to reduce the incidence of disorder, disturbance and public nuisance that can arise if these venues become the focus for gatherings of people that have come from other venues and may have been consuming alcohol.

- 13.4 Management of late night refreshment venues needs to be undertaken effectively to assist in preventing crime, disorder, anti-social behaviour and public nuisance.
- 13.5 The authority will look carefully at the scope of operation intended for late night refreshment premises. The authority particularly expects applicants to address issues such as:
- Hours of operation, to prevent public nuisance to any nearby residents, or problems of noxious smells and anti-social behaviour.
 - Supervision of queues and the management of large numbers of customers gathering in the locality of the premises at certain times - this could include door supervision to control surges of customers where this may occur.
 - Layout of the premises to cope with customers e.g. position of counters, entrances and exits.
 - Litter control and environmental activities, such as litter picking, provision of litter bins, street sweeping/washing.
 - CCTV.
 - Public safety, including the type of power supply to be used where the application is for a trading vehicle.
 - Noise arising from the operation of both plant and clientele.
- 13.6 The authority expects premises licensed for late night refreshment to have regard to the “voluntary code of practice for the fast food industry (DEFRA Oct 2003).
<http://www.defra.gov.uk/environment/quality/local/litter/documents/fastfoodcop.pdf>
- 13.7 Where necessary, following comments from responsible authorities or any other persons, the authority may apply conditions to prevent public nuisance.
- 13.8 The authority will have a presumption against the sale of alcohol from premises where the primary activity during the hours 11pm to 5am is the provision of take-away food, unless it can be clearly shown that there will be no contribution to crime or disorder.

14.0 Designated premises supervisors

- 14.1 In order for alcohol to be sold under a premises licence, the licence must name a designated premises supervisor who holds a personal licence unless the premises is a community centre or village hall and has applied for the “alternative licence condition” as set out elsewhere in this document. Even though the police may not object to the grant of a personal licence to a particular person, they may object to that person being named as the designated premises supervisor for particular premises on grounds that the crime prevention objective is likely to be undermined. The authority will normally concur with any objection by the Police, unless there are substantial reasons for not doing so.
- 14.2 In premises where alcohol is not sold, there still may be a need for swift engagement with a responsible person and the authority therefore strongly recommends that a person is identified at all premises where licensable activities are taking place.

- 14.3 Although the designated premises supervisor has a key role in the management of a premises, the 2003 act does not require the designated premises supervisor to be there.
- 14.4 The designated premises supervisor must be managerially able to mobilise resources to deal with any problem at the premises. The designated premises supervisor should also be able to manage systems and procedures described in the licence conditions.
- 14.5 On occasions where the designated premises supervisor is not available, then a nominated responsible person must be available to oversee the day to day running and control of the premises and to liaise with enforcement agencies, especially when enforcement visits are undertaken.
- 14.6 The authority request that contact telephone numbers be made available to the authority and police for both routine matters and emergencies.
- 14.7 The authority expects the designated premises supervisor to be readily contactable to manage activities at the premises.
- 14.8 The authority also expects the person in charge when the designated premises supervisor is absent, to be both readily available and identifiable.

15.0 Provisional statements

- 15.1 Where premises are to be newly constructed, extended or substantially altered, an applicant who has an interest in the premises can apply for a "provisional statement". This is in addition to any planning and building-control consents that may be required.
- 15.2 A provisional statement gives the applicant some assurance about the grant of a future application for a premises licence. This may be useful if the applicant has insufficient information to be able to complete the operating schedule that is necessary for a premises licence application or, if alcohol sales are proposed, is unable to name the proposed designated premises supervisor. An applicant with adequate information could apply, instead, for a premises licence at a suitable stage in design and construction.
- 15.3 The authority will consider issuing a provisional statement for new premises. Where there are any changes to the proposals before a substantive licence is granted, these must be dealt with by way of an application for variation unless they are specifically intended to address a relevant representation.
- 15.4 Once the Licensing Authority has issued a provisional statement, it will exclude representations made about the subsequent application for a premises licence if, without reasonable excuse, substantially similar representations could have been made about the application for the provisional statement. However, the authority recognises that genuine and material changes may arise in the intervening period and the authority reserves the right to entertain representations that reflect changed circumstances.

16.0 Filling stations/garages

- 16.1 Section 176 of the 2003 act provides for a general prohibition on the sale of alcohol at motorway service areas and garage forecourts. The government may, by order, alter the description of premises from which alcohol may be sold.

- 16.2 The 2003 act largely maintains the situation in previous legislation which has allowed the sale of alcohol to develop in line with the range of goods available from garage shops as is now commonplace. Accordingly, where proper facilities are provided in the form of a shop at a garage, the authority does not propose to preclude sales of alcohol within the range of goods available.
- 16.3 The authority will not apply a general restriction on the sale of alcohol from garage shops that also offer a substantial range of groceries for sale. The authority will deal with applications related to garages on case by case basis in order to establish that the premises are not primarily used as a filling station.
- 16.4 When dealing with applications related to garages, applicants will be required to prove that the intensity of use by customers purchasing non-fuel products and services exceeds the intensity of use by customers purchasing only fuel products. This may be evidenced by data of customers according to usage, or by sales figures classified according to purchases.

17.0 Vessels (boats)

- 17.1 A premises licence is required for vessels (boats) carrying out any licensable activities defined in the act. The Licensing Authority will consider applications for a premises licence for vessels if such vessels are usually moored or berthed within the geographical area of Tewkesbury Borough.
- 17.2 When licensing vessels, the authority will consider the conduct of the proposed licensable activities in the context of the licensing objectives. In particular the authority will address the need for adequate control of licensable activities to further the public safety objective and to prevent public nuisance to residents in the vicinity of the vessel's navigational route. An activity is not a licensable activity if it takes place aboard vessels engaged on an international journey.
- 17.3 The authority will not be concerned with the safety of the vessel for carriage of passengers, or issues concerning the safe navigation of the vessel. These are matters dealt with under other legislation.
- 17.4 The authority expects the normal safety measures for a vessel to be supplemented as appropriate to suit the scale, nature and timing of any licensable activities that occur. In considering such matters, the authority may consult with the Environment Agency or any other authority with responsibility for the safety of vessels
- 17.5 Noise or other public nuisance, resulting from licensable activities on board a vessel, must not be caused to persons living near to a vessel's berth or along the route of its navigation. Where necessary, the authority will apply conditions on such vessels to promote the licensing objectives.

18.0 Vehicles and moveable structures

- 18.1 Alcohol may not be sold on a moving vehicle, but there may be a requirement for sale of alcohol and possibly other licensable activities to take place from a stationary vehicle or structure, for example one that is sited temporarily at an event.

18.2 Where a premises licence is required for the vehicle or structure, this will relate solely to the place where the vehicle is sited and the licensable activities are to take place. Premises licences for vehicles and moveable structures are therefore required wherever they are sited, when licensable activities take place and this may well mean applications to more than one Licensing Authority.

18.3 The authority expects the operator of any vehicle or moveable structure to ensure that it is located in an area that is appropriate for the proposed licensable activities.

18.4 It may not be appropriate to site any such vehicle or structure near to other licensed premises, or in an area subject to an “alcohol consumption in designated public places order” or where it may cause noxious smells or litter problems

18.5 The operator of a vehicle trading in a ‘consent street’ will continue to require a street trading consent in addition to any premises licence and the conditions attached to the street trading consent will continue to apply. Such conditions will normally be equally relevant to vehicles trading in areas where street trading consents are not required.

18.6 No premises licence is valid for a vehicle within an area prohibited to street trading.

19.0 Community centres, village halls, public spaces and council (including parish councils) controlled premises.

19.1 The authority encourages all community centres and village halls to apply for premises licences to cover all expected activities, as the managers of these venues may find the permitted temporary event notices too restrictive.

19.2 If alcohol is to be supplied, the management committee may appoint a personal licence holder as the designated premises supervisor who does not need to be a member of the management committee of the centre or hall. Alternatively the management committee may apply for the “alternative licence condition” to be applied to any licence that every supply of alcohol must be made or authorised by the management committee.

20.0 Public spaces and council-controlled premises

20.1 Councils are not exempt from the requirements of Licensing Act 2003 and must obtain necessary authorisations for places they wish to make available for carrying out licensable activities. In places for which the Council holds a premises licence, entertainers may be able to give a performance, without the need to serve temporary event notices or to apply for individual premises licences.

20.2 This approach will make it more possible for cultural diversity to thrive and will be a far simpler process for many types of entertainment that use numerous venues each year, such as circuses and street artists. However, entertainers will need to obtain the permission of the Council (as premises licence holder) and comply with any conditions that might be imposed.

20.3 The Licensing Authority encourages the Council, Town and Parish Councils and Gloucestershire County Council to seek premises licences for the purpose of particular types of public entertainment at premises under its control, such as community halls, parks and public open spaces.

21.0 Small premises

21.1 When dealing with applications related to smaller premises, the authority is aware that small premises are often vital to the local economy and unreasonable conditions could have significant cost implications. The Licensing Authority is also aware of the need to avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music.

22.0 Internet sales, mail order and retail deliveries

22.1 A premises licence is required for the premises where the alcohol is being dispatched for retail deliveries (e.g. warehouse) and not for where it is sold (e.g. call centre). A personal licence holder and designated premises supervisor will also be required at the premises where the alcohol is dispatched

22.2 The authority expects that any delivery of alcohol as a result of internet purchase or mail order must be subject to age verification.

22.3 The authority also expects that any personnel involved in retail deliveries of alcohol are appropriately trained in licensing laws and age verification.

22.4 Any applicant wishing to provide retail delivery of alcohol must ensure that they have an age verification policy. This policy must stipulate age verification procedures such as requiring individuals to produce identification bearing their photograph, date of birth, and a holographic mark when receiving deliveries of alcohol.

22.5 The authority expects that businesses engaged in retail delivery of alcohol adopt either 'Challenge 21' or 'Challenge 25' age verification policy and appropriately train their staff and contractors.

22.6 Premises with an existing premises licence wishing to provide retail delivery of alcohol should contact the Licensing Authority for advice on whether to make an application to vary their licence and what steps they can take to promote the licensing objectives.

23.0 Alcohol pricing

23.1 The Licensing Act 2003 (mandatory conditions) Order 2014 adds a new licensing condition to the Mandatory Code of Practice banning the sale of alcohol below the "permitted price". The schedule to the order defines the "permitted price" as the level of alcohol duty plus VAT.

23.2 Premises licensed to supply alcohol will need to ensure that their pricing systems are accurate to prevent any sale of alcohol below the cost of duty plus VAT. This includes ensuring that prices are accurate on shelves, barcodes, menus and price lists, where appropriate. It is therefore recommended that businesses follow a series of steps to successfully implement the regulation on the premises.

23.3 Duty rates may change each year, typically following the Chancellor's Budget. Therefore, those who supply alcohol will need to ensure the new duty rates are applied when duty rates change. The same rule will apply to any change in the rate of VAT.

23.4 A formula for calculating permitted prices can be found at Appendix 2. Further advice and guidance on alcohol pricing will be published on council's website.

24.0 Irresponsible promotions

24.1 Since the introduction of the mandatory code regarding drinks promotions in 2010, there has been considerable confusion amongst the licensed trade, the police and licensing authorities in the understanding of the meaning of an irresponsible drinks promotion. This has been largely due to difficulties in the interpretation of the relevant conditions.

24.2 From October 2014, these mandatory conditions are amended to ensure that everyone is clear on the meaning of an irresponsible promotion. Drinking games where the aim is to drink as quickly as possible, and using promotional materials that condone anti-social behaviour or drunkenness, will now be irresponsible in all circumstances. Similarly, provision of an unlimited or unspecified quantity of alcohol for free or for a fixed or discounted fee is also prohibited if there is a significant risk that such provision would undermine the licensing objectives.

24.3 The sale or supply of alcohol in association with promotional material on, or in the vicinity of, the premises which can be reasonably considered to condone, encourage or glamorise antisocial behaviour or refer to drunkenness favourably is also prohibited. This includes all posters and flyers that may be used to publicise a promotion or event.

24.4 The Licensing Authority expects licensees and premises supervisors to refrain from offering any promotions that are designed to encourage people to drink excessive amounts of alcohol, or drink more than they normally would do regardless of the legal meaning of an irresponsible drinks promotion. Operators are advised to consult either the Police Partnership Team or the Council's Licensing team before proceeding with any drinks promotions.

25.0 Reviews

25.1 At any stage, following the grant or variation of a premises licence or club premises certificate, a responsible authority or any other person, may apply to the Licensing Authority for a review of the licence or certificate because of a problem arising at the premises in connection with any of the four licensing objectives.

25.2 In every case the application for review must relate to a particular premises for which a licence or certificate is in force and must be relevant to the promotion of the licensing objectives.

25.3 Any responsible authority under the 2003 act may apply for a review of a premises licence or club premises certificate. Therefore, the relevant Licensing Authority may apply for a review if it is concerned about licensed activities at premises and wants to intervene early without waiting for representations from other persons.

25.4 However, the Licensing Authority will not normally act as a responsible authority in applying for reviews on behalf of other persons, such as local residents or community groups. These individuals or groups are entitled to apply for a review for a licence or certificate in their own right if they have grounds to do so.

25.5 The Licensing Authority also expects other responsible authorities to intervene where the basis for the intervention falls within the remit of that other authority. For example, the

police should take appropriate steps where the basis for the review is concern about crime and disorder. Likewise, where there are concerns about noise nuisance, it is expected that environmental health will make the application for review.

- 25.6 Where responsible authorities have concerns about problems identified at a premises, the Licensing Authority considers it good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns.
- 25.7 A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. The Licensing Authority believes that co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this co-operation.
- 25.8 If the application for a review has been made by a person other than a responsible authority (for example, a local resident, residents' association, local business or trade association), before taking action the Licensing Authority will first consider whether the complaint being made is relevant, frivolous, vexatious or repetitious.
- 25.9 A review application might be considered to be vexatious if it appears to be intended to cause aggravation or annoyance, whether to a competitor or other person, without reasonable cause. Frivolous applications are essentially categorised by a lack of seriousness. Frivolous applications would concern issues which, at most, are minor and in relation to which no remedial steps would be warranted or proportionate.
- 25.10 The Licensing Authority considers a repetitious ground for review to be one that is identical or substantially similar to:
- A ground for review specified in an earlier application for review made in relation to the same premises licence or certificate which has already been determined; or
 - Representations considered by the Licensing Authority when the premises licence or certificate was granted; or
 - Representations which would have been made when the application for the premises licence was first made and which were excluded then by reason of the prior issue of a provisional statement; and, in addition to the above grounds, a reasonable interval has not elapsed since that earlier review or grant.
- 25.11 The Licensing Authority is aware of the need to prevent attempts to review licences merely as a further means of challenging the grant of the licence following the failure of representations to persuade the Licensing Authority on an earlier occasion.
- 25.12 The Licensing Authority believes that more than one review originating from a person other than a responsible authority in relation to a particular premises should not normally be permitted within a 12 month period on similar grounds save in compelling circumstances or where it arises following a closure order.
- 25.13 The exclusion of a complaint on the grounds that it is repetitious does not apply to responsible authorities which may make more than one application for a review of a licence or certificate within a 12 month period.
- 25.14 Guidance on applying for a review of a licence or certificate, along with the necessary forms, can be found on the Council's website.

26.0 Minor variations

- 26.1 Variations to premises licences or club premises certificates that could not impact adversely on the licensing objectives are subject to a simplified 'minor variations' process. Under this process, the applicant is not required to advertise the variation in a newspaper or circular, or copy it to responsible authorities. However, they must display it on a white notice (to distinguish it from the blue notice used for full variations and new applications).
- 26.2 Minor variations will generally fall into four categories: minor changes to the structure or layout of a premise; small adjustments to licensing hours; the removal of out of date, irrelevant or unenforceable conditions or addition of volunteered conditions; and the addition of certain licensable activities. In all cases the overall test is whether the proposed variation could impact adversely on any of the four licensing objectives.
- 26.3 On receipt of an application for a minor variation, the Licensing Authority will consider whether the variation could impact adversely on the licensing objectives. Decisions on minor variations will normally be delegated to licensing officers who will look at each application on its own individual merits.
- 26.4 In considering the application, the officer will consult relevant responsible authorities if there is any doubt about the impact of the variation on the licensing objectives and if they need specialist advice, and take their views into account in reaching a decision.
- 26.5 The officer will also carefully consider any relevant representations received from other persons that are received within a period of ten working days from the 'initial day', that is to say, the day after the application is received by the Licensing Authority.
- 26.6 The officer will then determine the application and will contact the applicant within 15 working days, beginning on the first working day after the authority received the application, with effect either that the minor variation is granted or the application is refused.

27.0 Cumulative impact

- 27.1 The Licensing Authority recognises that the cumulative impact of a number of late night entertainment premises (including cafes) in some areas may result in an increase in people either walking through, or congregating in, streets during the night. This may in turn have a number of undesirable consequences, for example;
- An increase in crime against property and/or person.
 - an increase in noise causing disturbance to residents.
 - Traffic congestion and/or parking problems.
 - Littering and fouling.
- 27.2 This may result in the amenity of local residents in some areas being placed under pressure, as it will not always be possible to attribute a particular problem to customers of particular premises. This means that, whilst enforcement action may be taken to ensure conditions are complied with, this may not resolve all the problems.
- 27.3 Where there is evidence that a particular area of the borough is already suffering adverse effects from the concentration of late night premises, when determining any further application for premises within the area identified the Licensing Authority will take into account:

- The character of the surrounding area.
- The impact of the licence on the surrounding area, both individually and cumulatively with existing licences; and
- The nature and character of the proposed operation.

27.4 There is insufficient evidence to adopt a special policy within this statement. The following steps must be followed before a special policy is considered:

- Identification of concern about crime and disorder or public nuisance.
- Consideration of whether it can be demonstrated that crime and disorder and nuisance are arising and are caused by the customers of licensed premises, and if so identifying the area from which problems are arising and the boundaries of that area; or the risk factors are such that the area is reaching a point when a cumulative impact is imminent.
- Consultation with those specified by section 5(3) of the 2003 Act as part of the general consultation required in respect of the whole statement of licensing policy.
- subject to that consultation, inclusion of a special policy about future premises licence or club premises certificate applications from that area within the terms of this Guidance in the statement of licensing policy.
- Publication of the special policy as part of the statement of licensing policy required by the 2003 Act.

28.0 Enforcement and complaints

28.1 Once licensed, it is essential that premises are maintained and operated so as to ensure the continued promotion of the licensing objectives and compliance with the specific requirements of the Licensing Act 2003. The Licensing Authority will monitor premises and take any appropriate enforcement action to ensure compliance. Only complaints linked to the licensing objectives will be investigated.

28.2 The Licensing Authority's general approach to enforcement will be to target problem and high-risk premises which require greater attention, while providing a lighter touch for low risk premises or those that are well run. Principles of risk assessment and targeted inspections (in line with the recommendations of the Hampton review) will prevail and inspections will not be undertaken routinely but when and if they are judged necessary. This should ensure that resources are used efficiently and are more effectively concentrated on problem premises.

28.3 In most cases a graduated form of response will be taken to resolve issues of non-compliance, although it is recognised that in serious cases a prosecution or application for review are the appropriate means of disposal.

28.4 All decisions and enforcement actions taken by the Licensing Authority will be in accordance with the Council's Corporate Enforcement Policy and the principles of consistency, transparency and proportionality set out in the Regulator's Compliance Code.

28.5 The Licensing Authority will continue investigating allegations of unlicensed activities and ensure that licence conditions are complied with. The authority works actively with Gloucestershire Police and other relevant partners in enforcing licensing legislation.

28.6 Where a person has made a complaint then the Licensing Authority may initially arrange a mediation meeting to try and address, clarify and resolve the issues of concern. This process does not override the right of any person to ask the Licensing Authority to review a licence or certificate or for any licence/certificate holder to decline to participate in a mediation meeting.

29.0 Integrating strategies and partnership working

29.1 The Licensing Authority will seek to discharge its responsibilities by linking to and supporting local and national strategies and policies so far as they impact on the objectives of the act including:-

- The Government's Alcohol Strategy
- Gloucestershire Alcohol Harm Reduction Strategy
- Tewkesbury Borough Council's Council Plan
- Tewkesbury Borough Council's Economic Development and Tourism Strategy
- Tewkesbury Borough Council's Equality and Diversity Policy
- Tewkesbury Borough Council's Health and Wellbeing Strategy
- Tewkesbury Community Safety Partnership's Community Safety Plan and Strategic Assessment
- Tewkesbury Borough Council's Sustainable Community Strategy
- Tewkesbury Borough Council's Corporate Enforcement Policy
- Tewkesbury Borough Council's Safeguarding Children and Child Protection Policy
- Tewkesbury Borough Council's Safeguarding Vulnerable Adults Protocol

29.2 The Council regards licensing as the most appropriate tool in ensuring that the licensing objectives are promoted and will avoid as far as is possible any duplication with other regulatory regimes and legislation.

29.3 As part of a wider package of initiatives the Council is aiming to tackle the negative impacts associated with alcohol consumption by encouraging alcohol licensed premises to join business initiatives such as Pubwatch schemes.

29.4 The Council will continue to develop appropriate partnership arrangements, working closely with the police and fire authorities, local businesses, community representatives and local people, in meeting these objectives.

30.0 Equal opportunities

30.1 The Equality Act 2010 places a legal obligation on the Licensing Authority to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; to advance equality of opportunity; and to foster good relations, between persons with different protected characteristics. The protected characteristics are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

30.2 The Licensing Authority will look to discharge this duty by making arrangements where appropriate to provide information in a format that meet the requirements of those with special needs such as large type, audio information and information in foreign languages upon request. Specific needs will be dealt with on an individual basis.

31.0 Administration, exercise and delegation of functions

- 31.1 One of the major principles underlying the Licensing Act 2003 is that the licensing functions contained within the act should be delegated to an appropriate level so as to ensure speedy, efficient and cost effective service delivery.
- 31.2 The Licensing Authority is involved in a wide range of licensing decisions and functions and has established a Licensing Committee to administer them. Appreciating the need to provide an efficient service to all parties involved in the licensing process, the Committee has delegated certain decisions and functions and has established a number of sub-committees to deal with those matters.
- 31.3 In addition, it is expected that many of the decisions and functions will be largely administrative with no perceived areas of contention and, in the interests of efficiency and effectiveness these are delegated to officers. Attached at Appendix A to this licensing policy is a table of delegated functions setting out the agreed delegation of decisions and functions to the Tewkesbury Borough Council's Licensing Committee, sub-committees and officers.
- 31.4 These delegations are without prejudice to officers referring an application to a sub-committee or the Licensing Committee if considered appropriate in the circumstances of the case.

32.0 Relationship with the local planning authority

- 32.1 Planning permission, building control approval and licensing regimes will be properly separated to avoid duplication and inefficiency. The planning and licensing regimes involve consideration of different (albeit related) matters. Licensing committees are not bound by decisions made by a planning committee, and vice versa.
- 32.2 There is no legal basis for the Licensing Authority to refuse a licence application because the relevant premise does not have planning permission, or where there are conditions on the relevant planning permission.
- 32.3 There are circumstances when as a condition of planning permission; a terminal hour has been set for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law.

33.0 Temporary Event Notices

- 33.1 The Licensing Act 2003 provides for certain occasions when small scale events (for no more than 499 people at a time and lasting for no more than 168 hours) do not need a licence providing that advance notice is given to the Licensing Authority, police and environmental health. Only the police and the responsible authority for environmental health can object to a Temporary Event Notice if the event is likely to undermine the licensing objectives.
- 33.2 A standard Temporary Event Notice must be given at least ten working days prior to the event. The Licensing Authority recommends serving these notices two months prior to the event wherever possible.

- 33.3 Organisers of temporary events are strongly advised to contact the Licensing Authority for advice at the earliest opportunity when planning events. Where necessary discussions will be held with the police and the responsible authority for environmental health to avoid any unnecessary objections being made that may arise from misunderstandings or confusion as to what is being proposed.
- 33.4 Since 25 April 2012 it has been possible for individuals to serve a very limited number of “late” Temporary Event Notices each year, providing that these are served on all relevant parties at least five working days before the day on which the event is due to begin.
- 33.5 However event organisers should be aware that a late temporary event notice can be prevented by a single objection from the police or environmental health and there is no right to a hearing in such circumstances.
- 33.6 Therefore late Temporary Event Notices should normally only be served in exceptional circumstances, such as when an event has to be postponed and rearranged at short notice due to adverse weather conditions. The Licensing Authority does not expect late temporary event notices to be served simply on the basis that the event organiser has been disorganised in addressing the licensing arrangements for their event.

34.0 Private events

- 34.1 Events held in private are not licensable unless those attending are charged for the entertainment with a view to making a profit (including raising money for charity). Anyone involved in the organisation or provision of entertainment activities – whether or not any such activity is licensable under the 2003 act – must comply with any applicable duties that may be imposed by other legislation (e.g. crime and disorder, fire, health and safety, noise, nuisance and planning). Any such person should take steps to be aware of relevant best practice. The Licensing Authority and responsible authorities will provide support and advice when requested.

35.0 Live Music Act and other deregulations

- 35.1 The Live Music Act 2012 amends the Licensing Act 2003 by partially deregulating the performance of live music and removing regulation about the provision of entertainment facilities.
- 35.2 In brief, the changes are:
- a) Unamplified live music between 8am and 11pm in all venues is no longer licensable.
 - b) Amplified live music between 8am and 11pm before audiences of no more than 200 persons on alcohol licensed premises is no longer licensable.
 - c) Amplified live music between 8am and 11pm before audiences of no more than 200 persons in workplaces not otherwise licensed under the 2003 Act (or licensed only for the provision of late night refreshment) is no longer licensable.
 - d) The licensing requirement for the provision of entertainment facilities is removed.
 - e) The exemption for live music integral to a performance of Morris dancing or dancing of a similar type is widened, so that the exemption applies to live or recorded music instead of unamplified live music.

35.3 a) and b) above are subject to the right of the Licensing Authority to impose conditions about live music following a review of a premises licence or club premises certificate relating to premises authorised to supply alcohol for consumption on the premises.

35.4 As a result of amendments to the 2003 act by the 2012 act and the 2013 order, no licence is required for the following activities to the extent that they take place between 8am to 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 1,000 people; and
- Most performances of dance in the presence of any audience of no more than 500 people.

35.5 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.

35.6 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.

36.0 Sexual entertainment venues

36.1 Tewkesbury Borough Council has adopted a policy in relation to sex establishments, including sexual entertainment venues under the Local Government (Miscellaneous Provisions) Act 1982, as amended by the Policing and Crime Act 2009. This policy includes standard conditions attached to such licences. Where there are similar conditions attached to licences under both regulatory regimes, the more onerous will apply.

36.2 There is an exemption under the Local Government (Miscellaneous Provisions) Act 1982 that allows premises to provide sexual entertainment no more than 11 times per year and no more frequently than monthly. Any concerns related to the provision of occasional sexual entertainment may still lead to a review of the relevant premises licence or club premises certificate and the imposition of conditions.

36.3 Any premise that wants to provide sexual entertainment under the exemption must still be authorised under the Licensing Act 2003 for the performance of dance and the playing or recorded music.

37.0 Early morning alcohol restriction orders (EMROs)

37.1 The power to introduce an EMRO enables a Licensing Authority to prohibit the sale of alcohol for a specified time period between the hours of 12am and 6am in the whole or part of its area, if it is satisfied that this would be appropriate for the promotion of the licensing objectives.

- 37.2 EMROs are designed to address recurring problems such as high levels of alcohol-related crime and disorder in specific areas at specific times; serious public nuisance; and other instances of alcohol-related anti-social behaviour which is not directly attributable to specific premises.
- 37.3 Before introducing an EMRO the Licensing Authority must be satisfied that it has sufficient evidence to demonstrate that its decision is appropriate for the promotion of the licensing objectives. This requirement will be considered in the same manner as other licensing decisions, such as the determination of applications for the grant of premises licences. The Licensing Authority will consider evidence from partners, including responsible authorities and local Community Safety Partnerships, alongside its own evidence, to determine whether an EMRO would be appropriate for the promotion of the licensing objectives.
- 37.4 The Licensing Authority will normally only consider the use of EMROs as a last resort in dealing with recurring problems and will always consider the potential burden that would be imposed on premises licence holders as well as the potential benefits in terms of promoting the licensing objectives.
- 37.5 It is recognised that there are other measures that could be taken instead of making an EMRO which include:
- Introducing a special policy on cumulative impact.
 - Reviewing licences of specific problem premises.
 - Encouraging the creation of business-led best practice schemes in the area; and
 - Using other mechanisms set out in the Secretary of State's Guidance to Licensing Authorities under Section 182 of the Licensing Act 2003.
- 37.6 At the time of adopting this policy, the Licensing Authority is not currently satisfied that it is appropriate to make any EMROs.

38.0 Late night levy

- 38.1 The late night levy is a power, conferred on licensing authorities by provision in Chapter 2 of Part 2 of the Police Reform and Social Responsibility Act 2011. This enables licensing authorities to charge a levy to persons who are licensed to sell alcohol late at night in the authority's area, as a means of raising a contribution towards the costs of policing the late-night economy.
- 38.2 The levy is a power and the Government has recognised that some licensing authorities will not consider that it is appropriate to exercise it.
- 38.3 At the time of adopting this policy this Licensing Authority does not have a large number of premises which are licensed to sell alcohol during the late night supply period. Therefore the Licensing Authority does not believe that the levy will generate enough revenue to make it a viable option in its area.
- 38.4 The decision to introduce the levy is for the Licensing Authority to make. However the Licensing Authority will keep the need for a levy under review in consultation with the chief officer of police and police and crime commissioner ("PCC") for the police area.
- 38.5 When considering whether to introduce a levy the Licensing Authority notes that any financial risk (for example lower than expected revenue) rests at a local level and this will be fully considered prior to making any decision about local implementation.

- 38.6 The Licensing Authority will decide whether or not it believes it has a viable proposal to introduce the levy before incurring the costs of the formal consultation process.
- 38.7 If the Licensing Authority decides to give further consideration to the introduction of a levy in the future, it will do so in accordance with the relevant regulations and with reference to any relevant guidance issued by the Home Office.
- 38.8 Any decision to introduce, vary or end the requirement for the levy will be made by the Full Council. Other decisions in relation to the introduction and administration of the levy would be delegated to the Licensing Committee.

39.0 Suspension of licences and certificates for non-payment of annual fees

- 39.1 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.
- 39.2 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.
- 39.3 When suspending a licence or certificate a notice of suspension will be given in writing to the licence or certificate holder. The Licensing Authority will normally notify the licence or certificate holder no less than seven days prior to the day the suspension will take effect. The police and any other relevant responsible authorities will also be notified of the suspension.
- 39.4 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.
- 39.5 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.

Appendix 1 - Table of Delegated Functions

| Matter to be dealt with | Full committee | Sub committee | Officers |
|---|-----------------------|--|--|
| Application for personal licence | | If the police give an objection notice | If no objection notice is given by the police. |
| Application for premises licence/club premises certificate | | If relevant representations are made | If no relevant representations are made |
| Application for provisional statement | | If relevant representations are made | If no relevant representations are made |
| Application to vary premises licence/club premises certificate | | If relevant representations are made | If no relevant representations are made |
| Application to vary designated personal licence holder | | If the police give an objection notice | If no objection notice is given by the police. |
| Application for the mandatory alcohol condition under the Licensing Act 2003 requiring a Designated Premises Supervisor in respect of a premises licence to be disapplied | | 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 give an objection notice | If no objection notice is given by the police. |
| Application for interim authority | | If the police give an objection notice | If no objection notice is given by the police. |
| Application to review premises licence/club premises certificate | | All cases | |
| Decision on whether a complaint or objection is | | | All cases |

| | | | |
|---|--|-----------|-----------|
| irrelevant, frivolous, vexatious etc | | | |
| 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 event notice | | All cases | |
| Decision to suspend a licence or certificate for non-payment of the annual fee. | | | All cases |

Appendix 2 – Mandatory conditions

Supply of alcohol

1. No supply of alcohol may be made under the premises licence—
 - a) At a time when there is no designated premises supervisor in respect of the premises licence, or
 - b) At a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
2. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
3.
 - 1) The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
 - 2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises 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—
 - a) Games or other activities which require or encourage, or are designed to require or encourage, individuals to—
 - I. drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - II. drink as much alcohol as possible (whether within a time limit or otherwise).
 - b) Provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the act).
 - c) Provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less.
 - d) Provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on—
 - I. The outcome of a race, competition or other event or process, or
 - II. the likelihood of anything occurring or not occurring;
 - e) Selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.
4. The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
5. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.
6.
 - 1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.
 - 2) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on

request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

7. The responsible person shall ensure that—
- a) Where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
 - I. beer or cider: ½ pint;
 - II. gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - III. still wine in a glass: 125 ml; and
 - b) Customers are made aware of the availability of these measures.

- 8.
1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
 2. For the purposes of the condition set out in paragraph 1)-
 - a) “Duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979(6); .
 - b) “Permitted price” is the price found by applying the formula- .

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

where-

- i. P is the permitted price,
 - ii. D is the rate of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
 - iii. V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol.
- c) “Relevant person” means, in relation to premises in respect of which there is in force a premises licence-
- i. the holder of the premises licence,
 - ii. the designated premises supervisor (if any) in respect of such a licence, or
 - iii. the personal licence holder who makes or authorises a supply of alcohol under such a licence.
 - iv.
- d) “Relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- e) “Valued added tax” means value added tax charged in accordance with the Value Added Tax Act 1994(7).

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

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

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

Exhibition of films

1. Admission of children must be restricted in accordance with any recommendation made by the film classification body.
- 2.

Door supervision

1. All individuals at the premises to carry out a security activity must be licensed by the Security Industry Authority.
2. For the purposes of this section—
 - a) “Security activity” means an activity to which paragraph 2(1)(a) of The Private Security Industry Act 2001
 - b) Paragraph 8(5) of that Schedule (interpretation of references to an occasion) applies as it applies in relation to paragraph 8 of that schedule.

Appendix 3 – Responsible Authorities

| Authority | Contact |
|--|---|
| <p>The Licensing Authority</p> <p>Licensing Department Tewkesbury Borough Council Council Offices Gloucester Road Tewkesbury GL20 5TT</p> <p>Tel: 01684 272284 Fax: 01684 272039 Email: licensing@tewkesbury.gov.uk</p> | <p>Police</p> <p>Licensing Unit Community Engagement Dept Police Headquarters No 1 Waterwells Quedgeley Gloucester GL2 2AN</p> <p>Tel: 01452 754482 Email: licensing@gloucestershire.pnn.police.uk</p> |
| <p>The Fire Authority</p> <p>Gloucestershire Fire and Rescue Service Service Delivery Support Waterwells Drive Quedgeley Gloucester GL2 2AX</p> <p>Tel: 01452 753333 Fax 01452 753304 Email fire.safety@glosfire.gov.uk</p> | <p>Authority for Health and Safety, pollution of the environment.</p> <p>Environmental Health Department Tewkesbury Borough Council Council Offices Gloucester Road Tewkesbury GL20 5TT</p> <p>Tel: 01684 272191 Fax:01684 272049 email: ehenquiries@tewkesbury.gov.uk</p> |
| <p>Local planning authority</p> <p>Planning Department Tewkesbury Borough Council Council Offices Gloucester Road Tewkesbury GL20 5TT</p> <p>Tel: 01684 272151 or 272152 Fax:01684 272067 Email: developmentapplications@tewkesburybc.gov.uk</p> | <p>Responsible authority for protection of children</p> <p>Lead Co-ordinator Safeguarding Children Service Gloucestershire Public Protection Bureau No 63, Lansdown Road Cheltenham Glos GL51 6QD</p> <p>Tel: 01452 583638 email: Duncan.siret@gloucestershire.gov.uk</p> |

| Authority | Contact |
|--|---|
| <p>Primary Care Trust or Local Health Board</p> <p>Public Health Department Block 4, 2nd Floor Gloucestershire County Council Shire Hall, Westgate Street, Gloucester, GL1 2TG</p> <p>Tel: 01452 328607 Email: Ruth.Andress@gloucestershire.gov.uk</p> | <p>Trading Standards Service</p> <p>Gloucestershire County Council Trading Standards Service Hillfield House Denmark Road Gloucester GL1 3LD General Enquiries: 01452 426201 Licensing: 01452 426222 Fax: 01452 426274 Email: tradstds@gloucestershire.gov.uk</p> |
| <p>Responsible authority in relation to applications in respect of vessels</p> <p>For the River Severn: British Waterways Board South West Office, Harbour House West Quay, The Dock Gloucester GL1 2LG Tel: 01452 318000 Fax: 01452 318076 Email: enquiries.southwest@britishwaterways.co.uk</p> <p>For the River Avon: Lower Avon Navigation Trust Ltd / Upper Avon Navigation Trust Ltd Mill Wharf Mill Lane Wyre Piddle Persore Worcestershire WR10 2JF Tel: 01386 552517</p> | |

Appendix 4 - Licensing Act 2003 – Regulation No 42 (2005) – Plans

Applications for premises licences or club premises certificates must be accompanied by a plan to which the application relates, the scale being 1:100. However plans of outside areas only will be accepted to scale 1:500

The plan shall show:

- The boundary of the building, if relevant, and any external and internal walls of the building and, if different, the perimeter of the premises.
- Location points of access to and egress from the premises.
- If different from (b) above, the location of escape routes from the premises.
- Where [premises are used for more than one licensable activity, the area within the premises used for each activity.
- Fixed structures (including furniture) or similar objects temporarily in a fixed location (but not furniture) which may impact on the ability of individuals on the premises to use exits or escape routes without impediment.
- Where premises include a stage or raised area, the location and height of each stage or area relative to the floor.
- Where premises include any steps, stairs, elevators or lifts, the location of each one.
- Where premises include any room or rooms containing public conveniences, the location of each one.
- The location and type of any fire safety and any other safety equipment including, if applicable, marine safety equipment.
- The location of any kitchen on the premises.

The plan may include a legend through which the matters mentioned or referred to above are sufficiently illustrated by the use of symbols on the plan.

Appendix 5 - BBFC Film Classification

Films would normally be classified by the British Board of Film Classification or the local authority in the following way:

- U Universal – suitable for all
- PG Parental Guidance. Some scenes may be unsuitable for young children.
- 12A (PG12) Passed only for viewing by persons aged 12 years or older or younger persons accompanied by an adult.
- 12 Passed only for viewing by persons aged 12 years or older.
- 15 Passed only for viewing by persons aged 15 years and over.
- 18 Passed only for viewing by persons aged 18 years and over.

In some cases, the PG rating may carry a recommended viewing age – e.g. PG8 would only be suitable for children over the age of eight, if accompanied by an adult.



LICENSING ACT 2003

STATEMENT OF LICENSING POLICY 2022 - 2027

Commented [MB1]: Dates updated

**Licensing Team, Tewkesbury Borough Council, Council Offices,
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www.tewkesbury.gov.uk/licences-and-permits

Revised with effect from November 2022

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1. Introduction

- 1.1 Tewkesbury Borough Council (the Council) is a Licensing Authority under the Licensing Act 2003 and therefore has responsibilities for the administration and enforcement of the act within the borough of Tewkesbury.
- 1.2 These include, among other duties, the granting of premises licences, club premises certificates, temporary events notices and personal licences in the borough in respect of the sale and/or supply of alcohol, the provision of regulated entertainment and late night refreshment.
- 1.3 Tewkesbury Borough covers an area of 160 sq miles in North Gloucestershire. The borough is situated within the Severn Vale and stretches south beyond the outskirts of Cheltenham and Gloucester with borders alongside the county of Worcestershire to the north. It occupies the northern gateway into the south west region.
- 1.4 The borough is predominantly rural in nature with the largest towns / villages being Tewkesbury, Winchcombe, Bishops Cleeve and Churchdown.



2. Licensing objectives and aims

2.1 The Licensing Act 2003 provides a clear focus on the promotion of four key licensing objectives. As a Licensing Authority, Tewkesbury Borough Council will always seek to carry out its licensing functions with a view to promoting these four objectives.

2.2 The licensing objectives are:

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

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

2.4 However, the Licensing Authority recognises that the legislation also supports a number of other key aims and purposes. It is recognised that these are also vitally important and should be aims for everyone involved in licensing work.

2.5 They include:

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

3. Scope of the Licensing Authority's functions

3.1 As a Licensing Authority, the Council is responsible for the authorisation of 'licensable activities'. The licensable activities that are required to be authorised under the act are as follows:

- The provision of regulated entertainment;
 - a) A performance of a play.
 - b) An exhibition of a film.
 - c) An indoor sporting event.
 - d) A boxing or wrestling entertainment; a contest, exhibition or display which combines boxing or wrestling with one or more martial arts ("combined fighting sports").

- e) A performance of live music.
 - f) Any playing of recorded music.
 - g) A performance of dance.
 - h) Entertainment of a similar description to a performance of live music, any playing of recorded music or a performance of dance.
- Late night refreshment
 - i) The provision of late night refreshment.
 - Sale or supply of alcohol
 - j) The sale by retail of alcohol or The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club.

3.2 The Licensing Authority is responsible for four different types of authorisation or permission, as follows:

- Premises licence – to use premises for licensable activities.
- Club premises certificate – to allow a qualifying club to use premises for qualifying club activities.
- Temporary event notice – to carry out licensable activities on a temporary basis for an event.
- Personal licence – to allow a person to sell or authorise the sale of alcohol from premises in respect of which there is a premises licence.

4. Purpose of the statement of licensing policy

- 4.1 This statement of policy has been prepared and updated in accordance with the latest amended provisions of the 2003 Act and the latest revised guidance issued under section 182 of the act. The statement sets out the principles the Licensing Authority will generally apply to promote the licensing objectives when making decisions on applications made under the act.
- 4.2 The main purpose of this policy is to provide clarity to applicants, members of the public and responsible authorities on how the Licensing Authority will determine applications for the supply of alcohol, the provision of regulated entertainment and the provision of late night refreshment and also to provide a basis for all licensing decisions taken by the Licensing Authority. It will also inform elected members of the parameters within which licensing decisions can be made.
- 4.3 This policy sets out the process the Licensing Authority will adopt in dealing with licence applications with particular regard to the various types of premises and permissions and the various conditions that can be attached to licences if relevant representations are made. It also highlights the Council's undertaking to avoid duplication with other statutory provisions and its commitment to work in partnership with other agencies and organisations.
- 4.4 When carrying out its licensing functions the Council will always have regard to this statement of policy and the guidance issued by the Secretary of State under section 182 of the Licensing Act 2003.
- 4.5 The Licensing Authority may depart from this policy or the guidance if the individual circumstances of any case merit such a decision in the interests of promoting the four licensing objectives.

Whenever the Licensing Authority takes a decision to depart from this policy or the guidance, clear reasons will be given.

- 4.6 The statement of policy took effect on 17 October 2014 and will be kept under review. A revised statement of policy will be published no later than January 2019.

5. General principles

- 5.1 Every application received by the Licensing Authority will be considered on its own individual merits.
- 5.2 If an application for a premises licence or club premises certificate has been made lawfully and there have been no representations from responsible authorities or other persons, the Licensing Authority must grant the application, subject only to conditions that are consistent with the operating schedule and any relevant mandatory conditions.
- 5.3 The Licensing Authority will aim to carry out its licensing functions in a way that promotes tourism, increases leisure and culture provision and encourages economic development within the borough.
- 5.4 However the Licensing Authority will also always try and balance the needs of the wider community, local community and commercial premises, against the needs of those whose quality of life may be adversely affected by the carrying on of licensable activities, particularly within residential areas.
- 5.5 In particular the Licensing Authority will attempt to control any potential negative impacts from the carrying on of licensable activities, such as increased crime and disorder, anti-social behaviour, noise, nuisance, risks to public safety and harm to children.
- 5.6 The Licensing Authority's aim is to facilitate well run and managed premises with licence holders displaying sensitivity to the impact of the premises on local residents.
- 5.7 The Licensing Authority acknowledges that licensing law is not the primary mechanism for the general control of anti-social behaviour by individuals once they are beyond the direct control of the individual, club or business holding the authorisation concerned. As a matter of policy, however, the Licensing Authority expects every holder of an authorisation to be responsible for minimising the impact of their activities and anti-social behaviour by their patrons within the immediate surroundings of their premises.
- 5.8 "Need" concerns the commercial demand for another pub, restaurant or hotel and is a matter for the planning authority and for the market. Need is not a matter that the Licensing Authority can consider in carrying out its licensing functions.

6. Consultation

- 6.1 In accordance with section 5 of the Act and prior to the publication of this Policy the Licensing Authority consulted with the persons and organisations stipulated in Appendix 7 of the policy.

7. Duration and Review

- 7.1 The policy takes effect xx and will remain in force for a period of no more than five years. During this time it will be subject to regular review and updating or modification as appropriate, for example to take account of any changes in licensing legislation.

8. Promotion of Equality

- 8.1 The Equality Act 2010 places a legal obligation on the Licensing Authority to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; to advance equality of opportunity; and to foster good relations, between persons with different protected characteristics. The protected characteristics are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

Commented [MB4]: New section to make clearer

Commented [MB5]: New section to make clearer and date TBC

Commented [MB6]: Moved from Section 30 to make more prominent

8.2 The Licensing Authority will look to discharge this duty by making arrangements where appropriate to provide information in a format that meet the requirements of those with special needs such as large type, audio information and information in foreign languages upon request. Specific needs will be dealt with on an individual basis.

9. Applications for premises licences and club premises certificates

- 9.1 The relevant application forms and associated documents can be obtained from the Licensing Authority's website at www.tewkesbury.gov.uk/licences-and-permits or from licensing officers during normal office hours.
- 9.2 Along with the application form, applicants must also submit an operating schedule and plans of the premises to which the application relates. Plans will not be required to be submitted in any particular scale, but they must be in a format which is "clear and legible in all material respects", i.e. they must be accessible and provides sufficient detail for the Licensing Authority to be able to determine the application, including the relative size of any features relevant to the application. The Licensing Authority does not require plans to be professionally drawn as long as they clearly show all the prescribed information.
- 9.3 Applicants are expected to demonstrate the positive steps that they will take to promote the four licensing objectives in the operating schedule.

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10. Operating schedules

- 10.1 The operating schedule is a key document and, if prepared comprehensively, will form the basis on which premises may be licensed without the need for additional extensive conditions. All applicants for the grant or variation of a premises licence or club premises certificate are required to provide an operating schedule as part of their application. The Licensing Authority expects an operating schedule to indicate the positive steps that the applicant proposes to take to promote the licensing objectives.
- 10.2 In completing an operating schedule, applicants are expected to have regard to this statement of licensing policy and to demonstrate suitable knowledge of their local area when describing the steps that they propose to take in order to promote the licensing objectives.
- 10.3 Where requested, the Licensing Authority provides general advice on the drafting of operating schedules and applicants are strongly recommended to discuss their operating schedules with the Licensing Authority and other responsible authorities prior to submitting them.
- 10.4 The complexity and detail required in the operating schedule will depend upon the nature and use of the premises concerned. For premises such as a public house where regulated entertainment is not provided, only a relatively simple document may be required. However for an operating schedule accompanying an application for a major entertainment venue or event, it will be expected that issues such as public safety and the prevention of crime and disorder will be addressed in detail.
- 10.5 The operating schedule must be set out on the prescribed form and include a statement of the following:-
- Full details of the licensable activities to be carried out and the intended use of the premises.
 - The times during which the licensable activities will take place.
 - Any other times when the premises are to be open to the public.
 - Where the licence is only required for a limited period, that period.
 - Where the licensable activities include the supply of alcohol, the name and address of the individual to be specified as the designated premises supervisor.
 - Whether alcohol will be supplied for consumption on or off the premises or both.
 - The steps which the applicant proposes to promote the licensing objectives.

10.6 For some premises, it is possible that no measures will be appropriate to promote one or more of the licensing objectives, for example, because they are adequately covered by other existing legislation. It is however important that all operating schedules should be precise and clear about the measures that are proposed to promote each of the licensing objectives.

11. Prevention of Crime and Disorder

Commented [MB8]: Additional section to give clear advice on licensing objective

11.1 Licensed premises, especially those offering late night/early morning entertainment, alcohol and refreshment for large numbers of people, can sometimes if not properly managed be a source of public nuisance generating crime and disorder problems. In its role as the licensing authority, the Council will recommend that licensees of premises develop Operating Schedules that satisfactorily address these issues from the design of the premises through to the daily operation of the business.

11.2 In addition to the requirements for the Council to promote the licensing objectives, it also has a duty under Section 17 of the Crime and Disorder Act 1988 to do all it reasonably can to prevent crime and disorder in the District. The Council recommends applicants consider what actions they can take in the management of their premises that will contribute towards the reduction of crime and disorder and their responsibilities to the community in general when engaged in their activities and trading as licensed premises.

11.3 In developing such Operating Schedules applicants should take notice of this Policy, its contents and appendices and where appropriate are recommended to seek advice from the Council or Gloucestershire Police Licensing Unit. When planning and preparing Operating Schedules applicants may take into account local planning and transport policies, tourism, cultural and crime and disorder reduction strategies as appropriate.

11.4 Where, following receipt of a relevant representation, the Council's discretion is engaged it will when making its determination take into account the measures proposed by the applicant to prevent crime and disorder. The Council may give particular consideration to the following:

- the ability of the person in charge of the premises to monitor the premises at all times that it is open;
- the training given to staff regarding crime prevention measures for the premises;
- physical security features installed in the premises (e.g. position of cash registers, CCTV, toughened drinking glasses etc.);
- management attitudes (e.g. responsible pricing promotions and willingness to stagger trading);
- that when appropriate approved trained and registered door supervisors are employed to regulate entry and prevent disorderly behaviour (e.g. Night Clubs, Pubs and Clubs on Fridays and Saturdays, Christmas Eve, New Years Eve and evenings when it may be reasonable to expect higher than normal clientele numbers – transmission of high profile rugby football and football matches or sporting events etc via any other measure as may be appropriate (e.g. participation in local Pubwatch and/or Shopwatch schemes or 'Behave or be Banned' (BOBS), restrictions on 'happy hours', music wind-down policies);
- the measures employed to prevent the consumption or supply of illegal drugs, including any search procedures and entry policies;
- arrangements for transport to get people home during the evening and at closing times.
- Where the premises are subject to age restrictions, the procedures in place to conduct age verification checks (identification bearing their photograph, date of birth, and either a holographic mark or ultraviolet feature. The Home Office encourages licensed premises also accept cards bearing the Proof of Age Standards Scheme Statement of Licensing Policy 2021/25 10 (PASS) hologram)
- The location of the premises and the likelihood of any anti-social behaviour, violence, public order or policing problems if the licence is granted.
- Shops, stores and supermarkets wishing to sell alcohol by retail sale will normally be permitted to match their permitted hours to their normal trading hours unless there are reasons relating to the prevention of crime and disorder for restricting those hours.

Further information can be found in the Statutory Guidance.

The Council will give considerable weight to any representations made by Gloucestershire Police in determining any application for a licence and whether or not the use of any of these conditions is appropriate.

11.5 The Council will not apply standardised conditions but will in respect of each case where relevant representations have been received and upheld consider whether any of the conditions set out below are necessary and proportionate:

- Certain premises, particularly those licensed to sell alcohol beyond 11pm in the town centres, may be required to install a closed-circuit television system that meets with the approval of the Police.
- Premises licensed to sell alcohol beyond 11pm in Tewkesbury may be required to become members of the Pubwatch scheme (or equivalent) , and to become a part of the Pubwatch radio system in order to alert other premises of potential trouble makers.
- Applicants for late-night entertainment and liquor premises should agree a protocol with the police on the handling of illegal drugs found on their premises.
- Any door supervisors employed on licensed premises must be licensed by the Security Industry Authority. It is recommended that pubs and clubs that wish to sell alcohol beyond 11pm employ registered door supervisors. It may be appropriate for some premises to employ door supervisors each night of the week whereas others may only require them at weekends.
- Licences for any form of public entertainment may be subject to conditions to prohibit entertainment (including film exhibitions) which are likely to lead to disorder, or stir up hatred or incite violence towards any section of the public on the grounds of colour, race, ethnic or national origin, disability, religious beliefs, sexual orientation or gender.

11.6 Where there is evidence that a particular area of the District is already suffering adverse effects on the licensing objectives from the concentration of late night premises, when determining any further application for premises within the area identified when relevant representations have been received and upheld the Council will take into account:

- The character of the surrounding area;
- The impact of the licence on the surrounding area, both individually and cumulatively with existing licences; and
- The nature and character of the proposed operation.

11.7 The Licensing Committee's starting point is in terms of seeking a reduction in crime and disorder throughout the District, consistent with its statutory duty under section 17 of the Crime and Disorder Act 1998, and an improvement in local amenity through reduction of anti-social behaviour.

11.8 Premises serving alcohol after 11pm should consider giving customers the opportunity to remain on the premises after last orders to encourage a 'wind down' period. The Licensing Authority will normally expect the service of alcohol to cease at least 30 minutes before customers are required to leave the premises. Applicants should consider a strategy of how they will implement a 'winding down' period and detail this in the application form. This could include slowing down the pace, volume and type of music played, brighter lighting arrangements and serving hot food, coffee and other soft drinks.

12. Public Safety

12.1 The Act covers a wide range of premises that will present a mixture of risks to public safety, some of which may be common to different premises whilst others will be unique to specific operations.

Commented [MB9]: Additional section to give clear advice on licensing objective

12.2 Where the applicant can demonstrate compliance with statutory requirements (e.g. relating to fire prevention etc), and that suitable and sufficient risk assessments are in place which are relevant to the activities proposed and the Council's discretion has been engaged by the receipt of a relevant representation, the Council will not normally seek to duplicate such controls by the imposition of licensing conditions.

Capacity limits

12.3 The Council will not seek to set a capacity limit for premises for fire safety purposes only as this is controlled by the Fire Service under the Regulatory Reform (Fire Safety) Order 2005.

12.4 The Council is however, committed to ensuring public safety especially in relation to premises providing regulated entertainment and in some cases a capacity limit may be relevant to the Licensing Objectives.

12.5 The identification of a safe capacity limit for premises ensures that persons can be evacuated safely from premises in cases of emergency and may be one means of promoting the Act's public safety objective. The design and layout of premises are important factors when determining a safe occupant capacity. Other factors that may influence safe occupancy limits and may need to be considered when assessing the appropriate capacity for premises or events include;

- the nature of the premises or event;
- the nature of the licensable activities being provided;
- the provision or removal of such items as temporary structures, such as a stage, or furniture;
- the number of staff available to supervise customers both ordinarily and in the event of an emergency;
- the age spectrum of the customers;
- the level and frequency of attendance by customers with disabilities, or who may be unable to speak or understand English;
- availability of suitable and sufficient sanitary facilities;
- nature and provision of facilities for ventilation.

12.6 The Council requires applicants for premises licences that provide regulated entertainment (or any other premises providing a licensable activity where occupant capacity may be a fire safety issue) to seek advice regarding safe occupancy levels from the Fire Safety Section of Gloucestershire Fire and Rescue Service.

12.7 Where following receipt of a relevant representation the Council's discretion has been engaged, and it believes it is necessary to impose a condition identifying an occupancy limit on a premises licence, the Council will liaise with Gloucestershire Fire and Rescue Service. <http://www.glosfire.gov.uk>

13. Prevention of Public Nuisance

13.1 Licensed premises, especially those operating late at night and in the early hours of the morning, can sometimes cause a range of nuisances impacting on people living, working or sleeping in the vicinity of the premises.

13.2 The Council in its role as the licensing authority, is keen, where it is able, to protect the amenity of residents and businesses in the vicinity of licensed premises, and for these purposes 'vicinity' is taken to mean the immediate area around licensed premises. As the Council is fully aware of the importance of the licensed trade to the local economy and its culture and leisure aspirations, it will aim to work together with all other persons, statutory agencies and licensed businesses to ensure a mutual and productive co-existence.

Commented [MB10]: Additional section to give clear advice on licensing objective

13.3 Applicants should consider noise that could emanate from their premises in all instances. Where appropriate applicants are recommended to provide a noise management plan with their application. Examples include outdoor events or late evening venues.

13.4 When considering licence applications, where relevant representations have been received the Council will take into account measures proposed by the applicant to promote the prevention of nuisance and/or anti-social behaviour. In particular the Council may consider the following matters, where relevant:

- prevention of noise and vibration escaping from the premises, including music, noise from ventilation equipment, and human voices (e.g. the installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices);
- preventing disturbance by customers arriving at or leaving the premises, particularly between 11pm and 7am;
- preventing queuing by pedestrians or vehicular traffic, or if some queuing is inevitable then ensuring the queues are diverted away from neighbouring premises, or are otherwise managed, to prevent disturbance or obstruction;
- ensuring staff leave the premises quietly;
- arrangements for parking by patrons and staff, and the effect of the parking on local residents;
- provision for public transport (including taxis and private hire vehicles) for patrons;
- whether licensed taxis or private hire vehicles are likely to disturb local residents;
- whether routes to and from the premises on foot, by car or other services pass residential premises;
- the installation of any special measures where licensed premises are, or are proposed to be, located near sensitive premises such as nursing homes, hospitals, hospices or places of worship;
- the use of gardens and other open-air areas;
- the location of external lighting, including security lighting that is installed inappropriately; • other appropriate measures to prevent nuisance, (e.g. registered door supervisors, the use of CCTV);
- how the premises address refuse storage or disposal problems, or additional litter (including fly posters and illegal placards);
- the history of previous nuisance complaints proved against the premises, particularly where statutory action has been taken.

13.5 The Council is keen to stress, however, that as well as the licensing function there are other mechanisms for addressing issues of unruly behaviour that occur away from licensed premises. These include:

- planning controls;
- powers to designate parts of the District as places where alcohol may not be consumed publicly and the confiscation of alcohol in these areas;
- police and local authority powers to close some premises for up to 24 hours in extreme cases of disorder or excessive noise;
- police enforcement of the normal law with regard to disorder and anti-social behaviour;
- the power of the police, other responsible authorities, or a local business or resident to request a review of the licence or certificate;
- enforcement action against those selling alcohol to people who are already drunk.

14. Protection of Children from Harm

14.1 In its role as the licensing authority the Council recognises that there are a range of activities for which licences may be sought meaning that children can be expected to visit many of these premises, often on their own, for food and/or other entertainment. The Act only prohibits unaccompanied children (persons aged under 16) from visiting certain licensed premises. The Council recognises that locally, limitations may have to be considered where it is deemed

Commented [MB11]: Additional section to give clear advice on licensing objective

necessary for the prevention of physical, moral or psychological harm. The following are examples of premises that may raise concerns:

- where there have been convictions for serving alcohol to minors, or with a reputation for under-age drinking;
- with a known association with drug taking or dealing;
- where there is a strong element of gambling on the premises;
- where entertainment of an adult or sexual nature is provided;
- where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises;
- where there is a presumption that persons under 18 should not be allowed (e.g. to nightclubs, except when under 18 discos are being held).

14.2 The Council expects personal licence holders to ensure that they do not serve alcohol to persons under the age of 18, except in limited conditions allowed for by law. The Council recommends that the only way to verify a person's proof of age is with reference to appropriate identification such as:-

- passport
- a photocard driving licence issued in a European Union country;
- a Proof of Age Standards Scheme card (e.g. PASS Card);

14.3 Where appropriate applicants are encouraged to participate in the Challenge 25 age verification scheme.

14.4 The Council recognises the potential risk to children from mobile, remote, internet and other delivery sales of alcohol being made to or accepted on the doorstep of persons under 18. The Council expects applicants for internet and delivery alcohol sales to explain in their application how they will ensure that sales and deliveries are only made to persons over 18. This could include checks whilst taking bookings and ensuring a signature of a responsible adult on delivery.

14.5 Where relevant representations have been received and upheld, when deciding whether to limit the access of children to premises the Council will judge each application on its own merits. To assist with this the Council will consult with Gloucestershire Police and other agencies as appropriate, including the Area Child Protection Committee or Social Services Department. Where concerns have been identified in respect of individual premises and it is felt that access to the premises by children should be restricted the options available would include:

- limitations on the hours when children may be present;
- age limitations for persons under 18;
- limitations on the exclusion of children under certain ages when specified activities are taking place;
- full exclusion of persons under 18 when certain licensable activities are taking place;
- limitation of access to certain parts of the premises for persons under 18;
- a requirement for an accompanying adult to be present.

This list is not meant to be seen as an exhaustive list covering everything, but gives applicants examples of the conditions the Council may seek to impose in meeting its obligation towards the protection of children.

14.6 The Council will not impose any conditions that specifically require the access of children to the premises.

14.7 Where no conditions or restrictions are imposed, the issue of access for children remains a matter of discretion for individual licensees or clubs, or a person who has been given a Temporary Event Notice. The Act does not impose any restrictions on individual applicants volunteering prohibitions or restrictions in their Operating Schedules because their own risk assessments have shown that the presence of children is undesirable or inappropriate. In the absence of any relevant

representations the volunteered prohibitions or restrictions would become conditions of the licence or certificate.

- 14.8 The Act details a number of offences that are designed to protect children in licensed premises and the Council will work closely with the Police and Trading Standards Services to ensure appropriate and effective enforcement, particularly in relation to the sale and supply of alcohol to children.
- 14.9 Films cover a vast range of subjects, some of which deal with adult themes and/or contain, for example, scenes of horror or violence that may be considered unsuitable for children within certain age ranges. In order to prevent children from seeing such films, the Act provides that licences/club premises certificates which authorise the display of films are subject to a mandatory condition requiring licensees to restrict access to persons who meet the required age limit in line with any certificate granted by the British Board of Film Classification or the Council itself.
- 14.10 The Council will expect licensees to ensure that age restrictions for film exhibitions are properly complied with.
- 14.11 In considering applications where relevant representations have been received and upheld the Council will take into account any evidence that age restrictions for film exhibitions are not being properly observed.
- 14.12 The Council recognises that some licensees may wish to hold functions or provide facilities targeted specifically towards children (under 16's Disco's, children's parties, supervised crèche/play areas etc).
- 14.13 In considering applications where relevant representations have been received and upheld the Council will take into account an applicant's Child Protection Policy and measures highlighted within that policy to secure child protection.

NB Gloucestershire County Council Social Services is the responsible authority with regard to the protection of children from harm.

15. Plans

- 15.1 A plan must also be attached to an application for a premises licence or a club premises certificate. The plan should be at a scale of 1:100. The plans do not have to be professionally drawn, however, they must be to scale and contain the relevant information as required under regulation. The authority will accept plans of a scale other than 1:100, however this must be approved prior to submitting the application.
- 15.2 See Appendix 4 for full details on the information that should be included in the plans.

Commented [MB12]: Additional section to give clear advice on making an application

16. Licensing hours

- 16.1 The Licensing Authority recognises the variety of premises for which licences are sought and that fixed and artificially early closing times in certain areas can lead to peaks of disorder and disturbance on the streets when people tend to leave licensed premises at the same time.
- 16.2 When determining what licensing hours are appropriate for a premises the Licensing Authority will always consider each application on its own merits and will not impose predetermined licensed opening hours, without giving individual consideration to the merits of each application. The Licensing Authority will take into account requests for licensable hours in the light of:
- Environmental quality
 - Residential amenity
 - The character or function of a particular area
 - The nature of the proposed activities to be provided at the premises

Commented [MB13]: Moved location to include in the application section of the policy

- 16.3 Consideration may be given to imposing stricter restrictions on licensing hours when it is appropriate to control noise and disturbance from particular licensed premises, such as those in mainly residential areas.
- 16.4 The Licensing Authority wants all licensees and their customers to continue to enjoy the benefits of the pattern of extended hours for public holidays and major horse racing events at Cheltenham that has been established in Gloucestershire. The Licensing Authority will therefore normally allow, subject to application, reasonable extensions to licensing hours on licences and certificates for premises on public holidays and during the two major racing festivals at Cheltenham Racecourse that take place in March and November.
- 16.5 In accordance with established practice, the Licensing Authority encourages applicants, to include measures of good practice in their operating schedules such as a policy of prohibiting new persons from being admitted to their premises after 11pm in order to reduce the risk of disorder and disturbance to members of the public late at night, where this is appropriate to the premises concerned.
- 16.6 Generally the Licensing Authority will consider licensing shops, stores and supermarkets to sell alcohol for consumption off the premises during the normal hours they intend to open for shopping purposes. There may, however, be instances where it is considered that there are good reasons for restricting those hours, for example, where police representations are made in respect of isolated shops known to be the focus of disorder and public nuisance.

17. Late night refreshment

- 17.1 The 2003 act requires that premises selling hot food or drink for consumption by members of the public on or off the premises, between the hours of 11pm and 5am must have a premises licence.
- 17.2 Such premises include those dedicated to providing this service, any premises including restaurants, takeaways, hot food delivery providers and mobile vans trading during these hours.
- 17.3 Premises engaged in the late night provision of hot food and drink are covered by the 2003 act to enable appropriate controls to be introduced to reduce the incidence of disorder, disturbance and public nuisance that can arise if these venues become the focus for gatherings of people that have come from other venues and may have been consuming alcohol.
- 17.4 Management of late night refreshment venues needs to be undertaken effectively to assist in preventing crime, disorder, anti-social behaviour and public nuisance.
- 17.5 The authority will look carefully at the scope of operation intended for late night refreshment premises. The authority particularly expects applicants to address issues such as:
- Hours of operation, to prevent public nuisance to any nearby residents, or problems of noxious smells and anti-social behaviour
 - Supervision of queues and the management of large numbers of customers gathering in the locality of the premises at certain times - this could include door supervision to control surges of customers where this may occur
 - Layout of the premises to cope with customers e.g. position of counters, entrances and exits
 - Litter control and environmental activities, such as litter picking, provision of litter bins, street sweeping/washing
 - CCTV
 - Public safety, including the type of power supply to be used where the application is for a trading vehicle
 - Noise arising from the operation of both plant and clientele
- 17.6 The authority expects premises licensed for late night refreshment to have regard to the "voluntary code of practice for the fast food industry (DEFRA Oct 2003).

Commented [MB14]: Moved location to include in the application section of the policy

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/221084/pb10243-fastfoodcop.pdf

Commented [MB15]: Link updated

- 17.7 Where necessary, following comments from responsible authorities or any other persons, the authority may apply conditions to prevent public nuisance.
- 17.8 The authority will have a presumption against the sale of alcohol from premises where the primary activity during the hours 11pm to 5am is the provision of take-away food, unless it can be clearly shown that there will be no contribution to crime or disorder.

18. Representations

- 18.1 When an application is made for the grant, variation or review of a premises licence or club premises certificate, representations about the application can be made by responsible authorities or other persons.
- 18.2 Representations must be made to the Licensing Authority within the statutory period of 28 days beginning on the day after the relevant application is received by the Licensing Authority. Representations must be made in writing.
- 18.3 Representations can be made either be in support of an application or to express objections to an application being granted. However the Licensing Authority can only accept "relevant representations." A representation is "relevant" if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives.
- 18.4 An example of a representation that would not be relevant would be a representation from a local businessperson about the commercial damage that competition from a new licensed premise would do to their own business. On the other hand, a representation by a businessperson that nuisance caused by new premises would deter customers from entering the local area, and the steps proposed by the applicant to prevent that nuisance were inadequate, would be a relevant representation.
- 18.5 In other words, representations should relate to the impact of licensable activities carried on from premises on the licensing objectives.
- 18.6 For representations in relation to variations to be relevant, they should be confined to the subject matter of the variation.
- 18.7 Whilst the Licensing Authority expects representations to be evidence based, there is no requirement for a responsible authority or other person to produce a recorded history of problems at a premises to support their representations, and it is recognised that in fact this would not be possible for new applications.

19. Representations from responsible authorities

- 19.1 Responsible authorities are a group of public bodies that must be fully notified of applications and that are entitled to make representations to the Licensing Authority in relation to the application for the grant, variation or review of a premises licence or club premises certificate. A full list of contact details for the responsible authorities can be found at Appendix 3.
- 19.2 Whilst all responsible authorities may make representations regarding applications for licences and club premises certificates and full variation applications, it is the responsibility of each responsible authority to determine when they have appropriate grounds to do so.
- 19.3 The Licensing Authority recognises that every responsible authority can make representations relating to any of the four licensing objectives.
- 19.4 The Licensing Authority recognises that the police should be its main source or advice on matters relating to the promotion of the crime and disorder licensing objective, but also may be able to make

relevant representations with regards to the other licensing objectives if they have evidence to support such representations.

- 19.5 The Licensing Authority will accept all reasonable and proportionate representations made by the police unless it has evidence that do so would not be appropriate for the promotion of the licensing objectives. However the Licensing Authority will still expect any police representations to be evidence based and able to withstand scrutiny at a hearing.
- 19.6 The Licensing Authority recognises Gloucestershire Safeguarding Children Board as being the body that is competent to advise it on the licensing objective of the protection of children from harm.
- 19.7 The Licensing Authority recognises that, although public health is not a licensing objective, Primary Care Trusts, ambulance services and A&E departments may share information regarding accidents and injuries from violence as a result of drunkenness. This information would assist the Licensing Authority in exercising its functions.
- 19.7 Following the Police Reform and Social Responsibility Act 2011, the Licensing Authority and the local primary care trusts became responsible authorities and can therefore make representations if it deems it necessary to do so.
- 19.8 The Licensing Authority also expects that other responsible authorities should intervene where the basis for the intervention falls within the remit of that other responsible authority. Each responsible authority has equal standing under the 2003 act and may act independently without waiting for representations from any other responsible authority.
- 19.9 In cases where a Licensing Authority is also acting as responsible authority in relation to the same process, the Licensing Authority will seek to achieve a separation of responsibilities within the authority to ensure procedural fairness and eliminate conflicts of interest. This will be achieved by allocating the different responsibilities to different licensing officers or other officers within the local authority to ensure a proper separation of responsibilities. As Tewkesbury Borough Council is a relatively small Licensing Authority, this may involve allocating responsibilities to officials from outside the licensing department to ensure a separation of responsibilities. However, these officials would still be officials employed by the authority.

20. Representations from other persons

- 20.1 Relevant representations about applications can also be made by any other person, regardless of their geographical position in relation to the relevant premises. However the Licensing Authority will usually give greater weight to representations that are made by people who can demonstrate that they would be directly affected by the carrying on of licensable activities at the premises concerned.
- 20.2 The Licensing Authority will also reject as invalid, any representations from other persons that are deemed to be frivolous or vexatious. A representation might be considered to be vexatious if it appears to be intended to cause aggravation or annoyance, whether to a competitor or other person, without reasonable cause. Frivolous representations are essentially categorised by a lack of seriousness. Frivolous representations would concern issues which, at most, are minor and in relation to which no remedial steps would be warranted or proportionate.
- 20.3 Decisions as to the validity of representations will normally be made by officers of the Licensing Authority. In borderline cases, the benefit of the doubt about any aspect of a representation will be given to the person making that representation. The subsequent hearing would then provide an opportunity for the person or body making the representation to amplify and clarify it.
- 20.4 Any person who is aggrieved by a rejection of their representations on either of these grounds may lodge a complaint through the authority's corporate complaints procedure. A person may also challenge such a decision by way of judicial review.
- 20.5 Where a notice of a hearing is given to an applicant, the Licensing Authority is required to provide the applicant with copies of the relevant representations that have been made.

- 20.6 The Licensing Authority will normally provide copies of the relevant representations to the applicant in full and without redaction. However in exceptional circumstances, where a person satisfies the Licensing Authority that they have genuine reasons to fear intimidation or violence if their personal details, such as name and address, are divulged to the applicant, the copies of the representations may be redacted accordingly.
- 20.7 In such circumstances the Licensing Authority can provide details to the applicant (such as street name or general location within a street), so that the applicant can fully prepare their response to any particular representation.
- 20.8 Alternatively persons may wish to contact the relevant responsible authority or their local councillor with details of how they consider that the licensing objectives are being undermined so that the responsible authority may make representations on their behalf if appropriate and justified.

21. Determination of Applications

Commented [MB16]: New section to give clear advice

21.1 Decision Making Process

Decisions on licensing matters will be taken in accordance with an approved scheme of delegation. Please refer to Appendix 1.

21.2 Unopposed Applications

If no relevant representations are received the licence will be issued automatically with, in the case of a premises licence or club premises certificate, such conditions attached as are mandatory or are consistent with the operating schedule accompanying the application. The authority will have no discretion to refuse the application or to alter or add to the conditions offered through the operating schedule.

21.3 Opposed Applications

Where relevant representations are made, the authority must hold a hearing before a licensing sub-committee who will take such of the following steps as it considers necessary for the promotion of the licensing objectives.

The steps are:

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

21.4 Representations

The authority has discretion on whether to grant applications for licences and to impose conditions on granting and reviewing licences, only when relevant representations are made.

In brief "relevant representations" is the expression used in the Act for comments including objections on applications.

21.5 Appeals

Anyone aggrieved by a decision of the authority has a right of appeal. This is set out in schedule 5 of the Act.

The authority will inform the appropriate parties of their right of appeal in accordance with the Act, when confirming a decision of the licensing subcommittee.

Aggrieved parties should lodge any appeal with the Magistrates' Court within 21 days of the notification of the decision.

22. Conditions on licences and certificates

- 22.1 Conditions on a premises licence or club premises certificate are important in setting the parameters within which premises can lawfully operate. The Licensing Authority will ensure any conditions that are imposed on a premises licence or club premises certificate:
- Are appropriate for the promotion of the licensing objectives.
 - Are precise and enforceable.
 - Are unambiguous and clear in what they intend to achieve.
 - Do not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation.
 - Are tailored to the individual type, location and characteristics of the premises and events concerned.
 - Are not to be standardised and may be unlawful when it cannot be demonstrated that they are appropriate for the promotion of the licensing objectives in an individual case;
 - Do not replicate offences set out in the 2003 Act or other legislation.
 - Are proportionate, justifiable and be capable of being met, (for example, whilst beer glasses may be available in toughened glass, wine glasses may not).
 - Do not seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff, but may impact on the behaviour of customers in the immediate vicinity of the premises or as they enter or leave; and
 - Are written in a prescriptive format.
- 22.2 Although the Licensing Authority may use standardised forms of wording in conditions to cover commonly arising situations and circumstances, "blanket conditions" will not be applied to licences and specific conditions may be drawn up and applied to meet local need and circumstances.
- 22.3 If necessary for the promotion of the licensing objectives, and if there is a link to remaining licensable activities, conditions that relate to non-licensable activities may be added to or altered on that premises licence or club premises certificate at review following problems occurring at the premises. This has been a feature of licence conditions since the 2003 act came into force. An example could be the use of conditions relating to large screen broadcasts of certain sporting events which, combined with alcohol consumption, create a genuine risk to the promotion of the licensing objectives. It is also not uncommon for licence conditions relating to the sale of alcohol to restrict access to outside areas, such as unlicensed beer gardens, after a certain time.

23. Designated premises supervisors

- 23.1 In order for alcohol to be sold under a premises licence, the licence must name a designated premises supervisor who holds a personal licence unless the premises is a community centre or village hall and has applied for the "alternative licence condition" as set out elsewhere in this document. Even though the police may not object to the grant of a personal licence to a particular person, they may object to that person being named as the designated premises supervisor for particular premises on grounds that the crime prevention objective is likely to be undermined. The authority will normally concur with any objection by the Police, unless there are substantial reasons for not doing so.
- 23.2 In premises where alcohol is not sold, there still may be a need for swift engagement with a responsible person and the authority therefore strongly recommends that a person is identified at all premises where licensable activities are taking place.
- 23.3 Although the designated premises supervisor has a key role in the management of a premises, the 2003 act does not require the designated premises supervisor to be there.
- 23.4 The designated premises supervisor must be managerially able to mobilise resources to deal with any problem at the premises. The designated premises supervisor should also be able to manage systems and procedures described in the licence conditions.
- 23.5 On occasions where the designated premises supervisor is not available, then a nominated responsible person must be available to oversee the day to day running and control of the premises and to liaise with enforcement agencies, especially when enforcement visits are undertaken.
- 23.6 The authority request that contact telephone numbers be made available to the authority and police for both routine matters and emergencies.
- 23.7 The authority expects the designated premises supervisor to be readily contactable to manage activities at the premises.
- 23.8 The authority also expects the person in charge when the designated premises supervisor is absent, to be both readily available and identifiable.

24. Provisional statements

- 24.1 Where premises are to be newly constructed, extended or substantially altered, an applicant who has an interest in the premises can apply for a "provisional statement". This is in addition to any planning and building-control consents that may be required.
- 24.2 A provisional statement gives the applicant some assurance about the grant of a future application for a premises licence. This may be useful if the applicant has insufficient information to be able to complete the operating schedule that is necessary for a premises licence application or, if alcohol sales are proposed, is unable to name the proposed designated premises supervisor. An applicant with adequate information could apply, instead, for a premises licence at a suitable stage in design and construction.
- 24.3 The authority will consider issuing a provisional statement for new premises. Where there are any changes to the proposals before a substantive licence is granted, these must be dealt with by way of an application for variation unless they are specifically intended to address a relevant representation.
- 24.4 Once the Licensing Authority has issued a provisional statement, it will exclude representations made about the subsequent application for a premises licence if, without reasonable excuse, substantially similar representations could have been made about the application for the provisional statement. However, the authority recognises that genuine and material changes may arise in the intervening period and the authority reserves the right to entertain representations that reflect changed circumstances.

25. Minor variations

- 25.1 Variations to premises licences or club premises certificates that could not impact adversely on the licensing objectives are subject to a simplified 'minor variations' process. Under this process, the applicant is not required to advertise the variation in a newspaper or circular, or copy it to responsible authorities. However, they must display it on a white notice (to distinguish it from the blue notice used for full variations and new applications).
- 25.2 Minor variations will generally fall into four categories: minor changes to the structure or layout of a premise; small adjustments to licensing hours; the removal of out of date, irrelevant or unenforceable conditions or addition of volunteered conditions; and the addition of certain licensable activities. In all cases the overall test is whether the proposed variation could impact adversely on any of the four licensing objectives.
- 25.3 On receipt of an application for a minor variation, the Licensing Authority will consider whether the variation could impact adversely on the licensing objectives. Decisions on minor variations will normally be delegated to licensing officers who will look at each application on its own individual merits.
- 25.4 In considering the application, the officer will consult relevant responsible authorities if there is any doubt about the impact of the variation on the licensing objectives and if they need specialist advice, and take their views into account in reaching a decision.
- 25.5 The officer will also carefully consider any relevant representations received from other persons that are received within a period of ten working days from the 'initial day', that is to say, the day after the application is received by the Licensing Authority.
- 25.6 The officer will then determine the application and will contact the applicant within 15 working days, beginning on the first working day after the authority received the application, with effect either that the minor variation is granted or the application is refused.

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26. Temporary Event Notices

- 26.1 The Act enables certain organised events for less than 500 people to take place following notification to the authority, the police and environmental health.
- 26.2 The limit on the number of TENS which may be given by any applicant is 5 within the same year, unless the applicant holds a personal licence, in which case the limit will be 50 within the same year.
- 26.3 A number of limitations are imposed on the use of TENS by the Act. The limitations apply to:
- the number of times a premises user may give a TEN is 50 times in a calendar year for a personal licence holder and five times in a calendar year for other people;
 - the number of times a premises user may give a late TEN is limited to 10 times in a calendar year for a personal licence holder and twice for other people. Late TENS count towards the total number of permitted TENS (i.e. the limit of five TENS a year for non-personal licence holders and 50 TENS for personal licence holders). A notice that is given less than ten working days before the event to which it relates, when the premises user has already given the permitted number of late TENS in that calendar year, will be returned as void and the activities described in it will not be authorised.
 - the number of times a TEN may be given for any particular premises is 15 times in a calendar year; the maximum duration of an event authorised by a TEN is 168 hours (seven days);
 - the maximum total duration of the events authorised by TENS in relation to individual premises is 21 days in a calendar year;
 - the maximum number of people attending at any one time is 499; and
 - the minimum period between events authorised under separate TENS in relation to the same premises (not including withdrawn TENS) by the same premises user is 24 hours
- 26.4 Although the statutory legal minimum time required for the notification of a TEN to the authority, police and environmental health is 10 working days, or 5 working days for a late temporary event, it is essential that proper consideration of the proposed event is given. Statutory guidance allows the authority to publicise its preferred timescale for notification.
- 26.5 Where an existing premises licence is in operation the authority would encourage a TEN to be submitted at least 4 weeks but not more than 12 weeks before an event. For applications where there is not a current premises licence, for example community events, 15 working days in advance of the event would be encouraged to allow for proper consideration of the event.
- 26.6 The authority will encourage bona fide community events. A TEN for existing licensed premises will not be encouraged where the proposal is simply to extend the existing hours of operation.
- 26.7 Notice givers are encouraged to consult responsible authorities prior to formal notices being submitted.
- 26.8 The authority expects those who have given notice of a temporary event to have identified the particular issues having regard to their type of premises and/or activities, and to have in place written policies for addressing issues such as drunkenness, crime/disorder and drugs on their premises and for ensuring staff are trained on these policies. The Reducing Alcohol Related Violence Codes of Practice contains guidance on promoting the licensing objectives including potential risks and possible solutions for the different types of licensable activities.
- 26.9 The processing of TENS by the authority is controlled by a strict statutory timetable, therefore, the authority will not accept a notice unless it is complete in all respects at the time of submission.

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27. Filling stations/garages

- 27.1 Section 176 of the 2003 act provides for a general prohibition on the sale of alcohol at motorway service areas and garage forecourts. The government may, by order, alter the description of premises from which alcohol may be sold.
- 27.2 The 2003 act largely maintains the situation in previous legislation which has allowed the sale of alcohol to develop in line with the range of goods available from garage shops as is now commonplace. Accordingly, where proper facilities are provided in the form of a shop at a garage, the authority does not propose to preclude sales of alcohol within the range of goods available.
- 27.3 The authority will not apply a general restriction on the sale of alcohol from garage shops that also offer a substantial range of groceries for sale. The authority will deal with applications related to garages on case by case basis in order to establish that the premises are not primarily used as a filling station.
- 27.4 When dealing with applications related to garages, applicants will be required to prove that the intensity of use by customers purchasing non-fuel products and services exceeds the intensity of use by customers purchasing only fuel products. This may be evidenced by data of customers according to usage, or by sales figures classified according to purchases.

28. Vessels (boats)

- 28.1 A premises licence is required for vessels (boats) carrying out any licensable activities defined in the act. The Licensing Authority will consider applications for a premises licence for vessels if such vessels are usually moored or berthed within the geographical area of Tewkesbury Borough.
- 28.2 When licensing vessels, the authority will consider the conduct of the proposed licensable activities in the context of the licensing objectives. In particular the authority will address the need for adequate control of licensable activities to further the public safety objective and to prevent public nuisance to residents in the vicinity of the vessel's navigational route. An activity is not a licensable activity if it takes place aboard vessels engaged on an international journey.
- 28.3 The authority will not be concerned with the safety of the vessel for carriage of passengers, or issues concerning the safe navigation of the vessel. These are matters dealt with under other legislation.
- 28.4 The authority expects the normal safety measures for a vessel to be supplemented as appropriate to suit the scale, nature and timing of any licensable activities that occur. In considering such matters, the authority may consult with the Environment Agency or any other authority with responsibility for the safety of vessels
- 28.5 Noise or other public nuisance, resulting from licensable activities on board a vessel, must not be caused to persons living near to a vessel's berth or along the route of its navigation. Where necessary, the authority will apply conditions on such vessels to promote the licensing objectives.

29. Vehicles and moveable structures

- 29.1 Alcohol may not be sold on a moving vehicle, but there may be a requirement for sale of alcohol and possibly other licensable activities to take place from a stationary vehicle or structure, for example one that is sited temporarily at an event.
- 29.2 Where a premises licence is required for the vehicle or structure, this will relate solely to the place where the vehicle is sited and the licensable activities are to take place. Premises licences for vehicles and moveable structures are therefore required wherever they are sited, when licensable activities take place and this may well mean applications to more than one Licensing Authority.

- 29.3 The authority expects the operator of any vehicle or moveable structure to ensure that it is located in an area that is appropriate for the proposed licensable activities.
- 29.4 It may not be appropriate to site any such vehicle or structure near to other licensed premises, or in an area subject to an "alcohol consumption in designated public places order" or where it may cause noxious smells or litter problems
- 29.5 The operator of a vehicle trading in a 'consent street' will continue to require a street trading consent in addition to any premises licence and the conditions attached to the street trading consent will continue to apply. Such conditions will normally be equally relevant to vehicles trading in areas where street trading consents are not required.
- 29.6 No premises licence is valid for a vehicle within an area prohibited to street trading.

30. Community centres, village halls, public spaces and council (including parish councils) controlled premises.

- 30.1 The authority encourages all community centres and village halls to apply for premises licences to cover all expected activities, as the managers of these venues may find the permitted temporary event notices too restrictive.
- 30.2 If alcohol is to be supplied, the management committee may appoint a personal licence holder as the designated premises supervisor who does not need to be a member of the management committee of the centre or hall. Alternatively the management committee may apply for the "alternative licence condition" to be applied to any licence that every supply of alcohol must be made or authorised by the management committee.

31. Public spaces and council-controlled premises

- 31.1 Councils are not exempt from the requirements of Licensing Act 2003 and must obtain necessary authorisations for places they wish to make available for carrying out licensable activities. In places for which the Council holds a premises licence, entertainers may be able to give a performance, without the need to serve temporary event notices or to apply for individual premises licences.
- 31.2 This approach will make it more possible for cultural diversity to thrive and will be a far simpler process for many types of entertainment that use numerous venues each year, such as circuses and street artists. However, entertainers will need to obtain the permission of the Council (as premises licence holder) and comply with any conditions that might be imposed.
- 31.3 The Licensing Authority encourages the Council, Town and Parish Councils and Gloucestershire County Council to seek premises licences for the purpose of particular types of public entertainment at premises under its control, such as community halls, parks and public open spaces.

32. Small premises

- 32.1 When dealing with applications related to smaller premises, the authority is aware that small premises are often vital to the local economy and unreasonable conditions could have significant cost implications. The Licensing Authority is also aware of the need to avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music.

33. Internet sales, mail order and retail deliveries

- 33.1 A premises licence is required for the premises where the alcohol is being dispatched for retail deliveries (e.g. warehouse) and not for where it is sold (e.g. call centre). A personal licence holder and designated premises supervisor will also be required at the premises where the alcohol is dispatched

- 33.2 The authority expects that any delivery of alcohol as a result of internet purchase or mail order must be subject to age verification.
- 33.3 The authority also expects that any personnel involved in retail deliveries of alcohol are appropriately trained in licensing laws and age verification.
- 33.4 Any applicant wishing to provide retail delivery of alcohol must ensure that they have an age verification policy. This policy must stipulate age verification procedures such as requiring individuals to produce identification bearing their photograph, date of birth, and a holographic mark when receiving deliveries of alcohol.
- 33.5 The authority expects that businesses engaged in retail delivery of alcohol adopt 'Challenge 25' age verification policy and appropriately train their staff and contractors.
- 33.6 Premises with an existing premises licence wishing to provide retail delivery of alcohol should contact the Licensing Authority for advice on whether to make an application to vary their licence and what steps they can take to promote the licensing objectives.

34. Shops Selling Alcohol (Off Licences)

Commented [MB19]: New section to provide further guidance

34.1 There has been a trend towards more alcohol being purchased from shops and consumed at home and less being purchased and consumed in traditional pubs, restaurants and night clubs than used to be the case in the past. The growing practice of "pre-loading" has the potential to create specific problems and detriment to the licensing objectives including the increased potential for underage and proxy sales which is detrimental to the protection of children from harm.

34.2 Furthermore, the availability of alcohol for consumption off the premises has the potential to cause other problems that include ease of access to alcohol by children, ease of thefts, encouragement of street drinking, and increase of crime and disorder and public nuisance.

34.3 Hours of Operation

The terminal hour for off licences is advised to be 23.00 hours. Applications for hours later than this should demonstrate how they will safely promote the licensing objectives.

34.4 Layout and Operation of Premises

In most cases a licence holder will be able to address the potential problems and detriment to the licensing objectives, through the layout and the operation of the premises.

The authority will encourage all licence holders licensed for off sales to:

- Store high strength alcohol behind the shop counter;
- Not store or display any alcohol at the entrance/exit points of the premises;
- Not advertise alcohol in a shop window;
- Not sell single cans of beer or bottles of beer under 1 litre;
- Not sell beer or cider over 5.5% ABV;
- Not store or display any alcohol at or near check-outs; and
- Refuse to sell alcohol to persons known to be persistent offenders (where the offence(s) relates/associated with alcohol) or street drinkers.

35. Large Scale Events

Commented [MB20]: New section to provide further guidance

- 35.1 A large scale event is considered one where the capacity is more than 499.
- 35.2 Where there is no premises licence in place, it is recommended that a premises licence application should be submitted to the Licensing Team ideally 6 months before the event, but not less than 3 months.
- 35.3 The primary responsibility for safety of attendees at events rests with the event organisers.
- 35.4 Applicants are expected to have reference to The Event Safety Guide - A Guide to Health, Safety and Welfare at Music and Similar Events, commonly referred to as 'The Purple Guide'.
- 35.5 Applicants for large outdoor events are recommended to provide an Event Management Plan (EMP) with their application for a premises licence. For an ongoing premises licence the EMP should be reviewed, updated and submitted to the Council at least 3 months before the event.
- 35.6 The EMP should cover as a minimum the following area (this list is not exhaustive and will vary by event type):
- Site plan including site management, exits, entrances and the structural integrity of all temporary structures
 - Crowd management, stewarding and security plan
 - Use of SIA registered door supervisors
 - Intended activities and entertainment
 - Capacities
 - Alcohol management plan
 - Production details
 - Medical and first aid provision
 - Fire safety and control
 - Noise Management Plan (including hotline telephone numbers and how residents can communicate with the event when it is taking place)
 - Car-parking arrangements
 - Sanitary provisions
 - Concessionary activities
 - Drug Policy
 - Emergency Evacuation Plan
 - Counter terrorism measures
 - Welfare provisions
 - Traffic management plan
 - Refuse and recycling plan
 - Where appropriate measures in place to prevent spread of Covid-19 or similar Safety Advisory Group and large outdoor events
- 35.7 In most cases large events will engage the Safety Advisory Group (SAG). The SAG is a group established to provide specialist advice and guidance in relation to safety at, concerts, festivals and other events.
- 35.8 Applicants for a premises licence for a large event are encouraged to submit a SAG notification. Where a premises licence has been granted for on-going events the licence holder is encouraged to submit a SAG notification annually. The notification should be submitted ideally at least 6 months before each event but not less than 3 months.
- 35.9 Applicants are also encouraged to liaise with the Town/Parish Council prior to applying for a licence to hold an event.

36. Alcohol pricing

- 36.1 The Licensing Act 2003 (mandatory conditions) Order 2014 adds a new licensing condition to the Mandatory Code of Practice banning the sale of alcohol below the “permitted price”. The schedule to the order defines the “permitted price” as the level of alcohol duty plus VAT.
- 35.2 Premises licensed to supply alcohol will need to ensure that their pricing systems are accurate to prevent any sale of alcohol below the cost of duty plus VAT. This includes ensuring that prices are accurate on shelves, barcodes, menus and price lists, where appropriate. It is therefore recommended that businesses follow a series of steps to successfully implement the regulation on the premises.
- 35.3 Duty rates may change each year, typically following the Chancellor’s Budget. Therefore, those who supply alcohol will need to ensure the new duty rates are applied when duty rates change. The same rule will apply to any change in the rate of VAT.
- 35.4 A formula for calculating permitted prices can be found at Appendix 2. Further advice and guidance on alcohol pricing will be published on council’s website.

37. Irresponsible promotions

- 37.1 Since the introduction of the mandatory code regarding drinks promotions in 2010, there has been considerable confusion amongst the licensed trade, the police and licensing authorities in the understanding of the meaning of an irresponsible drinks promotion. This has been largely due to difficulties in the interpretation of the relevant conditions.
- 37.2 From October 2014, these mandatory conditions are amended to ensure that everyone is clear on the meaning of an irresponsible promotion. Drinking games where the aim is to drink as quickly as possible, and using promotional materials that condone anti-social behaviour or drunkenness, will now be irresponsible in all circumstances. Similarly, provision of an unlimited or unspecified quantity of alcohol for free or for a fixed or discounted fee is also prohibited if there is a significant risk that such provision would undermine the licensing objectives.
- 37.3 The sale or supply of alcohol in association with promotional material on, or in the vicinity of, the premises which can be reasonably considered to condone, encourage or glamorise antisocial behaviour or refer to drunkenness favourably is also prohibited. This includes all posters and flyers that may be used to publicise a promotion or event.
- 37.4 The Licensing Authority expects licensees and premises supervisors to refrain from offering any promotions that are designed to encourage people to drink excessive amounts of alcohol, or drink more than they normally would do regardless of the legal meaning of an irresponsible drinks promotion. Operators are advised to consult either the Police Partnership Team or the Council’s Licensing team before proceeding with any drinks promotions.

38. Reviews

- 38.1 At any stage, following the grant or variation of a premises licence or club premises certificate, a responsible authority or any other person, may apply to the Licensing Authority for a review of the licence or certificate because of a problem arising at the premises in connection with any of the four licensing objectives.
- 38.2 In every case the application for review must relate to a particular premises for which a licence or certificate is in force and must be relevant to the promotion of the licensing objectives.
- 38.3 Any responsible authority under the 2003 act may apply for a review of a premises licence or club premises certificate. Therefore, the relevant Licensing Authority may apply for a review if it is concerned about licensed activities at premises and wants to intervene early without waiting for representations from other persons.
- 38.4 However, the Licensing Authority will not normally act as a responsible authority in applying for reviews on behalf of other persons, such as local residents or community groups. These individuals or groups are entitled to apply for a review for a licence or certificate in their own right if they have grounds to do so.
- 38.5 The Licensing Authority also expects other responsible authorities to intervene where the basis for the intervention falls within the remit of that other authority. For example, the police should take appropriate steps where the basis for the review is concern about crime and disorder. Likewise, where there are concerns about noise nuisance, it is expected that environmental health will make the application for review.
- 38.6 Where responsible authorities have concerns about problems identified at a premises, the Licensing Authority considers it good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns.
- 38.7 A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. The Licensing Authority believes that co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this co-operation.
- 38.8 If the application for a review has been made by a person other than a responsible authority (for example, a local resident, residents' association, local business or trade association), before taking action the Licensing Authority will first consider whether the complaint being made is relevant, frivolous, vexatious or repetitious.
- 38.9 A review application might be considered to be vexatious if it appears to be intended to cause aggravation or annoyance, whether to a competitor or other person, without reasonable cause. Frivolous applications are essentially categorised by a lack of seriousness. Frivolous applications would concern issues which, at most, are minor and in relation to which no remedial steps would be warranted or proportionate.
- 38.10 The Licensing Authority considers a repetitious ground for review to be one that is identical or substantially similar to:
- A ground for review specified in an earlier application for review made in relation to the same premises licence or certificate which has already been determined; or
 - Representations considered by the Licensing Authority when the premises licence or certificate was granted; or
 - Representations which would have been made when the application for the premises licence was first made and which were excluded then by reason of the prior issue of a provisional statement; and, in addition to the above grounds, a reasonable interval has not elapsed since that earlier review or grant.

- 38.11 The Licensing Authority is aware of the need to prevent attempts to review licences merely as a further means of challenging the grant of the licence following the failure of representations to persuade the Licensing Authority on an earlier occasion.
- 38.12 The Licensing Authority believes that more than one review originating from a person other than a responsible authority in relation to a particular premises should not normally be permitted within a 12 month period on similar grounds save in compelling circumstances or where it arises following a closure order.
- 38.13 The exclusion of a complaint on the grounds that it is repetitious does not apply to responsible authorities which may make more than one application for a review of a licence or certificate within a 12 month period.
- 38.14 Guidance on applying for a review of a licence or certificate, along with the necessary forms, can be found on the Council's website.

39. Cumulative impact

39.1 The Licensing Authority recognises that the cumulative impact of a number of late night entertainment premises (including cafes) in some areas may result in an increase in people either walking through, or congregating in, streets during the night. This may in turn have a number of undesirable consequences, for example;

- An increase in crime against property and/or person.
- an increase in noise causing disturbance to residents.
- Traffic congestion and/or parking problems.
- Littering and fouling.

39.2 This may result in the amenity of local residents in some areas being placed under pressure, as it will not always be possible to attribute a particular problem to customers of particular premises. This means that, whilst enforcement action may be taken to ensure conditions are complied with, this may not resolve all the problems.

39.3 Where there is evidence that a particular area of the borough is already suffering adverse effects from the concentration of late night premises, when determining any further application for premises within the area identified the Licensing Authority will take into account:

- The character of the surrounding area.
- The impact of the licence on the surrounding area, both individually and cumulatively with existing licences; and
- The nature and character of the proposed operation.

39.4 There is insufficient evidence to adopt a special policy within this statement. The following steps must be followed before a special policy is considered:

- Identification of concern about crime and disorder or public nuisance.
- Consideration of whether it can be demonstrated that crime and disorder and nuisance are arising and are caused by the customers of licensed premises, and if so identifying the area from which problems are arising and the boundaries of that area; or the risk factors are such that the area is reaching a point when a cumulative impact is imminent.
- Consultation with those specified by section 5(3) of the 2003 Act as part of the general consultation required in respect of the whole statement of licensing policy.
- subject to that consultation, inclusion of a special policy about future premises licence or club premises certificate applications from that area within the terms of this Guidance in the statement of licensing policy.
- Publication of the special policy as part of the statement of licensing policy required by the 2003 Act.

40. Early morning alcohol restriction orders (EMROs)

40.1 The power to introduce an EMRO enables a Licensing Authority to prohibit the sale of alcohol for a specified time period between the hours of 12am and 6am in the whole or part of its area, if it is satisfied that this would be appropriate for the promotion of the licensing objectives.

40.2 EMROs are designed to address recurring problems such as high levels of alcohol-related crime and disorder in specific areas at specific times; serious public nuisance; and other instances of alcohol-related anti-social behaviour which is not directly attributable to specific premises.

40.3 Before introducing an EMRO the Licensing Authority must be satisfied that it has sufficient evidence to demonstrate that its decision is appropriate for the promotion of the licensing objectives. This requirement will be considered in the same manner as other licensing decisions, such as the determination of applications for the grant of premises licences. The Licensing

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Authority will consider evidence from partners, including responsible authorities and local Community Safety Partnerships, alongside its own evidence, to determine whether an EMRO would be appropriate for the promotion of the licensing objectives.

- 40.4 The Licensing Authority will normally only consider the use of EMROs as a last resort in dealing with recurring problems and will always consider the potential burden that would be imposed on premises licence holders as well as the potential benefits in terms of promoting the licensing objectives.
- 40.5 It is recognised that there are other measures that could be taken instead of making an EMRO which include:
- Introducing a special policy on cumulative impact.
 - Reviewing licences of specific problem premises.
 - Encouraging the creation of business-led best practice schemes in the area; and
 - Using other mechanisms set out in the Secretary of State's Guidance to Licensing Authorities under Section 182 of the Licensing Act 2003.
- 40.6 At the time of adopting this policy, the Licensing Authority is not currently satisfied that it is appropriate to make any EMROs.

41. Late night levy

- 41.1 The late night levy is a power, conferred on licensing authorities by provision in Chapter 2 of Part 2 of the Police Reform and Social Responsibility Act 2011. This enables licensing authorities to charge a levy to persons who are licensed to sell alcohol late at night in the authority's area, as a means of raising a contribution towards the costs of policing the late-night economy.
- 41.2 The levy is a power and the Government has recognised that some licensing authorities will not consider that it is appropriate to exercise it.
- 41.3 At the time of adopting this policy this Licensing Authority does not have a large number of premises which are licensed to sell alcohol during the late night supply period. Therefore the Licensing Authority does not believe that the levy will generate enough revenue to make it a viable option in its area.
- 41.4 The decision to introduce the levy is for the Licensing Authority to make. However the Licensing Authority will keep the need for a levy under review in consultation with the chief officer of police and police and crime commissioner ("PCC") for the police area.
- 41.5 When considering whether to introduce a levy the Licensing Authority notes that any financial risk (for example lower than expected revenue) rests at a local level and this will be fully considered prior to making any decision about local implementation.
- 41.6 The Licensing Authority will decide whether or not it believes it has a viable proposal to introduce the levy before incurring the costs of the formal consultation process.
- 41.7 If the Licensing Authority decides to give further consideration to the introduction of a levy in the future, it will do so in accordance with the relevant regulations and with reference to any relevant guidance issued by the Home Office.
- 41.8 Any decision to introduce, vary or end the requirement for the levy will be made by the Full Council. Other decisions in relation to the introduction and administration of the levy would be delegated to the Licensing Committee.

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42. Enforcement and complaints

- 42.1 Once licensed, it is essential that premises are maintained and operated so as to ensure the continued promotion of the licensing objectives and compliance with the specific requirements of the Licensing Act 2003. The Licensing Authority will monitor premises and take any appropriate enforcement action to ensure compliance. Only complaints linked to the licensing objectives will be investigated.
- 42.2 The Licensing Authority's general approach to enforcement will be to target problem and high-risk premises which require greater attention, while providing a lighter touch for low risk premises or those that are well run. Principles of risk assessment and targeted inspections (in line with the recommendations of the Hampton review) will prevail and inspections will not be undertaken routinely but when and if they are judged necessary. This should ensure that resources are used efficiently and are more effectively concentrated on problem premises.
- 42.3 In most cases a graduated form of response will be taken to resolve issues of non-compliance, although it is recognised that in serious cases a prosecution or application for review are the appropriate means of disposal.
- 42.4 All decisions and enforcement actions taken by the Licensing Authority will be in accordance with the Council's Corporate Enforcement Policy and the principles of consistency, transparency and proportionality set out in the Regulator's Compliance Code.
- 42.5 The Licensing Authority will continue investigating allegations of unlicensed activities and ensure that licence conditions are complied with. The authority works actively with Gloucestershire Police and other relevant partners in enforcing licensing legislation.
- 42.6 Where a person has made a complaint then the Licensing Authority may initially arrange a mediation meeting to try and address, clarify and resolve the issues of concern. This process does not override the right of any person to ask the Licensing Authority to review a licence or certificate or for any licence/certificate holder to decline to participate in a mediation meeting.

43. Suspension of licences and certificates for non-payment of annual fees

- 43.1 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.
- 43.2 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.
- 43.3 When suspending a licence or certificate a notice of suspension will be given in writing to the licence or certificate holder. The Licensing Authority will normally notify the licence or certificate holder no less than seven days prior to the day the suspension will take effect. The police and any other relevant responsible authorities will also be notified of the suspension.
- 43.4 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.

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43.5 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.

44. Integrating strategies and partnership working

- 44.1 The Licensing Authority will seek to discharge its responsibilities by linking to and supporting local and national strategies and policies so far as they impact on the objectives of the act including:-
- Tewkesbury Borough Council's Council Plan
 - Tewkesbury Borough Council's Strategies and Policies
 - Gloucestershire's Police and Crime Plan
 - Section 182 Statutory Guidance
- 44.2 The Council regards licensing as the most appropriate tool in ensuring that the licensing objectives are promoted and will avoid as far as is possible any duplication with other regulatory regimes and legislation.
- 44.3 As part of a wider package of initiatives the Council is aiming to tackle the negative impacts associated with alcohol consumption by encouraging alcohol licensed premises to join business initiatives such as Pubwatch schemes.
- 44.4 The Council will continue to develop appropriate partnership arrangements, working closely with the police and fire authorities, local businesses, community representatives and local people, in meeting these objectives.

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45. Administration, exercise and delegation of functions

- 45.1 One of the major principles underlying the Licensing Act 2003 is that the licensing functions contained within the act should be delegated to an appropriate level so as to ensure speedy, efficient and cost effective service delivery.
- 45.2 The Licensing Authority is involved in a wide range of licensing decisions and functions and has established a Licensing Committee to administer them. Appreciating the need to provide an efficient service to all parties involved in the licensing process, the Committee has delegated certain decisions and functions and has established a number of sub-committees to deal with those matters.
- 45.3 In addition, it is expected that many of the decisions and functions will be largely administrative with no perceived areas of contention and, in the interests of efficiency and effectiveness these are delegated to officers. Attached at Appendix A to this licensing policy is a table of delegated functions setting out the agreed delegation of decisions and functions to the Tewkesbury Borough Council's Licensing Committee, sub-committees and officers.
- 45.4 These delegations are without prejudice to officers referring an application to a sub-committee or the Licensing Committee if considered appropriate in the circumstances of the case.

46. Relationship with the local planning authority

- 46.1 Planning permission, building control approval and licensing regimes will be properly separated to avoid duplication and inefficiency. The planning and licensing regimes involve consideration of different (albeit related) matters. Licensing committees are not bound by decisions made by a planning committee, and vice versa.
- 46.2 There is no legal basis for the Licensing Authority to refuse a licence application because the relevant premise does not have planning permission, or where there are conditions on the relevant planning permission.
- 46.3 There are circumstances when as a condition of planning permission; a terminal hour has been set for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law.

47. Private events

47.1 Events held in private are not licensable unless those attending are charged for the entertainment with a view to making a profit (including raising money for charity). Anyone involved in the organisation or provision of entertainment activities – whether or not any such activity is licensable under the 2003 act – must comply with any applicable duties that may be imposed by other legislation (e.g. crime and disorder, fire, health and safety, noise, nuisance and planning). Any such person should take steps to be aware of relevant best practice. The Licensing Authority and responsible authorities will provide support and advice when requested.

48. Live Music Act and other deregulations

48.1 The Live Music Act 2012 amended the Licensing Act 2003 by partially deregulating the performance of live music and removing regulation about the provision of entertainment facilities.

48.2 In brief, the changes were:

- a) Unamplified live music between 8am and 11pm in all venues is no longer licensable.
- b) Amplified live music between 8am and 11pm before audiences of no more than 200 persons on alcohol licensed premises is no longer licensable.
- c) Amplified live music between 8am and 11pm before audiences of no more than 200 persons in workplaces not otherwise licensed under the 2003 Act (or licensed only for the provision of late night refreshment) is no longer licensable.
- d) The licensing requirement for the provision of entertainment facilities is removed.
- e) The exemption for live music integral to a performance of Morris dancing or dancing of a similar type is widened, so that the exemption applies to live or recorded music instead of unamplified live music.

48.3 a) and b) above are subject to the right of the Licensing Authority to impose conditions about live music following a review of a premises licence or club premises certificate relating to premises authorised to supply alcohol for consumption on the premises.

48.4 As a result of amendments to the 2003 act by the 2012 act and the 2013 order, no licence is required for the following activities to the extent that they take place between 8am to 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 1,000 people; and
- Most performances of dance in the presence of any audience of no more than 500 people.

48.5 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.

48.6 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.

49. Sexual entertainment venues

- 49.1 Tewkesbury Borough Council has adopted a policy in relation to sex establishments, including sexual entertainment venues under the Local Government (Miscellaneous Provisions) Act 1982, as amended by the Policing and Crime Act 2009. This policy includes standard conditions attached to such licences. Where there are similar conditions attached to licences under both regulatory regimes, the more onerous will apply.
- 49.2 There is an exemption under the Local Government (Miscellaneous Provisions) Act 1982 that allows premises to provide sexual entertainment no more than 11 times per year and no more frequently than monthly. Any concerns related to the provision of occasional sexual entertainment may still lead to a review of the relevant premises licence or club premises certificate and the imposition of conditions.
- 49.3 Any premise that wants to provide sexual entertainment under the exemption must still be authorised under the Licensing Act 2003 for the performance of dance and the playing or recorded music.

Appendix 1 - Table of Delegated Functions

| Matter to be dealt with | Full committee | Sub committee | Officers |
|--|----------------|--|--|
| Application for personal licence | | If the police give an objection notice | If no objection notice is given by the police. |
| Application for premises licence/club premises certificate | | If relevant representations are made | If no relevant representations are made |
| Application for provisional statement | | If relevant representations are made | If no relevant representations are made |
| Application to vary premises licence/club premises certificate | | If relevant representations are made | If no relevant representations are made |
| Application to vary designated personal licence holder | | If the police give an objection notice | If no objection notice is given by the police. |
| 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 give an objection notice | If no objection notice is given by the police. |
| Application for interim authority | | If the police give an objection notice | If no objection notice is given by the police. |
| 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 event notice | | All cases | |
| Decision to suspend a licence or certificate for non-payment of the annual fee. | | | All cases |

Appendix 2 – Mandatory conditions

Supply of alcohol

1. No supply of alcohol may be made under the premises licence—
 - a) At a time when there is no designated premises supervisor in respect of the premises licence, or
 - b) At a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
2. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
3.
 - 1) The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
 - 2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises 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—
 - a) Games or other activities which require or encourage, or are designed to require or encourage, individuals to—
 - I. drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - II. drink as much alcohol as possible (whether within a time limit or otherwise).
 - b) Provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the act).
 - c) Provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less.
 - d) Provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on—
 - I. The outcome of a race, competition or other event or process, or
 - II. the likelihood of anything occurring or not occurring;
 - e) Selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.
4. The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
5. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.
6.
 - 1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.
 - 2) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.
7. The responsible person shall ensure that—
 - a) Where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
 - I. beer or cider: ½ pint;
 - II. gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - III. still wine in a glass: 125 ml; and
 - b) Customers are made aware of the availability of these measures.

- 8.
1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
 2. For the purposes of the condition set out in paragraph 1)-
 - a) "Duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979(6); .
 - b) "Permitted price" is the price found by applying the formula- .

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

where-

- i. P is the permitted price,
 - ii. D is the rate of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
 - iii. V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol.
- c) "Relevant person" means, in relation to premises in respect of which there is in force a premises licence-
- i. the holder of the premises licence,
 - ii. the designated premises supervisor (if any) in respect of such a licence, or
 - iii. the personal licence holder who makes or authorises a supply of alcohol under such a licence.
 - iv.
- d) "Relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- e) "Valued added tax" means value added tax charged in accordance with the Value Added Tax Act 1994(7).
3. Where the permitted price given by paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
4. (1) Sub-paragraph (2) applies where the permitted price given by paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.
- (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Exhibition of films

1. Admission of children must be restricted in accordance with any recommendation made by the film classification body.

Door supervision

1. All individuals at the premises to carry out a security activity must be licensed by the Security Industry Authority.
2. For the purposes of this section—
 - a) "Security activity" means an activity to which paragraph 2(1)(a) of The Private Security Industry Act 2001
 - b) Paragraph 8(5) of that Schedule (interpretation of references to an occasion) applies as it applies in relation to paragraph 8 of that schedule.

Appendix 3 – Responsible Authority contact details

Commented [MB25]: Contact details updated

| Authority | Contact |
|--|---|
| <p>The Licensing Authority</p> <p>Licensing Team Tewkesbury Borough Council Council Offices Gloucester Road Tewkesbury GL20 5TT</p> <p>Tel: 01684 272271 Email: licensing@tewkesbury.gov.uk</p> | <p>Police</p> <p>Licensing Unit Community Engagement Dept Police Headquarters No 1 Waterwells Quedgeley Gloucester GL2 2AN</p> <p>Tel: 01452 754482 Email: licensing@gloucestershire.pnn.police.uk</p> |
| <p>The Fire Authority</p> <p>Gloucestershire Fire and Rescue Service Service Delivery Support Waterwells Drive Quedgeley Gloucester GL2 2AX</p> <p>Tel: 01452 753333 Email fire.safety@glosfire.gov.uk</p> | <p>Authority for Health and Safety, pollution of the environment.</p> <p>Environmental Health Department Tewkesbury Borough Council Council Offices Gloucester Road Tewkesbury GL20 5TT</p> <p>Tel: 01684 272191 email: ehenquiries@tewkesbury.gov.uk</p> |
| <p>Local planning authority</p> <p>Planning Department Tewkesbury Borough Council Council Offices Gloucester Road Tewkesbury GL20 5TT</p> <p>Tel: 01684 272151 or 272152 Email: developmentapplications@tewkesburybc.gov.uk</p> | <p>Responsible authority for protection of children</p> <p>Gloucestershire Safeguarding Children Board Block 4, 1st Floor, Room 133B, Shire Hall Westgate Street Gloucester GL1 2TH</p> <p>Telephone : 01452 583636 E.mail: gscb@gloucestershire.gov.uk</p> |
| <p>Primary Care Trust or Local Health Board</p> <p>Public Health Department Block 4, 2nd Floor Gloucestershire County Council Shire Hall, Westgate Street, Gloucester, GL1 2TG</p> <p>Tel: 01452 328607 Email: Ruth.Address@gloucestershire.gov.uk</p> | <p>Trading Standards Service</p> <p>Gloucestershire County Council Trading Standards Service Hillfield House Denmark Road Gloucester GL1 3LD General Enquiries: 01452 426201 Licensing: 01452 426222 Fax: 01452 426274 Email: tradstds@gloucestershire.gov.uk</p> |

| Authority | Contact |
|--|---------|
| <p data-bbox="65 387 520 439">Responsible authority in relation to applications in respect of vessels</p> <p data-bbox="65 461 520 730">For the River Severn: British Waterways Board South West Office, Harbour House West Quay, The Dock Gloucester GL1 2LG Tel: 01452 318000 Fax: 01452 318076 Email: enquiries.southwest@britishwaterways.co.uk</p> <p data-bbox="65 752 520 1023">For the River Avon: Lower Avon Navigation Trust Ltd / Upper Avon Navigation Trust Ltd Mill Wharf Mill Lane Wyre Piddle Persore Worcestershire WR10 2JF Tel: 01386 552517</p> | |

Appendix 4 - Licensing Act 2003 – Regulation No 42 (2005) – Plans

Applications for premises licences or club premises certificates must be accompanied by a plan to which the application relates, the scale being 1:100. However plans of outside areas only will be accepted to scale 1:500

The plan shall show:

- The boundary of the building, if relevant, and any external and internal walls of the building and, if different, the perimeter of the premises.
- Location points of access to and egress from the premises.
- If different from (b) above, the location of escape routes from the premises.
- Where [premises are used for more than one licensable activity, the area within the premises used for each activity.
- Fixed structures (including furniture) or similar objects temporarily in a fixed location (but not furniture) which may impact on the ability of individuals on the premises to use exits or escape routes without impediment.
- Where premises include a stage or raised area, the location and height of each stage or area relative to the floor.
- Where premises include any steps, stairs, elevators or lifts, the location of each one.
- Where premises include any room or rooms containing public conveniences, the location of each one.
- The location and type of any fire safety and any other safety equipment including, if applicable, marine safety equipment.
- The location of any kitchen on the premises.

The plan may include a legend through which the matters mentioned or referred to above are sufficiently illustrated by the use of symbols on the plan.

Appendix 5 - BBFC Film Classification

Films would normally be classified by the British Board of Film Classification or the local authority in the following way:

- U Universal – suitable for all
- PG Parental Guidance. Some scenes may be unsuitable for young children.
- 12A (PG12) Passed only for viewing by persons aged 12 years or older or younger persons accompanied by an adult.
- 12 Passed only for viewing by persons aged 12 years or older.
- 15 Passed only for viewing by persons aged 15 years and over.
- 18 Passed only for viewing by persons aged 18 years and over.

In some cases, the PG rating may carry a recommended viewing age – e.g. PG8 would only be suitable for children over the age of eight, if accompanied by an adult.

The authority has a statutory obligation to classify films for public screening. The BBFC is the nominated body that classifies films to be exhibited in cinemas on behalf of Licensing Authorities. Films that have not been classified by the BBFC and are to be screened in the borough must be submitted to the authority for classification.

All requests to classify a film must be accompanied by a synopsis of the film and a full copy of the film in DVD or other appropriate format. Requests shall be assessed by officers of the authority against the BBFC guidelines and the licensing objectives. Officers shall view the entire film and make a recommendation with regards to the appropriate classification. Officers do however reserve the right to refer the classification of a film to a licensing sub-committee in instances deemed necessary.

All requests must be submitted at least 28 days before the proposed screening. Failure to submit a request in time may result in the authority being unable to classify the film.

Commented [MB26]: Further detail for any person wishing to submit a request to classify a film

Appendix 6 – Glossary

Club Premises Certificate

A certificate granted to a qualifying club under the Act. Alcohol must not be supplied other than to members and guests by or on behalf of the club.

Designated Premises Supervisor

A person named on a premises licence who has overall responsibility for sales of alcohol. This person must be a personal licence holder and is normally the person that has day to day control of the premises.

Hearing

A meeting of a panel of three Councillors (Sub-Committee) from the Committee that deals with licensing matters who will consider an application where there has been relevant representation, objection or a request for a review.

Late Night Refreshment

Provision of hot food or hot drink to members of the public, for consumption on or off the premises, between 11 pm and 5 am

Other Person

Any person, business or organisation. An 'Other Person' can make representation about premises licence and club premises certificate applications and can request a review of a premises licence or club premises certificate.

Personal Licence

Licence issued to a person that authorises them to sell alcohol in, or to authorise another person to sell alcohol, in accordance with a premises licence. A personal licence is issued to an individual's home address and has effect indefinitely (has no end date).

Premises

Means any place and includes a building, outdoor area, vehicle, vessel or moveable structure. Premises Licence Licence that authorises the premises to be used for one or more licensable activity.

Representation

Comment made against, or in support of an application for a new premises licence or club premises certificate or a variation to a premises licence or club premises certificate or a review of a premises licence or club premises certificate. A representation can be made by a responsible authority or other persons. The representation must be made during the representation period.

Temporary Event Notice

A notice given to the Council of intention to hold a temporary event where licensable activities will take place. The person submitting the notice must do so at least 10 clear working days before the event. A late temporary event notice is one given within 5 to 9 clear working days.

Commented [MB27]: New section for clear guidance

Appendix 7 – Consultees

This document has been developed by the authority in consultation with representatives of the following key stakeholder groups and organisations:

- the chief officer of police for the area;
- the fire and rescue authority for the area;
- each local authority's Director of Public Health in England (DPH);
- persons/bodies representative of local premises licence holders;
- persons/bodies representative of local club premises certificate holders;
- persons/bodies representative of local personal licence holders; and
- persons/bodies representative of businesses and residents in its area.

Commented [MB28]: New section for transparency

TEWKESBURY BOROUGH COUNCIL

| | |
|----------------------------------|--|
| Report to: | Licensing Committee |
| Date of Meeting: | 6 October 2022 |
| Subject: | Review of Tewkesbury Borough Council's Statement of Principles under the Gambling Act 2005 |
| Report of: | Licensing Operations and Development Team Leader |
| Head of Service/Director: | Head of Community Services |
| Lead Member: | Lead Member for Clean and Green Environment |
| Number of Appendices: | 3 |

Executive Summary:

A draft revised Statement of Principles under the Gambling Act was approved by the Licensing Committee for consultation at its meeting on 9 June 2022. Members are asked to consider any issues raised in the consultation and amendments to the Policy and to recommend it to the Council for adoption.

Recommendation:

To CONSIDER the draft revised Statement of Principles under the Gambling Act 2005, as set out at Appendix B, and to RECOMMEND TO COUNCIL that:

- i) the draft revised Statement of Principles under the Gambling Act 2005 be ADOPTED; and**
- ii) it be AGREED that the Council continues to adopt a “no- casino resolution” for inclusion in the published Gambling Act 2005 Licensing Policy Statement.**

Financial Implications:

None arising directly from this report.

Legal Implications:

The Licensing Authority must determine and publish a statement of Licensing Policy under Section 349 (1) of the Gambling Act 2005 ('the Act'). The Licensing Authority is under a duty under Section 349 (2) of the Act to keep its policy under review and make such revisions as it considers appropriate during each three-year period.

Before determining such a policy, Section 349(3) of the Act places a statutory duty on the Licensing Authority to consult with the listed interested parties. Where revisions are made the Licensing Authority must publish a statement of the revisions or the revised licensing statement.

Any significant responses to the sharing of the draft policy with the statutory consultees which lead to amendment of the draft policy would therefore need to be brought back to a subsequent Licensing Committee for it to consider any amendments or variations that may have been suggested during the consultation

| |
|---|
| <p>Environmental and Sustainability Implications:</p> <p>None arising directly from this report.</p> |
| <p>Resource Implications (including impact on equalities):</p> <p>None</p> |
| <p>Safeguarding Implications:</p> <p>None</p> |
| <p>Impact on the Customer:</p> <p>None</p> |

1.0 INTRODUCTION

- 1.1 Under the Gambling Act 2005 the Council, as the Licensing Authority, is responsible for issuing and enforcing licences, permits and notifications under the Act. These include:
- Licences for premises where gambling activities take place such as betting shops and gaming arcades.
 - Permits and notifications for gaming machines in pubs and social clubs.
 - Registrations for small society lotteries.
- 1.2 There are only seven licensed premises (Betting Shops) under the Gambling Act 2005 within the borough. There are no licensed bingo clubs or casinos within the borough.
- 1.3 Currently the legislation does not allow for a new application to be made for a casino in the borough.
- 1.4 Section 349 of the Gambling Act 2005 requires that the Licensing Authority shall, before each successive period of three years, prepare a policy that they propose to apply in exercising their functions under the Act and they must publish that statement. Tewkesbury Borough Council's current Statement of Principles expired on 30 January 2022.
- 1.5 Tewkesbury Borough Council's current Statement of Principles was reviewed and updated by the Licensing Operations and Development Team Leader to reflect best practice.
- 1.6 The revised draft Statement of Principles was considered by the Licensing Committee at its meeting on 9 June 2022 where it was approved for a 12 week consultation.

2.0 REVISED STATEMENT OF PRINCIPLES (POLICY)

- 2.1 Following the Licensing Committee meeting in June, a full consultation was carried out as set out at Paragraph 3 of this report.
- 2.2 The final draft Statement of Principles under the Gambling Act 2005 is attached at Appendix B for consideration. In accordance with the Gambling Act 2005 the policy must be adopted by Council. Therefore, if the Licensing Committee is satisfied with the draft document, it should be recommended to Council for adoption.

2.3 S.166(1) of the Act states that a Licensing Authority may resolve not to issue Casino Premises Licences. Such a recommendation was made by the Licensing Committee in 2012. Notwithstanding all the Casinos have been allocated by Central Government, S.166(3) of the Act states that this resolution expires after three years and the Council needs formally to re-affirm at this time that a “no-Casino resolution” is still in place. Therefore the Licensing Committee is asked to recommend to Council that it continues to adopt a “no- casino resolution” for inclusion in the published Gambling Act 2005 Licensing Policy Statement.

3.0 CONSULTATION

3.1 The Act states that, in preparing the policy, the Licensing Authority shall consult with the Police, persons representing persons carrying on gambling businesses and those affected by such businesses.

3.2 A 12 week consultation was carried out between 13 June and 4 September 2022 with the following consultees:

- Current Licence Holders
- Responsible Authorities
- Ward Members
- Town and Parish Councils
- Director of Public Health
- Casino Operators’ Association
- British Amusement Catering Trade Association (BACTA)
- British Casino Association (BCA)
- Association of British Bookmakers Ltd (ABB)
- The Bingo Association
- Lotteries Council
- Hospice Lotteries Association
- Citizens Advice Bureau
- Chamber of Commerce
- GamCare
- Gamblers Anonymous
- Independent Betting Arbitration Service

3.3 During the consultation period, one consultation response was received as shown in **Appendix C**. The draft document has been updated to show the up-to-date population figure.

4.0 ASSOCIATED RISKS

4.1 None.

5.0 MONITORING

5.1 None

6.0 RELEVANT COUNCIL PLAN PRIORITIES/COUNCIL POLICIES/STRATEGIES

6.1 [Tewkesbury Borough Council plan — Tewkesbury Borough Council](#)

Background Papers: [Licensing Committee 9 June 2022](#)

Contact Officer: Licensing Operations and Development Team Leader
01684 272143 michelle.bignell@tewkesbury.gov.uk

Appendices: Appendix A – Tewkesbury Borough Council’s Current Statement of Principles
Appendix B – Tewkesbury Borough Council’s Draft Statement of Principles
Appendix C – Consultation response



GAMBLING ACT 2005

STATEMENT OF PRINCIPLES

2019 - 2022

**Tewkesbury Borough Council, Council Offices
Gloucester Road, Tewkesbury, Gloucestershire, GL20 5TT**

www.tewkesbury.gov.uk/licensing

Revised with effect from March 2019

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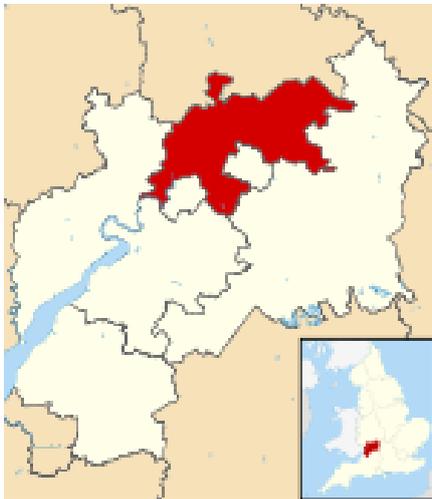
1.0 Introduction and local area profile

1.1 Tewkesbury Borough Council (the Council) is a licensing authority under the Gambling Act 2005 (the Act) and therefore has responsibilities for the administration and enforcement of the Act within the borough of Tewkesbury. We are required by the Act to publish a statement of the principles that governs how we exercise functions under the Act. This statement must be published at least every three years. The statement may be amended from time to time and any amended parts be consulted upon.

Tewkesbury Borough covers an area of 160 square miles in north Gloucestershire. The borough is situated within the Severn vale and stretches south beyond the outskirts of Cheltenham and Gloucester with borders alongside the county of Worcestershire to the north. It occupies the northern gateway into the south west region.

The borough is predominantly rural in nature with the largest towns / villages being Tewkesbury, Winchcombe, Bishop's Cleeve and Churchdown.

Gambling is not a significant industry or activity within the borough. Therefore, any new gambling proposal which seeks to intensify gambling activities will be very carefully considered and reviewed to ensure it does not significantly alter, adversely affect or otherwise impact upon the current level of gambling activity across the borough.



1.2 The Licensing Objectives

In exercising most of the functions under the Act, we must have regard to the licensing objectives as set out in section 1 of the Act. The licensing objectives are;

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

In making decisions about premises licences and temporary use notices, we will aim to permit the use of premises for gambling if they are;

- in accordance with any relevant code of practice issued by the Gambling Commission ("the Commission") under section 24 of the Act;
- in accordance with any relevant guidance issued by the Commission under section 25 of the Act;
- reasonably consistent with the licensing objectives; and
- in accordance with the authority's statement of licensing policy.

1.3 In producing this statement, we have had regard to the licensing objectives, the Guidance to Licensing Authorities issued by the Commission¹, and any responses from those consulted with on the statement.

1.4 **Responsible Authorities**

Responsible authorities are identified in the legislation and have to be notified about licence applications to enable them to identify any risk.

We are required by statute to confirm the principles that we will apply in exercising our powers under section 157(h) of the Act to designate, in writing, a body which is competent to advise us about the protection of children from harm. These principles are;

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

In accordance with the suggestion in the Commission's Guidance to Licensing Authorities, we designate this to Gloucestershire County Council².

1.5 **Interested parties**

Interested parties can make representations about licence applications, or apply for a review of an existing licence. These parties are defined in the Act as follows;

"For the purposes of this Part a person is an interested party in relation to an application for or in respect of a premises licence if, in the opinion of the licensing authority which issues the licence, or to which the application is made, the person –

- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities,
- b) has business interests that might be affected by the authorised activities, or
- c) represents persons who satisfy paragraphs (a) or (b) above."

We are required by statute to state the principles we will apply to determine whether a person or a body is an interested party. These principles are;

- a) Each case will be decided upon its merits
- b) We will not apply a rigid rule to its decision making
- c) We will use the examples of considerations provided in the Commission's Guidance to Licensing Authorities.

Interested parties can be persons who are democratically elected such as councillors and MPs. No specific evidence of being asked to represent an interested person will be required as long as the councillor / MP represents the ward likely to be affected. Likewise, parish councils and councillors likely to be affected will be considered to be interested parties. Other than these however, this authority will generally require written evidence that a person/body (e.g. an advocate / relative) 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.

If individuals wish to approach councillors to ask them to represent their views then care should be taken that the councillors are not part of the Licensing Committee dealing with the licence application.

1.6 **Exchange of Information**

¹ <http://www.gamblingcommission.gov.uk/Licensing-authorities/Information-for-licensing-authorities/Guidance-to-licensing-authorities-5th-edition.aspx>

² <http://www.gloucestershire.gov.uk/policy/children-families>

We are required to include in our statements the principles with respect to the exchange of information between us and the Commission, and the functions under section 350 of the Act with respect to the exchange of information between us and the other persons listed in Schedule 6 to the Act.

We will act in accordance with the provisions of the Act in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened. We will also have regard to any guidance issued by the Commission to local authorities on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Act. Should any protocols be established as regards information exchange with other bodies then they will be made available.

1.7 **Enforcement**

We will carry out enforcement in accordance with the Council's Environmental Health and Licensing Enforcement Policy; having regard to the Regulator's Code as well as any future amendments to this policy.

1.8 **Licensing Authority functions**

Our main functions under the Act are to;

- a) be responsible for the licensing of premises where gambling activities are to take place by issuing Premises Licences
- b) issue Provisional Statements
- c) regulate members' clubs and miners' welfare institutes who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
- d) issue Club Machine Permits to Commercial Clubs
- e) grant permits for the use of certain lower stake gaming machines at unlicensed family entertainment centres (FECs)
- f) receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines
- g) issue Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines
- h) register small society lotteries below prescribed thresholds
- i) issue prize gaming permits
- j) receive and endorse temporary use notices
- k) receive occasional use notices
- l) provide information to the Commission regarding details of licences issued (see section 1.6)
- m) maintain registers of the permits and licences that are issued under these functions.

We are not involved in licensing remote gambling; remote gambling is regulated by the Commission³.

2.0 **Premises licences: consideration of applications**

2.1 **General Principles**

Premises licences are subject to the requirements set out in the Act and accompanying regulations, as well as specific mandatory and default conditions which are detailed in the regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach others, where it is believed to be necessary.

2.2 **Decision making**

In making decisions about premises licences, we shall consider;

- a) relevant code of practice issued by the Commission;
- b) relevant guidance issued by the Commission;
- c) the licensing objectives; and
- d) our statement of licensing policy.

³ <http://www.gamblingcommission.gov.uk/Gambling-sectors/Online/Remote.aspx>

Moral or ethical objections to gambling are not a valid reason to reject applications for premises licences (except as regards any 'no casino resolution' - see section 2.14).

We will also follow the Commission's guidance on "appropriate licensing environment" (previously known as primary gambling activity) when making decisions on premises licences.

It is not permissible for an operator to offer gaming machines on a premises which is licensed for non-remote betting but not to offer sufficient facilities for non-remote betting. A non-remote betting operating licence authorises its holder to 'provide facilities for betting'⁴. Likewise, a betting premises licence authorises premises to be used for 'the provision of facilities for betting...'⁵. The ability to make up to four gaming machines, within categories B, C or D, available is an additional authorisation conferred upon the holder of a betting premises licence⁶; it is not a free standing right to make gaming machines available for use. It follows that unless a betting premises operator offers sufficient facilities for betting it should not be making gaming machines available on the premises in question.

It is also important in relation to the licensing objective of protecting vulnerable persons from being harmed or exploited by gambling, that customers should be offered a balanced mix of betting and gaming machines in licensed betting premises.

Accordingly, an operating licence condition provides that gaming machines may be made available for use in licensed betting premises only at times when there are also sufficient facilities for betting available. In this respect, such facilities must include information that enables customers to access details of events on which bets can be made, make such bets, learn of the outcome and collect any winnings.

2.3 Definition of "premises"

In the Act, "premises" is defined as including "any place". Section 152 therefore prevents more than one premises licence applying to any place. But a single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall to obtain discrete premises licences, where appropriate safeguards are in place. However, we will pay particular attention if there are issues about sub-divisions of a single building or plot and ensure that mandatory conditions relating to access between premises are observed.

When determining applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes, we will consider;

- a) The protection of children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling, but also preventing them from being in close proximity to gambling. Therefore, premises should be configured so that children are not invited to participate in, have accidental access to, or closely observe gambling where they are prohibited from participating.
- b) That entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not "drift" into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit.
- c) That customers should be able to participate in the activity named on the premises licence.
- d) If the premises have a separate registration for business rates
- e) If any neighbouring premises owned by the same person or associates.
- f) If premises can be accessed from the street or a public passageway.
- g) If the premises only be accessed from any other gambling premises.

We will consider these and other relevant factors in making a decision, depending on all of the circumstances of the case. Relevant access provisions for each premises type is published in the Gambling Commission's Guidance.

2.4 Premises "ready for gambling"

⁴ <http://www.legislation.gov.uk/ukpga/2005/19/section/65>

⁵ <http://www.legislation.gov.uk/ukpga/2005/19/section/150>

⁶ <http://www.legislation.gov.uk/ukpga/2005/19/section/172>

A licence to use premises for gambling should only be issued in relation to premises that we are satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use. If the construction of a premises is not yet complete, or if it needs alteration, or if the applicant does not yet have a right to occupy it, then an application for a provisional statement should be made instead.

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

- a) whether the premises ought to be permitted to be used for gambling, and then
- b) whether appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place.

Applicants should note that we are entitled to decide that it is appropriate to grant a licence subject to conditions, but we are not obliged to grant such a licence. More detailed examples of the circumstances in which such a licence may be granted can be found on the Gambling Commission's Guidance.

2.5 **Location**

We cannot consider demand issues with regard to the location of premises. We will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling and issues of crime and disorder. Should any specific policy be decided upon as regards areas where gambling premises should not be located, we will update this statement.

2.6 **Planning**

In determining applications, we will not take into consideration matters that are not related to gambling and the licensing objectives. One example would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal. Once a premises licence comes into effect, it authorises premises to be used for gambling. Accordingly, a licence to use premises for gambling should only be issued in relation to premises that we can be satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use.

2.7 **Duplication with other regulatory regimes**

We seek to avoid any duplication with other statutory or regulatory systems where possible, including planning. When determining a licence application, we will not consider whether it is likely to be awarded planning permission, building regulations approval, or any other type of permit, grant or licence. We will however, listen to and consider carefully any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.

When dealing with a premises licence application for finished buildings, we will not take into account whether those buildings have to comply with the necessary planning or buildings consents. Fire or health and safety risks will not be taken into account, as these matters are dealt with under relevant planning control, buildings and other regulations and must not form part of the consideration for the premises licence.

2.8 **Local Risk assessments**

The Commission has introduced provisions in its social responsibility code within the Licence Conditions and Codes of Practice (LCCP), which require gambling operators to assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and to have policies, procedures and control measures to mitigate those risks⁷. The introduction of new provisions in the social responsibility code within the LCCP encourages local authorities, the Commission and the industry to work in partnership to address local issues and concerns. These changes take effect from 6 April 2016.

Licensees must review (and update as necessary) their local risk assessments;

- a) to take account of significant changes in local circumstances, including those identified in a licensing authority's statement of licensing policy;

⁷ <http://www.gamblingcommission.gov.uk/Publications-consultations/LCCP.aspx>

- b) when there are significant changes at a licensed premises that may affect their mitigation of local risks;
- c) when applying for a variation of a premises licence; and in any case, undertake a local risk assessment when applying for a new premises licence.

Licensees should share their risk assessment with licensing authorities when applying for a premises licence or applying for a variation to existing licensed premises, or otherwise on request.

It is expected that licensees will refer to the Licensing Authority's Local Area Profile when completing their risk assessments.

2.9 Licensing objectives

Premises licences granted must be consistent with the licensing objectives.

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

We will pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, where an area has known high levels of organised crime we will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable, such as the provision of door supervisors. We will make the distinction between disorder and nuisance and will consider factors (for example whether police assistance was required and how threatening the behaviour was to those who could see it) so as to make that distinction.

- b) **Ensuring that gambling is conducted in a fair and open way**

The Commission generally does not expect licensing authorities to be concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences. There is however, more of a role with regard to tracks which is explained in more detail in the 'tracks' section below.

- c) **Protecting children and other vulnerable persons from being harmed or exploited by gambling**

We will consider whether specific measures are required at particular premises, with regard to this licensing objective. Necessary measures may include supervision of entrances/machines, segregation of areas etc. We will regard Commission codes of practice in relation to specific premises.

As regards the term "vulnerable persons", the Commission does not seek to offer a definition but states that "it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who gamble beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental health impairment, alcohol or drugs." We will consider this licensing objective on a case by case basis.

2.10 Conditions

Any conditions attached to licences will be proportionate and will be;

- a) relevant to the need to make the proposed building suitable as a gambling facility;
- b) directly related to the premises and the type of licence applied for;
- c) fairly and reasonably related to the scale and type of premises; and
- d) reasonable in all other respects.

Decisions upon individual conditions will be made on a case by case basis, though there will be a number of measures we will consider utilising should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas etc. There are specific comments made in this regard under some of the licence types below. We also expect the applicants to offer their own suggestions as to ways in which the licensing objectives can be met effectively.

We will also consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives. These matters are in accordance with the Commission's Guidance.

We will also ensure that where category C or above machines⁸ are on offer in premises to which children are admitted;

- a) all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- b) only adults are admitted to the area where these machines are located;
- c) access to the area where the machines are located is supervised;
- d) the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and
- e) at the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

These considerations will apply to premises including buildings where multiple premises licences are applicable.

Tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. We will consider the impact upon the licensing objective and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

There are conditions which we cannot attach to premises licences, these are;

- a) any condition on the premises licence which makes it impossible to comply with an operating licence condition;
- b) conditions relating to gaming machine categories, numbers, or method of operation;
- c) conditions which provide that membership of a club or body be required (the Act specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated); and
- d) conditions in relation to stakes, fees, winning or prizes.

2.11 **Door Supervisors**

If there are concerns that a premises may attract disorder or be subject to attempts at unauthorised access (for example by children and young persons) then we may require that the entrances to the premises are controlled by a door supervisor, and we are entitled to impose a condition on the premises licence to this effect.

Where it is decided that supervision of entrances and/or machines is necessary for particular cases, a consideration of whether the door supervisors need to be Security Industry Authority (SIA) licensed or not, will be necessary. It will not be automatically assumed that they need to be licensed, as the statutory requirements for different types of premises vary.

2.12 **Betting premises**

The Act contains a single class of licence for betting premises although within this, there are different types of premises which require licensing.

The Act also permits betting intermediaries to operate from premises. Section 13 of the Act defines a betting intermediary as a person who provides a service designed to facilitate the making or acceptance of bets between others. Although betting intermediaries usually offer their services via remote communication, such as the internet, a betting intermediary can apply for a betting premises licence to offer intermediary services upon the premises, such as a premises based trading room.

We are responsible for issuing and monitoring premises licences for all betting premises.

a) **Self Service Betting Terminals (SSBTs)**

⁸ <http://www.legislation.gov.uk/ukxi/2014/45/made>

Section 235 (2)(c) provides that a machine is not a gaming machine if it is designed or adapted for use to bet on future real events. Some betting premises may make available machines that accept bets on live events, such as horse racing, as a substitute for placing a bet over the counter. These SSBTs are not gaming machines and therefore neither count towards the maximum permitted number of gaming machines, nor have to comply with any stake or prize limits. SSBTs merely automate the process that can be conducted in person and the Act exempts them from regulation as a gaming machine.

However, where a machine is made available to take bets on virtual races (that is, results and/or images generated by computer to resemble races or other events) that machine **is** a gaming machine and counts towards the maximum permitted number of gaming machines, and must meet the relevant category limitations for the premises.

Use of SSBTs is a form of remote communication and a remote licence will be required from the Commission if SSBTs are used to facilitate the making or accepting of bets by others.

Section 181 contains an express power for licensing authorities to restrict the number of SSBTs, their nature and the circumstances in which they are made available by attaching a licence condition to a betting premises licence or to a casino premises licence (where betting is permitted in the casino).

2.13 **Adult Gaming Centres and (Licensed) Family Entertainment Centres**

We will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy us that there will be sufficient measures to address these matters.

We may consider measures to meet the licensing objectives such as;

- a) Proof of age schemes
- b) Closed-circuit television (CCTV)
- c) Supervision of entrances and/or machine areas
- d) Physical separation of areas
- e) Location of entry
- f) Notices and/or signage
- g) Specific opening hours
- h) Self-exclusion schemes
- i) Provision of information leaflets and/or helpline numbers for organisations such as GamCare⁹ and/or GambleAware¹⁰.
- j) Measures and/or training for staff on how to deal with suspected truant school children on the premises (for licensed FECs)

This list is neither mandatory nor exhaustive, and is merely indicative of example measures.

We will refer to the Commission to see how any conditions that apply to operating licences covering the way in which the area containing the Category C machines should be delineated. We may keep a record of any mandatory or default conditions on these premises licences, when they have been published.

2.14 **Casinos**

There are no existing casino premises licences in force in the Borough.

On 17th April 2012 the Council resolved under section 166(1) of the Act, not to issue casino premises licences. This resolution took effect from 28th July 2012.

Should we decide in the future to pass such a resolution, we will update this policy statement with details of that resolution. Any such decision will be made at a meeting of the full Council.

2.15 **Bingo premises**

⁹ <http://www.gamcare.org.uk/>

¹⁰ <http://www.gambleaware.co.uk/>

We will ensure that the premises is suitable for playing bingo when deciding on a premises application for bingo. From 13th July 2011 holders of bingo premises licences are also able to make available for use a number of Category B gaming machines not exceeding 20% of the total number of gaming machines which are available for use on the premises. A licence variation must be applied for if operators wish to take advantage of this change to the legislation.

Children and young people are allowed into bingo premises; however they are not permitted to participate in the bingo and if Category B or C machines are made available for use these must be separated from areas where children and young people are allowed. Social Responsibility code provision 3.2.5(3) states that 'licensees must ensure that their policies and procedures take account of the structure and layout of their gambling premises' in order to prevent underage gambling.

2.16 **Tracks**

Tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. We will consider the impact upon the licensing objectives and we will ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

We also expect the premises licence applicant to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. Children and young persons may be permitted to enter track areas where facilities for betting are provided on days when dog racing and/or horse racing takes place, but they are prevented from entering areas where gaming machines (other than Category D machines) are provided. We may also consider additional measures outlined in paragraph 2.13.

Gaming Machines: Where the applicant holds a pool betting operating licence and is going to use the entitlement to four gaming machines, they shall be located in areas from which children are excluded.

Betting machines: We will take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number, nature and circumstances of betting machines an operator proposes to offer.

2.17 **Applications and plans**

Section 51 of the Act requires applicants to submit plans of the premises with their application, in order to ensure that we have necessary information to make an informed judgement about whether the premises is fit for gambling. The plan will also be used to plan premises inspections.

Plans for tracks do not need to be in a particular scale, but should be drawn to scale and should be sufficiently detailed to include the information required by the statutory regulations.

We are aware that it is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with pinpointing exact locations for some types of track.

We will not accept plans if they fail to provide sufficient information to enable us to assess an application.

2.18 **Travelling Fairs**

Travelling fairs may provide an unlimited number of Category D gaming machines provided that facilities for gambling amount to no more than an ancillary amusement at the fair. They do not require a permit to provide these gaming machines but must comply with legal requirements about how the machine operates. Current stakes and prizes can be found at Appendix B of the Commission guidance.

Higher stake Category B and C machines, like those typically played in arcades and pubs, are not permitted. Fairground operators must source their machines from a Commission licensed supplier and employees working with gaming machines must be at least 18 years old.

We are responsible for deciding whether, where Category D machines and/or equal chance prize gaming without a permit are to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.

We will also consider whether the applicant falls within the statutory definition of a travelling fair and we will work with our neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

2.19 **Provisional Statements**

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

Section 204 of the Act provides for a person to make an application to the licensing authority for a provisional statement in respect of premises that are;

- a) expected to be constructed;
- b) expected to be altered; or
- c) expected that they will acquire a right to occupy.

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

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

The holder of a provisional statement may then apply for a premises licence once the premises is constructed, altered or acquired. The licensing authority will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises licence applications that follow the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless;

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

We may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters;

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

2.20 **Reviews**

Requests for a review of a premises licence can be made by interested parties or responsible authorities; however, it is for us to decide whether the review is to be carried out. This will be on the basis of whether the request for the review is relevant to the matters listed below;

- a) in accordance with any relevant code of practice issued by the Commission;
- b) in accordance with any relevant guidance issued by the Commission;
- c) reasonably consistent with the licensing objectives; and
- d) in accordance with the authority's statement of licensing policy.

The request for the review will also be subject to the consideration as to whether the request is frivolous or vexatious.

We can also initiate a review of a particular premises licence, or a particular class of premises licence on the basis of any reason which is necessary to uphold the licensing objectives.

Once we receive a valid application for a review, representations can be made by responsible authorities and interested parties during a 28 day period. This period begins 7 days after we receive the application, we will also publish notice of the application within that period.

We will carry out the review as soon as possible after the 28 day period for making representations has passed.

The purpose of the review will be to determine whether we should take any action in relation to the licence. If action is justified, we may;

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

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

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

Once the review has been completed, we will notify our decision to;

- a) the licence holder
- b) the applicant for review (if any)
- c) the Commission
- d) any person who made representations
- e) the chief officer of police or chief constable; and
- f) Her Majesty's Commissioners for Revenue and Customs

3.0 Permits, notices and registrations

3.1 Unlicensed Family Entertainment Centre gaming machine permits (Statement of Principles on Permits)

Where a premises does not benefit from a premises licence but the operators wish to provide gaming machines, they may apply to us for this permit. The applicant must demonstrate that the premises will be wholly or mainly used for making gaming machines available for use.

3.2

We expect the applicants to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits; however, they may include measures/training for staff as regards suspected truant school children on the premises, measures/training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on or around the premises.

We also expect that applicants demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs; that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and that staff are trained to have a full understanding of the maximum stakes and prizes.

3.3 (Alcohol) Licensed premises gaming machines

a) Automatic entitlement: 2 machines

There is provision in the Act for premises licensed to sell alcohol for consumption on the premises to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify the licensing authority.

We can remove the automatic authorisation in respect of any particular premises if;

- i. Provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- ii. Gaming has taken place on the premises that breaches a condition of section 282 of the Act (i.e. that written notice has been provided to the licensing authority, that a fee has been provided and that any relevant code of practice issued by the Commission about the location and operation of the machine has been complied with);
- iii. The premises are mainly used for gaming; or
- iv. An offence under the Act has been committed on the premises.

b) Permit: 3 or more machines

If a premises wishes to have more than 2 machines, then it needs to apply for a permit. We will consider such applications based upon the licensing objectives, any guidance issued by the Commission issued under Section 25 of the Act, and any other relevant matters. Such matters will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling, and will expect the applicant to satisfy that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Applicants are expected to demonstrate that these machines will be in sight of the bar or in the sight of staff that will monitor the machines. Notices and signage showing age restrictions for these machines may also be displayed. As regards the protection of vulnerable persons, applicants are expected to provide information leaflets and helpline numbers for organisations such as GamCare.

It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for, and dealt with as an adult gaming centre premises licence.

We may decide to grant the application with a smaller number of machines and/or a different category of machine than that applied for, if it is necessary to uphold the licensing objectives.

Holders of such permits must comply with any Code of Practice issued by the Commission about the location and operation of the machine.

3.4 Prize Gaming Permits

Gaming is “prize gaming” if the nature of the prize is not determined by the number of people playing or the amount paid for or raised by gaming. A prize gaming permit can be issued by us to authorise the provision of prize gaming on a commercial basis on specified premises.

Applicants should set out the types of gaming that they intend to offer. Applicants should be able to demonstrate;

- a) That they understand the limits to stakes and prizes that are set out in the Gambling Act Regulations 2007.
- b) That the gaming offered is within the law.
- c) Clear policies that outline the steps to be taken to protect children from harm.

In making its decision on an application for this permit, we will have regard to Commission guidance.

We cannot attach conditions but there are conditions in the Act which the permit holder must comply. These conditions are;

- a) The limits on participation fees, as set out in the statutory regulations, must be complied with.

- b) All chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played.
- c) The prize for which the game is played must not exceed the amount set out in the Gambling Act Regulations 2007 (if a money prize), or the prescribed value (if non-monetary prize).
- d) Participation in the gaming must not entitle the player to take part in any other gambling.

3.5 Club Gaming and Club Machines Permits

Members clubs and miners' welfare institutes (but not commercial clubs) may apply for a club gaming permit. A club gaming permit enables the premises to provide gaming machines in accordance with the relevant regulations, equal chance gaming and games of chance as set-out in the relevant regulations.

Members clubs, miners' welfare institutes and commercial clubs may apply for a club machine permit. A club machine permit enables the premises to provide gaming machines in accordance with the relevant statutory regulations.

Members clubs must have at least 25 members and be established and conducted wholly or mainly for purposes other than gaming, unless the gaming is permitted by separate regulations. The Secretary of State has made regulation and these cover bridge and whist clubs, which replicates the position under the Gambling Act 1968. A members' club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations.

We may refuse an application on the grounds that;

- a) for a club gaming permit: the applicant is not a members' club or miners' welfare institute
- b) for a club machine permit: the applicant is not a members' club, miners' welfare institute or commercial club
- c) the premises are used by children or young persons
- d) an offence or a breach of a condition of the permit has been committed by an applicant
- e) a permit held by an applicant has been cancelled during the last ten years
- f) an objection has been made by the Commission or local chief officer of police.

There is also a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12 paragraph 10).

Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the grounds upon which we can refuse a permit are reduced.

We may refuse an application on the following grounds;

- a) the club is established primarily for gaming, other than gaming prescribed under schedule 12.
- b) in addition to the prescribed gaming, the applicant provides facilities for other gaming.
- c) a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled.

There are statutory conditions on club gaming permits and club machine permits that no child uses a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.

3.6 Temporary Use Notices

Temporary use notices (TUNs) allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a TUN would include hotels, conference centres and sporting venues.

We can only grant a TUN to a person or a company holding a relevant operating licence, i.e. a non-remote casino operating licence.

The Secretary of State has the power to determine what form of gambling can be authorised by TUNs, and at the time of writing this statement the relevant regulations state that TUNs can only be used to permit the provision of facilities or equal chance gaming, where the gaming is intended to produce a single winner, which in practice means events such as poker tournaments.

There are a number of statutory limits as regards TUNs. We will also consider amongst other things, the ownership, occupation and control of the premises.

We may object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises, as recommended in the Commission's guidance to licensing authorities.

3.7 Occasional Use Notices

We have very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. We will however, consider the definition of a 'track' and whether the applicant is permitted to avail themselves of the notice.

We will share information with the Commission in respect of occasional use notices served in respect of tracks in our area.

3.8 Registration of Small Society Lotteries

All lotteries are unlawful unless they are run in accordance with an operating licence issued by the Commission or it is an "exempt" lottery as defined by the Act.

One of those exemptions is in respect of what are termed "small society lotteries" and the council is responsible for registering these "small" lotteries.

A society will be allowed to register with us if it is a 'non-commercial lottery', in other words, it is established and conducted;

- a) for charitable purposes.
- b) for the purpose of enabling participation in, or of supporting, sport, athletic or cultural activity.
- c) for any other non-commercial purpose other than private gain.

We will maintain a register of small society lotteries.

4.0 Committee decisions and scheme of delegation

We are involved in a wide range of licensing decisions and functions and have established a licensing committee to administer them.

Licensing sub-committees made up of three councillors from the main licensing committee will sit to hear applications where representations have been received from interested parties and responsible authorities.

Where a councillor who is a member of the licensing committee is making or has made representations regarding a licence on behalf of an interested party, in the interests of good governance they will disqualify themselves from any involvement in the decision making process affecting the licence in question.

Officers will deal with all other licensing applications where either no representation have been received, or where representations have been received and it is decided that a hearing is not necessary.

Decisions as to whether representations are irrelevant, frivolous or vexatious will generally be made by the officers, who will make the decisions on whether representations or applications for licence reviews should be referred to the licensing committee or sub-committee. Where representations are taken no further, the person or organisation making that representation will be given written reasons for doing so. There is no right of appeal against a determination that representations will not be heard.

The table shown below sets out the agreed delegation of decisions and functions to licensing committee, sub-committee and officers.

This form of delegation is without prejudice to officers referring an application to a sub-committee or full committee if considered appropriate in the circumstances of any particular case.

4.1 Table of delegations of licensing functions

| | Full Council | Licensing Sub-Committee (Licensing Panel) | Officers |
|--|---------------------|--|--|
| Licensing Policy | ✓ | | |
| Policy not to issue casino premises licences | ✓ | | |
| Fee setting – when appropriate | | | ✓ To be approved by the Licensing Committee |
| Application for premises licences | | Where representations have been received and not withdrawn | Where no representations received or have been withdrawn |
| Application for a variation to a licence | | Where representations have been received and not withdrawn | Where no representations received or have been withdrawn |
| Application for the transfer of a licence | | Where representations have been received from the Commission | Where no representations have been received from the Commission |
| Application for a provisional statement | | Where representations have been received and not withdrawn | Where no representations received or representations have been withdrawn |
| Request to review a premises licence | | | ✓ (in consultation with the Council Solicitor) |
| Review of a premises licence | | ✓ | |
| Application for club gaming / club machine permits | | Where representations have been received and not withdrawn | Where no representations received or representations have been withdrawn |
| Cancellation of club gaming/club machine permits | | ✓ | |
| Applications for other permits | | | ✓ |
| Cancellation of licensed prize gaming machine permits | | | ✓ |
| Consideration of temporary use notice | | | ✓ |
| Decision to give a counter notice to a temporary use notice | | | ✓ |



**GAMBLING ACT 2005
STATEMENT OF PRINCIPLES**

2022 - 2025

Commented [A1]: Date updated

Tewkesbury Borough Council, Council Offices
Gloucester Road, Tewkesbury, Gloucestershire, GL20 5TT

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

Revised with effect from December 2022

Commented [A2]: Date updated

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Commented [A3]: Updated table of contents

PART A

Commented [A4]: New section to reflect best practice

1. Introduction

- 1.1 Tewkesbury Borough Council (the Council) is a licensing authority under the Gambling Act 2005 (the Act) and therefore has responsibilities for the administration and enforcement of the Act within the borough of Tewkesbury. We are required by the Act to publish a statement of the principles that governs how we exercise functions under the Act. This statement must be published at least every three years. The statement may be amended from time to time and any amended parts be consulted upon.

2. Consultation

In accordance with the Gambling Act 2005, and prior to the publication of this Policy, the Licensing Authority consulted with the persons and organisations stipulated in Appendix A of the policy.

Commented [A5]: New section for information

3. Duration and Review

The policy takes effect xx and will remain in force for a period of no more than three years. During this time it will be subject to regular review and updating or modification as appropriate, for example to take account of any changes in licensing legislation.

Commented [A6]: New section for information

4. Promotion of Equality

The Equality Act 2010 places a legal obligation on the Licensing Authority to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; to advance equality of opportunity; and to foster good relations, between persons with different protected characteristics. The protected characteristics are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

The Licensing Authority will look to discharge this duty by making arrangements where appropriate to provide information in a format that meet the requirements of those with special needs such as large type, audio information and information in foreign languages upon request. Specific needs will be dealt with on an individual basis.

Commented [A7]: New section to include equality

5. The Licensing Objectives

Commented [A8]: Moved from original section 2

- 6.1 In exercising most of the functions under the Act, we must have regard to the licensing objectives as set out in section 1 of the Act. The licensing objectives are;
- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
 - Ensuring that gambling is conducted in a fair and open way;
 - Protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 6.2 In making decisions about premises licences and temporary use notices, we will aim to permit the use of premises for gambling if they are;
- in accordance with any relevant code of practice issued by the Gambling Commission ("the Commission") under section 24 of the Act;
 - in accordance with any relevant guidance issued by the Commission under section 25 of the Act;
 - reasonably consistent with the licensing objectives; and
 - in accordance with the authority's statement of licensing policy.

- b) when there are significant changes at a licensed premises that may affect their mitigation of local risks;
- c) when applying for a variation of a premises licence; and in any case, undertake a local risk assessment when applying for a new premises licence.

7.4 The SR provision is supplemented by an ordinary code provision that requires licensees to share their risk assessment with the licensing authority when applying for a premises licence or applying for a variation to existing licensed premises, or otherwise at the request of the Licensing Authority. Both provisions took effect from 6 April 2016.

7.5 It is expected that licensees will refer to the Licensing Authority's Local Area Profile when completing their risk assessments.

7.6 This authority will also expect local risk assessments to include, specifically, any relevant information about:

- Self exclusion details
- Attempts to gamble by under 18s
- Outcome(s) of test purchase results
- ASB issues on incident logs
- Police reports and call outs
- Sharing information with nearby agencies e.g. treatment centres
- Any protections in place when footfall is the highest
- Details of any best practise schemes such as Betwatch or similar

7.7 Where concerns do exist, perhaps prompted by new or existing risks, the licensing authority will request that the licensee share a copy of its own risk assessment which will Statement of Principles - Gambling Act 2005 (2021) 6 set out the measures the licensee has in place to address specific concerns. This practice should reduce the occasions on which a premises review and the imposition of licence conditions are required.

Commented [A15]: 7.4 to 7.7 – additional information provided

8. Declaration

Commented [A16]: Moved from original location of 1.3

8.1 In producing this statement, we have had regard to the licensing objectives, the Guidance to Licensing Authorities issued by the Commission², and any responses from those consulted with on the statement.

9. Responsible Authorities

9.1 Responsible authorities are identified in the legislation and have to be notified about licence applications to enable them to identify any risk.

9.2 We are required by statute to confirm the principles that we will apply in exercising our powers under section 157(h) of the Act to designate, in writing, a body which is competent to advise us about the protection of children from harm. These principles are;

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

² [Guidance to licensing authorities - Gambling Commission](#)

9.3 In accordance with the suggestion in the Commission's Guidance to Licensing Authorities, we designate this to Gloucestershire Safeguarding Children Partnership (GSCP), comprising of Gloucestershire Clinical Commissioning Group, Gloucestershire County Council and Gloucestershire Constabulary. The GSCP Executive will review and delegate its duties as Responsible Authority to the most suitable safeguarding partner for this purpose every three years setting out its arrangements in its own 'Published Arrangements' document. The contact details of all Responsible Authorities are attached as Appendix B.

Commented [A17]: Updated from Gloucestershire County Council to GSCP

9. Interested parties

9.1 Interested parties can make representations about licence applications, or apply for a review of an existing licence. These parties are defined in the Act as follows;

9.2 "For the purposes of this Part a person is an interested party in relation to an application for or in respect of a premises licence if, in the opinion of the licensing authority which issues the licence, or to which the application is made, the person –

- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities,
- b) has business interests that might be affected by the authorised activities, or
- c) represents persons who satisfy paragraphs (a) or (b) above."

9.3 We are required by statute to state the principles we will apply to determine whether a person or a body is an interested party. These principles are;

- a) Each case will be decided upon its merits
- b) We will not apply a rigid rule to its decision making
- c) We will use the examples of considerations provided in the Commission's Guidance to Licensing Authorities.

9.4 Interested parties can be persons who are democratically elected such as councillors and MPs. No specific evidence of being asked to represent an interested person will be required as long as the councillor / MP represents the ward likely to be affected. Likewise, parish councils and councillors likely to be affected will be considered to be interested parties. Other than these however, this authority will generally require written evidence that a person/body (e.g. an advocate / relative) 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.

9.5 If individuals wish to approach councillors to ask them to represent their views then care should be taken that the councillors are not part of the Licensing Committee dealing with the licence application.

10. Exchange of Information

10.1 We are required to include in our statements the principles with respect to the exchange of information between us and the Commission, and the functions under section 350 of the Act with respect to the exchange of information between us and the other persons listed in Schedule 6 to the Act.

We will act in accordance with the provisions of the Act in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened. We will also have regard to any guidance issued by the Commission to local authorities on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Act. Should any protocols be established as regards information exchange with other bodies then they will be made available.

11. Enforcement

11.1 We will carry out enforcement in accordance with the Council's Corporate Enforcement Policy; having regard to the Regulator's Code as well as any future amendments to this policy.

11.2 The Gambling Commission will be the enforcement body for operating and personal licences. The Commission will also deal with any concerns about manufacture, supply or repair of gaming machines. We are not involved in licensing remote gambling; remote gambling is regulated by the Commission³.

11.3 The Licensing Authority will follow the relevant principles set out in the Regulators code together with any relevant guidance from the Gambling Commission and legislation. The Licensing Authority will adopt and adhere to the principles of better regulation.

11.4 The Licensing Authority is required by regulation under The Act to state the principles to be applied by it in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified.

11.5 This Licensing Authority's principles are that:

It will be guided by the Gambling Commission's Guidance for local authorities and will endeavour to be:

Proportionate: regulators should only intervene when necessary; remedies should be appropriate to the risk posed, and costs identified and minimised;

- Accountable: regulators must be able to justify decisions, and be subject to public scrutiny;
- Consistent: rules and standards must be joined up and implemented fairly;
- Transparent: regulators should be open, and keep regulations simple and user friendly; and
- Targeted: regulation should be focused on the problem and minimise side effects.

11.6 This Licensing Authority will adopt a risk-based inspection programme, based on:

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

11.7 The aim is to target high-risk premises whilst adopting a "light touch" approach to lower-risk premises. The authority will seek to give advice to licence holders that wish to comply but will take a firm stance against irresponsible licence holders.

11.8 Where the Licensing Authority seeks to bring a prosecution, it will have regard to the principles of the Crown Prosecution Service Code for Crown Prosecutors.

11.9 The Licensing Authority will seek to work actively with the Gambling Commission and the Gloucestershire Constabulary in enforcing licensing legislation, and where appropriate it will establish protocols with those partner agencies on enforcement issues to ensure an efficient use of resources.

Commented [A18]: Additional information with regards to enforcement

³ <http://www.gamblingcommission.gov.uk/Gambling-sectors/Online/Remote.aspx>

12. Licensing Authority Functions

12.1 The Act requires this Licensing Authority to:

- Be responsible for the licensing of premises where gambling activities are to take place by issuing Premises Licences;
- Issue Provisional Statements;
- Regulate Members' Clubs and Miners' Welfare Institutes who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits;
- Issue Club Machine Permits to Commercial Clubs;
- Grant permits for the use of certain lower stake gaming machines at Unlicensed Family Entertainment Centres;
- Receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines;
- Issue Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines;
- Register Small Society Lotteries below prescribed thresholds;
- Issue Prize Gaming Permits;
- Receive and Endorse Temporary Use Notices;
- Receive Occasional Use Notices;
- Provide information to the Gambling Commission regarding details of licences issued;
- Maintain registers of the permits and licences that are issued under these functions.

12.2 A table outlining how the authority will delegate its functions under this Act is attached at Appendix B.

PREMISES LICENCES: CONSIDERATION OF APPLICATIONS

1. General Principles

- 1.1 Premises licences are subject to the requirements set out in the Act and accompanying regulations, as well as specific mandatory and default conditions which are detailed in the regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach others, where it is believed to be necessary.
- 1.2 In making decisions about premises licences, we shall consider;
- relevant code of practice issued by the Commission;
 - relevant guidance issued by the Commission;
 - the licensing objectives; and
 - our statement of licensing policy.

- 1.3 Moral or ethical objections to gambling are not a valid reason to reject applications for premises licences (except as regards any 'no casino resolution' - see section 2.14).

Meaning of "premises" – In the Act, "premises" is defined as including "any place".

- 1.4 Section 152 therefore prevents more than one premises licence applying to any place. However, a single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall, to obtain discrete premises licences where appropriate safeguards are in place.
- 1.5 The authority will however pay particular attention if there are issues about sub-divisions of a single building or plot and will ensure that mandatory conditions relating to access between premises are observed.
- 1.6 The authority takes particular note of the Commission's guidance which states that: "Licensing authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular, they should be aware of the following:
- The third licensing objective seeks to protect children from being harmed by gambling. In practice, that means not only preventing them from taking part in gambling, but also preventing them from being in close proximity to gambling. Therefore, premises should be configured so that children are not invited to participate in, have accidental access to, or closely observe gambling, where they are prohibited from participating.
 - Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable, so that the separation of different premises is not compromised and people do not "drift" into a gambling area. In this context, it should normally be possible to access the premises without going through another licensed premises, or premises with a permit.
 - Customers should be able to participate in the activity named on the premises licence.

The relevant access provisions for each premises type are reproduced below:

Casinos

- The principal access entrance to the premises must be from a 'street' (defined as including any bridge, road, lane, footway, subway, square, court, alley or passage whether a thoroughfare or not);
- No entrance to a casino must be from premises that are used wholly or mainly by children and/or young persons; and
- No customer must be able to enter a casino directly from any other premises which holds a gambling premises licence.

Adult Gaming Centre

- No customer must be able to access the premises directly from any other licensed gambling premises.

Betting Shops

- Access must be from a street, or from another premises with a betting premises licence.
- There must be no direct access from a betting shop to another premises used for the retail sale of merchandise or services. In effect, there cannot be an entrance to a betting shop from a shop of any kind and you could not have a betting shop at the back of a café – the whole area would have to be licensed.

Tracks

- No customer should be able to access the premises directly from: - a casino - an adult gaming centre

Bingo Premises

- No customer must be able to access the premises directly from: - a casino - an adult gaming centre - a betting premises, other than a track

Family Entertainment Centre

- No customer must be able to access the premises directly from: - a casino - an adult gaming centre - a betting premises, other than a track

1.7 Part 7 of the Commission's guidance contains further guidance on this issue, which this authority will also take into account in its decision making.

Commented [A20]: Updated to reflect changes in guidance and legislation

1.8 Premises "ready for gambling"

A licence to use premises for gambling should only be issued in relation to premises that we are satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use. If the construction of a premises is not yet complete, or if it needs alteration, or if the applicant does not yet have a right to occupy it, then an application for a provisional statement should be made instead.

- 1.9 In deciding whether a premises licence can be granted where there are outstanding construction or alteration works at a premises, we will determine applications on their merits, applying a two stage consideration process;
- a) whether the premises ought to be permitted to be used for gambling, and then
 - b) whether appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place.

- 1.10 Applicants should note that we are entitled to decide that it is appropriate to grant a licence subject to conditions, but we are not obliged to grant such a licence. More detailed examples of the circumstances in which such a licence may be granted can be found on the Gambling Commission's Guidance.

1.9 Location

We cannot consider demand issues with regard to the location of premises. We will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling and issues of crime and disorder. Should any specific policy be decided upon as regards areas where gambling premises should not be located, we will update this statement.

1.10 Planning

In determining applications, we will not take into consideration matters that are not related to gambling and the licensing objectives. One example would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal. Once a premises licence comes into effect, it authorises premises to be used for gambling. Accordingly, a licence to use premises for gambling should only be issued in relation to premises that we can be satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use.

1.11 Duplication with other regulatory regimes

We seek to avoid any duplication with other statutory or regulatory systems where possible, including planning. When determining a licence application, we will not consider whether it is likely to be awarded planning permission, building regulations approval, or any other type of permit, grant or licence. We will however, listen to and consider carefully any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.

- 1.12 When dealing with a premises licence application for finished buildings, we will not take into account whether those buildings have to comply with the necessary planning or buildings consents. Fire or health and safety risks will not be taken into account, as these matters are dealt with under relevant planning control, buildings and other regulations and must not form part of the consideration for the premises licence.

1.13 Licensing objectives

Premises licences granted must be consistent with the licensing objectives.

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

We will pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, where an area has known high levels of organised crime we will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable, such as the provision of door supervisors. We will make the distinction between disorder and nuisance and will consider factors (for example whether police assistance was required and how threatening the behaviour was to those who could see it) so as to make that distinction.

b) Ensuring that gambling is conducted in a fair and open way

The Commission generally does not expect licensing authorities to be concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences. There is however, more of a role with regard to tracks which is explained in more detail in the 'tracks' section below.

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

We will consider whether specific measures are required at particular premises, with regard to this licensing objective. Necessary measures may include supervision of entrances/machines, segregation of areas etc. We will regard Commission codes of practice in relation to specific premises.

1.14 As regards the term "vulnerable persons", the Commission does not seek to offer a definition but states that "it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who gamble beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental health impairment, alcohol or drugs." We will consider this licensing objective on a case by case basis.

1.15 Conditions

Any conditions attached to licences will be proportionate and will be;

- a) relevant to the need to make the proposed building suitable as a gambling facility;
- b) directly related to the premises and the type of licence applied for;
- c) fairly and reasonably related to the scale and type of premises; and
- d) reasonable in all other respects.

1.16 Decisions upon individual conditions will be made on a case by case basis, though there will be a number of measures we will consider utilising should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas etc. There are specific comments made in this regard under some of the licence types below. We also expect the applicants to offer their own suggestions as to ways in which the licensing objectives can be met effectively.

1.17 We will also consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives. These matters are in accordance with the Commission's Guidance.

1.18 We will also ensure that where category C or above machines⁴ are on offer in premises to which children are admitted;

- a) all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- b) only adults are admitted to the area where these machines are located;
- c) access to the area where the machines are located is supervised;
- d) the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and
- e) at the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

1.19 These considerations will apply to premises including buildings where multiple premises licences are applicable.

⁴ <http://www.legislation.gov.uk/ukSI/2014/45/made>

- 1.20 Tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. We will consider the impact upon the licensing objective and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

There are conditions which we cannot attach to premises licences, these are;

- a) any condition on the premises licence which makes it impossible to comply with an operating licence condition;
- b) conditions relating to gaming machine categories, numbers, or method of operation;
- c) conditions which provide that membership of a club or body be required (the Act specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated); and
- d) conditions in relation to stakes, fees, winning or prizes.

1.21 **Door Supervisors**

If there are concerns that a premises may attract disorder or be subject to attempts at unauthorised access (for example by children and young persons) then we may require that the entrances to the premises are controlled by a door supervisor, and we are entitled to impose a condition on the premises licence to this effect.

- 1.22 Where it is decided that supervision of entrances and/or machines is necessary for particular cases, a consideration of whether the door supervisors need to be Security Industry Authority (SIA) licensed or not, will be necessary. It will not be automatically assumed that they need to be licensed, as the statutory requirements for different types of premises vary.

2. **Betting premises**

2.1 We are responsible for issuing and monitoring premises licences for all betting premises.

2.2 Betting machines - The authority will, in accordance with the Commission's guidance take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people when considering the number/nature/circumstances of betting machines an operator wants to offer.

Commented [A21]: Updated wording

3. **Adult Gaming Centres and (Licensed) Family Entertainment Centres**

3.1 We will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy us that there will be sufficient measures to address these matters.

3.2 We may consider measures to meet the licensing objectives such as;

- a) Proof of age schemes
- b) Closed-circuit television (CCTV)
- c) Supervision of entrances and/or machine areas
- d) Physical separation of areas
- e) Location of entry
- f) Notices and/or signage
- g) Specific opening hours
- h) Self-exclusion schemes
- i) Provision of information leaflets and/or helpline numbers for organisations such as GamCare⁵ and/or GambleAware⁶.

⁵ <http://www.gamcare.org.uk/>

⁶ <http://www.gambleaware.co.uk/>

j) Measures and/or training for staff on how to deal with suspected truant school children on the premises (for licensed FECs)

3.3 This list is neither mandatory nor exhaustive, and is merely indicative of example measures.

3.4 We will refer to the Commission to see how any conditions that apply to operating licences covering the way in which the area containing the Category C machines should be delineated. We may keep a record of any mandatory or default conditions on these premises licences, when they have been published.

4. Casinos

There are no existing casino premises licences in force in the Borough.

On 17th April 2012 the Council resolved under section 166(1) of the Act, not to issue casino premises licences. This resolution took effect from 28th July 2012.

Should we decide in the future to pass such a resolution, we will update this policy statement with details of that resolution. Any such decision will be made at a meeting of the full Council.

5. Bingo premises

5.1 We will ensure that the premises is suitable for playing bingo when deciding on a premises application for bingo. From 13th July 2011 holders of bingo premises licences are also able to make available for use a number of Category B gaming machines not exceeding 20% of the total number of gaming machines which are available for use on the premises. A licence variation must be applied for if operators wish to take advantage of this change to the legislation.

5.2 Children and young people are allowed into bingo premises; however they are not permitted to participate in the bingo and if Category B or C machines are made available for use these must be separated from areas where children and young people are allowed. Social Responsibility code provision 3.2.5(3) states that 'licensees must ensure that their policies and procedures take account of the structure and layout of their gambling premises' in order to prevent underage gambling.

6. Tracks

6.1 Tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. We will consider the impact upon the licensing objectives and we will ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

6.2 We also expect the premises licence applicant to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. Children and young persons may be permitted to enter track areas where facilities for betting are provided on days when dog racing and/or horse racing takes place, but they are prevented from entering areas where gaming machines (other than Category D machines) are provided.

6.3 The authority may consider measures to meet the licensing objectives such as:

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

- Self-exclusion schemes
- Provision of information leaflets/helpline numbers for organisations such as GamCare

Commented [A22]: Clearer guidance section on additional measures the LA may consider

6.4 Gaming Machines: Where the applicant holds a pool betting operating licence and is going to use the entitlement to four gaming machines, they shall be located in areas from which children are excluded.

6.5 Betting machines: We will take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number, nature and circumstances of betting machines an operator proposes to offer.

Applications and plans

6.6 Section 51 of the Act requires applicants to submit plans of the premises with their application, in order to ensure that we have necessary information to make an informed judgement about whether the premises is fit for gambling. The plan will also be used to plan premises inspections.

6.7 Plans for tracks do not need to be in a particular scale, but should be drawn to scale and should be sufficiently detailed to include the information required by the statutory regulations.

6.8 We are aware that it is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with pinpointing exact locations for some types of track.

6.9 We will not accept plans if they fail to provide sufficient information to enable us to assess an application.

7. Travelling Fairs

7.1 Travelling fairs may provide an unlimited number of Category D gaming machines provided that facilities for gambling amount to no more than an ancillary amusement at the fair. They do not require a permit to provide these gaming machines but must comply with legal requirements about how the machine operates. Current stakes and prizes can be found at Appendix B of the Commission guidance.

7.2 Higher stake Category B and C machines, like those typically played in arcades and pubs, are not permitted. Fairground operators must source their machines from a Commission licensed supplier and employees working with gaming machines must be at least 18 years old.

7.3 We are responsible for deciding whether, where Category D machines and/or equal chance prize gaming without a permit are to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.

7.4 We will also consider whether the applicant falls within the statutory definition of a travelling fair and we will work with our neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

8. Provisional Statements

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

8.2 Section 204 of the Act provides for a person to make an application to the licensing authority for a provisional statement in respect of premises that are;

- a) expected to be constructed;
- b) expected to be altered; or
- c) expected that they will acquire a right to occupy.

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

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

8.5 The holder of a provisional statement may then apply for a premises licence once the premises is constructed, altered or acquired. The licensing authority will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises licence applications that follow the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless;

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

8.6 We may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters;

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

9. Reviews

9.1 Requests for a review of a premises licence can be made by interested parties or responsible authorities; however, it is for us to decide whether the review is to be carried out. This will be on the basis of whether the request for the review is relevant to the matters listed below;

- a) in accordance with any relevant code of practice issued by the Commission;
- b) in accordance with any relevant guidance issued by the Commission;
- c) reasonably consistent with the licensing objectives; and
- d) in accordance with the authority's statement of licensing policy.

9.2 The request for the review will also be subject to the consideration as to whether the request is frivolous or vexatious.

9.3 We can also initiate a review of a particular premises licence, or a particular class of premises licence on the basis of any reason which is necessary to uphold the licensing objectives.

9.4 Once we receive a valid application for a review, representations can be made by responsible authorities and interested parties during a 28 day period. This period begins 7 days after we receive the application, we will also publish notice of the application within that period.

9.5 We will carry out the review as soon as possible after the 28 day period for making representations has passed.

9.6 The purpose of the review will be to determine whether we should take any action in relation to the licence. If action is justified, we may;

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

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

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

9.9 Once the review has been completed, we will notify our decision to:

- a) the licence holder
- b) the applicant for review (if any)
- c) the Commission
- d) any person who made representations
- e) the chief officer of police or chief constable; and
- f) Her Majesty's Commissioners for Revenue and Customs

PART C

PERMITS/TEMPORARY AND OCCASIONAL USE NOTICE

1. Unlicensed Family Entertainment Centre gaming machine permits

- 1.1 Where a premises does not benefit from a premises licence but the operators wish to provide gaming machines, they may apply to us for this permit. The applicant must demonstrate that the premises will be wholly or mainly used for making gaming machines available for use.
- 1.2 We expect the applicants to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits; however, they may include measures/training for staff as regards suspected truant school children on the premises, measures/training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on or around the premises.
- 1.3 We also expect that applicants demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs; that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and that staff are trained to have a full understanding of the maximum stakes and prizes.

2. (Alcohol) Licensed premises gaming machines

Automatic entitlement: 2 machines

- 2.1 There is provision in the Act for premises licensed to sell alcohol for consumption on the premises to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify the licensing authority.
- 2.2 We can remove the automatic authorisation in respect of any particular premises if;
- Provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
 - Gaming has taken place on the premises that breaches a condition of section 282 of the Act (i.e. that written notice has been provided to the licensing authority, that a fee has been provided and that any relevant code of practice issued by the Commission about the location and operation of the machine has been complied with);
 - The premises are mainly used for gaming; or
 - An offence under the Act has been committed on the premises.

Permit: 3 or more machines

- 2.3 If a premises wishes to have more than 2 machines, then it needs to apply for a permit. We will consider such applications based upon the licensing objectives, any guidance issued by the Commission issued under Section 25 of the Act, and any other relevant matters. Such matters will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling, and will expect the applicant to satisfy that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Applicants are expected to demonstrate that these machines will be in sight of the bar or in the sight of staff that will monitor the machines. Notices and signage showing age restrictions for these machines may also be displayed. As regards the protection of vulnerable persons, applicants are expected to provide information leaflets and helpline numbers for organisations such as GamCare.

- 2.4 It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for, and dealt with as an adult gaming centre premises licence.
- 2.5 We may decide to grant the application with a smaller number of machines and/or a different category of machine than that applied for, if it is necessary to uphold the licensing objectives.
- 2.6 Holders of such permits must comply with any Code of Practice issued by the Commission about the location and operation of the machine.

3. Prize Gaming Permits

3.1 Gaming is "prize gaming" if the nature of the prize is not determined by the number of people playing or the amount paid for or raised by gaming. A prize gaming permit can be issued by us to authorise the provision of prize gaming on a commercial basis on specified premises.

3.2 Applicants should set out the types of gaming that they intend to offer. Applicants should be able to demonstrate;

- That they understand the limits to stakes and prizes that are set out in the Gambling Act Regulations 2007.
- That the gaming offered is within the law.
- Clear policies that outline the steps to be taken to protect children from harm.

3.3 In making its decision on an application for this permit, we will have regard to Commission guidance.

We cannot attach conditions but there are conditions in the Act which the permit holder must comply. These conditions are;

- The limits on participation fees, as set out in the statutory regulations, must be complied with.
- All chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played.
- The prize for which the game is played must not exceed the amount set out in the Gambling Act Regulations 2007 (if a money prize), or the prescribed value (if non-monetary prize).
- Participation in the gaming must not entitle the player to take part in any other gambling.

4. Club Gaming and Club Machines Permits

- 4.1 Members clubs and miners' welfare institutes (but not commercial clubs) may apply for a club gaming permit. A club gaming permit enables the premises to provide gaming machines in accordance with the relevant regulations, equal chance gaming and games of chance as set-out in the relevant regulations.
- 4.2 Members clubs, miners' welfare institutes and commercial clubs may apply for a club machine permit. A club machine permit enables the premises to provide gaming machines in accordance with the relevant statutory regulations.
- 4.3 Members clubs must have at least 25 members and be established and conducted wholly or mainly for purposes other than gaming, unless the gaming is permitted by separate regulations. The Secretary of State has made regulation and these cover bridge and whist clubs, which replicates the position under the Gambling Act 1968. A members' club must be permanent in nature, not established to make

commercial profit, and controlled by its members equally. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations.

4.4 We may refuse an application on the grounds that;

- for a club gaming permit: the applicant is not a members' club or miners' welfare institute
- for a club machine permit: the applicant is not a members' club, miners' welfare institute or commercial club
- the premises are used by children or young persons
- an offence or a breach of a condition of the permit has been committed by an applicant
- a permit held by an applicant has been cancelled during the last ten years
- an objection has been made by the Commission or local chief officer of police.

4.5 There is also a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12 paragraph 10).

4.6 Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the grounds upon which we can refuse a permit are reduced.

4.7 We may refuse an application on the following grounds;

- the club is established primarily for gaming, other than gaming prescribed under schedule 12.
- in addition to the prescribed gaming, the applicant provides facilities for other gaming.
- a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled.

4.8 There are statutory conditions on club gaming permits and club machine permits that no child uses a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.

5. Temporary Use Notices

5.1 Temporary use notices (TUNs) allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a TUN would include hotels, conference centres and sporting venues.

5.2 We can only grant a TUN to a person or a company holding a relevant operating licence, i.e. a non-remote casino operating licence.

5.3 The Secretary of State has the power to determine what form of gambling can be authorised by TUNs, and at the time of writing this statement the relevant regulations state that TUNs can only be used to permit the provision of facilities for equal chance gaming, where the gaming is intended to produce a single winner, which in practice means events such as poker tournaments.

5.4 There are a number of statutory limits as regards TUNs. We will also consider amongst other things, the ownership, occupation and control of the premises.

5.5 We may object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises, as recommended in the Commission's guidance to licensing authorities.

6. Occasional Use Notices

- 6.1 We have very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. We will however, consider the definition of a 'track' and whether the applicant is permitted to avail themselves of the notice.
- 6.2 We will share information with the Commission in respect of occasional use notices served in respect of tracks in our area.

7. Registration of Small Society Lotteries

- 7.1 All lotteries are unlawful unless they are run in accordance with an operating licence issued by the Commission or it is an "exempt" lottery as defined by the Act.
- 7.2 One of those exemptions is in respect of what are termed "small society lotteries" and the council is responsible for registering these "small" lotteries.
- 7.3 A society will be allowed to register with us if it is a 'non-commercial lottery', in other words, it is established and conducted;
 - a) for charitable purposes.
 - b) for the purpose of enabling participation in, or of supporting, sport, athletic or cultural activity.
 - c) for any other non-commercial purpose other than private gain.
- 7.4 We will maintain a register of small society lotteries.

APPENDIX A – CONSULTEES

Commented [A23]: New section for transparency

- Current Licence Holders
- Responsible Authorities
- Ward Members
- Town and Parish Councils
- Director of Public Health
- Casino Operators' Association
- British Amusement Catering Trade Association (BACTA)
- British Casino Association (BCA)
- Association of British Bookmakers Ltd (ABB)
- The Bingo Association
- Lotteries Council
- Hospice Lotteries Association
- Citizens Advice Bureau
- Chamber of Commerce
- GamCare, 2&3 Baden Place, Crosby Row, London, SE1 1YW
- Gamblers Anonymous, PO Box 5382, London, W1A 6SA
- Independent Betting Arbitration Service, PO Box 44781, London, SW1W 0WR

APPENDIX B – COMMITTEE DECISIONS AND SCHEME OF DELEGATION

Commented [A24]: Originally Part 4 of original policy

We are involved in a wide range of licensing decisions and functions and have established a licensing committee to administer them.

Licensing sub-committees made up of three councillors from the main licensing committee will sit to hear applications where representations have been received from interested parties and responsible authorities.

Where a councillor who is a member of the licensing committee is making or has made representations regarding a licence on behalf of an interested party, in the interests of good governance they will disqualify themselves from any involvement in the decision making process affecting the licence in question.

Officers will deal with all other licensing applications where either no representation have been received, or where representations have been received and it is decided that a hearing is not necessary.

Decisions as to whether representations are irrelevant, frivolous or vexatious will generally be made by the officers, who will make the decisions on whether representations or applications for licence reviews should be referred to the licensing committee or sub-committee. Where representations are taken no further, the person or organisation making that representation will be given written reasons for doing so. There is no right of appeal against a determination that representations will not be heard.

The table shown below sets out the agreed delegation of decisions and functions to licensing committee, sub-committee and officers.

This form of delegation is without prejudice to officers referring an application to a sub-committee or full committee if considered appropriate in the circumstances of any particular case.

TABLE OF DELEGATIONS OF LICENSING FUNCTIONS

| | Full Council | Licensing Sub-Committee (Licensing Panel) | Officers |
|--|--------------|--|--|
| Licensing Policy | ✓ | | |
| Policy not to issue casino premises licences | ✓ | | |
| Fee setting – when appropriate | | | ✓ To be approved by the Licensing Committee |
| Application for premises licences | | Where representations have been received and not withdrawn | Where no representations received or have been withdrawn |
| Application for a variation to a licence | | Where representations have been received and not withdrawn | Where no representations received or have been withdrawn |
| Application for the transfer of a licence | | Where representations have been received from the Commission | Where no representations have been received from the Commission |
| Application for a provisional statement | | Where representations have been received and not withdrawn | Where no representations received or representations have been withdrawn |
| Request to review a premises licence | | | ✓ (in consultation with the Council Solicitor) |

| | Full Council | Licensing Sub-Committee (Licensing Panel) | Officers |
|--|---------------------|--|--|
| Review of a premises licence | | ✓ | |
| Application for club gaming / club machine permits | | Where representations have been received and not withdrawn | Where no representations received or representations have been withdrawn |
| Cancellation of club gaming/club machine permits | | ✓ | |
| Applications for other permits | | | ✓ |
| Cancellation of licensed prize gaming machine permits | | | ✓ |
| Consideration of temporary use notice | | | ✓ |
| Decision to give a counter notice to a temporary use notice | | | ✓ |

APPENDIX C – RESPONSIBLE AUTHORITY CONTACT DETAILS

Commented [A25]: New section for transparency

COUNCIL LICENSING

Licensing Team
Tewkesbury Borough Council
Gloucester Road
Tewkesbury
GL20 5TT
Telephone: 01684 272271
Email: licensing@tewkesbury.gov.uk

LOCAL PLANNING AUTHORITY

Planning Department
Tewkesbury Borough Council
Council Offices
Gloucester Road
Tewkesbury
GL20 5TT
Tel: 01684 272151 or 272152
Email: developmentapplications@tewkesburybc.gov.uk

THE GAMBLING COMMISSION

Victoria Square House
Victoria Square
BIRMINGHAM
B2 4BP
Telephone: 0121 230 6500
Email: info@gamblingcommission.gov.uk

GLOUCESTERSHIRE CONSTABULARY

Licensing Unit
Community Engagement Dept.
Police HQ
No1 Waterwells
Quedgeley
Gloucester
GL2 2AN
Telephone: 01452 754482
Email: Licensing@Gloucestershire.pnn.police.uk

The main Police switchboard number is 101.

GLOUCESTERSHIRE FIRE AND RESCUE

Chief Fire Officer
Fire Service Headquarters
Statement of Principles - Gambling Act 2005 (2021)
28
Waterwells Drive
Quedgeley
Gloucester
GL2 2AX

Telephone: 01452 753333
Email: fire@glosfire.gov.uk

GLOUCESTERSHIRE ACPC

Safeguarding Children's Partnership
Room 128
1st Floor, Block 4
Gloucestershire County Council
Shire Hall
Westgate Street
Gloucester GL1 2TG

Email: gscb@gloucestershire.gov.uk

HM REVENUE & CUSTOMS

HM Revenue and Customs
Excise Processing Teams
BX9 1GL

Telephone 0300 322 7072 Option 7
Email: nrubetting&gaming@hmrc.gsi.gov.uk

APPENDIX D – LIST OF ORGANISATIONS THAT GIVE HELP AND ADVICE ABOUT PROBLEM GAMBLING

Commented [A26]: New section to support problem gamblers

The following organisations are working to tackle problem gambling and may be able to help individuals and/or organisations.

Responsibility in Gambling Trust (RIGT)

10 Brick Street
London
W1J 7HQ
Tel: 207 518 0023
Fax: 207 518 0174
Email: enquiries@rigt.org.uk

Citizens Advice

Gloucester and District Citizens Advice Bureau
75 - 81 Eastgate Street
Gloucester
GL1 1PN
Tel: 01452 527202

Gam Anon

PO Box 5382
London
W1A 6SA
National Help Line: 08700 50 88 80
Midlands 0121 233 1335

Gamblers Anonymous (UK)

Birmingham 0121 233 1335
Gam Care
2nd Floor
7-11 St John's Hill
London
SW11 1TR
Tel: 020 7801 7000
Fax: 020 7801 7033
Email: info@gamcare.org.uk

Gordon House Association

43-47 Maughan Street
Dudley
West Midlands
DY1 2BA
Tel: 01384 241 292
Email: help@gordonhouse.org.uk

NCH Children's Charity

85 Highbury Park
London
N5 1UD
Tel: 020 7704 9037
Fax: 020 7704 7134

NHC South West

Horner Court
637 Gloucester Road
Horfield
Bristol
BA7 0BJ
Tel: 01179 354 440
Fax: 01179 512 470

National Debt Line

Tel: 0808 808 4000

4 June 2022

Good afternoon,

Please see below observations from Tewkesbury Town Council's Planning committee for noting:

1. To determine a response to the Gambling Act 2005: Statement of Principles (Policy) consultation by TBC, deadline for responses September 4th 2022

[Statement of Principles](#) (please scroll to top of web page to find the consultation document)

Observations:

This is a very thorough document except that the borough-wide population figure is now out of date and should be amended to reflect the findings of the 2021 census.

2. To determine a response to the Licensing Act 2003: Statement of Licensing Policy consultation, deadline for responses September 4th 2022

[Statement of Licensing Policy](#) (please scroll to top of web page to find the consultation document)

Observations: This is a very thorough document which accurately reflects recent legislative changes.

Please acknowledge safe receipt of this email.

Kind Regards

Tewkesbury Town Council

TEWKESBURY BOROUGH COUNCIL

| | |
|----------------------------------|--|
| Report to: | Licensing Committee |
| Date of Meeting: | 6 October 2022 |
| Subject: | Update on Mandatory Safeguarding and Equality Awareness Training Requirement |
| Report of: | Licensing Operations and Development Team Leader |
| Head of Service/Director: | Head of Community Services |
| Lead Member: | Lead Member for Clean and Green Environment |
| Number of Appendices: | None |

Executive Summary:

The report provides an update to the Committee regarding the mandatory policy requirement that all licensed drivers attend safeguarding and equality awareness training.

Recommendation:

To CONSIDER the progress made with regard to all licensed drivers undertaking safeguarding and equality awareness training and to note the extension of the deadline for existing drivers to 30 June 2023.

Financial Implications:

None arising directly from this report.

Legal Implications:

Tewkesbury Borough Council adopted the Gloucestershire Common Standards in October 2021 as part of the County's response to the publication of the Department for Transport Statutory Standards which were published in July 2020.

Part of the new standards are that all licensed drivers will attend a mandatory safeguarding and equality awareness training session every three years.

Environmental and Sustainability Implications:

None arising directly from this report.

Resource Implications:

None.

Safeguarding Implications:

There is a potential risk that drivers that have been licensed since 2018 may not be able to identify signs of exploitation or vulnerability of their customers.

Impact on the Customer:

None.

1.0 INTRODUCTION

1.1 This report provides an update regarding the mandatory requirement to attend a safeguarding and equality awareness training session as part of driver licence conditions.

2.0 MANDATORY SAFEGUARDING TRAINING REQUIREMENT

2.1 The Licensing Committee resolved to adopt the Gloucestershire Common Standards at its meeting on 14 October 2021.

2.2 Tewkesbury Borough Council's Taxi and Private Hire Licensing Policy states:

Applicants for a hackney carriage or private hire driving licence must undertake mandatory safeguarding and equality awareness training prior to the issue of their licence. A common training approach and provision has been adopted by licensing authorities that have adopted these common standards.

Existing licensees will be required to undertake refreshers training every three years as a condition of the grant of their licence.

2.3 The safeguarding and equality awareness training is provided by Cheltenham Borough Council at its offices on a regular basis.

2.4 All new applicants must complete this training prior to licensing – all new drivers licensed since October 2021 when these requirements came into effect have undergone the necessary training.

3.0 PROGRESS IN RELATION TO TRAINING EXISTING DRIVERS

3.1 Of 655 licensed drivers, there are still 510 that have not completed this requirement; however, drivers that were licensed with Tewkesbury in 2018 undertook the initial round of safeguarding training that was delivered across the Gloucestershire licensing authorities. This means approximately 60% of our licensed drivers have already undertaken safeguarding training.

3.2 There is no date specified in policy that the current drivers must complete this training by; however, all drivers in the other Gloucestershire Districts have completed training. Tewkesbury Borough Council's Licensing team committed to a deadline of December 2022 and this is also specified within the Licensing Service Review overseen by the Programme Board.

3.3 Due to resource implications within Cheltenham Borough Council's Licensing team, it is unrealistic that all of Tewkesbury Borough Council's licensed drivers will be able to fulfil this requirement.

3.4 A discussion was held between the Tewkesbury Borough Council's Licensing Operations and Development Team Leader and the Cheltenham Borough Council Licensing Team Leader where it was deemed that the deadline should be extended to 30 June 2023.

4.0 OTHER OPTIONS CONSIDERED

4.1 Training to be delivered at Tewkesbury Borough Council Offices

There are no trained Officers within the Tewkesbury Licensing Team that are able to deliver the training. The sessions require two Officers for a total of two hours for each session.

4.2 Cheltenham Borough Council Officers to attend Tewkesbury Borough Council Offices to deliver training

Due to capacity within the Licensing team at Cheltenham Borough Council this would be unfeasible with travelling time included.

4.3 Source an alternative training provider

The content of the course has been tailored to Gloucestershire Common Standards and is the same content as the other drivers in Gloucestershire have received.

5.0 CONSULTATION

5.1 The Licensing Operations and Development Team Leader has consulted with the Chair and Vice-Chair of the Licensing Committee, Head of Community Services and Environmental Health Manager.

5.2 The licensed trade was written to on 14 September 2022 to inform them of the revised date and penalty for not completing the course.

6.0 ASSOCIATED RISKS

6.1 None

7.0 MONITORING

7.1 Reminder will be sent to drivers on a monthly basis until June 2023. Any driver who fails to undertake the training by the deadline of 30 June 2023 will have their licence suspended.

8.0 RELEVANT COUNCIL PLAN/COUNCIL POLICIES/STRATEGIES

8.1 [Tewkesbury Borough Council plan — Tewkesbury Borough Council](#)

8.2 [Taxi and Private Hire Licensing Policy](#)

Background Papers: None

Contact Officer: Licensing Operations and Development Team Leader
01684 272143 michelle.bignell@teewkesbury.gov.uk

Appendices: None

Document is Restricted

Document is Restricted