



**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](http://www.tewkesbury.gov.uk/licensing)**

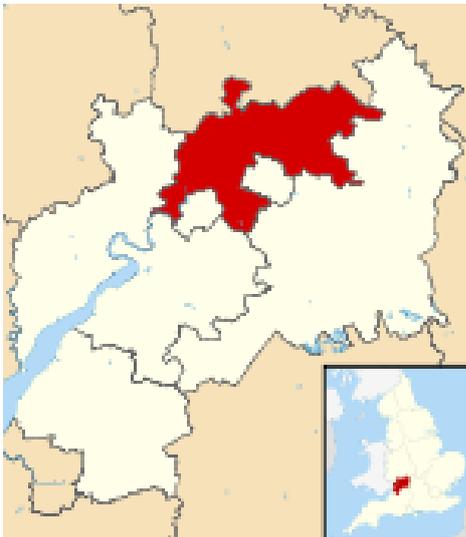
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<b>Index</b>	<b>Page No.</b>
1.0 Introduction	4
2.0 Licensing objectives and aims	5
3.0 Scope of the Licensing Authority's functions	6
4.0 Purpose of the statement of licensing policy	7
5.0 General principles	7
6.0 Applications for premises licences and club premises certificates	8
7.0 Operating schedules	8
8.0 Representations	9
9.0 Representations from responsible authorities	10
10. Representations from other persons	11
11.0 Licensing hours	12
12.0 Conditions on licences and certificates	13
13.0 Late night refreshment	13
14.0 Designated premises supervisors	14
15.0 Provisional statements	15
16.0 Garages	15
17.0 Vessels (boats)	16
18.0 Vehicles and moveable structures	16
19.0 Community centres, village halls, public spaces and council (including parish councils) controlled premises.	17
20.0 Public spaces and council-controlled premises	17
21.0 Small premises	18
22.0 Internet sales, mail order and home deliveries	18
23.0 Alcohol pricing	18
24.0 Irresponsible promotions	19
25.0 Reviews	19
26.0 Minor variations	21
27.0 Cumulative impact	21
28.0 Enforcement and complaints	22
29.0 Integrating strategies and partnership working	23
30.0 Equal opportunities	23
31.0 Administration, exercise and delegation of functions	24
32.0 Relationship with planning authority	24

<b>Index</b>	<b>Page No.</b>
33.0 Temporary event notices	24
34.0 Private events	25
35.0 Live Music Act and other deregulations.	25
36.0 Sexual entertainment venues	26
37.0 Early morning alcohol restriction orders (EMROs)	26
38.0 Late night levy	27
39.0 Suspension of licences and certificates for non-payment of annual fees	28
Appendix 1 - Table of delegated functions	29
Appendix 2 – Mandatory conditions	31
Appendix 3 – Responsible authorities	34
Appendix 4 - Licensing Act 2003 – Regulation No 42 (2005) – plans	36
Appendix 5 - BBFC Film Classification	37

## 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](http://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

<b>Matter to be dealt with</b>	<b>Full committee</b>	<b>Sub committee</b>	<b>Officers</b>
Application for personal licence		If the police 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><b>The Licensing Authority</b></p> <p>Licensing Department Tewkesbury Borough Council Council Offices Gloucester Road Tewkesbury GL20 5TT</p> <p>Tel: 01684 272284 Fax: 01684 272039 Email: <a href="mailto:licensing@tewkesbury.gov.uk">licensing@tewkesbury.gov.uk</a></p>	<p><b>Police</b></p> <p>Licensing Unit Community Engagement Dept Police Headquarters No 1 Waterwells Quedgeley Gloucester GL2 2AN</p> <p>Tel: 01452 754482 Email: <a href="mailto:licensing@gloucestershire.pnn.police.uk">licensing@gloucestershire.pnn.police.uk</a></p>
<p><b>The Fire Authority</b></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 <a href="mailto:fire.safety@glosfire.gov.uk">fire.safety@glosfire.gov.uk</a></p>	<p><b>Authority for Health and Safety, pollution of the environment.</b></p> <p>Environmental Health Department Tewkesbury Borough Council Council Offices Gloucester Road Tewkesbury GL20 5TT</p> <p>Tel: 01684 272191 Fax:01684 272049 email: <a href="mailto:ehenquiries@tewkesbury.gov.uk">ehenquiries@tewkesbury.gov.uk</a></p>
<p><b>Local planning authority</b></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: <a href="mailto:developmentapplications@tewkesburybc.gov.uk">developmentapplications@tewkesburybc.gov.uk</a></p>	<p><b>Responsible authority for protection of children</b></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: <a href="mailto:Duncan.siret@gloucestershire.gov.uk">Duncan.siret@gloucestershire.gov.uk</a></p>

Authority	Contact
<p><b>Primary Care Trust or Local Health Board</b></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: <a href="mailto:Ruth.Andress@gloucestershire.gov.uk">Ruth.Andress@gloucestershire.gov.uk</a></p>	<p><b>Trading Standards Service</b></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: <a href="mailto:tradstds@gloucestershire.gov.uk">tradstds@gloucestershire.gov.uk</a></p>
<p><b>Responsible authority in relation to applications in respect of vessels</b></p> <p><b>For the River Severn:</b> British Waterways Board South West Office, Harbour House West Quay, The Dock Gloucester GL1 2LG Tel: 01452 318000 Fax: 01452 318076 Email: <a href="mailto:enquiries.southwest@britishwaterways.co.uk">enquiries.southwest@britishwaterways.co.uk</a></p> <p><b>For the River Avon:</b> Lower Avon Navigation Trust Ltd / Upper Avon Navigation Trust Ltd Mill Wharf Mill Lane Wyre Piddle Persnore 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.