

Open

Licensing and Environmental Committee

Agenda

10.30am
Monday, 7th October 2019
Council Chamber
Wyre Forest House
Finepoint Way
Kidderminster



Licensing and Environmental Committee

Members of Committee:

Chairman: Councillor P Dyke
Vice-Chairman: Councillor M Rayner

Councillor J F Byng

Councillor R H Coleman

Councillor I Hardiman

Councillor F M Oborski MBE

Councillor L Whitehouse

Councillor A Coleman

Councillor C E E Edginton-White

Councillor K Henderson

Councillor J W R Thomas

Councillor P W M Young

Information for Members of the Public:

Part I of the Agenda includes items for discussion in public. You have the right to request to inspect copies of Minutes and reports on this Agenda as well as the background documents used in the preparation of these reports.

Part II of the Agenda (if applicable) deals with items of "Exempt Information" for which it is anticipated that the public may be excluded from the meeting and neither reports nor background papers are open to public inspection.

Declaration of Interests by Members – interests of members in contracts and other matters

Declarations of Interest are a standard item on every Council and Committee agenda and each Member must provide a full record of their interests in the Public Register.

In addition, alongside the Register of Interest, the Members Code of Conduct ("the Code") requires the Declaration of Interests at meetings. Members have to decide first whether or not they have a disclosable interest in the matter under discussion.

Please see the Members' Code of Conduct as set out in Section 14 of this constitution for full details.

Disclosable Pecuniary Interest (DPI) / Other Disclosable Interest (ODI)

DPI's and ODI's are interests defined in the Code of Conduct that has been adopted by the District.

If you have a DPI (as defined in the Code) in a matter being considered at a meeting of the Council (as defined in the Code), the Council's Standing Orders require you to leave the room where the meeting is held, for the duration of any discussion or voting on that matter.

If you have an ODI (as defined in the Code) you will need to consider whether you need to leave the room during the consideration of the matter.

For further information:

If you have any queries about this Agenda or require any details of background papers, further documents or information you should contact: Sian Burford, Assistant Committee Services Officer, Wyre Forest House, Finepoint Way, Kidderminster, DY11 7WF. Telephone: 01562 732766 or email sian.burford@wyreforestdc.gov.uk

Wyre Forest District Council

Licensing and Environmental Committee

Monday, 7th October 2019

Council Chamber, Wyre Forest House, Finepoint Way, Kidderminster

Part 1

Open to the press and public

Agenda item	Subject	Page Number
1.	Apologies for Absence	
2.	Appointment of Substitute Members To receive the name of any Councillor who is to act as a substitute, together with the name of the Councillor for whom he/she is acting.	
3.	Declarations of Interests by Members In accordance with the Code of Conduct, to invite Members to declare the existence and nature of any Disclosable Pecuniary Interests (DPI's) and / or Other Disclosable Interests (ODI's) in the following agenda items and indicate the action that they will be taking when the item is considered. Please see the Members' Code of Conduct as set out in Section 14 of the Council's Constitution for full details.	
4.	Minutes To confirm as a correct record the Minutes of the meeting held on the 5th August 2019.	5
5.	Licensing Act 2003 Review of Statement of Licensing Policy Consultation Results To receive a report from the Head of Worcestershire Regulatory Services on behalf of Wyre Forest District Council on the responses received during the consultation on a draft revised Statement of Licensing Policy.	8
6.	To consider any other business, details of which have been communicated to the Solicitor to the Council before the commencement of the meeting, which the Chairman by reason of special circumstances considers to be of so urgent a nature that it cannot wait until the next meeting.	

7.	<p>Exclusion of the Press and Public</p> <p>To consider passing the following resolution:</p> <p>“That under Section 100A(4) of the Local Government Act 1972 the press and public be excluded from the meeting during the consideration of the following item of business on the grounds that it involves the likely disclosure of “exempt information” as defined in the paragraph 1 of Part 1 of Schedule 12A to the Act”.</p>	
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Part 2

Not open to the Press and Public

8.	<p>Application for the Grant of a Hackney Carriage/Private Hire Driver’s Licence</p> <p>To receive a report from the Corporate Director: Economic Prosperity and Place which asks the Committee to consider an application for the grant of a Hackney Carriage/Private Hire Driver’s Licence.</p>	-
9.	<p>To consider any other business, details of which have been communicated to the Solicitor to the Council before the commencement of the meeting, which the Chairman by reason of special circumstances considers to be of so urgent a nature that it cannot wait until the next meeting.</p>	

WYRE FOREST DISTRICT COUNCIL

LICENSING AND ENVIRONMENTAL COMMITTEE

COUNCIL CHAMBER, WYRE FOREST HOUSE, FINEPOINT WAY, KIDDERMINSTER

5TH AUGUST 2019 (10.30AM)

Present:

Councillors: P Dyke (Chairman), M Rayner (Vice-Chairman), J F Byng, A Coleman, R H Coleman, C E E Edginton-White, I Hardiman, K Henderson, F M Oborski MBE, J W R Thomas and L Whitehouse.

Observers:

Councillor B S Dawes.

LIC.07 Apologies for Absence

There were no apologies for absence.

LIC.08 Appointment of Substitutes

No substitutes were appointed.

LIC.09 Declaration of Interests

Councillor Oborski declared that she was a Member of the Hereford and Worcester Fire and Rescue Authority and the new Wyre Forest Emergency Services Hub would be located close to the proposed site of the application being considered.

LIC.10 Minutes

Decision: The minutes of the meeting held on 10th June 2019 be confirmed as a correct record and signed by the Chairman.

LIC.11 Consideration of the Grant of a Street Trading Consent

The Committee received a report from the Head of Worcestershire Regulatory Services which asked the Committee to consider and determine an application for street trading consent.

The Senior Practitioner – Licensing led Members through the report giving details including background to the application, location of the proposed site and objections received. He reminded Members of the Street Trading in Wyre Forest District guidance notes and the Street Trading Policy Statement included in the agenda pack. In response to questions from Members the Senior Practitioner – Licensing gave details of the licence held by another trader in the same proximity to the proposed site and confirmed that the

Agenda Item No. 4

statutory consultees had not raised any concerns about traffic in the immediate area.

The applicant, Samantha Luckock addressed the Committee on behalf of herself and her husband who was the joint applicant. She explained to Members that they were an existing reputable company who had moved from their previous site due to roadwork's effecting business and detailed the types of food they would be providing including breakfast foods, wraps, jacket potato and homemade chilli. Mrs Luckock responded to Members questions about proposed clientele and opening times.

Mike Southwell, Managing Director from Beakbane Ltd, addressed the Committee with details of his objections to the application. He explained that his primary concern was around safety at the nearby road junction detailing 3 known instances in the last 8 years when collisions had occurred between vehicles. He also informed Members that he felt the area was already sufficiently serviced by food outlets. He answered Members questions on proposed location of the catering van, traffic issues in the area and details of the traffic collisions he had previously mentioned.

The Senior Practitioner – Licensing, the applicants and the objector left the room at this point (11:11am) for Members to deliberate their decision. The Solicitor and Assistant Committee Services Officer stayed in the meeting whilst the Committee reached their decision.

The meeting was adjourned at 11:30am and resumed at 11:43am.

12:03pm Councillor Rayner left the room and returned at 12:05pm.

12:05pm Councillor Henderson left the room and returned at 12:07pm.

The Senior Practitioner – Licensing and the applicants returned at 12:10pm and the Solicitor read out the decision of the Committee.

DECISION: Having carefully considered Samantha and Donald Luckock's application dated 6 April 2019 to grant a street trading consent to trade from the area on the Eastern side of the grassed verge between the main A451 Stourport Road and the service road which runs parallel with it, opposite to the junction of the spur road leading into Oldington Trading Estate, selling hot and cold refreshments, the Committee have, having regard to the Local Government (Miscellaneous Provisions) Act 1982, the Wyre Forest District Council's Street Trading Policy Statement and its criteria for Considering Applications for Street Trading Consents and the representations raised by interested parties decided to grant a street trading consent to sell hot and cold refreshments from a trailer at the above mentioned site, Monday to Friday between the hours of 7:30 and 15:30 for the period of 12 months.

And the reasons for the Committee's decision are as follows:

- 1. The Committee do not consider that there will be a significant impact on the business of the other unit trading under a street consent from the area due to the actual operating hours of the business already at the site.**
- 2. The Committee do not consider that the additional street trading consent is likely to have a significant impact on the road safety due to increased traffic in the area because most users of the establishment are likely to walk.**
- 3. The Committee consider that the type of refreshment proposed in the representations is sufficiently different from that currently on offer in the locality and as such will enhance the vitality of the shopping area in the immediate vicinity.**

There being no further business the meeting ended at 12:13pm.

WYRE FOREST DISTRICT COUNCIL**LICENSING AND ENVIRONMENTAL COMMITTEE****5 August 2019****LICENSING ACT 2003
REVIEW OF STATEMENT OF LICENSING POLICY
CONSULTATION RESULTS**

OPEN	
DIRECTOR:	Head of Worcestershire Regulatory Services on behalf of Wyre Forest District Council
CONTACT OFFICER:	Niall McMenamin – 01905 822799 niall.mcmenamin@worcsregservices.gov.uk
APPENDICES:	Appendix 1 – Revised Draft Statement of Licensing Policy Appendix 2 – Consultation Response with Licencing’s Comments

1. PURPOSE OF REPORT

- 1.1 To ask Members to note the responses received during the consultation on a draft revised Statement of Licensing Policy and to recommend to Council that the revised Statement of Licensing Policy attached at **Appendix 1** be approved and published.

2. RECOMMENDATION

The Committee is asked:

To recommend to Council that the revised Statement of Licensing Policy attached at Appendix 1 be approved and published.

3. BACKGROUND

- 3.1 Wyre Forest District Council is a licensing authority in accordance with the provision of the Licensing Act 2003. The Council’s current Statement of Licensing Policy took effect on 11th December 2014.
- 3.2 In accordance with the provisions of the Act, the Council is required to determine and publish a Statement of Licensing Policy at least every five years.
- 3.3 On 8 April 2019 the Licensing and Environmental Committee approved a draft revised Statement of Licensing Policy for the purpose of consultation with relevant parties.

- 3.4 The draft revised policy remains based on the same template as the existing policy, which all of the Statements of Licensing Policy across Worcestershire are now based upon.
- 3.5 The revised policy contained a number of amendments and additional sections that have been made to reflect changes to legislation and guidance that have taken effect since the last Statement of Licensing Policy took effect, namely:
- A new section has been included to explain the implications of the Immigration Act 2006 on the exercise of the Council's functions under the Licensing Act 2003, in recognition of the Council's new responsibility to check on licensing applicants immigration status's.
 - New sections have been included providing information on how the Council will deal with applications for personal licences and how it will deal with situations where it is considering suspending or revoking personal licences. The power to suspend or revoke personal licences was given to licensing authorities as a result of provisions within the Policing and Crime Act 2017.
 - The section explaining the Live Music Act 2012 and other entertainment licensing deregulation has been updated to reflect further deregulatory measures that have taken effect since the last Statement of Licensing Policy was published.
 - A new section has also been included providing information in relation to the local powers to deregulate the licensing of late night refreshment providers that were introduced under the Deregulation Act 2015.
- 3.6 Prior to the consultation exercise The Director of Public Health requested that a section be added to the statement of licensing policy in all districts recognising the contribution of public health to the licensing process. The section was added into the draft revised Statement of Licensing Policy between paragraphs 7.21 and 7.23.

4. KEY ISSUES

- 4.1 Consultation on the revised draft policy took place with all relevant parties including:
- The Chief Officer of West Mercia Police
 - Hereford and Worcester Fire and Rescue Service
 - Worcestershire County Council (Public Health)
 - All other responsible authorities identified under the Act
 - Relevant Trade Associations, such as the British Beer and Pub Association, The Wine and Spirit Trade Association, National Federation of Retail Newsagents etc
 - Relevant Interest Groups, Charities and Associations, such as the Musician union, National Organisation of Residents Associations, Institute of Alcohol Studies etc
 - Policing and Crime Commissioner
 - District City Councillors
 - Parish Councils
 - Local Residents Groups

- 4.2 The consultation was also made available for comment via the Council's website and publicised via social media. The consultation exercise commenced on 19th April 2019 and concluded on 19th July 2019.
- 4.3 During the consultation period one response was received by the Council. A copy of the response is attached **Appendix 2**.
- 4.4 Officers have taken the time to consider the response and in doing so have made a number of minor amendment to the Draft Policy document. Whilst the response raised various points in relation to the content of the draft policy document, Officers having considered each point in turn do not feel it necessary to amend the draft policy any further at this time. The licensing team have addressed each point in turn, the details of which are shown at Appendix 2“.

5. FINANCIAL IMPLICATIONS

- 5.1 The costs involved in carrying out the consultation would be met from existing budgets held by Worcestershire Regulatory Services.

6. LEGAL AND POLICY IMPLICATIONS

- 6.1 The Council has a statutory duty to have a Statement of Licensing Policy. It is important that the Statement of Licensing Policy provides an open and transparent policy regarding the Council's functions under the Licensing Act 2003. The Statement of Licensing Policy forms an essential part of the decision making process for licensing applications.
- 6.2 The Act also requires that the Statement of Licensing Policy should be kept under review and must be re-published at least every five years.
- 6.3 When revising its Statement of Licensing Policy, the Council is required to consult with:-
- the chief officer of police for the authority's area;
 - the fire and rescue authority for that area;
 - each local authority in England whose public health functions within the meaning of the National Health Service Act 2006 are exercisable in respect of an area any part of which is in the licensing authority's area;
 - such persons as the licensing authority considers to be representative of holders of premises licences issued by that authority;
 - such persons as the licensing authority considers to be representative of holders of club premises certificates issued by that authority;
 - such persons as the licensing authority considers to be representative of holders of personal licences issued by that authority; and
 - such other persons as the licensing authority considers to be representative of businesses and residents in its area.

7. RISK MANAGEMENT

Corporate/Policy Implications

- 7.1 Failing to prepare and publish a new Statement of Licensing Policy before 12th December 2019 would leave the Council in a position where it was failing to comply with its duties as a licensing authority under the provisions of the Licensing Act 2003.
- 7.2 All policies approved by Wyre Forest District Council comply with the Regulators Code. The Regulators Code seeks to promote proportionate, consistent and targeted regulatory activity through the development of transparent and effective dialogue and understanding between regulators and those they regulate.

8. EQUALITY IMPACT ASSESSMENT

- 8.1 The Licensing and Environmental Committee will ensure it has regard to the desirability of exercising its functions with regard to the need to eliminate discrimination and to increase equality of opportunity.

9. CONCLUSION

- 9.1 Revision of the Council's Licensing Act 2003 Statement of Licensing Policy will result in the effective continuation of the delivery of this important area of regulatory work and will ensure that the Council meets its statutory responsibility under the Act.
- 9.2 The consultation exercise has allowed residents, businesses and all of the Responsible Authorities the opportunity to comment on how licensing is administered in the district and to assess whether changes are required.

10. CONSULTEES

- 10.1 Solicitor to the Council, Legal Services.

11. BACKGROUND PAPERS

- 11.1 Guidance issued under Section 182 of the Licensing Act 2003.



Wyre Forest District Council

Statement of Licensing Policy 2019 - 2024

Licensing Act 2003

Wyre Forest District Council,
Finepoint House,
Kidderminster,
Worcestershire,
DY11 7WF
01562 732928
www.wyreforestdc.gov.uk

Revised with effect from DATE:

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1.0 Introduction

- 1.1 Wyre Forest District is situated in North West Worcestershire and comprises the three distinctive riverside towns of Kidderminster, Bewdley and Stourport-on-Severn as well as surrounding countryside. It covers an area of 75 square miles. In 2011, the population totalled 98,000 (2011 census).
- 1.2 Kidderminster is the main business and commercial centre in the district offering industrial, shopping, offices and leisure facilities. Kidderminster is famous for carpet manufacture and is still closely associated with the carpet industry; though since the 1970 the industry has been in decline leaving the town in a process of economic diversification. In more recent years the town centre underwent an extensive £60 million river and canal side redevelopment providing retail and leisure facilities. Kidderminster is also the terminus of the Severn Valley Railway. The national tourist attraction, West Midland Safari Park, lies between the towns of Kidderminster and Bewdley.
- 1.3 Stourport-on-Severn is a popular tourist town. It was uniquely created as a canal port in 1766, when the canal Navigation Act for Worcestershire received Royal Assent. The Georgian Market Town of Stourport has benefited from significant tourism and today continues to be a thriving market town and a successful visitor attraction.
- 1.4 Bewdley is a small riverside town built along the banks of the River Severn. It contains many fine Georgian buildings and has an award-winning museum. The town is a popular tourist destination with a number of businesses and licensed premises attracting visitors throughout the year. The town has a mix of retail businesses and also residential properties.
- 1.5 This Statement of Licensing Policy is intended to provide information and guidance to licence applicants, responsible authorities and interested parties on the general approach that the Council will take to licensing.
- 1.6 The Council's aim is to facilitate well-run and managed premises with licence holders displaying sensitivity to the impact of the premises on local residents. The objective of the licensing process is for a unified system of regulation of licensable activities so that such activities are carried out in a way that ensures public safety, but is not detrimental to residents, and does not give rise to a loss of amenity.
- 1.7 The Licensing Authority has a duty under Section 17 of the Crime and Disorder Act 1998 to exercise its functions with due regard to the likely effect of those functions, and the need to do all it reasonably can to prevent crime and disorder (including anti-social and other behaviour adversely affecting the local environment), the misuse of drugs, alcohol and other substances in its area.

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 Wyre Forest District Council will always seek to carry out its licensing functions with a view to promoting these four objectives.

The licensing objectives are:

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

2.2 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.

2.3 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.

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

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, responsible authorities and other persons 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 ensure that licensing arrangements are appropriate to the areas in which local residents reside and 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 enforcement agencies.
- 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 Licensing Authority has a duty under Section 17 of the Crime and Disorder Act 1998 to do all it can to prevent Crime and Disorder in the District.
- 4.7 The statement of policy took effect on ~~41 December 2014~~ TBC and will be kept under review. A revised statement of policy will be published no later than ~~44 December 2019~~ TBC.

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 District.
- 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 take all reasonable steps to minimise 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 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. The licensing authority would like any plans submitted to be drawn to a recognised scale, i.e. 1:50 or 1:100, or 1:150, or 1:200. The plans should also be 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. This should include details and the location of any fire safety equipment provided at the premises. The licensing authority does not require plans to be professionally drawn as long as they clearly show all the prescribed information.
- 6.3 Through their operating schedule, applicants will be expected to demonstrate the positive steps that they will take to promote the four licensing objectives.

Operating Schedules

- 6.4 The operating schedule is a key document and, if prepared comprehensively, will form the basis on which premises can be licensed without the need for additional extensive conditions. 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.
- 6.5 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.
- 6.6 The licensing authority will provide 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.
- 6.7 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.
- 6.8 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 on at 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.

6.9 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.

Guidance on Completing an Operating Schedule

6.10 The following guidance is intended to assist applicants by setting out considerations that they should have in mind when drawing up their operating schedules. The guidance is designed to alert applicants to any matters that responsible authorities are likely to consider when deciding whether to make representations on an application or whether to call for a review.

(a) Prevention of Crime and Disorder

6.11 Licensed premises, especially those offering late night/early morning entertainment, alcohol and refreshment for large numbers of people, can sometimes be a source of crime and disorder problems.

6.12 The licensing authority will expect operating schedules, where appropriate, to satisfactorily address these issues from the design of the premises through to the daily operation of the business.

6.13 The licensing authority will normally look to the police as the main source of advice on crime and disorder and therefore applicants are recommended to seek advice from West Mercia Police in relation to what steps they can take to promote the prevention of crime and disorder.

6.14 In addition when planning and preparing operating schedules applicants are advised to take into account local planning and transport policies, tourism, cultural and crime and disorder reduction strategies as appropriate.

6.15 In addition to the requirements for the licensing authority to promote the licensing objectives, it also has a duty under Section 17 of the Crime and Disorder Act 1988 to do all it can to prevent crime and disorder in the District.

6.16 When considering all licence applications the licensing authority will take into

account the measures proposed to deal with the potential for, and the prevention of, crime and disorder having regard to all circumstances of the application. Applicants should include information on these issues within the operating schedule for the premises.

6.17 In particular, the licensing authority will consider the actions, which are appropriate for the premises that the applicant has taken, or is proposing to take with regard to the following:

- i) the ability of the person in charge of the premises to monitor the premises at all times that it is open; although this does not mean that the designated premises supervisor has to be present at all times.
- ii) the training given to staff regarding crime prevention measures for the premises;
- iii) physical security features installed in the premises (e.g. position of cash registers, CCTV, toughened drinking glasses etc.);
- iv) management attitudes (e.g. responsible pricing promotions, willingness to stagger trading, willingness to limit sales of bottles or canned alcohol for immediate consumption and preventing the sale of alcohol to people who are drunk);
- v) any other measure as may be appropriate (e.g. participation in local Pubwatch and/or Shopwatch schemes or 'Behave or be Banned' schemes (BOBS), restrictions on 'happy hours', music wind-down policies);
- vi) the measures employed to prevent the consumption or supply of illegal drugs, including any search procedures and entry policies;
- vii) where the premises are subject to age restrictions, the procedures in place to conduct age verification checks;
- viii) the likelihood of any violence, public order or policing problems if the licence is granted.
- ix) the employment of door safety staff licensed by the Security Industries Association (SIA)

6.18 Applicants for late night entertainment and alcohol premises should show that they can comply with the Home Office Guidance 'Safer Clubbing' in relation to the control of illegal drugs on their premises. They should agree a protocol with the licensing authority and West Mercia Police on the handling of illegal drugs found on their premises.

6.19 The licensing authority in setting its policies and practices considering applications for licensed premises will have due regard to the current Crime and Disorder Strategy for the Area. Regard will be had to the relatively low crime levels in the area and any disproportionate effects likely to be perceived by residents and members of the public due to nuisance, anti-social behaviour and disorder arising or likely to arise as the result of granting a licence.

(b) Public Safety

6.20 The Licensing Act 2003 covers a wide range of premises that require licensing including cinemas, nightclubs, public houses, village and community halls, schools, cafes, restaurants and fast food outlets/takeaways. Each of these types of premises present a mixture of risks, some of which may be common to most premises whilst others will be unique to specific operations. Risk assessments must reflect the local nature of risks applying to each event and or venue.

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The licensing authority will expect operating schedules, where appropriate, to satisfactorily address these public safety issues. Applicants are encouraged to seek advice from licensing authority officers and the Fire Safety Section of Hereford and Worcester Fire and Rescue Service.

- 6.21 Where an inspection is required for premises the licensing authority will try where possible to reduce inconvenience, confusion and inconsistency by co-ordinating inspections and visits with the fire authority, police, building control and environmental health officers, as appropriate.
- 6.22 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 attendance by customers with disabilities, or whose first language is not English
 - availability of suitable and sufficient sanitary facilities
 - nature and provision of facilities for ventilation

- 6.23 The licensing authority encourages applicants for premises licences that provide regulated entertainment (or any other premises providing a licensable activity where occupant capacity may be a public safety issue) to seek advice regarding safe occupancy levels from the Fire Safety Section of Hereford and Worcester Fire and Rescue Service.

Where the licensing authority's discretion has been engaged following receipt of a relevant representation and it believes it is appropriate for reasons of public safety to impose a condition identifying an occupancy limit, the licensing authority will not normally seek to impose an occupancy limit different to that identified by the Fire Authority if this differs from the figure set in the applicant's Fire Risk Assessment.

(c) Prevention of Public Nuisance

- 6.24 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 area surrounding the premises.
- 6.25 The licensing authority is keen to protect the amenity of residents and businesses within the area surrounding a licensed premises that are affected by the carrying on of licensable activities at that premises.
- 6.26 In addition, the licensing authority is aware of the importance of the licensed trade to the local economy and its culture and leisure aspirations. The licensing authority

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will, therefore, try and work together with all affected parties, statutory agencies and licensed businesses to ensure a mutually beneficial co-existence.

- 6.27 When considering all licence applications, the licensing authority will take into account the adequacy of measures proposed to deal with the potential for nuisance and/or anti-social behaviour having regard to all the circumstances of the application.
- 6.28 In particular the licensing authority will consider the action that is appropriate for the premises that the applicant has taken or is proposing with regard to the following:
- i) prevention of noise and vibration escaping from the premises, including music, noise from ventilation equipment, and human voices. Such measures may include the installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices;
 - ii) The structural suitability of the premises to provide the licensable activities sought including for example matters such as whether the premises benefits from double glazing and lobbied doors.
 - iii) preventing disturbance by customers arriving at or leaving the premises, particularly between 11.00 pm and 7.00 am;
 - iv) preventing queuing by pedestrians or vehicular traffic, or if some queuing is inevitable, ensuring the queues are diverted away from neighbouring premises, or are otherwise managed, to prevent disturbance or obstruction;
 - v) ensuring staff leave the premises quietly;
 - vi) arrangements for parking by patrons and staff, and the effect of the parking on local residents;
 - vii) provision for public transport (including taxis and private hire vehicles) for patrons;
 - viii) whether licensed taxis or private hire vehicles are likely to disturb local residents;
 - ix) whether routes to and from the premises on foot, by car or other services pass residential premises;
 - x) 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;
 - xi) the use of gardens and other open-air areas;
 - xii) the location of external lighting, including security lighting that is installed;
 - xiii) other appropriate measures to prevent nuisance, such as the employment of registered door supervisors or the use of CCTV;
 - xiv) preventing the consumption or supply of illegal drugs, including search procedures;
 - xv) whether the premises would lead to increased refuse storage or disposal problems, or additional litter (including fly posters and illegal placards) in the vicinity of the premises;
 - xvi) the history of previous nuisance complaints proved *to have taken place* at the premises, particularly where statutory notices have been served on the present licensees.
- 6.29 The licensing authority 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:

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- 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 powers to close some premises for up to 24 hours in extreme cases of disorder or excessive noise;
- police enforcement of the law with regard to disorder and anti-social behaviour;
- the power of responsible authorities or interested parties to request a review of the licence;
- enforcement action against those selling alcohol to people who are already drunk.

(d) Protection of Children from Harm

- 6.30 The licensing authority 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.
- 6.31 The Licensing Act 2003 does not prevent children having free access to any licensed premises. The licensing authority recognises that limitations may have to be considered where it is deemed necessary to protect children from 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 there is a presumption that children under 18 should not be allowed (e.g. to nightclubs, except when under 18 discos are being held).
- 6.32 The licensing authority expects personal licence holders to seek to ensure alcohol is not served to children under the age of 18, except in limited conditions allowed for by law. The licensing authority recommends that the only way to verify a person's proof of age is with reference to the following:-
- passport
 - a photocard driving licence issued in a European Union country;
 - a Proof of Age Standards Scheme card;
 - a Citizen Card, supported by the Home Office (details from www.citizencard.net);
 - an official identity card issued by HM Forces or by a European Union country bearing the photograph and date of birth of the bearer.
- 6.33 When deciding whether to limit the access of children to premises the licensing authority will judge each application on its own merits and a range of conditions may be imposed depending on the circumstances. To assist with this the licensing authority will consult with West Mercia Police and the Worcestershire Safeguarding Children Board if practical or other agencies as the licensing authority consider appropriate.
- 6.34 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 include:

- limitations on the hours when children may be present;
- age limitations for persons under 18;
- limitations or exclusion when certain 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 under 18s;
- a requirement for an accompanying adult to be present.

- 6.35 However these options are not exhaustive and other options may be considered as the Council considers appropriate. The licensing authority also commends the adoption of the Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks by prospective licensees where the licence applies to the sale of alcohol.
- 6.36 The Licensing Act details a number of offences that are designed to protect children in licensed premises and the licensing authority will work closely with the Police and Trading Standards Services to ensure appropriate and effective enforcement is undertaken, especially in relation to the sale and supply of alcohol to children.
- 6.37 The Licensing Authority will not impose any conditions that specifically require the access of children to the premises.
- 6.38 Where no conditions or restrictions are imposed, the issue of access for children remains a matter of discretion for individual licensees or clubs subject to any relevant provisions in law.
- 6.39 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 with certain age ranges. Where a premises is used for film exhibitions, the licensing authority will normally impose conditions restricting access only to persons who meet the required age limit in line with any certificate granted by the British Board of Film Classification or the licensing authority itself.
- 6.40 The Licensing Authority will expect licensees to ensure that age restrictions for film exhibitions are properly complied with.
- 6.41 In considering applications, the licensing authority will take into account any evidence that age restrictions for film exhibitions are not being properly observed.
- 6.42 Many children attend or take part in an entertainment arranged especially for them, for example children's shows, dance and drama or school productions. Specific additional arrangements may need to be operated to ensure their safety. For example:
- an adult member of staff to be stationed at each and every exit from any level and to the outside and subject to there being a minimum of one member of staff to fifty children or part thereof.
 - no child is to be permitted in the front row of any balcony unless they are supervised by an adult.

7.0 Representations

- 7.1 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.
- 7.2 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
- 7.3 Representations can be made either 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.
- 7.4 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 premises 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.
- 7.5 In other words, representations should relate to the impact of licensable activities carried on from premises on the licensing objectives.
- 7.6 For representations in relation to variations to be relevant, they should be confined to the subject matter of the variation.
- 7.7 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 premises to support their representations, and it is recognised that in fact this would not be possible for new premises.

(a) Representations from Responsible Authorities

- 7.8 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 is provided on the licensing authority’s website.
- 7.9 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.
- 7.10 The licensing authority recognises that every responsible authority can make representations relating to any of the four licensing objectives. However the licensing authority would normally expect representations about the promotion of individual licensing objectives to come from the most relevant responsible authority

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with expertise in that particular area. For example the licensing authority would expect representations about the prevention of crime and disorder to come primarily from the police and representations about the prevention of public nuisance to come primarily from environmental health.

- 7.11 The licensing authority recognises that the police should be its main source of 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.
- 7.12 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.
- 7.13 The licensing authority recognises Worcestershire Safeguarding Children Board as being the body that is competent to advise it on the licensing objective of the protection of children from harm.
- 7.14 The licensing authority recognises that, although public health is not a licensing objective, health bodies may hold information which other responsible authorities do not, but which would assist the licensing authority in exercising its functions.
- 7.15 For example, drunkenness can lead to accidents and injuries from violence, resulting in attendances at emergency departments and the use of ambulance services. Some of these incidents will be reported to the police, but many will not. Such information might be relevant to the public safety objective and in some cases the crime and disorder objective.
- 7.16 As a result of the Police Reform and Social Responsibility Act 2011, the licensing authority is also now a responsible authority and can therefore make representations if it deems it appropriate to do so.
- 7.17 However the licensing authority will not normally act as a responsible authority on behalf of other parties (for example, local residents, local councillors or community groups) although there are occasions where the authority may decide to do so.
- 7.18 Such parties can make relevant representations to the licensing authority in their own right, and the licensing authority expects them to make representations themselves where they are reasonably able to do so.
- 7.19 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.
- 7.20 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.

(b) Representations from Other Persons

- 7.21 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.
- 7.22 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.
- 7.23 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.
- 7.24 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.
- 7.25 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.
- 7.26 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.
- 7.27 In such circumstances the licensing authority will still provide some 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.
- 7.28 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 can make representations on their behalf if appropriate and justified.
- 7.29 Further guidance on making representations is provided on the licensing authority's website.

8.0 Licensing Hours

- 8.1 The licensing authority recognises the variety of premises for which licences will be 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.
- 8.2 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; and
 - the nature of the proposed activities to be provided at the premises.
- 8.3 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.
- 8.4 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 11.00 pm 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.
- 8.5 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.

9.0 Conditions on Licences and Certificates

9.1 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 business by other legislation;
- Are tailored to the individual type, location and characteristics of the premises and events concerned;
- Are not standardised and may therefore be unlawful if 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 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.

9.2 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.

10.0 Reviews

- 10.1 At any stage, following the grant 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.
- 10.2 In every case the application for review must relate to particular premises for which a licence or certificate is in force and must be relevant to the promotion of the licensing objectives.
- 10.3 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.
- 10.4 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.
- 10.5 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.
- 10.6 Where responsible authorities have concerns about problems identified at 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.
- 10.7 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.
- 10.8 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.
- 10.9 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.
- 10.10 The licensing authority considers a repetitious ground for review to be one that is identical or substantially similar to:

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- 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.
- 10.11 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.
- 10.12 The licensing authority believes that more than one review originating from any person or group of persons such as residents and(or) community groups, 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.
- 10.13 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.
- 10.14 Guidance on applying for a review of a licence or certificate, along with the necessary forms, can be found on the licensing authority's website.

11.0 Minor Variations

- 11.1 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).
- 11.2 Minor variations will generally fall into four categories: minor changes to the structure or layout of premises; small adjustments to licensing hours; the removal of out of date, irrelevant or unenforceable conditions or addition of volunteered conditions; and the addition of certain licensable activities. In all cases the overall test is whether the proposed variation could impact adversely on any of the four licensing objectives.
- 11.3 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.
- 11.4 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 they need specialist advice, and take their views into account in reaching a decision.
- 11.5 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.
- 11.6 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.

12.0 Cumulative Impact

- 12.1 Cumulative impact is the potential impact on the promotion of the licensing objectives of a number of licensed premises concentrated in one area.
- 12.2 In some areas where the number, type or density of licensed premises, such as those selling alcohol or providing late night refreshment, is high or exceptional, serious problems of nuisance and disorder may arise outside or some distance from those premises. Such problems generally occur as a result of large numbers of drinkers being concentrated in an area, for example when leaving premises at peak times or when queuing at fast food outlets or for public transport.
- 12.3 Queuing in itself may lead to conflict, disorder and anti-social behaviour. Moreover, large concentrations of people may also attract criminal activities such as drug dealing, pick pocketing and street robbery. Local services such as public transport, public lavatory provision and street cleaning may not be able to meet the demand posed by such concentrations of drinkers leading to issues such as street fouling, littering, traffic and public nuisance caused by concentrations of people who cannot be effectively dispersed quickly.
- 12.4 Variable licensing hours may facilitate a more gradual dispersal of customers from premises. However, in some cases, the impact on surrounding areas of the behaviour of the customers of all premises taken together will be greater than the impact of customers of individual premises. These conditions are more likely to arise in town and city centres, but may also arise in other urban centres and the suburbs, for example on smaller high streets with high concentrations of licensed premises.
- 12.5 With effect from 6 April 2018, the Policing and Crime Act 2017 introduced the concept of cumulative impact assessments into the Licensing Act 2003 by inserting into the Act a new section 5A.
- 12.6 A cumulative impact assessment (CIA) may be published by a licensing authority to help it to limit the number or types of licence applications granted in areas where there is evidence to show that the number or density of licensed premises in the area is having a cumulative impact and leading to problems which are undermining the licensing objectives. CIAs relate to applications for new premises licences and club premises certificates and applications to vary existing premises licences and club premises certificates in a specified area.
- 12.7 At the current time the licensing authority has not published a CIA as there is not currently an evidential basis on which to base such a decision.
- 12.8 If the licensing authority were to consider the publication of a CIA in the future, it would do so in accordance with the requirements of section 5A of the Licensing Act 2003 and with regard to the guidance issued by the Secretary of State under section 182 of the Licensing Act 2003.

13.0 Personal Licences – New Applications

- 13.1 A personal licence is a licence issued to an individual authorising them to make or authorise the sale of alcohol in accordance with a premises licence. Every premises licence that authorises the sale of alcohol must specify an individual who acts as the designated premises supervisor (DPS). The DPS must hold a personal licence.
- 13.2 Applications for personal licences should be made to the licensing authority for the area where the applicant is ordinarily resident at the time they make their application.
- 13.3
- (a) The applicant is aged 18 or over
 - (b) The applicant is entitled to work in the United Kingdom
 - (c) The applicant possesses a licensing qualification or is a person of a prescribed description
 - (d) The applicant has not forfeited a personal licence in the five year period prior to their application being made
 - (e) The applicant has not been convicted of any relevant offence or any foreign offence or required to pay an immigration penalty
- 13.4 The licensing authority must reject an application if the applicant fails to meet one or more of the requirements set out in (a) to (d) above.
- 13.5 Where the applicant meets the requirements in (a) to (d) but does not meet the requirements of (e), the licensing authority must give the chief officer of police for its area a notice to this effect. Having received such a notice, if the chief officer of police is satisfied that the granting of the application would undermine the crime prevention objective, he must within 14 days, give the licensing authority a notice to that effect.
- 13.6 Where the applicant fails to meet the requirements of (e) as a result of a conviction for an immigration offence or because they have been required to pay an immigration penalty, the licensing authority must give a notice to the Secretary of State for the Home Department to that effect. The Home Office may object to an application on grounds that granting the personal licence would be prejudicial to the prevention of illegal working in licensed premises.
- 13.7 Where an objection to the grant of a personal licence is received from either the chief officer of police or the Home Office, the applicant is entitled to a hearing before the licensing authority. If no objections are received, the licensing authority must grant the application.
- 13.8 At a hearing to determine a personal licence application to which the chief officer of police or Home Office have objected, the licensing authority will have regard to all of the circumstances including the following:
- The need to assess each case on its merits
 - The duty to promote the crime prevention objective
 - The objection notice given by the Police or Home Office
 - The guidance issued by the Secretary of State under section 182 of the Licensing Act 2003
 - The seriousness of the relevant offence

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- The sentence or penalty imposed on the applicant for the relevant offence
- Any representations made by the applicant
- Any other evidence as to the previous character of the applicant

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

13.10 If an application is refused, the applicant will be entitled to appeal against the decision they make. Similarly, if the application is granted despite a police objection notice or an objection from the Home Office, the chief officer of police or Home Office are entitled to appeal against the licensing authority's determination. The licensing authority will therefore record in full the reasons for any decision that it makes.

14.0 Personal Licences – Suspension and Revocation

- 14.1 Section 138 of the Policing and Crime Act 2017 amended the Licensing Act 2003 and gave the power to a licensing authority to suspend or revoke personal licences that it has issued with effect from 6 April 2017.
- 14.2 When a licensing authority has granted a personal licence and becomes aware that the licence holder has been convicted of a relevant offence or foreign offence or been required to pay an immigration penalty, a licensing authority may revoke the licence or suspend it for a period of up to six months. This applies to convictions received and civil immigration penalties which a person has been required to pay at any time before or after the licence was granted, as long as the conviction was received after 6 April 2017, or the requirement to pay the civil penalty arose after 6 April 2017. Prior to 6 April 2017 only magistrates' courts can order the forfeiture or suspension of a personal licence for convictions.
- 14.3 The process which must be undertaken by the licensing authority to suspend or revoke a personal licence is set out at section 132A of the 2003 Act. The decision to revoke or suspend a personal licence must be made by the licensing committee or sub-committee, but the actions required before making a final decision may be made by a licensing officer.
- 14.4 The licensing authority may not take action if the licence holder has appealed against the conviction or the sentence imposed in relation to the offence, until the appeal is disposed of. Where an appeal is not lodged, the licensing authority may not take action until the time limit for making an appeal has expired.
- 14.5 If a licensing authority is considering revoking or suspending a personal licence, the authority must give notice to the licence holder. This notice must invite the holder to make representations about the conviction, any decision of a court in relation to the licence, or any decision by an appellate court if the licence holder has appealed such a decision. The licence holder may also decide to include any other information, for example, about their personal circumstances.
- 14.6 The licence holder must be given 28 days to make their representation, beginning on the day the notice was issued. The licensing authority does not need to hold a hearing to consider the representations. Before deciding whether to revoke or suspend the licence the licensing authority must consider any representations made by the licence holder, any decisions made by the court or appellate court in respect of the personal licence of which the licensing authority is aware, and any other information which the licensing authority considers relevant.
- 14.7 The licensing authority may not be aware of whether the court considered whether to revoke or suspend the licence, and there is no obligation on the licensing authority to find this out before making a decision themselves. Where the court has considered the personal licence and decided not to take action, this does not prevent the licensing authority from deciding to take action itself. Licensing authorities have different aims to courts in that they must fulfil their statutory duty to promote the licensing objectives, and therefore it is appropriate for the licensing authority to come to its own decision about the licence.
- 14.8 If the licensing authority, having considered a suspension and revocation and subsequently considered all the information made available to it, proposes not to

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revoke the licence it must give notice to the chief officer of police in the licensing authority's area, and invite the chief officer to make representations about whether the licence should be suspended or revoked, having regard to the prevention of crime. The chief officer may make representations within the period of 14 days from the day they receive the notice from the licensing authority.

- 14.9 Any representations made by the chief officer of police must be taken into account by the licensing authority in deciding whether to suspend or revoke the licence.
- 14.10 Convictions may come to light via police in another area, for example if the personal licence holder no longer lives in the area of the licensing authority which issued the licence, or if the offence took place in another police force area. In this instance it would be good practice for the police providing the information to notify the police force in the licensing authority area, because it is the local chief officer who must provide representations if the licensing authority proposes not to revoke the licence.
- 14.11 Where the licence holder is convicted of immigration offences or has been required to pay a civil penalty for immigration matters, the licensing authority should notify Home Office Immigration Enforcement and allow representations to be made in the same way.
- 14.12 In deciding whether to suspend or revoke a personal licence, the licensing authority will have regard to all of the circumstances including the following:
- The need to assess each case on its merits
 - The duty to promote the licensing objectives
 - The guidance issued by the Secretary of State under section 182 of the Licensing Act 2003
 - The seriousness of the relevant offence
 - The sentence or penalty imposed on the licence holder for the relevant offence
 - Any representations made by the Police or Home Office Immigration Enforcement
 - Any representations made by the holder of the licence
 - Any evidence as to the previous character of the holder of the licence
- 14.13 The licensing authority must notify the licence holder and the chief officer of police of the decision made (even if the police did not make representations). The licence holder may appeal the licensing authority's decision to revoke or suspend their personal licence. A decision to revoke or suspend the licence does not take effect until the end of the period allowed for appealing the decision (21 days); or if the decision is appealed against, until the appeal is disposed of.
- 14.14 If the personal licence holder is a DPS, the licensing authority may notify the premises licence holder once the decision to revoke or suspend the licence has been made if it becomes necessary to do so in order for the licensing authority to be able to carry out their functions.
- 14.15 The licensing authority may also notify any person who has declared an interest in the premises under section 178 of the 2003 Act if it becomes necessary to do so in order for the licensing authority to be able to carry out their functions.

15.0 Immigration Act 2016 – Entitlement to Work

- 15.1 Section 36 of and Schedule 4 to the Immigration Act 2016 made a number of amendments to the Licensing Act 2003 to introduce immigration safeguards in respect of licensing applications made in England and Wales on or after 6 April 2017. The intention of these changes is to prevent illegal working in premises licensed for the sale of alcohol or late night refreshment.
- 15.2 The statutory prevention of crime and disorder licensing objective in the Licensing Act 2003 includes the prevention of immigration crime and the prevention of illegal working in licensed premises. The Council will work with the Home Office (Immigration Enforcement) as well as the police, in respect of these matters.
- 15.3 Section 36 of and Schedule 4 to the Immigration Act 2016 (the 2016 Act) amended the 2003 Act to provide that in England and Wales:
- Premises licences to sell alcohol or provide late night refreshment and personal licences cannot be issued to an individual who does not have permission to be in the UK, or is not entitled to undertake work relating to the carrying on of a licensable activity;
 - Licences issued to those with limited permission to be in the UK will lapse when their permission to be in the UK and work in a licensable activity comes to an end;
 - Immigration offences, including civil penalties, are ‘relevant offences’ as defined by the 2003 Act;
 - The Home Secretary (in practice Home Office (Immigration Enforcement)) was added to the list of responsible authorities in the licensing regime, which requires Home Office (Immigration Enforcement) to receive premises licence applications (except regulated entertainment only licences) and applications to transfer premises licences, and in some limited circumstances personal licence applications, and permits Home Office (Immigration Enforcement) to make appropriate representations and objections to the grant of a licence; and
 - Immigration officers are permitted to enter premises which they have reason to believe are being used to sell alcohol or provide late night refreshment, to investigate whether immigration offences are being committed in connection with the licensable activity.
- 15.4 The licensing authority will have regard to any guidance issued by the Home Office in relation to the immigration related provisions now contained in the Licensing Act 2003.
- 15.5 The licensing authority will also work in partnership with the Home Office (Immigration Enforcement) and West Mercia Police with a view to preventing illegal working in premises licensed for the sale of alcohol or late night refreshment.

16.0 Enforcement and Complaints

- 16.1 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 a licensing objective will be investigated.
- 16.2 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.
- 16.3 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.
- 16.4 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.
- 16.5 The licensing authority will continue to employ officers to investigate allegations of unlicensed activities and to ensure that licence conditions are complied with, and will seek to work actively with West Mercia Police and other relevant partners in enforcing licensing legislation.
- 16.6 The licensing authority is happy to investigate complaints against licensed premises of any description. In the first instance, complainants will be encouraged to raise the complaint directly with the licensee or business concerned.
- 16.7 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 will 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.

17.0 Integrating Strategies and Partnership Working

17.1 The Council regards its licensing function 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.

17.2 Licensing Committee, when appropriate, will be informed of relevant county and local strategies. The report may include information relating to:

- Local crime prevention strategies;
- Needs of the local tourist economy;
- Any cultural strategy for the area;
- Employment issues in the area;
- Any relevant planning matters so as to ensure the clear distinction between licensing and planning functions, and
- Local relevant partnerships and their objectives.

18.0 Equal Opportunities

- 18.1 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, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.
- 18.2 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. Specific needs will be dealt with on an individual basis.

19.0 Administration, Exercise and Delegation of Functions

- 19.1 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.
- 19.2 The licensing authority will be 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.
- 19.3 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 Council's Licensing Committee, Sub-Committees and officers.
- 19.4 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.

20.0 Relationship with Planning

- 20.1 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.
- 20.2 There is no legal basis for the licensing authority to refuse a licence application because the relevant premises does not have planning permission, or where there are conditions on the relevant planning permission.
- 20.3 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.

21.0 Temporary Event Notices

- 21.1 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. The police and environmental health can only object to a Temporary Event Notice if the event is likely to undermine the licensing objectives.
- 21.2 The law states that for a standard temporary event notice, at least ten working day's notice must be given but the licensing authority recommends that, wherever possible, at least two month's notice be given to hold these events, to allow it to help organisers plan their events safely. Any longer period than this may mean that organisers do not have all the details available at the time of submitting the notice, and any lesser time means that planning may be rushed and haphazard.
- 21.3 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 to avoid any unnecessary objections being made that may arise from misunderstandings or confusion as to what is being proposed.
- 21.4 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.
- 21.5 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.
- 21.6 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.

22.0 Live Music Act 2012 and other Entertainment Licensing Deregulation

- 22.1 The Live Music Act 2012 came into force on 1st October 2012 and is designed to encourage more performances of 'live' music. The Act removes the licensing requirements for:
- amplified 'live' music between 8am and 11pm before audiences of no more than 200 people on premises authorised to sell alcohol for consumption on the premises
 - amplified 'live' music between 8am and 11pm before audiences of no more than 200 people in workplaces not otherwise licensed under the 2003 Act (or licensed only for the provision of late night refreshment)
 - unamplified 'live' music between 8am and 11pm in all venues
 - the provision of entertainment facilities
- 22.2 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.
- 22.3 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.
- 22.4 There was a further deregulation of entertainment licensing in June 2013 when the Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013) came into force on 27 June 2013. The effect of the order is that no authorisation is required for the following activities to the extent that they take place between 08:00-23:00 on any day:
- a performance of a play in the presence of any audience of no more than 500 people
 - an indoor sporting event in the presence of any audience of no more than 1000 people
 - a performances of dance in the presence of any audience of no more than 500 people
- 22.5 Entertainment licensing requirements were further deregulated as a result of the Legislative Reform (Entertainment Licensing) Order 2014, which came into force on 6 April 2015.
- 22.6 The 2014 Order deregulated entertainment licensing in the following ways:
- The provision of regulated entertainment by or on behalf of local authorities, health care providers, or schools on their own defined premises became exempt from entertainment licensing between 08.00-23.00 on the same day, with no audience limit.
 - The audience limit for a performance of live amplified music in relevant alcohol licensed premises or in a workplace between 08.00-23.00 on the same day was raised from 200 to 500.

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- Local authorities, health care providers and schools are now exempt from entertainment licensing when making their own defined premises available to third parties for live and recorded music activities between 08:00-23:00 on the same day for audiences of up to 500.
- Community premises not licensed to supply alcohol are now exempt from entertainment licensing requirements for live and recorded music between 08:00-23:00 on the same day for audiences of up to 500.
- Travelling circuses are now exempt from entertainment licensing in respect of all descriptions of entertainment, except an exhibition of a film or a boxing or wrestling entertainment, where the entertainment or sport takes place between 08:00-23:00 on the same day, with no audience limit.
- Greco-Roman and freestyle wrestling are now deregulated between 08:00-23:00 for audiences of up to 1000 people.
- An exhibition of film that is incidental to another activity (where that other activity is not itself a description of entertainment set out in paragraph 2 of Schedule 1 to the 2003 Act) is exempt now from licensing.

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

22.8 No licence is required for an exhibition of film on community premises between 08:00 and 23:00 on any day provided that:

- the film entertainment is not provided with a view to profit;
- the film entertainment is in the presence of an audience of no more than 500 people;
- the admission of children is subject to such restrictions as are necessary to comply with the recommendation issued by the BBFC or relevant licensing authority regarding the admission of children; and
- a person concerned in the organisation or management of the exhibition of the film has obtained the prior written consent of the management committee of the premises, or if there is no management committee, a person who has control of the premises in connection with the carrying on by that person of a trade, business or other undertaking, or failing that a person with a relevant property interest in the premises.

23.0 Sexual Entertainment Venues

- 23.1 The Council may adopt 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 may include standard conditions attached to such licences. Where there are similar conditions attached to licences under both regulatory regimes, the more onerous will apply.
- 23.2 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.
- 23.3 Any premises 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.

24.0 Early Morning Alcohol Restriction Orders (EMROs)

- 24.1 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.
- 24.2 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.
- 24.3 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.
- 24.4 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.
- 24.5 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.
- 24.6 The licensing authority is not currently satisfied that it is appropriate to make any EMROs.

25.0 Late Night Levy

- 25.1 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.
- 25.2 The levy is a power and the Government has recognised that some licensing authorities will not consider that it is appropriate to exercise it.
- 25.3 At the present time this licensing authority does not have a large number of premises which are licensed to sell alcohol during the late night supply period.
- 25.4 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.
- 25.5 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.
- 25.6 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.
- 25.7 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.
- 25.8 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.

26.0 Late Night Refreshment – Local Powers to Deregulate

- 26.1 Section 71 of the Deregulation Act 2015 inserted paragraph 2A into Schedule 2 of the Licensing Act 2003 in relation to the provision of late night refreshment.
- 26.2 This amendment created a discretionary power to licensing authorities to exempt premises in certain circumstances, from the requirement to have a licence to provide late night refreshment.
- 26.3 The powers allow a relevant licensing authority to exempt the supply of late night refreshment if it takes place:
- on or from premises which are wholly situated in a designated area;
 - on or from premises which are of a designated description; or
 - during a designated period (beginning no earlier than 23.00 and ending no later than 05.00).
- 26.4 The licensing authority does not currently consider it appropriate to exercise the discretionary powers within paragraph 2A of Schedule 2 to the Licensing Act 2003.
- 26.5 If the licensing authority was going to consider exercising the powers in the future, it would only do so having carefully considered the risks to the promotion of the licensing objectives and having carried out a comprehensive consultation exercise with relevant stakeholders.

27.0 Suspension of Licences and Certificates for Non-Payment of Annual Fees

- 27.1 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.
- 27.2 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.
- 27.3 When suspending a licence or certificate a notice of suspension will be given in writing to the licence or certificate holder. The police and any other relevant responsible authorities will also be notified of the suspension at the same time.
- 27.4 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.
- 27.5 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 A - Table of Delegated Functions

Matter to be dealt with	Full Committee	Sub Committee	Officers
Application for personal licence		If the police or Home Office give an objection notice	If no objection notice is given by the police or Home Office.
Decision whether to suspend or revoke a personal licence		All cases	
Application for premises licence/club premises certificate		If relevant representations are made	If no relevant representations are made or all representations made are withdrawn
Application for provisional statement		If relevant representations are made	If no relevant representations are made or all representations made are withdrawn
Application to vary premises licence/club premises certificate		If relevant representations are made	If no relevant representations are made or all representations made are withdrawn
Application to vary designated personal licence holder		If the police or Home Office give an objection notice	If no objection notice is given by the police or Home Office.
Application for the mandatory alcohol condition under the Licensing Act 2003 requiring a Designated Premises Supervisor in respect of a premises licence to be disapplied		If a police representation is made	All other cases
Decision whether to consult other responsible authorities on minor variation application			All cases

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Determination of minor variation application			All cases
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If the police or Home Office give an objection notice	If no objection notice is given by the police or Home Office.
Application for interim authority		If the police or Home Office give an objection notice	If no objection notice is given by the police or Home Office.
Application to review premises licence/club premises certificate		All cases	
Decision on whether a complaint or objection is irrelevant, frivolous, vexatious etc			All cases
Decision for licensing authority to act in their capacity as a responsible authority			All cases
Acknowledgement of receipt of a temporary events notice			All cases
Determination of a police or environmental health objection to a temporary event notice		All cases	
Decision to suspend a licence or certificate for non-payment of the annual fee.			All cases



BCARA Comments on WFDC statement of licensing policy

19 July 2019

GENERAL POINTS

Policy and practice

BCARA is concerned that not all aspects of the current policy seem to be implemented in practice. Some of BCARA's concerns about licensing would be removed or reduced if the policy was implemented as stated, although in some cases the policy is unclear or even contradictory. For example, the policy indicates that the operating schedule is important, yet is willing to issue licences where the operating schedules are insufficient to show how the licensing objectives will be addressed.

Response - This is the author's opinion on the licensing authority's implementation of their Statement of Licensing Policy rather than a comment on the content of the Statement of Licensing Policy itself.

In general, the local authority's licensing webpages are almost entirely geared to licensees and applicants and not to residents.

Response - This opinion is not a comment on the content of the Statement of Licensing Policy.

In response to this comment the Licensing team are currently working on producing guidance and general information for members of the public and local residents which relate specifically to the Licensing Act 2003. These will be made available and published on the Council's licensing web pages.

There is no information on licenced premises online although there are for other kinds of licence holders. This is a major omission and should be rectified without delay.

Response - This opinion is not a comment on the content of the Statement of Licensing Policy.

Premises licence information is currently available upon request either by email or telephone.

The licensing team is currently exploring ways of making more information available about licensed premises (Licensing Act 2003) online. An IT project team is currently working on and developing ways of making this information available via a new public access platform/portal.

Balancing the needs of licensees, customers and residents

BCARA is concerned that licensees and customers are given much higher priority than residents. The information provided on the local authority's website and that of Worcestershire Regulatory Services implies that the only people with interest in licensing are licensees and applicants for licences. There is little if any information on how residents can interact with the

licensing process, or how they can find out about licences (regular email updates of any licence applications or applications for variation of licences could be provided would be welcome).

Response - This opinion is not a comment on the content of the Statement of Licensing Policy.

WFDC currently advertises all licencing applications on their website, this is achieved by WFDC by placing details of all new application on the WRS website and providing a suitable link via the district webpages

It is currently open for residents associations or any other interested person to visit the WFDC (WRS) new applications webpage to see whether there are any current applications of interest in their particular area.

Officers recognise that more information and guidance could be provided to residents as indicated earlier. As highlighted the licensing team are working on producing guidance and general information for members of the public and local residents which relate specifically to the Licensing Act 2003. These will be made available and published on the Council's licensing web pages.

There should be greater and clearer expectations of how applicants will inform local residents of their licence applications, as the current arrangements are inadequate. It would be reasonable to expect applicants to notify all residents within a certain distance of the premises in questions, and also to advise relevant organisations such as residents associations. This is particularly important given the permissive nature of the legislation which means that licenses are issued unless representations are made. At present, it is too easy for applications to go un-noticed, thus preventing representations form being made.

Response - This opinion is not a comment on the content of the Statement of Licensing Policy.

The Licensing Act 2003 and associated regulations are very prescriptive in how premises licence applications should be advertised. There is a legal requirement that an applicant must advertise a premises licence application by way of a public notice on the premises for 28 days and also by way of a public notice in a local newspaper. There is also a legal requirement for licensing authorities to advertise applications on their website, this is achieved by WFDC by placing details of all new application on the WRS website and providing a suitable link via the district webpages.

Case law has established the principle that licensing authorities should not go beyond the above statutory requirements.

It is currently open for residents associations or any other interested person to visit the WFDC (WRS) new applications webpage to see whether there are any current applications of interest in their particular area. A direct link to the above webpage has been provided to the BACARA chair.

There is no information on the website about how to appeal against a licensing decision. Many other local authorities are much better at indicating an appreciation of the needs of residents and of the actions that they may need to take in relation to licensed premises.

Response - This opinion is not a comment on the content of the Statement of Licensing Policy.

Information on the rights of appeal is provided to each party at the licensing hearing, as only parties to the hearing have a right of appeal, information is also provided in published decision notices. As the process for appealing is a matter for the Magistrates Courts, the licensing authority does not give detailed advice on the Magistrates Courts appeal process, but does inform parties to contact the local Magistrates Court directly for further detailed guidance or alternatively to seek their independent legal advice.

Lack of Enforcement

BCARA is concerned about the limited capacity to check the operation of licences and ensure that operating schedules and conditions are enforced. This makes it particularly important to ensure that roles, responsibilities and processes are clearly set out in the statement of licensing policy and adhered to. At present, the statement of licensing policy lacks detail, and gives insufficient emphasis on how licences will be enforced, and the role of residents in this.

Response - Officers consider that appropriate and sufficient information on the licensing authority's approach to enforcement and complaints, is provided at Chapter 16 of the Statement of Licensing Policy.

Where drinks can be consumed

It needs to be made clear whether licences cover the drinking of alcoholic drinks outside the premises. BCARA has been advised by WRS that licences stipulate where drinks are purchased and not where they are consumed. However, the government premises licence guidance of 28 January 2019 indicates in paragraph 2.4 that the applicant should describe the premises and "describe any areas that you intend to provide for people to consume alcohol that you sell or supply such as outside areas for example beer gardens.". The guidance also indicates that if, for example, an applicant does not include the garden as part of a licence premises, drinks that are bought to be consumed in it will count as off premises and then the conditions that relate to off premises sales would apply. We assume from this that it means that drinks are sold to be consumed on the licensed premises and that are sold to be consumed away from the licensed premises would also be counted as off premises sales. This is reinforced by Box J in the guidance which indicates that if you wish people to be able to consume alcohol on the premises they must tick on and if people wish to be able to purchase alcohol to consume away from the premises they should tick off. It seems clear therefore that drinking outside premises including on the public highway would count as off premises sales, but this does not seem to be reflected in WFDC's licensing policy or practice.

Response - Whether or not a sale of alcohol is made for consumption on or off the premises is a matter of fact in each particular case. The consumption of alcohol is not a licensable activity. Officers do not consider that the Statement of Licensing Policy needs to restate the law.

Allowing customers to consume their drinks wherever they choose makes it difficult for licensees to promote all of the licensing objectives.

Response - This opinion is not a comment on the content of the Statement of Licensing Policy.

The use of outside areas can be restricted by conditions on a premises licence. This should be made clear in the statement of licensing policy and this should be adhered to in particular where licensed premises are adjacent to or near to residential premises.

Response - Officers consider that paragraphs 6.24 to 6.28 sufficiently detail how the licensing authority will promote the licensing objective of the prevention of public nuisance, including the use of gardens and other open-air areas.

Learning from others

BCARA has had discussion with officers about WFDC's licencing policy. We have identified policies in other areas that seem both better formulated and implemented. Despite providing officers with significant numbers of examples of what appear to be more appropriate licensing arrangements, at their request, none of these have found their way into this revised policy which is disappointing. It would appear that the only changes relate to new legislation.

Response - This is a general comment on the content of the Statement of Licensing Policy and does not appear to set out specific amendments that BCARA would like to see made.

Whilst officers have reviewed a number of different Local Authorities licensing policies, they did not think it appropriate to amend the draft statement of licensing policy, which has been developed and adopted by the other Worcestershire districts to simply mirror the content of other policies.

SPECIFIC POINTS

Page 4 para 1.4

In this introduction it does not mention that Bewdley has both residential and commercial premises within the town centre, as well as a large number of visitors. This should be added as a particular issue in relation to licensed premises where it is necessary to ensure that the rights of residents are properly safeguarded.

Response - The Statement of Licensing Policy has been amended at paragraph 1.4 to include this further information about Bewdley.

Page 5 para 2.3

A number of the points listed in this section (described as vitally important) do not appear to be reflected in the policy and the way it is implemented, and this needs to be changed. For example, protecting the public and local residents from crime, antisocial behaviour and noise nuisance caused by irresponsible licensed premises does not feature highly in the policy.

Response - Officers consider that chapter 6 of the Statement of Licensing Policy sufficiently sets out the licensing authority's approach to promoting the licensing objectives.

Neither does the policy encourage greater community involvement in licensing decisions and giving local residents opportunity to have their say regarding licensing conditions that may impact upon them. While it is possible for residents to make representations against licensing applications and to make applications for reviews of licences, the local authority is not active in supporting this. It does not have a system for informing residents of licence applications, nor does it provide sufficient information on this website or elsewhere or indeed any information on how residents can engage.

Response - As mention earlier the Licensing Act 2003 and associated regulations are very prescriptive in how premises licence applications should be advertised and case law has established the principle that licensing authorities should not go beyond the above statutory requirements

WFDC places details of all new applications on the WRS website which is currently open for residents associations or any other interested person to visit via the WFDC (WRS) new applications webpage to see whether there are any current applications of interest in their particular area.

Details on how and where to make representation is made available on this webpage.

In light of the comment above officers are current working on producing specific guidance for residents and other interested parties on how to comment on licensing Act 2003 applications, which will be made available on the Council's website.

Given the recent examples in relation to licences in Bewdley, it is also hard to say that WFDC provides "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". As previously indicated, the licensing regime gives a very strong impression of being geared mainly, if not entirely, to the needs of licensees.

Response - This opinion is not a comment on the content of the Statement of Licensing Policy.

Page 7 para 4.2 indicates that the main purpose of the statement of licensing policy is to provide clarity to applicants, responsible authorities and other persons on how the licensing authority will determine applications for the supply of alcohol etc.. It seems an omission not to indicate that the purpose of the licensing policy is also to ensure that licensing arrangements are appropriate to the areas in which local residents reside.

Response - This comment has been noted and the policy document has been amending accordingly.

Page 8 para 5.7

The licensing authority acknowledges appropriately that licensing law is not the primary mechanism for the general control of antisocial behaviour by individuals once they are beyond the direct control of the individual, club business holding the authorisation concerned. However, licences seem to be too lax on prescribing the area over which the licensee is expected to have control, for example by taking the view that drinks can be consumed anywhere. In addition, the lamentable lack of effective action in relation to the management of highways amenity licences in Bewdley by WFDC and Worcestershire County Council makes a strong case that licences need to be issued in the context that street amenity licences are rarely, if ever, enforced.

Response - The Council's Enforcement provisions are covered under section 16.0 of the draft policy.

It is and has always been the case that where a premises is seen to be causing or adding to issues in a particular area then appropriate action can be taken by the Local Authority. If issues with other areas of licensing, such as Street Amenity Permissions linked to a licensed premises are proven to be undermining one or more of the licensing objectives then action can also be taken under LA2003.

It is worth noting however that Tables and Chairs placed on the highway are controlled by way of the Highways Act 1980. Officers are aware that enforcement provisions under this Act are limited.

Section 6 – Applications for licences

This provides information on the process of applying for premises and club licences that seem reasonable. Unfortunately, practice does not seem to be aligned with policy. For example, applicants are asked to provide plans of premises to a recognised scale, but plans clearly marked not to scale are taken as read without being checked (as in the case of the application for The Retreat, 3 Load Street, Bewdley). It is imperative that details of the application, including plans, are accurate and complete otherwise it is impossible for representations to be made against any details of concern,

Response - This opinion is not a comment on the content of the Statement of Licensing Policy.

In response to this comment the requirements for plans are set out in the relevant regulations and these do not require plans to be professionally drawn, however the Licensing team always ensure that any plans submitted as part of a licensing application are accurate and clearly reflect the details and area of premises being applied for.

Page 9 para 6.3 makes clear that, through their operating schedules, applicants are expected to demonstrate the positive steps that they will take to promote the four licensing objectives. **Para 6.4** goes on to say that the operating schedule is a key document and, if prepared comprehensively, will form the basis on which premises can be licensed without the need for additional extensive conditions. It seems however to have become the norm for licence applications to say very little in the operating schedules and certainly not enough to make it clear how the licensing objectives will be promoted. It also seems to be the norm for licence conditions not to be applied unless representations have been made. Even then, opportunities are not taken to set conditions to address all legitimate concerns. The licensing authority appears therefore not to be taking the steps necessary to ensure that licences are appropriate.

Response - Officers agree that the operating schedule is a key document and, if prepared comprehensively, will form the basis on which premises can be licensed without the need for additional extensive conditions, however the content of an applicants operating schedule is a matter for them in the first instance. Responsible authorities and other persons can make representations in respect of applications where they feel the steps proposed by the applicant are insufficient to satisfactorily promote the licensing objectives.

Para 6.7 goes on to say that the complexity and detail required in the operating schedule will depend on the nature and use of the premises concerned. For example, it says premises such as a public house where regulated entertainment is not provided only relatively simple document been may be required. This appears to be inconsistent with previous statements in para 6.4 which talks about the operating schedule as a key document. A public house surely needs to indicate how it will promote the licensing objectives in any case, and particularly where it is located within the heart of a residential area. Indeed, it is hard to see how any premises could be assumed to be taking appropriate steps to promote the licensing objectives if they do not indicate what those steps would be. **Para 6.8** then goes on to detail what needs to be included in the operating schedule which completely contradicts para 6.7 where it indicates that only a relatively simple document may be required. **Para 6.9** also says that it may be appropriate in some cases that no measures are needed to promote one of the licensing objectives. This seems again to contradict the importance of the operating schedule as indicated in previous paragraphs.

Response - Officers consider that the Statement of Licensing Policy properly recognises that operating schedules will be tailored to the individual premise that is subject to the application. Paragraph 6.9 is

entirely consistent with the Secretary of State's Guidance to Licensing Authorities issued under section 182 of the Licensing Act 2003.

Page 10 para 6.10 etc Guidance on completing an operating schedule

Guidance provided on completing operating schedules is helpful but not complete. Applications seen by BCARA are sketchy in the action they will take, for example including terms such as staff training (without indicating, say, the purpose and objectives of the training), or employment of door staff (without saying what they will do). This renders those actions irrelevant.

This section needs, therefore, to be more helpful in terms of the guidance that it offers on how an operating schedule should be completed, and also make it clear that where there are gaps in the operating schedule it should be expected that these would be augmented with conditions.

This section should also be more specific about the kind of actions that licensees might need to take.

Response – The content of an applicants operating schedule is a matter for them in the first instance. Responsible authorities and other persons such as residents groups can make representations in respect of applications where they feel the steps proposed by the applicant are insufficient to satisfactorily promote the licensing objectives.

Page 11 para 6.17 lists actions that the “licensing authority will consider”. These actions are, however, rarely included in operating schedules or applied as conditions in BCARA's experience. In some cases, these actions are specified only as a brief general statement which does not explain what should be done or what impact it should aim to have.

Response - This is the author's opinion on the licensing authority's implementation of their Statement of Licensing Policy rather than a comment on the content of the Statement of Licensing Policy itself.

Page 11 para 6.20 makes reference to risk assessments but it is not clear whether risk assessments are required and, if so how, they are to be used. BCARA's view is that they would be very helpful. If it is an expectation of the licensing authority that applicants and licensees compile and maintain relevant risk registers this should be made explicit.

This paragraph also says that the licensing authority will expect “operating schedules, where appropriate” to satisfactorily address public safety issues. It is hard to understand where it would not be appropriate for a licence to indicate how it was going to address public safety or indeed any of the other licensing objectives.

Response – The content of an applicants operating schedule is a matter for them in the first instance. Responsible authorities and other persons such as residents groups can make representations in respect of applications where they feel the steps proposed by the applicant are insufficient to satisfactorily promote the licensing objectives.

Page 12 para 6.24 Prevention of public nuisance makes it clear that licensed premises can cause a range of nuisances impacting on people living, working or sleeping in the area surrounding the premises. However, the rest of the section does not give due weight to the impact of this nuisance or on measures to be taken to prevent it. **Paragraph 6.25** says the licensing authority is keen to protect the amenity of residents, but this is not reflected sufficiently in the policy or in practice. WFDC should be more explicit

about what an applicant should include in their operating schedule so as to prevent public nuisance and provide examples which could also be used as conditions if the relevant issues were not addressed in the operating schedule.

Response – The content of an applicants operating schedule is a matter for them in the first instance. Responsible authorities and other persons such as residents groups can make representations in respect of applications where they feel the steps proposed by the applicant are insufficient to satisfactorily promote the licensing objectives.

Page 13 para 6.28 indicates that in particular the licensing authority will take action that is appropriate for the premises that the applicant has taken or is proposing with regards to a number of issues. We have no concerns about the issues listed but these must be more evidently taken into account when issuing licences. A number of licences have been seen which do not make reference to some or indeed any of the points in the list even though they are clearly relevant.

Response - This is the author's opinion on the licensing authority's implementation of their Statement of Licensing Policy rather than a comment on the content of the Statement of Licensing Policy itself.

Pages 14 and 15 Protection of children from harm

There is no guidance on how licensees should act if there are concerns about safeguarding of any children on their premises. This should include insuring training on child safeguarding, having a person responsible, and on advice to staff on what action to take should they, for example, see child abuse in any form.

Response – Safeguarding training is currently being offered to licensed premises via a company called Young Solutions who are working in partnership with the PCC.

Page 16 Para 7.0 Representations

While there is substantial detail on what might or might not be an appropriate representation, there is little guidance on the issues that it would be appropriate for representations to be made. Much more guidance on making representations should be given again as part of balancing the duty to both licensees and their customers and to other interested parties, especially residents

Response – Guidance is being produced and will be made available on the Council's licensing webpages.

Page 16 Para 7.8 indicates that a full list of contact details for the responsible authorities is provided on the licensing authorities website This is very hard to find and indeed was only found by accident as the link is on the page relating to review of licences.

As previously indicated, the local authority's licensing webpages are almost entirely geared to licensees and applicants and not to residents

Response - Responsible Authorities details are available on the Council's website, however steps will be taken to make them more accessible.

Page 17 para 7.13 indicates that the licensing authority recognises Worcestershire Safeguarding Children Board as being a body that is competent to advise on the licensing objective of the protection of children from harm. As his body probably meets only every three months, it is hard to see how it can

advise or comment on any particular application. It would therefore be appropriate for the licensing authority to seek another body from which it can obtain advice more readily.

Response – The Worcestershire Safeguarding Children Board is consulted on all Licensing Act 2003 applications and they respond promptly to the Licensing Office on each occasion.

Page 17 para 7.18 makes reference to other parties, for example local residents or community groups. There is however very little reference in the policy as to how such groups can operate in relation to licensing applications or reviews. Advice given in person from WRS has been that representations and reviews need to be requested by individuals and that representations from groups such as residents associations will be given no more weighting than those from an individual. It would be helpful therefore for the policy to be clear on whether and how representations should be made by groups and how these will be dealt with by the licensing authority.

Response – Guidance is being produced and will be made available on the Council’s licensing webpages.

Page 19 section 8.0 licensing hours

BCARA understands that the licensing authority recognises that licensing hours need to be considered on an individual basis. However, in line with other local authorities, it would be appropriate for the licensing authority to generally limit opening until midnight in areas where people live. This would not prevent applications being dealt with on an individual basis but would reflect an appropriate expectation that the need for residents to sleep is taken seriously.

Response - Officer do not agree that blanket or standard opening times should applied to either new or existing premises.

Page 20 paragraph 9.0 conditions on licences and certificates.

The section provides insufficient information to clarify the important role of conditions in ensuring that the needs of licensees, customers and residents are properly balanced. As indicated previously, further information should be given in relation to the four licensing objectives as to the soundly based expectations of the licence licensing authority, with examples of how operating schedules should be put together and of the conditions that may be applied should operating schedules be insufficiently detailed.

BCARA appreciates that every licence needs to be considered on its merits, but it would be appropriate in Wyre Forest, as in many other licensing authorities, to include a pool of model or sample conditions that applicants could include in their licence application operating schedules, with a clear indication that where they were not included they may be sent as conditions.

Response - Although other LA’s may include a “model pool of conditions” within their licensing policies, it is not considered by officers having reviewed current legislation and home office guidance to be deemed appropriate.

However officers are considering producing a list of possible “suitable conditions” to be included in separate website guidance for both applicants and resident to use or consider, as mentioned earlier.

Page 21 para 10.6

BCARA agrees that it would be reasonable for the licensing authority to give licence holders early warning of their concerns, the need for improvement and of the steps they need to take to address those concerns. However, BCARA would like to see clear timescales and criteria for assessing the licensee's response to ensure that there is no prevarication by either party.

Response - Time scales are not a matter for policy and would be determined on a case by case basis by the Responsible Authority investigating each individual matter.

Page 21 Para 10.8.

Again, it is unclear as to any requirements on residents' associations or other groups in making an application for a review – this needs to be clarified. It is unfortunate that the policy emphasises the potential for irrelevant, frivolous, vexatious or repetitious reviews without balancing this with clear guidance on when an application for review would be appropriate and on the information that should be provided to support it.

Response - The Licensing office currently offers direct advice and guidance to any party who are considering applying for a review. Further guidance is being produced and will be made available on the Council's licensing webpages.

Page 22 para 10.11

The reason for this paragraph is unclear. The failure of representations to persuade the licensing authority could be the fault of the way that the representations were made rather than the substance of the representations, and it seems appropriate that a review could be applied for if they were genuine concerns about some or all of the licensing objectives being properly pursued.

Response - This section explains that should a licence be granted, the review procedure is not an appropriate method to challenge the decision of a Licence Sub Committee.

Page 22 para 10.12

This again makes reference to reviews coming from a person other than the responsible authority, and not from a group. This is an unhelpful confusion and needs to be corrected.

Response - Officers have amended the policy to make this section clearer

Page 22 para 10.14 refers to guidance on applying for a review of a licence on "the licensing authority's" website. In BCARA's view, this guidance is inadequate as there is too little information on how to make a review. BCARA has looked at the guidance on other licensing authorities' websites and found many providing much more complete and helpful guidance. BCARA hopes WFDC will revise its guidance in light of these. Interestingly, the list of responsible authorities was found on the link in this section. It did not, however, indicate to which of the responsible authorities any application for a review should be sent.

Response - Officer have noted the above concerns and are taking steps to include detailed guidance for residents on when and how to apply for a Premises Licence review. This guidance will be made available on the Council's licensing webpages.

Page 24 Para 12.0 Cumulative Impact

The comments made in this section to justify not publishing a CIA are not persuasive. The number of licensed premises within Bewdley town centre is large and can have a significant and negative impact on those residing there. BCARA would urge WFDC to consider undertaking a cumulative impact assessment in Bewdley. We are aware that many instances of antisocial behaviour and nuisance go unreported because residents no longer expect complaints to result in action, and because they fear reprisals. By reinforcing the message that the Council wishes to secure a proper balance between the needs of residents and others, and acting to support this, it is likely that residents will make their concerns known more readily.

Response - Whilst officer note the concerns raised there is currently no evidential basis to support the introduction of a Special Policy of Cumulative Impact in the Bewdley area. This has been confirmed following recent liaison with West Mercia Police and also from examination of Environmental Health noise nuisance complaints data for the Bewdley area.

Page 40 paragraph 25.0 late night levy

BCARA would be in favour of a late night levy being introduced in order to generate funding for additional policing and other measures to address the consequences of late tonight licences.

Response - Late nigh levy - There is currently no evidential basis to support the introduction of a late night levy.

Para 25.3 says that “At the present time this licensing authority does not have a large number of premises which are licensed to sell alcohol during the late night supply period.” BCARA is not aware of the definition of “a large number” but, as previously indicated, we are of the view that the number of premises in Bewdley town centre with a licence to 2am is significant and inappropriate in such a residential area.

Response - This opinion is not a comment on the content of the Statement of Licensing Policy.

Paragraph 26.0 late night refreshment local powers to deregulate

BCARA supports the proposal that this discretionary power to exempt premises in certain circumstances is not exercised. However closer monitoring and enforcement of late night refreshment is increasingly essential.

Response - This opinion is not a comment on the content of the Statement of Licensing Policy, however Officers have noted this comment.

As previously indicated, it would be appropriate for greater clarity about where alcohol will be consumed as indicated in government guidance and not to assume that it is appropriate for alcohol purchased any promises to be consumed anywhere.

Response - This comment has been addressed earlier in this document.