**Open**

# Licensing and Environmental Committee

# Agenda

**10.30am**
**Monday, 7 October 2024**
**Council Chamber**
**Wyre Forest House**
**Finepoint Way**
**Kidderminster**

**Licensing and Environmental Committee**

**Members of Committee:**

**Chairman: Councillor I Hardiman**
**Vice-Chairman: Councillor K Henderson**

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|---|---|
| **Councillor J Aston** | **Councillor J F Byng** |
| **Councillor K Gale** | **Councillor P Harrison** |
| **Councillor M McDonnell** | **Councillor S Miah** |
| **Councillor M Rayner** | **Councillor C Rogers** |
| **Councillor A Sutton** | **Councillor L Whitehouse** |

**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.**

**Disclosure of Interests**
**Members and co-opted Members of the Council are reminded that, in accordance with the Council's Code of Conduct and the statutory provisions of the Localism Act, they are required to consider in ADVANCE of each meeting whether they have a disclosable pecuniary interest (DPI), an other registrable interest (ORI) or a non-registrable interest (NRI) in relation to any matter on the agenda. If advice is needed, Members should contact the Monitoring Officer or other legal officer in good time before the meeting.**

If any Member or co-opted Member of the Council identifies a DPI or ORI which they have not already registered on the Council's register of interests or which requires updating, they should complete the disclosure form which can be obtained from Democratic Services at any time, copies of which will be available at the meeting for return to the Monitoring Officer.

Members and co-opted Members are required to disclose any DPIs and ORIs at the meeting.

Where the matter relates to a DPI they may not participate in any discussion or vote on the matter and must not stay in the meeting unless granted a dispensation.

Where the matter relates to an ORI they may not vote on the matter unless granted an advance dispensation.

Where a Member or co-opted Member has an NRI which directly relates to their financial interest or wellbeing, or that of a relative or close associate, they must disclose the interest at the meeting, may not take part in any discussion or vote on the matter and must not stay in the meeting unless granted a dispensation.

Where a matter affects the NRI of a Member or co-opted Member, the Code of Conduct sets out the test which must be applied by the MEMBER to decide whether disclosure is required. Again please ensure you have spoken in ADVANCE to the relevant legal officer and determined whether it is appropriate to declare the NRI and leave.

**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 Karen Morton, Assistant Committee Services Officer, Wyre Forest House, Finepoint Way, Kidderminster, DY11 7WF. Telephone: 01562 732726 or email committee.section@wyreforestdc.gov.uk

Wyre Forest District Council

Licensing and Environmental Committee

Monday, 7 October 2024

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**<br><br>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**<br><br>In accordance with the Code of Conduct, to invite Members to declare the existence and nature of any disclosable pecuniary interest (DPI), an other registrable interest (ORI) or a non-registrable interest (NRI) in relation to any matter on the agenda.<br><br>Please see the Members' Code of Conduct as set out in Section 14 of the Council's Constitution for full details. | |
| **4.** | **Minutes**<br><br>To confirm as a correct record the Minutes of the meeting held on the 5 August 2024. | 6 |
| **5.** | **Gambling Act 2005 Review of Statement of Principles**<br><br>To receive a report from the Head of Worcestershire Regulatory Services, on behalf of Wyre Forest District Council, which reports back on the results of the consultation on the draft revised Statement of Principles. | 8 |
| **6.** | **Licensing Act 2003 Statement of Licensing Policy Review**<br><br>To receive a report from the Head of Worcestershire Regulatory Services, on behalf of Wyre Forest District Council, which reports back on the results of the consultation on the draft revised Statement of Licensing Policy. | 58 |
| **7.** | **Pavement Licensing - The Business & Planning Act 2020**<br><br>To receive a report from the Head of Worcestershire Regulatory Services, on behalf of Wyre Forest District Council, on the results of the consultation. | 122 |

| | | |
|---|---|---|
| **8.** | **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.** | |
| **9.** | **Exclusion of the Press and Public**<br><br>To consider passing the following resolution:<br><br>"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". | |

Part 2

Not open to the Press and Public

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| **10.** | **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.** | |

**WYRE FOREST DISTRICT COUNCIL**

**Licensing and Environmental Committee**

**Council Chamber, Wyre Forest House, Finepoint Way, Kidderminster**

**5 August 2024 (10.30am)**

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**Present:**

Councillors: C Rogers (Chairman), K Henderson (Vice-Chairman), J Aston, J F Byng, P Dyke, K Gale, I Hardiman, P Harrison, M McDonnell, F M Oborski MBE, M Rayner and A Sutton.

**Observers:**

There were no members present as observers.

**LIC.06 Apologies for Absence**

Apologies for absence were received from Councillors: S Miah and L Whitehouse.

**LIC.07 Appointment of Substitutes**

Councillor P Dyke was a substitute for Councillor L Whitehouse.
Councillor F M Oborski MBE was a substitute for Councillor S Miah.

**LIC.08 Declaration of Interests**

No declarations of interest were made.

**LIC.09 Minutes**

**Decision: The minutes of the meeting held on 3 June 2024 be confirmed as a correct record and signed by the Chairman.**

**LIC.10 Pavement Licensing - The Business & Planning Act 2020**

The Committee received a report from the Principal Officer - Licensing (on behalf of the Head of Worcestershire Regulatory Services for WFDC) that asked Committee Members to consider and approve a draft Policy on Pavement Licensing for the purpose of consultation with relevant stakeholders as well as to make a recommendation to Council about the fees to be charged for applications.

The Principal Officer – Licensing presented the report, highlighting a number of key issues. Members were given the opportunity to ask questions, to which the Principal Officer – Licensing was able to provide verbal responses.

**Decision: The Licensing and Environmental Committee AGREED unanimously to:**

**1.1. APPROVE the draft Policy on Pavement Licensing shown at Appendix 1 of the report for the purpose of consultation with relevant stakeholders.**

**1.2. RECOMMEND to Council that the fees with effect from 1 October 2024 shall be £350 for a renewal application and £500 in any other case.**

## LIC.11 Gambling Act 2005 Review of Statement of Principles

The Committee received a report from the Principal Officer – Licensing (on behalf of the Head of Worcestershire Regulatory Services for WFDC), which asked members to consider and approve a draft Statement of Principles for the purpose of consultation with relevant parties, which forms part of the process of preparing a Statement of Principles for the three-year period beginning on 31st January 2025.

The Principal Officer – Licensing presented the report and outlined the key issues for the Committee to take into consideration when making a decision. Members were invited to ask questions, but there were none. The Principal Officer – Licensing added that the date of the Statement of Principles will be amended from January 2025 to October 2024.

**Decision: The Licensing and Environmental Committee:**

- **CONSIDERED and APPROVED the draft Gambling Statement of Principles shown at Appendix 1 of the report for the purpose of consultation with relevant parties.**

There being no further business, the meeting ended at 10.44am.

**WYRE FOREST DISTRICT COUNCIL**

**LICENSING AND ENVIRONMENTAL COMMITTEE**

**7th OCTOBER 2024**

# GAMBLING ACT 2005 REVIEW OF STATEMENT OF PRINCIPLES

| **OPEN** | |
|---|---|
| **CABINET MEMBER:** | Councillor Tracey Onslow |
| **RESPONSIBLE OFFICER:** | Head of Worcestershire Regulatory Services on behalf of Wyre Forest District Council |
| **CONTACT OFFICER:** | Niall McMenamin<br>Principal Licensing Officer<br>01905 822799<br>enquiries@worcsregservices.gov.uk |
| **APPENDICES:** | **Appendix 1** – Revised Draft Gambling Statement of Principles 2025-28<br>**Appendix 2** – Consultation response on behalf of the Betting and Gaming Council. |

## 1. PURPOSE OF REPORT

1.1. The Council's current Statement of Principles under the Gambling Act 2005 took effect on 31st January 2022. In accordance with the provisions of the Act, the Council is required to prepare and publish a Statement of Principles every three years. Therefore, a new Statement of Principles must be published by 31st January 2025.

1.2. On 5th August 2024, the Licensing and Environmental Committee approved a draft revised Statement of Principles for consultation purposes. The results of the consultation are now being reported back to the Committee who are asked to recommend to Council that the draft revised Statement of Principles be approved and published.

## 2. RECOMMENDATION

**The Committee is asked to:**

**2.1. Recommend to Council that the draft Statement of Principles at Appendix 1 be approved and published with effect from 31st January 2025.**

## 3. BACKGROUND

3.1. Wyre Forest District Council is a licensing authority in accordance with the provision of the Gambling Act 2005.

3.2. Every licensing authority is required before each successive three-year period, to prepare and publish a statement of the principles that they propose to apply in exercising their functions under the Act during that period. This document is commonly referred to as the authority's Statement of Principles.

3.3. The Council's current Statement of Principles took effect on 31st January 2022. In accordance with the provisions of the Gambling Act 2005, the Council is required to prepare and publish a Statement of Principles every three years. Therefore, a new Statement of Principles must now be prepared and published ready to take effect on 31st January 2025.

## 4. KEY ISSUES

4.1. Since the current Statement of Principles took effect, there have been no significant amendments to the provisions of the Gambling Act 2005. Nor have there been any major changes made to the Gambling Commission's Licence Conditions and Codes of Practice (LCCP) that licensed operators have to comply with or the Gambling Commission's statutory Guidance to Licensing Authorities (GLA).

4.2. However, in April 2023 the government did publish a long-awaited white paper entitled "High Stakes: Gambling Reform for the Digital Age." The White Paper sets out the government's plan for reform of gambling regulation, following the review of the Gambling Act 2005 that was first launched in December 2020.

4.3. The white paper contained several proposals for reforming gambling regulation in the following areas:

- Online protections – players and products.
- Marketing and advertising.
- The Gambling Commission's powers and resources.
- Dispute resolution and consumer redress.
- Children and young adults.
- Land-based gambling.

4.4. Whilst many of the proposed reforms are not directly relevant to the role that the Council plays in the regulation of gambling activities, there are some proposed changes that are directly relevant. These include:

- Proposals to relax the rules on the split of low and medium maximum stake machines in certain licensed gambling premises.

- A review of the premises licence fees cap for local authorities.
- Introducing new powers to local authorities to conduct cumulative impact assessments for gambling premises.
- Proposals to change the rules that allow under 18s to play Category D gaming machines that pay cash prizes.
- Proposals to make provisions within the Gambling Commission's code of practise on the siting of gaming machines in licensed premises legally binding.

4.5. Following the publication of the white paper, several different consultations have been undertaken by both the Department for Culture, Media and Sport and the Gambling Commission concerning the various proposals for legislative reform.

4.6. At this stage however, it is unclear when the government will bring forwards the required legislation to implement the proposed reforms.

4.7. This presents something of a dilemma for licensing authorities such as Wyre Forest District Council, as they are required before each successive three-year period, to prepare and publish a statement of the principles that they propose to apply in exercising their functions under the Act during that period. The Council's next statement of principles needs to be prepared and published before 31st January 2025.

4.8. As the timescales for legislation to be brought forward are unclear at this stage, officers are recommended that no substantive changes are made to the statement of principles at the present time and therefore very few changes were proposed in the draft statement of principles that the Licensing and Environmental Committee approved for the purpose of consultation on 5th August 2024**.**

4.9. The only changes that officers believe need to be made at the present time are as follows:

- Updating the dates shown on the front page.
- Updating the population figure given in the introduction section to reflect the latest census figures.
- Updating the dates between which consultation on the draft statement of principles will have taken place.
- Updating the Council's Vision.
- Updating the list of consultees at Appendix B of the statement of principles to include additional gambling and other relevant trade associations.

4.10. Officers can confirm that consultation on the draft Statement of Principles has now been undertaken with all relevant parties including:

- The Chief Officer of West Mercia Police.
- The Gambling Commission.
- All other responsible authorities identified under the Act.
- Relevant Trade Associations.
- Public Health.
- Organisations working with people who are problem gamblers.
- Parish Councils.
- The general public.

4.11. The consultation was made available for comment on the Council's website via an online questionnaire, in the Council's online publication the Wyred Weekly and also publicised via social media. The consultation exercise was undertaken between 5th August 2024 and the 2nd September 2024.

4.12. In response to the consultation 5 responses were received by the Council. 3 responses were received via the online questionnaire, all of which agreed with the proposal to make no substantive changes to the draft Statement of Principles.

4.13. The Operations Manager of the Lotteries Council responded directly to the consultation, to say that they had reviewed the draft Statement of Principles and had no comment to make, other than a minor amendment at S2.6 which should have read "The National Lottery is regulated by the Gambling Commission". This has now been corrected.

4.14. A direct response was also received in respect of the draft Statement of Principles from solicitors acting on behalf of the Betting and Gaming Council. This response is shown in full at **Appendix 2.**

4.15. The response sent on behalf of the Betting and Gaming Council suggests that paragraph 11.2 of the draft Statement of Principles should be redrafted to remove reference to whether or not a premises is in an area of deprivation, as a matter to be considered by operators when conducting their local risk assessments.

4.16. Officers respectfully disagree with this suggestion. It is considered that those who live in areas of deprivation are potentially more vulnerable to being harmed or exploited by gambling. This position is supported by research and analysis published by the Gambling Commission in their "Gambling-related harms evidence review: summary" document, which states that:

"The socio-demographic profile of gamblers appears to change as gambling risk increases, with harmful gambling associated with people who are unemployed and among people living in more deprived areas."

4.17. Therefore, in order to properly promote the licensing objectives, officers believe that gambling operators should consider whether or not the premises

is located in an area of deprivation when conducting their local area risk assessment in order to ensure that they are properly protecting children and other vulnerable persons from being harmed or exploited by gambling.

4.18. In light of this, officers do not believe that any further amendments need to be made to the draft Statement of Principles that was consulted upon.

## 5. FINANCIAL IMPLICATIONS

5.1. The costs involved in carrying out the consultation were met from existing budgets held by Worcestershire Regulatory Services and the Council.

## 6. LEGAL AND POLICY IMPLICATIONS

6.1. Section 349 of the Gambling Act 2005 requires that the licensing authority produce, consult on and publish a Statement of the Principles that it proposes to apply when exercising its functions under the Act.

6.2. The Act also requires that the Statement of Principles should be kept under review and must be re-published at least every three years.

6.3. When revising its Statement of Principles, the Council is required to consult with:

- the Chief Officer of Police for the Authority's area.
- one or more persons who appear to the Authority to represent the interests of persons carrying on gambling businesses in the Authority's area; and
- one or more persons who appear to the Authority to represent the interests of persons who are likely to be affected by the exercise of the Authority's functions under this Act.

## 7. EQUALITY AND ENVIRONMENTAL IMPACT ASSESSSMENTS

7.1. In its consideration of this report and its recommendations, the Council must have due regard to public sector equality duty under section 149 of the Equality Act 2010. In summary section 149 provides that a Public Authority must, in the exercise of its functions, have due regard to the need to:

a) eliminate discrimination harassment, victimisation and any other conduct that is prohibited by or under this Act.

b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and

c) foster good relations between persons who share a relevant protected characteristics and persons who do not share it.

7.2. Section 149 (7) of the Equality Act 2010 defines the relevant protected characteristics as age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

7.3. Officers have undertaken an Equality Impact Needs Assessment, which has identified that a full Equality Impact Assessment is not required.

7.4. Having assessed the above, officers conclude that the proposed draft revised Gambling Statement of Principles should have a positive effect on health and wellbeing and will not adversely impact or unlawfully discriminate against any protected characteristics.

## 8. RISK MANAGEMENT

8.1. Failing to prepare and publish a new Statement of Principles by 31st January 2025 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 Gambling Act 2005.

## 9. CONCLUSION

9.1. Undertaking a review of the Council's Gambling Act 2005 Statement of Principles will result in the effective continuation of the delivery of this important area of regulatory work.

9.2. Having consulted on the draft Statement of Principles and also having considered all of the responses received, The Licensing and Environmental Committee is now asked to resolve to recommend to Council that the draft Statement of Principles shown at **Appendix 1** be approved and published with effect from 31st January 2025.

## 10. CONSULTEES

10.1. Solicitor to the Council, Legal Services.

## 11. BACKGROUND PAPERS

11.1. Gambling Commission Guidance to Licensing Authorities
Guidance to licensing authorities (gamblingcommission.gov.uk)

Wyre Forest District Council

# Revised Draft Gambling Statement of Principles 2025-28

## Gambling Act 2005

January 2025

Wyre Forest House, Finepoint Way, Kidderminster, DY11 7WF

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# Gambling Act 2005 Statement of Principles

Valid from 31s January 2025 – 30th January 2028

## 1. Introduction

1.1 Wyre Forest district is situated in Northwest 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 2021, the population totalled 101,600 (2021 ONS).

1.2 Kidderminster is the main business and commercial centre in the district offering industrial areas, shopping, offices and leisure facilities. Kidderminster is famous for carpet manufacture and is still closely associated with the carpet industry**;** though since the 1970s the industry has been in decline leaving the town in a process of economic diversification. 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, has an award-winning museum and is a popular tourist destination**.**

1.5 The Council's overall vision is that "Wyre Forest is a safe, vibrant and clean place to live, work and visit". This Statement accords with that vision in seeking to pursue the objectives set out in the Act, which are central to the regulatory regime created by the Act. These are:

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

1.6 The Licensing Authority has produced this statement as required by Section 349 of the Gambling Act 2005 (referred to in this statement as "the Act") and having had regard to the Gambling Commission's formal guidance issued under Section 25 of the Act, the licensing objectives and to the views of those that we have consulted.

1.7 The Licensing Authority consulted widely upon this statement before finalising and publishing. The list of those persons and organisations consulted is appended. The consultation took place between 5th August and 2nd September 2024 in line with current published Government consultation

principles. Should you have any comments as regards this policy statement please send them via email or letter to: enquiries@worcsregservices.gov.uk.

1.8 The Licensing Authority intends that this document should provide information and guidance on the general approach to licensing. A series of advice sheets with more specific guidance is available from the Council's website or will be sent on request. Advice tailored to individuals is available by phone or to personal callers.

1.9 Nothing in this Policy takes away from the right of any person to make an application under the Act and to have that application considered on its merits; nor does it undermine the right of any person to object to an application or to seek a review of a licence where the law provides that they may do so. Applications will be considered in line with the Licensing Authority's Statement of Principles below.

## 2. Statement of Policy - Gambling Act 2005

2.1 This Policy reflects the corporate priorities of "a clean, safe and green place to live, work and visit" and "economic growth and regeneration" and is valid for up to three years from 31st January 2025, although the Licensing Authority may choose to review or revise it at any time.

2.2 The Act provides for Gambling to be authorised in a number of different ways.

2.3 The Licensing Authority's main functions are to:

- license premises for gambling activities, including the issue of Provisional Statements
- regulate and grant permits for gambling and gaming machines in clubs including commercial clubs
- regulate gaming and gaming machines in alcohol licensed premises
- grant permits to family entertainment centres for the use of certain lower stake gaming machines
- grant permits for prize gaming
- receive and endorse notices given for the temporary use notices
- receive occasional use notices for betting at tracks
- register small societies lotteries
- maintain public registers, and
- provide information to the gambling Commission on the issue of Licences

2.4 The Gambling Commission regulates remote gambling and issues personal and operating licences for premises.

2.5 Spread betting is regulated by the Financial Services Authority.

2.6 The 'National Lottery' is regulated by the Gambling Commission.

# 3. The Gambling Commission

3.1 The Gambling Commission regulates gambling in the public interest. It does so by keeping crime out of gambling; by ensuring that gambling is conducted fairly and openly; and by protecting children and vulnerable people.

3.2 The Commission provides independent advice to the Government about the manner in which gambling is carried out, the effects of gambling, and the regulation of gambling generally. It also produces guidance under Section 25 of the Act detailing how local authorities should exercise their licensing functions.

3.3 In addition, the Commission's role is to issue codes of practice under Section 24 of the Act about the manner in which facilities for gambling are provided, and how those provisions might be advertised.

3.4 Information about the Gambling Commission can be found on the Internet at: www.gamblingcommission.gov.uk or by phone: 0121 230 6666.

# 4. Local Area Profile

4.1 Alongside its Statement of Principles, the Licensing Authority has worked with the other Licensing Authorities in Worcestershire and other partners to develop a "Local Area Profile" for the County as a means of mapping out local areas of concern, which can be reviewed and updated to reflect changes to the local landscape.

4.2 This Local Area Profile takes account of a wide range of factors, data and information held by the Licensing Authority and its partners. An important element of preparing the Local Area Profile is proactive engagement with responsible authorities, as well as other organisations in the area that could give input to 'map' local risks in the area.

4.3 These include public health, mental health, housing, education, community welfare groups and safety partnerships, and organisations such as GamCare or equivalent local organisations.

4.4 The aim of the Local Area Profile is to increase awareness of local risks and improve information sharing, to facilitate constructive engagement with licensees and a more coordinated response to local risks. The Local Area Profile will also help to inform specific risks that operators will need to address in their own risk assessments, which forms a part of any new licence application, or any application made to vary a licence.

4.5 The Local Area Profile is published on the Licensing Authority's website and will be updated on a regular basis to reflect changes to the local environment. Holders of premises licences will be notified whenever the Local Area Profile is updated.

# 5. Authorised Activities

5.1 'Gambling' is defined in the Act as gaming, betting or taking part in a lottery.

- 'Gaming' means playing a game of chance for a prize.
- Betting means making or accepting a bet on the outcome of a race, competition, or any other event; the likelihood of anything occurring or not occurring; or whether anything is true or not.
- A lottery is an arrangement where persons are required to pay in order to take part in an arrangement whereby one or more prizes are allocated by a process which relies wholly on chance.

# 6. General Statement of Principles

6.1 In carrying out the licensing functions in accordance with the Act, particularly with regard to premises licences, the Licensing Authority will aim to permit the use of premises for gambling as long as it is considered to be:

- in accordance with any relevant Codes of Practice issued by the Gambling Commission.
- in accordance with any relevant Guidance issued by the Gambling Commission.
- in accordance with this Statement of Principles; and
- reasonably consistent with the licensing objectives.

6.2 The Licensing Authority will not seek to use the Act to resolve matters that are better dealt with by other legislation. Licensing is not the primary mechanism for general control of nuisance and the antisocial behaviour of people once they are away from licensed premises.

6.3 The Licensing Authority will ensure that in dealing with applications under the Act the Licensing Authority will follow the required procedures and only take into account issues that are relevant. Specifically, the Licensing Authority will not have regard to "demand" when considering applications for gambling premises; nor will the Licensing Authority consider the suitability of applicants for premises licences (which is a matter for the Gambling Commission). The Licensing Authority will not reject an application on moral grounds. If the Licensing Authority does decide to reject an application, the Licensing Authority will make known the reasons for doing so.

6.4 The Council has delegated its licensing function to its Licensing Sub-Committee and Licensing Officers. In the remainder of this Statement of Principles they are referred to collectively as the 'Licensing Authority'.

6.5 Where an application is for a new premises licence, the responsible authorities will usually visit to check that gambling facilities meet all necessary legal requirements.

6.6 Where there are no representations (objections), licences and permissions will be granted subject only to any appropriate mandatory conditions (Section 167 of the Act) and any conditions having at least the effect of appropriate default conditions made under Section168.

6.7 If there are objections that cannot be resolved informally, or the Licensing Authority intends to impose extra conditions, the Licensing Authority will hold a public hearing at which the Licensing Sub-Committee will hear evidence and make a decision in accordance with the Act.

6.8 This Statement is not intended to override the right of any person to make an application under the Act, and to have that application considered on its merits. Equally, this Statement of Principles is not intended to undermine the right of any person to make representations about an application or to seek a review of a licence where provision has been made for them to do so.

# 7. Preventing Gambling from being a Source of Crime and Disorder

7.1 The Gambling Commission takes the leading role in preventing gambling from being a source of crime and maintains rigorous licensing procedures aiming to prevent criminals from providing facilities for gambling. Applicants need an operating licence from the Commission before the Licensing Authority will issue a licence to use premises for gambling.

7.2 The Licensing Authority will not issue a premises licence to someone who does not hold an operator's licence and would not generally be concerned with the suitability of an applicant. Where concerns about a person's suitability arise the Licensing Authority will bring those concerns to the attention of the Commission.

7.3 If an application for a licence or permit is received in relation to premises which are in an area noted for particular problems with organised crime, the Licensing Authority will, in consultation with the Police and other relevant authorities, consider whether specific controls need to be applied to prevent those premises from being a source of crime. This could include a requirement for door supervisors registered by the Security Industries Association.

7.4 'Disorder' is generally a matter for the Police; the Licensing Authority will not use this Act to deal with general nuisance issues, for example, parking problems, which can be better dealt with using alternative powers. Disorder will only be considered under this Act if it amounts to activity which is more serious and disruptive than mere nuisance, and where it can be shown that gambling is the source of that disorder. A disturbance might be serious enough to constitute disorder if Police assistance was required to deal with it; the Licensing Authority will then consider how threatening the behaviour was to those who could see or hear it, and whether those people live sufficiently close to be affected or have business interests that might be affected.

7.5 When making decisions relating to disorder, the Licensing Authority will give due weight to comments made by the Police.

# 8. Ensuring Gambling is conducted in a Fair and Open Way

8.1 The Gambling Commission does not expect local authorities to become concerned with ensuring that gambling is conducted in a fair and open way. The Commission, through the operating and personal licensing regime, will regulate the management of the gambling business and the suitability and actions of an individual.

8.2 As betting track operators do not need an operating licence from the Commission, the Licensing Authority may, in certain circumstances, require conditions of licence relating to the suitability of the environment in which betting takes place.

# 9. Protecting children and vulnerable people from being harmed or exploited by gambling

9.1 The intention of the Act is that children and young persons should not be allowed to gamble and should be prevented from entering those gambling premises which are 'adult-only' environments.

9.2 Codes of Practice – including advice about access by children and young persons – may be published by the Gambling Commission for specific kinds of premises. Applicants are expected to heed this advice where applicable.

9.3 The Licensing Authority expects steps to be taken to prevent children from taking part in, or being in close proximity to, gambling. This may include restrictions on advertising to ensure that gambling products are not aimed at children, nor advertised in such a way that makes them particularly attractive to children.

9.4 When determining a premises licence or permit the Licensing Authority will consider whether any additional measures are necessary to protect children, such as the supervision of entrances, the segregation of gambling from areas frequented by children and the supervision of gaming machines in non-adult gambling specific premises like pubs, clubs and betting tracks.

9.5 In seeking to protect vulnerable people the Licensing Authority will include people who gamble more than they want to, people who gamble beyond their means, and people who may not be able to make informed or balanced decisions about gambling, perhaps due to a mental impairment, alcohol or drugs.

9.6 The Licensing Authority will always treat each case on its own individual merits and when considering whether specific measures are required to

protect children and other vulnerable people will balance these considerations against the overall principle of aiming to permit the use of premises for gambling.

9.7 The Licensing Authority is required by regulations to state the principles it will apply in exercising its powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm.

These principles are:

- The need for the body to be responsible for an area covering the whole of the Licensing Authority's area.
- The need for the body to be answerable to democratically elected persons, rather than any particular vested interest group.

9.8 In accordance with the suggestion in the Gambling Commission's Guidance for local authorities, this authority designates the Worcestershire Safeguarding Children Partnership for this purpose.

# 10. Public Health and Gambling

10.1 The Licensing Authority agrees with the Gambling Commission's position that gambling-related harm should be considered as a public health issue.

10.2 Gambling is a legitimate leisure activity enjoyed by many and the majority of those who gamble appear to do so with enjoyment, and without exhibiting any signs of problematic behaviour. There are however significant numbers of people who do experience significant harm as result of their gambling.

10.3 For these problem gamblers, harm can include higher levels of physical and mental illness, debt problems, relationship breakdown and, in some cases, criminality. It can also be associated with substance misuse.

10.4 There can also be considerable negative effects experienced by the wider group of people around a gambler. The health and wellbeing of partners, children, and friends can all be negatively affected.

10.5 Therefore the Licensing Authority considers that Public Health teams, whilst not a responsible authority under the Act, can still assist the Licensing Authority to address gambling-related harms in its area.

10.6 The licensing authority would therefore like to engage with the local Public Health team in the future development of this Statement of Principles and the Local Area Profile. It is hoped that the Public Health team will be able to help the Licensing Authority:

- Identify and interpret health data and evidence, to inform the review of the Statement and develop locally tailored local area profiles.

- Make decisions that benefit and protect the health and wellbeing of local communities.
- Be clear on issues which they can have regard to when deciding on licenses for a wide range of gambling activities.
- Identify and interpret health data and evidence to inform the review of the Statement;
- Conduct a health-impact assessment of gambling in the local area or assess any existing information.

# 11. Local Risk Assessments

11.1 Since 6 April 2016 it has been be a requirement for operators to assess local risks to the licensing objectives taking into account this Council's Policy. The operator must also have policies, procedures and control measures in place to mitigate these risks. Risk assessments must be reviewed whenever there are significant changes in local circumstances, or at the premises, or when applying for a new licence or a variation of a licence. Risks in this context include actual, potential and possible future emerging risks to the licensing objectives.

11.2 The Licensing Authority will expect the local risk assessment to consider, for example:

- whether the premise is in an area of deprivation;
- whether the premise is in an area subject to high levels of crime and/or disorder;
- whether the premise is near an addiction treatment facility and in general consider the demographics of the area in relation to vulnerable groups;
- the location of sensitive buildings such as schools, playgrounds, toy shops, leisure centres, libraries and other areas where children are likely to gather; and
- how vulnerable persons as defined within this Policy are protected.

11.3 In compiling their local risk assessment the Licensing Authority shall also expect operators to take into account the general principles as set out in this Policy and the Local Area Profile.

11.4 Other matters that the risk assessment may include are, for example:

- Staff training, including refresher training, e.g. such as intervention when customers show signs of excessive gambling, in the mandatory licensing conditions, in location of the premises licence; in location of information relating to gambling care providers, etc.
- Where installed, details of CCTV coverage and how the system will be monitored.
- Layout of the premises to ensure staff have unobstructed views of persons using the premises or where this is not possible, evidence of how this can be achieved.

- The number of staff employed at the premises at any one time taking into account any effects from seasonal trade in the area.
- Where only one staff member is employed – in the case of smaller premises – what the supervisory and monitoring arrangements are when that person is absent from the licensed area or distracted for any other reason.
- Provision of signage and documents relating to games' rules, gambling care providers.
- The mix of gambling provided.
- Consideration of the location of gaming machines on the premises.

11.5 Operators are expected to share their risk assessments with the Licensing Authority when applying for a new premises licence, applying for a variation to an existing licensed premise or otherwise upon request. These risk assessments must in any event be kept under regular review and updated as necessary. The Licensing Authority expects a copy of the most recent local risk assessment to be kept on each premises that is subject to a premises licence under the Gambling Act 2005.

11.6 The information contained within the risk assessment may be used to inform the decision the Licensing Authority makes about whether or not to grant the licence; to grant the licence with special conditions; or to refuse the application.

11.7 However, in all circumstances each application will be treated on its own merits with the onus on the applicant providing the Licensing Authority with sufficient information to make their determination with the underpinning statutory aim of permitting gambling subject to being reasonably consistent with the licensing objectives.

11.8 In its Guidance to Licensing Authorities, the Gambling Commission suggests that Licensing Authorities should adopt a 'Local Area Profile'. The Guidance suggests that a Local Area Profile is a process of gathering and presenting information about a locality and any particular areas of concern within that locality. It underpins and explains the approach that the Licensing Authority will apply when granting licences. The Licensing Authority has created a Local Area Profile to assist applicants and licence holders to conduct their local risk assessments.

11.9 The Licensing Authority expects local risk assessments to be kept under review and updated as necessary. The Licensing Authority expect local risk assessments to be subject to a review whenever there is a significant change at or near the premises and in any event at least every twelve months.

# 12. Premises Licences

12.1 A premises licence can authorise the provision of facilities at the following:

- casino premises
- bingo premises

- betting premises, including betting tracks
- adult gaming centres
- family entertainment centres

12.2 Premises can be 'any place' but the Act generally prevents more than one premises licence applying to any one place. A single building could be subject to more than one premises licence provided they are for different parts of the building and those parts can be reasonably regarded as being separate 'premises'.

12.3 This will allow large multiple unit premises such as shopping malls or service stations to obtain separate premises licences, with appropriate safeguards in place. The Licensing Authority will pay particular attention if there are issues about subdivisions of a single building or plot and mandatory conditions relating to access between premises are observed. The Licensing Authority will not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can properly be regarded as different premises. Whether different parts of a building can properly be regarded as being separate premises will depend on the individual circumstances of the case.

12.4 A particular requirement might be for entrances and exits from parts of a building covered by one or more licences to be separate and identifiable so that separation of the premises is not compromised and people are not allowed to drift accidentally into a gambling area. It should normally be possible to access the premises without going through another licensed premises or premises with a permit. The Licensing Authority will also expect customers to be able to participate in the activity named on the premises licence.

12.5 The Secretary of State has appointed an independent Casino Advisory Panel to advise the Government on the areas in which small and/or large casinos may be located. Wyre Forest district has not been identified as a suitable location for a casino; consequently, the Authority is prevented from granting a licence for casino premises at present.

12.6 The Council has not passed a resolution under section 166(5) of the Gambling Act 2005 to not issue casino premises licences. If such a resolution were considered in the future, the Council would carry out a full public consultation and consider all responses before passing such a resolution.

12.7 The Licensing Authority will not turn down applications for premises licences where relevant objections can be dealt with through the use of licence conditions.

12.8 Other than an application for a betting premises licence for a track, the Licensing Authority are not able to issue a premises licence unless the applicant holds the relevant operating licence from the Gambling Commission.

12.9 When considering applications for premises licences the Licensing Authority will not take into account either the expected 'demand' for facilities, or the likelihood of planning permission or building regulation approval being granted as well as moral objections to gambling. Equally, the grant of a premises licence will not prejudice or prevent any action which may be appropriate under the law relating to planning or building regulations.

12.10 The Licensing Authority will only issue a premises licence once it is satisfied that the premises is ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required. If the construction of a premises is not yet complete, or if any alteration, or the applicant does not yet have a right to occupy them, then an application for a provisional statement should be made as having a right to occupy the premises is a pre-condition to making a Premises Licence application.

12.11 The Licensing Authority will apply a two-stage consideration process if there is outstanding construction or alteration works at the premises:

- Should the premises be permitted to be used for gambling?
- Can appropriate conditions be imposed to cater for the situation that the premises is not yet in a state in which they should be before gambling takes place?

12.12 The Licensing Authority is entitled to decide whether or not it is appropriate to grant a licence subject to conditions.

12.13 Applicants for premises licences are encouraged to propose any prohibitions or restrictions of their own in circumstances where it is felt that the presence of children would be undesirable or inappropriate.

12.14 The Licensing Authority will maintain a public register of premises licence applications received which may be viewed at the Council offices during normal office hours which are generally Monday to Friday 9am – until 4.30pm.

# 13. Responsible Authorities

13.1 Responsible authorities are identified in the legislation and have to be notified about licence applications so that it can identify any risk. The responsible authorities that the Licensing Authority currently recognises are listed below:

- The Gambling Commission
- The Chief of Police for the area
- Fire & Rescue Service
- Wyre Forest District Council Development Control Section
- Worcestershire Regulatory Services – Community Protection, Business Compliance and Licensing
- Worcestershire Safeguarding Children Partnership
- HM Revenue and Customs
- Any other bodies identified in Regulation by the Secretary of State

- For vessels – the Environment Agency, British Waterways, Secretary of State

13.2 Contact addresses and telephone numbers for each of the responsible authorities identified are available on the Council's website and will be sent with application packs and on request.

13.3 Any concerns expressed by a responsible authority cannot be taken into account unless they are relevant to the application itself and to the licensing objectives. However, each representation will be considered on its own individual merits.

# 14. Interested Parties

14.1 An interested party is someone who:

- lives sufficiently close to the premises to be likely to be affected by the authorised activities, or
- has business interests that might be affected by the authorised activities (including existing gambling premises), or
- represents persons in either of the two groups above.

14.2 The Licensing Authority will generally require written evidence that a person/ body, represents someone is either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting representations is sufficient. Whilst this may not apply to elected Ward Members, Member of Parliament or Parish Councillors, those persons should be aware of the need to represent the whole of the community that they represent and not just the vocal minority.

14.3 In determining whether a person lives sufficiently close to particular premises as to be affected, the Licensing Authority will take into account among other things:

- the size of the premises;
- the nature of the premises;
- the distance of the premises from the person making the representation;
- the nature of the complaint; and
- the potential impact of the premises.

14.4 In determining whether a person has a business interest which could be affected the Council will consider, among other things:

- the size of the premises;
- the catchment area of the premises; and
- whether the person making the representation has business interests in the catchment area that might be affected.

14.5 If an existing gambling business makes a representation that it is going to be affected by another gambling business starting up in the area, the Licensing Authority would not consider this, in the absence of other evidence, as a relevant representation as it does not relate to the licensing objectives and instead relates to demand or competition.

14.6 The Licensing Authority may consider a representation to be either frivolous or vexatious, and reject it. This will generally be a matter of fact given the circumstances of each individual case but, before coming to a decision the Licensing Authority will normally consider:

- who is making the representation and whether there is a history of making representations that are not relevant;
- whether it raises an issue relevant to the licensing objectives; or
- whether it raises issues specifically to do with the premises which are the subject of the application.

# 15. Licence Conditions

15.1 In particular cases the Licensing Authority may find it necessary to impose conditions beyond appropriate mandatory and default conditions. Additional conditions will only be imposed where there is clear evidence of a risk to the licensing objectives, in the particular circumstance of the case. Any such conditions will be relevant to the need to make the building suitable for use as a gambling facility; directly related to the premises and the type of licence applied for; fairly and reasonably related to the scale and type of premises and reasonable in all other respects. The Licensing Authority will not have recourse to a pool of standard conditions.

15.2 The Licensing Authority will ensure that category C machines or above that are on offer in premises to which children are admitted, are located in an area of the premises which is separated by a physical barrier. This should be to prevent access other than through a designated entrance: the designated area must be supervised and observed by staff or the licence holder.

15.3 Examples of some conditions which are likely to be attached in certain circumstances include those relating to opening hours, segregation of gambling from non-gambling areas frequented by children, Security Industry Authority licensed door supervisors, appropriate signage for adult only areas, age limits, or keeping children and young person's away from gaming machines. The Licensing Authority will also expect the applicants to offer their own suggestions as to the way in which the licensing objectives can be promoted effectively.

15.4 The Licensing Authority will not seek to control those matters specified in the Act with conditions:

- which make it impossible to comply with an operating licence condition imposed by the Gambling Commission;

- relating to gaming machine categories or method of operation;
- which specify that membership of a club or other body is required; or
- in relation to stakes, fees, winnings or prizes.

15.5 Duplication with other statutory or regulatory regimes will be avoided as far as possible. The need for conditions will be assessed on the specific merits of each application.

# 16. Gaming Machines

16.1 Gaming machines include all types of gambling activity, which can take place on a machine, including betting on 'virtual' events.

16.2 The Act itself prescribes the number and category of gaming machines that are permitted in each type of gambling premises.

16.3 Subject to the provisions of the Act, gaming machines can be made available in a wide variety of premises, including:

- casinos
- bingo premises
- betting premises (including tracks)
- adult gaming centres
- family entertainment centres
- clubs
- pubs and other alcohol licensed premises
- travelling fairs

16.4 A machine is not a gaming machine if the winning of a prize is determined purely by the player's skill. However, any element of 'chance' imparted by the action of the machine would bring it within the definition of a gaming machine.

16.5 The Licensing Authority will encourage permit and premises licence holders to adopt applicable codes of practice which may be introduced by the amusement industry or Gambling Commission, from time to time.

# 17. Gambling in Alcohol Licensed Premises

17.1 There are exemptions in the Act that provide for a limited amount of gambling activity to take place within premises that are subject to a relevant valid alcohol licence.

17.2 These exemptions only apply where a premises is subject to a licence that authorises the sale of alcohol for consumption on the premises and that has a bar at which alcohol is served without a requirement that alcohol is served only with food.

17.3 In all cases the licensing authority considers that gambling must remain ancillary to the main purpose of the premises.

## Automatic entitlement to two gaming machines

17.4 Section 282 of the Act provides an automatic entitlement to alcohol licence holders to make available two gaming machines (of category C or D) for use in alcohol-licensed premises. To take advantage of this entitlement, the person who holds the on-premises alcohol licence must give notice to the Licensing Authority of their intention to make gaming machines available for use, and must pay the prescribed fee.

17.5 This is not an authorisation procedure. The Licensing Authority has no discretion to consider the notification or to turn it down. The only matter to determine is whether the person applying for the automatic gaming machine entitlement is the holder of the alcohol licence and whether the prescribed fee has been paid. There is no statutory requirement for pubs and other alcohol-licensed premises to display a notice of their automatic entitlement to gaming machines.

17.6 The Licensing Authority expects licence holders making machines available in accordance with their automatic entitlement to comply with the Gambling Commission's code of practice for gaming machines in clubs and premises with an alcohol licence.

17.7 The Licensing Authority can remove the automatic authorisation in respect of any particular premises by making an order under section 284 of the Act. The Licensing Authority can do so if:

- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives
- gaming has taken place on the premises that breaches a condition of s.282, for example the gaming machines have been made available in a way that does not comply with requirements on the location and operation of gaming machines
- the premises are mainly used for gaming
- an offence under the Act has been committed on the premises.

17.8 Before making an order, the Licensing Authority will give the licensee at least 21 days' notice of the intention to make the order and will consider any representations that they may make. The Licensing Authority will hold a hearing if the licensee so requests and will comply with any other procedural requirements set out in regulations. If there is no appeal, the order will take effect 21 days after notice of the intention was given. The Licensing Authority must give the licensee a copy of the order and written reasons for making it. The licensee may appeal to the Magistrates' Court.

## Licensed Premises Gaming Machine Permits

17.9 Where the holder of a relevant alcohol licence wishes to make more than two gaming machines available, they may apply for a licensed premises gaming machine permit. Such a permit can authorise the provision of any number of category C or D gaming machines within the relevant licensed premises.

17.10 The Licensing Authority expects licence holders making machines available in accordance with a licensed premises gaming machine permit to comply with the Gambling Commission's code of practice for gaming machines in clubs and premises with an alcohol licence.

17.11 Applications must be made by a person or organisation that holds the on-premises alcohol licence for the premises for which the application is made and must include information on the premises to which it relates and the number and category of gaming machines sought.

17.12 The Licensing Authority may also require an applicant to submit a plan of the premises showing where the gaming machines are to be located and showing the position of the bar.

17.13 In determining an application, the Licensing Authority must have regard to the licensing objectives and to the Gambling Commission's Guidance to Licensing Authorities. The Licensing Authority may also take account of any other matters that are considered relevant to the application.

17.14 In particular the Licensing Authority will have regard to the size and nature of the premises, the number of gaming machines requested and the ability of the licence holder to comply with the relevant code of practice.

17.15 The application does not require notification to the Commission or police before determination, however, the Licensing Authority is able to specify this as a requirement should they see fit.

17.16 The Licensing Authority may grant or refuse an application. In granting the application, it may vary the number and category of gaming machines authorised by the permit. If granted, the Licensing Authority will issue the permit as soon as possible after that. Where they refuse the application they will notify the applicant as soon as possible, setting out the reasons for refusal. The Licensing Authority will not refuse an application, or grant it for a different number or category of machines, unless they have notified the applicant of their intention to do so and given the applicant an opportunity to make representations, orally, in writing, or both.

17.17 The Licensing Authority is able to cancel a permit. It may only do so in specified circumstances which include if the premises are used wholly or mainly by children or young persons or if an offence under the Act has been committed. Before it cancels a permit the Licensing Authority will notify the holder, giving 21 days notice of intention to cancel, consider any representations made by the holder, hold a hearing if requested, and comply with any other prescribed requirements relating to the procedure to be followed. Where the Licensing Authority cancels the permit, the cancellation does not take effect until the period for appealing against that decision has elapsed or, where an appeal is made, until the appeal is determined.

17.18 The Licensing Authority can also cancel a permit if the holder fails to pay the annual fee, unless failure is the result of an administrative error. The court may order forfeiture of the permit if the holder is convicted of a relevant offence.

17.19 The applicant may appeal to the Magistrates' Court against the Licensing Authority's decision not to issue a permit. The holder can also appeal against a decision to cancel a permit.

**Exempt Gaming**

17.20 Exempt gaming is generally permissible in any relevant alcohol licensed premises. Such gaming must be equal chance gaming and must be ancillary to the purposes of the premises. This provision is automatically available to all such premises, but is subject to statutory stakes and prize limits determined by the Secretary of State.

17.21 Equal chance gaming is gaming that does not involve staking against a bank and the chances of winning are equally favourable to all participants. It includes games such as backgammon, mah-jong, rummy, kalooki, dominoes, cribbage, bingo and poker.

17.22 The Secretary of State has set both daily and weekly prize limits for exempt gaming in alcohol licensed premises and details of these can be found on the Gambling Commission's website.

17.23 The Licensing Authority expects exempt gaming in alcohol licensed premises to comply with the Gambling Commission's code of practice on equal chance gaming in clubs and premises with an alcohol licence.

17.24 The Licensing Authority can remove the automatic authorisation for exempt gaming in respect of any particular premises by making an order under s.284 of the Act, if:

- provision of the gaming is not reasonably consistent with the pursuit of the licensing objectives
- gaming has taken place on the premises that breaches a condition of s.279, for example the gaming does not abide by the prescribed limits for stakes and prizes, a participation fee is charged for the gaming or an amount is deducted or levied from sums staked or won
- the premises are mainly used for gaming
- an offence under the Act has been committed on the premises.

17.25 Before making an order, the Licensing Authority will give the licensee at least 21 days' notice of the intention to make the order and consider any representations that they may make. The Licensing Authority will hold a hearing if the licensee so requests and will comply with any other procedural requirements set out in regulations. If there is no appeal, the order will take effect 21 days after notice of the intention was given. The Licensing Authority

must give the licensee a copy of the order and written reasons for making it. The licensee may appeal to the Magistrates' Court.

# 18. Gambling in Clubs

### Defining Clubs

18.1 The Act creates a separate regime for gaming in clubs from that in other relevant alcohol licensed premises. It defines two types of club for the purposes of gaming:

- members' clubs (including miners' welfare institutes)
- commercial clubs.

18.2 This is an important distinction in respect of the gaming that may take place.

18.3 A members' club is a club that is not established as a commercial enterprise and is conducted for the benefit of its members. Examples include working mens' clubs, miners' welfare institutes, branches of the Royal British Legion and clubs with political affiliations.

18.4 Miners' welfare institutes are associations established for recreational or social purposes. They are managed by representatives of miners or use premises regulated by a charitable trust which has received funds from one of a number of mining organisations.

18.5 A commercial club is a club established for commercial gain, whether or not they are actually making a commercial gain. Examples include commercial snooker clubs, clubs established as private companies and clubs established for personal profit.

18.6 The Licensing Authority expects exempt gaming in clubs to comply with the Gambling Commission's code of practice on equal chance gaming in clubs and premises with an alcohol licence.

### Exempt Gaming

18.7 Exempt gaming is generally permissible in any club. Such gaming must be equal chance gaming and be ancillary to the purposes of the club. This provision is automatically available to all such premises, but is subject to statutory stakes and prize limits determined by the Secretary of State.

18.8 Equal chance gaming is gaming that does not involve staking against a bank and the chances of winning are equally favourable to all participants. It includes games such as backgammon, mah-jong, rummy, kalooki, dominoes, cribbage, bingo and poker.

18.9 The Secretary of State has set both daily and weekly prize limits for exempt gaming. Different higher stakes and prizes are allowed for exempt gaming in

clubs than are allowed in alcohol-licensed premises and details of these can be found on the Gambling Commission's website.

18.10 Clubs may levy a charge for participation in equal chance gaming under the exempt gaming rules. The amount they may charge is as prescribed in regulations and the relevant details can be found on the Gambling Commission's website. However in order to qualify as exempt gaming, clubs may not charge a rake on games (a commission or fee deducted from the prize fund), or levy or deduct an amount from stakes or winnings.

18.11 The Licensing Authority expects exempt gaming in clubs to comply with the Gambling Commission's code of practice on equal chance gaming in clubs and premises with an alcohol licence.

**Club Gaming Permits**

18.12 The Licensing Authority may grant members' clubs and miners' welfare institutes (but not commercial clubs) club gaming permits which authorise the establishments to provide gaming machines, equal chance gaming (without having to abide by the stake and prize limits which would apply to exempt gaming in the absence of a permit) and games of chance as prescribed in regulations namely pontoon and chemin de fer. This is in addition to the exempt gaming authorisation detailed above.

18.13 Club gaming permits allow the provision of no more than three gaming machines. These may be from categories B3A, B4, C or D but only one B3A machine can be sited as part of this entitlement.

18.14 Where a club has gaming machines the licensing authority expects the club to comply with the Gambling Commission's code of practice for gaming machines in clubs and premises with an alcohol licence.

**Club Machine Permits**

18.15 If a members' club or a miners' welfare institute does not wish to have the full range of facilities permitted by a club gaming permit, they may apply to the Licensing Authority for a club machine permit under s.273 of the Act. This type of permit authorises the holder to have up to three gaming machines of categories B3A, B4, C and D.

18.16 Commercial clubs are also able to apply for a club machine permit, although such a permit does not allow the siting of category B3A gaming machines by commercial clubs.

18.17 Where a club has gaming machines the Licensing Authority expects the club to comply with the Gambling Commission's code of practice for gaming machines in clubs and premises with an alcohol licence.

## Applications for Club Gaming Permits and Club Machine Permits

18.18 Applications for permits must be accompanied by the prescribed documents and fees and must be copied to the Gambling Commission and the Chief Officer of Police within the prescribed period. The Commission and the Police may object to the permit being granted and if such objections are received, the Licensing Authority will hold a hearing.

18.19 The Licensing Authority may grant or refuse a permit, but it may not attach any conditions to a permit.

18.20 The Licensing Authority can only refuse an application on the grounds that:

a) the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied
b) the applicant's premises are used wholly or mainly by children and/or young persons
c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities
d) a permit held by the applicant has been cancelled in the previous ten years
e) an objection has been lodged by the Commission or the police.

18.21 If the Licensing Authority is satisfied that (a) or (b) is the case, it must refuse the application. The Licensing Authority will have regard to relevant guidance issued by the Commission and (subject to that guidance), the licensing objectives.

18.22 In cases where an objection has been lodged by the Commission or the police, the Licensing Authority is obliged to determine whether the objection is valid.

18.23 There is a fast-track procedure for clubs in England and Wales which hold a club premises certificate under s.72 of the Licensing Act 2003. Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the grounds upon which the Licensing Authority can refuse a permit are reduced.

18.24 This is because the club or institute will already have been through a licensing process in relation to its club premises certificate under the 2003 Act, and it is therefore unnecessary to impose the full requirements of Schedule 12.

18.25 Commercial clubs cannot hold club premises certificates under the Licensing Act 2003 and so cannot use the fast-track procedure.

## Determining Applications for Club Gaming Permits

18.26 When determining applications for Club Gaming Permits the Licensing Authority will take steps to satisfy itself that the club meets the requirements

of the Act and to enable this to happen, clubs may be asked to supply additional information and documents in support of their application.

18.27 The Licensing Authority is particularly aware of the potential for club gaming permits to be misused for illegal poker clubs.

18.28 In determining whether a club is a genuine members' club, the Licensing Authority will take into account the matters set out in relevant part of the Gambling Commission's Guidance to Licensing Authorities.

18.29 A visit to the premises before granting of the permit may also be undertaken to assist the Licensing Authority to understand how the club will operate.

**Maintenance of Permits**

18.30 Club Gaming Permits and Club Machine Permits will have effect for ten years, unless it ceases to have effect because it is surrendered or lapses or is renewed. However, a permit granted under the fast-track procedure does not expire, unless it ceases to have effect because it is surrendered, cancelled or forfeited or it lapses.

18.31 A permit will lapse if the holder of the permit stops being a club or miners' welfare institute, or if it no longer qualifies under the fast-track system for a permit. In addition, a permit will cease to have effect upon being surrendered to the authority. A notice to surrender must be accompanied by the permit or a statement explaining why it cannot be produced. The Licensing Authority must inform the Police and the Commission when a permit has been surrendered or lapsed.

**Cancellation and forfeiture of permits**

18.32 The Licensing Authority may cancel the permit if:

- the premises are used wholly by children and/or young persons
- an offence or breach of a permit condition has been committed in the course of gaming activities by the permit holder.

18.33 Reference here to 'a permit condition' means a condition in the Act or in regulations that the permit is operating under.

18.34 Before cancelling a permit, the Licensing Authority will give the permit holder at least 21 days' notice of the intention to cancel and consider any representations that they may make.

18.35 The Licensing Authority will hold a hearing if the permit holder so requests and will comply with any other procedural requirements set out in regulations. If there is no appeal, the cancellation will take effect 21 days after notice of the intention to cancel was given. The Licensing Authority will notify the permit holder, the Commission and the police that the permit has been cancelled and the reasons for the cancellation.

### Renewal of permits

18.36 In accordance with paragraph 24 of Schedule 12 of the Act, an application for renewal of a permit must be made during the period beginning three months before the licence expires and ending six weeks before it expires. The procedure for renewal is the same as for an application.

18.37 The duration of the permit will not be curtailed while a renewal application is pending, including an appeal against a decision not to renew.

18.38 If, at the time a permit is renewed, the applicant holds a club premises certificate, the fast-track procedure will apply as it does when application is first made for the permit.

## 19. Unlicensed Family Entertainment Centre Permits

### Introduction

19.1 Unlicensed family entertainment centres (uFEC) are able to offer only category D machines in reliance on a gaming machine permit. Any number of category D machines can be made available with such a permit, although there may be other considerations, such as fire regulations and health and safety, to take into account. Permits cannot be issued in respect of vessels or vehicles.

19.2 uFECs are premises which are 'wholly or mainly' used for making gaming machines available. The permit cannot therefore be granted for an entire shopping centre, airport or bowling alley, for example.

### Applications for Unlicensed Family Entertainment Centre Permits

19.3 The application for a permit can only be made by a person who occupies or plans to occupy the premises to be used as an uFEC and, if the applicant is an individual, he or she must be aged 18 or over. Applications for a permit cannot be made if a premises licence under the Gambling Act 2005 is in effect for the same premises. The application must be made to the licensing authority in whose area the premises are wholly or partly situated.

19.4 The application must be submitted on Licensing Authority's standard form and be accompanied by the prescribed application fee. The Licensing Authority also requires the application to be accompanied by a plan of the premises that will be used as an uFEC, which shows the location of any gaming machines that will be provided if the permit were to be granted.

19.5 The Licensing Authority requires applicants for uFEC permits to provide a Basic Disclosure certificate issued by the Disclosure and Barring Service (DBS) within a period of one month before the application is made.

## Consideration of Applications

19.6 The Licensing Authority can grant or refuse an application for a permit, but cannot add conditions. An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an uFEC, and if the chief officer of police has been consulted on the application.

19.7 When considering an application, the Licensing Authority will consider the suitability of the applicant. Given that family entertainment centres are likely to appeal particularly to children and young persons, the licensing authority will give particular weight to matters relating to the protection of children from being harmed or exploited by gambling.

19.8 In considering the application, the Licensing Authority shall have regard to the Gambling Commission's Guidance to Licensing Authorities and will also have regard to the licensing objectives.

19.9 The Licensing Authority may also consider asking applicants to demonstrate:

- that they have suitable policies and procedures in place for the safeguarding of children and young persons.
- a full understanding of the maximum stakes and prizes of the gambling that is permissible in uFECs
- that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act)
- that employees are at the premises are suitably vetted
- that employees are trained to have a full understanding of the maximum stakes and prizes.

19.10 The Licensing Authority may not refuse an application unless it has notified the applicant of the intention to refuse and the reasons for it, and given them an opportunity to make representations orally or in writing or both.

19.11 The permit will have effect for ten years, unless it ceases to have effect because it is surrendered or lapses or is renewed. There is no annual fee for an uFEC gaming machine permit

19.12 The permit may lapse for a number of reasons, namely:

- if the holder ceases to occupy the premises
- if the Licensing Authority notifies the holder that the premises are not being used as an uFEC
- if an individual permit holder dies, becomes incapable by reason of mental or physical incapacity, becomes bankrupt, or sequestration of his estate is ordered
- if the company holding the permit ceases to exist, or goes into liquidation.

### Renewal of a Permit

19.13 An application for renewal of an uFEC gaming machine permit must be made during the period beginning six months before the permit expires and ending two months before it expires. The procedure for renewal is the same as for an application. Licensing Authority may only refuse to renew a permit on the grounds that:

- an authorised local authority officer has been refused access to the premises without reasonable excuse
- renewal would not be reasonably consistent with the licensing objectives. In this respect, the licensing authority will have the benefit of having consulted the chief officer of police and will be aware of any concerns that have arisen about the use of the premises during the life of the permit.

19.14 The duration of the permit will not be curtailed while a renewal application is pending, including an appeal against a decision not to renew.

## 20. Prize Gaming Permits

20.1 Gaming is prize gaming if the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming. Normally the prizes are determined by the operator before play commences.

20.2 A prize gaming permit is a permit issued by the Licensing Authority to authorise the provision of facilities for gaming with prizes on specified premises.

### Applications for Prize Gaming Permits

20.3 An application for a permit can only be made by a person who occupies or plans to occupy the relevant premises and if the applicant is an individual, he must be aged 18 or over. An application for a permit cannot be made if a premises licence or club gaming permit is in effect for the same premises under the Gambling Act 2005. The application must be made to the Licensing Authority in whose area the premises are wholly or partly situated.

20.4 The application must be submitted on Licensing Authority's standard form and be accompanied by the prescribed application fee. The Licensing Authority also requires the application to be accompanied by a plan of the premises that will be used for gaming with prizes.

20.5 The Licensing Authority requires applicants for prize gaming permits to provide a Basic Disclosure certificate issued by the Disclosure and Barring Service (DBS) within a period of one month before the application is made.

## Consideration of Applications

20.6 In considering an application, the licensing authority shall have regard to the Gambling Commission's Guidance to Licensing Authorities and will also have regard to the licensing objectives.

20.7 The Licensing Authority can grant or refuse an application for a permit, but cannot add conditions.

20.8 The Licensing Authority will grant a prize gaming permit only if they have consulted the chief officer of police about the application. The Licensing Authority will take account of any objections that the police may wish to make which are relevant to the licensing objectives.

20.9 Relevant considerations would include the suitability of the applicant in terms of any convictions that they may have that would make them unsuitable to operate prize gaming; and the suitability of the premises in relation to their location and any issues concerning disorder.

20.10 A permit cannot be issued in respect of a vessel or a vehicle.

20.11 The Licensing Authority will ask the applicant to set out the types of gaming that they are intending to offer and expects that the applicant should be able to demonstrate that:

- they understand the limits to stakes and prizes that are set out in regulations
- the gaming offered is within the law.

20.12 The Licensing Authority will not refuse an application unless they have notified the applicant of the intention to refuse and the reasons for it, and given them an opportunity to make representations orally or in writing or both.

20.13 If granted, the permit will have effect for ten years, unless it ceases to have effect, lapses or is renewed. There is no annual fee for prize gaming permits.

20.14 The permit may lapse for a number of reasons:

- if the holder ceases to occupy the premises
- if an individual permit holder dies, becomes incapable by reason of mental or physical incapacity, becomes bankrupt, or sequestration of his estate is ordered
- if a company holding the permit goes into liquidation
- if the holder (for example a partnership) otherwise ceases to exist.

## Renewal of a Prize Gaming Permit

20.15 An application for renewal of a permit must be made during the period beginning six months before the permit expires and ending two months before it expires. The procedure for renewal is the same as for an application.

20.16 A permit will not cease to have effect while a renewal application is pending, including an appeal against a decision not to renew.

# 21. Temporary Use Notices

21.1 Temporary use notices allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. The Licensing Authority would object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises. Premises that might be suitable for a temporary use notice would include hotels, conference centres and sporting venues. A temporary use notice may only be granted to a person or company holding a relevant operating licence.

21.2 Temporary use notices may only be used to permit the provision of facilities for equal chance gaming, where the gaming is intended to produce a single overall winner. Equal chance gaming is gaming which does not involve playing or staking against a bank and gives equally favourable chance to all participants. Example of equal chance gaming includes games such as: Backgammon, Mahjong, Rummy, Kalooki, Dominoes, Cribbage, Bingo and Poker.

# 22. Occasional Use Notices

22.1 Occasional use notices relate to particular activities at tracks. The Licensing Authority's only role is to ensure that the statutory limit of 8 days in a calendar year is not exceeded. Whilst tracks are normally thought of as permanent racecourses, this can also include land which has a number of uses for example agricultural land upon which a point-to-point meeting takes place. Land used temporarily as a track can qualify, provided races or sporting events take place or will take place there. The track need not be a permanent fixture.

# 23. Lotteries

**Introduction**

23.1 A lottery is any arrangement that satisfies all of the criteria contained within the statutory description of either a simple lottery or a complex lottery, under s.14 of the Act.

23.2 An arrangement is a simple lottery if:

- persons are required to pay to participate
- one or more prizes are allocated to one or more members of a class
- the prizes are allocated by a process which relies wholly on chance.

23.3 An arrangement is a complex lottery if:

- persons are required to pay to participate
- one or more prizes are allocated to one or more members of a class
- the prizes are allocated by a series of processes
- the first of those processes relies wholly on chance.

23.4 The Gambling Act 2005 provides that promoting or facilitating a lottery is illegal, unless it falls into one of two categories of permitted lottery, namely:

- licensed lotteries – these are large society lotteries and lotteries run for the benefit of local authorities that are regulated by the Commission and require operating licences
- exempt lotteries – there are four types of exempt lottery that are expressly permitted under Schedule 11 of the Act, including the small society lottery.

23.5 The Licensing Authority is responsible for the registration of societies for the purpose of carrying on "small society lotteries." Information on other forms of exempt lotteries is available from the Gambling Commission website.

23.6 The Licensing Authority defines 'society' as the society, or any separate branch of such a society, on whose behalf a lottery is to be promoted, and needs to understand the purposes for which a society has been established in ensuring that it is a non-commercial organisation.

23.7 Section 19 of the Act defines a society as such if it is established and conducted:

- for charitable purposes, as defined in s.2 of the Charities Act 2006
- for the purpose of enabling participation in, or of supporting, sport, athletics or a cultural activity
- for any other non-commercial purpose other than that of private gain.

23.8 It is inherent in this definition that the society must have been established for one of the permitted purposes as set out in section 19 of the Act, and that the proceeds of any lottery must be devoted to those purposes. It is not permissible to establish a society whose sole purpose is to facilitate lotteries.

**Registration Applications**

23.9 The Licensing Authority with which a small society lottery is required to register must be in the area where their principal office is located. If the Licensing Authority believes that a society's principal office is situated in another area, it will inform the society and the other Licensing Authority as soon as possible.

23.10 Applications for small society lottery registrations must be in the form prescribed by the Secretary of State and be accompanied by both the

required registration fee and all necessary documents required by the Licensing Authority to assess the application.

23.11 If there is any doubt as to the status of a society that makes application for registration to carry on small society lotteries, the Licensing Authority may require the society to provide documentary evidence in support of their application. The types of evidence that may be required include, but are not restricted to:

- A list of the members of the society
- The society's constitution or a similar document setting out the aims and objectives of the society and its governance arrangements
- A written declaration from the applicant stating that they represent a *bona fide* non-commercial society.

23.12 The Licensing Authority shall refuse an application for registration if in the period of five years ending with the date of the application:

- an operating licence held by the applicant for registration has been revoked under section 119(1) of the Act, or
- an application for an operating licence made by the applicant for registration has been refused.

23.13 The Licensing Authority may refuse an application for registration if they think that:

- the applicant is not a non-commercial society,
- a person who will or may be connected with the promotion of the lottery has been convicted of a relevant offence, or
- information provided in or with the application for registration is false or misleading.

23.14 The Licensing Authority may only refuse an application for registration after the society has had the opportunity to make representations at a formal hearing. If the Licensing Authority is minded to refuse registration, it will inform the society of the reasons why it is minded to do so and provide it with an outline of the evidence on which it has reached that preliminary conclusion, in order to enable representations to be made.

23.15 Any representations received will be considered at a formal hearing and the following principles will be applied when reaching a decision:

- Whether allowing the registration of the society would be consistent with the Act
- Whether allowing the registration of the society would be consistent with the promotion of the licensing objectives
- Whether allowing the registration of the society would be consistent with any relevant code of practise issued by the Gambling Commission
-

## Promotion of small society lotteries once registered

23.16 Participation in a lottery is a form of gambling, and as such the Licensing Authority requires societies that it registers to conduct their lotteries in a socially responsible manner and in accordance with the Act.

23.17 The Act requires that lottery tickets may only be sold by persons that are aged 16 or over to persons that are aged 16 or over.

23.18 As the minimum age for participation in a lottery is 16, the Licensing Authority expects those societies that it registers to have effective procedures to minimise the risk of lottery tickets being sold to children, including procedures for:

- checking the age of apparently underage purchasers of lottery tickets
- taking action where there are unlawful attempts to purchase tickets.

23.19 Lotteries may involve the issuing of physical or virtual tickets to participants (a virtual ticket being non-physical, for example in the form of an email or text message). All tickets must state:

- the name of the promoting society
- the price of the ticket, which must be the same for all tickets
- the name and address of the member of the society who is designated as having responsibility at the society for promoting small lotteries or, if there is one, the external lottery manager (ELM)
- the date of the draw, or information which enables the date to be determined.

23.20 The requirement to provide this information can be satisfied by providing an opportunity for the participant to retain the message electronically or print it.

23.21 The Licensing Authority expects all registered small society lottery operators to maintain written records of any unsold and returned tickets for a period of one year from the date of the lottery draw.

23.22 With regards to where small society lottery tickets may be sold, the Licensing Authority applies the following criteria to all small society lottery operators:

23.23 Lottery tickets must not be sold to a person in any street. For these purposes ‘street’ includes any bridge, road, lane, footway, subway, square, court, alley or passage (including passages through enclosed premises such as shopping malls) whether a thoroughfare or not. Tickets may, however, be sold in a street from a static structure such as a kiosk or display stand. Tickets may also be sold door to door. Licensees must ensure that they have any necessary local authority permissions, such as a street trading licence.

23.24 This approach is consistent with the operating licence conditions imposed upon operators of large society lotteries and local authority lotteries.

## Financial Returns

23.25 As the purpose of permitted lotteries is to raise money for non-commercial causes, the Act requires that a minimum proportion of the money raised by the lottery is channelled to the goals of the society that promoted the lottery. If a small society lottery does not comply with these limits it will be in breach of the Act's provisions, and consequently be liable to prosecution.

23.26 The limits are as follows:

- at least 20% of the lottery proceeds must be applied to the purposes of the society
- no single prize may be worth more than £25,000
- rollovers between lotteries are only permitted where every lottery affected is also a small society lottery promoted by the same society, and the maximum single prize is £25,000
- every ticket in the lottery must cost the same and the society must take payment for the ticket fee before entry into the draw is allowed

23.27 The Act sets out the information that the promoting society of a small society lottery must send as returns to the licensing authority with which it is registered, following each lottery held. This information allows the Licensing Authority to assess whether financial limits are being adhered to and to ensure that any money raised is applied for the proper purpose.

23.28 The following information must be submitted:

- the arrangements for the lottery – specifically the date on which tickets were available for sale or supply, the dates of any draw and the value of prizes, including any donated prizes and any rollover
- the total proceeds of the lottery
- the amounts deducted by the promoters of the lottery in providing prizes, including prizes in accordance with any rollovers
- the amounts deducted by the promoters of the lottery in respect of costs incurred in organising the lottery
- the amount applied to the purpose for which the promoting society is conducted (this must be at least 20% of the proceeds)
- whether any expenses incurred in connection with the lottery were not paid for by deduction from the proceeds, and, if so, the amount of expenses and the sources from which they were paid.

23.29 The Act also requires that returns must:

- be sent to the Licensing Authority no later than three months after the date of the lottery draw, or in the case of 'instant lotteries' (scratch cards) within three months of the last date on which tickets were on sale
- be signed (electronic signatures are acceptable if the return is sent electronically) by two members of the society, who must be aged 18 or older, are appointed for the purpose in writing by the society or, if it has

one, its governing body, and be accompanied by a copy of their letter or letters of appointment.

23.30 The Licensing Authority allows for returns to be sent to them both electronically and manually. The form of returns required can be downloaded from the Licensing Authority's website.

23.31 Where societies run more than one lottery in a calendar year, the Licensing Authority will monitor the cumulative totals of returns to ensure that societies do not breach the annual monetary limit of £250,000 on ticket sales.

23.32 The Licensing Authority will notify the Commission if returns reveal that a society's lotteries have exceeded the values permissible, and such notifications will be copied to the society in question.

**Revocation of a registration**

23.33 The Licensing Authority may determine to revoke the registration of a society if it thinks that they would have had to, or would be entitled to, refuse an application for registration if it were being made at that time.

23.34 Revocations cannot take place unless the society has been given an opportunity to make representations at a hearing. In preparation for this, the Licensing Authority will inform the society of the reasons why it is minded to revoke the registration and provide them with the evidence on which it has reached that preliminary conclusion.

23.35 Any representations received will be considered at a formal hearing and the following principles will be applied when reaching a decision:

- Whether allowing the registration of the society to continue would be consistent with the Act
- Whether allowing the registration of the society to continue would be consistent with the promotion of the licensing objectives
- Whether allowing the registration of the society to continue would be consistent with any relevant code of practise issued by the Gambling Commission.

# 24. Exchange of Information

24.1 To ensure the licensing objectives are met, the Licensing Authority will establish a close working relationship with the Police, the Gambling Commission and, where appropriate, other responsible authorities.

24.2 Subject to the provisions of relevant data protection legislation, the Licensing Authority will share any information it receives through the application process with the Gambling Commission, and any relevant responsible authority. In doing so the Licensing Authority will have regard to the Act itself, any guidance issued by the Commission and to any Regulations issued by the Secretary of State.

24.3 The Licensing Authority is committed to being open about what it does and how it comes to a decision, in accordance with the spirit of the Freedom of Information Act 2000 (FOIA). An important feature of the FOIA is the requirement for each public authority to produce a publication scheme setting out what information it will publish as a matter of course, how and when it will be published, and whether this information will be free of charge or on payment.

24.4 Individual requests should be made in writing via the Council's website foi@wyreforestdc.gov.uk.

24.5 Unless restricted by the Gambling Act, details about applications, licences and representations will be made available in our public register. Representations that we accept will be copied in their entirety to applicants, to provide an opportunity for mediation and to ensure that the rights of the applicant are not compromised.

## 25. Enforcement Protocols

25.1 The main enforcement and compliance role for the Licensing Authority in terms of the Gambling Act 2005 will be to ensure compliance with the premises licences and other permissions which it authorises. The Gambling Commission will be the enforcement body for the Operator and Personal Licences and will also take the lead role on the investigation and where appropriate, the prosecution of illegal gambling. Any concerns about manufacture, supply or repair of gaming machines will not be dealt with by the Licensing Authority but will be notified to the Gambling Commission.

25.2 The Licensing Authority will work with the Commission, the Police and other enforcing authorities, having regard to any specific guidance produced by the Gambling Commission, relevant codes of practice, the licensing objectives and this statement of principles, to provide for the targeting of agreed problem or high-risk premises. A lighter touch will be applied to those premises which are shown to be well managed and maintained.

25.3 The overall aim is to permit the use of premises for gambling. With that in mind it is intended that action will generally be taken against 'problem' premises through the licence review process.

25.4 We will also have regard to the Regulators' Code whilst carrying out our regulatory functions.

25.5 The Licensing Authority will endeavour to be proportionate, accountable, consistent, transparent and targeted, as well as avoiding duplication with other regulatory regimes so far as possible.

25.6 In order to ensure compliance with the law, the Licensing Authority will prepare a risk-based Inspection Programme and will carry out regular 'routine' day time programmed inspections, based on risk assessment in the categories high,

medium and low and will also carry out 'non-routine' evening programmed inspections. Where a one-off event takes place under a temporary use notice or occasional use notice, the Licensing Authority may also carry out inspections to ensure the licensing objectives are being promoted.

25.7 High-risk premises are those premises that have a history of complaints and require greater attention with low risk premises needing only a lighter touch so that resources are effectively concentrated on problem premises.

# 26. Reviews

26.1 A request for a review of a premises licence can be made by interested parties or responsible authorities, however, the Licensing Authority will decide if the review is to be carried out on the basis of the following:

- In accordance with any relevant Code of Practice and/or guidance issued by the Gambling Commission
- Consistent with the licensing objectives
- In accordance with the statement of principles

26.2 The Licensing Authority will also consider whether or not the request for a review is frivolous, vexatious, or repetitious or whether it would wish to alter/revoke or suspend the licence.

26.3 The Licensing Authority can also initiate a review of a premises licence on the basis of any reason which it thinks is appropriate, including if a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.

26.4 Once a valid application for a review has been received by the Licensing Authority, representations can be made by responsible authorities and interested parties during the statutory consultation period. The purpose of the review will be to determine whether it should take any action in relation to the licence. The options available are:

- add, remove or amend a licence condition;
- remove or amend a default condition, such as opening hours;
- suspend the premises licence for a period not exceeding 3 months; or
- revoke the licence.

# Appendix A: Scheme of Delegation

The Licensing Authority is responsible for making licensing decisions but may delegate some of its powers to authorised officers. The table shows how it is proposed decisions will be made.

| Matter to be dealt with | Full Council | Licensing Sub-Committee | Officers |
|---|---|---|---|
| Final approval of three year licensing policy | X | | |
| Policy not to permit casinos | X | | |
| Fee setting (where appropriate) | | | X |
| Application for premises licences | | Where representations have been received and not withdrawn | Where no representations have been received or representations have been withdrawn |
| Application for a variation to a licence | | Where representations have been received and not withdrawn | Where no representations have been received or representations have been withdrawn |
| Application for a transfer of licence | | Where representations have been received from the Commission | Where no representations have been received from the Commission |
| Application for a provisional statement | | Where representations have been received and not withdrawn | Where no representations have been received or representations have been withdrawn |
| Review of a premises licence | | X | |
| Application for club gaming/club machine permits | | Where objections have been made (and not withdrawn) | Where no objections have been made or objections have been withdrawn |
| Cancellation of club gaming/club machine permits | | X | |
| Applications for other permits | | | X |
| Cancellation of licensed premises gaming machine permits | | | X |
| Consideration of temporary use notice | | | X |
| Decision to give a counter notice to a temporary use notice | | X | |

# Appendix B : List of Consultees

- Chief Officer of West Mercia Police
- Gambling Commission
- All Other Responsible Authorities Identified in the Gambling Act 2005
- Worcestershire Safeguarding Children Partnership
- Director of Public Health
- District Councillors
- Town Councils
- Parish Councils
- Holders of Premises Licences issued by the Council under the Gambling Act 2005

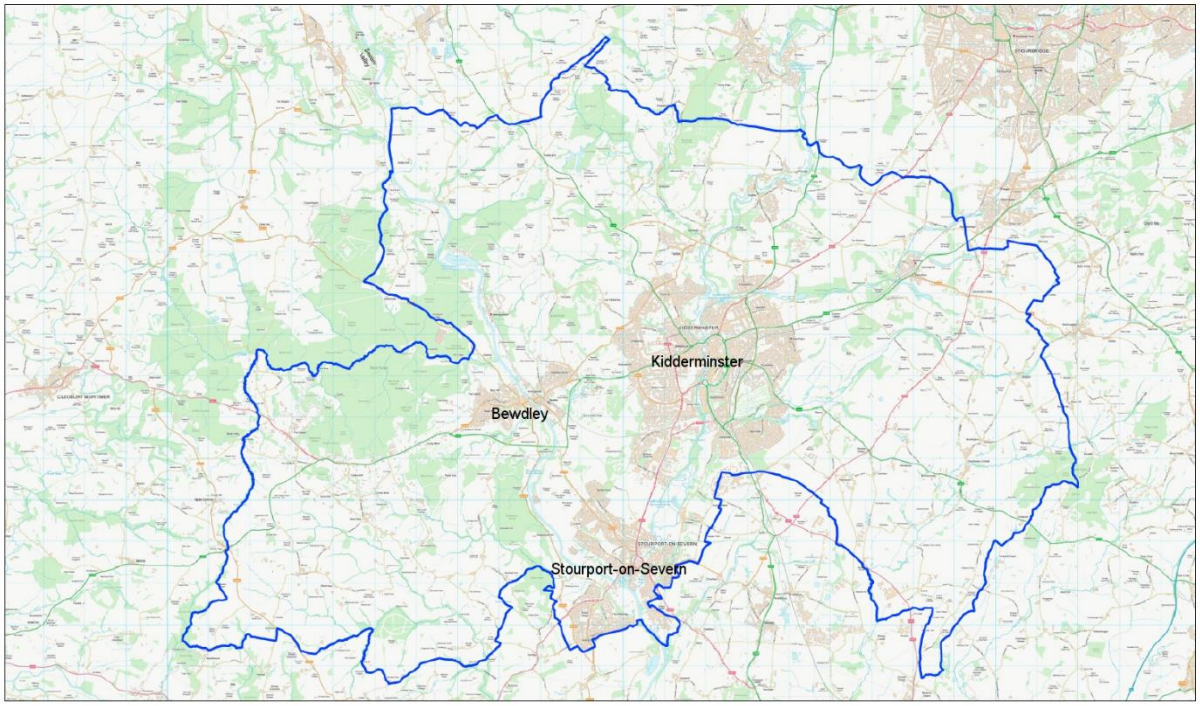
**Gambling Trade and Other Relevant Associations**

- Betting and Gaming Council
- Bacta
- Bingo Association
- Gambling Business Group
- European Gaming and Betting Association
- UK Hospitality
- British Beer and Pub Association
- Lotteries Council
- Hospice Lotteries Association

**Organisations working with those who have a gambling problem**

- GamCare
- Gamblers Anonymous
- GambleAware
- Gordon Moody Association

# Appendix C: Wyre Forest District Map




Wyre Forest
District Council

GOSSCHALKS

Please ask for: R[redacted] Taylor
Direct Tel: [redacted]
Email: [redacted]
Our ref: [redacted]
Your ref:
Date: 29th August 2024

By Email Only
Licensing Section
Wyre District Council

Dear Wyre District Council,

**Re: Gambling Act 2005 Statement of Principles for Gambling**

We act for the Betting and Gaming Council (BGC) and are instructed to respond on behalf of the BGC to your consultation on the review of your Gambling Act 2005 Statement of Principles.

**The Betting and Gaming Council**

The Betting and Gaming Council (BGC) was created in 2019 as the standards body for the UK's regulated betting and gaming industry. This includes betting shops, online betting and gaming businesses, bingo and casinos. Its mission is to champion industry standards in betting and gaming to ensure an enjoyable, fair and safe betting and gaming experience for all of its members' customers.

The BGC has four objectives. These are to:

1. create a culture of safer gambling throughout the betting and gaming sector, with a particular focus on young people and those who are vulnerable.
2. ensure future changes to the regulatory regime are considered, proportionate and balanced.
3. become respected as valuable, responsible, and engaged members of the communities in which its members operate.
4. safeguard and empower the customer as the key to a thriving UK betting and gaming industry.

BGC members support 110,000 jobs, generate £4.2 billion in taxes and contribute £7.1 billion to the economy in GVA (Gross Value Added), according to a report by EY in 2022.

Betting shops alone also support 42,000 jobs on the UK's hard-pressed high streets, contributing £800 million a year in tax to the Treasury and another £60m in business rates to local councils. Further, according to ESA Retail report 89% of betting shop customers go on to spend money in other high street establishments, further cementing the important role of betting shops in the local economy.

BGC members also support the UK's hospitality, tourism and leisure industry through our casinos – there are currently 116 across the UK. Overall, we are a major component of world leading British technology, where our members have founded tech powerhouses in many cities throughout the UK.

Betting is a hugely popular British leisure activity. Each month, around 22.5 million adults in the UK have a bet - whether it's buying a lottery ticket, having a game of bingo, visiting a casino, playing online or having a wager on football, horseracing and other sports - and the overwhelming majority do so perfectly safely and responsibly.

BGC members are proud to support UK sport, from the grassroots to the elite level. The industry contributes around £350 million to racing in levy, media, and sponsorship rights each year, £40 million to the EFL (English Football League), and £12.5 million to snooker, darts, and rugby league.

Before we comment on your draft policy document, it is important that the backdrop against which the comments are made is established.

## Betting and Gaming in the UK

Any consideration of gambling licensing at the local level should also be considered within the broader context.

The raft of measures recently put in place by the industry (in terms of protecting players from gambling-related harm), the Gambling Commission, and the Government (a ban on credit cards, restrictions to VIP accounts, new age and identity verification measures, and voluntary restrictions on advertising) have contributed to problem gambling rates now being lower than they were at the passage of the 2005 Gambling Act (see further details on problem gambling rates below).

In addition, a range of further measures will be implemented imminently following the Government's White Paper, published in April 2023. These include: financial risk checks for those at risk of gambling harm, changes to the way operators market to their customers, changes to online game design which will remove certain features, the introduction of a mandatory levy for research, prevention and treatment (RPT) activities, an Ombudsman to adjudicate on customer redress and the introduction of mandatory stake limits on online slots, bringing the maximum stakes online in line with land based casinos.

It should also be noted that:

- The overall number of betting shops is in decline. Industry statistics set out that the number of betting shops (as of June 2024) is 5870. This is reducing yearly and has fallen by 29% since March 2019 – equating to 2408 betting shop closures in five years.
- Planning law changes introduced in April 2015 have increased the ability of licensing authorities to review applications for new premises, as all new betting shops must now apply for planning permission.
- In April 2019, a maximum stake of £2 was applied to the operation of fixed odds betting terminals.

- Successive prevalence surveys and health surveys show that problem gambling rates in the UK are stable.

**Problem Gambling**

A point often lost in the debate about the future of gambling regulation is that problem gambling rates in the UK are low by international comparison.

The most recent "Gold standard" NHS (National Health Service) Health Survey found that problem gambling rates among adults are 0.4 per cent – the rate was 0.5 per cent in 2018. In comparison to other European countries, problem gambling rates in the UK are low. The problem gambling rate is 2.4 per cent in Italy, 1.4 per cent in Norway, and 1.3 per cent in France.

Both the Gambling Commission and the Government have acknowledged that problem gambling levels have not increased. However, one problem gambler is one too many, and we are working hard to improve standards further across the regulated betting and gaming industry.

In June 2020, the BGC's largest members committed to increasing the amount they spend on RPT (Research, Prevention and Treatment) services from 0.1 per cent to 1 per cent in 2023. This was expected to raise £100 million but they have gone further and will have donated £110 million by 2024.

In the White Paper, the Government committed to introducing a statutory RPT (Research, Prevention and Treatment) levy, which would apply to all gambling licensees (excluding the national lottery). This levy is expected to raise £100m annually by 2026/2027.

The BGC also funds the £10 million Young People's Gambling Harm Prevention Programme, delivered by leading charities YGAM and GamCare. As of March last year (2023), it has educated over 3 million children.

**Advertising and Sponsorship**

All betting advertising and sponsorship must comply with strict guidelines, and safer gambling messaging must be regularly and prominently displayed.

The Government has previously stated that there is "no causal link" between exposure to advertising and the development of problem gambling, as stated in a response by then Minister of State at DCMS in June 2021. The Gambling Review White Paper, in relation to advertising, restated that there was "little evidence" of a causal link with gambling harms or the development of gambling disorder.

The Seventh Industry Code for Socially Responsible Advertising, adopted by all BGC members, adds a number of further protections in particular for young people. New measures include ensuring that all social media ads must target consumers aged 25 and over unless the website proves they can be precisely targeted at over-18s. In addition to raising advertising standards for young people, this

code, which came into force on 1 December 2023, extended the previous commitment that 20% of TV and radio advertising is devoted to safer gambling messaging to digital media advertising.

Under the 'whistle-to-whistle' ban, ads cannot be shown from five minutes before a live sporting event until five minutes after it ends, before the 9 p.m. watershed. Research by Enders Analysis found that in its first 12 months in operation, the ban reduced the number of TV betting adverts seen by children by 97% at that time. Overall, the number of gambling adverts viewed by young people also fell by 70% over the entire duration of live sports programmes. At the same time, the ban also reduced the number of views of betting ads by 1.7 billion during its first five months in operation.

BGC members also continue to abide by the stringent measures established by advertising standards watchdogs. These measures are in stark contrast to the unsafe, unregulated black market online, which has none of the safer gambling measures offered by BGC members, including strict age-verification checks. Any withdrawal of advertising would simply level the playing field with illegal operators thus providing opportunities for those operators to peel off customers from the regulated markets.

**Misleading/ambiguous premises signage**

There are increasing numbers of premises (usually Adult Gaming Centres) which describe themselves on their shopfronts and external signage as casinos despite these premises not being permitted to operate as a casino.

Section 150 Gambling Act 2005 creates five separate classes of premises licences – the operation of a casino (a casino premises licence), the provision of facilities for the playing of bingo ( a bingo premises licence) , making category B gaming machines available for use (an adult gaming centre premises licence), making category C gaming machines available for use (a family entertainment centre premises licence) and the provision of facilities for betting (a betting premises licence). Whilst casinos are permitted under a casino premises licence to provide bingo and betting facilities, the holder of an adult gaming centre premises licence may not offer casino facilities.

In order to avoid any ambiguity, the draft statement of principles should be clear that premises must not display signage which may suggest that the premises have a different premises licence to the one held.

**Differentiation between Licensing Act 2003 and Gambling Act 2005 applications**

When considering applications for premises licences, it is important to clearly distinguish between the regimes, processes, and procedures established by the Gambling Act 2005 and its regulations and those that are usually more familiar to licensing authorities—the regimes, processes, and procedures relating to the Licensing Act 2003.

Whilst Licensing Act 2003 applications require applicants to specify steps to be taken to promote the licensing objectives, which are then converted into premises licence conditions, there is no such

requirement in Gambling Act 2005 applications, where the LCCP provides a comprehensive package of conditions for all types of premises licence.

It should continue to be the case that additional conditions in the Gambling Act 2005 premises licence applications are only imposed in exceptional circumstances with clear reasons for doing so. There are already mandatory and default conditions attached to any premises licence which will ensure operation that is consistent with the licensing objectives. In most cases, these will not need to be supplemented by additional conditions.

The LCCP require that premises operate an age verification policy. The industry employs a policy called "Think 21". This policy is successful in preventing underage gambling. Independent test purchasing carried out by operators and submitted to the Gambling Commission shows that ID challenge rates are consistently around 85%. Following the publication of the Gambling Commission's response to their consultation on age verification on premises, all gambling venues will be moving to a "Think 25" policy from 30th August 2024.

Since Serve Legal began working with the gambling sector in 2009, the industry has now become the highest performing sector across all age verification testing. Across thousands of audits, there was an average pass rate of 91.4 per cent (2024 data). For casinos, there is a near perfect pass rate in the last period of 98%. When comparing Serve Legal audit data between members of the BGC and comparative age verification audit data in the Alcohol and Lottery sector we see how the gambling sector is performing between 10-15 per cent higher every year.

It should be noted that the Executive Summary of the Gambling White Paper stated that when parliamentary time allows, the Government will align the gambling licensing system with that for alcohol by introducing new powers to conduct cumulative impact assessments.

The BGC is concerned that the imposition of additional licensing conditions could become commonplace if there are no precise requirements regarding the need for evidence in the revised licensing policy statement. If additional licence conditions are more commonly applied, this would increase variation across licensing authorities and create uncertainty amongst operators regarding licensing requirements, overcomplicating the licensing process for operators and local authorities.

**Working in partnership with local authorities**

The BGC is fully committed to ensuring constructive working relationships between betting and gaming operators and licensing authorities and that problems can be dealt with in partnership. The exchange of clear information between councils and betting operators is a key part of this, and the opportunity to respond to this consultation is welcomed.

**Considerations Specific to the Gambling Act 2005 Statement of Licensing Principles**

Paragraph 11.2 contains a bullet point list of factors that the council expects to be considered when conducting a local risk assessment. The bullet point list should be redrafted as in its existing terms it refers to matters that cannot be relevant to an assessment as to whether a proposal is reasonably consistent with the licensing objectives. The reference to whether the premises is in an area of deprivation should be deleted. The relevant affluence of an area cannot be relevant as to whether

an operation is/will be consistent with the licensing objectives unless the authority has predetermined that the local residents in deprived areas are more likely to commit crime associated with gambling than in more affluent areas or are to be considered automatically vulnerable.

Paragraphs 15.1 to 15.5 deal with the Licensing Authority's approach to licence conditions. We welcome the very clear statement that conditions beyond the mandatory and default conditions will only be imposed where there is clear evidence of a risk to the licensing objectives in the circumstances of a particular case, but suggest that the words, "that are not already addressed by the applicants local risk assessment" are added. There is no need for additional conditions where a risk to the licensing objectives has been identified and suitable mitigation measures are described in the risk assessment. Further, the final sentence of 15.4 should be deleted as the inference here is that the applicant's suggestions could be "converted" into conditions. Whilst this is appropriate with Licensing Act 2003 applications, it is was the intention of parliament when drafting Gambling Act 2005 that suggestions to meet risks be "converted" into conditions. Furthermore, this sentence refers to the licensing objectives being "promoted" which is neither the responsibility of an applicant nor the Licensing Authority in respect of Gambling Act 2005 applications.

**Conclusion**

On behalf of the BGC, we thank you for the opportunity to comment on your draft statement of principles and hope these comments above are helpful. The BGC will work with you to ensure that its members' operation of its premises will operate in accordance with the licensing objectives.

Yours faithfully,

GOSSCHALKS LLP

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# WYRE FOREST DISTRICT COUNCIL

## LICENSING AND ENVIRONMENTAL COMMITTEE

## 7th OCTOBER 2024

## LICENSING ACT 2003

## STATEMENT OF LICENSING POLICY REVIEW

| OPEN | |
|---|---|
| **CABINET MEMBER:** | Councillor Tracey Onslow |
| **RESPONSIBLE OFFICER:** | Head of Worcestershire Regulatory Services on behalf of Wyre Forest District Council |
| **CONTACT OFFICER:** | Niall McMenamin<br>Principal Licensing Officer<br>01905 822799<br>enquiries@worcsregservices.gov.uk |
| **APPENDICES:** | **Appendix 1** – Revised Statement of Licensing Policy 2024 – 2029<br>**Appendix 2** – Summary of policy revisions<br>**Appendix 3** – Survey responses |

## 1. PURPOSE OF REPORT

1.1. The Council's current Statement of Licensing Policy under the Licensing Act 2003 took effect on 27th February 2020. In accordance with the provisions of the Act, the Council is required to prepare and publish a Statement of Principles every five years. Therefore, a new Statement of Licensing Policy must be published by 27th February 2025.

1.2. On 8th April 2024, the Licensing and Environmental Committee approved a draft revised Statement of Licensing Policy for consultation purposes. The results of the consultation are now being reported back to the Committee, who are then asked to recommend to Council that the revised Statement of Licensing Policy be approved and published.

## 2. RECOMMENDATION

**The Committee is asked to:**

**2.1. Recommend to Council that the revised Statement of Licensing Policy shown 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. In accordance with these provisions, the Council is required to determine and publish a Statement of Licensing Policy.

3.2. The Statement of Licensing Policy sets out the principles the Council applies when carrying out its statutory licensing duties. The policy details how licensed premises should operate and informs the Council's decision on whether to issue a licence and on what conditions, with the aim of promoting the four licensing objectives as set out in the Licensing Act 2003:

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

3.3. The policy seeks to balance the interests of business and residents to make sure that Wyre Forest continues to offer a wide choice of high quality and well managed hospitality, entertainment and cultural venues within an environment that is safe and attractive to residents, business and visitors.

## 4. KEY ISSUES

4.1. Section 5 of the Licensing Act 2003 requires licensing authorities to review Statements of Licensing Policy every five years. The Council's current Statement of Licensing Policy took effect on 27th February 2020, which means that a new Statement of Licensing policy must therefore be reviewed and published by 27th February 2025.

4.2. On 8th April 2024, the Licensing and Environmental Committee approved a draft revised Statement of Licensing Policy for the purpose of consultation with relevant parties.

4.3. The draft revised policy remains based on the same template as the existing policy, which all the Statements of Licensing Policy across Worcestershire are now based upon.

4.4. The draft revised policy contained several amendments and some additional sections that have been added to the document to reflect changes to legislation and guidance that have taken effect since the last Statement of Licensing Policy took effect.

4.5. The main changes that have been made are summarised in the table shown at **Appendix 2.**

4.6. Consultation on the revised draft Statement of Principles was undertaken 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.
- District Councillors.
- Town and Parish Councils.
- The general Public.

4.7. The consultation was made available for comment on the Council's website via an online questionnaire, details of the consultation were also published in the Council's online publication the Wyred Weekly and publicised via social media. A link to the survey was also sent by email directly to relevant stakeholders. The consultation was open for completion between 5th July 2024 and the 30th August 2024.

4.8. In response to the consultation, 3 responses were received by the Council. A copy of the responses is shown at **Appendix 3**.

4.9. Having carefully and fully considered the responses received during the consultation exercise, officers do not conclude that any amendments need to be made to the version of the draft revised Statement of Licensing Policy that was consulted upon.

4.10. Therefore, Members are now asked to read and consider the responses received during the consultation and resolve to recommend to Council that the revised Statement of Licensing Policy at Appendix 3 be approved and published.

## 5. FINANCIAL IMPLICATIONS

5.1. The costs involved in carrying out the consultation were 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. This 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.

6.4. 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.

## 7. EQUALITY AND ENVIRONMENTAL IMPACT ASSESSSMENTS

7.1. In its consideration of this report and its recommendations, the Council must have due regard to public sector equality duty under section 149 of the Equality Act 2010. In summary section 149 provides that a Public Authority must, in the exercise of its functions, have due regard to the need to:

a) eliminate discrimination harassment, victimisation and any other conduct that is prohibited by or under this Act;
b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
c) foster good relations between persons who share a relevant protected characteristics and persons who do not share it

7.2. Section 149 (7) of the Equality Act 2010 defines the relevant protected characteristics as age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

7.3. The draft Revised Statement of Licensing Policy included an updated section on Equalities which aims to provide information to applicants, licence holders and the public on how the Council will seek to fulfil their duties under the Equality Act 2010 and to try and help others to fulfil their own such duties.

7.4. The draft Revised Statement of Licensing Policy also identified and enhanced additional safeguarding responsibility towards females and other vulnerable groups.

7.5. Officers having assessed the above, conclude that the proposed draft Revised Statement of Licensing Policy does not adversely impact or unlawfully discriminate against any protected characteristics.

7.6. The draft Revised Statement of Licensing Policy aims to balance the social and economic benefits of licensable activities against the potential adverse environmental implications, such as public nuisance.

## 8. RISK MANAGEMENT

**8.1.** Failing to prepare and publish a new Statement of Licensing Policy 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 and therefore leaving the Council open to the risk of possible legal challenge**.**

## 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. Undertaking a review and the subsequent 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.

9.3. Having consulted on the draft Licensing Act 2003 Statement of Licensing Policy and also having considered the responses received, The Licensing and Environmental Committee is now asked to resolve to recommend to Council that the draft Licensing Act 2003 Statement of Licensing Policy shown at Appendix 1 be approved and published.

## 10. CONSULTEES

10.1. Solicitor to the Council, Legal Services.

## 11. BACKGROUND PAPERS

11.1. Guidance issued under S182 of the Licensing Act 2003.

Wyre Forest District Council

# Statement of Licensing Policy 2024 – 2029

## Licensing Act 2003

Finepoint House ¦ Kidderminster ¦ Worcestershire ¦ DY11 7WF
www.wyreforestdc.gov.uk

Revised with effect from 12 December 2024

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# 1.0 Introduction

1.1 Wyre Forest District is situated in Northwest 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 2021, the population totalled 101,600 (2021 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 Midlands Safari Park, lies between the towns of Kidderminster and Bewdley.

1.3 Stourport-on-Severn is a popular tourist town. It was 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 premised 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 authorisations 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 12th December 2024 and will be kept under review. A revised statement of policy will be published no later than 11th December 2029.

# 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 must 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 Stopwatch 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 of 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.

6.20 The licensing authority expects those that operate licensed premises to do all that they can to ensure all people, particularly women and girls, feel safe on a night out. Therefore, we would encourage licence holders to implement schemes such as "Ask for Angela" and to promote such schemes to both staff and customers. We would also encourage licence holders to ensure staff receive awareness training in relation to drink-spiking and that other measures to tackle drink-spiking are taken where appropriate.

6.21 Whilst knife crime in licensed premises is thankfully very rare, the consequences of a stab wound can be potentially catastrophic, even fatal. A bleed control kit contains equipment such as tourniquets, bandages and gels which could prevent people from bleeding to death while waiting for paramedics to arrive. The licensing authority would strongly encourage every licence holder to acquire a bleed control kit that is kept on their premises and that staff are provided training on how to use the kit.

6.22 The licensing authority would also encourage licence holders to conduct a risk assessment to consider the need for the provision and use of hand-held metal detectors, sometimes referred to as "knife wands" to deter and prevent people from carrying knives and other weapons into their premises.

**(b) Public Safety**

6.23 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.

6.24 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.

6.25 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.

6.26 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.

6.27 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.

6.28 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**

6.29 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.

6.30 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.

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

6.32 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.

6.33 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.

6.34 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:

- 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**

6.35 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.

6.36 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).

6.37 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 by the UK or an EU 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.

6.38 In recent years there has been an increase in the number of licensed premises offering alcohol delivery services. The licensing authority expects those licence holders who provide such a service to have in place robust age-verification procedures at both the point of sale and the point of delivery to ensure that alcohol is not purchased by, or delivered to, children. These procedures should include the provision of training for delivery staff on requesting and verifying acceptable proof of age documentation at the point of delivery.

6.39 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.

6.40 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.

6.41 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.

6.42 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.

6.43 The Licensing Authority will not impose any conditions that specifically require the access of children to the premises.

6.44 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.

6.45 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.

6.46 The Licensing Authority will expect licensees to ensure that age restrictions for film exhibitions are properly complied with.

6.47 In considering applications, the licensing authority will take into account any evidence that age restrictions for film exhibitions are not being properly observed.

6.48 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 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 Terrorism (Protection of Premises Bill) / Martyn’s Law

10.1 The Government has committed to introducing legislation with a view to ensuring stronger protections against terrorism in public places. This legislation is often referred to as “Martyn’s Law” in tribute to Martyn Hett who was killed alongside 21 others in the Manchester Arena terrorist attack in 2017.

10.2 Martyn’s Law will aim to keep people safe, enhance our national security and reduce the risk to the public from terrorism by the protection of public venues.

10.3 It will place a requirement on those responsible for certain locations to consider the threat from terrorism and implement appropriate and proportionate mitigation measures.

10.4 The legislation will ensure parties are prepared, ready to respond and know what to do in the event of an attack. Better protection will be delivered through enhanced security systems, staff training, and clearer processes.

10.5 Whilst this legislation is still under development and not yet in force, the licensing authority would encourage all premises to undertake basic, low-cost activities to improve their preparedness, including terrorism protection training for staff and evaluating the best procedures to put in place to minimise the impact of any attack. When the legislation comes into force, licensed premises will need to comply with any statutory requirements that are relevant to them.

10.6 Further information and guidance is provided at www.protectuk.police.uk.

## 11.0 Reviews

11.1 At any stage, following the grant or 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.

11.2 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.

11.3 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.

11.4 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.

11.5 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.

11.6 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.

11.7 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.

11.8 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.

11.9 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.

11.10 The licensing authority considers a repetitious ground for review to be one that is identical or substantially similar to:

- a ground for review specified in an earlier application for review made in relation to the same premises licence or certificate which has already been determined; or
- representations considered by the licensing authority when the premises licence or certificate was granted; or
- representations which would have been made when the application for the premises licence was first made and which were excluded then by reason of the prior issue of a provisional statement; and, in addition to the above grounds, a reasonable interval has not elapsed since that earlier review or grant.

11.11 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.

11.12 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.

11.13 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.

11.14 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.

# 12.0 Minor Variations

12.1 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).

12.2 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.

12.3 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.

12.4 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.

12.5 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.

12.6 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.

# 13.0 Cumulative Impact

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

13.2 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.

13.3 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.

13.4 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.

13.5 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.

13.6 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.

13.7 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.

13.8 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.

# 14.0 Personal Licences – New Applications

14.1 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.

14.2 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.

14.3 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) below.

(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 or any relevant offence or any foreign offence or required to pay an immigration penalty

14.4 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.

14.5 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.

14.6 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.

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

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

14.8 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.

14.9 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.

# 15.0 Personal Licences – Suspension and Revocation

15.1 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.

15.2 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.

15.3 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.

15.4 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.

15.5 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.

15.6 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.

15.7 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.

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

15.9 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.

15.10 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.

15.11 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.

15.12 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

15.13 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.

15.14 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.

15.15 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.

# 16.0 Immigration Act 2016 – Entitlement to Work

16.1 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.

16.2 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.

16.3 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.

16.4 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.

16.5 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.

# 17.0 Enforcement and Complaints

17.1 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.

17.2 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.

17.3 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.

17.4 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.

17.5 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.

17.6 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.

17.7 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.

# 18.0 Integrating Strategies and Partnership Working

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

- The Government's Alcohol Strategy
- Worcestershire's Alcohol Harm Reduction Strategy
- Wyre Forest District Council Local Plan 2016-2036

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

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

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

# 19.0 Equalities

19.1 Under the Equality Act 2010 it is against the law to discriminate against anyone because of age, gender reassignment, being married or in a civil partnership, being pregnant or on maternity leave, disability, race including colour, nationality, ethnic or national origin, religion or belief, sex, or sexual orientation.

19.2 The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities.

19.3 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.

19.4 The licensing authority has had regard to this duty when publishing this statement of policy and will have regard to the duty when determining applications for relevant authorisations under the Licensing Act 2003.

19.5 In the design and layout of premises, applicants and licence holders are encouraged to consider access and facilities for customers with protected characteristics.

19.6 Any person who is concerned that a premises is failing to comply with the Equality Act should make their complaint to the premises in the first instance. Advice can also be sought from the Equality Advisory Support Service (EASS) - www.equalityadvisoryservice.com

19.7 Evidenced failure by a licence holder to comply with the Equality Act (eg prosecutions or other enforcement action) may lead to review about the appropriateness of the licence continuing to be held.

# 20.0 Administration, Exercise and Delegation of Functions

20.1 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.

20.2 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 several Sub-Committees to deal with those matters.

20.3 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.

20.4 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.

# 21.0 Relationship with Planning

21.1 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.

21.2 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.

21.3 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.

21.4 Where there is an application for planning permission, the National Planning Policy Framework expects new development can be integrated effectively with existing

businesses and community facilities (such as places of worship, pubs, music venues and sports clubs).

21.5 Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established.

21.6 Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required by the local planning authority to provide suitable mitigation before the development has been completed.

# 22.0 Temporary Event Notices

22.1 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.

22.2 The law states that for a standard temporary event notice, at least ten working days' notice must be given but the licensing authority recommends that, wherever possible, at least two months' 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.

22.3 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.

22.4 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.

22.5 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.

22.6 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.

# 23.0 Live Music Act 2012 and other Entertainment Licensing Deregulation

23.1 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

23.2 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.

23.3 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.

23.4 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 performance of dance in the presence of any audience of no more than 500 people

23.5 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.

23.6 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.

- 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.

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

23.8 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.

# 24.0 Sexual Entertainment Venues

24.1 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.

24.2 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.

24.3 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.

# 25.0 Early Morning Alcohol Restriction Orders (EMROs)

25.1 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.

25.2 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.

25.3 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.

25.4 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.

25.5 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.

25.6 The licensing authority is not currently satisfied that it is appropriate to make any EMROs.

# 26.0 Late Night Levy

26.1 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.

26.2 The levy is a power, and the Government has recognised that some licensing authorities will not consider that it is appropriate to exercise it.

26.3 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.

26.4 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.

26.5 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.

26.6 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.

26.7 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.

26.8 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.

# 27.0 Late Night Refreshment – Local Powers to Deregulate

27.1 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.

27.2 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.

27.3 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.

27.4 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.

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

# 28.0 Suspension of Licences and Certificates for Non-Payment of Annual Fees

28.1 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.

28.2 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.

28.3 When suspending a licence of 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.

28.4 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 make the payment.

28.5 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 |

| Matter to be dealt with | Full Committee | Sub Committee | Officers |
|---|---|---|---|
| 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 |

## Summary of Amendments Made in Draft Revised Statement of Licensing Policy

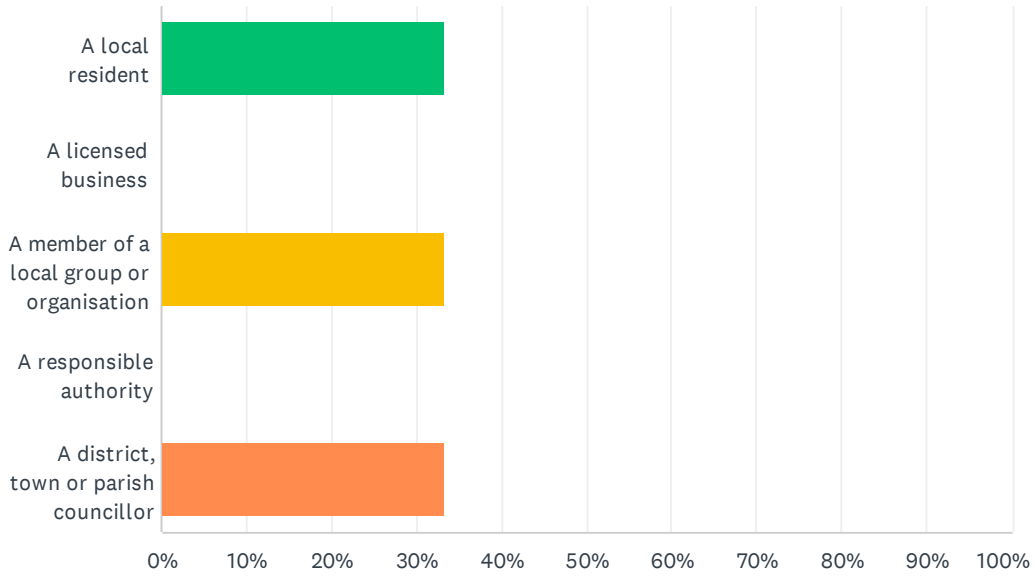
| Section Heading | Page | Paragraph | Description of amendment | Reason for amendment |
|---|---|---|---|---|
| Front Cover | 1 | | Telephone number removed and dates changed | To reflect when the revised Statement of Licensing Policy will take effect and when it will need to be revised next. |
| Table of contents and throughout document | 2 | | Changes to section, paragraph and page numbers | Required as a result of additional paragraphs and sections being added to the draft revised Statement of Licensing Policy |
| Introduction | 4 | | Updated | Introduction updated to reflect current population figures. |
| Applications for Premises Licences and Club Premises Certificates | 11 | 6.20 | Insertion of paragraph making specific reference to the safety of women and girls, including encouragement to implement schemes such as “Ask for Angela” | To prevent crime and disorder and promote public safety by encouraging operators of licensed premises to do all that they can to ensure that all people, particularly women and girls, feel safe on a night out. |
| Applications for Premises Licences and Club Premises Certificates | 11 | 6.21 | Insertion of paragraph making reference to provision of bleed control kits in licensed premises | To promote public safety by encouraging operators of licensed premises to acquire a bleed control kit that is kept on their premises and that staff are provided training on how to use the kit. |

| Section Heading | Page | Paragraph | Description of amendment | Reason for amendment |
|---|---|---|---|---|
| Applications for Premises Licences and Club Premises Certificates | 11 | 6.22 | Insertion of paragraph making reference to the conduct of risk assessments to consider the need for the provision of hand-held metal detectors (knife wands) | To prevent crime and disorder and promote public safety by encouraging operators of licensed premises to conduct a risk assessment to consider the need for the provision and use of hand-held metal detectors, sometimes referred to as “knife wands” to deter and prevent people from carrying knives and other weapons into their premises. |
| Applications for Premises Licences and Club Premises Certificates | 14 | 6.36 | Insertion of reference to alcohol delivery services and age-verification procedures | To protect children from harm by making clear that the licensing authority expects those that offer alcohol deliver services to have in place robust age-verification procedures at both the point of sale and the point of delivery to ensure that alcohol is not purchased by, or delivered to, children. |
| Martyn’s Law | 21 | 10.0 – 10.6 | Insertion of section to provide information regarding upcoming legislation commonly referred to as “Martyn’s Law” | To provide information to licence holders on upcoming legislation that aims to keep people safe, enhance national security and reduce the risk to the public from terrorism by the protection of public venues. |

| Section Heading | Page | Paragraph | Description of amendment | Reason for amendment |
|---|---|---|---|---|
| Integrating Strategies and Partnership Working | 33 | 18.0 – 18.4 | Updated to show relevant strategies | To encourage partnership working |
| Equalities | 33 | 19.1 – 19.6 | Section rewritten and expanded to include reference to the public sector equality duty and confirm that the licensing authority will have regard to this when determining individual applications for authorisations. Also now encourages applicants and licence holders to consider access and facilities for customers with protected characteristics in the design and layout of their premises. Also now signposts the website of the Equality Advisory Support Service (EASS) | To provide information to applicants, licence holders and the public on how the Council will seek to fulfil their duties under the Equality Act 2010 and in order to try and help others to fulfil their own such duties. |
| Relationship with Planning | 31 | 21.4 – 21.6 | Additional paragraphs inserted making reference to the “agent of change” principle. This is the expectation in the National Planning Policy Framework that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). | To provide information regarding this principle to applicants, licence holders and the general public. |

# Q1 In what capacity are you responding to this consultation?

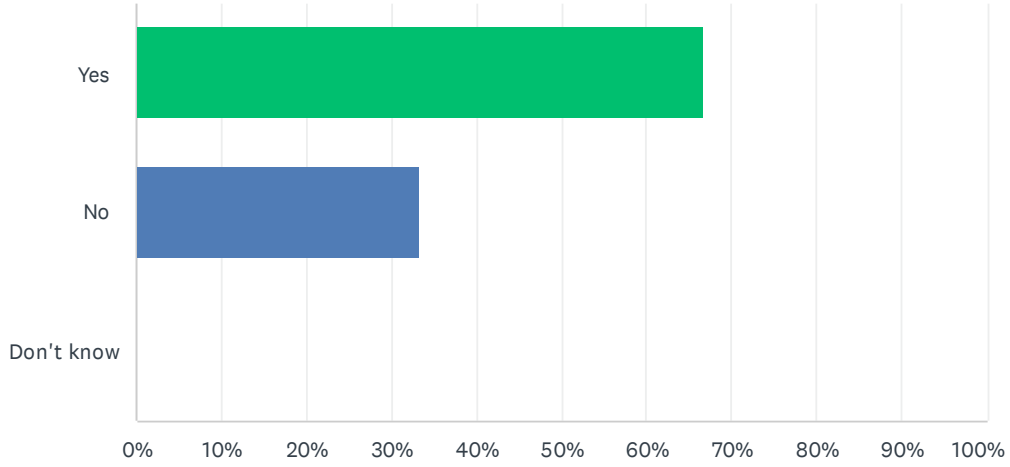
Answered: 3 Skipped: 0




| ANSWER CHOICES | RESPONSES | |
|---|---|---|
| A local resident | 33.33% | 1 |
| A licensed business | 0.00% | 0 |
| A member of a local group or organisation | 33.33% | 1 |
| A responsible authority | 0.00% | 0 |
| A district, town or parish councillor | 33.33% | 1 |
| TOTAL | | 3 |

# Q2 Do you agree with the proposed changes being made relating to section 6 of the draft revised Statement of Licensing Policy “Applications for Premises Licences and Club Premises certificates”?

Answered: 3 Skipped: 0




| ANSWER CHOICES | RESPONSES | |
|---|---|---|
| Yes | 66.67% | 2 |
| No | 33.33% | 1 |
| Don't know | 0.00% | 0 |
| TOTAL | | 3 |

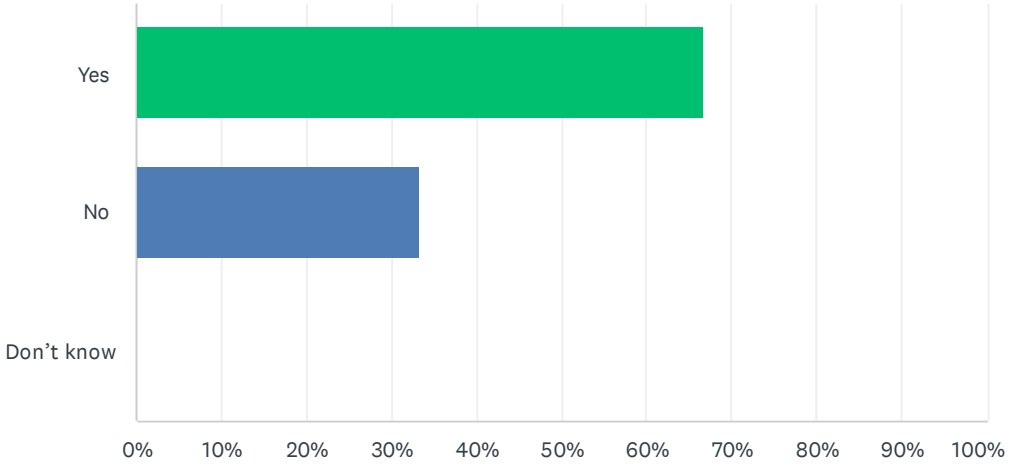
# Q3 Please provide an explanation and reasons for your answer.

Answered: 2 Skipped: 1

| # | RESPONSES | DATE |
|---|---|---|
| 1 | Addendum There will be a requirement to have an up-to-date policy or SOP for handling the following (evaluated every 12 months):- Ask for Angela. - Drink spiking - Knife crime or incident. This is a zero-cost for the firm, but adds duty for the owner to maintain a baseline for employees to refer to. 6.20,6.21 | 8/20/2024 5:58 PM |
| 2 | Seem very sensible and in line with things highlighted in national news. | 8/20/2024 8:16 AM |

# Q4 Do you agree with the inclusion of the new section 10 of the draft revised Statement of Licensing Policy, relating to the Terrorism (Protection of Premises) Bill, also known as Martyn's Law?

Answered: 3 Skipped: 0




| ANSWER CHOICES | RESPONSES | |
|---|---|---|
| Yes | 66.67% | 2 |
| No | 33.33% | 1 |
| Don't know | 0.00% | 0 |
| TOTAL | | 3 |

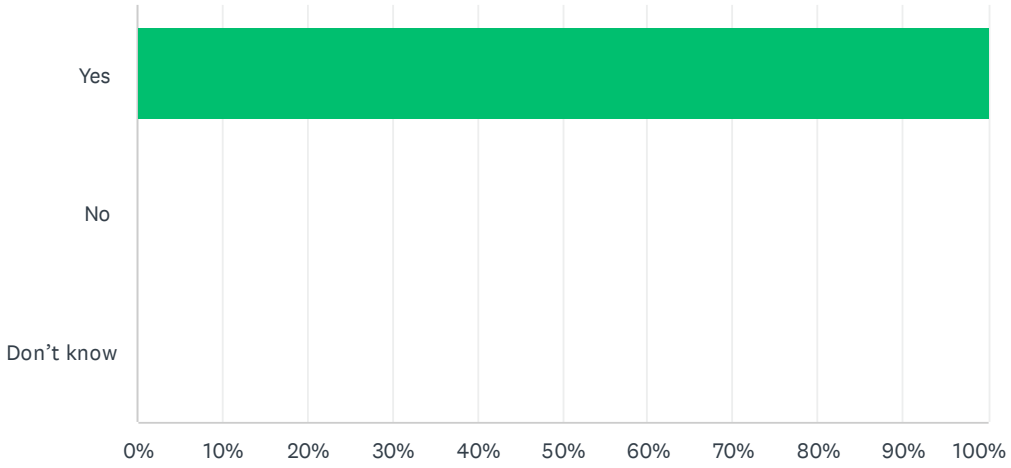
# Q5 Please provide an explanation and reasons for your answer.

Answered: 2 Skipped: 1

| # | RESPONSES | DATE |
|---|---|---|
| 1 | There is no rule as it stands, but companies should be expected to be'ready' when hosting events in open space with a capacity of more than 2000 people. Again, for venues with a capacity of 150 or more and just two escape routes (typical practice: one entry, one fire escape). 'Ready' should be described as having a plan, akin to a fire evacuation drill. Outlining travel routes, staff responsibilities, and basic hide, run, tell training for employees. | 8/20/2024 5:58 PM |
| 2 | It’s clear there is the possibility of terrorist activity everywhere. | 8/20/2024 8:16 AM |

# Q6 Do you agree with the changes being proposed to section 19 of the draft revised Statement of Licensing Policy relating to “Equalities” ?

Answered: 3 Skipped: 0




| ANSWER CHOICES | RESPONSES | |
|---|---|---|
| Yes | 100.00% | 3 |
| No | 0.00% | 0 |
| Don’t know | 0.00% | 0 |
| TOTAL | | 3 |

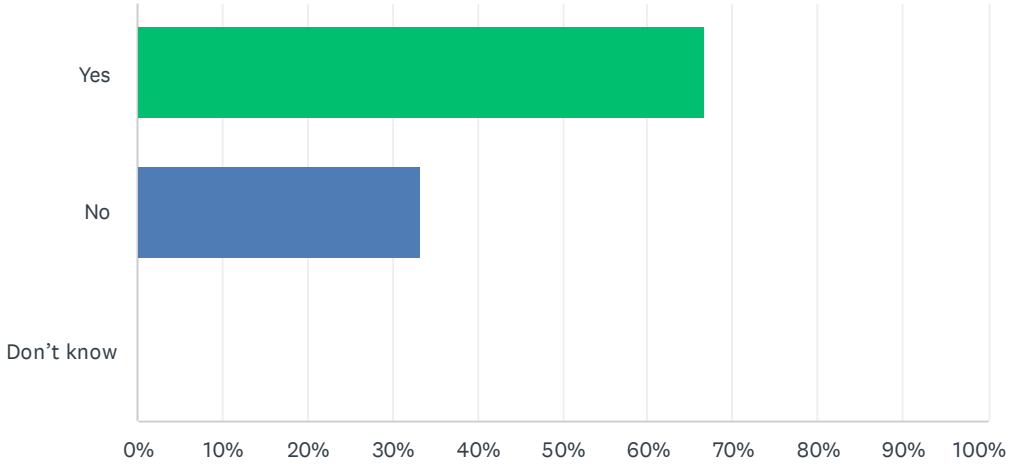
# Q7 Please provide an explanation and reasons for your answer.

Answered: 2 Skipped: 1

| # | RESPONSES | DATE |
|---|---|---|
| 1 | No further commentary | 8/20/2024 5:58 PM |
| 2 | Sensible re wording | 8/20/2024 8:16 AM |

# Q8 Do you agree with the changes being proposed to section 21 of the draft revised Statement of Licensing Policy relating to the “Relationship with Planning” ?

Answered: 3 Skipped: 0




| ANSWER CHOICES | RESPONSES | |
|---|---|---|
| Yes | 66.67% | 2 |
| No | 33.33% | 1 |
| Don’t know | 0.00% | 0 |
| TOTAL | | 3 |

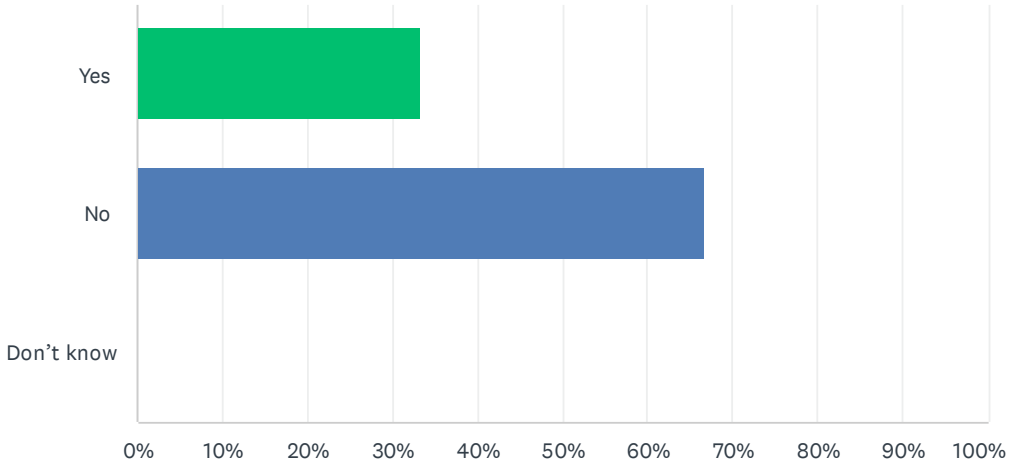
# Q9 Please provide an explanation and reasons for your answer.

Answered: 1 Skipped: 2

| # | RESPONSES | DATE |
|---|---|---|
| 1 | 21.5 Existing businesses and facilities should not face unjustified limitations and/ or restrictions placed on them as a result of development that occurred after they were established. 21.6 Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') will be required by the local planning authority to provide suitable or appropriate mitigation before the development has been completed. 21.4 Where there is an application for planning permission, the National Planning Policy Framework expects the new developments to be integrated effectively with existing businesses and community amenities (such as places of worship, pubs, music venues and sports clubs). Consultation should be made to stakeholders 50 meters surrounding the new planned development. | 8/20/2024 5:58 PM |

# Q10 Do you think the Council should make any other changes or add anything further to the draft revised Statement of Licensing Policy?

Answered: 3 Skipped: 0




| ANSWER CHOICES | RESPONSES | |
|---|---|---|
| Yes | 33.33% | 1 |
| No | 66.67% | 2 |
| Don't know | 0.00% | 0 |
| TOTAL | | 3 |

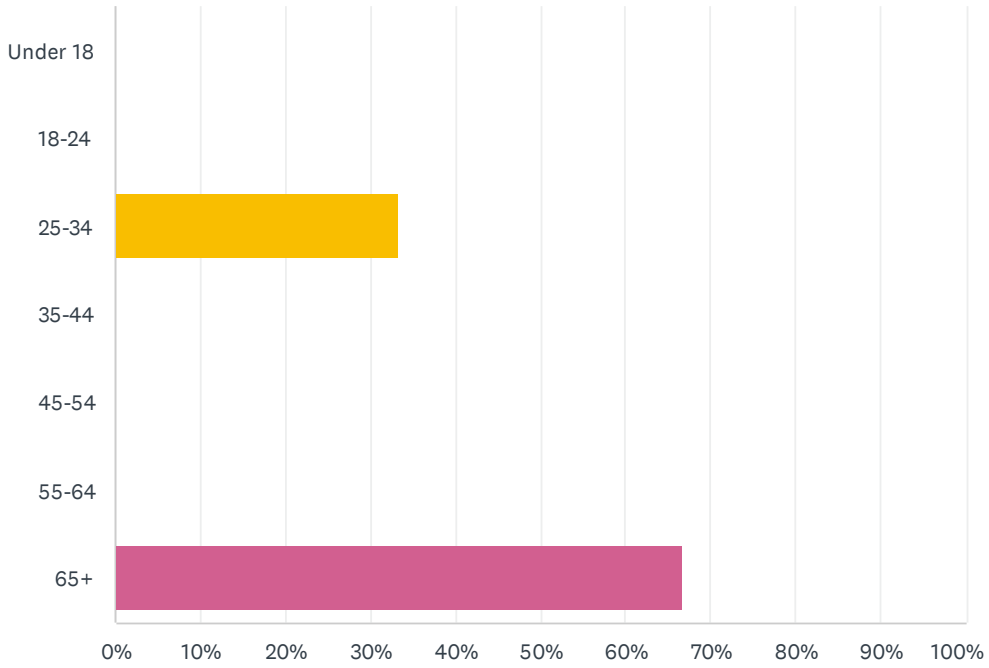
# Q11 Please provide an explanation and reasons for your answer.

Answered: 0 Skipped: 3

| # | RESPONSES | DATE |
|---|---|---|
| | There are no responses. | |

# Q12 What is your age?

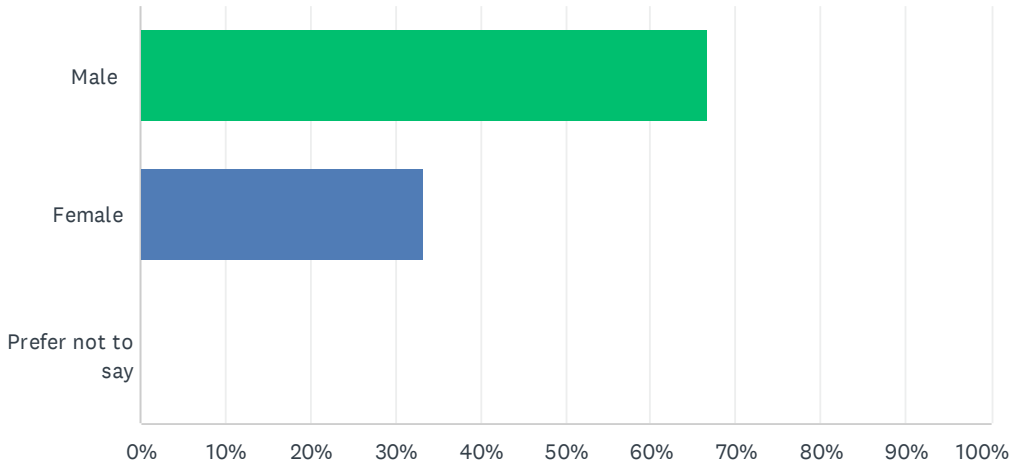
Answered: 3 Skipped: 0




| ANSWER CHOICES | RESPONSES | |
|---|---|---|
| Under 18 | 0.00% | 0 |
| 18-24 | 0.00% | 0 |
| 25-34 | 33.33% | 1 |
| 35-44 | 0.00% | 0 |
| 45-54 | 0.00% | 0 |
| 55-64 | 0.00% | 0 |
| 65+ | 66.67% | 2 |
| TOTAL | | 3 |

# Q13 What is your sex?

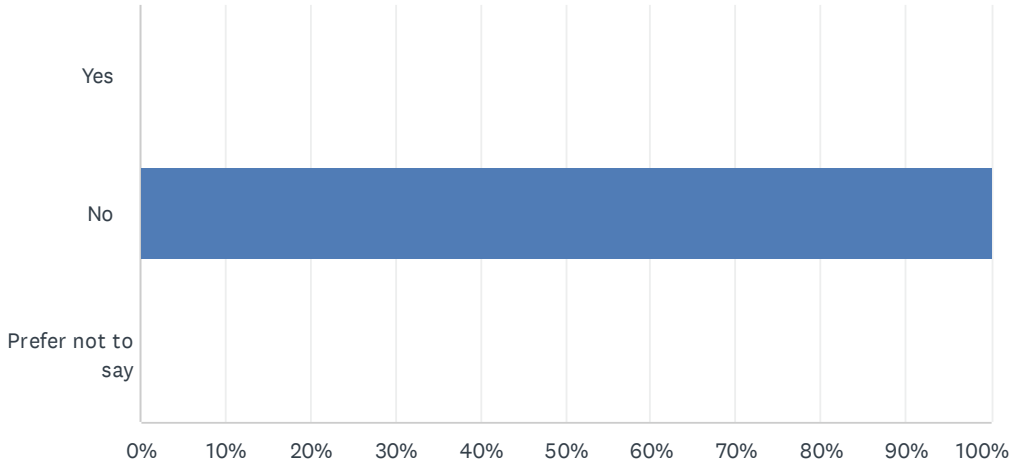
Answered: 3 Skipped: 0




| ANSWER CHOICES | RESPONSES | |
|---|---|---|
| Male | 66.67% | 2 |
| Female | 33.33% | 1 |
| Prefer not to say | 0.00% | 0 |
| TOTAL | | 3 |

# Q14 Do you consider yourself to have a disability (as defined in the Equality Act 2010)?

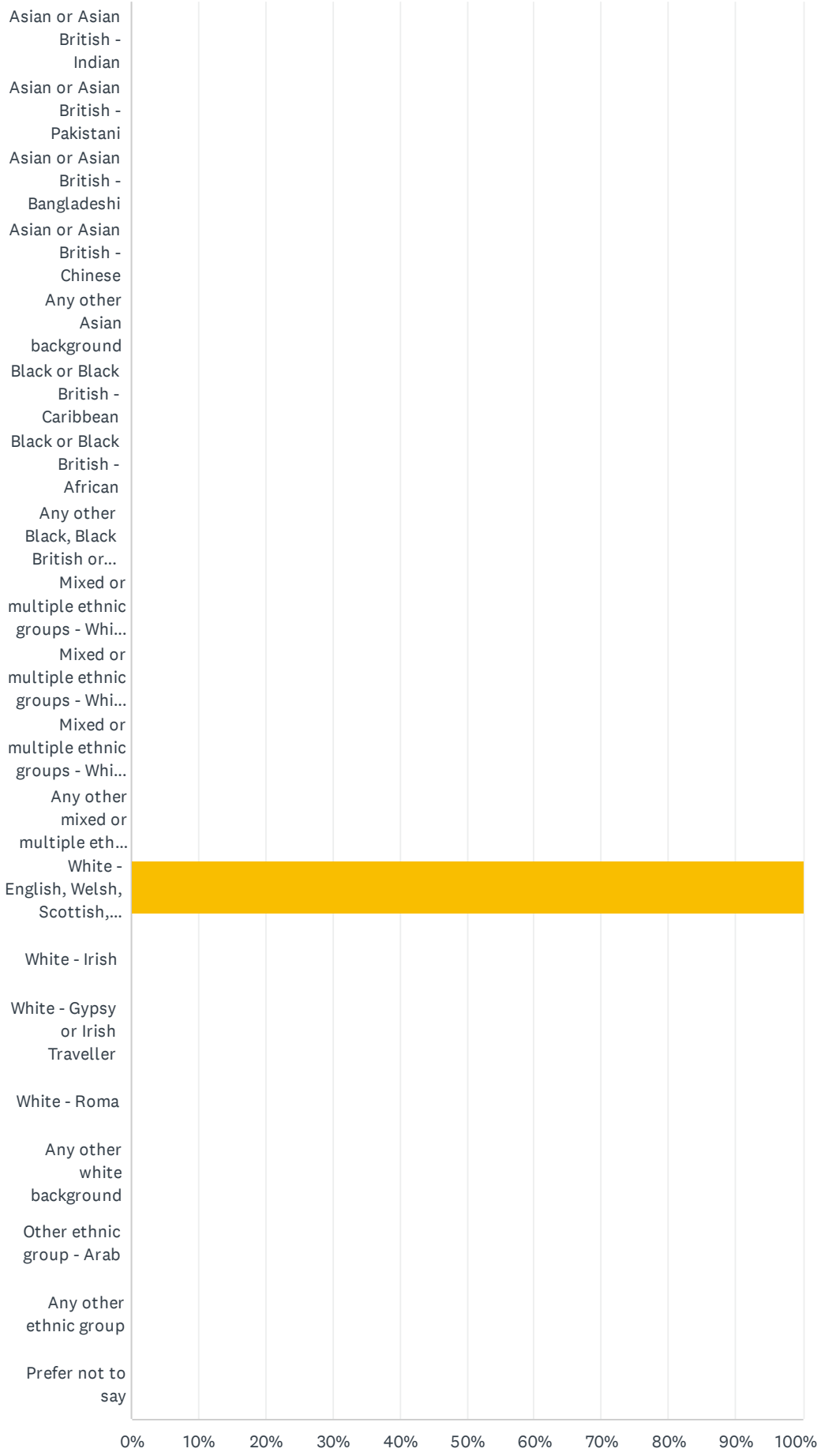
Answered: 3 Skipped: 0




| ANSWER CHOICES | RESPONSES | |
|---|---|---|
| Yes | 0.00% | 0 |
| No | 100.00% | 3 |
| Prefer not to say | 0.00% | 0 |
| TOTAL | | 3 |

# Q15 Please select your ethnicity.

Answered: 3 Skipped: 0


Asian or Asian British - Indian
Asian or Asian British - Pakistani
Asian or Asian British - Bangladeshi
Asian or Asian British - Chinese
Any other Asian background
Black or Black British - Caribbean
Black or Black British - African
Any other Black, Black British or...
Mixed or multiple ethnic groups - Whi...
Mixed or multiple ethnic groups - Whi...
Mixed or multiple ethnic groups - Whi...
Any other mixed or multiple eth...
White - English, Welsh, Scottish,...
White - Irish
White - Gypsy or Irish Traveller
White - Roma
Any other white background
Other ethnic group - Arab
Any other ethnic group
Prefer not to say
0%
10%
20%
30%
40%
50%
60%
70%
80%
90%
100%

| ANSWER CHOICES | RESPONSES | |
|---|---|---|
| Asian or Asian British - Indian | 0.00% | 0 |
| Asian or Asian British - Pakistani | 0.00% | 0 |
| Asian or Asian British - Bangladeshi | 0.00% | 0 |
| Asian or Asian British - Chinese | 0.00% | 0 |
| Any other Asian background | 0.00% | 0 |
| Black or Black British - Caribbean | 0.00% | 0 |
| Black or Black British - African | 0.00% | 0 |
| Any other Black, Black British or Caribbean background | 0.00% | 0 |
| Mixed or multiple ethnic groups - White and Black Caribbean | 0.00% | 0 |
| Mixed or multiple ethnic groups - White and Black African | 0.00% | 0 |
| Mixed or multiple ethnic groups - White and Asian | 0.00% | 0 |
| Any other mixed or multiple ethnic background | 0.00% | 0 |
| White - English, Welsh, Scottish, Northern Irish or British | 100.00% | 3 |
| White - Irish | 0.00% | 0 |
| White - Gypsy or Irish Traveller | 0.00% | 0 |
| White - Roma | 0.00% | 0 |
| Any other white background | 0.00% | 0 |
| Other ethnic group - Arab | 0.00% | 0 |
| Any other ethnic group | 0.00% | 0 |
| Prefer not to say | 0.00% | 0 |
| TOTAL | | 3 |

# WYRE FOREST DISTRICT COUNCIL

## LICENSING AND ENVIRONMENTAL COMMITTEE

**7th OCTOBER 2024**

## PAVEMENT LICENSING

## THE BUSINESS & PLANNING ACT 2020

| OPEN | |
|---|---|
| **CABINET MEMBER:** | Councillor Tracey Onslow |
| **RESPONSIBLE OFFICER:** | Head of Worcestershire Regulatory Services on behalf of Wyre Forest District Council |
| **CONTACT OFFICER:** | Niall McMenamin<br>Principal Licensing Officer<br>01905 822799<br>enquiries@worcsregservices.gov.uk |
| **APPENDICES:** | **Appendix 1** – Draft Pavement Licensing Policy<br><br>**Appendix 2** – Survey responses |

## 1. PURPOSE OF REPORT

1.1. The Council has been given responsibility for the issuing of pavement licences under the Business and Planning Act 2020. The licensing regime, which was implemented during the Covid-19 pandemic and was intended to be temporary, has now been made permanent.

1.2. On the 5th August 2024 the Licensing and Environmental Committee approved a draft Pavement Licensing Policy for consultation purposes. The results of the consultation are now being reported back to the Committee for consideration, prior to approval and publication.

## 2. RECOMMENDATION

**The Committee is asked to:**

**2.1. Approve and publish the draft Pavement Licensing Policy shown at Appendix 1, having considered the responses received during the consultation with stakeholders.**

## 3. BACKGROUND

3.1. On 5th August 2024 the Licensing and Environmental Committee received a report which provided details on the pavement licensing scheme introduced under the Business and Planning Act 2020, which was then made permanent on 31st March 2024 by virtue of the commencement of provisions made in the Levelling-up and Regeneration Act 2023.

3.2. During the meeting, the Committee were informed of some important amendments which had been made to the pavement licensing regime, including extending the consultation and determination periods in respect of applications from 7 to 14 days each, new Council enforcement and compliance powers to serve notices and remove furniture which has been placed on the highway without permission and details of the new licence fees which have now been set and approved by Council.

3.3. Following consideration of the above, the Licensing and Environmental Committee approved a draft Pavement Licensing Policy for the purpose of consultation with relevant parties.

## 4. KEY ISSUES

4.1. Consultation on the draft Pavement Licensing Policy was undertaken with all relevant parties including:

- The Chief Officer of West Mercia Police.
- Hereford and Worcester Fire and Rescue Service.
- The Planning Authority.
- The Highways Authority.
- Kidderminster BID.
- Relevant Hospitality Business.
- Trade Associations.
- Current Licence Holders.
- Worcestershire Childrens First.
- District, Town and Parish Councils.
- The General Public.

4.2. The consultation was made available for comment on the Council's website via an online questionnaire. Details of the consultation were also published in the Council's online publication the Wyred Weekly and publicised via social media. A link to the survey was sent by email directly to relevant stakeholders.

4.3. Whilst there is no statutory consultation period, the consultation was open for completion between 19th August 2024 and the 16th September 2024.

4.4. In response to the consultation, 4 responses were received by the Council. A copy of the consultation responses is shown at **Appendix 2**.

4.5. Of the responses received, respondents have raised the following concerns with the policy.

i. Town Councillors excluded from commenting on applications

ii. Clarity regarding licensing enforcement and compliance

iii. Other items placed on the highway

4.6. Officers can confirm that in response to the above points:

i. Whilst not consulted directly, both Wyre Forest town and parish Councillors are NOT excluded from responding to pavement licence applications, during relevant consultation periods.

ii. The Business and Planning Act 2020 has introduced new enforcement powers for local authorities to deal with tables and chairs placed on the highway without authorisation. Page 10, sec 8.0 clearly details the powers now available to the council to deal with any non- compliance of the regulations.

iii. The pavement licensing policy regulates and controls the placing of tables and chairs on the highway by hospitality premises only. The placing of any other items on the highway is still the responsibility of the relevant Highways Authority, controlled under the Highways Act 1980.

4.7. Having carefully and fully considered the responses received during the consultation exercise, officers do not conclude that any amendments need to be made to the version of the draft Pavement Licensing Policy that was consulted upon.

4.8. Therefore, Members are now asked to consider the responses received during the consultation and resolve to approve and publish the Pavement shown at **Appendix 1**.

## 5. FINANCIAL IMPLICATIONS

5.1. The costs involved in carrying out the consultation have been met from existing budgets held by Worcestershire Regulatory Services and the Council.

5.2. The resource implications for Worcestershire Regulatory Services, arising from the implementation and ongoing administration of the permanent regime, will need to be reflected in the Council's future contributions to the Worcestershire Regulatory Services budget, net of the income from fees. At present, there are two pavement licences in issue in the district, but it is believed that perhaps six to ten business should apply for one if they wish to continue using the pavement for their activities.

5.3. While it is hoped that the process of issuing licences will be self-funding, other costs could arise in the case of enforcement activity, such as removing and storing furniture placed on the highway without authorisation. If such enforcement actions become necessary in Wyre Forest, any costs would be recovered in the first instance from the business concerned as set out in the draft policy.

5.4. If the business declines to pay, then the furniture will be disposed of, leaving some residual costs which would have to be met on ad hoc basis by the Council – in much the same way as it has to meet costs that fall irregularly and are not part of the base budget for WRS (such as public health funerals). It is impossible to predict whether any such costs would arise. They are not expected to be significant and, with enforcement activity planned in the first year, the expectation is that compliance by businesses will be high.

## 6. LEGAL AND POLICY IMPLICATIONS

6.1. In addition to the legislation set out in the body of this report, when determining pavement licence applications, the Council must have regard to the Guidance issued by the Secretary of State.

6.2. The Guidance states that to help support local businesses and give them more certainty, the expectation is that local authorities are pragmatic and will grant licences for the maximum period of 2 years, unless there are good reasons for granting a licence for a shorter period such as plans for future changes in use of road space.

6.3. There is no statutory right of appeal in the 2020 Act in relation to the Council's decision in relation to a pavement licence application. As with any decision, however, it is subject to the possibility of judicial review.

6.4. 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.

## 7. EQUALITY AND ENVIRONMENTAL IMPACT ASSESSSMENTS

7.1. In its consideration of this report and its recommendations, the Council must have due regard to public sector equality duty under section 149 of the Equality Act 2010. In summary section 149 provides that a Public Authority must, in the exercise of its functions, have due regard to the need to:

a) eliminate discrimination harassment, victimisation and any other conduct that is prohibited by or under this Act

b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and

c) foster good relations between persons who share a relevant protected characteristics and persons who do not share it.

7.2. Section 149 (7) of the Equality Act 2010 defines the relevant protected characteristics as age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

7.3. Officers have undertaken an Equality Impact Assessment which has identified that people with disabilities, such as those with visual impairments such as full or partial sight loss may be affected by the placing of street furniture on the highway, therefore relevant groups representing those persons identified were be contacted directly and invited to put forward their comments as part of the consultation.

## 8. RISK MANAGEMENT

8.1. It is considered best practice to have in place a clear and transparent policy that sets out the approach the Council takes in respect of its pavement licensing functions.

8.2. It is also considered best practice to carry out consultation on any such policy before it is implemented, in order to minimise the risks of any legal challenge to any aspects of that policy.

8.3. Failing to regulate or control the siting of tables and chairs from hospitality premises on the highway, may lead to unnecessary and inappropriate pavement or highways obstructions.

## 9. CONCLUSION

9.1. The Policy aims to provide clarity to applicants and interested parties on how the Licensing Authority will determine applications for Pavement licences under the new legislation.

9.2. Approving and publishing a suitable policy will go some way to ensuring that the social impact of tables and chairs placed on the highway by hospitality premises within the district is mitigated, as the locations will be considered and assesses for suitability prior to any licences being issued. This should go some way to enhancing the district's hospitality offering.

9.3. Having consulted on the draft Pavement Licensing Policy and having considered the responses received, The Licensing and Environmental

Committee is now asked to approve and publish the Pavement Licensing Policy shown at **Appendix 1**, with immediate effect.

## 10. CONSULTEES

10.1. Solicitor to the Council, Legal Services.

## 11. BACKGROUND PAPERS

11.1. Guidance on Pavement Licences, published by the (then) Department for Levelling Up, Housing and Communities.
Pavement licences: guidance - GOV.UK (www.gov.uk)

Wyre Forest District Council

# DRAFT Policy on Pavement Licensing

## Business and Planning Act 2020

October 2024

Wyre Forest House, Finepoint Way, Kidderminster, DY11 7WF

# WYRE FOREST DISTRICT COUNCIL

# POLICY ON PAVEMENT LICENSING

# BUSINESS AND PLANNING ACT 2020

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## 1.0 BACKGROUND AND INTRODUCTION

1.1 Pavement licences are issued by the Council under the provisions of the Business and Planning Act 2020.

1.2 The Business and Planning Act 2020 created a streamlined process to allow businesses to apply for a licence to place removable furniture over certain parts of the highway. The regime was made permanent by the Levelling Up and Regeneration Act 2023.

1.3 This policy sets out the Council's approach to its functions and responsibilities with regard to the issue of pavement licences in its area. The policy document sets out several relevant matters including:

- The scope and key terms of the legislation.
- The Council's requirements in respect of applications for licences.
- The general approach and matters that the Council will take into account when determining applications for licences, including those who will be consulted.
- The conditions that the Council will attach to licences granted or deemed to be granted.
- The Council's approach to enforcement and revocation of licences.
- The delegation scheme for decisions by the Council.

1.4 In formulating this policy, the Council has had due regard to the guidance issued by the Secretary of State under section 8 of the Business and Planning Act 2020.

## 2.0 SCOPE OF THE LICENSING REGIME AND DEFINITION OF KEY TERMS

**What businesses can apply for licences?**

2.1 Pavement licences can be applied for by businesses that use (or propose to use) premises for the sale of food or drink for consumption on or off the premises. Businesses that are eligible include public houses, cafes, bars, restaurants, snack bars, coffee shops, and ice cream parlours including where such uses form an ancillary aspect of another use, for example supermarkets or entertainment venues that also sell food or drink.

2.2 Businesses that do not use their premises for the sale of food or drink, for example hairdressing salons, are ineligible. However, these businesses can apply to the relevant highway authority for permission to place furniture on the pavement under provisions contained in part 7A of the Highways Act 1980.

**What furniture can be permitted by a licence?**

2.3 A pavement licence can only permit the business to place removable furniture on a relevant highway. The Business and Planning Act 2020 states that furniture means:

a) counters or stalls for selling or serving food or drink,

b) tables, counters or shelves on which food or drink can be placed,

c) chairs, benches or other forms of seating,

d) umbrellas, barriers, heaters and other articles used in connection with the outdoor consumption of food or drink;

2.4 This furniture is required to be removable and related to the serving, sale and consumption of food or drink.

2.5 The Council will take a pragmatic common-sense approach when determining whether furniture is genuinely "removable." However, in order to be considered removable, the Council expects any furniture to be capable of being moved easily and stored away from the relevant highway each night. Furniture that is fixed to either the ground or to walls, for example with screws or bolts, will not be considered by the Council to be removable furniture.

**What furniture is not capable of being permitted by a pavement licence?**

2.6 Any furniture that is not removable or that is not used in connection with the outdoor selling or consumption of food or drink is not permissible under a pavement licence.

2.7 Advertising boards are not included in the definition of furniture within the pavement licensing regime. As well as needing consent under the Highways Act 1980, advertising boards also require express advertising consent under the Town and Country Planning Regulations 2007.

2.8 Applicants that wish to place non-removable furniture onto the highway must apply to Worcestershire County Council as the relevant highway authority for permission under the Highways Act 1980.

**Where can a licence allow furniture to be placed?**

2.9 A pavement licence can authorise the placing of removable furniture on part of a relevant highway adjacent to the applicable premises.

2.10 The Business and Planning Act 2020 states that "relevant highway" means a highway-

a) to which Part 7A of the Highways Act 1980 applies, and

b) which is not over Crown land or maintained by Network Rail.

2.11 When determining whether the part of the relevant highway is "adjacent" to the applicable premises, the Council will adopt a pragmatic approach and consider each case on its merits. In doing so all relevant factors will be considered including:

- How far the part of the relevant highway is from the frontage of the applicable premises.
- What lies between the part of the relevant highway and the frontage of the applicable premises.
- What other businesses that are eligible to apply for a pavement licence are located in the vicinity of the premises that are the subject of the application.

**Interaction with section 115E of the Highways Act 1980**

2.12 Section 115E of the Highways Act 1980 enables the relevant highway authority (Worcestershire County Council) to grant a person permission to use objects or structures on, in or over the highway:

- for a purpose which will result in the production of income;
- for the purpose of providing a centre for advice or information; or
- for the purpose of advertising.

2.13 Section 115E (5) of the Highways Act 1980 states:

"A council may not under this section grant a person permission to do anything which is capable of being authorised by a pavement licence under section 1 of the Business and Planning Act 2020"

2.14 Therefore, where someone is wishing to place removeable furniture on part of a relevant highway in circumstances that fall in scope of the Business and Planning Act 2020, they must apply for a pavement licence under that legislation.

2.15 In circumstances where someone wishes to use objects or structures on the highway that are not within scope of the Business and Planning Act 2020, they will not be able to apply for a pavement licence but may be able to obtain permission under section 115E of the Highways Act 1980. Any such requests for permission must be made to Worcestershire County Council.

## 3.0 APPLYING FOR A LICENCE

**Types of application**

3.1 The process to apply for a pavement licence will depend on whether the application is an application for the GRANT of a licence or for RENEWAL of a licence.

3.2 In order to be considered a RENEWAL application, an application must:

(a) be made by a person who already holds a pavement licence,

(b) be in respect of the premises to which the existing licence relates,

(c) be for a licence to begin on the expiry of the existing licence and on the same terms.

3.3 A renewal application must therefore be made before the existing licence has expired. If the existing licence has already expired when the application is made, it will not be treated as a renewal application and will instead be treated as an application for the grant of a licence.

3.4 Likewise, if the licence holder wishes to change any of the terms of their licence, including amending the part of the relevant highway where the licence permits the furniture to be placed, then the application will not be treated as a renewal application and will instead be treated as an application for the grant of a licence.

**Applying for the GRANT of a pavement licence:**

3.5 Applications must be made on the Council's standard application form and must be submitted electronically to enquiries@worcsregservices.gov.uk along with the required supporting documentation and evidence that the required application fee has been paid.

3.6 Applications for the grant of a licence must be accompanied by:

- A plan showing the location of the premises shown by a red line, so the application site can be clearly identified.
- A plan clearly showing the proposed area covered by the licence in relation to the highway, if not to scale, with measurements clearly shown. The plan must show the positions and number of the proposed tables and chairs, together with any other items of furniture that they wish to place on the highway. The plan shall include clear measurements of, for example, pathway width/length, building width and any other fixed item in the proposed area.
- A copy of a current certificate of insurance that covers the activity for third party and public liability risks, to a minimum value of £5 million.
- Photos or brochures showing the proposed type of furniture (including the means of enclosure such as barriers) and information on potential siting of it within the area applied.
- Evidence of consent from neighbouring frontage(s) to use footway space outside their property (if applicable).

3.7 The application fee is non-refundable in the event that the application is refused or withdrawn or if any licence granted is subsequently surrendered or revoked.

3.8 An application will not be considered complete until the application form, all required documents and the application fee have all been received. The public consultation period will not commence until the day after a complete application has been made.

**Applying for the RENEWAL of a pavement licence:**

3.9 Applications must be made on the Council's standard application form and must be submitted electronically to enquiries@worcsregservices.gov.uk along with the required supporting documentation and evidence that the required application fee has been paid.

3.10 Applications for the grant of a licence must be accompanied by:

- A copy of a current certificate of insurance that covers the activity for third party and public liability risks, to a minimum value of £5 million.

3.11 The application fee is non-refundable in the event that the application is refused or withdrawn or if any licence granted is subsequently surrendered or revoked.

3.12 A renewal application will not be considered complete until the application form, all required documents and the application fee have all been received. The public

consultation period will not commence until the day after a complete application has been made.

## 4.0 ADVERTISING AND CONSULTING ON APPLICATIONS

4.1 The Act requires an applicant for a pavement licence to

a) On the day the application is made, fix a notice of the application to the premises so that the notice is readily visible to, and can be read easily by, members of the public who are not on the premises, and

b) Ensure that the notice remains in place until the end of the public consultation period which means the period of 14 days beginning with the day after that on which the application is made.

4.2 A template notice for use by applicants can be found at Annex A of this policy.

4.3 Before determining an application, the Council will consult the following bodies:

- Worcestershire County Council (the highway authority).
- West Mercia Police.
- Hereford and Worcester Fire and Rescue Service.
- Environmental Health Officers at Worcestershire Regulatory Services.
- Economic Development Officers / Town Centre Managers.
- The Business Improvement District (BID) if there is one.
- The relevant Ward Member(s) for the District Council.

4.4 Details of applications received and the relevant public consultation periods for each application will also be published at:

www.worcsregservices.gov.uk/licensing/pavement-licences.aspx

## 5.0 DETERMINING APPLICATIONS

5.1 The Council recognises the aims of the Business and Planning Act 2020 and wants to support relevant businesses to achieve growth and economic prosperity in the hospitality sector. The Council will therefore seek to grant applications for licences where possible.

5.2 This general approach has to be balanced with the need to ensure that the issuing of pavement licences:

- Does not put public health or safety at risk.
- Does not lead to anti-social behaviour or public nuisance.
- Ensures that the public, particularly those with disabilities such as sight impairment, are unhampered when walking along streets.

5.3 The Council will consider all of the relevant circumstances in determining applications and will treat each case on its merits.

5.4 In particular the Council will consider whether the licence holder is able to comply with both the Council's published standard licence conditions and the statutory licence conditions set out in section 5 (5) and section 5 (6) of the Business and Planning Act 2020.

5.5 When determining individual applications, the Council will also have regard to the guidance issued by the Secretary of State under section 8 of the Business and Planning Act 2020.

5.6 The Council will not grant a licence where doing so would lead to any of the following effects:

(a) preventing traffic, other than vehicular traffic, from:

i. entering the relevant highway at a place where such traffic could otherwise enter it (ignoring any pedestrian planning order or traffic order made in relation to the highway),

ii. (ii) passing along the relevant highway, or

iii. (iii) having normal access to premises adjoining the relevant highway,

(b) preventing any use of vehicles which is permitted by a pedestrian planning order or which is not prohibited by a traffic order,

(c) preventing statutory undertakers having access to any apparatus of theirs under, in, on or over the highway, or

(d) preventing the operator of an electronic communications code network having access to any electronic communications apparatus kept installed for the purposes of that network under, in, on or over the highway.

5.7 When considering whether furniture put on a relevant highway by a licence holder pursuant to a pavement licence has or would have the effect referred to in paragraph (a) above, the Council will have regard in particular to the needs of disabled people, and the recommended distances required for access by disabled people as set out in guidance issued by the Secretary of State.

5.8 This list is not exhaustive, and the Council may refuse an application on other grounds including (but not limited to) where the granting of the licence would put at risk public health or safety, lead to antisocial behaviour or public nuisance or unreasonably hamper pedestrians' ability to move freely.

5.9 The Council will consider any objections or comments received in respect of the application during the public consultation period, whether made by the bodies consulted or any other person, before the application is determined.

5.10 Given the important role it undertakes in maintaining the safety of users of the highway, it is extremely unlikely that a licence will be granted or renewed where objections to an application are received from the highway authority.

5.11 Having considered any objections or comments received in respect of the application, the Council may:

a) Grant a licence subject to the standard conditions.

b) Grant a licence subject to the standard conditions and any other reasonable conditions that are considered appropriate in the circumstances of each case.

c) Refuse the application.

## 6.0 LICENCES DEEMED TO BE GRANTED

6.1 The Council aims to determine all applications within the determination period provided by the Act. That means that applications will be granted or refused within the period of 14 days beginning with the first day after the public consultation period has ended.

6.2 However, if the Council does not make a determination by the end of the determination period, section 3 (9) of the Act provides that the licence for which the application was made is deemed to be granted by the Council to the applicant.

## 7.0 LICENCE DURATION AND CONDITIONS

**Duration of licences**

7.1 Unless previously surrendered or revoked, all licences granted by the Council will be valid for a period of two years and will then expire.

7.2 Unless previously surrendered or revoked, any licence deemed granted under section 3 (9) of the Act will be valid for two years starting with the first day after the determination period.

**Licence conditions**

7.3 All pavement licences, whether granted or deemed granted, will be subject to the Council's published standard conditions. These are published at Annex B to this policy statement.

7.4 All pavement licences, whether granted or deemed granted, will also be subject to the statutory conditions provided for under section 5(4) of the Business and Planning Act 2020. The statutory conditions are shown at Annex C to this policy statement.

7.5 In addition to the standard conditions and statutory conditions, further reasonable conditions may be attached to individual licences (other than those deemed granted) as the Council considers appropriate in the circumstances of the case having regard to any comments or objections received during the public consultation period. The need for further conditions beyond the standard conditions will be considered on a case-by-case basis.

## 8.0 COMPLIANCE AND ENFORCEMENT

**Putting removable furniture on part of a relevant highway without permission**

8.1 In cases where removable furniture which would normally be permitted by a pavement or other licence has been placed on a relevant highway without the required licence, appropriate advice will be given to the relevant business on how they can apply for a licence.

8.2 If no licence application is received and the furniture continues to be placed on a relevant highway without the required licence, the Council can give notice requiring the business to remove the furniture before a date specified and to refrain from putting furniture on the highway unless they gain a licence.

8.3 If furniture continues to be placed on the highway, in violation of the notice, the Council may remove and store the furniture, recover the costs from the business for the removal and storage of the furniture and refuse to return the furniture until those costs have been paid.

8.4 If within 3 months of the notice, the costs are not paid, the authority can dispose of the furniture by sale or other means and retain the proceeds.

**Breaches of licence condition**

8.5 The Council will always seek rectification by the licence-holder of any issues arising as a consequence of the activities authorised by a pavement licence by engaging in informal discussions with the licence holder in the first instance.

8.6 However, if this informal approach does not resolve the issues in a satisfactory way, then formal action can be taken as detailed below.

8.7 If the Council considers that a licence-holder has breached any condition of the licence, the authority may:

a) revoke the licence, or

b) serve a notice on the licence-holder requiring the taking of such steps to remedy the breach as are specified in the notice within such time as is so specified.

8.8 If a licence-holder on whom an enforcement notice is served fails to comply with the notice, the Council may:

a) revoke the licence, or

b) take the steps itself and recover the costs of doing so from the licence holder.

8.9 The Council may also revoke the licence if it considers that:

a) some or all of the part of the relevant highway to which the licence relates has become unsuitable for any purpose in relation to which the licence was granted or deemed to be granted,

b) as a result of the licence:

i. there is a risk to public health or safety, or

ii. anti-social behaviour or public nuisance is being caused or risks being caused,

iii. the highway is being obstructed (other than by anything done by the licence-holder pursuant to the licence),

(c) anything material stated by the licence-holder in their application was false or misleading, or

(d) the licence-holder did not comply with the duty to advertise their application.

8.10 The Council may also, with the consent of the licence-holder, amend a licence if it considers that:

a) some or all of the part of the relevant highway to which the licence relates has become unsuitable for any purpose in relation to which the licence was granted or deemed to be granted,

b) as a result of the licence:

i. there is a risk to public health or safety, or

ii. anti-social behaviour or public nuisance is being caused or risks being caused,

iii. the highway is being obstructed (other than by anything done by the licence-holder pursuant to the licence),

c) a no-obstruction condition of the licence is not being complied with.

8.11 All enforcement activity will be undertaken in line with the principles set out in the Regulators' Code and with regard to any relevant enforcement policies in place.

## 9. EQUALITIES

9.1 Under the Equality Act 2010 it is against the law to discriminate against anyone because of age, gender reassignment, being married or in a civil partnership, being pregnant or on maternity leave, disability, race including colour, nationality, ethnic or national origin, religion or belief, sex, or sexual orientation.

9.2 The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities.

9.3 The licensing authority has had regard to this duty when publishing this statement of policy and will have regard to the duty when determining applications for pavement licences under the Business and Planning Act 2020.

9.4 The licensing authority will also look to discharge this duty by making suitable arrangements where requested 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.

9.5 In the design and layout of their premises and any areas of the highway used to place furniture, applicants and licence holders are encouraged to consider access and facilities for customers with protected characteristics.

9.6 Any person who is concerned that a premises is failing to comply with the Equality Act should make their complaint to the premises in the first instance. Advice can also be sought from the Equality Advisory Support Service (EASS) - www.equalityadvisoryservice.com.

## 10. RIGHTS OF APPEAL

10.1 The Business and Planning Act 2020 does not provide any statutory right of appeal against a decision to refuse or revoke a pavement licence. Nor is there a statutory right of appeal against any enforcement notice served on a licence holder.

10.2 However, clear and justifiable reasons will always be provided if a licence is refused or revoked, or if an enforcement notice is served on a licence holder.

## 11. PLANNING PERMISSION

11.1 If a pavement licence is granted, or deemed to be granted, the applicant will also benefit from deemed planning permission to use the land for anything done pursuant to the licence while the licence is valid and remains in force. A separate planning application is therefore not required.

## 12. HAZARDS OR OBSTRUCTIONS ON THE HIGHWAY

12.1 Notwithstanding the grant or deemed grant of a licence, the highway authority has advised the Council that it reserves the right to remove items that present a hazard or obstruction to highway users.

Wyre Forest District Council

PUBLIC NOTICE

## BUSINESS AND PLANNING ACT 2020

## NOTICE OF APPLICATION FOR A PAVEMENT LICENCE

I / We ……(1)

Do hereby give notice that on …….... (2)

I / we have applied to Wyre Forest District Council for a pavement licence at:

…….. (3)

Known as……..... (4)

The application is for:

……..… (5)

Any person wishing to make representations to this application may do so by writing to enquiries@worcsregservices.gov.uk by:

…… (6)

The application and information submitted with it can be viewed at: www.worcsregservices.gov.uk/licensing/pavement-licences.aspx

Signed ……..

Date …… (7)

**Guidance notes on completing this notice of application.**

Complete the notice by putting the following information in the numbered spaces:

(1) Name of the applicant

(2) Date the application is made (submitted)

(3) Postal address of the premises

(4) Name the premises is known by

(5) Brief description of application (e.g. outdoor seating to the front of the premises for serving of food and drink]).

(6) Last date for representations being the date 14 days after the date the application is submitted to the local authority.

(7) The date the notice was placed (must be the same date as (2) above)

On the same day that the application is made, a completed copy of this notice must be fixed to the premises so that it is readily visible to, and can be read easily by, members of the public who are not on the premises, and secure that the notice remains in place until the end of the public consultation period.

**Failure to comply this requirement may lead to the revocation of any licence granted or deemed granted.**

## ANNEX B – STANDARD CONDITIONS FOR PAVEMENT LICENCES

1. The licence must only be used for the purpose of placing removable furniture on the highway to sell or serve food or drink and/or allow it to be used by people for consumption of food or drink supplied from, or in connection with the use of the licence holder's business premises.

2. Furniture may only be placed within the area of the highway identified on the plan that is annexed to the licence.

3. The licence holder must ensure that furniture is positioned in such a way so that staff can service the space regularly for cleaning and other purposes, in a manner that does not compromise their health and safety.

4. Any furniture shall be kept in a clean, safe and well-maintained condition. Any canopies or umbrellas must be adequately secured.

5. Any furniture must be made of suitable materials to ensure that it cannot easily be pushed or blown over by the wind and thereby cause obstruction. Lightweight plastic "patio" style furniture is therefore not permitted.

6. Clear routes of access along the footway must be maintained, taking into account the needs of disabled people, and the recommended minimum footway widths and distances suggested by the Department for Transport "Inclusive Mobility" guidance document. A minimum useable footway width of 1.5m must be maintained for pavement users including those using mobility aids such as walking frames, wheelchairs, and mobility scooters.

7. The licence holder shall not make excavations or indentations of any description whatsoever in the surface of the highway or place or fix any equipment of any description in the said surface.

8. Unless otherwise specified on the licence, the licence holder must not place any furniture on the highway in pursuance of this licence before 07:00hrs on any day and must remove all furniture placed on the highway in pursuance of this licence when the premises closes or by 23:00hrs on any day, whichever is the earliest.

9. Unless otherwise specified on the licence, all furniture must be stored securely away from the highway between the hours of 23:00hrs and 07:00hrs and at all other times when the premises is closed.

10. The licence holder must observe and comply with any direction made by a Police Officer, Fire and Rescue Officer, or authorised officer of the local authority in relation to the use of the highway, including any direction to remove furniture from the highway. These public bodies will not be liable for any loss of earnings arising as a result of the licence holder being required to comply with such a direction.

11. The licence holder must at all times hold a current certificate of insurance that covers the activity for third party and public liability risks, to a minimum value of £5 million.

12. The area of the highway covered by the licence must be kept clean and tidy at all times. This will include washing down the area, and removing any refuse and litter on the highway in the vicinity of the removable furniture.

13. The licence holder shall not use or allow to be used any music playing, music reproduction or sound amplification apparatus or any musical instruments, radio, or television receiving sets in the area of the highway covered by the licence.

14. The licence holder should use its best endeavours to prevent customers using the area to engage in anti-social or disorderly behaviour.

15. The licence holder must ensure that the area covered by the licence is monitored regularly by staff to ensure that the conditions above are being adhered to. This must include monitoring by any security staff that are required at the premises as a consequence of a premises licence under the Licensing Act 2003.

16. If the premises does not hold a premises licence under the 2003 Act which authorises the sale of alcohol, the licence holder must not allow the sale or consumption of alcohol within the licensed area.

17. Any sales of alcohol within the licensed area must be authorised under the 2003 Act.

18. A copy of the licence must be kept on the premises at all times and be available for inspection by a police officer or authorised officer of the local authority.

## ANNEX C – STATUTORY CONDITIONS FOR PAVEMENT LICENCES

1. Anything done by the licence holder pursuant to the licence, or any activity of other persons which is enabled by the licence, must not have an effect specified in section 3(6). These effects are:

   (a) preventing traffic, other than vehicular traffic, from—

      (i) entering the relevant highway at a place where such traffic could otherwise enter it (ignoring any pedestrian planning order or traffic order made in relation to the highway),

      (ii) passing along the relevant highway, or

      (iii) having normal access to premises adjoining the relevant highway,

   (b) preventing any use of vehicles which is permitted by a pedestrian planning order or which is not prohibited by a traffic order,

   (c) preventing statutory undertakers having access to any apparatus of theirs under, in, on or over the highway, or

   (d) preventing the operator of an electronic communications code network having access to any electronic communications apparatus kept installed for the purposes of that network under, in, on or over the highway.

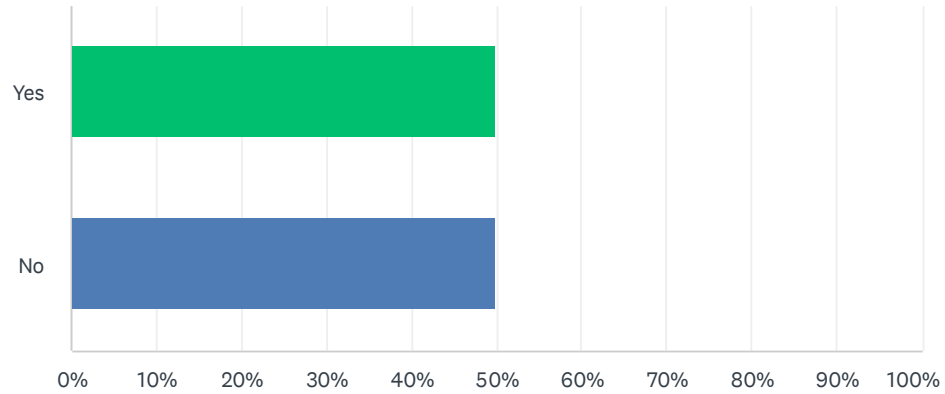
2. Where the furniture to be put on the relevant highway consists of seating for use by persons for the purpose of consuming food or drink, the licence-holder must make reasonable provision for seating where smoking is not permitted.

## ANNEX D – TABLE OF DELEGATED FUNCTIONS

| | Licensing Committee | Licensing Sub-Committee | Head of Regulatory Services |
|---|---|---|---|
| Approval and revision of Policy on Pavement Licensing | X | | |
| Determination of application for grant of a pavement licence (including any specific conditions) | | | X |
| Determination of application for renewal of a pavement licence (including any specific conditions) | | | X |
| Decision to revoke a pavement licence | | X | |
| Decision to serve notice on the licence holder under section 6 of the Business & Planning Act 2020 | | | X |
| Decision to amend a licence with the consent of the licence holder under section 6(4) of the Business & Planning Act 2020 | | | X |
| Decision to serve notice on a person under section 7A of the Business and Planning Act 2020 | | | X |

# Q1 Do you support the new Pavement Licensing policy?

Answered: 4 Skipped: 0




| ANSWER CHOICES | RESPONSES | |
|---|---|---|
| Yes | 50.00% | 2 |
| No | 50.00% | 2 |
| TOTAL | | 4 |

# Q2 If No, please provide an explanation as to why not.

Answered: 2 Skipped: 2

| # | RESPONSES | DATE |
|---|---|---|
| 1 | Why are local Town councillors excluded from commenting on new licence applications? | 8/20/2024 8:23 AM |
| 2 | It is not clear that you have resolved the way in which WFDC operates on behalf of the Highways Authority (WCC). Previously WFDC had the power to issue licences, but not to terminate them or enforce them. It is not clear that this major omission has been addressed. Neither is it clear how licences will be monitored. | 8/19/2024 4:28 PM |

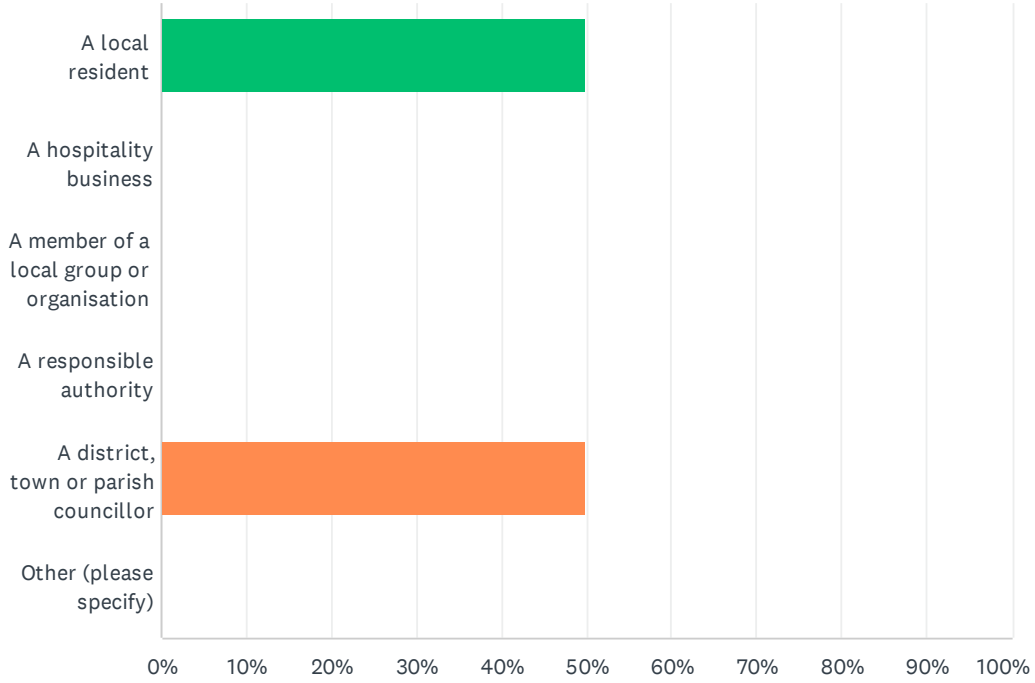
# Q3 Do you have any other comments?

Answered: 2 Skipped: 2

| # | RESPONSES | DATE |
|---|---|---|
| 1 | Seems quite reasonable | 9/3/2024 9:18 AM |
| 2 | It is very important that the clauses regarding people with disabilities are enforced strictly. Wheelchair users should not be forced into the road because of furniture on the pavement. This policy only covers hospitality businesses but there are other shops, like greengrocers, that also put things on the pavement. Is there a policy for them too as they sometimes prevent wheelchairs users from using the pavement. | 9/2/2024 4:46 PM |

# Q4 In what capacity are you responding to this consultation?

Answered: 4 Skipped: 0

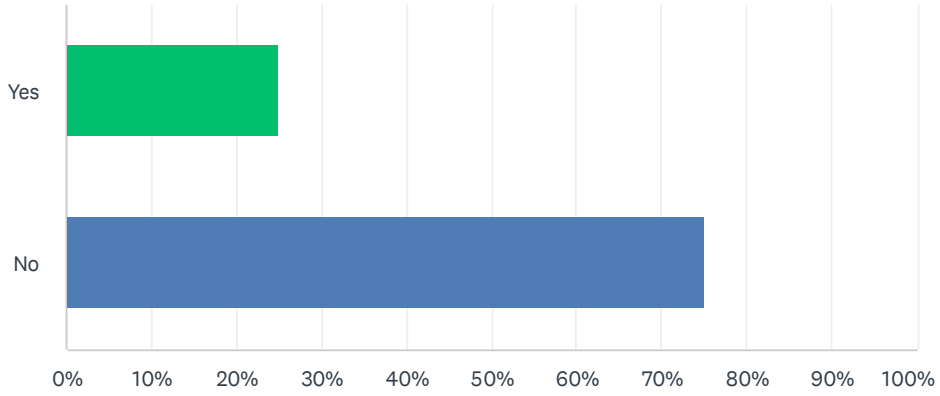



| ANSWER CHOICES | RESPONSES | |
|---|---|---|
| A local resident | 50.00% | 2 |
| A hospitality business | 0.00% | 0 |
| A member of a local group or organisation | 0.00% | 0 |
| A responsible authority | 0.00% | 0 |
| A district, town or parish councillor | 50.00% | 2 |
| Other (please specify) | 0.00% | 0 |
| TOTAL | | 4 |

| # | OTHER (PLEASE SPECIFY) | DATE |
|---|---|---|
| | There are no responses. | |

# Q5 Council's Equality Questions Do you consider yourself to have a Disability?

Answered: 4 Skipped: 0




| ANSWER CHOICES | RESPONSES | |
|---|---|---|
| Yes | 25.00% | 1 |
| No | 75.00% | 3 |
| TOTAL | | 4 |