

# Licensing Sub-Committee

## 26 November 2019



**Time and venue:**

**10.00 am in the Ditchling & Telscombe Rooms - Southover House, Lewes**

**Membership:**

**Councillors Liz Boorman, Sean MacLeod, Milly Manley and Isabelle Linington (reserve).**

**Quorum: 3**

*Published: Monday, 18 November 2019*

## Agenda

- 1 Election of chair of the sub-committee for this meeting**
- 2 Apologies for absence/declaration of substitute members**
- 3 Declarations of interest**

Disclosure by councillors of personal interests in matters on the agenda, the nature of any interest and whether the councillor regards the interest as prejudicial under the terms of the Code of Conduct.

- 4 Premises Licence hearing - 2 Old Court House, Friars Walk, Lewes (Pages 3 - 94)**

## Information for the public

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## Information for councillors

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In the case of a disclosable pecuniary interest (DPI), if the interest is not registered (nor the subject of a pending notification) details of the nature of the interest must be reported to the meeting by the member and subsequently notified in writing to the Monitoring Officer within 28 days.

If a member has a DPI or other prejudicial interest he/she must leave the room when the matter is being considered (unless he/she has obtained a dispensation).

**Councillor right of address:** A member of the Council may ask the Leader, a Cabinet Member or the Chair of a committee or sub-committee any question without notice upon an item of the report of the Cabinet or a committee or subcommittee when that item is being received or under consideration by the Council.

A member of the Council may ask the Chair of a committee or sub-committee a question on any matter in relation to which the Council has powers or duties or which affect the District and which falls within the terms of reference of that committee or subcommittee.

A member must give notice of the question to the Head of Democratic Services in writing or by electronic mail no later than close of business on the fourth working day before the meeting at which the question is to be asked.

## Democratic Services

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**Report to:** Licensing Sub Committee

**Date:** 26 November 2019

**Title:** Application for a Premises Licence. 2 Old Court House, Friars Walk, Lewes

**Report of:** Director of Service Delivery

**Ward(s):** Lewes Bridge

**Purpose of report:** To consider representations made against the Premises Licence application submitted under the Licensing Act 2003 and make a decision on the application

**Officer recommendation(s):** To consider representations made against the Premises Licence application submitted under the Licensing Act 2003 and make a decision on the application

**Reasons for recommendations:** Relevant representations made within consultation period

**Contact Officer(s):** Name: Susan Lindsey  
Post title: Specialist Advisor (Licensing)  
E-mail: sue.lindsey@lewes-eastbourne.gov.uk  
Telephone number: 01273 085210

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## 1 Introduction

- 1.1 Lewes District Council received a Premises Licence application submitted under the Licensing Act 2003 for the premises : Unit 2 Old Court House, Friars Walk, Lewes **Appendix 1**
- 1.2 The applicant is 'SK Restaurants (Sussex) Ltd'
- 1.3 The licensable activities applied for are:
- 1.4 Sale of alcohol for consumption on the premises from 9am to 10.30pm Monday to Sunday (with non standard timings on New Years Eve from 9am to 12.30am the following morning)
- 1.5 Live music (indoors) on New Years Eve from 11pm to 11.55pm
- 1.6 Recorded music (indoors) on New Years Eve from 11pm to 12.30am (the following morning)

- 1.7 Live and recorded music are deregulated within on-licensed premises authorised and open for the sale of alcohol from 08:00hrs to 23:00hrs for audiences up to 500. Live unamplified music does not need a licence anywhere and with no audience limit between 08:00hrs to 23:00hrs.
- 1.8 The applicant has submitted the following steps to promote the four licensing objectives.
- 1.8.1 General
- 1.8.2 The premises will trade as a New York style restaurant with associated bar area.
- 1.8.3 All alcohol and late night refreshment will be served to tables by waiter/waitress apart from the bar area outlined in blue on the deposited plan.
- 1.8.4 The prevention of crime and disorder
- 1.8.5 CCTV shall be in use at the premises.
- 1.8.6 The CCTV equipment shall be maintained in good working order and continually record when licensable activity takes place and for a period of two hours afterwards.
- 1.8.7 The premises licence holder shall ensure images from the CCTV are retained for a period of 31 days. This image retention period may be reviewed as appropriate by the Licensing Authority.
- 1.8.8 If the CCTV equipment (including any mobile units in use at the premises) breaks down, the Premises Licence Holder shall ensure the designated premises supervisor, or in his/her absence, other responsible person, verbally informs the Licensing Authority and the Police as soon as reasonably practicable. This information shall be contemporaneously recorded in the incident report register and shall include the time, date and means this was done and to whom the information was reported. Equipment failures shall be repaired or replaced as soon as is reasonable practicable and without undue delay. The Licensing Authority and the Police shall be informed when faults are rectified.
- 1.8.9 The premises Licence holder shall ensure that there are trained members of staff available during licensable hours to be able to reproduce and download CCTV images into a removable format at the request of an authorised officer of the Licensing Authority or a Constable.
- 1.8.10 Public Safety
- 1.8.11 CCTV shall be in use at the premises at all times
- 1.8.12 The prevention of public nuisance
- 1.8.13 The premises will display signage asking patrons to leave quietly.
- 1.8.14 CCTV will be in operation outside the premises to the rear and front.

1.8.15 The Protection of Children from Harm

1.8.16 An approved proof of age scheme shall be adopted, implemented and advertised within the premises such as 'Challenge 25' whereby an accepted form of photographic identification shall be requested before any alcohol is sold to any person who appears to be under 25 years of age. Acceptable proof of age shall include identification bearing the customers photograph, date of birth and integral holographic mark or security measure. Suitable means of identification would include PASS approved proof of age card, photo-card driving licence and passport.

1.8.17 Publicity materials notifying customers of the operation of the Challenge 25 scheme shall be displayed at the premises, including a Challenge 25 sign of a least A5 size at the entrance to the premises and where practicable at each point of sale.

1.8.18 The premises licence holder shall require the designated premises supervisor, or in his/her absence other responsible person, to keep an 'incident/refusals' logbook in a bound book in which full details of all incidents are recorded. This shall include details of any refused sales and shall give details of the persons involved, incident description, time and date, actions taken and final outcome of the situation. This shall be completed as soon as possible and in any case no later than the close of business on the day of the incident. The time and date when the report was completed, and by whom, is to form part of the entry. The logbook is to be kept on the premises at all times and shall be produced to any authorised officer of the Licensing Authority or a constable when required.

1.9 If granted, the above (1.8.1 to 1.8.18) will be included on the Premises Licence as conditions, along with the mandatory conditions, and any conditions the Sub Committee may impose following relevant representations.

1.10 The application has been advertised in line with the Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005.

## **2 Background information**

2.1 Unit 2, The Old Courthouse is situated in Friars Walk in the centre of town close to the town precinct with its variety of retail and food business premises. Street and aerial views of the premises are attached at **Appendix 2**

2.2 There are residential properties within 50 meters to the south of the site in Friars Walk, and a new development of flats opposite called 'The Friars' comprising 24 Manhattan style apartments.

2.3 Behind the premises is a public car park comprising approximately 80 parking bays.

- 2.4 Above the premises is the Premier Inn accommodating a 62 bedroom hotel with its own restaurant facilities and an alcohol licence (issued in 2013) for Monday to Sunday until 12.30am (with residents permitted the sale of alcohol 24 hours).
- 2.5 Fuego Lounge is situated in Unit 1. This premises provides restaurant facilities and has an alcohol licence (issued in June 2017) for Sunday to Wednesday until 11pm, Thursday to Saturday until 12 Midnight.
- 2.6 Unit 2 was licensed in October 2015 to Aqua Italia Limited who operated a restaurant at this premises until its closure in early 2019. The premises licence during the period of this restaurant's opening was for the sale of alcohol for consumption on and off the premises Monday to Sunday from 10am to 12 midnight, and late refreshment Monday to Sunday 11pm to 12.30am (the following morning). The premises licence also allowed non standard timings for the sale of alcohol on each New Years Eve until 2am New Years Day, and for late night refreshment until 2.30am on New Years Day. This licence lapsed in July 2019.

### 3. **Representation received from Responsible Authorities:**

Police: Response received – provided steps offered by the applicant are attached to the licence if granted, they have no objection.

Environmental Health: No comment

Fire Officer: No comment

ESCC – Child Protection: No comment

Trading Standards: No comment

Health & Safety: No comment

Planning: No comment

Public Health: No comment

Home Office Immigration: No comment

- 3.1 A copy of the Police response is in **Appendix 3**

### 4. **Representation received from others**

- 4.1 There have been 5 emails of objection regarding this application from members of the public. These have been submitted on the grounds that the application will undermine the licensing objectives of public nuisance and crime and disorder **Appendix 4**

### 5. **Mediation**

- 5.1 On the basis of the representations received and the opinions expressed, it is considered unlikely that this application will be successfully mediated before the Sub Committee Hearing.

### 6 **Licensing Sub Committee Considerations**

- 6.1 In determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the Licensing Authority must give appropriate weight to:



- The steps that are appropriate to promote the licensing objectives
- The representations presented by all the parties
- The Home Office Guidance issued under Section 182 of the Licensing Act 2003
- The Lewes District Council Statement of Licensing Policy
- Any other relevant legislation

## 7 Licensing Policy Considerations:

7.1 Lewes District Council has produced a Statement of Licensing Policy in order to comply with its duties and powers under the Licensing act 2003. It covers the licensable activities for retail sale of alcohol, live and recorded music, which is the subject of this application **Appendix 5**

7.2 The aims of the Policy are to secure the safety and amenity of residential communities, to help ensure a sustainable environment and provide regulation of the cultural/entertainment industry, and to promote the four Licensing Objectives of the Act; namely:

- Prevention of crime and disorder
- Public safety
- Prevention of public nuisance
- Protection of children from harm

7.3 The three guiding principles (set out in Paragraph 4 of the Licensing Policy) adopted by the Council as the Licensing Authority serve as a general guide to the Council when it carries out its licensing functions.

7.4 In each case that arises following representation, the Policy states that the Council will:

- Consider the potential for public nuisance, crime and disorder and/or danger to public safety associated with the style, characteristics and activities of the business involved and the rights of residents to peace and quiet.
- Examine the potential steps which could be taken to reduce the risk of public nuisance, crime and disorder and/or danger to public safety, particularly in areas of dense residential accommodation.
- Consider restricting the hours of trading in cases where there are good grounds for believing that the licensing objectives will be or are being undermined.

## 8 National Guidance

8.1 Relevant sections relating to the Home Office Guidance issued under section 182 of the Licensing Act are attached.

8.2 Particular reference should be made to **Appendix 6** paragraph 2.21 These sections cover:

- The Licensing Objectives **Appendix 6**

- Hearing Regulations **Appendix 7**
- Conditions **Appendix 8**

## **9 Other Relevant Legislation**

9.1 The Licensing Sub Committee should be mindful of requirements and responsibilities placed on them by other legislation. These include, but are not limited to, having due regard to the Equality Act 2010 and the Human Rights Act 1998.

## **10 Options**

10.1 When considering this application for a Premises Licence, the following options are available to the Sub Committee:

- Grant the Licence in the same terms as it was applied for
- Grant the Licence, but modify the conditions
- Grant the Licence, but modify the hours of licensable activity
- Refuse to issue the Licence

## **11 Rights of Appeal**

11.1 Under Section 181 and Schedule 5 of the Act, there is a right of appeal to the Magistrates' Court in respect of applications for new licences. This right of appeal is open to both the applicant and to any person who has made relevant representation. The appeal application must be made within 21 days of the written notification of the Sub Committees decision.

## **12 Recommendation**

12.1 Members are requested to determine the application made by SK Restaurants (Sussex) Ltd for a new Premises Licence. Members are requested to give reasons for their determination.

## **13 Financial appraisal**

13.1 There are no financial implications associated with this report.

## **14 Legal implications**

14.1 This Report was considered by the Legal Section on 5 November 2019 (IKEN-8697-MW).

## **15 Risk management implications**

15.1 There are no risks associated with the content of this report.

## **16 Equalities & Fairness Screening**

16.1 An Equality Analysis is not constructive in this instance.

## **17 Sustainability and/or carbon reduction implications**

17.1 There are no sustainability and/or carbon reduction implications associated with this report.

## **18 Appendices**

- Appendix 1 - Application for a Premises Licence
- Appendix 2 - Street and Aerial views of premises showing proximity to residential premises
- Appendix 3 - Police response to consultation
- Appendix 4 - 5 x email representations
- Appendix 5 - Lewes District Council Statement of Licensing Policy
- Appendix 6 - National Guidance – The Licensing Objectives
- Appendix 7 - Hearing Regulations
- Appendix 8 - National Guidance – Conditions

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LEGEND  
 — DEMISE - UNIT 2  
 ZZZZZZ EXTERNAL TERRACE - UNIT 2

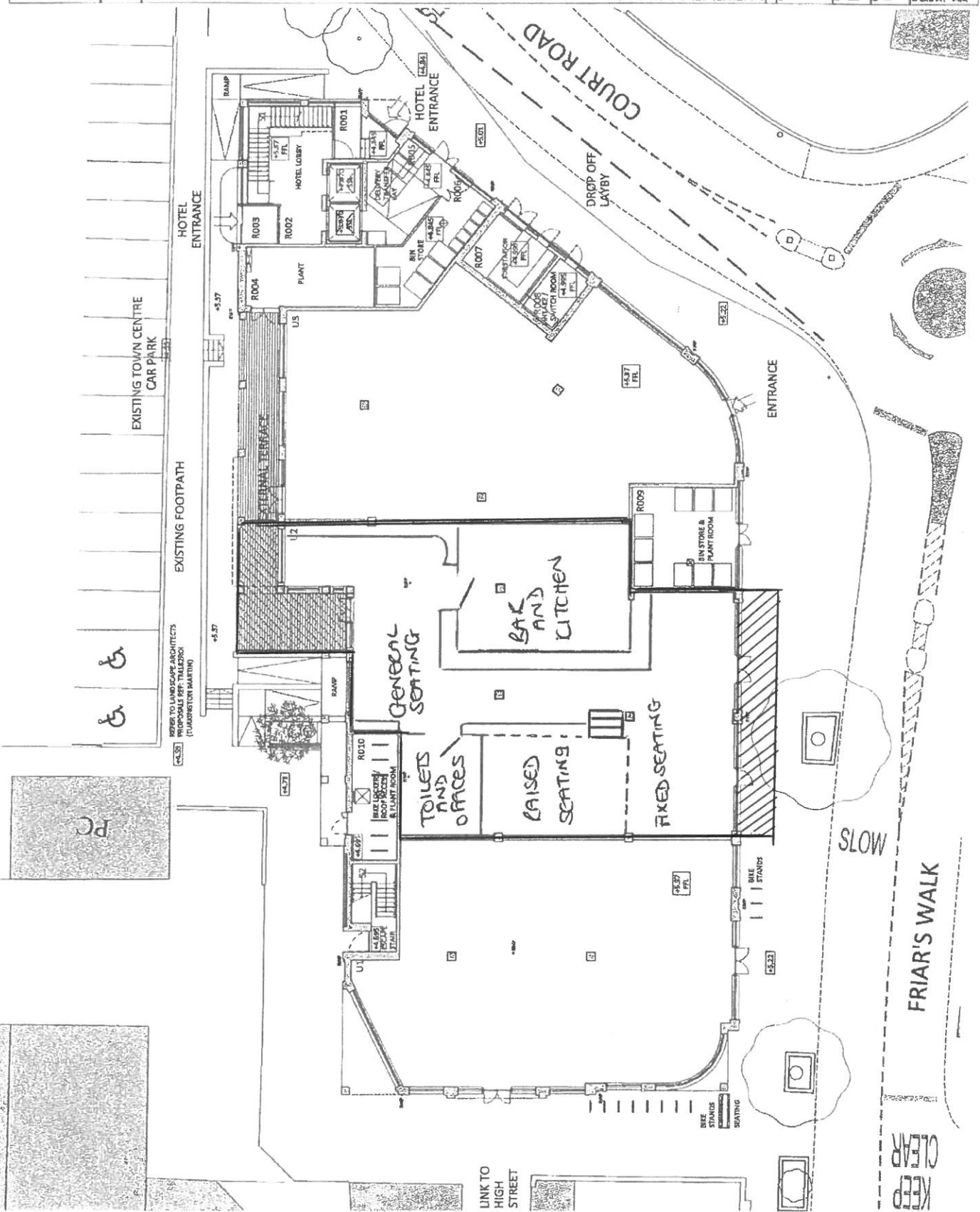
NOTE:  
 AGREEMENT FOR LEASE DRAWING



E	20/07/15	1st Issue - Lease Agreement
D	07/07/15	4th Issue - Agreement For Lease
C	07/07/15	3rd Issue - For Information
B	07/07/15	2nd Issue - For Information
A	09/06/15	1st Issue - For Information
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REVISIONS		
CLIENT		

PROJECT  
 FRIAR'S WALK, LEWES  
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**Application for a premises licence to be granted under the Licensing Act 2003**

**PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST**

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

I/We SK Restaurants (Sussex) Limited

*(Insert name(s) of applicant)*

**apply for a premises licence under section 17 of the Licensing Act 2003 for the premises described in Part 1 below (the premises) and I/we are making this application to you as the relevant licensing authority in accordance with section 12 of the Licensing Act 2003**

**Part 1 – Premises details**

Postal address of premises or, if none, ordnance survey map reference or description 2 Old Court House, Friars Walk			
<b>Post town</b>	Lewes	<b>Postcode</b>	BN7 2FS
Telephone number at premises (if any)			
Non-domestic rateable value of premises		£78,000.00	

**Part 2 - Applicant details**

Please state whether you are applying for a premises licence as **Please tick as appropriate**

- a) an individual or individuals \*  please complete section (A)
- b) a person other than an individual \*
- i) as a limited company/limited liability partnership  please complete section (B)
- ii) as a partnership (other than limited liability)  please complete section (B)
- iii) as an unincorporated association or  please complete section (B)
- iv) other (for example a statutory corporation)  please complete section (B)
- c) a recognised club  please complete section (B)
- d) a charity  please complete section (B)

- e) the proprietor of an educational establishment  please complete section (B)
- f) a health service body  please complete section (B)
- g) a person who is registered under Part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital in Wales  please complete section (B)
- ga) a person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 (within the meaning of that Part) in an independent hospital in England  please complete section (B)
- h) the chief officer of police of a police force in England and Wales  please complete section (B)

\* If you are applying as a person described in (a) or (b) please confirm (by ticking yes to one box below):

- I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities; or
- I am making the application pursuant to a  
 statutory function or   
 a function discharged by virtue of Her Majesty's prerogative

**(A) INDIVIDUAL APPLICANTS** (fill in as applicable)

Mr <input type="checkbox"/>	Mrs <input type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other Title (for example, Rev)	
<b>Surname</b>			<b>First names</b>		
<b>Date of birth</b>		I am 18 years old or over <input type="checkbox"/> Please tick yes			
<b>Nationality</b>					
Current residential address if different from premises address					
Post town		Postcode			
<b>Daytime contact telephone number</b>					
<b>E-mail address (optional)</b>					
Where applicable (if demonstrating a right to work via the Home Office online right to work checking service), the 9-digit 'share code' provided to the applicant by that service (please see note 15 for information)					



**SECOND INDIVIDUAL APPLICANT (if applicable)**

Mr <input type="checkbox"/>	Mrs <input type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other Title (for example, Rev)	
<b>Surname</b>			<b>First names</b>		
<b>Date of birth</b>		I am 18 years old or over <input type="checkbox"/> Please tick yes			
<b>Nationality</b>					
Where applicable (if demonstrating a right to work via the Home Office online right to work checking service), the 9-digit 'share code' provided to the applicant by that service: (please see note 15 for information)					
Current residential address if different from premises address					
Post town		Postcode			
<b>Daytime contact telephone number</b>					
<b>E-mail address (optional)</b>					

**(B) OTHER APPLICANTS**

**Please provide name and registered address of applicant in full. Where appropriate please give any registered number. In the case of a partnership or other joint venture (other than a body corporate), please give the name and address of each party concerned.**

<b>Name</b> SK Restaurants (Sussex) Limited
<b>Address</b> Apartment 97 Pilgrims Way, Salford, England, M50 1AW
<b>Registered number (where applicable)</b> 12116802
<b>Description of applicant (for example, partnership, company, unincorporated association etc.)</b> Limited Company

Telephone number (if any) 07545183935
E-mail address (optional) casey@hixongreen.co.uk

**Part 3 Operating Schedule**

When do you want the premises licence to start?

DD	MM	YYYY
2	0	1 0 2 0 1 9

If you wish the licence to be valid only for a limited period, when do you want it to end?

DD	MM	YYYY

<p>Please give a general description of the premises (please read guidance note 1)</p> <p>Restaurant, café and wine bar serving breakfast, lunch and dinner. Predominantly food-led with a bistro style feel, high end wines and cocktails</p>
--

If 5,000 or more people are expected to attend the premises at any one time, please state the number expected to attend.

--

What licensable activities do you intend to carry on from the premises?

(please see sections 1 and 14 and Schedules 1 and 2 to the Licensing Act 2003)

Provision of regulated entertainment (please read guidance note 2)

Please tick all that apply

- a) plays (if ticking yes, fill in box A)
- b) films (if ticking yes, fill in box B)
- c) indoor sporting events (if ticking yes, fill in box C)
- d) boxing or wrestling entertainment (if ticking yes, fill in box D)
- e) live music (if ticking yes, fill in box E)
- f) recorded music (if ticking yes, fill in box F)
- g) performances of dance (if ticking yes, fill in box G)
- h) anything of a similar description to that falling within (e), (f) or (g) (if ticking yes, fill in box H)

**Provision of late night refreshment** (if ticking yes, fill in box I)

**Supply of alcohol** (if ticking yes, fill in box J)

**In all cases complete boxes K, L and M**

**A**

<b>Plays</b> Standard days and timings (please read guidance note 7)			<b><u>Will the performance of a play take place indoors or outdoors or both – please tick</u></b> (please read guidance note 3)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
<b>Day</b>	<b>Start</b>	<b>Finish</b>	<b><u>Please give further details here</u></b> (please read guidance note 4)		
Mon					
Tue			<b><u>State any seasonal variations for performing plays</u></b> (please read guidance note 5)		
Wed					
Thur			<b><u>Non standard timings. Where you intend to use the premises for the performance of plays at different times to those listed in the column on the left, please list</u></b> (please read guidance note 6)		
Fri					
Sat					
Sun					

**B**

<b>Films</b> Standard days and timings (please read guidance note 7)			<b><u>Will the exhibition of films take place indoors or outdoors or both – please tick</u></b> (please read guidance note 3)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<b><u>Please give further details here</u></b> (please read guidance note 4)		
Mon					
Tue			<b><u>State any seasonal variations for the exhibition of films</u></b> (please read guidance note 5)		
Wed					
Thur			<b><u>Non standard timings. Where you intend to use the premises for the exhibition of films at different times to those listed in the column on the left, please list</u></b> (please read guidance note 6)		
Fri					
Sat					
Sun					

C

Indoor sporting events Standard days and timings (please read guidance note 7)			<u>Please give further details</u> (please read guidance note 4)
Day	Start	Finish	
Mon			
Tue			<u>State any seasonal variations for indoor sporting events</u> (please read guidance note 5)
Wed			
Thur			<u>Non standard timings. Where you intend to use the premises for indoor sporting events at different times to those listed in the column on the left, please list</u> (please read guidance note 6)
Fri			
Sat			
Sun			

**D**

<b>Boxing or wrestling entertainments</b> Standard days and timings (please read guidance note 7)			<b><u>Will the boxing or wrestling entertainment take place indoors or outdoors or both – please tick</u></b> (please read guidance note 3)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish			
Mon			<b><u>Please give further details here</u></b> (please read guidance note 4)		
Tue					
Wed			<b><u>State any seasonal variations for boxing or wrestling entertainment</u></b> (please read guidance note 5)		
Thur					
Fri			<b><u>Non standard timings. Where you intend to use the premises for boxing or wrestling entertainment at different times to those listed in the column on the left, please list</u></b> (please read guidance note 6)		
Sat					
Sun					

**E**

<b>Live music</b> Standard days and timings (please read guidance note 7)			<b>Will the performance of live music take place indoors or outdoors or both – please tick</b> (please read guidance note 3)	Indoors	<input checked="" type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<b>Please give further details here</b> (please read guidance note 4)		
Mon	17:00	22:00			
Tue	17:00	22:00	<b>State any seasonal variations for the performance of live music</b> (please read guidance note 5) New Years Eve 17:00 – 23:55		
Wed	17:00	22:00			
Thur	17:00	22:00	<b>Non standard timings. Where you intend to use the premises for the performance of live music at different times to those listed in the column on the left, please list</b> (please read guidance note 6)		
Fri	17:00	22:00			
Sat	17:00	22:30			
Sun	16:00	21:00			



**F**

Recorded music Standard days and timings (please read guidance note 7)			Will the playing of recorded music take place <u>indoors or outdoors or both – please tick</u> (please read guidance note 3)	Indoors	<input checked="" type="checkbox"/>
Day	Start	Finish		Outdoors	<input type="checkbox"/>
Mon	06.30	22.30	<b>Please give further details here</b> (please read guidance note 4)	Both	<input type="checkbox"/>
Tue	06.30	22.30			
Wed	06.30	22.30	<b>State any seasonal variations for the playing of recorded music</b> (please read guidance note 5) New Years Eve 06.30 – 0.30		
Thur	06.30	22.30			
Fri	06.30	22.30	<b>Non standard timings. Where you intend to use the premises for the playing of recorded music at different times to those listed in the column on the left, please list</b> (please read guidance note 6)		
Sat	06.30	23.00			
Sun	06.30	22.30			

**G**

<b>Performances of dance</b> Standard days and timings (please read guidance note 7)			<b><u>Will the performance of dance take place indoors or outdoors or both – please tick</u></b> (please read guidance note 3)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish	<b><u>Please give further details here</u></b> (please read guidance note 4)		
Mon					
Tue					
Wed			<b><u>State any seasonal variations for the performance of dance</u></b> (please read guidance note 5)		
Thur					
Fri			<b><u>Non standard timings. Where you intend to use the premises for the performance of dance at different times to those listed in the column on the left, please list</u></b> (please read guidance note 6)		
Sat					
Sun					

# H

<b>Anything of a similar description to that falling within (e), (f) or (g)</b> Standard days and timings (please read guidance note 7)			Please give a description of the type of entertainment you will be providing		
Day	Start	Finish	<b><u>Will this entertainment take place indoors or outdoors or both – please tick</u></b> (please read guidance note 3)	Indoors	<input type="checkbox"/>
Mon				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Tue			<b><u>Please give further details here</u></b> (please read guidance note 4)		
Wed					
Thur			<b><u>State any seasonal variations for entertainment of a similar description to that falling within (e), (f) or (g)</u></b> (please read guidance note 5)		
Fri					
Sat			<b><u>Non standard timings. Where you intend to use the premises for the entertainment of a similar description to that falling within (e), (f) or (g) at different times to those listed in the column on the left, please list</u></b> (please read guidance note 6)		
Sun					

**I**

<b>Late night refreshment</b> Standard days and timings (please read guidance note 7)			<b>Will the provision of late night refreshment take place indoors or outdoors or both – please tick</b> (please read guidance note 3)	Indoors	<input type="checkbox"/>
				Outdoors	<input type="checkbox"/>
				Both	<input type="checkbox"/>
Day	Start	Finish			
Mon			<b><u>Please give further details here</u></b> (please read guidance note 4)		
Tue					
Wed			<b><u>State any seasonal variations for the provision of late night refreshment</u></b> (please read guidance note 5)		
Thur					
Fri			<b><u>Non standard timings. Where you intend to use the premises for the provision of late night refreshment at different times, to those listed in the column on the left, please list</u></b> (please read guidance note 6)		
Sat					
Sun					

**J**

<b>Supply of alcohol</b> Standard days and timings (please read guidance note 7)			<b>Will the supply of alcohol be for consumption – please tick</b> (please read guidance note 8)	On the premises	<input checked="" type="checkbox"/>
				Off the premises	<input type="checkbox"/>
				Both	<input type="checkbox"/>
<b>Day</b>	<b>Start</b>	<b>Finish</b>	<b>State any seasonal variations for the supply of alcohol</b> (please read guidance note 5) New Years Eve 09.00 – 0.30		
Mon	09.00	22.30			
Tue	09.00	22.30			
Wed	09.00	22.30			
Thur	09.00	22.30			
Fri	09.00	22.30			
Sat	09.00	22.30			
Sun	09.00	22.30	<b>Non standard timings. Where you intend to use the premises for the supply of alcohol at different times to those listed in the column on the left, please list</b> (please read guidance note 6)		

State the name and details of the individual whom you wish to specify on the licence as designated premises supervisor (Please see declaration about the entitlement to work in the checklist at the end of the form):

<b>Name</b> Karen Conley	
<b>Date of birth</b> 18 <sup>th</sup> January 1974	
<b>Address</b> 15 Smalls Mead Crawley	
<b>Postcode</b>	RH11 7DN
<b>Personal licence number (if known)</b> 19/02188/LAPER	
<b>Issuing licensing authority (if known)</b> Crawley Borough Council	

**K**

**Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children (please read guidance note 9).**

**L**

<p><b>Hours premises are open to the public</b> Standard days and timings (please read guidance note 7)</p>			<p><b>State any seasonal variations</b> (please read guidance note 5) New Years Eve – 06.30 -01.00</p>
Day	Start	Finish	<p><b><u>Non standard timings. Where you intend the premises to be open to the public at different times from those listed in the column on the left, please list</u></b> (please read guidance note 6)</p>
Mon	06.30	23.00	
Tue	06.30	23.00	
Wed	06.02	23.00	
Thur	06.30	23.00	
Fri	06.30	23.00	
Sat	06.30	23.00	
Sun	06.30	23.00	

## M

Describe the steps you intend to take to promote the four licensing objectives:

**a) General – all four licensing objectives (b, c, d and e) (please read guidance note 10)**

The premises will trade as an New York style restaurant with associated bar area  
All alcohol and late night refreshment will be served to tables by a waiter/waitress  
apart from the bar area outlined in blue on the deposited plan

**b) The prevention of crime and disorder**

CCTV shall be in use at the premises.

The CCTV equipment shall be maintained in good working order and continually record when licensable activity takes place and for a period of two hours afterwards.

The premises licence holder shall ensure images from the CCTV are retained for a period of 31 days. This image retention period may be reviewed as appropriate by the Licensing Authority

The correct time and date will be generated onto both the recording and the real time image screen.

If the CCTV equipment (Including any mobile units in use at the premises) breaks down the Premises Licence Holder shall ensure the designated premises supervisor, or in his/her absence other responsible person, verbally informs the Licensing Authority and the Police as soon as is reasonably practicable. This information shall be contemporaneously recorded in the incident report register and shall include the time, date and means this was done and to whom the information was reported. Equipment failures shall be repaired or replaced as soon as is reasonably practicable and without undue delay. The Licensing Authority and the Police shall be informed when faults are rectified.

The premises Licence holder shall ensure that there are trained members of staff available during licensable hours to be able to reproduce and download CCTV images into a removable format at the request of an authorised officer of the Licensing Authority or a constable.

There shall be clear signage indicating that CCTV equipment is in use and recording at the premises during the opening hours shown on the Premises Licence.

**c) Public safety**

CCTV shall be in use at the premises at all times

**d) The prevention of public nuisance**

The premises will display signage asking patrons to leave quietly  
CCTV will be in operation outside the premises to the rear and front

**e) The protection of children from harm**

An approved proof of age scheme shall be adopted, implemented and advertised within the premise such as "Challenge 25" whereby an accepted form of photographic identification shall be requested before any alcohol is sold to any person who appears to be under 25 years of age. Acceptable proof of age shall include identification bearing the customers photograph, date of birth and integral holographic mark or security measure. Suitable means of identification would include PASS approved proof of age card, photo-card driving licence and passport.

Publicity materials notifying customers of the operation of the Challenge 25 scheme shall be displayed at the premises, including a Challenge 25 sign of at least A5 size at the entrance to the premises and where practicable at each point of sale.

The premises licence holder shall require the designated premises supervisor, or in his/her absence other responsible person, to keep an 'incident/refusals logbook in a bound book in which full details of all incidents are recorded. This shall include details of any refused sales and shall give details of the persons involved, incident description, time and date, actions taken and final outcome of the situation. This shall be completed as soon as possible and in any case no later than the close of business on the day of the incident. The time and date when the report was completed, and by whom, is to form part of the entry. The logbook is to be kept on the premises at all times and shall be produced to an authorised officer of the Licensing Authority or a constable when required



**Checklist:**

**Please tick to indicate agreement**

- I have made or enclosed payment of the fee.
- I have enclosed the plan of the premises.
- I have sent copies of this application and the plan to responsible authorities and others where applicable.
- I have enclosed the consent form completed by the individual I wish to be designated premises supervisor, if applicable.
- I understand that I must now advertise my application.
- I understand that if I do not comply with the above requirements my application will be rejected.
- [Applicable to all individual applicants, including those in a partnership which is not a limited liability partnership, but not companies or limited liability partnerships] I have included documents demonstrating my entitlement to work in the United Kingdom or my share code issued by the Home Office online right to work checking service (please read note 15).

**IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.**

**IT IS AN OFFENCE UNDER SECTION 24B OF THE IMMIGRATION ACT 1971 FOR A PERSON TO WORK WHEN THEY KNOW, OR HAVE REASONABLE CAUSE TO BELIEVE, THAT THEY ARE DISQUALIFIED FROM DOING SO BY REASON OF THEIR IMMIGRATION STATUS. THOSE WHO EMPLOY AN ADULT WITHOUT LEAVE OR WHO IS SUBJECT TO CONDITIONS AS TO EMPLOYMENT WILL BE LIABLE TO A CIVIL PENALTY UNDER SECTION 15 OF THE IMMIGRATION, ASYLUM AND NATIONALITY ACT 2006 AND PURSUANT TO SECTION 21 OF THE SAME ACT, WILL BE COMMITTING AN OFFENCE WHERE THEY DO SO IN THE KNOWLEDGE, OR WITH REASONABLE CAUSE TO BELIEVE, THAT THE EMPLOYEE IS DISQUALIFIED.**

**Part 4 – Signatures** (please read guidance note 11)

**Signature of applicant or applicant’s solicitor or other duly authorised agent** (see guidance note 12). **If signing on behalf of the applicant, please state in what capacity.**

<b>Declaration</b>	<ul style="list-style-type: none"> <li>• [Applicable to individual applicants only, including those in a partnership which is not a limited liability partnership] I understand I am not entitled to be issued with a licence if I do not have the entitlement to live and work in the UK (or if I am subject to a condition preventing me from doing work relating to the carrying on of a licensable activity) and that my licence will become invalid if I cease to be entitled to live and work in the UK (please read guidance note 15).</li> <li>• The DPS named in this application form is entitled to work in the UK (and is not subject to conditions preventing him or her from doing work relating to a licensable activity) and I have seen a copy of his or</li> </ul>
--------------------	--

	her proof of entitlement to work, or have conducted an online right to work check using the Home Office online right to work checking service which confirmed their right to work (please see note 15)
Signature	<i>chube</i>
Date	
Capacity	<i>operations manager</i>

**For joint applications, signature of 2<sup>nd</sup> applicant or 2<sup>nd</sup> applicant's solicitor or other authorised agent (please read guidance note 13). If signing on behalf of the applicant, please state in what capacity.**

Signature	
Date	
Capacity	

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 14)			
<i>CASEY RUSE, HIXON GREEN 124 CHURCH ROAD</i>			
Post town	<i>Hove</i>	Postcode	<i>BN32EA</i>
Telephone number (if any)			
If you would prefer us to correspond with you by e-mail, your e-mail address (optional)			
<i>Casey@hixongreen.co.uk</i>			

Appendix 2.1



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Appendix 2.2



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Appendix 3
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## INCOMING EMAIL

From: catherine.daniel@sussex.pnn.police.uk  
To: Sue Lindsey  
CC: licensing  
Date: 02/10/2019 12:21:02  
Subject: SK Restaurants (Sussex) Ltd., 2 Old Court House, Friars walk, Lewes

Good afternoon,

Sussex Police have no objections to the application for a new premises at the above address provided that the steps offered by the applicant are attached to the premises licence as conditions when/if granted.

Kind regards,

Cathie Daniel ABII

Hastings, Rother & Lewes District Licensing Officer  
Local Policing Support Team, Hastings Police Station  
Bohemia Road, Hastings TN34 1JJ

**Mobile: 07445894761**

[www.sussex.police.uk](http://www.sussex.police.uk)

***Sussex Police – Serving Sussex***

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## Appendix 4.1

> Objection to midweek license for property 2 Court house, formerly Aqua.

>

> High incidents of noise and vandalism at weekends will be exacerbated during the working week. This street is already burdened with a number of heavy drinking outlets. Please help the residents and not make their lives even more difficult. Thank you.

>

> Fiona Dennis

>

> 24 Friars Walk, Lewes BN72lf

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I strongly object to the proposed licensing of the former Acqua restaurant in Friars Walk at 2 Oñd Courthouse, to include 11.30 closing on a Sunday. It is in a residential area which already suffers from high levels of late night noise and anti-social behaviour which causes absolute misery. I live on this benighted street, and have to get up [at 5.00 am on Monday](#) mornings to go to work. It will make life impossible for residents who have had enough already got in the form of late-night yelling and drunken behaviour on Fridays and Saturdays but also during the week.

It must NOT be granted. It is a wholly unreasonable and unnecessary request, incompatible with the area which has a high number of working people, small children and the elderly. To grant this license would be unreasonable according to Wednesbury principles.

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

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Hello

I live at 1 Friars Walk with my children and we wish to object to the Sunday late licence application for the new business in the Premier Inn development.

There is already a considerable amount of noise due to the late drinking at Fuego, and sometimes drunk customers can be intimidating when we walk past: swearing and making comments and blowing smoke in our faces.

There would be considerable noise and other pollution as well as some anti-social behaviour on a Sunday as well, which would affect the residents of Friars Walk, if this additional licence is allowed to go ahead.

Kind regards

Deb Jones

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## Appendix 4.4

Attention: licences team.  
For 2 Old Court House.

I live at 2 Friars Walk and I would like to object to the new residents taking over from Aqua restaurant having an extended opening license to 11.30pm.

We have had a lot of trouble all reported to the police up and down our street this past 3yrs. We've had our front doors kicked in and threatened with a knife, I kid not. To car windows smashed and many windows smashed at the front of our houses. I would even like the Fuego's extended license reduced to help stop the violence and shouting late at night. I know this is the centre of a small town but it is and always has been, a very built up residential area and I think that needs to be considered.

Yours sincerely  
Sharon Lloyd

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2 Old Court House, Friars Walk Lewes

I live at 3 Friars walk. I have seen a notice on the the above premises notifying that the new tenants have applied for a licence until 11.30pm Monday to Friday. The neighbouring premises Fuego only have a late licence on Friday and Saturday evenings (as I believe was the case which the previous tenants of Aqua). Particularly in the summer months, there have been numerous problems with parties of drunk people fighting and causing problems in the street after late night drinking. These problems have been logged with the police who are aware of the issues. I strongly object to the new premises having a late licence every day of the week in what is effectively a residential area.

Louise Wingate-saul

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**Lewes District Council**

## **STATEMENT OF LICENSING POLICY**

### **Licensing Act 2003**

**Lewes District Council  
Licensing Section  
Southover House  
Southover Road  
Lewes  
East Sussex BN7 1AB**

**[licensing@lewes.gov.uk](mailto:licensing@lewes.gov.uk)**

**Telephone number: 01273 471600**

## 1. INTRODUCTION

Lewes District Council makes this Statement of Licensing Policy in order to comply with its duties and powers under the Licensing Act 2003, 'the Act'.

Licensing is about regulating licensable activities on licensed premises, qualifying clubs and at permitted temporary activities.

### 1.1 THE SCOPE OF THIS POLICY COVERS THE FOLLOWING

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

### 1.2 THE AIMS OF THIS POLICY ARE TO:

- Secure the safety and amenity of residential communities
- Help to ensure a sustainable environment and provide regulation of the cultural/entertainment industry
- Promote the Licensing Objectives as set out in the Act

### 1.3 THE LICENSING OBJECTIVES ARE:

- Prevention of crime and disorder
- Public safety
- Prevention of public nuisance
- Protection of children from harm

### IN MAKING THIS POLICY, LEWES DISTRICT COUNCIL RECOGNISES THE NEED TO:

- Protect the public and local residents from crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises,
- Give 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,
- Provide 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
- Encourage greater community involvement in licensing decisions and give local residents the opportunity to have their say regarding licensing decisions that may affect them.

#### 1.4 THIS STATEMENT PROVIDES GUIDANCE ..

to the police, applicants, objectors and residents on the general approach that the Council (acting through its Licensing Committee) will take when making licensing decisions.

The following will be taken into account when licensing decisions are being made:

- The Council as licensing authority must carry out its functions under the Act with a view to promoting the Licensing Objectives.
- Each licence application will be given individual consideration on its merits.
- When making its decisions, the Council will have regard to the matters contained in this Statement and to any Government guidance that is issued from time to time.
- That the Council will have regard to the provisions of the Human Rights Act 1998 and, in particular, Article 6 (right to a fair and public hearing); Article 8 (right to respect for home, private and family life) and Article 1 of the First Protocol (right to peaceful enjoyment of property and possessions).
- That the Council will have due regard to its Equality Duty under the Equality Act 2010 to eliminate unlawful discrimination, harassment and victimisation; to advance equality of opportunity; and to foster good relations between people who share a protected characteristic and people who do not share it. The protected characteristics are: age, disability, gender re-assignment, marriage and civil partnership (but only in respect of eliminating unlawful discrimination), pregnancy and maternity, race – this includes ethnic or national origins, colour or nationality, religion or belief – this includes lack of belief, sex (gender) and sexual orientation. In accordance with this Duty the Council publishes equalities information annually on the Council's website.
- That when exercising a licensing function, the Council will have due regard to its duty under section 17 of the Crime and Disorder Act 1998, the provisions of the Police Reform and Social Responsibility Act 2011, any local public service agreements relating to the reduction of public place violence, and the Immigration Act 2016.

1.5 This Statement takes effect on 7<sup>th</sup> December 2017 for a period of 5 years and will be kept under review and revised/amended as required, following consultation.

## 2. LOCAL FEATURES

- 2.1 Lewes District Council covers an area of 113 square miles (292 sq km) and is home to approximately 100,000 people. Bordered by the varied landscape of the Downs to the south and the Weald to the north, it has 9 miles (14.5 km) of coastline. From coastal strip to rural countryside, Lewes District comprises a rich mix of town and village communities. The District population is concentrated to the coast with half of all residents living in the towns of Seaford, Newhaven, Peacehaven, Telscombe Cliffs and East Saltdean, while inland Lewes is the County Town of East Sussex. There are also numerous villages and hamlets within the area, which vary in size and form, and the District has one of the fastest growing populations in the South of England.
- 2.2 The main focus for licensed activities is in the Town Centres where there is a varied mix of premises from clubs, pubs, café/bars, restaurants, and large stores to smaller retail outlets for off licence sales. In the rural area there are a great number of village pubs, which are very much part of the community and supporting leisure and local activities.
- 2.3 Overall, the District has approximately 340 premises licensed under the Act, catering for the needs of the community and with few late night venues, club culture at the moment is not highly developed or wide spread.

### 3. DELEGATION OF FUNCTIONS

Licensing decisions and functions may be taken or carried out by the Council's Licensing Committee or delegated to a Licensing Sub-Committee or in appropriate cases, officers of the Council. The scheme of delegation for dealing with licensing matters, under the Licensing Act 2003, is set out below:

<b>Matter to be dealt with</b>	<b>Full Committee</b>	<b>Sub-Committee</b>	<b>Officers</b>
Application for a personal licence		If police objection made	If no objection made
Application for personal licence with unspent convictions and police objection		All cases	
Determination of minor variation			All cases
Application for premises licence/club premises certificate		If relevant representation made	If no relevant representation made
Application for provisional settlement		If relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate		If relevant representation made	If no relevant representation made
Application to vary designated premises supervisor		If police objection made	All other cases
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If police objection made	All other cases
Application for Interim Authorities		If police objection made	All other cases
Application to review premises licence/club premises certificate		All cases	
Decision on whether complaint is irrelevant, frivolous, vexatious etc.			All cases
Decision to object when Council is a consultee and not the Licensing Authority		All cases	
Determination of application to vary premises licence at community premises to include alternative licence condition		If police objection made	All cases
Determination of an objection to a temporary Event Notice		All cases	
Decision to make a representation on behalf of the Licensing Authority			All cases
Application for authorisation of films already classified by British Board of Film Classification (BBFC)		All cases	
Application for authorisation of films not already classified by British Board of Film Classification (BBFC), or the Council			All cases

#### 4. **GENERAL STATEMENT OF GUIDING PRINCIPLES**

- 4.1 The following principles have been adopted by the Council as a licensing authority. These principles will serve as a general guide to the Council when it carries out its licensing functions.

##### **PRINCIPLE 1**

Issues of nuisance, noise, public safety and crime and disorder associated with the character, number and proximity of licensed premises in any one area (cumulative impact) will be addressed by the means set out in paragraph 5.1.5 of this Statement. However, if there is evidence to suggest that these means are unsuccessful in combating the issues referred to above, then the Council will consider reviewing its policy with a view to restricting the grant of licences to new premises in the affected area.

##### **PRINCIPLE 2**

The Council acknowledges that longer opening hours can help to ensure that the number of people leaving licensed premises at the same time is reduced.

##### **PRINCIPLE 3**

The Council will limit the access of children to licensed premises where this is appropriate to protect them from harm.

#### 5. **THE PRINCIPLES IN DETAIL**

##### 5.1 **PRINCIPLE 1**

Issues of nuisance, noise, public safety and crime and disorder associated with the character, number and proximity of licensed premises in any one area (cumulative impact) will be addressed by the means set out in paragraph 5.1.5 of this Statement. However, if there is evidence to suggest that these means are unsuccessful in combating the issues referred to above, then the Council will consider reviewing its policy with a view to restricting the grant of licences to new premises in the affected areas.

5.1.1 This is intended to:

- Promote the prevention of crime and disorder
- Promote public safety
- Address the issue of cumulative impact

5.1.2 The question of need for an additional licensed facility whether pub, club etc. is not covered by this policy but will be a matter for planning policies and strategies and for the area/district as a whole

5.1.3 Licensed premises, especially those offering late night/early morning entertainment, alcohol and refreshment (for large numbers of people) can be a source of crime and disorder and applicants are recommended to seek advice from the Council's Licensing Officer and the Police as well as taking into account local planning and transport policies, tourism, cultural and crime prevention strategies and local social demographic characteristics when preparing application



and operation schedules which will be of benefit to the Licensing Authority when determining the application. Guidance regarding these policies and other specific local matters can be obtained from the Council's Licensing Officer – see contact details (paragraph 8)

5.1.4 The Council will support:

- diversity of premises to ensure a mix of a different type of licensed premises, particularly in areas where there is a high density of such premises
- care and control of premises by effective management and supervision both within and outside the premises. This is a key factor in reducing crime and disorder and applicants for premises licences in particular should address these issues within their respective operating schedules
- good quality training for staff employed within the licensing trade and the obtaining of the accredited licensing qualification for bar staff and personal licence holders. The Council believes that proper staff training plays an important role in the promotion of the licencing objectives
- café bar conditions where the sale of alcohol and other beverages are by a waiter/waitress service for consumption by persons seated at tables or equivalent and substantial refreshments are available during operating hours.

5.1.5 Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the licence holder, -the club or responsible person concerned. Nonetheless, it is a key aspect of such control and licensing plays a part in the management of the night-time economy. If there are problems in a particular area with nuisance, crime and disorder and those problems are associated with the character, number or proximity of licensed premises in the area, the Council will seek to address those problems by the following means:

- Planning Controls
- The use of relevant and appropriate licence conditions.  
(However, see paragraph 6.5)
- Positive measures to create a safe and clean environment in partnership with local businesses, transport operations and other Council departments
- Application of the powers of the Council to designate parts of the district as places where alcohol may not be consumed in public and the confiscation of alcohol from adults and children in such designated places
- Liaise with Police over the enforcement of disorder and anti-social behaviour, including the issue of fixed penalty notices
- The seeking of anti-social behaviour orders by the Council in appropriate cases
- The prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk or under age

- Work in partnership with Police to utilise powers to close down instantly for up to 24 hours any licensed premises or temporary event on grounds of disorder, the likelihood of disorder, or noise emanating from the premises causing a nuisance.

The list is not exhaustive of the measures that the Council may consider or take.

- 5.1.6 Any objection to a licence application or variation on the grounds of negative cumulative impact must be relevant and impact on one or more of the licensing objectives.

## 5.2

### **PRINCIPLE 2**

The Council acknowledges that longer opening hours can help to ensure that the number of people leaving licensed premises at the same time is reduced.

- 5.2.1 This is intended to:
- promote the prevention of crime and disorder
  - promote public safety
  - promote the prevention of public nuisance
- 5.2.2 It is recognised by the Council that longer licensing hours (with regard to the sale of alcohol) may help to ensure that the number of customers leaving premises simultaneously is avoided. Fixed and artificially early closing times can encourage, in the case of sales of alcohol, rapid binge drinking close to closing times and are a key cause of disorder and disturbance when large numbers of customers are required to leave premises at the same time.
- 5.2.3 However, there is no general presumption in favour of lengthening licensing hours. The four licensing objectives will be paramount considerations at all times and each case judged on its individual merits.
- 5.2.4 Any person has a right to make representations concerning applications for premises licences and club certificates and hours of trading and to have those representations given due regard.
- 5.2.5 In each case that arises following objections/representations the Council will:
- consider the potential for public nuisance, crime and disorder and/or danger to public safety associated with the style, characteristics and activities of the business involved and the rights of residents to peace and quiet
  - examine the potential steps which could be taken to reduce the risk of public nuisance, crime and disorder and/or danger to public safety, particularly in areas of dense residential accommodation
  - consider restricting the hours of trading in cases where there are good grounds for believing that the licensing objectives will be or are being undermined

### 5.3 **PRINCIPLE 3**

5.3.1 The Council will limit the access of children to licenced premises where this is necessary to protect them from harm.

This is intended to:

- promote the protection of children from harm
- address the issue of children in licensed premises, including cinemas and other public entertainment

5.3.2 No policy can anticipate every issue of concern that could arise in respect of children with regard to individual premises. Consideration of the individual merits of each application are therefore the best mechanism for judging such matters.

5.3.3 The Council will take particular account when:

- there have been convictions for serving alcohol to minors
- there is evidence of underage drinking
- there is evidence of drug taking or dealing
- there is a strong element of gambling
- entertainment of an adult or sexual nature is commonly provided
- the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at those premises

5.3.4 Complete bans will be rare, but the options for limiting the access of children, where appropriate, to prevent harm include:

- limitations on the hours when children may be present
- age limitations (below 18 years)
- limitations or exclusions when certain activities are taking place
- requirements for an accompanying adult
- full exclusion of people under 18 years from the premises when any licensable activities are taking place

5.3.5 The Council will not impose conditions that require licensed premises to admit children. Where it is not appropriate for a licensing restriction the decision to admit children will be a matter for the discretion of the individual licensee or club.

#### 5.3.6 **CHILDREN AND CINEMAS**

In the case of premises giving film exhibitions, the Council expects licensees to impose conditions that children will be restricted from viewing age-restricted films classified in accordance with the recommendations of the British Board of Film Classifications or the Local Authority.

### 5.3.7 CHILDREN AND PUBLIC ENTERTAINMENTS

Where such entertainments are due to take place, the Council will expect an adequate number of adults to be present for health and safety reasons. The number of adults required should be calculated on the basis of a risk assessment. The Council will also take into account considerations such as the size of the venue, the number and ages of the children present and the type of activity involved.

## 6. OTHER CONSIDERATIONS

### 6.1 LIVE MUSIC, DANCING & THEATRE

The Council recognises the need to encourage and promote live music, dance and theatre for the wider cultural benefits of the community. The Council will seek to obtain a balance between the potential for limited neighbourhood disturbance and the benefits of cultural activities, particularly for children, and will not allow the views of the few to predominate over the general interests of the community.

The Council will only attach licence conditions that are reasonable, proportionate and appropriate for the promotion of the licencing objectives. The Council is aware of the need to avoid measures as far as possible that deter live music, dancing and theatre for example by imposing indirect costs of a disproportionate nature.

The Council is aware of the value to the community of a broad range of cultural entertainments, particularly live music, dancing and theatre. The Council wishes to encourage them for the benefit of all.

### 6.2 SHOPS, STORES AND SUPERMARKETS

6.2.1 Shops, stores and supermarkets should be free to provide sales of alcohol for consumption off the premises at any time when the retail outlet is open.

6.2.2 The Council will generally permit the sale of alcohol when the retail outlet is open for shopping.

6.2.3 In certain circumstances, however, it may be appropriate to impose a limitation, for example, following police representations in the case of some shops known to be a focus of disorder and disturbance because youths gather there.

6.2.4 When determining an application for a premises licence the Council has no obligation to consider the rights of workers employed. These are covered by separate legislation.

6.2.5 The impact on workers of extended hours permitted by a premises licence is a contractual matter to be resolved between the employer and employee, and the Council will not seek to intervene in these matters.

## 6.3

### INTEGRATION OF STRATEGIES

- 6.3.1 The Council is ensuring that this Statement of Policy integrates with crime prevention, anti-social behaviour, planning, transport, tourism and cultural strategies by:
- Having regard to the Lead Agency Protocol drawn up between Sussex Police, Local Authorities, the Fire and Rescue Service and Trading Standards.
  - Liaising and consulting with Sussex Police, with the Crime and Community Disorder Reduction Partnership and by following the guidance in community safety and crime disorder strategies
  - Liaising and consulting with East Sussex Fire and Rescue Service and by following the guidance in fire safety strategies and protocols
  - Liaising and consulting with the Local Strategic Partnership and Area Partnerships
  - Liaising and consulting with the Planning Authority
  - Liaising and consulting with the Highway Authority
  - Liaising and consulting with the Local Health Authority
  - Liaising and consulting with the Immigration Authority
  - Liaising and consulting with tourism, stakeholder and business groups such as the local Chamber of Commerce
  - Liaising and consulting with East Sussex County Council's Trading Standards Department
  - Having regard to any future guidance issued in relation to the Private Security Industry Act 2001 including any liaison or information sharing protocols
  - Having regard to the Home Office "Safer Clubbing Guide"
- 6.3.2 Specific conditions may be attached to premises licences to reflect local crime prevention strategies (however see paragraph 6.5).
- Such conditions may include:
- the use of closed circuit television cameras
  - the provision and use of shatterproof drinking containers
  - a drugs and weapons search policy
  - the use of registered door supervisors under Private Security Industry Act 2001
  - specialised lighting requirements
  - restrictions on hours opening
- 6.3.3 Certificates issued to club premises will reflect local crime prevention strategies and may include any or all of the requirements listed above. Account will also be taken of any public spaces protection orders and guidelines that regulate street drinking.

- 6.3.4 Club owners and promoters will be expected to have regard to safer clubbing guidance for Licencing Authorities, club managers and promoters. The Council will ensure that licenced premises are designed and run in a way that maximises the safety of customers and staff.
- 6.3.5 The Council will take account of the need to disperse people quickly and safely from town centres to avoid concentrations which may produce disorder and disturbance. The Council will also take into account any protocols agreed between the police and other licencing enforcement agencies.
- 6.3.6 The Council's planning and licencing regimes are separate, they involve consideration of different (albeit related) matters. The Licencing Committee will not consider representations that relate to planning rather than licencing issues and will not be bound by decisions that are made by the Planning Committee, and vice versa.
- 6.3.7 The grant of a premises licence shall not be regarded as an indication that planning permission or building regulations approval has been (or will in the future be) granted. A separate application for planning consent, change of use and/or building regulations approval must always be made. Ideally, planning consent should be obtained before a licencing application is submitted.

#### 6.4 **OTHER LEGISLATION**

- 6.4.1 This policy shall avoid duplication with other regulatory regimes wherever possible. In this regard, reference shall be made to the following :

##### 6.4.2 **HEALTH AND SAFETY**

The Council's Environmental Health inspection staff will normally have visited licenced premises to assess/enforce health and safety requirements.

Certain premises will fall outside the responsibility of the Environmental Health Department and will be subject to regulation/enforcement by the Health and Safety Executive (HSE).

Health and Safety regulations impose a range of general and specific duties on employees, employers, operators of venues and members of the public. Matters arising out of the Health and Safety at Work etc Act 1974 and associated regulations will not be addressed by the imposition of licencing conditions unless they are appropriate for the promotion of the licencing objectives.

### 6.4.3 **SMOKING**

The Health Act 2006 introduced the smoke free provisions that protect employees and the public from the harmful effects of second hand smoke. The Council will be responsible for enforcing these provisions and will offer information advice and support to businesses so they can meet their legal obligations. Managers of licensed premises will have a legal responsibility to prevent smoking.

### 6.4.4 **FIRE SAFETY**

Operators of licensed premises have duties under various fire safety regulations and the same considerations as above will apply.

### 6.4.5 **FOOD HYGIENE**

Premises selling alcohol and/or premises engaged in a food business will be registered with Lewes District Council and subject to risk-based food hygiene inspections at regular intervals.

### 6.4.6 **NOISE**

Statutory and Public nuisances are dealt with by the Environmental Health Department under the Environmental Protection Act 1990 and associated legislation. Noise from commercial premises may also be covered by the legislation.

### 6.4.7 **WASTE**

Complaints relating to the accumulation and storage of waste will be dealt with by the Council under the provisions of any appropriate legislation.

## 6.5 **STANDARD CONDITIONS**

If a responsible authority or any other person does not raise any representations about a licencing application made to the Council, it is the duty of the Council to grant the licence or Club Premises Certificate subject only to conditions that are consistent with the operating schedule or club operating schedule and any mandatory conditions prescribed in the 2003 Act itself.

The Council may not therefore impose any conditions unless its discretion has been engaged following the making of relevant representations. It may then only impose such conditions that are appropriate to promote the licensing objectives arising out of consideration of the representations.

The Council will tailor its own conditions to the size, type, location and characteristics and activities taking place at the premises concerned.

## 6.6

### REVIEW AND ENFORCEMENT

- 6.6.1 The Licensing Authority is a responsible authority under the Licensing Act and can make representations and call a review. The Licencing Authority through the Licencing Officer will always pursue partnership working between agencies and other responsible authorities to resolve problems and concerns regarding premises under the licencing objectives.
- 6.6.2 Enforcement of the licensing law, public safety and the inspection of licensed/club premises will be undertaken by the relevant authorities in accordance with local agreements between Sussex Police, East Sussex Fire & Rescue Service, Trading Standards and the Licencing Authorities in Sussex.
- 6.6.3 Attention is drawn to the targeting of agreed problems and high risk premises requiring greater attention as may be identified from time to time by the relevant enforcement agencies. Inspections of premises will be on a risk assessed basis, to be undertaken when and if necessary.
- 6.6.4 The provisions set out in the Act for calling a review or making representations represent a key protector for the community where there are concerns about an application or problems associated with premises under crime and disorder, public safety, public nuisance and the protection of children from harm.
- 6.6.5 Following the grant of a premises licence or club certificate a responsible authority or any other person regardless of where they live, may ask the Council to review the licence/club certificate because of matters arising at the premises in connection with any of the four licensing objectives.
- 6.6.6 In every case, the application for a review must relate to particular premises for which a premises licence or club certificate is in existence and must be relevant to the promotion of the licencing objectives.
- 6.6.7 The Council will endeavour to give licence/certificate holders early notification of their concerns about problems identified at particular premises in partnership with the other enforcement agencies. This does not affect the right of any other person to call a review under the provisions of the Act.
- 6.6.8 Where concerns are raised by residents or any other person about an application or grounds to seek a review the Licencing Authority would expect those affected parties to make a relevant representation or apply for a review in their own right.
- 6.6.9 The Licencing Authority may choose to exercise its powers as a responsible authority and to call a review or make representations in any situation that it deems appropriate on the merits of any individual case.



7. **LATE NIGHT LEVY**

Following the introduction of the Police Reform and Social Responsibility Act 2011 the licensing authority may introduce a late night levy. The levy would relate to a late night supply period which begins at or after midnight and ends at or before 6am. Any premises which are not subject to an exemption who supply alcohol during the supply period on any night of the year would be required to pay the late night levy, the level of which is based on rateable value. The late night levy will not be introduced without the required consultation as detailed in the legislation and accompanying guidance.

At present the Council does not propose to introduce a Late Night Levy

8. **EARLY MORNING RESTRICTION ORDER (EMRO)**

Following the introduction of the Police Reform and Social Responsibility Act 2011, if the licensing authority considers it appropriate for the promotion of the licensing objectives it can make an early morning alcohol restriction order.

An order would mean that any premises licence, club premises certificate or temporary event notice that authorises the sale of alcohol during the period specified in the order would not have effect. The period specified must begin no earlier than midnight and end no later than 6am.

At present the Council does not propose to introduce an Early Morning Restriction Order

9. **DETAILS OF RESPONSIBLE AUTHORITIES**

As well as applying to the Council in the prescribed manner, copies of each licence application must be served on the following authorities by the applicant:

The Licencing Officer  
Bexhill Police Station  
Terminus Road  
Bexhill-on-Sea  
East Sussex  
TN39 3NR  
T 0845 6070 999

The Chief Officer  
East Sussex Fire & Rescue Service  
Fire Safety Department  
Lewes Fire Station  
North Street  
Lewes  
East Sussex  
BN7 2PE  
T 01323 462132/462154

Head of Children's Safeguards and Quality Assurance PO  
Box 5 East Sussex County Council  
County Hall  
Lewes  
East Sussex  
BN7 1SW  
T 01273 481000

Planning Officer  
Lewes District Council  
Southover House  
Southover Road  
Lewes  
East Sussex  
BN7 1AB  
T 01273 471600

Head of Trading Standards  
St Mary's House  
52 St Leonards Road  
Eastbourne  
East Sussex  
BN21 3UU  
T 01323 418200

The Health & Safety Officer  
Environmental Health  
Southover House  
Southover Road  
Lewes  
East Sussex  
BN7 1AB  
T 01273 471600

Public Health Authority  
Helen Foreman  
Public Health Network and Business Manager  
E1C County Hall  
St Anne's Crescent  
Lewes  
East Sussex  
BN7 1UE  
T 0345 60 80 190

Alcohol Licensing Team  
Home Office (Immigration)  
Lunar House  
40 Wellesley Road

Croydon  
CR9 2BY  
E Alcohol@homeoffice.gsi.gov.uk

## 8 CONTACT DETAILS

Members of the public can obtain advice and help about this policy, the review procedures or other matters concerning whether or not activities fall to be licenced by contacting the Licencing Officer, Lewes District Council, Southover House, Southover Road, Lewes, East Sussex, BN7 1AB

Telephone 01273 471600

Email [licensing@lewes.gov.uk](mailto:licensing@lewes.gov.uk)

Further information can also be found on the Council's website [www.lewes.gov.uk](http://www.lewes.gov.uk)

Advice and guidance may also be sought from the Police and Fire and Rescue Service by contacting them direct.

## 2. The licensing objectives

### Crime and disorder

- 2.1 Licensing authorities should look to the police as the main source of advice on crime and disorder. They should also seek to involve the local Community Safety Partnership (CSP).
- 2.2 In the exercise of their functions, licensing authorities should seek to co-operate with the Security Industry Authority (“SIA”) as far as possible and consider adding relevant conditions to licences where appropriate. The SIA also plays an important role in preventing crime and disorder by ensuring that door supervisors are properly licensed and, in partnership with police and other agencies, that security companies are not being used as fronts for serious and organised criminal activity. This may include making specific enquiries or visiting premises through intelligence led operations in conjunction with the police, local authorities and other partner agencies. Similarly, the provision of requirements for door supervision may be appropriate to ensure that people who are drunk, drug dealers or people carrying firearms do not enter the premises and ensuring that the police are kept informed.
- 2.3 Conditions should be targeted on deterrence and preventing crime and disorder including the prevention of illegal working in licensed premises (see paragraph 10.10). For example, where there is good reason to suppose that disorder may take place, the presence of closed-circuit television (CCTV) cameras both inside and immediately outside the premises can actively deter disorder, nuisance, anti-social behaviour and crime generally. Some licence holders may wish to have cameras on their premises for the prevention of crime directed against the business itself, its staff, or its customers. But any condition may require a broader approach, and it may be appropriate to ensure that the precise location of cameras is set out on plans to ensure that certain areas are properly covered and there is no subsequent dispute over the terms of the condition.
- 2.4 The inclusion of radio links and ring-round phone systems should be considered an appropriate condition for public houses, bars and nightclubs operating in city and town centre leisure areas with a high density of licensed premises. These systems allow managers of licensed premises to communicate instantly with the police and facilitate a rapid response to any disorder which may be endangering the customers and staff on the premises.
- 2.5 Conditions relating to the management competency of designated premises supervisors should not normally be attached to premises licences. It will normally be the responsibility of the premises licence holder as an employer, and not the licensing authority, to ensure that the managers appointed at the premises are competent and appropriately trained. The designated premises supervisor is the key person who will usually be responsible for the day to day management of the premises by the premises licence holder, including the prevention of disorder. A condition of this kind may only be justified as appropriate in rare circumstances where it can be demonstrated that, in the circumstances associated with particular premises, poor management competency could give rise to issues of crime and disorder and public safety.

- 2.6 The prevention of crime includes the prevention of immigration crime including the prevention of illegal working in licensed premises. Licensing authorities should work with Home Office Immigration Enforcement, as well as the police, in respect of these matters. Licence conditions that are considered appropriate for the prevention of illegal working in licensed premises might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that a copy of any document checked as part of a right to work check are retained at the licensed premises.

## Public safety

- 2.7 Licence holders have a responsibility to ensure the safety of those using their premises, as a part of their duties under the 2003 Act. This concerns the safety of people using the relevant premises rather than public health which is addressed in other legislation. Physical safety includes the prevention of accidents and injuries and other immediate harms that can result from alcohol consumption such as unconsciousness or alcohol poisoning. Conditions relating to public safety may also promote the crime and disorder objective as noted above. There will of course be occasions when a public safety condition could incidentally benefit a person's health more generally, but it should not be the purpose of the condition as this would be outside the licensing authority's powers (be ultra vires) under the 2003 Act. Conditions should not be imposed on a premises licence or club premises certificate which relate to cleanliness or hygiene.
- 2.8 A number of matters should be considered in relation to public safety. These may include:
- Fire safety;
  - Ensuring appropriate access for emergency services such as ambulances;
  - Good communication with local authorities and emergency services, for example communications networks with the police and signing up for local incident alerts (see paragraph 2.4 above);
  - Ensuring the presence of trained first aiders on the premises and appropriate first aid kits;
  - Ensuring the safety of people when leaving the premises (for example, through the provision of information on late-night transportation);
  - Ensuring appropriate and frequent waste disposal, particularly of glass bottles;
  - Ensuring appropriate limits on the maximum capacity of the premises (see paragraphs 2.12-2.13, and Chapter 10; and
  - Considering the use of CCTV in and around the premises (as noted in paragraph 2.3 above, this may also assist with promoting the crime and disorder objective).
- 2.9 The measures that are appropriate to promote public safety will vary between premises and the matters listed above may not apply in all cases. As set out in Chapter 8 (8.38-8.46), applicants should consider when making their application which steps it is appropriate to take to promote the public safety objective and demonstrate how they achieve that.

## Ensuring safe departure of those using the premises

- 2.10 Licence holders should make provision to ensure that premises users safely leave their premises. Measures that may assist include:
- Providing information on the premises of local taxi companies who can provide safe transportation home; and
  - Ensuring adequate lighting outside the premises, particularly on paths leading to and from the premises and in car parks.

## Maintenance and repair

- 2.11 Where there is a requirement in other legislation for premises open to the public or for employers to possess certificates attesting to the safety or satisfactory nature of certain equipment or fixtures on the premises, it would be inappropriate for a licensing condition to require possession of such a certificate. However, it would be permissible to require as a condition of a licence or certificate, if appropriate, checks on this equipment to be conducted at specified intervals and for evidence of these checks to be retained by the premises licence holder or club provided this does not duplicate or gold-plate a requirement in other legislation. Similarly, it would be permissible for licensing authorities, if they receive relevant representations from responsible authorities or any other persons, to attach conditions which require equipment of particular standards to be maintained on the premises. Responsible authorities – such as health and safety authorities – should therefore make their expectations clear in this respect to enable prospective licence holders or clubs to prepare effective operating schedules and club operating schedules.

## Safe capacities

- 2.12 “Safe capacities” should only be imposed where appropriate for the promotion of public safety or the prevention of disorder on the relevant premises. For example, if a capacity has been imposed through other legislation, it would be inappropriate to reproduce it in a premises licence. Indeed, it would also be wrong to lay down conditions which conflict with other legal requirements. However, if no safe capacity has been imposed through other legislation, a responsible authority may consider it appropriate for a new capacity to be attached to the premises which would apply at any material time when the licensable activities are taking place and make representations to that effect. For example, in certain circumstances, capacity limits may be appropriate in preventing disorder, as overcrowded venues can increase the risks of crowds becoming frustrated and hostile.
- 2.13 The permitted capacity is a limit on the number of persons who may be on the premises at any time, following a recommendation by the relevant fire and rescue authority under the Regulatory Reform (Fire Safety) Order 2005. For any application for a premises licence or club premises certificate for premises without an existing permitted capacity where the applicant wishes to take advantage of the special provisions set out in section 177 of the 2003 Act<sup>1</sup>, the applicant should conduct their own risk assessment as to the appropriate capacity of the premises. They should send their recommendation to the fire and rescue authority which will consider it and decide what the “permitted capacity” of

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<sup>1</sup> S 177 of the 2003 Act now only applies to performances of dance.

those premises should be.

- 2.14 Public safety may include the safety of performers appearing at any premises, but does not extend to the prevention of injury from participation in a boxing or wrestling entertainment.

## Public nuisance

- 2.15 The 2003 Act enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.
- 2.16 Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It may include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.
- 2.17 Conditions relating to noise nuisance will usually concern steps appropriate to control the levels of noise emanating from premises. This might be achieved by a simple measure such as ensuring that doors and windows are kept closed after a particular time, or persons are not permitted in garden areas of the premises after a certain time. More sophisticated measures like the installation of acoustic curtains or rubber speaker mounts to mitigate sound escape from the premises may be appropriate. However, conditions in relation to live or recorded music may not be enforceable in circumstances where the entertainment activity itself is not licensable (see chapter 16). Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of the specific premises and its licensable activities. Licensing authorities should avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are expensive to purchase and install and are likely to be a considerable burden for smaller venues.
- 2.18 As with all conditions, those relating to noise nuisance may not be appropriate in certain circumstances where provisions in other legislation adequately protect those living in the area of the premises. But as stated earlier in this Guidance, the approach of licensing authorities and responsible authorities should be one of prevention and when their powers are engaged, licensing authorities should be aware of the fact that other legislation may not adequately cover concerns raised in relevant representations and additional conditions may be appropriate.
- 2.19 Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, the most sensitive period for people being disturbed by unreasonably loud music is at night and into the



early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. This is why there is still a need for a licence for performances of live music between 11 pm and 8 am. In certain circumstances, conditions relating to noise emanating from the premises may also be appropriate to address any disturbance anticipated as customers enter and leave.

- 2.20 Measures to control light pollution will also require careful thought. Bright lighting outside premises which is considered appropriate to prevent crime and disorder may itself give rise to light pollution for some neighbours. Applicants, licensing authorities and responsible authorities will need to balance these issues.
- 2.21 Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area, or that, if they wish to smoke, to do so at designated places on the premises instead of outside, and to respect the rights of people living nearby to a peaceful night.

## **Protection of children from harm**

- 2.22 The protection of children from harm includes the protection of children from moral, psychological and physical harm. This includes not only protecting children from the harms associated directly with alcohol consumption but also wider harms such as exposure to strong language and sexual expletives (for example, in the context of exposure to certain films or adult entertainment). Licensing authorities must also consider the need to protect children from sexual exploitation when undertaking licensing functions.
- 2.23 The Government believes that it is completely unacceptable to sell alcohol to children. Conditions relating to the access of children where alcohol is sold and which are appropriate to protect them from harm should be carefully considered. Moreover, conditions restricting the access of children to premises should be strongly considered in circumstances where:
- adult entertainment is provided;
  - a member or members of the current management have been convicted for serving alcohol to minors or with a reputation for allowing underage drinking (other than in the context of the exemption in the 2003 Act relating to 16 and 17 year olds consuming beer, wine and cider when accompanied by an adult during a table meal);
  - it is known that unaccompanied children have been allowed access;
  - there is a known association with drug taking or dealing; or
  - in some cases, the premises are used exclusively or primarily for the sale of alcohol for consumption on the premises.
- 2.24 It is also possible that activities, such as adult entertainment, may take place at certain times on premises but not at other times. For example, premises may operate as a café bar during the day providing meals for families but also provide entertainment with a sexual content after 8.00pm. It is not possible to give an exhaustive list of what amounts to entertainment or services of an adult or sexual nature. Applicants, responsible

authorities and licensing authorities will need to consider this point carefully. This would broadly include topless bar staff, striptease, lap-, table- or pole-dancing, performances involving feigned violence or horrific incidents, feigned or actual sexual acts or fetishism, or entertainment involving strong and offensive language.

- 2.25 Applicants must be clear in their operating schedules about the activities and times at which the events would take place to help determine when it is not appropriate for children to enter the premises. Consideration should also be given to the proximity of premises to schools and youth clubs so that applicants take appropriate steps to ensure that advertising relating to their premises, or relating to events at their premises, is not displayed at a time when children are likely to be near the premises.
- 2.26 Licensing authorities and responsible authorities should expect applicants, when preparing an operating schedule or club operating schedule, to set out the steps to be taken to protect children from harm when on the premises.
- 2.27 Conditions, where they are appropriate, should reflect the licensable activities taking place on the premises. In addition to the mandatory condition regarding age verification, other conditions relating to the protection of children from harm can include:
- restrictions on the hours when children may be present;
  - restrictions or exclusions on the presence of children under certain ages when particular specified activities are taking place;
  - restrictions on the parts of the premises to which children may have access;
  - age restrictions (below 18);
  - restrictions or exclusions when certain activities are taking place;
  - requirements for an accompanying adult (including for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult); and
  - full exclusion of people under 18 from the premises when any licensable activities are taking place.
- 2.28 Please see also Chapter 10 for details about the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010.
- 2.29 Licensing authorities should give considerable weight to representations about child protection matters. In addition to the responsible authority whose functions relate directly to child protection, the Director of Public Health may also have access to relevant evidence to inform such representations. These representations may include, amongst other things, the use of health data about the harms that alcohol can cause to underage drinkers. Where a responsible authority, or other person, presents evidence to the licensing authority linking specific premises with harms to children (such as ambulance data or emergency department attendances by persons under 18 years old with alcohol-related illnesses or injuries) this evidence should be considered, and the licensing authority should also consider what action is appropriate to ensure this licensing objective is effectively enforced. In relation to applications for the grant of a licence in areas where evidence is presented on high levels of alcohol-related harms in persons aged under 18, it is recommended that the licensing authority considers what conditions may be appropriate to ensure that this objective is promoted effectively.
- 2.30 The 2003 Act provides that, where a premises licence or club premises certificate

authorises the exhibition of a film, it must include a condition requiring the admission of children to films to be restricted in accordance with recommendations given either by a body designated under section 4 of the Video Recordings Act 1984 specified in the licence (the British Board of Film Classification is currently the only body which has been so designated) or by the licensing authority itself. Further details are given in Chapter 10.

- 2.31 Theatres may present a range of diverse activities and entertainment including, for example, variety shows incorporating adult entertainment. It is appropriate in these cases for a licensing authority to consider restricting the admission of children in such circumstances. Entertainments may also be presented at theatres specifically for children. It will be appropriate to consider whether a condition should be attached to a premises licence or club premises certificate which requires the presence of a sufficient number of adult staff on the premises to ensure the wellbeing of the children during any emergency.

### **Offences relating to the sale and supply of alcohol to children**

- 2.32 Licensing authorities are expected to maintain close contact with the police, young offenders' teams and trading standards officers (who can carry out test purchases under section 154 of the 2003 Act) about the extent of unlawful sales and consumption of alcohol by minors and to be involved in the development of any strategies to control or prevent these unlawful activities and to pursue prosecutions. Licensing authorities, alongside the police, are prosecuting authorities for the purposes of these offences, except for the offences under section 147A (persistently selling alcohol to children). Where, as a matter of policy, warnings are given to retailers prior to any decision to prosecute in respect of an offence, it is important that each of the enforcement arms should be aware of the warnings each of them has given.

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STATUTORY INSTRUMENTS

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**2005 No. 44**

**LICENCES AND LICENSING**

**The Licensing Act 2003 (Hearings) Regulations 2005**

<i>Made</i>	- - - -	<i>12th January 2005</i>
<i>Laid before Parliament</i>		<i>13th January 2005</i>
<i>Coming into force</i>	- -	<i>7th February 2005</i>

The Secretary of State, in exercise of the powers conferred upon her by sections 9(2) and 183(1) of the Licensing Act 2003(1) hereby makes the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Licensing Act 2003 (Hearings) Regulations 2005 and shall come into force on 7th February 2005.

**Interpretation**

2.—(1) In these Regulations—

“the Act” means the Licensing Act 2003;

“authority” means, in relation to a hearing, the relevant licensing authority which has the duty under the Act to hold the hearing which expression includes the licensing committee or licensing sub-committee discharging the function of holding the hearing;

“determination” is to be interpreted in accordance with Schedule 4;

“hearing” means the hearing referred to in column 1 of the table in Schedule 1 as the case may require;

“legible in all material respects” means that the information contained in the notice is available to the recipient to no lesser extent than it would be if given by means of a document in written form;

“notice of hearing” means the notice given under regulation 6(1);

“party to the hearing” means a person to whom the notice of hearing is to be given in accordance with regulation 6(1) and “party” and “parties” shall be construed accordingly.

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(1) 2003 c. 17

(2) In these Regulations, a reference to the application, representations or notice made by a party means the application, representations or notice referred to in relation to that party in column 2 of the table in Schedule 2.

(3) In these Regulations, a reference to a section, or a paragraph of a Schedule is a reference to the section of, or the paragraph of the Schedule to, the Act.

### **Scope**

3. These Regulations make provision for the procedure to be followed in relation to hearings held under the Act by an authority.

### **Period of time within which hearing to be held**

4. The authority shall arrange for the date on which and time and place at which a hearing is to be held in accordance with regulation 5 and shall give a notice of hearing in accordance with regulations 6 and 7.

5. Hearings to be held under the provisions listed in column 1 of the table in Schedule 1 must be commenced within the period of time specified in column 2 of the table and in a case where the hearing is to be held on more than one day, the hearing must be arranged to take place on consecutive working days.

### **Notice of hearing**

6.—(1) In the case of hearings under the provisions listed in column 1 of the table in Schedule 2, the authority shall give to the persons listed in column 2 of the table a notice stating the date on which and time and place at which the hearing is to be held (the “notice of hearing”) in accordance with the following provisions of this regulation.

(2) In the case of a hearing under—

(a) section 48(3)(a) (cancellation of interim authority notice following police objection), or

(b) section 105(2)(a) (counter notice following police objection to temporary event notice),

the authority shall give the notice of hearing no later than two working days before the day or the first day on which the hearing is to be held.

(3) In the case of a hearing under—

(a) section 167(5)(a) (review of premises licence following closure order),

(b) paragraph 4(3)(a) of Schedule 8 (determination of application for conversion of existing licence),

(c) paragraph 16(3)(a) of Schedule 8 (determination of application for conversion of existing club certificate), or

(d) paragraph 26(3)(a) of Schedule 8 (determination of application by holder of justices' licence for grant of personal licence),

the authority shall give the notice of hearing no later than five working days before the day or the first day on which the hearing is to be held.

### **Information to accompany notice of hearing**

7.—(1) The notice of hearing shall be accompanied by information regarding the following—

(a) the rights of a party provided for in regulations 15 and 16;

(b) the consequences if a party does not attend or is not represented at the hearing;

- (c) the procedure to be followed at the hearing;
- (d) any particular points on which the authority considers that it will want clarification at the hearing from a party.

(2) In relation to hearings under the provisions listed in column 1 of the table in Schedule 3, the notice of hearing given to the persons listed in column 2 of the table shall also be accompanied by the documents listed in column 3 of the table.

#### **Action following receipt of notice of hearing**

**8.—**(1) A party shall give to the authority within the period of time provided for in the following provisions of this regulation a notice stating—

- (a) whether he intends to attend or be represented at the hearing;
- (b) whether he considers a hearing to be unnecessary.

(2) In a case where a party wishes any other person (other than the person he intends to represent him at the hearing) to appear at the hearing, the notice referred to in paragraph (1) shall contain a request for permission for such other person to appear at the hearing accompanied by details of the name of that person and a brief description of the point or points on which that person may be able to assist the authority in relation to the application, representations or notice of the party making the request.

(3) In the case of a hearing under—

- (a) section 48(3)(a) (cancellation of interim authority notice following police objection), or
- (b) section 105(2)(a) (counter notice following police objection to temporary event notice),

the party shall give the notice no later than one working day before the day or the first day on which the hearing is to be held.

(4) In the case of a hearing under—

- (a) section 167(5)(a) (review of premises licence following closure order),
- (b) paragraph 4(3)(a) of Schedule 8 (determination of application for conversion of existing licence),
- (c) paragraph 16(3)(a) of Schedule 8 (determination of application for conversion of existing club certificate), or
- (d) paragraph 26(3)(a) of Schedule 8 (determination of application by holder of justices' licence for grant of personal licence),

the party shall give the notice no later than two working days before the day or the first day on which the hearing is to be held.

(5) In any other case, the party shall give the notice no later than five working days before the day or the first day on which the hearing is to be held.

#### **Right to dispense with hearing if all parties agree**

**9.—**(1) An authority may dispense with holding a hearing if all persons required by the Act to agree that such a hearing is unnecessary, other than the authority itself, have done so by giving notice to the authority that they consider a hearing to be unnecessary.

(2) Where all the persons required by the Act to agree that a hearing is unnecessary have done so in accordance with paragraph (1), the authority, if it agrees that a hearing is unnecessary, must forthwith give notice to the parties that the hearing has been dispensed with.

### **Withdrawal of representations**

10. A party who wishes to withdraw any representations they have made may do so—
- (a) by giving notice to the authority no later than 24 hours before the day or the first day on which the hearing is to be held; or
  - (b) orally at the hearing.

### **Power to extend time etc.**

11.—(1) Subject to regulation 13, an authority may extend a time limit provided for in these Regulations for a specified period where it considers this to be necessary in the public interest.

(2) Where the authority has extended a time limit it must forthwith give a notice to the parties stating the period of the extension and the reasons for it.

12.—(1) Subject to regulation 13, an authority may—

- (a) adjourn a hearing to a specified date, or
- (b) arrange for a hearing to be held on specified additional dates,

where it considers this to be necessary for its consideration of any representations or notice made by a party.

(2) Where an authority has adjourned a hearing to a specified date it must forthwith notify the parties of the date, time and place to which the hearing has been adjourned.

(3) Where an authority has arranged for a hearing to be held on a specified additional date it must forthwith notify the parties of the additional date on which and time and place at which the hearing is to be held.

13. An authority may not exercise its powers under regulations 11 and 12 in such a way that the effect will be that—

- (a) an application will be treated as granted or rejected under paragraph 4(4), 7(3), 16(4), 19(3) or 26(4) of Schedule 8 (transitional provision etc.); or
- (b) it would fail to reach a determination on the review under section 167 (review of premises licence following closure order) within the period specified in subsection (3) of that section.

### **Hearing to be public**

14.—(1) Subject to paragraph (2), the hearing shall take place in public.

(2) The licensing authority may exclude the public from all or part of a hearing where it considers that the public interest in so doing outweighs the public interest in the hearing, or that part of the hearing, taking place in public.

(3) For the purposes of paragraph (2), a party and any person assisting or representing a party may be treated as a member of the public.

### **Right of attendance, assistance and representation**

15. Subject to regulations 14(2) and 25, a party may attend the hearing and may be assisted or represented by any person whether or not that person is legally qualified.

### **Representations and supporting information**

16. At the hearing a party shall be entitled to—



- (a) in response to a point upon which the authority has given notice to a party that it will want clarification under regulation 7(1)(d), give further information in support of their application, representations or notice (as applicable),
- (b) if given permission by the authority, question any other party; and
- (c) address the authority.

17. Members of the authority may ask any question of any party or other person appearing at the hearing.

18. In considering any representations or notice made by a party the authority may take into account documentary or other information produced by a party in support of their application, representations or notice (as applicable) either before the hearing or, with the consent of all the other parties, at the hearing.

19. The authority shall disregard any information given by a party or any person to whom permission to appear at the hearing is given by the authority which is not relevant to—

- (a) their application, representations or notice (as applicable) or in the case of another person, the application representations or notice of the party requesting their appearance, and
- (b) the promotion of the licensing objectives or, in relation to a hearing to consider a notice given by a chief officer of police, the crime prevention objective.

#### **Failure of parties to attend the hearing**

20.—(1) If a party has informed the authority that he does not intend to attend or be represented at a hearing, the hearing may proceed in his absence.

(2) If a party who has not so indicated fails to attend or be represented at a hearing the authority may—

- (a) where it considers it to be necessary in the public interest, adjourn the hearing to a specified date, or
- (b) hold the hearing in the party's absence.

(3) Where the authority holds the hearing in the absence of a party, the authority shall consider at the hearing the application, representations or notice made by that party.

(4) Where the authority adjourns the hearing to a specified date it must forthwith notify the parties of the date, time and place to which the hearing has been adjourned.

#### **Procedure at hearing**

21. Subject to the provisions of these Regulations, the authority shall determine the procedure to be followed at the hearing.

22. At the beginning of the hearing, the authority shall explain to the parties the procedure which it proposes to follow at the hearing and shall consider any request made by a party under regulation 8(2) for permission for another person to appear at the hearing, such permission shall not be unreasonably withheld.

23. A hearing shall take the form of a discussion led by the authority and cross-examination shall not be permitted unless the authority considers that cross-examination is required for it to consider the representations, application or notice as the case may require.

24. The authority must allow the parties an equal maximum period of time in which to exercise their rights provided for in regulation 16.

25. The authority may require any person attending the hearing who in their opinion is behaving in a disruptive manner to leave the hearing and may—

- (a) refuse to permit that person to return, or
- (b) permit him to return only on such conditions as the authority may specify,

but such a person may, before the end of the hearing, submit to the authority in writing any information which they would have been entitled to give orally had they not been required to leave.

### **Determination of applications**

**26.**—(1) In the case of a hearing under—

- (a) section 35 or 39 which is in respect of an application made at the same time as an application for conversion of an existing licence under paragraph 2 of Schedule 8 (determination of application under section 34 or 37),
- (b) section 85 which is in respect of an application made at the same time as an application for conversion of an existing club certificate under paragraph 14 of Schedule 8 (determination of application under section 85),
- (c) section 105(2)(a) (counter notice following police objection to temporary event notice),
- (d) section 167(5)(a) (review of premises licence following closure order),
- (e) paragraph 4(3)(a) of Schedule 8 (determination of application for conversion of existing licence),
- (f) paragraph 16(3)(a) of Schedule 8 (determination of application for conversion of existing club certificate), or
- (g) paragraph 26(3)(a) of Schedule 8 (determination of application by holder of a justices' licence for grant of personal licence),

the authority must make its determination at the conclusion of the hearing.

(2) In any other case the authority must make its determination within the period of five working days beginning with the day or the last day on which the hearing was held.

**27.** Where a hearing has been dispensed with in accordance with regulation 9, the authority must make its determination within the period of ten working days beginning with the day the authority gives notice to the parties under regulation 9(2).

### **Notification of determination**

**28.**—(1) In a case where the Act does not make provision for the period within which the authority must notify a party of its determination, the authority must do so forthwith on making its determination.

(2) In a case where—

- (a) the Act provides for a chief officer of police to be notified of the determination of an authority, and
- (b) that chief officer of police has not been a party to the hearing,

the authority shall notify that chief officer of police of its determination, forthwith on making its determination.

**29.** Where the authority notifies a party of its determination, the notice given (or, in the case of a hearing under section 31(3)(a) (determination of application for provisional statement), the statement issued) to the party must be accompanied by information regarding the right of a party to appeal against the determination of the authority.

### **Record of proceedings**

**30.** The authority shall provide for a record to be taken of the hearing in a permanent and intelligible form and kept for six years from the date of the determination or, where an appeal is brought against the determination of the authority, the disposal of the appeal.

### **Irregularities**

**31.** Any irregularity resulting from any failure to comply with any provision of these Regulations before the authority has made a determination shall not of itself render the proceedings void.

**32.** In any case of such an irregularity, the authority shall, if it considers that any person may have been prejudiced as a result of the irregularity, take such steps as it thinks fit to cure the irregularity before reaching its determination.

**33.** Clerical mistakes in any document recording a determination of the authority or errors arising in such document from an accidental slip or omission may be corrected by the authority.

### **Notices**

**34.—**(1) Any notices required to be given by these Regulations must be given in writing.

(2) Notwithstanding the requirement in paragraph (1) and subject to paragraph (3), that requirement shall be satisfied in a case where –

- (a) the text of the notice—
  - (i) is transmitted by electronic means;
  - (ii) is capable of being accessed by the recipient;
  - (iii) is legible in all material respects; and
  - (iv) is capable of being reproduced in written form and used for subsequent reference;
- (b) the person to whom the notice is to be given has agreed in advance that such a notice may be given to them by electronic means; and
- (c) forthwith on sending the text of the notice by electronic means, the notice is given to the recipient in writing.

(3) Where the text of the notice is transmitted by electronic means, the giving of the notice shall be effected at the time the requirements of paragraph (2)(a) are satisfied.

Date 12th January 2005

*Richard Caborn*  
Minister of State  
Department for Culture, Media and Sport

## SCHEDULE 1

regulation 5

	Column 1	Column 2
	<b>Provision under which hearing is held.</b>	<b>Period of time within which hearing must be commenced.</b>
1.	Section 18(3)(a) (determination of application for premises licence).	20 working days beginning with the day after the end of the period during which representations may be made as prescribed under section 17(5)(c).
2.	Section 31(3)(a) (determination of application for a provisional statement).	20 working days beginning with the day after the end of the period during which representations may be made as prescribed under section 17(5)(c) by virtue of section 30.
3.	Section 35(3)(a) (determination of application to vary premises licence).	20 working days beginning with the day after the end of the period during which representations may be made as prescribed under section 17(5)(c) by virtue of section 34(5).
4.	Section 39(3)(a) (determination of application to vary premises licence to specify individual as premises supervisor).	20 working days beginning with the day after the end of the period within which a chief officer of police may give notice under section 37(5).
5.	Section 44(5)(a) (determination of application for transfer of premises licence).	20 working days beginning with the day after the end of the period within which a chief officer of police may give notice under section 42(6).
6.	Section 48(3)(a) (cancellation of interim authority notice following police objection).	5 working days beginning with the day after the end of the period within which a chief officer of police may give notice under section 48(2).
7.	Section 52(2) (determination of application for review of premises licence).	20 working days beginning with the day after the end of the period during which representations may be made as prescribed under section 51(3)(c).

	Column 1	Column 2
8.	Section 72(3)(a) (determination of application for club premises certificate).	20 working days beginning with the day after the end of the period during which representations may be made as prescribed under section 71(6)(c).
9.	Section 85(3) (determination of application to vary club premises certificate).	20 working days beginning with the day after the end of the period during which representations may be made as prescribed under section 71(6)(c) by virtue of section 84(4).
10.	Section 88(2) (determination of application for review of club premises certificate).	20 working days beginning with the day after the end of the period during which representations may be made as prescribed under section 87(3)(c).
11.	Section 105(2)(a) (counter notice following police objection to temporary event notice).	7 working days beginning with the day after the end of the period within which a chief officer of police may give a notice under section 104(2).
12.	Section 120(7)(a) (determination of application for grant of personal licence).	20 working days beginning with the day after the end of the period within which the chief officer of police may give a notice under section 120(5).
13.	Section 121(6)(a) (determination of application for the renewal of personal licence).	20 working days beginning with the day after the end of the period within which the chief officer of police may give a notice under section 121(3).
14.	Section 124(4)(a) (convictions coming to light after grant or renewal of personal licence).	20 working days beginning with the day after the end of the period within which the chief officer of police may give a notice under section 124(3).
15.	Section 167(5)(a) (review of premises licence following closure order).	10 working days beginning with the day after the day the relevant licensing authority receives the notice given under section 165(4).
16.	Paragraph 4(3)(a) of Schedule 8 (determination of	10 working days beginning with the day after the end of the period within which a chief

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	Column 1	Column 2
	application for conversion of existing licence).	officer of police may give a notice under paragraph 3(2) or (3) of Schedule 8.
17.	Paragraph 16(3)(a) of Schedule 8 (determination of application for conversion of existing club certificate).	10 working days beginning with the day after the end of the period within which a chief officer of police may give a notice under paragraph 15(2) or (3) of Schedule 8.
18.	Paragraph 26(3)(a) of Schedule 8 (determination of application by holder of a justices' licence for grant of personal licence).	10 working days beginning with the day after the end of the period within which the chief officer of police may give a notice under paragraph 25(2) of Schedule 8.

## SCHEDULE 2

regulation 6

	Column 1	Column 2
	<b>Provision under which hearing is held.</b>	<b>Persons to whom notice of hearing is to be given.</b>
1.	Section 18(3)(a) (determination of application for premises licence).	(1) The person who has made the application under section 17(1); (2) persons who have made relevant representations as defined in section 18(6).
2.	Section 31(3)(a) (determination of application for provisional statement).	(1) The person who has made the application under section 29(2); (2) persons who have made relevant representations as defined in section 31(5).
3.	Section 35(3)(a) (determination of application to vary premises licence).	(1) The holder of the premises licence who has made the application under section 34(1); (2) persons who have made relevant representations as defined in section 35(5).
4.	Section 39(3)(a) (determination of application to vary premises licence to specify individual as premises supervisor).	(1) The holder of the premises licence who has made the application under section 37(1);

	Column 1	Column 2
		(2) each chief officer of police who has given notice under section 37(5); (3) the proposed individual as referred to in section 37(1).
5.	Section 44(5)(a) (determination of application for transfer of premises licence).	(1) The person who has made the application under section 42(1); (2) each chief officer of police who has given notice under section 42(6); (3) the holder of the premises licence in respect of which the application has been made or, if the application is one to which section 43(1) applies, the holder of that licence immediately before the application was made.
6.	Section 48(3)(a) (cancellation of interim authority notice following police objection).	(1) The person who has given notice under section 47(2); (2) each chief officer of police who has given notice under section 48(2).
7.	Section 52(2) (determination of application for review of premises licence).	(1) The holder of the premises licence in respect of which the application has been made; (2) persons who have made relevant representations as defined in section 52(7); (3) the person who has made the application under section 51(1).
8.	Section 72(3)(a) (determination of application for club premises certificate).	(1) The club which has made the application under section 71(1); (2) persons who have made relevant representations as defined in section 72(7).
9.	Section 85(3)(a) (determination of application to vary club premises certificate).	(1) The club which has made the application under section 84(1);

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	Column 1	Column 2
		(2) persons who have made relevant representations as defined in section 85(5).
10.	Section 88(2) (determination of application for review of club premises certificate).	(1) The club which holds the club premises certificate in respect of which the application has been made;  (2) persons who have made relevant representations as defined in section 88(7);  (3) the person who has made the application under section 87(1).
11.	Section 105(2)(a) (counter notice following police objection to temporary event notice).	(1) The premises user;  (2) each chief officer of police who has given notice under section 104(2).
12.	Section 120(7)(a) (determination of application for grant of personal licence).	(1) The person who has made the application under section 117(1);  (2) the chief officer of police who has given notice under section 120(5).
13.	Section 121(6)(a) (determination of application for renewal of personal licence).	(1) The person who has made the application under section 117(1);  (2) the chief officer of police who has given notice under section 121(3).
14.	Section 124(4)(a) (convictions coming to light after grant or renewal of personal licence).	(1) The holder of the licence in respect of which the notice has been given;  (2) the chief officer of police who has given notice under section 124(3).
15.	Section 167(5)(a) (review of premises licence following closure order).	(1) The holder of the premises licence in respect of which the review has been made;  (2) persons who have made relevant representations as defined in section 167(9).
16.	Paragraph 4(3)(a) of Schedule 8 (determination of application for conversion of existing licence).	(1) The person who has made the application under paragraph 2(2) of Schedule 8;



	Column 1	Column 2
		(2) each chief officer of police who has given notice under paragraph 3(2) or (3) of Schedule 8.
17.	Paragraph 16(3)(a) of Schedule 8 (determination of application for conversion of existing club certificate).	(1) The club which has made the application under paragraph 14(2) of Schedule 8; (2) each chief officer of police who has given notice under paragraph 15(2) or (3) of Schedule 8.
18.	Paragraph 26(3)(a) of Schedule 8 (determination of application by holder of a justices' licence for grant of personal licence).	(1) The person who has made the application under section 117 to which paragraph 23(1) of Schedule 8 applies; (2) the chief officer of police who has given notice under paragraph 25(2) of Schedule 8.

## SCHEDULE 3

regulation 7

	Column 1	Column 2	Column 3
	<b>Provision under which hearing is held</b>	<b>Person to whom notice of hearing is given</b>	<b>Documents to accompany notice of hearing</b>
1.	Section 18(3)(a) (determination of application for premises licence).	The person who has made the application under section 17(1).	The relevant representations as defined in section 18(6) which have been made.
2.	Section 31(3)(a) (determination of application for provisional statement).	The person who has made the application under section 29(2).	The relevant representations as defined in section 31(5) which have been made.
3.	Section 35(3)(a) (determination of application to vary premises licence).	The holder of the premises licence who has made the application under section 34(1).	The relevant representations as defined in section 35(5) which have been made.
4.	Section 39(3)(a) (determination of application to vary premises licence to	(1) The holder of the premises licence who has made the application under section 37(1);	The notices which have been given under section 37(6).

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	Column 1	Column 2	Column 3
	specify individual as premises supervisor).	(2) the proposed individual as referred to in section 37(1).	
5.	Section 44(5)(a) (determination of application for transfer of premises licence).	(1) The person who has made the application under section 42(1); (2) the holder of the premises licence in respect of which the application has been made or, if the application is one to which section 43(1) applies, the holder of that licence immediately before the application was made.	The notices which have been given under section 42(6).
6.	Section 48(3)(a) (cancellation of interim authority notice following police objection).	The person who has given notice under section 47(2).	The notices which have been given under section 48(2).
7.	Section 52(2) (determination of application for review of premises licence).	The holder of the premises licence in respect of which the application has been made.	The relevant representations as defined in section 52(7) which have been made.
8.	Section 72(3)(a) (determination of application for club premises certificate).	The club which has made the application under section 71(1).	The relevant representations as defined in section 72(7) which have been made.
9.	Section 85(3)(a) (determination of application to vary club premises certificate).	The club which has made the application under section 84(1).	The relevant representations as defined in section 85(5) which have been made.
10.	Section 88(2) (determination of application for review of club premises certificate).	The club which holds the club premises certificate in respect of which the application has been made.	The relevant representations as defined in section 88(7) which have been made.
11.	Section 120(7)(a) (determination of application for grant of personal licence).	The person who has made the application under section 117(1).	The notice which has been given under section 120(5)

	Column 1	Column 2	Column 3
12.	Section 121(6)(a) (determination of application for renewal of personal licence).	The person who has made the application under section 117(1).	The notice which has been given under section 121(3).
13.	Section 124(4)(a) (convictions coming to light after grant or renewal of personal licence).	The holder of the licence in respect of which the notice has been given.	The notice which has been given under section 124(3).
14.	Section 167(5)(a) (review of premises licence following closure order).	The holder of the premises licence in respect of which the review has been made.	The relevant representations as defined in section 167(9) which have been made.

## SCHEDULE 4

regulation 2

## Meaning of “determination”

The determination of the authority is the outcome of its consideration, as applicable, of—

1. the relevant representations as defined in section 18(6), in accordance with section 18,
2. the relevant representations as defined in section 31(5), in accordance with section 31,
3. the relevant representations as defined in section 35(5), in accordance with section 35,
4. a notice given under section 37(5), in accordance with section 39,
5. a notice given under section 42(6), in accordance with section 44,
6. a notice given under section 48(2), in accordance with section 48,
7. an application made in accordance with section 51 and any relevant representations as defined in section 52(7), in accordance with section 52,
8. the relevant representations as defined in section 72(7), in accordance with section 72,
9. the relevant representations as defined in section 85(5), in accordance with section 85,
10. an application made in accordance with section 87 and any relevant representations as defined in section 88(7), in accordance with section 88,
11. a notice given under section 104(2), in accordance with section 105,
12. a notice given under section 120(5), in accordance with section 120,
13. a notice given under section 121(3), in accordance with section 121,
14. a notice given under section 124(3), in accordance with section 124,
15. the matters referred to in section 167(5)(a), in accordance with section 167,
16. the notice given under paragraph 3(2) or (3) of Schedule 8, in accordance with its paragraph 4,
17. the notice given under paragraph 15(2) or (3) of Schedule 8, in accordance with its paragraph 16, or

18. the notice given under paragraph 25(2) of Schedule 8, in accordance with its paragraph 26.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make provision for the holding of hearings required to be held by licensing authorities under the Licensing Act 2003(c. 17) (“the Act”).

In particular, the Regulations provide for the timing of hearings and the notification requirements to parties to a hearing of the date, time and place of a hearing and information to accompany that notification (regulations 4, to 7 and Schedules 1, 2 and 3). In addition, provision is made for a party to a hearing to provide information to the licensing authority about attendance at a hearing, representations, the seeking of permission for another person to attend to assist the authority and whether the party believes a hearing to be necessary (regulation 8).

The Regulations provide for a range of procedural issues to govern the way in which preparations are made for a hearing, for the procedures to be followed, the rights of parties at a hearing, and various administrative matters, for example, the keeping of a record of the hearing and the manner of giving notices (regulations 9 to 33). The Regulations also make provision for the timing of the licensing authority’s determination following a hearing (Schedule 4).

Insofar as these Regulations do not make provision for procedures for and at hearings, section 9 of the Act provides that the authority can determine its own procedure.

A Regulatory Impact Assessment in relation to these Regulations has been placed in the libraries of both Houses of Parliament and copies may be obtained from the Alcohol and Entertainment Licensing Branch of the Department for Culture, Media and Sport, 3rd Floor, 2-4 Cockspur Street, London SW1Y 5DH or viewed on the Department’s website, [www.culture.gov.uk](http://www.culture.gov.uk).

# 10. Conditions attached to premises licences and club premises certificates

## General

- 10.1 This chapter provides further guidance in relation to conditions attached to premises licences and club premises certificates. General principles on licence conditions are set out in Chapter 1 (see paragraph 1.16).
- 10.2 Conditions include any limitations or restrictions attached to a licence or certificate and essentially are the steps or actions that the holder of the premises licence or the club premises certificate will be required to take or refrain from taking in relation to the carrying on of licensable activities at the premises in question. Failure to comply with any condition attached to a licence or certificate is a criminal offence, which on conviction is punishable by an unlimited fine or up to six months' imprisonment. The courts have made clear that it is particularly important that conditions which are imprecise or difficult for a licence holder to observe should be avoided.
- 10.3 There are three types of condition that may be attached to a licence or certificate: proposed, imposed and mandatory. Each of these categories is described in more detail below.

## Proposed conditions

- 10.4 The conditions that are appropriate for the promotion of the licensing objectives should emerge initially from the risk assessment carried out by a prospective licence or certificate holder, which they should carry out before making their application for a premises licence or club premises certificate. This would be translated into the steps recorded in the operating schedule or club operating schedule, which must also set out the proposed hours during which licensable activities will be conducted and any other hours during which the premises will be open to the public.
- 10.5 It is not acceptable for licensing authorities to simply replicate the wording from an applicant's operating schedule. A condition should be interpreted in accordance with the applicant's intention.

## Consistency with steps described in operating schedule

- 10.6 The 2003 Act provides that where an operating schedule or club operating schedule has been submitted with an application and there have been no relevant representations made by responsible authorities or any other person, the licence or certificate must be granted subject only to such conditions as are consistent with the schedule accompanying the application and any mandatory conditions required under the 2003 Act.
- 10.7 Consistency means that the effect of the condition should be substantially the same as that intended by the terms of the operating schedule. If conditions are broken, this may lead to a criminal prosecution or an application for a review and it is extremely important therefore that they should be expressed on the licence or certificate in unequivocal and unambiguous terms. The duty imposed by conditions on the licence holder or club must be clear to the licence holder, club, enforcement officers and the courts.

## Imposed conditions

- 10.8 The licensing authority may not impose any conditions unless its discretion has been exercised following receipt of relevant representations and it is satisfied as a result of a hearing (unless all parties agree a hearing is not necessary) that it is appropriate to impose conditions to promote one or more of the four licensing objectives. In order to promote the crime prevention licensing objective conditions may be included that are aimed at preventing illegal working in licensed premises. This provision also applies to minor variations.
- 10.9 It is possible that in some cases no additional conditions will be appropriate to promote the licensing objectives.

## Proportionality

- 10.10 The 2003 Act requires that licensing conditions should be tailored to the size, type, location and characteristics and activities taking place at the premises concerned. Conditions should be determined on a case-by-case basis and standardised conditions which ignore these individual aspects should be avoided. For example, conditions should not be used to implement a general policy in a given area such as the use of CCTV, polycarbonate drinking vessels or identity scanners where they would not be appropriate to the specific premises. Conditions that are considered appropriate for the prevention of illegal working in premises licensed to sell alcohol or late night refreshment might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that a copy of any document checked as part of a right to work check is retained at the licensed premises. Licensing authorities and other responsible authorities should be alive to the indirect costs that can arise because of conditions. These could be a deterrent to holding events that are valuable to the community or for the funding of good and important causes. Licensing authorities should therefore ensure that any conditions they impose are only those which are appropriate for the promotion of the licensing objectives.

## Naming, packing and promotion in retail premises

- 10.11 The Government acknowledges that the irresponsible naming, packing or promotion of alcoholic drinks may contribute to alcohol related harms. Where there is direct evidence of specific incidents of irresponsible naming, packing or promotion of alcoholic drinks linked to the undermining of one of the licensing objectives, licensing authorities should, in the exercise of their licensing functions (in particular, in relation to an application for the grant, variation or review of a premises licence), consider whether it is appropriate to impose conditions on licences that require the licence holder to comply with the Portman Group's Retailer Alert Bulletins. This condition should be considered on a case by case basis and in the context of the promotion of the licensing objectives.
- 10.12 The Portman Group operates, on behalf of the alcohol industry, a Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks. The Code seeks to ensure that drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years old or older. Complaints about products under the Code are considered by an Independent Complaints Panel and the Panel's decisions are published on the Portman Group's website, in the trade press and in an annual report. If a product's packaging or point-of-sale advertising is found to be in breach of the Code,

the Portman Group may issue a Retailer Alert Bulletin to notify retailers of the decision and ask them not to replenish stocks of any such product or to display such point-of-sale material, until there has been compliance with the decision.

## **Hours of trading**

- 10.13 The Government acknowledges that different licensing strategies may be appropriate for the promotion of the licensing objectives in different areas. The 2003 Act gives the licensing authority power to make decisions about the hours during which premises can conduct licensable activities as part of the implementation of its licensing policy statement. Licensing authorities are best placed to make decisions about appropriate opening hours in their areas based on their local knowledge and in consultation with responsible authorities. However, licensing authorities must always consider each application and must not impose predetermined licensed opening hours, without giving individual consideration to the merits of each application.
- 10.14 Where there are objections to an application to extend the hours during which licensable activities are to be carried on and the licensing authority determines that this would undermine the licensing objectives, it may reject the application or grant it with appropriate conditions and/or different hours from those requested.
- 10.15 Shops, stores and supermarkets should normally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are good reasons, based on the licensing objectives, for restricting those hours.

## **The performance of plays**

- 10.16 The 2003 Act provides that other than for the purposes of public safety, conditions must not be attached to premises licences or club premises certificates authorising the performance of a play<sup>7</sup> which attempt to censor or modify the content of plays in any way. Any such condition would be ultra vires the 2003 Act.

## **Censorship**

- 10.17 In general, other than in the context of film classification for film exhibitions, licensing authorities should not use their powers under the 2003 Act to seek to impose conditions which censor the content of any form of regulated entertainment. This is not a proper function of licensing law and cannot be properly related to the licensing objectives. The content of regulated entertainment is a matter which is addressed by existing laws governing indecency and obscenity. Where the concern is about protecting children, their access should be restricted where appropriate. But no other limitation should normally be imposed.

## **Major festivals and carnivals**

- 10.18 Licensing authorities should publicise the need for the organisers of major festivals and carnivals to approach them at the earliest opportunity to discuss arrangements for licensing activities falling under the 2003 Act. For some events, the organisers may seek a single premises licence to cover a wide range of activities at varied locations

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<sup>7</sup> See chapter 15 for when a performance of a play is licensable.

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