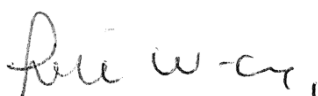


Date of issue: Wednesday 6 February, 2019

MEETING	LICENSING COMMITTEE (Councillors Davis (Chair), S Parmar (Vice-Chair), B Bains, M Holledge, Mann, D Parmar, Qaseem, Shah, Strutton, Usmani and Wright)
DATE AND TIME:	THURSDAY, 14TH FEBRUARY, 2019 AT 6.30 PM
VENUE:	VENUS SUITE 2, ST MARTINS PLACE, 51 BATH ROAD, SLOUGH, BERKSHIRE, SL1 3UF
DEMOCRATIC SERVICES OFFICER: (for all enquiries)	SHABANA KAUSER 01753 787503

NOTICE OF MEETING

You are requested to attend the above Meeting at the time and date indicated to deal with the business set out in the following agenda.



JOSIE WRAGG
Chief Executive

AGENDA

PART I

<u>AGENDA ITEM</u>	<u>REPORT TITLE</u>	<u>PAGE</u>	<u>WARD</u>
	Apologies for absence.		

CONSTITUTIONAL MATTERS

1. Declarations of Interest

All Members who believe they have a Disclosable Pecuniary or other Interest in any matter to be considered at the meeting must declare that interest and, having regard to the circumstances described in Section 4 paragraph 4.6 of the Councillors' Code of Conduct, leave the meeting while the matter is discussed.

<u>AGENDA ITEM</u>	<u>REPORT TITLE</u>	<u>PAGE</u>	<u>WARD</u>
2.	Minutes of the Last Meeting held on 18th October 2018	1 - 4	All
3.	Guidance on Predetermination/ Predisposition - To Note	5 - 6	-
LICENSING ISSUES			
4.	Licensing Act 2003 - Statement of Licensing Policy 2019/24	7 - 70	All
5.	Members Attendance Record	71 - 72	-
6.	Date of Next Meeting - 27th March 2019	-	-

Press and Public

You are welcome to attend this meeting which is open to the press and public, as an observer. You will however be asked to leave before the Committee considers any items in the Part II agenda. Please contact the Democratic Services Officer shown above for further details.

The Council allows the filming, recording and photographing at its meetings that are open to the public. By entering the meeting room and using the public seating area, you are consenting to being filmed and to the possible use of those images and sound recordings. Anyone proposing to film, record or take photographs of a meeting is requested to advise the Democratic Services Officer before the start of the meeting. Filming or recording must be overt and persons filming should not move around the meeting room whilst filming nor should they obstruct proceedings or the public from viewing the meeting. The use of flash photography, additional lighting or any non hand held devices, including tripods, will not be allowed unless this has been discussed with the Democratic Services Officer.

Licensing Committee – Meeting held on Thursday, 18th October, 2018.

Present:- Councillors Davis (Chair), S Parmar (Vice-Chair), M Holledge, Mann, D Parmar, Qaseem, Shah, Strutton and Wright.

Apologies for Absence:- Councillors B Bains and Usmani.

PART 1

16. Declarations of Interest

None were received.

17. Guidance on Predetermination/ Predisposition - To Note

Members confirmed that they had read and understood the guidance on predetermination and predisposition.

18. Minutes of the Meetings held on 12th June 2018 and 10th September 2018

Resolved – That the minutes of the meetings held on 12th June 2018 and 10th September 2018 be approved as a correct record.

19. Gambling Act 2005 - Review of Statement of Principles and Local Area Profile.

The Senior Licensing Officer informed the Committee of the outcome of the public consultation on the Council's Gambling Act 2005 Statement of Principles Policy (as amended 2018) and outlined details of the development of a 'Local Area Profile'. Members were reminded that the Council was required to put in place a policy, known as the Statement of Principles and that there was a statutory duty to review the policy every three years. The current Statement of Principles was due to lapse on 31st January 2019. A consultation was conducted on the draft Statement of Principles between 3rd August 2018 and 14th September and only two formal responses were received; which had been incorporated into the draft document.

It was brought to Members' attention that the published Gambling Commission Guidance to Local Authorities highlighted that licensing authorities should also consider developing local area profiles, identifying, quantifying and mapping the vulnerabilities and other relevant features of their areas. Such profiles would be used to inform new gambling policies, against which all applications would be judged.

The Local Area Profile had been developed, details of which were outlined. It was noted that there was no statutory requirement for any consultation on or formal approval by the Licensing Committee of the 'Local Area Profile', as they were optional for the Licensing Authority to develop in order to be used by and assist gambling operators when developing their own Local Risk Assessments.

Licensing Committee - 18.10.18

Committee Members endorsed details of the Statement of Principles and noted that a Local Area Profile had been developed.

Recommended to Council –

- a) That the Gambling Act 2005 Statement of Principles policy (as amended 2018) is adopted as the Council's Gambling Policy.
- b) To note that a Local Area Profile in assisting Operators in preparing Local Risk Assessments had been developed.

20. The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018

The Licensing Manager informed the Committee of changes to animal licensing introduced through the new Animal Welfare Regulations 2018. The Council was responsible for the licensing and regulation of a variety of animal related businesses, as well as the keeping of specified dangerous animals by individuals and this was achieved through six different types of licence issued by the Council. The most significant change was that all types of licences currently issued would be encompassed by one new 'Animal Activity Licence'. The new provisions contained nationally set conditions and regulations for each animal based activity which could not be changed and formed the basis for conditions on the new licences going forward.

Details of the inspection process, score rating and fees were outlined. In response to a Member question, it was noted that the fees had been agreed at a Cabinet meeting on 15th October 2018 and that they were split into two parts – the application fee (consideration and determination of the application) and the licence fee (enforcement and compliance requirements).

Resolved – That details of the report are noted.

21. Mandatory Passenger Assistant Training Scheme (PATs) for all Hackney Carriage and Private Hire Drivers

The Committee were advised of the Government's 'Inclusive Transport Strategy' which recommended making Disability Training Awareness (Passenger Assistant Training) a mandatory requirement for all new and existing Hackney Carriage and Private Hire Drivers; to make travel easier for people with disabilities. A number of specific recommendations were suggested by the Department of Transport regarding accessibility to taxi and private hire services:

- Publishing lists of taxis and PHVs designated as being "wheelchair accessible" for the purposes of Section 167 of the Equality Act 2010;
- Prosecuting drivers for discriminating against assistance dog owners and wheelchair users, where sufficient evidence exists to do so, and applying appropriate licensing sanctions;

Licensing Committee - 18.10.18

- Reviewing the demand for wheelchair accessible taxis and PHVs in your area, and taking steps to ensure that the composition of fleets reflects this need; and
- Requiring all taxi and PHV drivers to complete disability awareness training.

The Licensing Manager informed Members that the Council was already compliant with the first two bullet points. There were currently 107 licensed Hackney Carriages of which 57 were wheelchair accessible vehicles. However, for Private Hire Vehicles the current fleet consisted of 596 vehicles and only 10, i.e. 1.67 % were wheelchair accessible vehicles. It was therefore necessary to seek further guidance from the Department for Transport on how they expected local authorities to increase the number of Private Hire wheelchair accessible vehicles without putting an increased financial or disproportionate burden on the Private Hire Trade.

In the ensuing discussion, clarification was sought regarding the training. It was confirmed that there was no expiry date on the training once completed and no refresher course was required. It was anticipated that the cost for the course would be between £60 – £110 and that the cost would be paid for by the drivers.

Resolved –

- (a) To note the report and the letter from the Department for Transport regarding the Government's 'Inclusive Transport Strategy'.
- (b) Approve that the 'Passenger Assistant Training Scheme' is a mandatory requirement for all new applicants for any a Hackney Carriage or Private Hire driver licence, and must be undertaken before a licence is granted.
- (c) Approve that the 'Passenger Assistant Training Scheme' ("PATS") is a mandatory requirement for all existing Hackney Carriage and Private Hire drivers and that the training must be undertaken within one year of 1st January 2019.
- (d) That all current Hackney Carriage and Private Hire Drivers, including 'Combined' licensed drivers that have previously undertaken PATS training will be exempt from the new requirement.
- (e) To approve that where any current holder of a Hackney Carriage or Private Hire Driver licence has failed to attend the mandatory PATS training (other than those that are exempt) by 31st December 2019, their licence will be suspended until such time as they attend the training and produce a valid Certificate as confirmation of their attendance.

Licensing Committee - 18.10.18

22. Members Attendance Record 2018/19

Resolved – That details of the Members Attendance Record 2018/19 be noted.

23. Date of Next Meeting - 14th February 2019

The date of the next meeting was confirmed as 14th February 2019.

Chair

(Note: The Meeting opened at 6.30 pm and closed at 7.04 pm)

PREDETERMINATION/PREDISPOSITION - GUIDANCE

The Council often has to make controversial decisions that affect people adversely and this can place individual members in a difficult position. They are expected to represent the interests of their constituents and political party and have strong views but it is also a well established legal principle that members who make these decisions must not be biased nor must they have pre-determined the outcome of the decision. This is especially so in “quasi judicial” decisions in planning and licensing committees. This Note seeks to provide guidance on what is legally permissible and when members may participate in decisions. It should be read alongside the Code of Conduct.

Predisposition

Predisposition is lawful. Members may have strong views on a proposed decision, and may have expressed those views in public, and still participate in a decision. This will include political views and manifesto commitments. The key issue is that the member ensures that their predisposition does not prevent them from consideration of all the other factors that are relevant to a decision, such as committee reports, supporting documents and the views of objectors. In other words, the member retains an “open mind”.

Section 25 of the Localism Act 2011 confirms this position by providing that a decision will not be unlawful because of an allegation of bias or pre-determination “just because” a member has done anything that would indicate what view they may take in relation to a matter relevant to a decision. However, if a member has done something more than indicate a view on a decision, this may be unlawful bias or predetermination so it is important that advice is sought where this may be the case.

Pre-determination / Bias

Pre-determination and bias are unlawful and can make a decision unlawful. Predetermination means having a “closed mind”. In other words, a member has made his/her mind up on a decision before considering or hearing all the relevant evidence. Bias can also arise from a member’s relationships or interests, as well as their state of mind. The Code of Conduct’s requirement to declare interests and withdraw from meetings prevents most obvious forms of bias, e.g. not deciding your own planning application. However, members may also consider that a “non-pecuniary interest” under the Code also gives rise to a risk of what is called apparent bias. The legal test is: “whether the fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that the Committee was biased’. A fair minded observer takes an objective and balanced view of the situation but Members who think that they have a relationship or interest that may raise a possibility of bias, should seek advice.

This is a complex area and this note should be read as general guidance only. Members who need advice on individual decisions, should contact the Monitoring Officer.

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SLOUGH BOROUGH COUNCIL

REPORT TO: Licensing Committee **DATE:** 14th February 2019

CONTACT OFFICER: Michael Sims - Licensing Manager
(For all Enquiries) (01753 477387)
 Ginny De Haan - Head of Regulatory Services
 (01753 477912)

WARD(S): ALL

PART I
FOR DECISION**LICENSING ACT 2003: REVIEW OF STATEMENT OF LICENSING POLICY 2019-2024****1. Purpose of Report**

To advise Members on the results of the consultation on the review of the Council's Statement of Licensing Policy for the Licensing Act 2003 and to recommend for approval the revised Statement of Licensing Policy for the period 2019 -2024.

2. Recommendation to Council

The Committee is requested to recommend to Full Council that the draft revised Statement of Licensing Policy 2019-2024 is adopted as the Council's Licensing Policy.

3. The Slough Joint Wellbeing Strategy, the JSNA and the Five Year Plan

The review of the Statement of Licensing Policy under the Licensing Act 2003 is a statutory requirement. The Act requires each licensing authority to prepare and publish a statement of licensing policy. The policy statement sets out how the authority intends to approach its licensing responsibilities and in particular how it intends to promote the four Licensing Objectives.

Each authority is required to keep its statement of policy under review and make any revisions it considers appropriate.

3a. Slough Joint Wellbeing Strategy Priorities

The Licensing Act 2003 imposes a duty on the Council, as the licensing authority, to carry out its functions under the 2003 Act with a view to promoting the four licensing objectives of:

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

Each of these objectives is of paramount and equal importance.

The revised Statement of Licensing Policy contributes to the following wellbeing priorities:

Priorities:

1. Protecting vulnerable children
2. Increasing life expectancy by focusing on inequalities
3. Improving mental health and wellbeing

3b. **Five Year Plan Outcomes**

The report outlines the statutory requirement for each licensing authority to prepare and publish a Statement of Licensing Policy and that it must be kept under review during each 5 year period. If a revision is conducted during the 5 year period, it will not require a further review until 5 years after the date of the publication of the revised Policy.

The statutory requirement to prepare and publish a Statement of Licensing Policy contributes toward the Five Year Plan with the specific outcomes of:

1. Our children and young people will have the best start in life and opportunities to give them positive lives.
2. Slough will be an attractive place where people choose to live, work and visit.
3. Slough will attract, retain and grow businesses and investment to provide jobs and opportunities for our residents.

4. **Other Implications**

(a) Financial

There are no financial implications of the proposed action.

(b) Risk Management

Recommendation	Risk/Threat/Opportunity	Mitigation(s)
The Committee is requested to recommend to Full Council that the draft revised Statement of Licensing Policy 2019-2024 is adopted as the Council's Licensing Policy.	The Licensing Act 2003 requires that the Licensing Authority have in place a policy document to adhere to in order to carry out its functions under the Licensing Act 2003	Licensing functions cannot be carried out without a policy document in place

(c) Human Rights Act and Other Legal Implications

Section 1 and Schedule 1 Part 1 and 11 of The Human Rights Act 1998 apply:

Article 1 – Every person is entitled to a peaceful enjoyment of his or her possessions including the possession of a licence and shall not be deprived of the possession except in the public interest.

Article 6 – That in the determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal by law.

The Licensing Act 2003 requires the Council, as the licensing authority, to prepare and publish a statement of its licensing policy every 5 years. In determining its policy, the Council is exercising a licensing function and as such must have regard to the Guidance issued by the Secretary of State under section 182 of the 2003 Act. It must also give appropriate weight to the views of those persons/bodies which it is required to consult before determining its policy. Although the Guidance represents best practice, it is not binding on the Council. As long as the Guidance has been properly and carefully understood and considered, licensing authorities may depart from it if they have reason to do so. In this event they will need to give full justifiable reasons for their decisions, which must be consistent with the objectives of the 2003 Act.

The Council is required to have regard to the statement of licensing policy and make decisions in accordance with it. Licensing authorities may depart from their policy if the individual circumstances of any case merit such a decision in the interests of promoting the licensing objectives. In this event it is important that full justifiable reasons are given for departing from the published statement of licensing policy.

Members should note that the 2003 Act imposes a duty on the Council, as the licensing authority, to carry out its functions under the Act with a view to promoting the four licensing objectives. Each of these objectives is of paramount and equal importance.

Members should note that the statement of licensing policy must not be inconsistent with the provisions of the 2003 Act and must not override the right/s of any individual as provided for in that Act. Nor must the statement of licensing policy be inconsistent with obligations placed on the Council under any other legislation, including human rights legislation. Members should also note that the Council has a duty under Section 17 of the Crime and Disorder Act 1998, when carrying out its functions as a licensing authority under the 2003 Act, to do all it reasonably can to prevent crime and disorder within the Borough.

Under the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, decisions relating to licensing matters are not the responsibility of an authority's executive. The 2003 Act provides that whilst the majority of the functions of the licensing authority, are to be taken or carried out by its licensing committee, decisions relating to the statement of licensing policy cannot be delegated in such a way. The decision on whether to adopt the statement of licensing policy must therefore be taken by Full Council.

(d) Equalities Impact Assessment

An Equality Impact Assessment has been carried out that indicates that there are no negative impacts of opportunity for any equality target group or for any reasons.

5. Supporting Information

- 5.1 The Licensing Act 2003 introduced a new regime for the licensing of alcohol, regulated entertainment and late night refreshment, administered by a local licensing authority.
- 5.2 The Act requires each licensing authority to prepare and publish a Statement of Licensing Policy. The policy statement sets out how the authority intends to approach its licensing responsibilities and in particular how it intends to promote the four Licensing Objectives.
- 5.3 Each authority is required to keep its statement of policy under review and make any revisions it considers appropriate. Previously the statutory requirement under the 'Act' was for the Local Authority to review the Statement of Licensing Policy every 3 years. However the Police Reform and Social Responsibility Act 2011 amended the 2003 Act as follows:
- a) The period for which full revisions are to be made is now 5 years
 - b) It must be kept under review during that period
 - c) If a revision is conducted during the 5 years period, it will not require a further review until 5 years after the date of the publication of the revised Policy.
- 5.4 The current policy approved in 2014 - 2019, took effect in January 2014 to cover the period up to January 2019.
- 5.5 The five year review of the Statement of Licensing Policy has now been conducted and the summary of minor changes, deletions and additions to the revised policy document are detailed at **Appendix A**.
- 5.6 The revised draft Policy was subject to public consultation, which commenced on the 13th December 2018 and concluded on the 18th January 2019. The Council is required to follow a prescribed process and a list of the consultees is attached at **Appendix B**.
- 5.7 Although a number of requests were made for copies of the revised draft policy, there has been very little response to the consultation, as it is generally realised that the discretion of the Council in reviewing the Policy is very limited as the Licensing Act 2003, the Regulations under the Act and the Government Guidance closely prescribe how licensing authorities carry out the licensing functions.
- 5.8 Only one response has been received to the consultation which is attached at **Appendix C**.
- 5.9 The draft revised policy, which is attached at **Appendix D**, reflects the necessary changes, deletions and amendments.

6. Comments of Other Committees

None

7. Conclusion

Following the public consultation the revised draft Statement of Licensing Policy is now ready to be recommended to Full Council for adoption.

8. Appendices Attached

'A' - Summary of changes and additions

'B' - List of consultees

'C' - Response to consultation

'D' - Revised draft Statement of Licensing Policy

9. Background Papers

'1' - Licensing Act 2003

'2' - Secretary of States Guidance issued under Section 182 of the Licensing Act 2003 (Revised Aril 2018).

'3' - Equality Impact Assessment.

APPENDIX A

SUMMARY OF MAIN CHANGES AND ADDITIONS

Contents Pages

1. Reformatting with deletions and new insertions.
2. Page and paragraph numbering following deletions and new insertions.
3. Deletion of reference for Designated Public Places Order and Appendix E.

Page 8 - Reformatting of Licensable Activities

Page 11 – Amendments to reference to section 182 Guidance

Page 12 – Insertion of reference to Human Rights Act 1998

Page 13 – Safer Clubbing Guide amended to Safer Nightlife Guide

Page 13 – Removal of reference to Section 40 & 41 Anti-Social Behaviour Act 2003

Page 13 – Inclusion of Section 35 Anti-Social Behaviour, Crime and Policing Act 2014

Page 14 – Insertion of Closure Notices and Closure Orders

Page 15 – Amendment and rewording to Equality of Opportunity

Page 29 – Insertion of Immigration Matters

Page 38 – Deletion of Film Exhibitions

Page 38 – Insertion of Exhibition of Films (Condition)

Page 39 – Deletion of Drinks Promotions and Binge Drinking

Page 38 – Insertion of Door Supervision (Condition)

Page 39 – Insertion of Authorisation of Alcohol (Condition)

Page 39 – Insertion of Mandatory Conditions (2014)

Deletion of Designated Public Places Order maps

APPENDIX B

All Responsible Authorities <ul style="list-style-type: none">- Thames Valley Police- Royal Berkshire Fire and Rescue Service- SBC Neighbourhood Enforcement Team- SBC Planning Development Control Services- SBC Trading Standards and Food Teams- Environmental Health- Local Safeguarding Children's Board- Service Lead Public Health
All current Premises Licence holders, with and without alcohol
All current holders of Club Premises Certificates
All elected Members of Slough Borough Council
All religious establishments
Residents Associations
All neighbouring and other Berkshire Local Authorities
Placing the consultation on the Council website for public consultation
Safer Slough Partnership

APPENDIX C

One response received from a Club Premises Operator.

We have been through the new licencing policy our observations are as follows

We are surprised to see that the population of slough is exactly the same, and also the amount of licence premises are the same.

We notice that you have incorporated European Convention on human rights act 1998 will remain after Brexit.

We note the inclusion of immigration matters 5.1

Could the reference 5.17 in the yellow and red card review applications read 5.20

Sections 6.9 to 6.20 have been expanded.

The changes to appendix B are noted

APPENDIX D

STATEMENT OF LICENSING POLICY

LICENSING ACT 2003

2019 - 2024

DRAFT

Licensing Policy

Document Number	01
Version Number	6.00
Date approved	
Effective	
Contact Officer	Licensing Manager

Change History		
Version No	Date	Change Details
1.00	30/07/13	Initial Draft
2.00	08/08/13	Revised Draft consultation with Legal Services
3.00	30/08/13	Legal Services comments included
4.00	21/11/13	Following consultation
5.00	29/11/18	Revised Draft for Consultation
6.00	18/01/19	Final draft following consultation.

Related Documents	
Document Title	Location
Licensing Act 2003	
Guidance issued under section 182 of the Licensing Act 2003 (April 2018)	

If you have any further questions about this Policy or for further information, including applications forms, please contact:

Licensing Manager,
Slough Borough Council,
Landmark Place,
High Street,
Slough
Berkshire
SL1 1JL

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1. Introduction

- 1.1. The Borough of Slough is located In the Thames Valley, 20 miles to the west of the centre of London and close to Windsor, Maidenhead and Reading. The Borough covers an area of 32.5 square kilometres. These areas are shown in the map below.
- 1.2 The population of Slough is 149,400. It is a culturally diverse Borough with a range of communities. Slough is often described as a “fusion of different cultures.” There are strong Indian and Pakistani communities and more than a third of the population are from minority ethnic communities.
- 1.3 Slough Borough Council currently licences 308 premises licensed to serve Alcohol, supply late night refreshment and regulated entertainment. In doing so the Council has regard to drinking habits, sales to underage persons and crime and disorder which are relevant to the Authority’s licensing functions and which applicants and existing licenses also need to consider.
- 1.4 There are varied entertainment venues in the Borough including Members’ Clubs. There are betting premises in Slough Town Centre and in suburban locations. There are 3 amusement arcades and a Bingo Hall in Slough Town Centre.
- 1.5 A map of the Borough is appended at **Appendix D**.

2. Scope of the Licensing Policy

- 2.1 Slough Borough Council is a Licensing Authority for the purpose of the Licensing Act 2003. In pursuance of its duties and powers under the Licensing Act 2003 (as amended), the Authority makes a statement as to its Policy in respect of the provisions of the Act and will use this Policy as a framework against which licensing decisions will be made.
- 2.2 The Statement of Licensing Policy aims to promote the Licensing Objectives whilst facilitating a sustainable entertainment and cultural industry. In adopting the Licensing Policy the Council recognises both the needs of residents for a safe and healthy environment in which to live and work together with the importance of safe and well run entertainment premises, all of which promote the local economy and vibrancy of the Borough.
- 2.3 The Licensing Objectives are:
- (a) The prevention of crime and disorder**
 - (b) Public safety**
 - (c) The prevention of public nuisance**
 - (d) The protection of children from harm**

The Authority has a duty under the Act to carry out its functions so as to promote the four licensing objectives, which are equally important.

- 2.4 The Licensing Authority has had regard to the Guidance issued by the Secretary of State in drawing up this Statement of Licensing Policy¹.

Integrating strategies, policies, objectives and legislation

- 2.5 The Policy provides guidance to applicants, objectors and interested residents on the general approach the Authority will take in terms of licensing. Although each licence application must be considered separately on its merits, in adopting the licensing policy, the Authority is making it clear that wider considerations other than the fitness of the applicant and suitability of the premises
- 2.6 The Authority liaises with local crime prevention agencies, planning, transport, health groups, cultural bodies and licensed premises.
- 2.7 The Authority has endeavoured to secure proper integration with local crime prevention, public health planning, transport, tourism and cultural

1

<https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>

- strategies. It will seek to discharge all such responsibilities so far as they impact the Licensing Objectives. It is also bound by a range of legislation, to which it will have due regard.
- 2.8 The Policy is not intended to duplicate existing legislation and regulatory regimes that already place obligations on employers and operators e.g. Health and Safety at Work etc Act 1974, the Environmental Protection Act 1990, Regulatory Reform (Fire Safety) Order 2005, Equality Act 2010, building regulations. Therefore, the Authority will not attach conditions to a licence unless they are considered appropriate for the promotion of the licensing objectives and are not already adequately covered by other legislation.
- 2.9 In preparing this Policy, the Authority has consulted in accordance with the requirements of the Act and has had due regard to the Guidance issued under section 182 Licensing Act 2003.
- 2.10 This Policy is prepared in accordance with Section 5 of the Act, having regard to the Secretary of State's guidance issued under Section 182 of the Act. The Policy statement will remain in existence for a period of five years during which period it will again be subject to review as and when necessary.
- 2.11 The Authority shall, as required by Section 4 of the Act, have regard to this Policy in its decision-making. The Policy may be departed from if the individual circumstances of any case merit this and it is in the interests of the licensing objectives. In such cases the Authority shall give full reasons for departing from this Policy.
- 2.12 Where revisions are made by legislation or guidance issued by the Secretary of State, there may be a period of time when the Statement of Licensing Policy is inconsistent with these revisions. In these circumstances, the Licensing Authority will have regard, and appropriate weight, to the relevant changes, guidance and its own Statement of Licensing Policy.

Fundamental principles

- 2.13 The Authority recognises that its power to reject applications or to apply conditions to Premises Licences and Club Premises Certificates is constrained by the terms of the Act.
- 2.14 The Authority recognises that in relation to TENs it has no power to:
- (a) Attach any condition(s) to a Temporary Event Notice. Unless the police or Environmental Health Officer have made a relevant representation which has not been withdrawn, and conditions may

- only be attached by a Licensing Committee only where the venue at which the event is to be held has an existing Premises Licence or a Club Premise Certificate;
- (b) Modify mandatory conditions;
- 2.15 The Authority recognises that in relation to Premises Licences and Club Premises Certificates it has no power to:
- (a) Attach conditions to a Premises Licence or Club Premises Certificate (other than appropriate Mandatory Conditions), unless those conditions are consistent with the operating schedule, submitted with an application or further to a relevant representation.
 - (b) To exclude from the scope of a Premises Licence or a Club Premises Certificate any of the licensable or qualifying activities to which the application relates (other than by way of determining a Review Application);
 - (c) Refuse to specify a person in a Premises Licence as the Designated Premise Supervisor;
 - (d) Reject the application - unless it has received a relevant representation about the application and then only to such extent as the Authority considers appropriate for the promotion of the licensing objectives and in the case of 2.16 to such extent as the crime prevention objective will be undermined.
- 2.16 The Authority can refuse a minor variation if the application undermines one or more of the licensing objectives.
- 2.17 Throughout this Policy the Authority has outlined the standards which it expects to be addressed in applications.
- 2.18 This Policy does not override the right of any person to make representations on an application or to seek a Review of a licence or certificate where provision has been made for them to do so in the Act.
- 2.19 It is recognised that the licensing function is only one means of securing the delivery of the licensing objectives and should not therefore be seen as a panacea for solving all problems within the community. The licensing process can only seek to control those measures within the control of the licensee and in the vicinity of the licensed premises. The Authority will continue to work in partnership with neighbouring local authorities, the police, local businesses and residents to promote the licensing objective as outlined.

Licensable activities

- 2.20 The Council is the “Licensing Authority” for the purposes of the Licensing Act 2003 (“the Act”) and is responsible for granting licences, certificates and notices in the Borough of Slough for the activities described by the

Act as “Licensable Activities”.

These activities include:-

- (a) Retail sale of alcohol, including pubs, nightclubs and shops
- (b) Supply of alcohol to club members
- (c) Provision of “regulated entertainment” (listed below) – to the public, to Club members or with a view to profit
- (d) The supply of hot food and/or drink from any premises between 11.00 pm and 5.00 am – the provision of “Late Night Refreshment”.

Regulated Entertainment

- (1) A performance of a play (more than 500 persons and/or between 2300 and 0800)
- (2) A showing of a film
- (3) An indoor sporting event (more than 1000 persons and/or between 2300 and 0800)
- (4) Boxing or wrestling entertainment (whether indoor or outdoor for more than 1000 persons and/or between 2300 and 0800))
- (5) A performance of live music (but note the changes brought in by the Live Music Act 2012-see ‘NOTE’ below;
- (6) Any playing of recorded music (but note the changes brought in by the Live Music Act 2012-see ‘NOTE’ below;
- (7) A performance of dance (more than 500 persons and/or between 2300 and 0800)
- (8) Entertainment of a similar description to that falling within the performance of live music, the playing of recorded music and the performance of dance, and including karaoke

NOTE- The Live Music Act 2012 and Deregulation Act 2015 amended the Licensing Act 2003 by deregulating aspects of the performance of live and recorded music so that, in certain circumstances, it is not a licensable activity.

However, live and recorded music remains licensable;

- Where a performance of live (amplified or unamplified) and/or recorded music– whether amplified or unamplified – takes place before 0800 and after 2300 on any day

- Where a performance of amplified live and/or recorded music does not take place either on relevant licensed premises, or at a workplace that is not licensed other than for the provision of late night refreshment
- Where a performance of amplified live and/or recorded music takes place at relevant licensed premises, at a time when those premises are not open for the purposes of being used for the supply of alcohol for consumption on the premises
- Where a performance of amplified live and/or recorded music takes place at relevant licensed premises, or workplaces, in the presence of an audience of more than 500 people or
- Where a licensing authority intentionally removes the effect of the deregulation provided for by the 2003 Act when imposing a condition on a premises licence or certificate as a result of a licence review

NOTE- The Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013 (from 27 June 2013) deregulates aspects of the performance of a play, performance of dance and indoor sporting events.

- It deregulates performance of plays / dance for audiences of up to 500 people, between the hours of 08:00 and 23:00 (with the exception of dancing for which a Sexual Entertainment Venue Licence is required);
- It deregulates indoor sporting events for audiences of up to 1000 people, between the hours of 08:00 and 23:00; and
- It clarifies that Combined Fighting Sports (Mixed Martial Arts etc) are a form of Boxing and Wrestling and will continue to be regulated.

3. Integration with other strategies and policies

Planning

- 3.1 The Authority recognises that licensing applications should not be seen as a re-run of the planning application process and that there should be a clear separation of the planning and licensing regimes to avoid duplication and inefficiency. However, the Authority will normally expect applicants to demonstrate that, their proposed use of the premises is lawful in planning terms, including complying with any conditions that may be imposed upon a planning consent, prior to applications under this Act being submitted. Nevertheless, the Council recognises that it is permissible for applications for licences to be made before any relevant planning permission has been sought or granted by the planning authority.
- 3.2 As outlined at paragraph 14.65 of the Consolidated Guidance issued under Section 182 of the Licensing Act 2003 (April 2018 version)², there are also circumstances when as a condition of planning permission a terminal hour has been set for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant MUST observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law.
- 3.3 Where a licence application is to be determined by the Licensing Sub Committee, the Sub Committee in such cases will normally impose a condition to the effect that the licence will not become effective until the relevant planning consent has been obtained.
- 3.4 Slough Borough Council's planning policies relating to the assessment of planning applications are contained in the Slough Local Government Framework Core Strategy 2006-2026, and the saved policies in the Slough Local Plan. A draft of the Site Allocations Development Plan Document has been prepared. This contains more details on specific sites and a boundary of the town centre within which particular sites are identified for regeneration purposes.

Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks

- 3.5 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

<https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>

socially responsible manner and only to those who are 18 years or older. The Code is an important weapon in protecting children from harm because it addresses the naming, marketing and promotion of alcohol products sold in licensed premises in a manner which may appeal to or attract minors. The Authority commends the Portman Group Code and licence holders should have regard to it.

Alcohol Harm Reduction Strategy

- 3.6 In applying this Policy, the Authority will have regard to the Government's Alcohol Harm Reduction Strategy and the Berkshire East Alcohol Harm Reduction Strategy in promoting the licensing objectives.

Crime & Disorder Act 1998

- 3.7 Further to section 17 of the Crime & Disorder Act 1998, in applying this Policy the Authority will exercise its various functions with due regard to the likely effect of these functions on, and will do all that it reasonable can to prevent, crime and disorder in the Slough area. The Authority will also have regard to the Safer Slough Partnership, which incorporates both local and national strategies. In addition the Authority will liaise with the Slough Crime Reduction Partnership in order to reduce crime, misuse of drugs and the fear of crime.

Policing and Crime Act 2009

- 3.8 In applying this Policy, the Authority will have regard to their obligations under Part 3 relating to alcohol misuse, (children) changes to the mandatory condition, and the licensing authority as a Responsible Authority.

Human Rights Act 1998

- 3.9 The Human Rights Act 1998, incorporating the European Convention on Human Rights, makes it unlawful for a local authority to act in a way, which is incompatible with a Convention right. The Licensing Authority will have regard to the Human Rights Act when exercising its licensing functions, with particular reference to the following relevant provisions of the European Convention on Human Rights:-

- Article 6 – In the determination of civil rights and obligations every person is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.
- Article 8 – Every person has the right to respect for his home and private and family life.
- Article 1 of the First Protocol – Every person is entitled to the peaceful

enjoyment of his or her possessions.

Slough Pub Watch

- 3.10 In Slough a 'Pub Watch' Scheme has been established by licensees with the support of the Police and the Council. The Borough has been divided into areas, with a total of four meetings being held each month at different venues throughout the Borough. The Authority recognises the significant support and value that these associations give to the achievement of the licensing objectives. The meetings are currently well supported by both 'on licence' and 'off licence' venues.
- 3.11 The Authority will support these associations and their aims and objectives.

Drug use and safer clubbing

- 3.12 The Authority recognises that drug use by young people in a club environment is not something that applies to all licensed premises. However, it is also recognised that special conditions will need to be imposed for certain types of venues to reduce the sale and consumption of drugs and to create a safer environment for those who may have taken them.
- 3.13 The Home Office, in partnership with the London Drugs Policy Forum has produced the Safer Nightlife Guide that provides Best practice for those concerned about drug use and the night-time Economy. The latest Guide can be viewed or downloaded in full from the 'Safernightlife' website.
http://newip.safernightlife.org/pdfs/digital_library/uk_safer_nightlife_guideline.pdf
- 3.14 In applying this Policy in respect of nightclubs and dance events the Authority will have regard to their obligations under section 17 of the Crime and Disorder Act 1998, in that the Authority will do all that it reasonably can to prevent crime and disorder in the Slough area. The Authority, will liaise with the Slough Crime Reduction Partnership and the Drug and Alcohol Action Team in order to reduce crime, misuse of drugs and the fear of crime.

Anti-social behaviour

- 3.15 The Authority is also aware and will support the use by police of the issue of written directions under Section 35 of the Anti-Social Behaviour, Crime and Policing Act 2014, whereby a person may receive, a '48 hour' ban from a specific area. A person given a direction under Section 35 who fails without reasonable excuse to comply with it commits an offence.

Closure Notices and Closure Orders.

- 3.16 The Anti-Social Behaviour, Crime and Policing Act 2014 provides both the Police and the local authority with powers to close premises for a certain period of time:
- 3.17 Section 76 of the Anti-social Behaviour, Crime and Policing Act 2014, states that a police officer of at least the rank of inspector, or the local authority, may issue a closure notice if satisfied on reasonable grounds that the use of the particular premises has resulted or is likely soon to result in nuisance to members of the public, or that there has been or is likely soon to be disorder near those premises associated with the use of those premises, and that the notice is necessary to prevent the nuisance or disorder from continuing, recurring or occurring. A closure notice prohibits access to the premises for a period specified in the notice (up to 48 hours) and may prohibit access by all persons except those specified, at all times and in all circumstances (or those specified).
- 3.18 Whenever a closure notice is issued an application can be made to a magistrates' court for a closure order. This can be made by a constable or the local authority and must be heard by the magistrates' court not later than 48 hours after service of the closure notice. A closure order can be for up to 3 months.

Door supervisors

- 3.19 Whenever persons are employed at licensed premises to carry out any security function they must be licensed with the Security Industry Authority (SIA). Competent and professional door supervisors are key to public safety at licensed premises and the provision of door supervisors is an action point for the leisure industry to consider in the Home Office Alcohol Harm Reduction Strategy. If a licensee directly employs security operatives he/she will need to be licensed by the SIA.
- 3.20 The Police may consider that certain premises require strict supervision for the purpose of promoting the reduction of crime and disorder. In particular, the Authority will normally support an approach that requires door supervisors to be employed at premises that open beyond midnight, unless it can be demonstrated that this is unnecessary, having regard to the licensing objectives.
- 3.21 Applicants for premises licences and club premises certificates should note, that the Authority may only attach conditions to licences, if such conditions are consistent with the operating schedule submitted as part of the application process, or if relevant representations are received.
- 3.22 Where premises close before midnight, door supervisors may still have to be employed, if the risks associated with the operation warrant such an

approach. The number of door supervisors to be employed, would need to be determined as a result of a risk assessment, carried out by the designated premises supervisor. However, it is recommended that a minimum of one door supervisor per 100 customers be used. Consideration also needs to be given to the ratio of male and female door supervisors, which are appropriate for particular premises.

Crime prevention

- 3.23 Conditions attached to premises licences and club premises certificates will, so far as possible, reflect local crime prevention strategies.
- 3.24 Where relevant representations are received the Authority may impose conditions, for example, requiring the use of CCTV both inside and outside of licensed premises for the purpose of minimising crime disorder and disturbance. Again, applicants for licences should note that the Authority might only attach conditions to licences if such conditions are consistent with the operating schedule submitted as part of the application process, or if relevant representations are received.

CCTV

- 3.25 The Authority must have regard to the 'Surveillance Camera Code of Practice' with regards to considering the imposition of conditions relating to CCTV and in particular to Section 1.15 as follows:

"1.15 When a relevant authority has licensing functions and considers the use of surveillance camera systems as part of the conditions attached to a licence or certificate, it must in particular have regard to guiding principle one in this code. Any proposed imposition of a blanket requirement to attach surveillance camera conditions as part of the conditions attached to a licence or certificate is likely to give rise to concerns about the proportionality of such an approach and will require an appropriately strong justification and must be kept under regular review. Applications in relation to licensed premises must take into account the circumstances surrounding that application and whether a requirement to have a surveillance camera system is appropriate in that particular case. For example, it is unlikely that a trouble-free community pub would present a pressing need such that a surveillance camera condition would be justified. In such circumstances where a licence or certificate is granted subject to surveillance camera system conditions, the consideration of all other guiding principles in this code is a matter for the licensee as the system operator."

Equality of opportunity

- 3.26 In carrying out its functions under the Licensing Act 2003, the Licensing Authority will be mindful of its duties under the Equality Act 2010 "to have

due regard to” the need to eliminate discrimination, advance equality of opportunity and foster good relations in regard to age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation

The Provision of Services Regulations 2009

- 3.27 Under the 2009 Regulations³, the Council is to ensure that all procedures relating to the access to or exercise of licensing may be easily completed, at a distance and by electronic means.

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³ <http://www.legislation.gov.uk/ukdsi/2009/9780111486276/contents>

4. Policies

General

- 4.1 This policy will apply to any licence application determined after the date the Authority resolved to make these policies operational, irrespective of the date on which the application was made.
- 4.2 In determining any licence application, the overriding principle adopted by the Authority will be that each application will be determined on its individual merits.

Children and licensed premises

- 4.3 The Act makes it an offence to permit children under the age of 16 who are not accompanied by an adult to be present on premises being used exclusively or primarily for supply of alcohol for consumption on those premises.
- 4.4 The Authority will take the necessary measures to protect children from harm. Harm to children includes physical, moral, and psychological harm in some way. The Authority will not seek to limit access by children to all types of premises. Additional controls may be necessary where:
 - (a) adult entertainment is provided;
 - (b) there have been convictions of members of the current management for serving alcohol to minors or with a reputation for 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 in the company of adults during a table meal);
 - (c) requirements for proof of age cards or other age identification to combat the purchase of alcohol by minors is not the norm;
 - (d) there is a known association with drug taking or dealing;
 - (e) there is a strong element of gambling on the premises, but not small numbers of cash prize gaming machines;
 - (f) the supply of alcohol for consumption on the premises is the exclusive or primary purposes of the services provided at the premises.
- 4.5 The Council will impose conditions restricting access only to those who meet the required age limit in line with any certificate granted by the British Board of Film Classification or, in specific cases, a certificate given to the film by the Authority itself.
- 4.6 In the case of premises which are used for film exhibitions, licensees must include within their operating schedules arrangements for restricting children from viewing age restricted films classified according to the

recommendations of the British Board of Film Classification or the licensing authority itself.

- 4.7 Where a large number of children are likely to be present on any licensed premises, for example a children's show, pantomime, youth disco or similar event, an appropriate number of adult staff should be present to control the access and egress of children and to ensure their safety and protection from harm, and conditions to this effect will be necessary upon the licence.
- 4.8 Where staff have unaccompanied contact with and responsibility for direct supervision of children, the suitability of these staff must be verified by carrying out Criminal Records Bureau checks.
- 4.9 Some options available for limiting access by children would include:
- (a) limitations on the hours when children may be present;
 - (b) limitations on the presence of children under certain ages when particular specified activities are taking place;
 - (c) limitations on the parts of premises to which children may have access;
 - (d) age limitations (below 18);
 - (e) limitations or exclusions when certain activities are taking place;
 - (f) requirements for accompanying adults (including for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult); and
 - (g) full exclusion of those people under 18 from the premises when any licensable activities are taking place.
- 4.10 The Authority is not able to impose any condition that specifically requires access for children to be provided at any premises. Where no restriction or limitation is imposed, the issue of access will be at the discretion of the individual licensee or club.
- 4.11 Venue operators seeking premises licences may volunteer such prohibitions and restrictions in their operating schedules because their own risk assessments have determined that the presence of children is undesirable or inappropriate. Where no relevant representations are made, any volunteered prohibitions or restrictions will become conditions.
- 4.12 The responsible authority for protecting children from harm for the Slough Borough Council area is the Local Safeguarding Children's Board.

Cumulative impact and need

- 4.13 Cumulative Impact Policy (CIP) for the purposes of this Policy, means the potential impact on the promotion of the licensing objectives of a

significant number of licensed premises concentrated in one area. For example, this may include the potential impact on crime and disorder or public nuisance on an area that a large concentration of licensed premises may have.

- 4.14 The adoption of a cumulative impact policy is a highly significant measure, because it creates a presumption against a particular form of economic development, and therefore, as a matter of good regulation a policy should not be adopted unless there is a sound reason to do so. Where problem premises are identified the Licensing Authority will review the consideration for a C.I.P.

Dispersal policy

- 4.15 Where there is a likelihood of residents living around licensed premises being disturbed by customers leaving venues, or there being an impact on crime and disorder from customers leaving venues, licensees may wish to consider putting in place a dispersal policy which sets out the steps in place to minimise the potential for disorder and disturbance as customers leave. This will assist licensees in their application being determined without representations being received

Drinking up & winding down time

- 4.16 Under the Act, drinking up time as existed in the Licensing Act 1964 no longer applies. However, it is neither in the Authority's, the personal or premises licence holders, residents or the customers interest, for customers to have to leave a premises immediately after purchasing a drink. Therefore the Authority will normally expect the service of alcoholic drinks to cease at least 30 minutes before customers are required to leave the premises, unless it can be demonstrated that this is unnecessary.
- 4.17 In the case of nightclubs, dance venues and similar premises, during the 30 minutes immediately after the service of alcohol ceases, designated premises supervisors will be expected to operate a winding down time. During this time licensees will be expected to slow down the pace, volume and type of music played so as to ensure that customers are not exiting into the street in an agitated state. During the winding down period, it may be appropriate that licensees alter the lighting, serve food, coffee and other soft drinks, all of which are permitted under the Act, depending on the licensing conditions granted.
- 4.18 In future, licensees may also consider the operation of a dedicated cab service from inside the premises. However, it should be borne in mind that if customers purchase food and soft drinks during this period, additional time may need to be allowed for the consumption of these purchases. Door staff should be stationed outside the premises to encourage customers to leave quietly to supplement written notices to that effect.

Early Morning Restriction Order (EMRO)

- 4.19 EMROs are designed to address recurring problems such as high levels of alcohol-related crime and disorder in specific areas at specific times in which serious public nuisance or alcohol related anti-social behaviour is not directly attributable to specific premises.
- 4.20 The Licensing Authority may introduce, vary or revoke an EMRO. This power enables the Authority to prohibit the sale of alcohol for a specified period between the hours of 12 midnight to 0600 hours in the whole or part of its area if it is satisfied that this would be appropriate for the promotion of the Licensing objectives.

Fire safety and capacity limits

- 4.21 The Authority is committed to ensuring public safety in licensed premises by working in close partnership with Royal Berkshire Fire and Rescue Service, subject to the provisions of the Regulatory Reform (Fire Safety) Order 2005.
- 4.22 The Authority will, when relevant representations are received from the Fire Authority, consider the implications relating to fire safety for each individual application for, or variation of, a premises licence. The Authority will seek to protect the safety of all persons at all licensed premises by ensuring that the requirements of the Fire Authority are met.
- 4.23 The Authority expects premises to be presented to the highest possible standards of safety and applicants to address the requirements of Health and Safety at Work and fire safety legislation. In order to avoid the necessity for representations to be made applicants should ensure that the Fire Authority have sight of such documentation as may be required in order to demonstrate compliance with the above.
- 4.24 “Safe Capacities” should only be imposed where appropriate for the promotion of public safety or the prevention of crime and disorder. If a capacity has been imposed through other legislation, it would be inappropriate to reproduce it in a premises licence. However if no safe capacity has been imposed the authority may consider it appropriate for a new capacity to be attached when licensable activities are taking place.

Gambling in licensed premises

- 4.25 The Gambling Act 2005 became effective in 2007 and a separate ‘Statement of Gambling Licensing Principles’ has been drawn up and approved by this Council⁴. The Authority will therefore have due regard to

⁴ <http://static.slough.gov.uk/downloads/Gambling-act-statement-of-principles.pdf>

the contents of the document in so much as its relevance to and bearing on the Licensing Policy.

Hours

- 4.26 The Authority recognises that fixed and artificially early closing times in certain areas can lead to peaks of disorder and disturbance on the streets when large numbers of people tend to leave licensed premises at the same time. Longer licensing hours regarding the sale of alcohol may therefore be considered as an important factor in reducing friction at late night food outlets, taxi ranks and other sources of transport in areas where there have previously been incidents of disorder and disturbance.

Hours of sales in off licences

- 4.27 Shops, stores and supermarkets will generally be permitted to sell alcohol for consumption off the premises during the normal hours they intend to open for shopping purposes. However, in the case of individual shops that are known to be a focus of disorder and disturbance, then subject to relevant representations being received, a limit on licensing hours may be appropriate.

Introducing an EMRO

- 4.28 The Home Office issued guidance⁵ outlining the process and matters that should be considered when the Authority believes an EMRO is required. The Authority will follow the guidance if it considers that an EMRO is required for an area in Slough. Any application for an EMRO must be approved by full Council.

Late Night Levy

- 4.29 The late night levy enables the authority to raise contributions towards the cost of policing the late night economy. The levy is payable by the holders of any premises licence between midnight and 0600 hours.
- 4.30 The Home Office have issued guidance on the process and matters that should be considered when the authority considers that it is appropriate to introduce a night time levy. Any application for a late night levy must be approved by full Council.

Late night refreshment

- 4.31 There are concerns about noise and nuisance, crime and disorder and

⁵ <https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>

antisocial behaviour related to late night opening. Therefore, operators of late night refreshment premises wishing to open beyond 11pm will need to demonstrate clearly that nuisance, crime, disorder or antisocial behaviour will not result from their later operation.

- 4.32 In the case of premises which were in operation prior to the Act coming into force, the Authority will not seek to curtail operating hours unless there is evidence that such operation impacts negatively on the licensing objectives.

Licensed premises in residential areas

- 4.33 In general the Authority will deal with the issue of licensing hours on the individual merits of each application. However, when issuing a licence, stricter conditions are likely to be imposed with regard to noise control in the case of premises that are situated in largely residential areas. In general, public houses located in and catering for residential areas wishing to open beyond 11pm will need to demonstrate clearly that public nuisance will not result from later operation.

Noise

- 4.34 The Authority will assess each application having regard to noise and the likelihood of nuisance being caused to persons in the area. If licensees anticipate potential noise problems from their premises, or operate a pub (or similar premises) in a residential area and wish to open beyond 11pm, they should contact the Council's Neighbourhood Enforcement Team for advice and assistance.
- 4.35 The Authority may impose conditions in relation to licensed premises to prevent unnecessary noise, vibration and disturbance to local residents as it considers appropriate. This may include sound proofing requirements, restrictions on times when music or other licensable activities may take place, and may include technical restrictions on sound levels at the premises by the use of sound limiting devices properly set to prevent noise breakout and disturbance.
- 4.36 Conditions relating to limiting the hours of open-air entertainment, the use of outdoor areas, gardens and patios may be imposed to control and prevent unnecessary noise and disturbance.
- 4.37 Conditions may be imposed requiring the display of signs both inside and outside of the premises reminding customers to leave the premises quietly and to respect the rights of nearby residents.
- 4.38 The Authority may only attach conditions to the licences which are consistent with the operating schedule submitted as part of the application process or if relevant representations are received.

No smoking

- 4.39 In July 2007, the government introduced legislation to prohibit smoking in virtually all enclosed and substantially enclosed public places and workplaces. This includes both permanent and temporary structures such as tents and marquees. Smoking rooms in public places and workplaces are no longer allowed.
- 4.40 The new law also requires vehicles to be smoke free at all times if they are used:
- (a) to transport members of the public or;
 - (b) in the course of paid or voluntary work by more than one person regardless of whether they are in the vehicle at the same time.
- 4.41 As a consequence of the no smoking legislation, many licensed venues have external areas which could be designated for smoking purposes. However, a number of town centre venues do not have such areas, resulting in their customers having to smoke on the streets.
- 4.42 Where smoking subsequently takes place in either a beer garden or on the public highway and complaints of public nuisance or noise are received, the Authority will consider controls to limit the disturbance.
- 4.43 In order to assist town centre venues in segregating and regulating smokers, as well as controlling entry/exit numbers, street smoking area consents have been introduced as and where necessary.

Operating schedules

- 4.44 The Authority will expect individual applicants to address the licensing objectives in their operating schedule. It will expect the operating schedule to have regard to the nature of the area where the premises are situated, the type of premises concerned, the licensable activities to be provided, operational procedures and the needs of the local community.
- 4.45 In particular it will expect the applicant to be proposing practical steps to prevent disturbance to local residents. The Authority will expect the applicant to have carried out sound tests to ascertain whether there is sound leakage. This noise could relate not only to music but also from air handling equipment, or patrons. If there is sound leakage the Authority will expect this to have been addressed in practical ways such as: -
- Keeping doors and windows closed and providing adequate mechanical ventilation;
 - Reducing sound levels and installing a sound limiting device to prevent sound exceeding the appropriate level;

- Installing soundproofing measures to contain sound and vibration.
- 4.46 The Authority will expect popular venues, which attract queues, to formulate a system to avoid disturbance to residents. This can sometimes be achieved by simply ensuring that the direction of the queue is away from residential accommodation.
- 4.47 In terms of patrons leaving the premises particularly late at night or early in the morning the Authority will expect the applicant to have included in the operating schedule such practical steps as:
- Erecting prominent notices at the exits to premises asking customers to leave quietly and not to slam car doors;
 - At appropriate times making loudspeaker announcements within the premises to the same effect;
 - Instructing door supervisors to ask patrons leaving the premises to leave the area quietly;
 - Having measures in place to prevent bottles and glasses being removed from the premises;
 - Reducing the volume of music towards the end of the evening and where appropriate playing quieter, more soothing music as the evening winds down;
 - Where appropriate considering car jockey schemes;
 - Increasing the availability of licensed taxis or mini-cabs to take patrons from the premises;
 - In appropriate cases door supervisors or a manager patrolling nearby streets to assess for themselves whether there is a problem and how best to deal with it;
 - Banning from the premises people who regularly leave in a noisy fashion.
 - Increasing outside lighting levels but without causing nuisance from light pollution;
 - Where there is a private forecourt, preventing patrons from using it for eating and drinking etc after 11 p.m.
 - At take away food venues encouraging customers not to consume food in the immediate vicinity of the premises.
- 4.48 One of the greatest irritations to residents trying to sleep is the sound of music escaping from licensed premises. Such an escape of sound might preclude the grant of a licence or if one has already been granted for it to be reviewed with a view to possible revocation. It might also lead to a Noise Abatement notice being issued under the Environmental Protection Act 1990. Responsible applicants and licensees will wish to avoid the need for such action, as they will wish to comply with the licensing objective of preventing public nuisance.

- 4.49 There can be little doubt that a well-managed licensed venue can benefit the local community. Against that, there is clearly a risk of local residents being disturbed particularly if the venue is open late at night. This is because people leaving the premises, particularly late at night or in the early hours of the morning, can be a significant problem. Patrons may be less inhibited about their behaviour and may be unaware of the noise they are creating.
- 4.50 Late at night and during the early hours of the morning the area will be quieter and any noise will, therefore, be amplified and provide more disturbance for residents. Clearly a responsible applicant or licensee will wish to further the licensing objective of preventing public nuisance by introducing practical measures to prevent such nuisance.
- 4.51 The Authority will expect the applicant to indicate in the operating schedule the measures proposed to prevent crime and disorder. Dependent upon the nature and style of the premises these may include:
- Who will be responsible for ensuring compliance with the operating schedule and/or any conditions imposed by a Licensing Sub Committee following a hearing.
 - The provision, operation and maintenance of closed circuit television in accordance with the specification required by Authority following consultation with the Police;
 - Search facilities and procedures;
 - Use of safe drinking vessels (e.g. plastic and safer forms of glass cups/bottles);
 - Access to appropriately priced non-alcoholic facilities/products;
 - Display of information about responsible drinking including unit levels, the sensible drinking message and the risks of “drink driving”;
 - Clear and prominent sign up to a “designated driver scheme” (whereby people are encouraged to designate a driver for the evening who will not drink alcoholic drinks);
 - Measures to prevent the use or supply of illegal drugs;
 - Measures to prevent the “spiking” of drinks;
 - Employment of licensed door supervisors and other appropriately trained staff;
 - To consider food serving and “cool down” times – e.g. introducing periods before closing during which food and soft drinks only are sold;
 - Good design and management of premises creating more seating areas to avoid the health and violence implications of “vertical” drinking;
 - Having measures in place to prevent bottles and glasses being removed from the premises;

- Employing glass collectors to ensure that drinking vessels do not accumulate;
 - Procedures for risk assessing promotions and events for the potential to cause crime and disorder and plans for minimising such risks;
 - The participation in an appropriate Pub Watch scheme or other body designed to ensure effective liaison with the local community is encouraged;
 - Participation in any alcohol harm reduction campaigns is encouraged.
- 4.52 Prevention of crime and disorder is both an objective of the Licensing Act 2003 and an important responsibility of Slough Borough Council under the Crime and Disorder Act 1998. It is important, therefore, that the applicant be able to demonstrate to the Authority the practical steps that will be taken to further this objective. Integrated responses to night life issues which encompass public health, as well as crime and disorder issues, can facilitate the implementation of initiatives as well as reduce costs and repetition.
- 4.53 The Authority will attach appropriate conditions where they are appropriate for the promotion of one or more of the Licensing Objectives, such conditions will be tailored to the individual styles and characteristics of the premises and events concerned.
- 4.54 Specific conditions may be attached to premises licences to reflect local crime and disorder prevention strategies. Such conditions may include the use of closed circuit television cameras, the provision and use of shatterproof drinking receptacles, drugs and weapons search policy, the use of licensed door supervisors specialised lighting requirements, hours of opening, and designation of seating areas within premises.
- 4.55 Each licence will be individual to the premises to which it applies and the conditions attached to the licence will be individual to that premises and deal in a proportionate manner with those issues that relate to that premises. There will not be any standard conditions that will be automatically applied to any premises other than the Mandatory Conditions required to be attached to all licences. However, the Authority may draw upon a pool of conditions which may be relevant to the majority of applications and from which appropriate and proportionate conditions may be drawn in particular circumstances.

Personal Licences

- 4.56 Where appropriate, following a representation from the Police, the Authority will consider whether granting the licence will be in the interests of the crime and disorder prevention objective. The Authority will consider the seriousness of any relevant conviction(s), the period that has elapsed

since any offence(s) were committed and any mitigating circumstances. The Authority will only grant the application if it is satisfied that doing so will promote this objective.

Planning

4.57 To avoid inoperative premises being granted licences, the Authority will not normally determine an application unless the applicant can demonstrate that the premises have either an appropriate (in terms of activity and hours of use sought) Planning consent, or that is otherwise lawful. Exceptions can be made where the applicant can demonstrate compelling reasons why the application should be considered although the planning status of the premises has not been finalised. This will not apply to an application for a provisional statement under section 29 of the Licensing Act 2003.

Sex establishments

- 4.58 In November 2009, the Policing and Crime Act came into force. This Act amended Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 so as to incorporate Sexual Entertainment Venues.
- 4.59 Under the 1982 Act as amended, Sexual Entertainment Venues offering entertainment like lap dancing or any live performance or display of nudity on more than 11 occasions within a 12-month period, are required to obtain a Sex Establishment licence, from the authority, authorising such activity. A separate Sex Establishments Policy Statement applies, from which, conditions can be drawn and attached to the licence by the local authority⁶.
- 4.60 The following are not regarded as Sexual Entertainment Venues for the purpose of the amendment to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982;
- (a) Sex shops and sex cinemas;
 - (b) Any premises that at the time in question:
 - (i) has not provided relevant entertainment on more than 11 occasions within the previous 12 months;
 - (ii) no such occasion has begun within the period of one month beginning with the end of any previous occasion; and
 - (iii) no such occasion has lasted for more than 24 hours.
 - (c) other premises exempted by order of the Secretary of State where an order may be made that certain types of performances or

⁶ The Slough Borough Council 'Sex Establishment Policy Statement' can be found on the Council website at: <http://static.slough.gov.uk/downloads/sex-establishments-policy-statement.pdf>

displays of nudity are not to be treated as relevant entertainment for the purposes of the Schedule.

- (d) Premises specified or described in an order made by the relevant National Authority.

4.61 Where the promoter of a Sexual Entertainment Venue wishes to provide any of the licensable activities as outlined in the Licensing Act 2003 in addition to the sexual entertainment, then a premises licence will also be required for that activity.

Zoning

4.62 It is not intended to introduce any form of zoning. Experience in other areas shows that this can lead to the significant movement of people across boundaries in search of premises opening later and puts greater pressure on town centres than is necessary.

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5. Determining applications

Immigration Matters

- 5.1 The commencement of the Immigration Act 2016 made it a requirement for licensing authorities to be satisfied that an applicant has the right to work in the UK. An application made by someone who is not entitled to work in the UK must be rejected.
- 5.2 Licences must not be issued to people who are illegally present in the UK, who are not permitted to work, or who are permitted to work but are subject to a condition that prohibits them from doing work relating to the carrying on of a licensable activity.
- 5.3 A premises or personal licence issued in respect of an application made on or after 6 April 2017 will lapse if the holder's permission to live or work in the UK comes to an end.

Grant and full variations

- 5.4 All licensing applications for the grant or variation of a premises licence must be served on:
 - (a) The Licensing Authority for the area;
 - (b) The Chief of Police for the area;
 - (c) The Chief Fire Officer for the area;
 - (d) The Local Safeguarding Children's Board for Reading;
 - (e) Health and Safety Authority for the area;
 - (f) Local Environmental Health Authority for the area;
 - (g) The Local Weights and Measures Authority for the area;
 - (h) Environmental Protection Authority;
 - (i) Local Planning Authority for the area;
 - (j) Health Board (Slough Borough council); and
 - (k) A Licensing Authority other than Slough Borough Council in whose area part of the premises is situated.
- 5.5 In addition, where applications for the grant or full variation of a premises licence are on a boat, a copy of the application must be served on:
 - (i) Navigation Authority;
 - (ii) The Environment Agency;
 - (iii) The Canal and River Trust; and
 - (iv) The Secretary of State.
- 5.6 It is the responsibility of the applicant for all licences to ensure it is served in accordance with the provisions of the Act, unless the application is made electronically.

- 5.7 Whilst many applications will be resolved without the need for a committee hearing, those not previously resolved will be referred to a Licensing Sub Committee where the application will be fully considered.
- 5.8 Applications for the grant, variation or review of a premises licence or a club premises certificate shall be placed on the council's website for 28 days.

Minor variations

- 5.9 In August 2009, the Government introduced a process for making minor variations to premises licences and club premises certificates, that could have 'no adverse impact' on the promotion of any of the four licensing objectives.
- 5.10 Minor variations cannot be used to;
- (a) extend the period for which the licence or certificate has effect;
 - (b) specify, in a premises licence, an individual as the premises supervisor;
 - (a) add the sale by retail or supply of alcohol as an activity authorised by a licence or certificate;
 - (d) authorise the sale by retail or supply of alcohol at any time between 11pm and 7am;
 - (e) authorise an increase in the amount of time on any day during which alcohol may be sold by retail or supplied;
 - (f) authorise an individual to supply alcohol at a community premises; and/or
 - (g) vary substantially, the premises licence or club premises certificate, to which the premises relates.
- 5.11 Minor variations can be used to:
- (a) make minor changes to the structure or layout of a premises;
 - (b) make small adjustments to the licensing hours;
 - (c) remove out of date, irrelevant or unenforceable conditions;
 - (d) add or remove licensable activities; and/or
 - (e) add volunteered conditions to a premises licence or club premises certificate.
- 5.12 Under the 'minor variations' process, the applicant must send the application to the Authority and must display the relevant details of the application on a white notice for a period of ten working days, beginning with the day after the application was given to the Authority. The applicant is **not required** to advertise the variation in a:
- (i) newspaper; or
 - (ii) circular; or
 - (iii) copy it to responsible authorities.

- 5.13 On receipt of a minor variation application, the Authority will consider and consult the relevant responsible authority as appropriate as well as considering any relevant representations. The Authority may refuse the application if it believes the variation undermines the licensing objectives.
- 5.14 If the Authority fails to determine the application within 15 working days, the application will be treated as being refused and the fee returned.

Sub-Committee hearings

- 5.15 These hearings will be held as directed by the Act and in accordance with The Licensing Act 2003 (Hearings) Regulations 2005⁷. For example, in relation to applications for the grant, variation, transfer or review of a premises licence or club premises certificate or for the grant of a personal licence where there are objections from Responsible Authorities or 'Other Persons' and the issues cannot be resolved without a hearing. Hearings will also be held where there is an objection relating to a Temporary Event Notice (TEN).

New premises licences

- 5.16 Any person aged 18 years or over who is carrying on or who proposes to carry on a business that involves the use of premises for licensable activities may apply for a premises licence either on a permanent basis or for a time-limited period. "A person" in this context includes a limited company or partnership.
- 5.17 Where the premises are a managed public house, the Authority will expect the applicant for a premises licence to be the pub operating company, as the manager (as an employee) would not be the person actually carrying on the business. The same applies to premises such as cinema chains and fast food restaurant chains where the managers will similarly be employees of the operating company.
- 5.18 In respect of most 'leased' public houses a tenant may run or propose to run the business at the premises and in agreement with the pub operating company. In such cases the tenant and the operating company should agree who should apply for the premises licence.

Review of premises licence

- 5.19 Any premises subject to a premises licence or club premises certificate may have that licence or certificate reviewed by the Licensing Authority

⁷ <http://www.legislation.gov.uk/uksi/2005/44/contents/made> and <http://www.legislation.gov.uk/uksi/2005/78/contents/made>

on application by a Responsible Authority or any Other Person. The Act provides strict guidelines as to the timescale and procedures to be adhered to and the Authority will deal with every review application on that basis.

- 5.20 A review application will be determined by a Licensing Sub Committee who may in accordance with Section 182 Guidance take the following steps:
- to modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
 - to exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption);
 - to remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
 - to suspend the licence for a period not exceeding three months; and/or
 - to revoke the licence.

Appeals

- 5.21 Where an applicant is aggrieved by the decision of the licensing authority, an appeal may be made with the Magistrates' Court for the area. An appeal has to be commenced by the appellant giving notice of appeal to the designated officer for the Magistrates Court within a period of 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision which is being appealed.

Designated Premises Supervisor (DPS)

- 5.22 This is the person who for the time being is specified in the premises licence as being the premises supervisor. That person must hold a personal licence.
- 5.23 Any premises at which alcohol is sold or supplied may employ one or more personal licence holders. The main purpose of the 'designated premises supervisor' as defined in the Act, is to ensure that there is always one specified individual among these personal licence holders who can be readily identified for the premises where a premises licence is in force.
- 5.24 In July 2009 the Government empowered the Licensing Authority, on the

application of the management committee of community premises, not to apply the normal mandatory conditions relating to the sale of alcohol, but instead to impose a condition rendering the management committee responsible for the supervision and authorisation of all alcohol sales made pursuant to the licence.

Change of Designated Premises Supervisor (DPS)

- 5.25 Any application to change a DPS will be dealt with in accordance with the Act. Where an objection is received from the Chief of Police, unless previously resolved, the Authority is required to hold a hearing.

Personal licences

- 5.26 Under the Act, the Licensing Authority will automatically grant applications for personal licences so long as the applicant is 18 years or over, has possession of the qualification determined by the Secretary of State, has not had a personal licence forfeited within 5 years of the date of application and has not been convicted of any relevant offence or any relevant foreign offence. Such applications will be dealt with by an administrative process within the Licensing Section.
- 5.27 Thames Valley Police may make representations where the applicant has been convicted of a relevant offence or relevant foreign offence. In such cases the Licensing Sub-Committee will consider the matter and the application will be refused if the Sub-Committee decides that refusal is in the interest of the promotion of the prevention of the crime objective. In all other cases the application will be granted.

Temporary Event Notice (Standard TEN)

- 5.28 Section 100A of the Act states that the organiser of a Temporary Event must give the Authority notice of the proposed event. A copy of the notice must also be provided relevant persons i.e. to the Police and Environmental Health Officer. No notification need be given to other authorities such as the Fire Authority or Planning Section by the applicant but see below.
- 5.29 The organiser must give the Authority a minimum of 10 clear working days notice. This does NOT include the application date, event date, weekends and bank holidays. However, in a significant number of cases this time period would not allow enough time for the organiser to liaise with the police and other relevant bodies to ensure that the event passes off safely with minimum disturbance to local residents.
- 5.30 The Authority strongly recommends that it and Thames Valley Police receive all Temporary Event Notices at least 28 days before the planned event. This will ensure that full discussion can occur between the

organiser and any other interested parties in order that the event can take place with the minimum risk of crime and disorder.

- 5.31 Although applicants are not required to notify the Fire Authority of temporary events the Authority will, if requested to do so, notify the Fire Authority of all temporary events notices received, in order that they are able to ensure the safety of such events. In addition, whilst applicants do not have to notify the Planning Section in respect of a temporary event, **they should at least ensure that they have the relevant planning consent to hold the event or extend their hours.** However, neither the Fire Authority nor any other responsible authority will be able to make any representations to the Licensing Authority in respect of temporary events.
- 5.32 Section 107 states that a personal licence holder may hold up to 50 Temporary Events each year and a person who is not a personal licence holder may hold up to 5 such events. Each Temporary Event may last for up to 168 hours and an individual premises may hold up to 12 such events per year so long as the total number of days used for these events does not exceed 21 per calendar year.

Appeals

- 5.33 Where objections have been made to a Standard Temporary Event Notice and those objections have not been withdrawn the matter will be determined by a Licensing Sub Committee. There is a right of appeal to the magistrates Court where:
- (a) the objections have not been upheld;
 - (b) the objections have been upheld and a 'Counter Notice' served; or
 - (c) the objections have been upheld and a 'Counter Notice' not served.
- 5.34 In all cases an appeal may not be brought later than 5 working days before the first day of the event period specified.

Late Temporary Events Notices

- 5.35 Late notices can be given no later than 5 working days but no earlier than 9 working days before the event in relation to which the notice is given. If there is an objection from either the Police or Environmental Health Officer, the event will not go ahead and a Counter Notice will be issued. The number of late notices that can be given in any one calendar year is limited to 10 for personal licence holders and two for a non-personal licence holders. These count towards the total number of temporary event notices (see 5.29).
- 5.36 Where a Counter Notice has been issued there is NO right to a hearing and no onward right of appeal.

Site visits

5.37 For some types of applications to be heard by a Licensing Sub-Committee which may require a 'site visit', the Licensing Authority will follow best practice and procedure and in doing so, on such occasions the Sub-Committee hearing will be opened and then adjourned in order for the site visit to take place. The above procedure will be followed at all times and Members of the Sub-Committee will not take it upon them selves to conduct a 'site visit' either formally or informally prior to the hearing commencing.

Councillors

5.38 Following the changes introduced by the Policing Reform and Social Responsibility Act 2011 which amended the Licensing Act 2003, Ward Councillors can no longer make representations unless they fall within the definition of "other persons" living or working in the vicinity of the premises and who are likely to be affected by the application.

5.39 A Ward Councillor (who does not have a personal or prejudicial interest in the application for any other reason) may represent an interested party at a Sub-Committee meeting in any of the following three circumstances:

- Where the interested party is not attending the meeting but has given prior notice to the Council by the deadlines specified by the Licensing Regulations that s/he will be represented at the meeting;
- Where both the Councillor and an interested party who has not given prior notice in an application attend the meeting;
- Where the Councillor has submitted a written objection on behalf of an interested party and has notified the Council that s/he will be representing that party, again within the specified deadlines s/he must specify both the name and address of the interested party.

5.40 Where a Councillor who is a member of a Licensing Committee or a Licensing Sub-Committee has had a direct or indirect involvement in the affairs of an application before him/her, in the interests of natural justice and given Article 6 of the Convention of the Human Rights Act 1988, (which requires a person to be given a fair hearing), s/he will disqualify him/herself from any involvement in the decision-making process affecting the premises licence in question.

Yellow Card – Red Card – Review applications

5.41 On 2nd September 2009, the Department for Culture Media and Sport (DCMS) wrote to all Chief Executives of Local Authorities advising that consideration should be given to 'adopting' a 'Yellow and Red Card'

scheme to licensing review applications⁸. This Licensing Authority has adopted this scheme in 2009 and which has been used in addition to the steps outlined in 5.20 above.

5.42 Briefly the **'Yellow and Red Card'** scheme can be invoked by the Licensing Sub Committee on the first occasion where a review application has been made to –

- Impose stringent new conditions on the licence
- Use the powers available as contained with the Section 182 Guidance for reviews, and
- Imposition of a licence condition requiring the premises to display a visible notice at the premises detailing the outcome of that review and the warning has been given. This would be deemed to be a 'Yellow Card'.

The recommended wording for the 'Warning' to be displayed at the premises, as approved by Slough Borough Council's Legal Services and Thames Valley Police should be –

The Licensing Sub Committee have issued a 'Yellow Card' to the licensed premises as a warning that if a further Review is necessary and matters have not improved the Premises Licence may be revoked.

5.43 A **'Yellow Card'** should be clearly and visibly displayed at the premises for a period of 12 months from the date the premises were brought before the Licensing Sub-Committee detailing the imposition of new conditions on the Premises Licence and that this warning has been given.

5.44 Where a review application has been made for the same premises and there has been a lack of improvement the Licensing Sub Committee should look to revoke the Licence.

⁸ <https://www.gov.uk/government/publications/written-ministerial-statement-by-andy-burnham-on-the-evaluation-of-the-impact-of-the-licensing-act-2003>

6 Licence Conditions

General approach to licence conditions

- 6.1 The purpose of the licensing Act is the regulation of licensable activities on licensed premises. All conditions attached to Premises Licences and Club Premises Certificates, will be focused on matters, which are within the control of individual licensees and others in possession of relevant authorisations. Accordingly, matters will centre on the premises being used for licensable activities and the vicinity of these premises.
- 6.2 Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour once persons are away from licensed premises, and therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation. However, licensing law will always be part of a holistic approach to the management of the evening and local economy.
- 6.3 Licensing conditions will relate to licensed premises and the impact of those licensable activities on the premises in the vicinity thereof. In this latter regard the Council will primarily focus on the direct impact of any activities taking place on those living, working or otherwise engaged in the area concerned.
- 6.4 The Authority does not have power to impose conditions on a premises licence or club premises certificate unless it has received a representation from a responsible authority, or “other persons” such as a local resident or local business, which is a relevant representation, or conditions are consistent with the operating schedule submitted by the applicant.
- 6.5 The Authority will, only impose conditions on premises if it is considered appropriate and proportionate to do so in order to promote the licensing objectives. The Authority does not propose to implement standard conditions on licences across the board but instead, will draw upon a pool of conditions based upon those issued by the Home office and will attach such other conditions as it considers appropriate, given the circumstances of each individual case.
- 6.6 The model conditions will cover issues surrounding;
- (a) Crime and disorder
 - (b) Public safety
 - (c) Public nuisance
 - (d) Protection of children from harm
- 6.7 Conditions to be imposed on licences will be tailored to the individual premises and events concerned. None of the matters discussed within this policy which may result in the imposition of conditions will be applicable or

suitable for all premises. The Authority will have regard to the size and type of premises when considering imposing conditions upon licences as the result of receiving relevant representations.

- 6.8 Applicants are asked to consider the model conditions and incorporate such of the conditions into their operating schedules as they consider appropriate and necessary in order to promote the licensing objectives. The Authority will impose the model conditions on application when those conditions are consistent with the operating schedule.

Exhibition of Films

- 6.9 Where a Premises Licence or Club Premises Certificate authorises the exhibition of films, the licence must include a condition requiring the admission of children to the exhibition of any film to be restricted in accordance with this section.
- 6.10 Where the film classification body is specified in the licence, unless section 20 (3)(b) of the Licensing Act 2003 applies, admission of children must be restricted in accordance with any recommendation by that body.

Where

- (a) The film classification body is not specified in the licence, or
- (b) The relevant licensing authority has notified the holder of the licence that this subsection applies to the film in question, admission of children must be restricted in accordance with any recommendation made by that licensing authority.
- 6.11 In this section “children” means any person under 18; and
“film classification body” means the person or persons designated as the authority under Section 4 of the Video Recordings Act 1984 (c39) (authority to determine suitability of video works for classification).

Door Supervision

- 6.12 Where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, each such individual must:
- a) be authorised to carry out that activity by a licence granted under the Private Security Industry Act 2001; or
- b) be entitled to carry out that activity by virtue of section 4 of the Act.

- 6.13 But nothing section 21(1) Licensing Act 2003 requires such a condition to be imposed:
- a) in respect of premises within paragraph 8(3)(a) of Schedule 2 to the Private Security industry Act 2001 (c12) (premises with premises licenses authorising plays or films); or
 - b) in respect of premises in relation to:
 - (i) any occasion mentioned in paragraph 8(3)(b) or (c) of that Schedule (premises being used exclusively by club with club premises certificate, under a temporary event notice authorising plays or films or under a gaming licence), or
 - (ii) any occasion within paragraph 8(3)(d) of that Schedule (occasions prescribed by regulations under that Act).
- 6.14 for the purpose of this section:
- a) “security activity” means an activity to which paragraph 2(1)(a) of that Schedule applies, and, which is licensable conduct for the purposes of that Act. (see Section 3(2) of that Act) and
 - b) Paragraph 8(5) of that Schedule (interpretation of references to an occasion) applies as it applies in relation to paragraph 8 of that Schedule.

Authorisation of Alcohol

- 6.15 The supply or sale of alcohol is prohibited when:
- (a) at a time when there is no Designated Premises Supervisor in respect of the Premises Licence
 - (b) at a times when the Designated Premises Supervisor does not hold a Personal Licence or his Personal Licence has been suspended

In addition every supply of alcohol must be made or authorised by a person who holds a Personal Licence.

Mandatory Conditions (2014)

- 6.16 Since the Licensing Act 2003 (Mandatory Licensing Conditions) (Amendment Order) 2014 came into force, the Mandatory Conditions outlined below are attached to all ‘ON’ and ‘OFF’ sales premises at indicated.

6.17 Condition 1, with effect from 1st October 2014 (ON sales only)

- 1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
- 2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises
 - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to -
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
 - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

6.18 Condition 2, with effect from 1st October 2014 (ON sales only)

The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

6.19 Condition 3, with effect from 1st October 2014 (ON and OFF sales)

- (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
- (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
- (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either
 - (a) a holographic mark, or
 - (b) an ultraviolet feature.

6.20 Condition 4, with effect from 1st October 2014

The responsible person must ensure that -

- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures -
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml;
- (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
- (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.”

6.21 The following mandatory condition contained within the Licensing Act 2003 (Mandatory Licensing Conditions) (Amendment Order) 2014 also took effect from 28th May 2014.

- (1) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

- (2) For the purposes of the condition set out in paragraph 1- 'duty' is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

'permitted price' is the price found by applying the formula where-

- P is the permitted price,
- D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
- V is the rate of value added tax chargeable in relation to the alcohol as if the
- Value added tax were charged on the date of the sale or supply of the alcohol;

'relevant person' means, in relation to premises in respect of which there is in force a premises licence-

- the holder of the premises licence,
- the designated premises supervisor (if any) in respect of such a licence, or
- the personal licence holder who makes or authorises a supply of alcohol under such a licence;

'relevant person' means, in relation to premises in respect of which there is in force a Club Premises Certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question and 'value added tax' means value added tax charged in accordance with the Value Added Tax Act 1994.

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

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

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

Casinos and Bingo Clubs

6.22

The Gambling Commission and local authorities enforce the Gambling Act 2005. The Council will take into account any existing controls under this legislation and will endeavour to avoid duplication when determining

applications for premises licences under the Licensing Act 2003.

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7. Enforcement

General

- 7.1 Slough Borough Council and Thames Valley Police have established a joint enforcement approach. The protocols provide for the targeting of agreed problem and high-risk premises, with a lighter approach applied to well managed and maintained premises.
- 7.2 Any enforcement action taken will comply with the Regulators Compliance Code and the Council's own enforcement policy so as to be consistent, transparent and proportionate.

Test purchasing

- 7.3 Slough Borough Council Trading Standards Service and the Police take a very serious view on the illegal sale of alcohol. The sale of alcohol to minors is a criminal offence. The Council and Police fully reviewed their procedures and approved a new enforcement approach in dealing with the sale of alcohol to children. The Local Strategic Partnership (L.S.P.) has also endorsed this.
- 7.4 Slough Trading Standards Officers have advised the off-licensed trade in particular, about how to set up systems to avoid under age sales taking place. Should you require advice on this subject then please contact the Trading Standards section. Trading Standards in partnership with the Police and The Licensing Team will continue to regularly conduct test purchasing exercises with volunteers, in response to complaints and local intelligence.
- 7.5 Trading Standards Officers and the Police have been successful in bringing a number of prosecutions and premises reviews in recent times, having particular regard to the link between alcohol and a range of crime and disorder issues, and this continues to be a concern of the Licensing Authority under the Act.
- 7.6 The Authority asks that applicants for licences consider demonstrating, that they have ensured that all their frontline staff have received adequate training on the law with regard to age restricted sales and that this has been properly documented and training records kept.
- 7.7 **The Authority will actively encourage licensees to keep registers of refused sales where sales of alcohol have been refused for any reason. Keeping such records will help to demonstrate that responsibilities for checking ages of purchasers are being taken seriously.**
- 7.8 The Council will undertake test purchasing in accordance with the Local

Authorities Coordinators of Regulatory Services (LACORS) and the Consumer Standards, Trading Standards Institute (T.S.I.) Code of Best Practice on Test Purchasing. In addition, the Council will develop in consultation with Thames Valley Police a test purchasing protocol.

Inspections

- 7.9 The Authority will carry out routine inspections at all premises where a premises licence is in force. In addition, where a complaint or an application for a review of a premises licence is received, the premises will be inspected. The Council and Thames Valley Police will continue to liaise and may carry out joint inspections of premises. This partnership approach is intended to maximise the potential for controlling crime and disorder at licensed premises and ensure compliance with relevant licensing conditions.

Thames Valley Police Approach

- 7.10 Thames Valley Police have reviewed their policy, whereby each premises licence and personal licence holder will be dealt with on the individual merits of their case. This will not impact on the Licensing Authority's approach to dealing with problems or representations.
- 7.11 The approach of the Police will not impact on the Authority's approach to dealing with problems or representations. Each case will be treated on its own merits. In some minor review cases it may be appropriate to amend conditions. However, where serious matters are brought to the attention of the Licensing Committee, more severe action may be taken. However, this action will be appropriate and necessary having regard to the promotion of the licensing objectives.

8. Contact details/advice and guidance

- 8.1 The Council's Licensing, Environmental Health, Health and Safety Neighbourhood Enforcement Team, Thames Valley Police and Royal Berkshire Fire & Rescue Service can provide advice and information regarding sources of further guidance. Applicants are encouraged to engage in informal discussion with appropriate responsible authorities before the application process in order to resolve potential problems and avoid unnecessary hearings and appeals.
- 8.2 In the case of vessels (boats), other responsible authorities must also be served with applications. These include the Navigation Authority, the Environment Agency, the British Waterways Board or the Secretary of State. In the case of applications for licences for vessels, applicants are requested to contact the Licensing Section for further information.
- 8.3 All applications must be submitted to the Licensing Section of the Council, which acts on behalf of the Authority. The **Responsible Authorities** outlined at 5.4 are able to offer advice directly and must be served with copies of all full licensing applications. For minor variations, it is only the Licensing Section who must be served with a copy of the application.
- 8.4 Details for the Responsible Authorities and the press are contained at **Appendix B**.

Appendix A

Delegation of Functions (2012)

The delegations of functions in relation to licensing matters are as follows:-

Matters to be dealt with	Sub Committee	Officers
Application for personal licence	If a representation made	If no representation made
Application for personal licence with unspent convictions	All cases	
Application for premises licence/club premises certificate	If a representation made	If no representation made
Application for provisional statement	If a representation made	If no representation made
Application to vary premises licence/club premises certificate	If a representation made	If no representation made
Minor variations		All cases
Application to vary designated personal licence holder	If a Police representation	All other cases
Request to be removed as designated personal licence holder		All cases
Application for transfer of premises licence	If a Police representation	All other cases
Applications for Interim Authorities	If a Police representation	All other cases
Application to review premises licence/club premises certificate	All cases	
Decision on whether a complaint is irrelevant frivolous vexatious etc.		All cases
Decision on objection when Local Authority is a consultee and not the lead authority	All cases	
Determination of a 'Relevant Persons' representation to a	All cases	

temporary event notice (Standard notice only)		
Making a representation on behalf of the Licensing Authority		Licensing Manager Senior Licensing Officer
Initiating a Review on behalf of the Licensing Authority		Licensing Manager Senior Licensing Officer
Determination of a representation made on behalf of the Licensing Authority	All cases	
Determination of a Review made on behalf of the Licensing Authority	All cases	
Consideration to revoke a personal licence or suspend a personal licence (for period of up to six months), where the licence holder has been convicted of a relevant offence, foreign offence, immigration offence or been required to pay an immigration penalty.	All case	

Appendix B

Addresses for Responsible Authorities & Press Publication details

<p>Licensing Thames Valley Police HQ South Oxford Road Kidlington OX5 2NX</p> <p>licensing@thamesvalley.pnn.police.uk</p>	<p>Trading Standards St Martins Place 51 Bath Road Slough SL1 3UF</p> <p>trading.standards@slough.gov.uk</p>
<p>Neighbourhood Enforcement Team My Council Landmark Place High Street Slough SL1 1JL</p> <p>lan.blake@slough.gov.uk</p>	<p>Planning Department St Martins Place 51 Bath Road Slough SL1 3UF</p> <p>planning@slough.gov.uk</p>
<p>Food & Safety Department St Martins Place 51 Bath Road Slough SL1 3UF</p> <p>foodandsafety@slough.gov.uk</p>	<p>Local Safeguarding Children Board – Independent Chair c/o St Martins Place 51 Bath Road Slough SL1 3UF</p>
<p>Royal Berkshire Fire & Rescue Service Slough Community Fire Office The Fire Station 124 London Road Langley Slough SL3 7HS</p> <p>sloughfiresafety@rbfrs.co.uk</p>	<p>Service Lead - Public Health St Martins Place 51 Bath Road Slough SL1 3UF</p>

The Home Office
Alcohol Licensing Team
Lunar House
40 Wellesley Road
Croydon
CR9 2BY

Alcohol@homeoffice.gsi.gov.uk

Please enquire in specific cases where the premises are partly within another authority.

Service on the Trading Standards and Public Health Teams at (5) above satisfies the requirement to serve the Weights and Measures Authorities.

Newspapers Circulating in Slough

Applicants must advertise the application within 10 working days (from the date of submission) in one of the following newspapers:

Slough and Langley Observer
Observer Group
Upton Court
Datchet Road
Slough
Berkshire SL3 7NR
Tel: 01753 523355

Slough Express
487 Ipswich Road
Slough
Berkshire
SL1 4EP
Tel: 01753 835111

Appendix C

Glossary

Act

The Licensing Act 2003

Alcohol

Includes spirits, wine, beer, cider, or any other fermented, distilled, or spirituous liquor of or exceeding 0.5% alcoholic strength at the time of sale.

Car Jockey Schemes

A scheme whereby the customer's car is parked by staff at the licensed premises and returned to the customer at the main entrance to the premises at the time of departure, whether for a fee or not.

Chief Officer of Police

The Chief Officer of Police of Thames Valley Police. All issues relating to local licensing should be addressed to:

The Chief Constable of Thames Valley Police

Licensing Team,
HQ South,
165 Oxford Road,
Kidlington,
OX5 2NX
01865 846 597

Licensing@thamesvalley.pnn.police.uk

Child

An individual aged less than 16 years of age.

Club Premises Certificate

A Certificate granted by the Licensing Authority for premises occupied by, and habitually used for the purposes of, a club.

Conditions

Restrictions on the Premises Licence or Club Premises Certificate designed to ensure safety and promote the Licensing Objectives. Conditions will be Mandatory or can be attached to a licence or certificate by the licence holder through the Operating Schedule or the Licensing Authority.

Councillor

An elected Member of the Council

Designated Premises Supervisor

The Personal Licence Holder named on the Premises Licence as being in day to day control of the premise through whom all alcohol sales must be authorised.

Door Supervisor

Any person employed at or near the entrance to licensed premises to ascertain or satisfy themselves as to the suitability of customers to be allowed on those premises or to maintain order on those premises.

Fire Authority

Royal Berkshire Fire and Rescue Service

Guidance

Refers to Statutory Guidance issued under Section 182 Licensing Act 2003, by the Home Office.

Hours of Operation

The hours for which the licence or certificate for a premises is authorised to operate.

Late Night Refreshment

The supply of hot food or drink to members of the public, or a section of the public, on or from any premises, whether for consumption on or off the premises: at any time between the hours of 11.00pm and 05.00am. Exemption relate to some clubs, hotels and employees at their place of work.

Licence holder

The person to whom the Licensing Authority has granted the licence and in whose name it appears and who is responsible for the proper operation of the premise. The licensee is also liable to criminal proceedings for breaches of the terms and conditions of that licence.

Licensable Activities

Licensable Activities are:

- (i) the sale by retail of alcohol;
- (ii) the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club;
- (iii) the provision of regulated entertainment; and
- (iv) the provision of late night refreshment

Live Music

Following the implementation of the Live Music Act 2012, live music is not licensable as follows:

1. Alcohol On-Licensed Premises

Amplified live music between 8.00am and 11.00pm before audiences of no more than 200 people on the premises authorised to sell alcohol for consumption on the premises.

2. Workplaces

Amplified live music between 08.00am and 11.00pm before the audiences of 200 people in workplaces not otherwise licensed under the 2003 Act (or licensed only for the provision of late night refreshment)

3. All venues

Unamplified live music between 08.00am and 11.00pm

Conditions on existing licenses

Where a premises continues to operate licensable activities (such as the sale of alcohol), any conditions relating to the above live music activities are suspended unless they have been added following a licence review

Licensing Sub-Committee

The Full Licensing Committee delegate a number their functions to one or more 'Licensing Sub-Committees'. These are made up of three members of the Full Licensing Committee.

Mandatory Conditions

The 2003 Act provides for a number of Mandatory Conditions to be included in every Premises Licence and/or Club Premises Certificate.

Operating Schedule

A document which includes a statement of the following -

- (i) the relevant licensable activities
- (ii) the times during which it is proposed that the relevant licensable activities are to take place
- (iii) any other times during which it is proposed that the premises are to be open to the public
- (iv) where the applicant wishes the licence to have effect for a limited period, that period;
- (v) where the relevant licensable activities include the supply of alcohol, prescribed information in respect of the individual whom the applicant wishes to have specified in the premises licence as the designated premises supervisor
- (vi) where the relevant licensable activities include the supply of alcohol, whether the supplies are proposed to be for consumption on the premises or off the premises, or both;

- (vii) the steps which it is proposed to take to promote the licensing objectives;
- (viii) such other matters as may be prescribed
- (ix) the name or position of the person responsible for ensuring compliance with the operating schedule, i.e. The Premises Licence Holder, The Designated Premises Supervisor or a person nominated by them in writing.

Other Persons

The Act now defines 'Other Persons' as 'persons who live, or are involved in a business, in the relevant Licensing Authority area, or in an adjoining area and who are likely to be affected by the grant of the application

Personal Licence

Authorises an individual to supply or authorise the supply of alcohol in accordance with a Premises Licence

Planning Permission

Formal approval by the Council, often with conditions, allowing a proposed development to proceed.

Premises Licence

Is a licence granted by the Licensing Authority which authorises premises to be used for one or more licensable activities. The licence is only valid in respect of premises named on the licence.

Prescribed Form

Any form issued by the Licensing Authority

Provision of facilities for making music and dancing

The Act removes the provision of facilities for making and dancing as forms or regulated entertainment.

Representations

Submissions made to the Licensing Authority by Responsible Authority's or 'Other Persons' in respect of an application. Representations can be made in support or against an application.

Temporary Event Notice

A notice that must be given to the Licensing Authority for small scale temporary events for a period not exceeding 168 hours duration.

Terminal Hour

The hour at which all or any of the Licensable Activities have finished and the premises have closed to the public. No one should be allowed to enter or re-enter the premises after the terminal hour has passed.

Variation

If the licence holder wishes to change any of the terms, conditions or restrictions of the licence, he/she will need to apply to vary the licence.

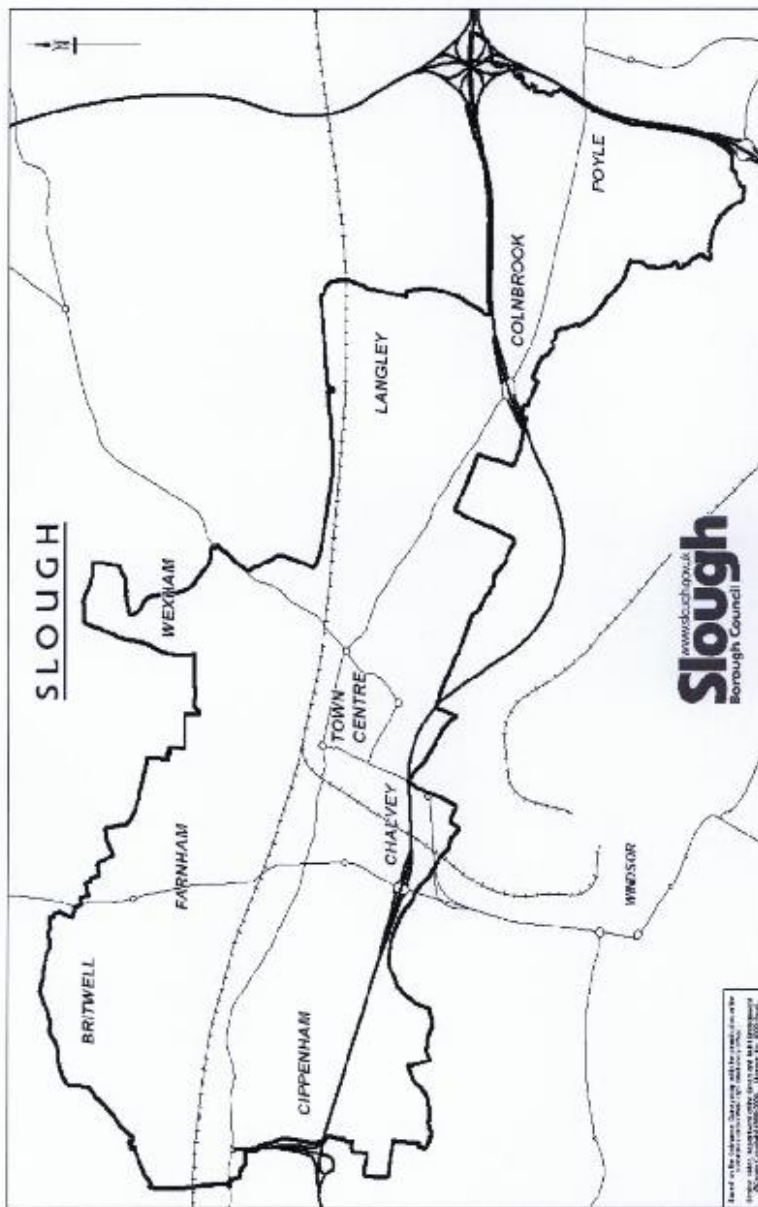
Young Person

A person who is over sixteen years of age but has yet to attain the age of 17 years.

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Appendix D

APPENDIX A



MEMBERS' ATTENDANCE RECORD 2018/19
LICENSING COMMITTEE

COUNCILLOR	12/06/18	10/09/18 (Extraordinary)	18/10/18	14/02/18	27/03/18
B Bains	P	P	Ap		
Davis	P	P	P		
M Holledge	P	Ap	P		
Mann	P	P	P		
D Parmar	P	P	P		
S Parmar	P	P	P		
Qaseem	P* (Until 8.06pm)	P	P		
Shah	P	P	P		
Strutton	P	P	P		
Usmani	P	P	Ap		
Wright	P	P	P		

P = Present for whole meeting
Ap = Apologies given

P* = Present for part of meeting
Ab = Absent, no apologies given

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