

CRAWLEY BOROUGH COUNCIL

LICENSING ACT 2003

Statement of Licensing Policy

2019 – 2024



Forward to the Licensing Policy by the Director of Public Health West Sussex

ALCOHOL & HEALTH

The Police Reform & Social Responsibility Act 2011 amended the Licensing Act 2003 to make Directors of Public Health a Responsible Authority giving health bodies a greater say in Licensing issues so that they are automatically notified about new premises applications, can make representations and even apply for reviews of licences.

In West Sussex, this function is undertaken by the West Sussex County Council (WSSCC) Public Health Lead for Substance Misuse, on behalf of the Director of Public Health. However, the government stopped short, in England at least, of making health a licensing objective. Any representation made by the Public Health Directorate must be relevant to the existing statutory licensing objectives.

The Council recognises that the entertainment and alcohol industry contributes to the borough by providing a variety of opportunities for entertainment and relaxation as well as employment & career opportunities. The council is dedicated to providing support for cultural activities, live music and public houses serving the community. It wants businesses to thrive and residents and visitors to be able to enjoy the facilities that Crawley's licensed businesses offer.

It is, however, mindful of the potential health issues that alcohol misuse can generate. For this reason the Licensing Authority will seek to promote high standards of management in licensed premises to ensure businesses operate responsibly and exercise their 'duty of care' for the health of their customers. Problem premises will be controlled, while those that seek to operate responsibly will not be subject to unreasonable restrictions.

Alcohol is one of the three biggest lifestyle risk factors for disease and death in the UK, after smoking and obesity. In England, alcohol misuse is the biggest risk factor attributable to early mortality, ill health and disability for those aged 15 to 49 years.

Alcohol is a causal factor in more than 60 medical conditions, including: mouth, throat, stomach, liver and breast cancers; high blood pressure, cirrhosis of the liver; and depression. Binge drinking can lead to injuries, anti-social behaviour and other societal harm. Harmful alcohol consumption not only impacts on individuals, but also on their families and communities, as well as society as a whole. The annual cost of alcohol-related harm in England is estimated to be £21 billion pounds, including £11 billion in crime and disorder, £7 billion in lost productivity through unemployment and sickness, and a burden of £3.5 billion to the NHS.

There is no 'safe' level of alcohol consumption; therefore anyone who drinks is increasing their risk of harm to some extent.

In January 2016 the UK Chief Medical Officers issued revised guidance on alcohol consumption:

- Men and women are advised not to regularly drink more than 14 units a week.
- Spread your drinking over three days or more if you drink as much as 14 units a week.
- If you want to cut down how much you're drinking, a good way to help achieve this is to have several drink-free days each week.

The guidance also includes advice for single occasion drinking episodes. In order to keep risks to a low level, adults are advised to:

- limit the total amount of alcohol you drink on any single occasion
- drink more slowly, drinking with food, and alternating with water
- plan ahead to avoid problems e.g. by making sure you can get home safely or that you have people you trust with you.

Pregnant women are advised that:

- If you are pregnant or think you could become pregnant, the safest approach is not to drink alcohol at all, to keep risks to your baby to a minimum.
- Drinking in pregnancy can lead to long-term harm to the baby, with the more you drink the greater the risk.

For most alcohol-related diseases and injuries, there is a clear relationship between the volume of alcohol consumed and the risk of a given harm; as the amount of alcohol increases, so does the risk of harm.

The increase in risk for alcohol-related medical conditions (such as cancer, high blood pressure, cirrhosis of the liver and depression) is greatest among people drinking at harmful levels (i.e. in excess of 35 units per week). However, even increasing-risk drinkers (those regularly exceeding the lower risk guidelines) are at significantly increased risk of these conditions.

In 2009, the Chief Medical Officer for England published guidance on the consumption of alcohol by children and young people. The guidance advised that an alcohol-free childhood is the healthiest and best option. However, if children drink alcohol, it should not be until at least the age of 15 years.

If young people aged 15 to 17 years consume alcohol, it should always be with the guidance of a parent or carer or in a supervised environment.

How is alcohol harm measured?

There are a number of measures for alcohol related harm. The Local Alcohol Profiles for England provide information for local government, health organisations, commissioners and other agencies to monitor the impact of alcohol on local communities and to monitor the services and initiatives that have been put in place to prevent and reduce the harmful impact of alcohol. The data is predominantly available at upper-tier local authority level, with some indicators available at the level of Clinical Commissioning Group or lower tier local authority.

Key indicators include alcohol-related hospital admissions and alcohol-related mortality.

What does this currently look like?

In West Sussex:

- It is estimated that 23.7% of adults (18+) are drinking above the lower risk limits
- It is believed that there are 6,967 adults with an alcohol dependency in the county.
- Data suggests that 2710 children live with an adult with alcohol dependency.

In Crawley:

- The rate of alcohol-related harm hospital stays is 518 per 100,000 population, better than the average for England. This represents 517 stays per year.
- The rate of alcohol-specific hospital stays among those under 18 is 33.0 per 100,000 population. This represents 26 stays per year.
- The estimated rate of alcohol-related deaths in Crawley for 2016 is 51.3 per 100,000 population. This equates to 45 deaths in 2016.

The Council supports the national drive to encourage sensible drinking through initiatives and legislation, including minimum pricing. It values the important role that parents, carers and others have in providing good role models for children and young people to develop sensible drinking habits.

The Government's Alcohol Harm Reduction Strategy identified addressing sensible drinking and alcohol harm as a key priority, particularly with regard to increasing trends in levels of harm and health service use linked to alcohol.

Whilst Alcohol Concern's publication, 'One on Every Corner', looked at the link between increasing off-licence density, and the harm done to children by underage drinking. The evidence around alcohol outlet density and alcohol harm has recently been added to with the publication of a study in 2018. The key findings were:

- A higher density of on-trade outlets is associated with higher hospital admissions for conditions wholly attributable to alcohol.

- A higher density of licensed convenience stores is also associated with higher hospital admissions for conditions wholly attributable to alcohol.
- The relationship between outlet density and hospital admissions is largely the same for men and women, though appears more pronounced for older people.
- The overall relationship between outlet density and hospital admissions appears to be the same in deprived areas and affluent areas.

Whilst public health is not a licensing objective, there is much that the WSCC Public Health directorate can contribute to local licensing decisions. The Director of Public Health is a Responsible Authority and in West Sussex this function is undertaken on the DPH's behalf by the Public Health Lead for Substance Misuse.

The WSCC Public Health Directorate may have access to data that is not always available to other Responsible Authorities, for example data relating to the local population and their alcohol-related health needs; evidence of alcohol-related harm; areas in which there are vulnerable groups who may be at higher risk of alcohol-related harm. The WSCC Public Health Directorate may also develop or collate qualitative evidence from the local area, to add to the quantitative data available.

The Crawley Borough Council recognises the need for greater partnership working to combat the negative impact of alcohol and will work with its partner agencies and the local trade to jointly promote the sensible drinking message.

Anna Raleigh, Director of Public Health – West Sussex

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1. INTRODUCTION AND SCOPE OF THE POLICY

1.1 Crawley Borough Council, as the licensing authority for the borough of Crawley (the Council), in pursuance of its duties and powers under the Licensing Act 2003 (the Act), hereby formally makes a statement as to its Policy in respect of the provisions of that Act.

1.2 The aim of the policy is to promote the licensing objectives set out in the Act whilst securing the safety and amenity of residential communities and facilitating a sustainable entertainment and cultural industry. The overriding philosophy of the licensing regime is that there is a presumption that a licence will be granted unless there are compelling reasons to refuse the licence. This policy will then form the basis on which the licensing decisions are taken by the authority.

1.3 The Licensing Objectives are:-

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

1.4 In undertaking its licensing function, the Council is also bound by other legislation, which includes the following:

- Section 17 of the Crime and Disorder Act 1998 requiring the Local Authority to do all that it reasonably can to prevent crime and disorder in its locality.
- Guidance issued under Section 182 of the Licensing Act 2003 (Statutory Guidance).
- The European Convention on Human Rights, which is given effect by the Human Rights Act 1998; placing a duty on public authorities to protect the rights of individuals in a variety of circumstances.
- Health and Safety at Work Act 1974; and regulations made there under
- Food Safety Act 1990; and regulations made there under
- Environmental Protection Act 1990
- Criminal Justice and Police Act 2001
- The Anti-Social Behaviour Act 2003
- Race Relations (Amendment) Act 2000
- Disability Discrimination Act 1995
- Data Protection Act 1998
- Equality Act 2010
- Police Reform & Social Responsibility Act 2011
- Live Music Act 2012
- Immigration

- 1.5 The Council will also seek to discharge its responsibilities identified by other Government Strategies, so far as they impact on the Licensing Objectives. Examples of these include the Strategies which are set out below:
- The Government's Alcohol Strategy 2012
 - The Annual Safer Crawley Partnership Plan
- 1.6 In addition, the Council will consider applications with reference to other, locally, adopted Strategies, as set out below:
- Annual Safer Crawley Partnership Plan
 - Safer Crawley Partnership Executive Initiatives
 - Crawley Evening Economy
 - Health Promotion Strategies
 - Enforcement Concordat
 - Local Plan
 - Emerging Draft Local Development Framework
 - Pub Watch" and "Business Watch" schemes
 - Proof of age scheme
- 1.7 The Council, in adopting this licensing policy, recognises both the needs of residents for a safe and healthy environment in which to live and work and the importance of safe and well run premises providing entertainment to the local economy and vibrancy of the borough.
- 1.8 The Policy provides guidance to applicants, objectors and other interested persons on the general approach the Council will take in terms of licensing. Although each licence application must be considered separately on its individual merits, in adopting this licensing policy the Council is making it clear that wider considerations other than the fitness of the applicant and suitability of the premises will be taken into account.
- 1.9 This policy will take effect on 1st March 2019 and remain in force for a period of 5 years or until it is subject to review by the Council whichever is sooner. Any review and proposed changes will be the subject of statutory consultation.
- 1.10 The Policy is written in pursuance of the Act and incorporates the Council's adopted policies in respect of Equal Opportunities.

Scope of the policy

- 1.11 The Act is concerned about the sale of alcohol, the provision of regulated entertainment and late night refreshment. In general a reference in this policy to a premises licence will include reference to a club premises certificate.
- 1.12 Activities that require a licence under the Act and covered by this policy include:
- Retail sale of alcohol for consumption both on and off the premises
 - Supply of hot food or drink from a premise from 23.00 to 05.00 hours for consumption both on and off the premises

- Provision of entertainment listed below (known as regulated entertainment) to the public or club members or with a view to profit, namely:
 - Film exhibitions
 - Performances of a play
 - Indoor sporting events
 - Boxing or wrestling entertainment
 - Live music performances (as defined by the Live Music Act 2012)
 - Playing of recorded music
 - Dance performances

1.13 The Act covers the licensing of individuals for the retail sale of alcohol (personal licences), the licensing of premises as described above, and the regulation of certain licensable activities on a temporary basis (temporary event notices).

1.14 The scope of the policy covers new applications, renewals, transfers and variations of licences and certificates, including where applicable temporary premises licences. It will also include review of licences and certificates. Such a review could lead to the revocation of a licence or certificate.

2. HOW DECISIONS WILL BE MADE USING THE POLICY

2.1 When an application is made regarding a licence, including an application for the review of a licence following a representation, decisions regarding the control of the premises will need to be made. The Act and the Statutory Guidance lay down the issues that the Council is required to consider in fulfilling its function as a Licensing Authority.

2.2 This policy sets out a general approach to the making of licensing decisions and underpins the provisions of the Act. It does not seek to undermine the right of any individual to apply under the terms of the Act for a variety of permissions and to have any such application considered on its individual merits.

2.3 Similarly, this policy does not override the right of any person to make representations in respect of an application or seek a review of a licence or certificate, where provision has been made for them to do so under the Act.

2.4 Licensing is about control of licensed premises, qualifying clubs and temporary events, within the terms of the Act. The terms and conditions attached to various permissions will be focused on matters which are within the reasonable control of individual licensees and others who have been granted relevant permissions. Accordingly, these matters will centre on the premises and places being used for licensable activities and the vicinity of those premises and places.

2.5 The Council will primarily focus on the direct impact the activities taking place at licensed premises may have on members of the public living, working or engaged in normal activity in the area concerned. Licensing law is not a mechanism for the general control of anti-social behaviour by individuals once they are beyond the reasonable control of the individual, club or business holding a licence, certificate or relevant permission.

Main principles

2.6 In addition to being bound by the legislation referred to above, the Council intends to promote the Licensing Objectives (see below) by pursuing the key themes of Crawley's Local Strategic Partnership, namely:

- Affordable Housing
- Local Environment
- Lifelong Learning
- Community Safety
- Health and Social Care
- Local Economy

2.7 The policy is also intended to ensure that the provision of additional opportunities for licensable activities is matched by additional measures enabling the police and licensing authorities to act promptly to maintain public order and safety.

Licensing objectives

2.8 There are four Licensing Objectives stated in Section 4 of the Act. These same Licensing Objectives are also referred to in the Statutory Guidance. Crawley Borough Council's approach to each is detailed below.

2.9 The four stated Licensing Objectives in the Act are:

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

Prevention of crime and disorder

2.10 The key controls in respect of preventing crime and disorder arise from good operational planning and good management of activities at the premises.

General management controls on crime and disorder

2.11 The essential purpose of the licence or certificate in this context is to regulate behaviour on premises and access to them where this relates to licensable activities and the licensing objectives. The Council will not, therefore, seek to use, conditions attached to licences to manage the behaviour of customers once they are beyond the direct management of the licence holder and his staff or agents.

2.12 No conditions relating to the management competency of designated premises supervisors will be attached to premises licences, unless it could be demonstrated that in the circumstances associated with particular premises, poor management competency could give rise to issues of crime and/or disorder and public safety.

- 2.13 The statutory guidance states that licence conditions must avoid attaching conditions that duplicate other regulatory regimes as far as possible and must not replicate licensing offences that are set out in the Act.
- 2.14 Conditions will, however, be used if they can control issues that directly impact on the behaviour of those under the licensee's direction when on his premises or in the immediate vicinity of the premises as they seek entry or leave. Consideration will be given to the advice within Chapter 10 of the Statutory Guidance . The Council will look to the police as the main source of advice on these matters, and this advice will be given considerable weight.
- 2.15 The Council recognises that there are, or will be, a number of voluntary schemes designed to improve public safety, such as the "National Pubwatch" scheme and "The Safer Clubbing" guide. The Council supports the use of such schemes as they will increase the likelihood that the licence holder of the premises concerned will be promoting the licence objectives. The Council will, where appropriate, consider the use of conditions to achieve these standards.
- 2.16 The Council also recognises that it must fulfil its obligations under section 17 of the Crime and Disorder Act 1998 when carrying out its functions as the licensing authority under the Act.

Areas where further conditions may be considered

- 2.17 There are several areas in which the Council will have particular concerns:

Discounting and sales promotions

- 2.18 When considering any relevant representations made in respect of an application, there will need to be shown a clear causal link between sales promotions or price discounting and levels of crime and disorder on or in the vicinity of the premises.
- 2.19 The Council will also support local voluntary Codes of Practice in respect of ensuring responsible use of the discounting of the costs of alcoholic drinks, happy hours and sales promotions whereby drinks are offered free in certain circumstances.

Effective door supervision

- 2.20 Provision of door supervision may be necessary to ensure that people who are drunk or drug dealers or carrying weapons do not enter the premises. This reduces the potential for crime and disorder. Door supervisors should also ensure that the police are informed where this will help to promote the licensing objectives.
- 2.21 Whenever security operatives are employed at licensed premises to carry out any security function they must be licensed by 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 National Alcohol Harm Reduction Strategy. If a licensee directly employs security operatives they will need to be licensed by the SIA as a supervisor/manager. Local authority licensing officers may look more favourably on licence applications which demonstrate that licensees have considered:
- Recruiting SIA licensed door supervision staff from a reputable company with SIA Approved Contractor Status.
 - What measures will be taken and what and procedures are in place for licensees to check the SIA register of licensed door supervisors to ensure their premises and customers are only protected by door supervisors with an SIA licence.
- 2.22 The Council would also encourage good practices, such as identifying door supervisors by uniform, which may include high visibility jackets, in appropriate circumstances. In premises such as cinemas and theatres carrying on other licensable activities on the premises as well as their primary function of exhibiting films or presenting plays, the Council would not

normally require door supervision by individuals licensed by the Security Industries Authority (SIA) in such premises. However, the circumstances of all applications will be considered individually.

- 2.23 Finally, in certain circumstances, the Council may also consider it appropriate to apply conditions regarding the provision of stewards and other persons whose role is not to carry out a security activity but to provide advice about and ensure the safety of those visiting the premises. Such individuals will not need to be licensed by the SIA.

Large capacity venues used exclusively or primarily for the “vertical” consumption of alcohol (HVVDs)

- 2.24 Large capacity “Vertical drinking” premises, sometimes called High Volume Vertical Drinking establishments (HVVDs), are premises with exceptionally high capacities, used primarily or exclusively for the sale and consumption of alcohol, and have little or no seating for patrons. The Council recognises and research has demonstrated that the environment within such establishments can have a significant bearing on the likelihood of crime and disorder.
- 2.25 Where appropriate, the Council will attach conditions to premises licences for the promotion of the prevention of crime and disorder at such premises (if not volunteered by the venue operator and following representations made on such grounds) which require adherence to:
- a prescribed capacity;
 - an appropriate ratio of tables and chairs to customers based on the capacity; and
 - the presence of SIA licensed security teams to control entry for the purpose of compliance with the capacity limit and to deny entry to individuals who appear drunk or disorderly or both.

Public safety

- 2.26 The Council recognises that the public safety objective is concerned with the physical safety of the people using the relevant premises and not with public health, which is dealt with in other legislation. There will of course be occasions when a public safety condition could incidentally benefit health, but this will not be the purpose of the condition as this would be ultra vires in the context of the Act. Accordingly, conditions will not be imposed on a premises licence or club premises certificate which relate to cleanliness or hygiene. In addition, no attempt will be made to use a licensing condition to prohibit smoking for either health or desirability. These are matters dealt with under other legislation and voluntary codes of practice and duplication must be avoided. It should be noted, however, that public safety does include the safety of performers appearing at any premises.
- 2.27 There are also many areas of existing legislation which provide for Public Safety. It is, therefore, essential that the Licensing Policy deals only with the remit of the Licensing Act. The Council will expect applicants and licence holders to have regard to key publications in the context of regulated entertainment.
- 2.28 The Council will not include conditions for premises open to the public or for employers to possess certificates attesting to the safety or satisfactory nature of certain equipment or fixtures on the premises, where there is a requirement in other legislation. However, the Council will require as a condition of a licence or certificate, if necessary, checks on such equipment to be conducted at specified intervals and for evidence of such checks to be retained by the premises licence holder or club provided this does not duplicate or ‘gold-plate’ a requirement in other legislation. If the Council receives relevant representations from responsible authorities or interested parties, we will attach conditions which require equipment of particular standards to be maintained on the premises. In considering such conditions, the

advice of responsible authorities, such as health and safety authorities, will carry considerable weight.

- 2.29 The Act provides that where a premises licence or club premises certificate authorises the exhibition of a film, it must include a condition requiring the admission of children to films to be restricted in accordance with recommendations given either by a body designated under section 4 of the Video Recordings Act 1984 specified in the licence (currently only the British Board of Film Classification – BBFC) or by the licensing authority itself.
- 2.30 The BBFC classifies films in accordance with its published Guidelines which are based on extensive research into public opinion and professional advice. The classifications recommended by the Board should be those normally applied unless there are very good local reasons for a licensing authority to adopt this role. The Council notes that the provisions of the Act enables it to specify the Board in the licence or certificate and, in relation to individual films, to notify the holder or club that it will make a recommendation for that particular film.
- 2.31 There will, therefore, be circumstances when the Council will consider the use of conditions. These will include the use of a possible pool of conditions, to which others may be added.

Prevention of public nuisance

- 2.32 There is no statutory definition of Public Nuisance. The Council will, therefore, need to make judgements about what constitutes public nuisance and define the necessary controls. To decide this, the Council will consider the promotion of this licensing objective. We will focus on whether impacts of the licensable activities at the specific premises on persons living and working (including doing business) in the vicinity are disproportionate and unreasonable.
- 2.33 The Council will be mainly concerned with noise nuisance, light pollution, noxious smells and litter. For example, the Council considers that the prevention of public nuisance will include low-level nuisance affecting a few people living locally as well as major disturbance affecting the whole community. It will also include in appropriate circumstances the reduction of the living and working amenity and environment of people in the vicinity of licensed premises. The Council also considers that the cumulative effects of litter in the vicinity of premises carrying on licensable activities can cause public nuisance.
- 2.34 The Council will use appropriate conditions which relate to public nuisance. They will be tailored for specific premises licences and club premises certificates, and will not be treated as standard conditions.
- 2.35 The following conditions and controls will be considered by the Council in respect of preventing public nuisance:

Conditions relating to noise nuisance

- 2.36 These will normally concern steps necessary to control the levels of noise emanating from premises, from simple mechanisms like ensuring that doors and windows are kept closed after a particular time in the evening to more sophisticated mechanisms like sound level inhibitors on amplification equipment or sound proofing. Any conditions necessary to promote the prevention of public nuisance will be tailored to the style and characteristics of premises and the type of activities expected to take place there. To prevent a Public Nuisance the Council has a general requirement that all regulated entertainment must be inaudible inside all noise sensitive premises between 23:00 and 07:00. Inaudibility will also be required between 07:00 and 23:00 if regulated entertainment is requested more often than 30 times a year. To prevent a public nuisance the Council will require all outside drinking areas to be closed to the public from 23:00 to 07:00, except for an agreed designated smoking area, where no food or drinks will be allowed.

Conditions for 'takeaways' and fast food outlets.

- 2.37 We may consider it appropriate and necessary for a condition of a licence to require premises serving customers from takeaways and fast food outlets from 11.00pm to provide litter bins in the vicinity of the premises in order to prevent the accumulation of litter from its customers. Such conditions may be appropriate in circumstances where customers late at night may have been consuming alcohol and be inclined to carelessness and anti-social behaviour. In considering such a condition, the Council will consider whether such a requirement is appropriate having regard to the licensable activities carried on, the type and characteristics of the premises.

Conditions to control light pollution.

- 2.38 The Council will seek to balance bright lighting outside premises considered appropriate to prevent crime and disorder against light pollution for some neighbours.

Representations relating to public nuisance.

- 2.39 Where applications have given rise to representations, any appropriate conditions will normally focus on the most sensitive periods. For example, music noise from premises usually occurs from mid-evening until either late evening or early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. In certain circumstances, conditions relating to noise may also prove appropriate to address any disturbance anticipated as customers enter and leave the premises and therefore, in the immediate vicinity of the premises.
- 2.40 However, all conditions in respect of public nuisance will be focused on measures within the direct control of the licence holder or club. Conditions relating to public nuisance caused by the anti-social behaviour of customers once they are beyond the reasonable control of the licence holder, club or premises management cannot be justified and will not serve to promote the licensing objectives in relation to the licensing activities carried on at the premises. Beyond the vicinity of the premises, these are matters for personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in his own right. However, the Council may consider it appropriate, following relevant representations from a responsible authority or interested party, to require the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet when they leave the area and to respect the rights of people living near-by to a peaceful night.
- 2.41 After a licence or certificate has been granted or varied, a complaint relating to a general situation in a town centre will not generally be regarded as a relevant representation unless it can be positively tied or linked by a causal connection to particular premises, which would allow for a proper review of the licence or certificate.
- 2.42 The Council will not use conditions where the provisions of the Environmental Protection Act 1990 and of the Noise Act 1996 adequately protect those living in the vicinity of the premises in question. However, the Council intends to adopt an approach of prevention which adequately cover concerns raised in relevant representations.
- 2.43 The Council will, however, promote the use of other legislation including the Anti-Social Behaviour Act 2003 as a way to control noise from any licensed premises which is causing a public nuisance.

Protection of children from harm

- 2.44 The Council recognises that the protection of children from harm includes the protection of children from moral, psychological and physical harm, and this would include the protection of children from too early an exposure to strong language and sexual expletives, for example, in the context of film exhibitions, or where adult entertainment is provided.
- 2.45 However, in the context of many licensed premises such as pubs, restaurants, café bars and hotels, the Council does not wish to see the development of family-friendly environments

frustrated by overly restrictive conditions in respect of children where there is no good reason to impose them.

2.46 Nothing, therefore, in this statement of policy limits the access of children to licensed premises unless it is appropriate for the prevention of harm to children. No statement of policy can properly anticipate every issue of concern that could arise in respect of children with regard to individual premises and as such, general rules will be avoided. Consideration of the individual merits of each application remains the best mechanism for judging such matters.

2.47 The Council recognises that the changes in the Act to the law concerning consumption of alcohol by minors on licensed premises now mean the focus for licensing authorities, the police and other authorised persons should be on the enforcement of those laws.

2.48 The Council will, therefore, ensure that representations made by the statutory child protection bodies and the police in respect of individual applications should be given considerable weight when they address appropriate issues regarding the admission of children.

Use of Conditions

2.49 The Council will not impose conditions requiring the admission of children to any premises. Where no licensing restriction is appropriate, this will remain a matter for the discretion of the individual licensee or club.

2.50 However, the Council considers that conditions relating to the access of children which are appropriate to protect them from harm are self evidently of great importance.

2.51 It is also possible that activities, such as adult entertainment, may take place at certain times on premises but not at other times. For example, premises may operate as a café bar during the day providing meals for families but also provide entertainment with a sexual content after 8.00pm. Such trading practices should be obvious from the operating schedule or club operating schedule provided with the relevant application allowing the framing of an appropriate, time-limited condition. Similarly, gambling may take place in part of a leisure centre but not in other parts of those premises. This means that the access of children will need to be carefully considered by applicants, the Council and responsible authorities. In many respects, it should be possible to rely on the discretion and common sense of licence and certificate holders.

2.52 The Council would consider the following matters of particular concern if they feature in any application:

- Where there have been convictions for serving alcohol to minors or with a reputation for underage drinking.
- Where there is a known association with drug taking or dealing.
- Where there is a strong element of gambling on the premises.
- Where entertainment of an adult or sexual nature is commonly provided.

2.53 It is acknowledged that complete bans will be rare but the options for limiting the access of children, where appropriate, for the prevention of harm to children, include the following:

- Limitations on the hours when (where) children may be present.
- Age limitations (below 18).
- Limitations or exclusions when certain activities are taking place.
- Requirements for an accompanying adult.

- Full exclusion of people under 18 from the premises when any licensable activities are taking place.
- Limitation on parts of premises

Children and cinemas

- 2.54 The Act provides that where a premises licence or club premises certificate authorises the exhibition of a film, it must include a condition requiring the admission of children to films to be restricted in accordance with recommendations given either by a body designated under section 4 of the Video Recordings Act 1984 specified in the licence (the British Board of Film Classification is currently the only body which has been so designated) or by the licensing authority itself.
- 2.55 The Council will adopt the recommendations of the British Board of Film Classification
- 2.56 In the case of premises giving film exhibitions, the Council expects licensees to impose conditions that children will be restricted from viewing age-restricted films classified according to the recommendations of the British Board of Film Classifications.

Children and public entertainments

- 2.57 Where such entertainment is due to take place, the Council will ordinarily impose a requirement for a specified number of adults to be present at the places of public entertainment to control the access and egress of children and to assure their safety. The number of adults required will be calculated on the basis of a risk assessment and taking into considerations including the size of the venue, the number and ages of the children present, the type of activity involved and any requirements included in the relevant Children's Acts. As a minimum, the Council would normally expect at least one parental adult for every 15 children present, with the ratio of adults increasing the younger the children involved.
- 2.58 The Council will still expect applicants when preparing an operating schedule or club operating schedule to state their intention to exercise such discretion and where they are appropriate, to set out the steps to be taken to protect children from harm when on the premises. For example, when entertainment is being provided specifically for children, the licensee will be expected to check that any persons providing entertainment are safe to work with children.
- 2.59 The admission of children to theatres, as with other licensed premises, will not normally be restricted. The Council considers that the admission of children to the performance of a play should normally be at the discretion of the licence holder and no condition restricting their access to plays should be attached. However, theatres may also present a wide range of entertainment including, for example, variety shows incorporating adult entertainment. The Council may, therefore, apply conditions restricting the admission of children in such circumstances as may be appropriate. Entertainments may also be presented at theatres specifically for children. The Council may consider it appropriate to attach a condition to a premises licence or club premises certificate which requires the presence of a sufficient number of adult staff on the premises to ensure the well being of the children during any emergency.

Sale and Supply of Alcohol to Children

- 2.60 Section 186 of the Act provides that proceedings for any offences in the Act may be instituted by a licensing authority or by the Director of Public Prosecutions, and, in the case of an offence under section 146 or 147 (sale of alcohol to children) of the Act, by a local weights and measures authority (trading standards officers). The police also have powers to prosecute under sections 146 and 147 of the Act.
- 2.61 The Council will support formal action taken under these provisions, in line with its current enforcement policy.
- 2.62 The Council will give considerable weight as to whether the person selling the alcohol to the

minor can provide proof of having actively supported an accredited proof of age scheme in the past.

Licensing objectives: general

2.63 In addition to the four licensing objectives laid down in the Act, the Statutory Guidance states that all Licensing Policies should consider the following.

Cumulative Impact

2.64 Views have to be taken, as part of the consultation process, as to the effect an expansion of licensing may have on any one area. The matter of 'need' for an additional facility, whether pub, club etc. is not covered by this policy. This will be a matter for planning policies and strategies and for the market as a whole.

2.65 "Quotas" will not be imposed in any circumstances. However, it is possible to consider the overall "cumulative" impact. This may have an impact on the number of licensed premises in any given area.

2.66 There are, therefore, a range of approaches which may be used to address issues of cumulative impact. Some will lie within the controls provided by the Licensing Act and others will not. They include:-

- Planning Controls
- Positive measures to create a safe and clean environment in partnership with local businesses, transport operators and other local authority departments
- Application of the powers of the Council to designate parts of the area as places where alcohol may not be consumed in public.
- Police enforcement of the normal law concerning disorder and anti-social behaviour, including the issue of fixed penalty notices.
- The prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk.
- The confiscation of alcohol from adults and children in designated areas.
- Application of police powers to instantly close for up to 24 hours, any licensed premises or temporary event on the grounds of disorder, the likelihood of disorder, or excessive noise emanating from the premises.
- Application of powers of the police, other responsible authorities, local residents or businesses to seek a review of the licence or certificate in question.
- Use of closed-circuit television (CCTV).

2.67 The policy confirms that the onus would be on the objector to any licence application, to lay an evidential base for any assertion that the addition of a premise would produce the cumulative impact as claimed.

2.68 Conditions of licenses which address the cumulative impact of licensed premises within an area will always reflect the particular circumstances in an area which may have an impact on nuisance or crime and disorder, and a "blanket" approach will not be used.

2.69 At the time of reviewing and publishing this policy, there was insufficient evidence to warrant the adoption of a saturation policy due to the cumulative impact of licensing in any specific area. It may be that in the future the Council receives sufficient evidence at which time it may consider adopting a special policy to address the saturation effect. In such a case before any

policy is formulated, consideration will be given to:-

- Identifying any serious or chronic concerns about nuisance and disorder;
- Assessing the causes;
- Identifying the area from which problems are arising and the boundaries of that area; and
- Adopting a policy about future licence applications from that area.

Licensing Hours

- 2.70 Consideration will be given to the individual merits of each and every application. However, it is recognised, following Government recommendation in the light of national research, that longer licensing hours with regard to the sale of alcohol may be important to ensure that the concentrations of customers leaving premises simultaneously are avoided. Fixed and artificially early closing times may promote, in the case of sales of alcohol, rapid binge drinking close to closing times; and are a key cause of disorder and disturbance when large numbers of customers are required to leave premises simultaneously. This in turn produces friction, particularly between young men, and gives rise to disorder and peaks of noise and other nuisance behaviour particularly in and around late night fast food outlets, taxi ranks and other sources of transport.
- 2.71 For the avoidance of doubt and to give the public clarity, each premises licence will have a “Starting” and “Terminal” Hour fixed. The Council will expect to see within the operating plan a series of times setting out when: -
- Customers may first enter the premises,
 - The time from when alcohol may be sold,
 - The time for last orders,
 - The “terminal hour” for the premises.
- 2.72 The Council would expect to see the “Terminal Hour” occurring after “last orders”. In relation to premises that intend to stay open after midnight for the sale of alcohol and/or the provision of regulated entertainment the Council will expect to see a time in the operating plan (earlier than midnight) after which customers will not be allowed to enter the premises.
- 2.73 The Council supports the aim of reducing concentrations and achieving slower dispersal of people from licensed premises through longer opening times. Arbitrary restrictions that will undermine this principle of flexibility and will, where possible, be avoided.
- 2.74 Whilst it is recognised that there are concerns locally regarding longer opening hours in residential areas, the Council will not seek to engineer “staggered closing times” by setting quotas for particular closing times, for example, by allocating closing times of 11.00pm, 12 midnight, 1.00am, 2.00am, 3.00am etc. to specific premises. This would only serve to replace the current peaks of disorder and disturbance after 11.00pm and after 2.00am with a series of smaller peaks, minimising any potential improvement in the prevention of crime and disorder or public nuisance and would not be necessary to promote the licensing objectives. The Council’s general principle will be to support later opening so that customers leave for natural reasons slowly over a longer period. This will prevent any artificial concentration. Specific

Zoning

- 2.75 Zoning refers to the setting of fixed trading hours within designated areas. Experience in Scotland has demonstrated that zoning leads to the significant movement of people across boundaries in search of premises opening later and puts greater pressure on town centres than is necessary. It is further recognised that zoning risks treating residents in one area

preferentially over others simply because they have chosen to live in the busy central area of the town. As such, the Council will not fix predetermined closing times for particular areas.

2.76 Accordingly, all residents living in the vicinity of licensed premises have the equal right to make representations concerning applications for premises licences and hours of trading and to have those representations given equal weight regardless of the area of the borough in which they live.

2.77 In each individual case that arises following representation, the Council will consider the potential for nuisance associated with the style, characteristics and activities of the business involved, to examine the potential steps which could be taken to reduce the risk of nuisance, particularly in areas of dense residential accommodation, and to consider restricting the hours of trading only as a last resort because of the potential impact on disorder and antisocial behaviour from fixed and artificially early closing times.

Shops, stores and supermarkets

2.78 Shops, stores and supermarkets should be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are very good reasons for restricting those hours. Accordingly, if the law permits the shop to open for 24 hours or limits such opening, for example, on Sundays, the Council will generally permit the sale of alcohol during those hours.

2.79 Normally the sale of alcohol from a garage will be prohibited. Where, however it can be shown that the main activity of the premises is not as a garage applications may be considered but each case will be considered on its merits.

2.80 Good reasons for imposing a limitation may be appropriate, for example, following police representations in the case of isolated shops known to be a focus of disorder or disturbance because youths gather there and engage in anti-social behaviour, including pressurising shop staff to make unlawful sales of alcohol. There is strong local support to control disorder around off-licences. Where representations are received from the police or Trading Standards, the Council will consider the use of conditions.

Worker Rights

2.81 In determining an application for a premises licence and the hours at which the premises might provide licensable activities to the public, it is not for the Council to consider such matters as the rights of the workers employed on the premises who may be asked to work longer hours. Existing protections under the Working Time Regulations 2002, and under the normal laws of contract, make it unlawful for one party to a contract of employment to vary its terms and conditions without the other's consent. This means that people whose current contract of employment (whether in its explicit terms or as a matter of custom or practice) does not provide for them to work extended hours and/or at unsocial times can have different terms imposed on them. The existing protections can therefore be expected to provide adequate protection against abuse. Against this background, the impact on workers of an extended hours permitted by a premises licence is a contractual matter to be resolved between the employer and employee, thus the Council will not seek to intervene in these matters as a matter of licensing policy.

Licensing qualifications

2.82 The Council will recognise only those qualifications which are accredited or accepted by the Secretary of State. The Council will also accept those persons prescribed by the Secretary of State as persons who will not need to possess the licensing qualification.

Integration of strategies

- 2.83 The Council shall secure the proper integration of this policy with local crime prevention, planning, transport, tourism and cultural strategies by the following mechanisms:
- Liaising and consulting with the Sussex Police as part of the Safer Crawley Partnership
 - Working in partnership with licensee and other groups, such as those described in the National Pubwatch scheme.
 - Liaising and consulting with those Directorates, committees and contacts within Crawley Borough Council who deal with Planning, the Environment, Transport, Civic Amenities, Culture, Leisure, Economic Development, Social Inclusively and Access for All.
 - Liaising and consulting with our partners in the Local Strategic Partnership.
- 2.84 In respect of the County Council as stakeholders in respect of transport, the Council will have regard to the need to disperse people quickly and safely from Crawley town centre: it is preferable to avoid concentrations which may produce disorder and disturbance. Decisions made under this policy will reflect any protocols agreed between the local police and other licensing enforcement officers and the need to report to West Sussex transport committees.
- 2.85 In respect of other external bodies, the Council will make this policy widely available and invite input from interested parties.
- 2.86 This policy shall avoid unnecessary duplication or inefficiencies by properly separating the planning and licensing regimes in operation. Where appropriate, matters for consideration in licensing applications will not duplicate matters considered as part of any planning application. Licensing decisions will take into account any relevant planning decisions (either by [the Planning Committee] or following appeals against decisions taken by [that committee]) and will not cut across such decisions.

Public Space Protection Order (PSPO)

- 2.87 A Public Space Protection Order creates a borough wide controlled drinking zone to help us reduce anti-social behaviour arising for drinking alcohol in the street. The Order gives the police and authorised officers the ability to confiscate alcohol or require a person to stop drinking in public if they are causing a nuisance. The powers do not prohibit drinking in public places and it can only be used where it is associated with negative behaviour.

Pubwatch

- 2.88 The borough-wide pubwatch network encourages licensees to work together to promote the licensing objectives in their premises by providing a forum for sharing information, disseminating best practice and meeting with representatives of the licensing authority, the police and other responsible authorities
- 2.89 The Licensing Authority encourages all licensees to actively participate in their local pubwatch scheme and it will support the development of more schemes where there is a demand.

Adult Entertainment

- 2.90 The Licensing Authority expects all applicants and licensees intending to provide adult entertainment to include the relevant details in their operating schedule, including any controls they intend to put into place.
- 2.91 When considering applications which include adult entertainment the Licensing Authority will take into account the nature of the area, the marketing, and advertising arrangements and external views of the premises together with other factors proposed by the proprietor to mitigate against concerns.
- 2.92 Premises providing adult entertainment on a regular basis will be subject to the licensing regime for Sexual Entertainment Venues. Premises licenced under the Licensing Act 2003

that are exempt from this regime will be subject to the following paragraphs of this Policy.

2.93 The location of the premises will be an important factor as it can impact on all four of the licensing objectives. The licensing authority will take into account the cumulative effect of the premises on the area and whether applications for new and variation premises licences that are located in close proximity to sensitive premises should be granted. Sensitive premises may include:

- residential accommodation,
- schools,
- children's and vulnerable persons' centres,
- youth and community centres,
- religious centres and public places of worship

3. PREMISES LICENCES AND CLUB PREMISES CERTIFICATES

Premises licences

3.1 A premises licence authorises the use of any premises, (which is defined in the 2003 Act as a vehicle, vessel or moveable structure or any place or a part of any premises), for licensable activities described and defined in the Act. The licensable activities are:

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

3.2 Further details may be found in the Act and Statutory Guidance.

3.3 The Council intends to encourage mixed usage of licensed premises to encourage older sections of the community to use them. We will also encourage and support licensed premises that have a family friendly content.

3.4 The Council will determine in the first instance whether or not any representations made in respect of an application are relevant.

3.5 Where a representation concerns "cumulative impact" the Council may be unable to consider this factor but would examine issues such as the proximity of the residence or business. The Council will adopt a common sense approach and hopes that individuals living and working in the neighbourhood or area immediately surrounding the premises will feel able to make representations.

3.6 The Council will provide advice on its website about how a relevant representation can be made in respect of any application.

Making an Application

3.7 An application for a premises licence must be made in the prescribed form to the Council and be copied to each of the appropriate responsible authorities. The application must be accompanied by:

- The required fee;
- An operating schedule (see below);
- A plan of the premises, in a prescribed form, to which the application relates; and

- If the application involves the supply of alcohol, a form of consent from the individual who is to be specified in the licence as the designated premises supervisor.

3.8 Regulations containing provisions on fees and the prescribed form of applications are provided in the relevant legislation.

Producing the operating schedule

3.9 The operating schedule will form part of the completed application form for a premises licence.

3.10 The Council will expect an operating schedule to include:

- Information which is necessary to enable any responsible authority or any other person to assess whether the steps to be taken to promote licensing objectives are satisfactory.
- A description of the style and character of the business to be conducted on the premises (for example, a supermarket, or a cinema with six screens and a bar, or a restaurant, or a public house with two bars, a dining area and a garden open to customers).
- Where alcohol is being sold for consumption on the premises in public houses, bars and nightclubs, the extent to which seating is to be provided will be considered when dealing with applications or variations, because research has shown that the amount of available seating can be relevant to promoting the prevention of crime and disorder objective.
- A specific description of the type of activities available on the premises: types of dancing, may give rise to issues concerning the steps needed to protect children from harm and more generally conditions which would be appropriate, for example.

3.11 The following matters must also be included in full;

- The relevant licensable activities to be conducted on the premises;
- The times during which it is proposed that the relevant licensable activities are to take place (including the times during each day of the week, during particular holiday periods and during particular seasons, if it is likely that the times would be different during different parts of the year).
- Any other times when the premises are to be open to the public; where the licence is required only for a limited period, that period; where the licensable activities include the supply of alcohol.
- The name and address of the individual to be specified as the designated premises supervisor.
- Where the licensable activities include the supply of alcohol.
- Whether the alcohol will be supplied for consumption on or off the premises or both.
- The steps which the applicant proposes to take to promote the licensing objectives.

Steps to promote the licensing objectives to be taken when preparing an operating schedule

3.12 The Council considers that, in preparing an operating schedule, applicants should be aware of the expectations of the Council and the responsible authorities about the steps that are appropriate for the promotion of the licensing objectives.

3.13 This does not mean that applicants must check their operating schedules with the Council and responsible authorities before submitting them. However, the Council will provide advice on matters relating to the licensing objectives.

3.14 In preparing operating schedules, the Council expects that applicants will have regard to this

statement of licensing policy published by this authority for the Crawley area.

- 3.15 It is also expected that applicants will seek the views of the key responsible authorities, before formally submitting applications and having completed drafts of their own operating schedules (after considering the effect on the four licensing objectives). For example, on matters relating to crime and disorder, the police and local authority community safety officers, and local community groups, might be consulted and on matters relating to noise, local environmental health officers might be consulted. Further information will be provided on the Council's website and details are also listed at the end of this policy document on page 37.
- 3.16 Where there are no disputes, the steps that applicants propose to take to promote the licensing objectives that they have set out in the operating schedule will very often translate directly into conditions that will be attached to premises licences with the minimum of fuss.
- 3.17 The Council recognises that in respect of some premises, it is entirely possible that no measures will be needed to promote one or more of the licensing objectives, for example, because they are adequately dealt with by other existing legislation. It is however important that all operating schedules should be precise and clear about the measures that it is proposed to take to promote each of the licensing objectives and in particular, the protection of children from harm.

Advertising required when submitting an application

- 3.18 Regulations governing the advertising of applications for the grant or variation or review of premises licences is contained in secondary legislation made by the Secretary of State. They include the requirement that a brief summary of the application setting out matters such as the proposed licensable activities and the proposed hours of opening should be clearly displayed on a notice immediately on or outside the premises for the period during which representations may be made, together with information about where the details of the application may be
- 3.19 The Council will also include details of applications on its website.
- 3.20 Charges made for copies of the register will not exceed the cost of preparing such copies.

Applications for major art and pop festivals, carnivals, fairs and circuses

- 3.21 The Council have identified the need for the organisers of major festivals and carnivals to make contact with the Council at the earliest opportunity to discuss arrangements for the licensing of those activities falling under the Act. In respect of some events, the organisers may seek a single premises licence to cover a wide range of activities at varied locations within the premises. This would involve the preparation of a substantial operating schedule.
- 3.22 For other events, applications for many connected premises licences may be made which in combination will represent a single festival. The Council consider it is essential to have proper co-ordination of such arrangements and will expect organisers to work with the Council in ensuring that responsible authorities are aware of the connected nature of the individual applications.
- 3.23 The Council will expect applicants for these types of events to establish a co-ordinating committee to ensure a strategic approach to the development of operating schedules. The purpose would be to ensure that conditions are not included in licences which conflict with each other, make compliance uncertain or would be difficult to enforce.
- 3.24 The Council will offer advice and assistance about its preparation and act as a co-ordinating body for the input from the responsible authorities that will eventually be notified formally about the proposal and who can make representations before an application is made.
- 3.25 In the case of circuses and fairgrounds, much will depend on the content of any entertainment presented. For example, at fairgrounds, a good deal of the musical entertainment may be incidental to the main attractions and rides at the fair which are not themselves regulated entertainment.

3.26 When considering applications, it is expected that the Council will seek to uphold these policy aims.

Producing the operating schedule – applications for premises licences for major events

3.27 The Council expects that applicants will give early notice of such major events to allow responsible authorities to discuss operating schedules with the organisers well before an application is submitted. As many of these events will give rise to special considerations in respect of public safety, failure to give such early notice will indicate that applicants have not given appropriate consideration to this licensing objective.

3.28 The Council will expect operating schedules for appropriate events to reflect an awareness of these matters and in particular, look to act on the advice given in key publications in the context of regulated entertainment.

Club premises certificates

3.29 The Act recognises that premises, to which public access is restricted and where alcohol is supplied other than for profit, give rise to different issues for licensing law than those presented by commercial enterprises selling direct to the public. For this reason, it preserves aspects of earlier alcohol licensing law as it applied to registered members clubs. These clubs are organisations where members have joined together for particular social, sporting or

political purposes and then combined to buy alcohol in bulk as members of the organisation for supply in that context. They commonly include Labour, Conservative and Liberal Clubs, the Royal British Legion, other ex-services clubs, working men's clubs, social and sports clubs.

Making an Application

3.30 An application for a club premises certificate must be made in the prescribed form to the Council and be copied to each of the appropriate responsible authorities. The application must be accompanied by:

- the required fee;
- an operating schedule (see below);
- a plan of the premises, in a prescribed form, to which the application relates; and
- a copy of the rules of the club.

3.31 Regulations containing provisions on fees and the prescribed form of applications are provided in the relevant legislation.

Producing the operating schedule.

3.32 See also paragraphs 3.7 – 3.9 above, in respect of premises licences.

Steps to promote the licensing objectives to be taken when preparing an operating schedule.

3.33 Club operating schedules prepared by clubs, as with operating schedules for premises licences, must include the steps the club intends to take to promote the licensing objectives. These will be translated into conditions included in the certificate, unless the conditions have been modified by the Council following consideration of relevant representations made in respect of the application.

3.34 The Council recognises that non-profit making clubs make an important and traditional contribution to the life of the community and bring significant benefits. Their activities also take place on premises to which the public do not generally have access and they operate under

codes of discipline applying to members and their guests.

- 3.35 In determining what conditions should be included in certificates, the Council will bear these matters in mind and when considering representations from responsible authorities and interested parties, we will bear in mind that conditions should not be attached to certificates unless they can be demonstrated to be appropriate.
- 3.36 The Council will also bear in mind that the indirect costs of conditions will be borne by individual members of the club and cannot be recovered by passing on these costs to the general public as would be the case for commercial enterprises or where a club had chosen to carry on the licensable activities at their premises for the public under the authority of a premises licence.
- 3.37 It should be noted that certificates issued to club premises shall reflect local crime prevention strategies and may include any or all of the requirements on premises licences described in this document.

Variations

- 3.38 Where a premises licence holder or club premises certificate holder wishes to amend the licence/certificate, the Act in most cases permits an application to vary to be made rather than requiring an application for a new premises licence/certificate. The process to be followed will depend on the nature of the variation and its potential impact on the licensing objectives.
- 3.39 Variations to premises licences or club premises certificates that will not impact adversely on the licensing objectives are subject to a simplified 'minor variations' process. Under this process, the applicant is not required to advertise the variation in a newspaper or circular, or copy it to responsible authorities. However, they must display it on a white notice (to distinguish it from the blue notice used for full variations and new applications). The notice must comply with the requirements set out in regulation 26A of the Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005 (SI 2005/42). In accordance with those regulations, the notice must be displayed for a period of ten working days starting on the working day after the minor variation application was given to the licensing authority.
- 3.40 On receipt of an application for a minor variation, the licensing authority must consider whether the variation could impact adversely on the licensing objectives. It is recommended that decisions on minor variations should be delegated to licensing officers.
- 3.41 In considering the application, the licensing authority must consult relevant responsible authorities (whether the application is made in writing or electronically) if there is any doubt about the impact of the variation on the licensing objectives and they need specialist advice, and take their views into account in reaching a decision.
- 3.42 The Council must also consider any relevant representations received from other persons within the time limit referred to below. As stated earlier in this Guidance, representations are only relevant if they clearly relate to the likely effect of the grant of the variation on the promotion of at least one of the licensing objectives. In the case of minor variations, there is no right to a hearing (as for a full variation or new application), but the Council must take any representations into account in arriving at a decision.
- 3.43 Minor variations will generally fall into 4 categories: minor changes to the structure or layout of premises; small adjustments to licensing hours; the removal of out of date, irrelevant or unenforceable conditions or addition of volunteered conditions; and the addition of certain licensable activities. In all cases the overall test is whether the proposed variation could impact adversely on any of the 4 licensing objectives
- 3.44 A major variation is one that does not relate simply to a change of the name or address of someone named in the licence or an application to vary the licence to specify a new individual as the designated premises supervisor.

- 3.45 The approach taken in the Act to applications for major variations is based on five main policy aims. These are that: the main purpose of the licensing regime is to promote the licensing objectives; applicants for premises licences or for major variations of such licences are expected to conduct a thorough risk assessment with regard to the licensing objectives when preparing their applications. This risk assessment will inform any necessary steps to be set out in an operating schedule to promote the 4 licensing objectives. Operating schedules, which form part of an application, should be considered by professional experts in the areas concerned, such as the police and environmental health officers. When applications for premises licences and club premises certificates are copied to them by applicants; local residents and businesses are free to raise relevant representations, which relate to the promotion of the licensing objectives, about the proposals contained in an application; and the role of a licensing authority is primarily to regulate the carrying on of the licensable activity, when there are differing specific interests in those activities to ensure that the licensing objectives are promoted in the wider interests of the community.
- 3.46 In dealing with new applications for a premises licence (not applications for variations) for a premises already previously granted permission, where the said licence has not been surrendered, a condition shall be imposed to require the same prior to any second licence being approved and issued.

Suspension of Premises Licence for Non-Payment of Fees

- 3.47 Part 2 of the Police and Social Responsibility Act 2011, introduced changes to the Licensing Act 2003, requiring Licensing Authorities to suspend a Premises Licence, or Club Premises Certificate, if the annual fee is not paid when due.

4. TEMPORARY EVENT NOTICES

- 4.1 The most important aspect of the system of permitted temporary activities is that **no** authorisation as such is required for these events from the Council. The system involves notification of an event to the Council, the police and the local authority exercising environmental health functions (the EHA), subject to fulfilling certain conditions. Only the police and Environmental Health may intervene to prevent such an event taking place or to agree a modification of the arrangements for such an event; and it is characterised by an exceptionally light touch bureaucracy. The Council may only ever intervene of its own volition if the limits set out in the Act on the number of temporary event notices (TENs) that may be given in various circumstances would be exceeded. Otherwise, the Council is only required to issue a timely acknowledgement.

Giving a temporary event notice

- 4.2 The TEN must be given to the licensing authority in the form prescribed in regulations made under the Act. Unless it is sent electronically, it must be sent to the relevant licensing authority, to the police and the EHA at least 10 working days before the event for a “standard” TEN, or 5 working days for a “late” TEN.
- 4.3 Although as stated above, 10 working days is the minimum time for the giving of a “standard” TEN, the Council expects notice givers to provide the earliest possible notice of events likely to take place. Minimum and maximum times preferred for giving notice will be available from the Council.
- 4.4 In relation to both “standard” and “late” TENs the police or EHA may intervene to prevent such an event taking place, although in relation to a “standard” TENs, an agreed modification of the proposed arrangements or the imposition of conditions on the authorisation may result. When giving a TEN, consideration should be given by the notice giver to the 4 licensing objectives.
- 4.5 In the case of an event proceeding under the authority of a TEN, failure to adhere to the requirements of the Act, such as the limitation of no more than 499 being present at any one

time, would mean that the event was unauthorised. In such circumstances, the premises user would be liable to prosecution.

- 4.6 A TEN does not relieve the premises user from any requirements under planning law to obtain appropriate planning permission where it is required.

5. PERSONAL LICENCES

Immigration Act 2016

- 5.1 The Immigration Act received Royal Assent in May 2016 and introduced a number of changes, particularly with respect to illegal working on licensed premises. The licensing elements are contained in Schedule 4 of 2003 Act. The list of 'relevant and foreign offences' in relation to personal licences is expanded to include 'immigration offences and immigration penalties.
- 5.2 The Secretary of State must consider such offences when determining whether the grant of a personal licence would be prejudicial to the prevention of illegal working in licensed premises.

Relevant Offences

- 5.3 An applicant will not be able to apply for a personal licence if they are not entitled to live and work in the United Kingdom; an existing personal licence will lapse if an individual ceases to be entitled as such.
- 5.4 Relevant offences are set out in Schedule 4 to the 2003 Act. If a person has been required to pay a civil penalty for immigration matters on or after 6 April 2017, this may be taken into consideration in the same way as a relevant offence. Offences added to the list of relevant offences with effect from 6 April 2017 may only be taken into consideration if the conviction was received on or after 6 April 2017.

Applications

- 5.5 Regulations containing provision of fees, relevant offences and the prescribed form of applications are provided in legislation.
- 5.6 In most cases the Authority is under a duty to grant a Personal Licence so long as the applicant meets the criteria prescribed in section 120 of the Act.
- 5.7 Where an applicant for a Personal Licence has certain types of conviction (for relevant or foreign offences as defined by the Act,) or, has been required to pay an immigration penalty the Authority is obliged to notify the police, and, in the case of immigration offences and penalties, the Secretary of State. In these cases a licence will still be granted unless an objection is received within the prescribed period.
- 5.8 Where an applicant is convicted of a relevant offence, foreign offence, or is required to pay an immigration penalty during the application period and this only comes to light after the licence has been granted then the Authority must notify the Chief Officer of Police/ Secretary of State (as appropriate). Where objection notices are received they will be considered at a hearing of the Licensing Sub-Committee.
- 5.9 When considering an objection notice or immigration objection notice the Authority will take the following matters into consideration:
- (i) The circumstances in which the offences were committed or the immigration penalty imposed;
 - (ii) The period that has elapsed since the offence(s) were committed or the immigration penalty imposed;

- (iii) Whether the offences/ immigration penalty reveal a pattern of offending or were a one off occurrence; and
- (iv) Any mitigating circumstances.

- 5.10 In relation to the consideration of an objection notice the Authority will reject the application/revoke the licence where it feels it appropriate to do so in order to promote the Crime Prevention Objective.
- 5.11 In relation to the consideration of an immigration objection notice the Authority will reject the application/revoke the licence where it feels it appropriate to do so for the prevention of illegal working in licensed premises.
- 5.12 Prevention of crime is both an objective of the Licensing Act 2003 and an important responsibility of the Authority under the Crime and Disorder Act 1998. Granting a licence to a person with relevant convictions will in many cases undermine rather than promote the crime prevention objective.
- 5.13 Similarly granting a licence to a person convicted of an immigration offence or who has paid an immigration penalty will in many cases undermine the prevention of illegal working in licensed premises which itself is a crime.

Convictions for Relevant, Foreign offences or Immigration penalty

- 5.14 Where the holder of a Personal Licence is subsequently charged with a relevant offence they are under a duty to notify the Court. If convicted the Court may order the licence be forfeit or suspended.
- 5.15 Personal Licence holders are also under a duty to notify the Authority if they are convicted for a relevant offence, foreign offence or if they are required to pay an immigration penalty and a failure to do so is also a criminal offence. The courts are also obliged to inform the licensing authority of any such conviction.
- 5.16 The Policing and Crime Act 2017 gives licensing authorities the power to revoke or suspend personal licences, with effect from 6 April 2017.
- 5.17 This is a discretionary power, licensing authorities are not obliged to give consideration to all personal licence holders subject to convictions for relevant offences, foreign offences or civil penalties for immigration matters.
- 5.18 However, before doing so the authority (officers) will serve a notice on the personal licence Holder inviting them to make representations within 28 days (beginning on the day the notice was issued) regarding:
 - The offence/penalty
 - Any decision a court made regarding the licence at the time of the conviction
 - Any other relevant information (including the holders personal circumstances)
- 5.19 After the 28 day period has elapsed the authority (officers) will make a decision as to whether to refer the matter for the consideration of the licensing sub-committee for determination. Such referral action will be based on the information provided (above) and the promotion of the licensing objectives. The Act does not require a hearing to be held at any stage during this process.
- 5.20 The decision to revoke or suspend a personal licence must be made by the licensing sub-committee, but the actions required before referral (if any) may be made by a licensing officer.
- 5.21 Where the licensing sub-committee is made aware (referral) that a Personal Licence holder has been convicted of a relevant offence, foreign offence or required to pay an immigration penalty it may consider the facts of the particular case and determine a course of action (if any) to suspend the licence for a period not exceeding 6 months or revoke the licence.

- 5.22 In circumstances where the Authority does not propose to revoke or suspend the licence notice must be given to the Chief Officer of Police inviting representations as to whether the licence should be suspended or revoked.
- 5.23 Licence holders (and the Police) will be notified of the Authority's decision in writing along with their right of appeal.
- 5.24 The licensing authority may not be aware of whether the court considered whether to revoke or suspend the licence, and there is no obligation on the licensing authority to find this out before making a decision themselves.
- 5.25 Where the court has considered the personal licence and decided not to take action, this does not prevent the licensing authority from deciding to take action itself. Licensing authorities have different aims to courts in that they must fulfil their statutory duty to promote the licensing objectives, and therefore it is appropriate for the licensing authority to come to its own decision about the licence.
- 5.26 Where the licence holder is convicted of immigration offences or has been required to pay a civil penalty for immigration matters, the licensing authority should notify Home Office Immigration Enforcement and allow representations to be made in the same way.
- 5.27 The licensing authority must notify the licence holder and the chief officer of police of the decision made (even if the police did not make representations). The licence holder may appeal the licensing authority's decision to revoke or suspend their personal licence. A decision to revoke or suspend the licence does not take effect until the end of the period allowed for appealing the decision (21 days); or if the decision is appealed against, until the appeal is disposed of.
- 5.28 If the personal licence holder is a DPS, the licensing authority will notify the premises licence holder once the decision to revoke or suspend the licence has been made if it becomes necessary to do so in order for the licensing authority to be able to carry out their functions.
- 5.29 The licensing authority will also notify any person who has declared an interest in the premises under section 178 of the 2003 Act if it becomes necessary to do so in order for the licensing authority to be able to carry out their functions.

6. ADMINISTRATION OF APPLICATIONS

- 6.1 Many of the elements of the administration process for the Licensing Act 2003 are laid down in the Act itself, in secondary legislation made by the Secretary of State and the Statutory Guidance. Many decisions regarding licenses will not need to go to a Committee for decision and will be dealt with by officers. This should help to streamline the process. A table of delegations that will be operated by the Council in handling applications are attached at Appendix A.

Committee Procedures

- 6.2 Where decisions cannot be made by the officers and a hearing is required, a Committee will hear the application; there will be two types of Licensing Committees:
- Full Committee
 - Sub Committees
- 6.3 The procedure that will be followed by these committees is described in the Council's Constitution and can be viewed on the Council's web site at <http://www.crawley.gov.uk>.
- 6.4 Alternatively, a paper copy can be provided on request. The charges made for copies of the Constitution will not exceed the cost of preparing such copies.

Relevant, vexatious and frivolous representations

- 6.5 A representation would only be “relevant” if it relates to the likely effect of the grant of the licence on the promotion of at least one or more of the licensing objectives. A representation that fails to do this is not “relevant” for the purposes of the Act. It is not intended, for example, that the consideration of the application should be a re-run of the planning application which would have considered a wider range of matters. Premises licences authorise the activities within the scope of the Act that it is proposed should take place on the premises. For example, a representation from a local businessman which argued that his business would be commercially damaged by the new business for which an application is being made under Part 3 of the Act would not be relevant. On the other hand, a representation to the effect that nuisance caused by the new business would deter customers from entering the local area and the steps proposed by the applicant to control that nuisance are inadequate would amount to relevant representations and must be considered provided the other conditions appropriate to be a relevant representation were fulfilled.
- 6.6 The Council will determine on its merits whether any representation made by a person who is not a responsible authority. The person making representations may not consider the matter to be frivolous or vexatious, but the test is whether the Council is of the opinion they are frivolous or vexatious. The Council will determine this and make the decision on the basis of what might ordinarily be considered to be vexatious or frivolous. Vexation may arise because of disputes between rival businesses and the Council will use local knowledge in considering such matters. Frivolous representations would be essentially categorised by a lack of seriousness. A trivial complaint may not always be frivolous, but it would have to be pertinent in order to be relevant. A person aggrieved by a rejection of his representations on these grounds may challenge the Council’s decision by way of judicial review.
- 6.7 Decisions as to whether representations are relevant will not be made on the basis of any political judgement which would undermine a natural approach to the issue. Any ward councillor who considers that their own interests are such that they are unable to consider the matter independently will disqualify themselves.
- 6.8 In borderline cases, the benefit of the doubt will be given to the person making the representation. The subsequent hearing would then provide an opportunity for the person or body making the representation to amplify and clarify it. If it then emerged, for example, that the representation should not be supported, the Council could decide not to take any action in respect of the representation when considering the application for the grant or variation of a premises licence.

7. ENSURING EFFECTIVE CONTROL OF LICENSED PREMISES

Reviewing the Licence

- 7.1 Once a premises licence is issued, it remains in place for the life of the business: there is no “annual renewal” of the licence, but applications are required to pay an annual fee to cover the Council’s costs concerning the exercise of its statutory obligations under the Act. However, should problems arise, it is possible for an application to be made to the Council, to review the licence.
- 7.2 After a premises licence has been granted or varied, a complaint relating to a general (crime and disorder) situation in a town centre would generally not be regarded as relevant if it cannot be positively tied or linked by a causal connection to particular premises which would allow for a proper review of its licence. For instance, a geographic cluster of complaints, including along transport routes related to an individual public house and its closing time could give grounds for a review of an existing licence as well as direct incidents of crime and disorder around a particular public house. In this context, it should be noted that the “cumulative impact” on the licensing objectives of a concentration of multiple licensed premises may only give rise to a relevant representation when an application for the grant or variation of a premises licence is being considered: it cannot give rise to a relevant representation after a licence has been granted or varied when a review of a licence may be sought. A review must relate specifically

to a particular premises licence relating to an individual premise, and by its nature “cumulative impact” relates to the indirect effect of a concentration of many premises. Identifying only one for a review by reason of cumulative impact on the licensing objectives would inevitably be arbitrary.

7.3 The Council is aware of the need to prevent attempts to review licences merely as a second “bite of the cherry” following the failure of representations to persuade the Council on earlier occasions.

7.4 The Council’s policy, therefore, will be that more than one review originating from a person who is not a responsible authority will not be permitted within a period of twelve months on similar grounds save in compelling circumstances or where it arises following a closure order.

7.5 The Council considers that certain criminal activity that may arise in connection with licensed premises should be treated particularly seriously. These are the use of the licensed premises:

- for the sale and distribution of Class A drugs and the laundering of the proceeds of drugs and crime;
- for the sale and distribution of illegal firearms;
- for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;
- for the illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;
- for prostitution or the sale of unlawful pornography;
- by organised groups of paedophiles to groom children;
- is the base for the organisation of criminal activity, particularly by gangs;
- for the organisation of racist activity or the promotion of racist attacks;
- for knowingly employing a person who is unlawfully in the UK or who cannot lawfully;
- be employed as a result of a condition on that person’s leave to enter;
- for unlawful gambling; and
- for the sale of smuggled tobacco and alcohol.

7.6 The Council intends to use the review procedures effectively to deter such activities and crime. Where reviews arise and the Council determines that the prevention of crime and disorder objective is being undermined through the premises being used to further crimes, we will seriously consider that revocation of the licence, **even in the first instance**.

7.7 The Council, in its capacity as the licensing authority will look to actively engage and liaise with the Safer Crawley Partnership.

7.8 The Council also notes that it is unlawful to discriminate or to refuse service on grounds of race or by displaying racially discriminatory signs on the premises. Representations made about such activity from responsible authorities or other persons would be relevant to the promotion of the crime prevention objective and justifiably give rise to a review.

Summary Reviews of Premises Licences: Review of Interim Steps

7.9 Section 53A of the 2003 Act provides for the police to make an application for a summary review of a premises licence, if the relevant premises are associated with serious crime or

serious disorder. The licensing authority must consider the application within 48 hours and impose 'interim steps' (temporary conditions) if necessary.

- 7.10 When a licensing authority considers an application for a summary review, it may take interim steps without first giving the holder of the premises licence an opportunity to make representations. This is because in instances of serious crime and serious disorder it may be necessary to take immediate action in order to protect the public.
- 7.11 Section 53B of the 2003 Act allows the licence holder to make representations after the interim steps have been taken, and then requires the licensing authority to hold another hearing to consider those representations within 48 hours. The 2003 Act does not limit the number of times that a premises licence holder may make representations, with the result that the licensing authority must hold a hearing each time that relevant representations are received.
- 7.12 Section 53B is amended so that after the licensing authority has held a hearing to consider the interim steps, the premises licence holder may only make further representations if there has been a material change in circumstances since that hearing.
- 7.13 Following from the above measure, Section 53A requires the review of the premises licence to take place within 28 days of receipt of the application. The review takes the form of a hearing at which the licensing authority will determine what action should be taken on a permanent basis.
- 7.14 The decision made at the review hearing does not take effect until the expiry of the time limit for appealing (21 days) during which the decision may be appealed by the licensee or the police to a magistrates' court, or until an appeal is disposed of.
- 7.15 There is currently an ambiguity in the 2003 Act about whether the interim steps remain in place after the review hearing, and whether they can be withdrawn or amended by the licensing authority. The amendments made by this clause will address the ambiguity about what happens to the interim steps between the review hearing and the review decision coming into effect.
- 7.16 Section 53 is amended by inserting a new Section 53D to require the licensing authority, at the review hearing, to review any interim steps that have been taken. The licensing authority must consider whether the interim steps are appropriate for the promotion of the crime prevention objective, consider any relevant representations, and determine whether to withdraw or modify the steps taken. For example, there may have been a change in circumstances or further evidence provided at the hearing which means that the interim steps originally imposed are no longer necessary for the period of time between the review hearing and the review decision coming into effect.
- 7.17 Finally Part 1 of Schedule 5 to the 2003 Act is amended to provide for an appeal to be made by the police or licensee, against the decision regarding the interim steps, taken at the review hearing. This appeal must be heard by a Magistrates Court within 28 days

Effective Control Through Use of Conditions

- 7.18 The use of conditions in respect of promoting the licensing objectives are set out above in this document. However, there are also general provisions which the Council will consider.

Standard Conditions

- 7.19 This policy does not support the use of blanket conditions which, if imposed, may be seen as disproportionate and overly burdensome. Conditions attached to licences shall be tailored to the individual styles and characteristics of the premises and events concerned. As described above, the Council reserves the right to design further conditions in pursuit of promoting the licensing objectives. The Council will work with applicants to encourage the use of conditions to limit the alcohol by volume (ABV) of certain beers and ciders for off sales where appropriate.

Live Music, Dancing and Theatre

- 7.20 The Council recognises the need to encourage live music, dancing and theatre for the wider cultural benefits of the community generally. In addressing such issues the potential for limited disturbance in neighbourhoods will always be carefully balanced with these wider benefits, particularly for children. The Council represents the general interests of a community and the views of vocal minorities should not be allowed to dominate such interests. In determining what conditions should be attached to licenses and certificates as a matter of being appropriate for the promotion of the licensing objectives, the Council is aware of the need to avoid measures which deter live music, dancing and theatre such as imposing indirect costs of a substantial nature.

Equality and access

- 7.21 The Council has obligations under the Race Relations (Amendment) Act 2000. Likewise, the Council has obligations under the Human Rights Act 1998. It will guard against imposing any condition or a licence or certificate which would constitute a breach of the legislation.
- 7.22 The Council has obligations under the Disability Discrimination Act 1995, the Equality Act 2010 and other legislation, and reminds licence holders and club owners of their need for compliance to make reasonable adjustments to enable disabled people to access the service.
- 7.23 No licensing condition will therefore be attached to a licence or certificate which conflicts with or duplicates statutory requirements.

Consistency with steps described in operating schedule

- 7.24 The Act provides that where an operating schedule or club operating schedule has been submitted with an application and there have been no relevant representations made by responsible authorities or interested parties, the licence or certificate must be granted subject only to such conditions as are consistent with the schedule accompanying the application and any mandatory conditions required by the Act itself.
- 7.25 Consistency means that the effect of the condition should be substantially the same as that intended by the terms of the operating schedule or club operating schedule. The Council recognises that some applicants for licences or certificates supported by legal representatives or trade associations can be expected to express steps appropriate to promote the licensing objectives in clear and readily translatable terms. However, it is also recognised that some applicants will express the terms of their operating schedules less precisely or concisely.
- 7.26 If conditions are broken it may give rise to criminal prosecution or lead to an application for a review. The Council will, therefore, ensure conditions are expressed on the licence or certificate in unequivocal and unambiguous terms.
- 7.27 The Council will also have proper regard for the history of certain events and activities. If over a significant period of time, regular events of a particular kind have not given rise to problems of disorder and nuisance or concerns about safety or children, responsible authorities will be expected to have regard to this when scrutinising an application in respect of the activities involved, and not make representations unless there are new issues which could cause them to do so

8. ENFORCEMENT

- 8.1 Following the issue of a licence, it will be possible to take enforcement action in respect of offences stated in the Act and associated legislation, which will include breach of a condition on the licence.

Duplication with other statutory provisions

8.2 As mentioned, the only conditions which should be imposed on a premises licence or club premises certificate are those which are appropriate and proportionate for the promotion of the licensing objectives. Accordingly, if other existing law already places certain statutory responsibilities on an employer or operator of premises, it cannot be appropriate to impose the same or similar duties on the premises licence holder or club.

Other regulatory regimes

8.3 This policy shall, therefore, avoid duplication with other regulatory regimes wherever possible. To achieve this aim, the Council undertakes to facilitate clear communication between the various enforcement bodies who may assist in supporting the Licensing Objectives.

8.4 Attention is drawn to the targeting of agreed problem and high risk premises requiring greater attention as identified in appropriate enforcement protocols with other agencies. Inspections of premises will be on a risk assessed basis, to be undertaken when and if judged necessary.

8.5 The following notes are made with regard to specific regimes and enforcement responsibilities:

8.6 **Police.** The enforcement of licensing law and the inspection of licensed premises is detailed in a Protocol between Sussex Police and the Council, available from the Council. This protocol reflects the need for a more efficient deployment of Police and Council staff commonly engaged in licensing enforcement. The Council looks to support the Police through the Safer Crawley Partnership in respect of overlapping issues such as “public place violent crime” and “anti-social behaviour.”

8.7 **Health and Safety:** Premises subject to premises licences or club certificates will normally have been visited by the Council’s Environmental Health inspection staff with regard to health and safety enforcement at the premises. However, certain premises do not fall under this regime and will be the subject of health and safety enforcement by the Health and Safety Executive (HSE). These regimes place a range of general and specific duties on employees, employers, operators of venues and members of the public. Matters arising out of the Health and Safety at Work etc Act 1974 and associated Regulations should not be the subject of conditions unless they are necessary for the promotion of the licensing objectives. It should be noted that such regulations will not always cover the unique circumstances that arise in connection with entertainment and may include exemptions on the assumption that licensing controls will provide the necessary coverage. A protocol for enforcement has been agreed between the Health and Safety Executive and the Council.

8.8 **Fire Safety:** premises and their operators will also be under general duties under current fire safety regimes. A protocol for enforcement has been agreed between the Authority responsible for fire safety enforcement and the Council.

8.9 **Food Hygiene:** premises selling alcohol and/or premises engaged in a food business will be registered with the Authority and subject to risk-based food hygiene inspections at regular intervals.

8.10 **Noise:** Statutory and Public nuisances are dealt with by Environmental Health Departments under the Environmental Protection Act 1990 and associated legislation.

8.11 **Door Supervisors:** Any activities that are of a security nature and carried out in relation to licensed premises when they are open to the public will be licensable. This means that anyone providing door supervisory work in licensed premises open to the public will need a licence under the Private Security Industry Act 2001 issued by the Security Industries Authority.

Secretary of State (Home Office)

8.12 The Secretary of State (Home Office) becomes a responsible authority within the definition of the 2003 Act. This will allow the Immigration Service to make representations against the grant or variation of a premises licence application. An applicant applying for a new premises licence, transfer of an existing licence or service of an interim notice not only has to be over the age of 18, but will also have to hold leave to work in the United Kingdom. In a hearing

convened due to the Secretary of State's objection, the Licensing Authority must reject the application if it considers it appropriate for the prevention of illegal working in licensed premises to do so.

- 8.13 Under the current framework, a premises licence will lapse on the death, incapacity or insolvency of a premises licence holder. The premises licence will now also lapse if the licence holder ceases to be entitled to work in the United Kingdom.

The Licensing Authority as a responsible authority

- 8.14 This Licensing Authority acknowledges that it is now included in the list of responsible authorities. The 2003 Act does not require responsible authorities to make representations about applications for the grant of premises licences or to take any other steps in respect of different licensing processes. Therefore, it is for this Licensing Authority to determine when it considers it appropriate to act in its capacity as a responsible authority.
- 8.15 This Licensing authorities will not normally act as responsible authorities on behalf of other parties (for example, local residents, local councillors or community groups). Such parties can make relevant representations to the Licensing Authority in their own right, and it is reasonable for this licensing authority to expect them to make representations themselves where they are reasonably able to do so. However, if these parties have failed to take action and this licensing authority is aware of relevant grounds to make a representation, a choice may be made to act in its capacity as responsible authority.
- 8.16 This Licensing Authority expects that other responsible authorities should intervene where the basis for the intervention falls within the remit of that other responsible authority. For example, the police should make representations where the representations are based on concerns about crime and disorder. Likewise, it is reasonable to expect the local authority exercising environmental health functions to make representations where there are concerns about noise nuisance.
- 8.17 In cases where this Licensing Authority is also acting as responsible authority in relation to the same process, there will be a separation of responsibilities within the authority to ensure procedural fairness and eliminate conflicts of interest. In such cases licensing determinations will be made by the licensing committee or sub-committee comprising elected members of the authority (although they are advised by a licensing officer). Therefore, a separation is achieved by allocating distinct functions (i.e. those of licensing authority and responsible authority) to different officials within the authority.
- 8.18 Accordingly, the officer advising the licensing committee (i.e. the authority acting in its capacity as the licensing authority) will be a different person from the officer who is acting for the responsible authority. The officer acting for the responsible authority will not be involved in the licensing decision process and will not discuss the merits of the case with those involved in making the determination by the licensing authority. Communication between these officers in relation to the case will remain professional and consistent with communication with other responsible authorities.

Approach to enforcement

- 8.19 Enforcement action will be carried out in line with the current Enforcement Policy, and the Enforcement Concordat and the Regulatory Code of Compliance. More details are available on the Council's website.

9. GENERAL NOTES

- 9.1 In the interests of sustainability, preference will be given to publicising information regarding the

Council's function on the Council's website, rather than using mass mail drops.

Disclosure of personal details

- 9.2 Where a notice of a hearing is given to an applicant, the licensing authority is required under the Licensing Act 2003 (Hearings) Regulations 2005 to provide the applicant with copies of the relevant representations that have been made.
- 9.3 In exceptional circumstances, persons making representations may be reluctant to do so because of fears of intimidation or violence if their personal details, such as name and address, are divulged to the applicant.
Where the Council considers that the person has a genuine and well-founded fear of intimidation and may be deterred from making a representation on this basis, we may consider alternative approaches.
- 9.4 For instance, we may advise the persons to provide the relevant responsible authority with details of how they consider that the licensing objectives are being undermined so that the responsible authority can make representations if appropriate and justified.
- 9.5 Our policy with regards to disclosure of details will depend on the merits of each individual case. The Council will decide whether to withhold some or all of the person's personal details from the applicant, possibly giving only minimal details (such as street name or general location within a street). However, withholding such details will only be considered where the circumstances justify such action and those making representations should be aware their details will ordinarily form part of a report and will be published before any hearing.

Contact Details for Responsible Authorities

Home Office (Immigration Enforcement).

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

Chief Officer of Police

Licensing Officer
Centenary House
Durrington Lane
Worthing
BN13 2PQ

The Licensing Authority

Premises Licensing
Crawley Borough Council
Town Hall,
The Boulevard
Crawley
West Sussex,
RH10 1UZ

WSSC Fire & Rescue Service

(FAO Fire Safety)
West Sussex Fire & Rescue Service
Business Fire Safety
Horsham Fire Station
Hurst Road
Horsham
West Sussex
RH12 2DN

West Sussex Trading Standards

West Sussex County Council
County Hall North
Chart Way
Horsham
West Sussex
RH12 1XH

Director of Public Health

Public Health Licensing
First Floor
The Grange
Chichester
PO19 1QT

Health and Safety Environmental Health Services

Crawley Borough Council
Town Hall
The Boulevard
Crawley
West Sussex
RH10 1UZ

Planning

Crawley Borough Council
Town Hall
The Boulevard
Crawley
West Sussex
RH10 1UZ

Environmental Protection

Environmental Health
Crawley Borough Council
Town Hall The Boulevard
Crawley
West Sussex
RH10 1UZ

Children's Safeguarding Unit

Room 24
Durban House
Durban Road
Bognor Regis
PO22 9RE

Appendix A

Table 1: Recommended Delegation of Functions

Matter to be dealt with	Sub Committee	Officers
Application for personal licence	If a police objection	If no objection made
Application for personal licence with unspent convictions	All cases	
Application for premises licence/club premises certificate	If a relevant representation made	If no relevant representation made
Application for provisional statement	If a relevant representation made	If no relevant representation made
Application to vary premises licence/ club premises certificate	If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor	If a police objection	All other cases
Request to be removed as designated premises supervisor		All cases
Application for transfer of premises licence	If a police objection	All other cases
Applications for interim authorities	If a police objection	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 to object when local authority is a consultee and not the relevant authority considering the application	All cases	
Determination of an objection to a temporary event notice	All cases	
Determination of application to vary premises licence at community premises to include alternative licence condition	If police objection	All other cases
Decision whether to consult other responsible authorities on minor variation application		All cases
Determination of minor variation application		All cases

Further Reading Concerning the Effects of Alcohol are Available from the Following Sources.

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- ⁱ Department of Health. (2016). UK Chief Medical Officers' Low Risk Drinking Guidelines. P.6. Available online at:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/545937/UK_CMOs_report.pdf
- ⁱⁱ Department of Health. (2016). UK Chief Medical Officers' Low Risk Drinking Guidelines. P.8. Available online at:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/545937/UK_CMOs_report.pdf
- ⁱⁱⁱ Public Health England. (2016). The Public Health Burden of Alcohol and the Effectiveness and Cost-Effectiveness of Alcohol Control Policies: An evidence review. P.15. Available online at:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/733108/alcohol_public_health_burden_evidence_review_update_2018.pdf
- ^{iv} Chief Medical Officer for England. (2009). Guidance on the consumption of alcohol by children and young people. P.i Available online at:
http://webarchive.nationalarchives.gov.uk/20130104153257/http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/documents/digitalasset/dh_110256.pdf