

# Swindon Borough Council

## Licensing Committee

**Wednesday, 5 January 2011**

Committee Room 6, Civic Offices, Swindon (Anticipated meeting room)

**At 5.30 p.m.**

**Conservative  
Councillors**

Vera Tomlinson  
(Chair)  
Andrew Bennett  
(Vice-Chair)  
Michael Bray  
Doreen Dart  
Brian Ford  
Janet Heenan  
Richard Hurley  
Colin Lovell  
Kevin Parry  
David Wren

**Labour  
Councillors**

Paul Baker  
John Ballman  
Steve Wakefield  
Robert Wright

**Liberal Democrat  
Councillors**

David Wood

**Committee Officer:** Shaun Banks (Telephone: 01793 463606)

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## **AGENDA**

**1. Apologies for Absence**

**2. Declarations of Interest**

Members are reminded that at the start of the meeting they should declare any known interests in any matter to be considered, and also during the meeting if it becomes apparent that they have an interest in the matters being discussed.

**3. Minutes** (Pages 1 - 2)

To receive the minutes of the meeting held on 1<sup>st</sup> September 2010.

**4. Public Question Time**

See explanatory note below. Please phone the Committee Officer whose name and number appears at the top of this agenda if you need further guidance.

**5. Appointments to Sub-Committees**

To approve changes to the Labour Group's representation on Sub-Committees. Details to be tabled.)

**6. Police Reform and Social Responsibility Bill** (Pages 3 - 40)

**7. Revision of the Licensing Statement for Swindon** (Pages 41 - 58)

**Date of Despatch:** 30 December 2010

**Public Question Time** - *Swindon Borough Council is committed to increasing its accountability to the public and to promoting active citizenship. Up to 15 minutes will be allowed at the start of all Council meetings for questions to the Chair from members of the public about the work of the Committee (except for confidential matters and specific planning applications). Questions must be relevant, clear and concise. Because of time constraints Public Question Time is not an opportunity to make speeches or statements. Prior notice of a question to the Director of Law and Democratic Services is desirable - particularly if detailed background information is needed.*

**Access Arrangements** – *The Venue is wheelchair accessible and an infrared receiver hearing system is provided. If you would wish to attend the meeting but have any special requirement to enable you to do so please contact the Committee Clerk above, as soon as possible prior to the date of the meeting.*

If you would like to receive any of the pages contained in this agenda in a larger print size please contact the Committee Officer whose name appears on the first page of this agenda.

**LICENSING COMMITTEE**

**WEDNESDAY, 1 SEPTEMBER 2010**

PRESENT:- Councillor Vera Tomlinson in the Chair; Councillors Andrew Bennett (Vice-Chair), Doreen Dart, Brian Ford, Colin Lovell, Kevin Parry, Steve Wakefield and Robert Wright.

Apologies for absence were received from Councillors Paul Baker, John Ballman, Michael Bray, Janet Heenan, Richard Hurley, David Wood and David Wren.

**6. Declarations of Interest**

The Chair reminded Members of the need to declare any known interests in any matters to be considered at the meeting. No declarations were made.

**7. Minutes**

Resolved – That the minutes of the meeting held on 21<sup>st</sup> May 2010, be confirmed and signed as a correct record.

**8. Public Question Time**

No public questions were received during the meeting.

**9. Appointments to Sub-Committee and Task Group**

The Director of Law and Democratic Services submitted a report setting out (a) proposed changes to the Membership of the Private Hire and Hackney Carriage Licensing Sub-Committee, and (b) the appointment of representatives to serve on the Alcohol and Licensing Matters Task Group.

Resolved – (1) That Councillor Vera Tomlinson replace Councillor Brian Ford as a member serving on the Private Hire and Hackney Carriage Licensing Sub-Committee.

(2) That Councillors Andrew Bennett and Doreen Dart be appointed to serve as representatives of this Committee to serve on the Alcohol and Licensing Matters Task Group.

**10. Government Consultation "Rebalancing the Licensing Act"**

The Head of Licensing submitted a report setting out a draft response to the Government Consultation Paper entitled "Rebalancing the Licensing Act".

Resolved – That, subject to the inclusion of relevant comments made by Members at this meeting, the Chair and Vice-Chair be authorised to approve the final response from this Committee to the Consultation Paper entitled "Rebalancing the Licensing Act".

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## Police Reform and Social Responsibility Bill

**Licensing Committee**

**Date: 5 January 2011**

**Author: Head of Licensing**

**Wards Affected: All**

### **Purpose**

To discuss a commentary on the Licensing elements of the Police Reform and Social Responsibility Bill.

### **Recommendation**

Licensing Committee is asked : -

- To consider the attached briefing and to highlight any areas of concern which the committee wishes should be fed back through the debate in Parliament.

### **1. Reasons**

- 1.1 The Licensing Act 2003 is to undergo a review, with major changes. There are some notable changes from the text circulated for consultation, indicating that many of the comments made during the course of the consultation have been taken on board.

### **2. Detail**

- 2.1 The Bill is progressing through the parliamentary stages so there are still opportunities to influence the final outcome.
- 2.2 Since the commentary is in the appendix, no detail has been provided in the body of the report.

### **Alternative Options**

- Committee could resolve to acknowledge the Bill as it is and not seek to further any amendments.

### **Risk Management**

#### *Financial and Procurement Implications*

The proposal is to comment. There are no costs to doing that but there are proposals in the Bill which will have major financial implications for local authorities when implemented.

*Legal / Human Rights Implications* It is open to anyone to comment on the Bill.

#### *Links to Corporate Plans and Policies (in particular to Swindon 2010 Promises)*

The exercise of licensing and associated powers relates particularly to reduction of

Further information on the subject of this report can be obtained from Lionel Starling on 01793 466109 or e-mail [lstarling@swindon.gov.uk](mailto:lstarling@swindon.gov.uk).

## **Police Reform and Social Responsibility Bill**

**Licensing Committee**

**Date: 5 January 2011**

crime and the fear of crime.
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### **Consultees**

- The Director of Finance (Section 151 Officer) and Director of Law and Democratic Services (Monitoring Officer) are consulted on all reports.

### **Background Papers and Appendices**

- Licensing sections from the draft Bill.
- Commentary on the Licensing proposals contained in the Bill.

- (d) the police and crime panel for a police area,  
means the police force for that area.
- (2) References in this Part to a police and crime commissioner's area are references to the police area for which the commissioner is established.
- (3) References in this Part to a police and crime commissioner's staff are references to the following persons appointed under Schedule 1 – 5
- (a) the commissioner's chief executive;
  - (b) the commissioner's chief finance officer; and
  - (c) other staff.
- (4) References in this Part to a police force's civilian staff are (except in the case of the metropolitan police force) references to – 10
- (a) the chief finance officer appointed by the chief constable of the force under paragraph 4 of Schedule 2, and
  - (b) the other staff appointed by that chief constable under that Schedule.
- (5) References in this Part to the staff of the Mayor's Office for Policing and Crime are references to – 15
- (a) the Office's chief finance officer appointed under section 127(2) of the Greater London Authority Act 1999;
  - (b) the Office's chief executive appointed under Schedule 3
  - (c) other staff appointed under Schedule 3; and 20
  - (d) the person (if any) appointed under section 19 as the Deputy Mayor for Policing and Crime (subject to paragraph 4(4) of Schedule 3 (Deputy Mayor an Assembly member)).
- (6) References in this Part to the metropolitan police force's civilian staff are references to – 25
- (a) the chief finance officer appointed by the Commissioner of Police of the Metropolis under paragraph 1 of Schedule 4, and
  - (b) the other staff appointed by the Commissioner under that Schedule.

## PART 2

### LICENSING 30

#### CHAPTER 1

#### AMENDMENTS OF THE LICENSING ACT 2003

##### *Responsible authorities*

#### **103 Licensing authorities as responsible authorities**

- (1) The Licensing Act 2003 is amended as set out in subsections (2) and (3). 35
- (2) In section 13(4) (responsible authorities) –
- (a) before paragraph (a) insert –
    - “(za) the relevant licensing authority and any other licensing authority in whose area part of the premises is situated,” and
  - (b) omit paragraph (g). 40

- (3) In section 69(4) (responsible authorities)—
  - (a) before paragraph (a) insert—
    - “(za) the relevant licensing authority and any other licensing authority in whose area part of the premises is situated,” and
  - (b) omit paragraph (g). 5
- (4) The amendments made by this section apply in relation to—
  - (a) applications relating to premises licences or club premises certificates that are made on or after the commencement of this section, and
  - (b) notices under section 165(4) of the Licensing Act 2003 (closure orders) that are received by a licensing authority on or after the commencement of this section. 10

#### **104 Primary Care Trusts and Local Health Boards as responsible authorities**

- (1) The Licensing Act 2003 is amended as set out in subsections (2) to (4).
- (2) In section 5(3) (statement of licensing policy), after paragraph (b) insert— 15
  - “(ba) each Primary Care Trust or Local Health Board for an area any part of which is in the licensing authority’s area,”.
- (3) In section 13(4) (authorised persons, interested parties and responsible authorities), after paragraph (b) insert— 20
  - “(ba) the Primary Care Trust or Local Health Board for any area in which the premises are situated,”.
- (4) In section 69(4) (authorised persons, interested parties and responsible authorities), after paragraph (b) insert— 25
  - “(ba) the Primary Care Trust or Local Health Board for any area in which the premises are situated,”.
- (5) The amendments made by this section apply in relation to—
  - (a) applications relating to premises licences or club premises certificates that are made on or after the commencement of this section, and
  - (b) notices under section 165(4) of the Licensing Act 2003 (closure orders) that are received by a licensing authority on or after that commencement. 30

#### *Removing the vicinity test*

#### **105 Premises licences: who may make relevant representations**

- (1) The Licensing Act 2003 is amended as set out in subsections (2) to (9).
- (2) In section 13 (authorised persons, interested parties and responsible authorities)— 35
  - (a) in the title, omit “, interested parties”,
  - (b) in subsection (1), omit ““interested party”,”, and
  - (c) omit subsection (3).
- (3) In section 17(5) (application for premises licence)— 40



- (a) in paragraph (a)(ii), for “interested parties” substitute “persons who live, or are involved in a business, in the relevant licensing authority’s area and who are”,
    - (b) after paragraph (a) insert—
      - “(aa) require the relevant licensing authority to advertise the application within the prescribed period —
        - (i) in the prescribed form, and
        - (ii) in a manner which is prescribed and is likely to bring the application to the attention of the persons who are likely to be affected by it; and”,
    - (c) in paragraph (c), for “interested parties and responsible authorities” substitute “responsible authorities and other persons”.
  - (4) In section 18(7) (determination of application for premises licence)—
    - (a) in paragraph (a), for “an interested party or responsible authority” substitute “a responsible authority or other person”, and
    - (b) in paragraph (c), for “an interested party (who is not also a responsible authority)” substitute “a person who is not a responsible authority”.
  - (5) In section 31(6) (determination of application for provisional statement)—
    - (a) in paragraph (a), for “an interested party or responsible authority” substitute “a responsible authority or other person”, and
    - (b) in paragraph (c), for “an interested party (who is not also a responsible authority)” substitute “a person who is not a responsible authority”.
  - (6) In section 35(6) (determination of application to vary premises licence)—
    - (a) in paragraph (a), for “an interested party or responsible authority” substitute “a responsible authority or other person”, and
    - (b) in paragraph (c), for “an interested party (who is not also a responsible authority)” substitute “a person who is not a responsible authority”.
  - (7) In section 41B(2)(b)(ii) (determination of application for minor variation of premises licence), for “an interested party” substitute “any other person”.
  - (8) In section 41D(6) (variation of premises licence: supply of alcohol from community premises), for paragraph (b) substitute —
    - “(b) subsection (6)(c) were omitted.”.
  - (9) In section 194 (index of defined expressions), omit the entry for the expression “interested party, in Part 3”.
  - (10) In section 33 of the Policing and Crime Act 2009 (individual members of licensing authorities to be interested parties), omit subsection (1).
  - (11) The amendments made by this section apply in relation to applications relating to premises licences that are made on or after the commencement of this section.
- 106 Premises licences: who may apply for review**
- (1) The Licensing Act 2003 is amended as set out in subsections (2) to (6).
  - (2) In section 51 (application for review of premises licences)—
    - (a) in subsection (1), for “an interested party or a responsible authority” substitute “a responsible authority or any other person”, and

- (b) in subsection (3)–
    - (i) in paragraph (b), for “interested parties and responsible authorities” substitute “responsible authorities and other persons”, and
    - (ii) in paragraph (c), for “interested party” substitute “other person”. 5
- (3) In section 52(8) (determination of application for review of premises licence)–
  - (a) in paragraph (a)(i), for “an interested party” substitute “any other person”, and
  - (b) in paragraph (c), for “an interested party (who is not also a responsible authority)” substitute “a person who is not a responsible authority”. 10
- (4) In section 53A(3) (summary reviews on application of senior police officer)–
  - (a) in paragraph (c), for “interested parties” substitute “other persons”, and
  - (b) in paragraph (e), for “interested party” substitute “other person”.
- (5) In section 53C(8) (review of premises licence following summary review notice)– 15
  - (a) in paragraph (a), for “an interested party” substitute “any other person”, and
  - (b) in paragraph (c), for “an interested party (who is not also a responsible authority)” substitute “a person who is not a responsible authority”. 20
- (6) In section 167 (review of premises licence following closure order)–
  - (a) in subsection (4)(b), for “interested parties” substitute “other persons”,
  - (b) in subsection (4)(c), for “interested party” substitute “other person”,
  - (c) in subsection (10)(a), for “an interested party” substitute “any other person”, 25
  - (d) in subsection (10)(c), for “an interested party (who is not also a responsible authority)” substitute “a person who is not a responsible authority”, and
  - (e) in subsection (14), for ““interested party” and “responsible authority” have” substitute ““responsible authority” has”. 30
- (7) The amendments made by this section apply in relation to applications for review that are made on or after the commencement of this section.

#### **107 Club premises certificates: who may make relevant representations**

- (1) The Licensing Act 2003 is amended as set out in subsections (2) to (7).
- (2) In section 69 (authorised persons, interested parties and responsible authorities)– 35
  - (a) in the title, omit “, interested parties”,
  - (b) in subsection (1), omit ““interested party”,”, and
  - (c) omit subsection (3).
- (3) In section 71(6) (application for club premises certificate)– 40
  - (a) in paragraph (a)(ii), for “interested parties” substitute “persons who live, or are involved in a business, in the relevant licensing authority’s area and who are”,

- (b) after paragraph (a) insert—
    - “(aa) require the relevant licensing authority to advertise the application within the prescribed period —
      - (i) in the prescribed form, and
      - (ii) in a manner which is prescribed and is likely to bring the application to the attention of the persons who are likely to be affected by it; and”, and
  - (c) in paragraph (c), for “interested parties and responsible authorities” substitute “responsible authorities and other persons”.
- (4) In section 72(8) (determination of application for club premises certificate)—
  - (a) in paragraph (a), for “an interested party or responsible authority” substitute “a responsible authority or other person”, and
  - (b) in paragraph (c), for “an interested party (who is not also a responsible authority)” substitute “a person who is not a responsible authority”.
- (5) In section 85(6) (determination of application to vary club premises certificate)—
  - (a) in paragraph (a), for “an interested party or responsible authority” substitute “a responsible authority or other person”, and
  - (b) in paragraph (c), for “an interested party (who is not also a responsible authority)” substitute “a person who is not a responsible authority”.
- (6) In section 86B(2)(b)(ii) (determination of application for minor variation of club premises certificate), for “an interested party” substitute “any other person”.
- (7) In section 194 (index of defined expressions), omit the entry for the expression “interested party, in Part 4”.
- (8) In section 33 of the Policing and Crime Act 2009 (individual members of licensing authorities to be interested parties), omit subsection (2).
- (9) The amendments made by this section apply in relation to applications relating to club premises certificates that are made on or after the commencement of this section.

## 108 Club premises certificates: who may apply for review

- (1) The Licensing Act 2003 is amended as set out in subsections (2) to (4).
- (2) In section 87 (application for review of club premises certificate), for subsection (1) substitute—
  - “(1) Where a club holds a club premises certificate, a responsible authority or any other person may apply to the relevant licensing authority for a review of the certificate.”.
- (3) In section 87(3) (application for review of club premises certificate)—
  - (a) in paragraph (b), after “to the authority” insert “by the club, responsible authorities and other persons”, and
  - (b) in paragraph (c), for “interested party” substitute “other person”.
- (4) In section 88(8) (determination of application for review of club premises certificate)—

- (a) in paragraph (a), for “an interested party” substitute “any other person”, and
  - (b) in paragraph (c), for “an interested party (who is not also a responsible authority)” substitute “a person who is not a responsible authority”.
- (5) The amendments made by this section apply in relation to applications for review that are made on or after the commencement of this section. 5

*Reducing the evidential burden on licensing authorities*

**109 Reducing the burden: premises licences**

- (1) The Licensing Act 2003 is amended as set out in subsections (2) to (14).
- (2) In section 18 (determination of application for premises licence) – 10
  - (a) in subsection (3)(b), for “necessary” substitute “appropriate”, and
  - (b) in subsection (4)(a)(i), for “necessary” substitute “appropriate”.
- (3) In section 22(2) (prohibited conditions: plays), for “necessary” substitute “appropriate”.
- (4) In section 25A(6) (grant of premises licence: supply of alcohol from community premises), for “necessary” substitute “appropriate”. 15
- (5) In section 31 (determination of application for provisional statement) –
  - (a) in subsection (3)(b), for “necessary” substitute “appropriate”, and
  - (b) in subsection (3)(c)(ii), for “necessary” substitute “appropriate”.
- (6) In section 35(3)(b) (determination of application to vary premises licence), for “necessary” substitute “appropriate”. 20
- (7) In section 39(3)(b) (determination of application to vary premises licence to specify premises supervisor), for “necessary” substitute “appropriate”.
- (8) In section 41D(5) (variation of premises licence: supply of alcohol from community premises), for “necessary” substitute “appropriate”. 25
- (9) In section 44(5)(b) (determination of transfer application), for “necessary” substitute “appropriate”.
- (10) In section 48(3)(b) (cancellation of interim authority notice following police objections), for “necessary” substitute “appropriate”.
- (11) In section 52(3) (determination of application for review of premises licence), for “necessary” substitute “appropriate”. 30
- (12) In section 53B(8)(a) (supplementary provision about review of premises licence), for “necessary” substitute “appropriate”.
- (13) In section 53C(2)(b) (review of premises licence following review notice), for “necessary” substitute “appropriate”. 35
- (14) In section 177(5) (dancing and live music in certain small premises), for “necessary” substitute “appropriate”.
- (15) The amendments made by this section (other than subsection (10)) apply in relation to applications relating to premises licences that are made on or after the commencement of this section. 40

- (16) The amendment made by subsection (10) of this section applies in relation to interim authority notices that are given on or after the commencement of this section.

#### **110 Reducing the burden: club premises certificates**

- |  |    |
|--|----|
| (1) The Licensing Act 2003 is amended as set out in subsections (2) to (5).  | 5  |
| (2) In section 72 (determination of application for club premises certificate) –   |    |
| (a) in subsection (3)(b), for “necessary” substitute “appropriate”, and  |    |
| (b) in subsection (4)(a)(i), for “necessary” substitute “appropriate”.   |    |
| (3) In section 76(2) (prohibited conditions: plays), for “necessary” substitute “appropriate”.   | 10 |
| (4) In section 85(3)(b) (determination of application to vary club premises certificate), for “necessary” substitute “appropriate”.  |    |
| (5) In section 88(3) (determination of application for review of club premises certificate), for “necessary” substitute “appropriate”.                                       |    |
| (6) The amendments made by this section apply in relation to applications relating to club premises certificates that are made on or after the commencement of this section. | 15 |

#### **111 Reducing the burden: other situations**

- |  |    |
|--|----|
| (1) The Licensing Act 2003 is amended as set out in subsections (2) to (6).  |    |
| (2) In section 105(2)(b) (counter notice following police objection), for “necessary” substitute “appropriate”.  | 20 |
| (3) In section 120(7)(b)(i) (determination of application for grant of personal licence), for “necessary” substitute “appropriate”.  |    |
| (4) In section 121(6)(b)(i) (determination of application for renewal of personal licence), for “necessary” substitute “appropriate”.  | 25 |
| (5) In section 124(4)(b) (convictions coming to light after grant or renewal of personal licence), for “necessary” substitute “appropriate”.   |    |
| (6) In section 167(5)(b) (review of premises licence following closure order), for “necessary” substitute “appropriate”.   |    |
| (7) The amendment made by subsection (2) of this section applies in relation to temporary event notices that are given on or after the commencement of this section.   | 30 |
| (8) The amendments made by subsections (3) to (5) of this section apply in relation to applications relating to personal licences that are made on or after the commencement of this section.  | 35 |
| (9) The amendment made by subsection (6) of this section applies in relation to notices under section 165(4) of the Licensing Act 2003 (closure orders) that are received by a licensing authority on or after the commencement of this section. |    |

*Temporary event notices*

**112 Temporary event notices: who may make an objection**

- (1) The Licensing Act 2003 is amended as set out in subsections (2) to (13).
- (2) After section 99, insert—  

**“99A Meaning of “relevant person”** 5

In this Part references to a “relevant person”, in relation to any premises, are references to the following—

- (a) the chief officer of police for any police area in which the premises are situated,
  - (b) the local authority by which statutory functions are exercisable in any area in which the premises are situated in relation to minimising or preventing the risk of pollution of the environment or of harm to human health.”. 10
- (3) In the cross-heading before section 104, for “Police objections” substitute “Objections”. 15
- (4) In the title to section 104 (objection to notice), for “the police” substitute “a relevant person”.
- (5) In section 104 (objection to notice), for subsection (2) substitute—  

“(2) Where a relevant person who is given a temporary event notice is satisfied that allowing the premises to be used in accordance with the notice would undermine a licensing objective, the relevant person must give a notice stating the reasons for being so satisfied (an “objection notice”)— 20

- (a) to the relevant licensing authority,
  - (b) to the premises user, and 25
  - (c) to every other relevant person.”.
- (6) In section 104(3) (timing for objection), for “chief officer of police” substitute “relevant person”.
- (7) In section 104(4) (timing for objection), for “relevant chief officer of police” substitute “relevant person”. 30
- (8) Omit section 104(5) (definition of “relevant chief officer of police”).
- (9) In section 105 (counter notice following objection)—  

- (a) in the title, omit “police”,
  - (b) in subsection (2)(a), for “chief officer of police” substitute “relevant person”, 35
  - (c) in subsection (2)(b), for “the crime prevention objective” substitute “a licensing objective”,
  - (d) in subsection (3)(a), for “the relevant chief officer of police” substitute “each relevant person”, and
  - (e) in subsection (3)(b)(ii), for “the relevant chief officer of police” substitute “each relevant person”. 40
- (10) In section 106 (modification of notice following objection)—  

- (a) in the title, omit “police”,



- (b) in subsection (1), for “chief officer of police” substitute “relevant person”,
  - (c) in subsection (2) –
    - (i) for “chief officer of police” substitute “relevant person”, and
    - (ii) after “of the premises user” insert “and each other relevant person”,
  - (d) in subsection (4), for “chief officer of police” substitute “relevant person”, and
  - (e) omit subsection (5).
- (11) In section 107(11) (counter notice where permitted limits exceeded), for the words following “that notice” substitute “to each relevant person”. 10
- (12) In section 194 (index of defined expressions), after the entry for the expression “relevant offence” insert –  
“relevant person, in Part 5 ..... section 99A”. 5
- (13) In Schedule 5 (appeals) – 15
- (a) in paragraph 16(1)(b), for “chief officer of police” substitute “relevant person”,
  - (b) in paragraph 16(3), for “chief officer of police” substitute “relevant person”,
  - (c) in paragraph 16(8), in the definition of “objection notice”, omit “and”, 20
  - (d) in paragraph 16(8), at the end of the definition of “relevant licensing authority” insert “; and –  
“relevant person” has the meaning given in section 99A.”.
- (14) The amendments made by this section apply in relation to temporary event notices that are given on or after the commencement of this section. 25

### 113 Temporary event notices: conditions

- (1) The Licensing Act 2003 is amended as set out in subsections (2) to (5).
- (2) In section 98(1) (meaning of “permitted temporary activity”), for paragraph (a) substitute –  
“(a) it is carried out in accordance with – 30
  - (i) a notice given in accordance with section 100, and
  - (ii) any conditions imposed under section 106A, and”.

- (3) After section 106 insert –

#### “106A Conditions on standard temporary event notice following objection

- (1) This section applies where – 35
  - (a) a relevant person has given an objection notice under section 104(2) in respect of a standard temporary event notice,
  - (b) the objection notice has not been withdrawn, and
  - (c) the relevant licensing authority has decided under section 105 not to give a counter notice under that section. 40
- (2) The relevant licensing authority may impose one or more conditions on the standard temporary event notice if –
  - (a) the authority considers it appropriate for the promotion of the licensing objectives to do so,

- (b) the conditions are also imposed on a premises licence or club premises certificate that has effect in respect of the same premises, or any part of the same premises, as the temporary event notice, and
  - (c) the conditions would not be inconsistent with the carrying out of the licensable activities under the temporary event notice. 5
- (3) Where the authority decides to impose one or more conditions under subsection (2) –
  - (a) the authority must give the premises user notice of the decision,
  - (b) the notice must be accompanied by a separate statement (the “statement of conditions”) which sets out the conditions that have been imposed on the temporary event notice, and 10
  - (c) a copy of the notice and statement of conditions must be given to each relevant party.
- (4) The notice and statement of conditions under subsection (3) must – 15
  - (a) be in the prescribed form,
  - (b) be given to the premises user in the prescribed manner, and
  - (c) be given no later than 24 hours before the beginning of the event period specified in the temporary event notice.
- (5) Where the premises are situated in the area of more than one licensing authority, the functions conferred on the relevant licensing authority by subsection (2) must be exercised by those authorities jointly.”. 20
- (4) In section 109 (duty to keep and produce temporary event notice) –
  - (a) in the title, after “notice” insert “and statement of conditions”,
  - (b) in subsection (2)(a), after “notice” insert “, together with a copy of any statement of conditions given under section 106A(3) in respect of the notice”, 25
  - (c) in subsection (3)(a), after “notice” insert “, together with a copy of any statement of conditions given under section 106A(3) in respect of the notice”, 30
  - (d) in subsection (3)(b), for “notice is” substitute “notice and any statement of conditions are”,
  - (e) in subsection (5)(a), after “notice” insert “or any statement of conditions”,
  - (f) in subsection (5), after “produce the temporary event notice” insert “or statement of conditions”, 35
  - (g) in subsection (6), after “produce the temporary event notice” insert “or statement of conditions”, and
  - (h) in subsection (8), after “notice” insert “or statement of conditions”.
- (5) In section 110 (theft, loss, etc. of temporary event notice) – 40
  - (a) in the title, after “notice” insert “or statement of conditions”,
  - (b) after subsection (1) insert –
    - “(1A) Where a statement of conditions that is given under section 106A(3) is lost, stolen, damaged or destroyed, the premises user may apply to the licensing authority which gave the statement for a copy of the statement.”, 45
  - (c) in subsection (4), after “copy of the notice” insert “or statement”,
  - (d) in subsection (4)(a), after “notice” insert “or statement”,



- (e) in subsection (5), after “notice” insert “or statement”, and
  - (f) in subsection (6), after “notice” insert “or statement”.
- (6) The amendments made by this section apply in relation to temporary event notices that are given on or after the commencement of this section.

#### 114 Temporary event notices: late notices 5

- (1) The Licensing Act 2003 is amended as set out in subsections (2) to (12).
- (2) In section 98(2) (meaning of “permitted temporary activity”), for “sections 102 (acknowledgement of notice) and 104(1) (notification of police)” substitute “section 102 (acknowledgement of notice)”.
- (3) In section 100 (temporary event notice) – 10
  - (a) in subsection (7), for paragraph (a) substitute –
    - “(a) must be given in accordance with section 100A, and”,
    - and
  - (b) in subsection (7)(b), after “fee” insert “when it is given by the premises user to the relevant licensing authority.”. 15

- (4) After section 100 insert –

##### “100A Standard and late temporary event notices

- (1) For the purposes of section 100(7)(a), a temporary event notice must be given in accordance with –
  - (a) subsection (2), in which case the notice is a “standard temporary event notice”, or 20
  - (b) subsection (3), in which case the notice is a “late temporary event notice”.
- (2) A temporary event notice is given in accordance with this subsection if, no later than ten working days before the day on which the event period begins – 25
  - (a) it is given to the relevant licensing authority by means of a relevant electronic facility, or
  - (b) it is given to the relevant licensing authority (otherwise than by means of a relevant electronic facility) and to each relevant person. 30
- (3) A temporary event notice is given in accordance with this subsection if –
  - (a) it is given to the relevant licensing authority by means of a relevant electronic facility no later than five working days, but no earlier than nine working days, before the day the event period begins, or 35
  - (b) both of the following are satisfied –
    - (i) it is given to the relevant licensing authority (otherwise than by means of a relevant electronic facility) and to each relevant person no later than five working days before the day on which the event period begins; 40
    - (ii) it is given to at least one of those persons no earlier than nine working days before the day on which that event period begins. 45

- (4) Where a temporary event notice (the “original notice”) is given by the premises user to the relevant licensing authority by means of a relevant electronic facility as referred to in subsection (2)(a) or (3)(a) –
- (a) the licensing authority must give a copy of the original notice to each relevant person no later than the end of the first working day after the day on which the original notice was given to the authority, and 5
  - (b) for the purposes of this Act, the copy is to be treated as if it were the original notice.
- (5) In this section “event period” in relation to a temporary event notice means the event period specified in the notice.” 10
- (5) In section 102 (acknowledgement of notice), for subsection (3) substitute –
- “(3) Subsection (1) does not apply where, before the time by which acknowledgement of the receipt of the notice must be given in accordance with that subsection, a counter notice has been given to the premises user under – 15
- (a) where the counter notice is in respect of a late temporary event notice, section 104A, or
  - (b) where the counter notice is in respect of a standard temporary event notice or a late temporary event notice, section 107.”. 20
- (6) In section 104 (objection to notice) –
- (a) omit subsections (1) and (1A), and
  - (b) in subsection (3), for “a copy of the temporary event notice under subsection (1) or (1A)” substitute “the temporary event notice”.
- (7) After section 104 insert – 25
- “104A Counter notice following objection to late notice**
- (1) Where an objection notice is given under section 104(2) in respect of a late temporary event notice, the relevant licensing authority must give the premises user a counter notice under this section.
- (2) The counter notice must – 30
- (a) be in the prescribed form, and
  - (b) be given to the premises user in the prescribed manner.
- (3) The relevant licensing authority must, no later than 24 hours before the beginning of the event period specified in the temporary event notice –
- (a) give the counter notice to the premises user, and 35
  - (b) give a copy of the counter notice to each relevant person.”.
- (8) In section 105 (counter notice following objection) –
- (a) in the title, after “objection” insert “to standard temporary event notice”,
  - (b) in subsection (1), for “in respect of a” substitute “under section 104(2) in respect of a standard”, and 40
  - (c) omit subsection (7).
- (9) In section 106(1) (modification of notice following objection) –
- (a) in the title, for “notice” substitute “standard temporary event notice”,

- (b) in subsection (1), for “in respect of a” substitute “under section 104(2) in respect of a standard”, and
  - (c) in subsection (2), for “the notice returned to the premises user under section 102” substitute “it”.
- (10) In section 107 (counter notice where permitted limits exceeded) – 5
  - (a) in subsection (2), for paragraph (b) substitute –
    - “(b) has already given at least –
    - (i) 50 temporary event notices, or
    - (ii) ten late temporary event notices,
    - in respect of event periods wholly or partly within the 10
    - same year as the event period specified in notice A.”,
    - and
  - (b) in subsection (3), for paragraph (b) substitute –
    - “(b) has already given at least –
    - (i) five temporary event notices, or 15
    - (ii) two late temporary event notices,
    - in respect of event periods wholly or partly within the
    - same year as the event period specified in notice A.”.
- (11) In section 194 (index of defined expressions) –
  - (a) after the entry for the expression “late night refreshment” insert – 20
    - “late temporary event notice..... section
    - 100A(1)(b)”, and
  - (b) after the entry for the expression “secretary, in Part 4” insert –
    - “standard temporary event notice..... section
    - 100A(1)(a)”.
- (12) In paragraph 16(1)(a) of Schedule 5 (appeals), after “a” insert “standard”.
- (13) The amendments made by this section apply in relation to temporary event notices that are given on or after the commencement of this section.
- 115 Relaxation of time limits applying to temporary event notices**
  - (1) The Licensing Act 2003 is amended as set out in subsections (2) and (3). 30
  - (2) In section 100 (temporary event notice) –
    - (a) in subsection (1), for “96 hours” substitute “168 hours”, and
    - (b) in subsection (5)(b), for “96 hours” substitute “168 hours”.
  - (3) In section 107(5) (counter notice where permitted limits exceeded), for “15 days” substitute “21 days”. 35
  - (4) The amendments made by this section apply in relation to temporary event notices that are given on or after the commencement of this section.
- 116 Temporary event notices: acknowledgment of notice**
  - (1) In section 102 of the Licensing Act 2003 (acknowledgement of notice) –
    - (a) in subsection (1), for “(in duplicate) in accordance with this Part, it must acknowledge receipt of the notice by sending or delivering one notice” substitute “in accordance with this Part, it must give written acknowledgement of the receipt of the notice”, and 40

(b) omit subsection (2).

- (2) The amendments made by this section apply in relation to temporary event notices that are given on or after the commencement of this section.

#### **117 Temporary event notice: time for objection by police**

- (1) In section 104(3) of the Licensing Act 2003 (objection to temporary event notice by police), for “second” substitute “third”. 5
- (2) The amendment made by this section applies in relation to temporary event notices that are given on or after the commencement of this section.

#### *Underage sales*

#### **118 Persistently selling alcohol to children** 10

- (1) The Licensing Act 2003 is amended as set out in subsections (2) and (3).
- (2) In section 147A(8) (fine for persistently selling alcohol to children), for “£10,000” substitute “£20,000”.
- (3) In section 169A (closure notice for persistently selling alcohol to children)—
- (a) in subsection (2)(a), for “for a period not exceeding 48 hours” substitute “, for the period specified in the notice,”; and 15
- (b) in subsection (4), for “not more than 48 hours” substitute “at least 48 hours but not more than 336 hours”.
- (4) The amendment made by subsection (2) of this section applies in relation to offences that are committed on or after the commencement of that subsection. 20
- (5) The amendments made by subsection (3) of this section apply in relation to closure notices that are given on or after the commencement of that subsection in relation to offences committed before, on or after that commencement.

#### *Early morning alcohol restriction orders*

#### **119 Early morning alcohol restriction orders** 25

- (1) The Licensing Act 2003 is amended as set out in subsections (2) and (3).
- (2) In section 7 (exercise and delegation of functions), in subsection (2), after paragraph (a) (but before the final “or”) insert—
- “(aa) the functions of making, and varying or revoking, an order under section 172A (early morning alcohol restriction order),”. 30
- (3) For sections 172A to 172E (early morning alcohol restriction order), as inserted by section 55 of the Crime and Security Act 2010, substitute—
- “172A Power to make early morning alcohol restriction order**
- (1) If a licensing authority considers it appropriate for the promotion of the licensing objectives, it may, subject as follows, make an order under this section. 35
- (2) An order under this section is an order providing that—

- (a) premises licences and club premises certificates granted by the authority, and temporary event notices given to the authority, do not have effect to the extent that they authorise the sale of alcohol during the period specified in the order, and
  - (b) club premises certificates granted by the authority do not have effect to the extent that they authorise the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club during the period specified in the order. 5
- (3) For the purposes of subsection (2)(a) and (b), the period that may be specified in the order must— 10
  - (a) begin no earlier than midnight, and
  - (b) end no later than 6am.
- (4) It is immaterial for the purposes of an order under this section whether a premises licence or club premises certificate is granted, or a temporary event notice is given, before or after the order is made. 15
- (5) An order under this section may provide that it is to apply—
  - (a) in relation to the same period of every day on which the order is to apply, or in relation to different periods of different days,
  - (b) every day or only on particular days (for example, particular days of the week or year), 20
  - (c) in relation to the whole or part of a licensing authority’s area, or
  - (d) for a limited or unlimited period.
- (6) An order under this section must specify—
  - (a) the days on which it is to apply and the period of those days,
  - (b) the area in relation to which it is to apply, 25
  - (c) if it is to apply for a limited period, that period, and
  - (d) the date from which it is to apply.
- (7) An order under this section must—
  - (a) be in the prescribed form, and
  - (b) have the prescribed content. 30
- 172B Procedural requirements for early morning alcohol restriction order**
- (1) A licensing authority proposing to make an order under section 172A must—
  - (a) advertise the proposed order in the prescribed manner, and
  - (b) hold a hearing to consider any relevant representations, unless the authority and each person who has made such representations agree that a hearing is unnecessary. 35
- (2) In this section “relevant representations” means representations which—
  - (a) are about the likely effect of the making of the proposed order on the promotion of the licensing objectives, 40
  - (b) are made to the licensing authority by an affected person, a responsible authority or any other person,
  - (c) are made in the prescribed form and manner and within the prescribed period, 45
  - (d) have not been withdrawn, and

- (e) in the case of representations made by a person who is not a responsible authority, are not, in the opinion of the licensing authority, frivolous or vexatious.
- (3) In subsection (2)(b), “affected person” means –
- (a) the holder of the premises licence or club premises certificate in respect of affected premises, 5
  - (b) the premises user in relation to a temporary event notice in respect of affected premises,
  - (c) a person who has applied for a premises licence or club premises certificate in respect of affected premises (where the application has not been determined), and 10
  - (d) a person to whom a provisional statement has been issued in respect of affected premises.
- (4) In subsection (2)(b) and (e), “responsible authority” means –
- (a) the licensing authority and any other licensing authority in whose area part of any affected premises is situated, 15
  - (b) the chief officer of police for a police area any part of which is in the area specified in the order,
  - (c) the fire and rescue authority for an area any part of which is in the area specified in the order, 20
  - (d) the Primary Care Trust or Local Health Board for an area any part of which is in the area specified in the order,
  - (e) the local weights and measures authority for any such area,
  - (f) the enforcing authority within the meaning given by section 18 of the Health and Safety at Work etc Act 1974 for any such area, 25
  - (g) the local planning authority within the meaning given by the Town and Country Planning Act 1990 for any such area,
  - (h) the local authority by which statutory functions are exercisable in the area specified in the order in relation to minimising or preventing the risk of pollution of the environment or of harm to human health, 30
  - (i) a body which –
    - (i) represents those who, in relation to the area specified in the order, are responsible for, or interested in, matters relating to the protection of children from harm, and 35
    - (ii) is recognised by the licensing authority for the purposes of this section as being competent to advise on such matters,
  - (j) where affected premises are a vessel –
    - (i) a navigation authority (within the meaning given by section 221(1) of the Water Resources Act 1991) having functions in relation to the waters where the vessel is usually moored or berthed or any waters where it is navigated at a time when it is used for licensable activities to which the proposed order relates, 40
    - (ii) the Environment Agency,
    - (iii) the British Waterways Board, and
    - (iv) the Secretary of State, and 45
  - (k) a prescribed person.



- (5) Where a licensing authority determines for the purposes of subsection (2)(e) that any representations are frivolous or vexatious, it must notify the person who made them of its reasons for its determination.
  - (6) In this section –
    - “affected premises”, in relation to a proposed order, means premises in respect of which it applies from the date specified in it; 5
    - “statutory function” means a function conferred by or under an enactment.
- 172C Making of early morning alcohol restriction order** 10
- (1) A licensing authority may not make an order under section 172A applying in relation to –
    - (a) an area not specified in the proposed order advertised under section 172B,
    - (b) a day not specified in that proposed order, or 15
    - (c) a period other than the period specified in that proposed order of any day so specified.
  - (2) After making an order under section 172A a licensing authority must publish it or otherwise make it available –
    - (a) in the prescribed form and manner, and 20
    - (b) within the prescribed period.
- 172D Variation and revocation of early morning alcohol restriction order**
- (1) A licensing authority may vary or revoke an order under section 172A.
  - (2) Sections 172B and 172C apply in relation to the variation or revocation of an order under section 172A as in relation to the making of such an order. 25
- 172E Exceptions from effect of early morning alcohol restriction order**
- (1) An order under section 172A does not apply in prescribed cases or circumstances.
  - (2) The cases referred to in subsection (1) may in particular be defined by reference to –
    - (a) particular kinds of premises, or
    - (b) particular days. 30
  - (3) An order under section 172A is subject to an order under section 172 (whether made before or afterwards), unless and to the extent that the order under section 172 provides otherwise.”. 35
  - (4) Section 55 of the Crime and Security Act 2010 (power to restrict sale and supply of alcohol) is repealed.
- Suspension for failure to pay annual fees*
- 120 Suspension of licence or certificate for failing to pay annual fee** 40
- (1) The Licensing Act 2003 is amended as set out in subsections (2) to (5).

- (2) In section 26(2) (period of validity of premises licence), after “section 52” insert “or 55A”.
- (3) After section 55 (annual fee for premises licence) insert—
- “55A Suspension of premises licence for failing to pay annual fee**
- (1) A licensing authority must suspend a premises licence if the holder of the licence has failed to pay the authority an annual fee that has become due under section 55(2). 5
- (2) Subsection (1) does not apply if—
- (a) either—
- (i) the holder’s failure to pay the fee at the time it became due was because of an administrative error (whether made by the holder, the authority or anyone else), or 10
- (ii) before or at the time the fee became due, the holder notified the authority in writing that the holder disputed liability for, or the amount of, the fee, and 15
- (b) the grace period for payment of the fee has not expired (see subsection (8)).
- (3) If a licensing authority suspends a premises licence under subsection (1), the authority must give the holder of the licence a notice to that effect, specifying the day the suspension takes effect. 20
- (4) A day specified in a notice under subsection (3) must be at least two working days after the day the authority gives the notice.
- (5) If the holder of the licence pays the annual fee, the licensing authority must give the holder written acknowledgement of receipt of the fee.
- (6) The acknowledgement of receipt under subsection (5) must— 25
- (a) specify the day the authority received the fee (the “receipt day”), and
- (b) be given to the holder as soon as is reasonably practicable but in any event—
- (i) if the receipt day was a working day, before the end of the first working day after the receipt day, 30
- (ii) otherwise, before the end of the second working day after the receipt day.
- (7) A suspension of a premises licence under subsection (1)—
- (a) takes effect on the day specified in the notice under subsection (3), and 35
- (b) ceases to have effect on the receipt day, as specified in the acknowledgement of receipt under subsection (5).
- (8) In this section, the “grace period” for payment of a fee is the period of 21 days, beginning on the day after the day the fee became due.”. 40
- (4) In section 80(2) (period of validity of club premises certificate), after “section 88” insert “or 92A”.



- (5) After section 92 (annual fee for club premises certificate) insert—

**“92A Suspension of club premises certificate for failing to pay annual fee**

- (1) A licensing authority must suspend a club premises certificate if the holder of the certificate has failed to pay the authority an annual fee that has become due under section 92(2). 5
- (2) Subsection (1) does not apply if—
  - (a) either—
    - (i) the holder’s failure to pay the fee at the time it became due was because of an administrative error (whether made by the holder, the authority or anyone else), or 10
    - (ii) before or at the time the fee became due, the holder notified the authority in writing that the holder disputed liability for, or the amount of, the fee, and
  - (b) the grace period for payment of the fee has not expired (see subsection (8)). 15
- (3) If a licensing authority suspends a club premises certificate under subsection (1), the authority must give the holder of the certificate a notice to that effect, specifying the day the suspension takes effect.
- (4) A day specified in a notice under subsection (3) must be at least 2 working days after the day the authority gives the notice. 20
- (5) If the holder of the certificate pays the annual fee, the licensing authority must give the holder written acknowledgement of receipt of the fee.
- (6) The acknowledgement of receipt under subsection (5) must—
  - (a) specify the day the authority received the fee (the “receipt day”), and 25
  - (b) be given to the holder as soon as is reasonably practicable but in any event—
    - (i) if the receipt day was a working day, before the end of the first working day after the receipt day, 30
    - (ii) otherwise, before the end of the second working day after the receipt day.
- (7) A suspension of a club premises certificate under subsection (1)—
  - (a) takes effect on the day specified in the notice under subsection (3), and 35
  - (b) ceases to have effect on the receipt day, as specified in the acknowledgement of receipt under subsection (5).
- (8) In this section, the “grace period” for payment of a fee is the period of 21 days, beginning on the day after the day the fee became due.”.
- (6) The amendments made by this section apply in relation to premises licences and club premises certificates in relation to which annual fees become due on or after the commencement of this section. 40

*Miscellaneous*

**121 Licensing policy statements**

- (1) Section 5 of the Licensing Act 2003 (statement of licensing policy) is amended as set out in subsections (2) to (7).
- (2) In subsection (1) – 5
  - (a) for “three” substitute “five”, and
  - (b) in paragraph (b) omit “(a “licensing statement”)”.
- (3) Omit subsection (2).
- (4) In subsection (3), for “three” substitute “five”.
- (5) In subsection (4) – 10
  - (a) for “three” substitute “five”, and
  - (b) after “policy” insert “in respect of that period”.
- (6) After subsection (6) insert –
  - “(6A) Without prejudice to subsection (4), a licensing authority may replace its policy in respect of a period, with effect from any date during that period, by – 15
    - (a) determining its policy with respect to the exercise of its licensing functions in respect of a period of five years beginning with that date, and
    - (b) publishing a statement of that policy before that date. 20
  - (6B) Subsection (3) applies in relation to any determination under subsection (6A) as it applies in relation to a determination under subsection (1).
  - (6C) A licensing statement must specify the five year period to which it relates.” 25
- (7) After subsection (7) insert –
  - “(8) In this section –
    - “five year period”, in relation to a licensing authority, means –
      - (a) if paragraph (b) does not apply, the period of five years ending with 6 January 2016, and each subsequent period of five years, or 30
      - (b) if a licensing authority has published a licensing statement under subsection (6A), the period of five years to which the most recently published such statement relates, and each subsequent period of five years; 35
    - “licensing statement” means a statement published under subsection (1)(b) or (6A)(b).”
- (8) Any policy determined, and any licensing policy statement published, under section 5(1) of the Licensing Act 2003 in respect of the period of three years beginning with 7 January 2011 is, on and after the commencement of this subsection, to be treated for all purposes as if – 40
  - (a) it had been determined and published under that section (as amended by this section) in respect of the period of five years beginning with 7 January 2011, and

- (b) it specified the five year period to which it relates.

## 122 Personal licences: relevant offences

- (1) Schedule 4 to the Licensing Act 2003 (personal licence: relevant offences) is amended as set out in subsections (2) to (4).
- (2) In paragraph 14 (offences under the Road Traffic Act 1988), after paragraph (c) insert—  
“ (d) section 6(6) (failing to co-operate with a preliminary test). ”. 5
- (3) The second paragraph 22 is renumbered as paragraph 22A.
- (4) After paragraph 23 insert— 10  
“ 24 An offence under section 1 of the Criminal Attempts Act 1981 of attempting to commit an offence that is a relevant offence.  
25 An offence under section 1 of the Criminal Law Act 1977 of conspiracy to commit an offence that is a relevant offence.  
26 The offence at common law of conspiracy to defraud. ”. 15
- (5) The amendments made by this section apply on and after the commencement of this section in relation to—  
(a) personal licences that are granted or renewed before, on or after the commencement of this section, and  
(b) offences committed before, on or after that commencement. 20

## Review

## 123 Review of effect of amendments on licensing scheme

- (1) As soon as reasonably practicable after the end of the review period, the Secretary of State must—  
(a) carry out a review of the following provisions of this Chapter — 25  
(i) section 103 (licensing authorities as responsible authorities),  
(ii) section 104 (Primary Care Trusts and Local Health Boards as responsible authorities),  
(iii) section 105 (premises licences: who may make relevant representations), 30  
(iv) section 106 (premises licenses: who may apply for review),  
(v) section 107 (club premises certificates: who may make relevant representations),  
(vi) section 108 (club premises certificates: who may apply for review), 35  
(vii) section 109 (reducing the burden: premises licences),  
(viii) section 110 (reducing the burden: club premises certificates),  
(ix) section 111 (reducing the burden: other situations),  
(x) section 112 (temporary event notices: who may make an objection), 40  
(xi) section 113 (temporary event notices: conditions),

- (xii) section 117 (temporary event notices: time for objection by police),
  - (xiii) section 119 (early morning alcohol restriction orders),
  - (xiv) section 120 (suspension of licence or certificate for failing to pay annual fee),
  - (xv) section 122 (personal licences: relevant offences), and
- (b) set out the conclusions of the review in a report.
- (2) In particular, the review must assess the effect of the amendments made by those sections on the scheme established by the Licensing Act 2003.
- (3) The Secretary of State must lay a copy of the report before Parliament.
- (4) In this section, “review period” means the period of five years beginning with—
  - (a) if all of those sections commence on the same day, that day, and
  - (b) otherwise, the first day on which all of those sections have commenced.

## CHAPTER 2

### LATE NIGHT LEVY

#### *Application of late night levy requirement in licensing authority’s area*

#### **124 Late night levy requirement**

- (1) In this Chapter, “the late night levy requirement” means a requirement to pay the late night levy in accordance with this Chapter.
- (2) A licensing authority may decide that the late night levy requirement is to apply in its area.
- (3) In making a decision under subsection (2) a licensing authority must consider—
  - (a) the costs of policing and other arrangements for the reduction or prevention of crime and disorder, in connection with the supply of alcohol between midnight and 6 am, and
  - (b) having regard to those costs, the desirability of raising revenue to be applied in accordance with section 130.
- (4) A licensing authority may not decide that the late night levy requirement is to apply in part only of its area.
- (5) This section is subject to section 131.

#### *Liability to pay late night levy*

#### **125 “Relevant late night authorisation” and related definitions**

- (1) This section applies for the purposes of this Chapter.
- (2) “Relevant late night authorisation”, in relation to a licensing authority and a levy year, means a premises licence or club premises certificate which—
  - (a) is granted by the authority, and

- (b) authorises the supply of alcohol at a time or times during the late night supply period on one or more days in the related payment year.
  - (3) The “late night supply period” in relation to a licensing authority means the period of the day decided by the authority under section 131 or 132.
  - (4) A late night supply period must— 5
    - (a) begin at or after midnight, and
    - (b) end at or before 6 am.
  - (5) The late night supply period determined by a licensing authority for a levy year must be the same— 10
    - (a) for each payment year beginning during the levy year, and
    - (b) throughout each such payment year.
  - (6) Regulations must make provision as to how payment years are to be determined in relation to holders of premises licences or club premises certificates.
  - (7) Regulations under subsection (6) may, in particular — 15
    - (a) provide for a holder’s payment year to be determined by reference to the period in respect of which the holder is liable to pay an annual fee under section 55(2) or 92(2) of the Licensing Act 2003, or
    - (b) confer functions or a discretion on licensing authorities in relation to authorisations granted by them. 20
  - (8) Regulations under subsection (6) which provide for licensing authorities to determine payment years must require an authority to decide how the payment years are to be determined at the time the authority decides under section 124(2) that the late night levy requirement is to apply in its area.
  - (9) For the purposes of this section, a payment year is related to a levy year if it begins at the same time as, or during, the levy year. 25
- 126 Liability to pay late night levy**
  - (1) Where the late night levy requirement applies in the area of a licensing authority, the holder of a relevant late night authorisation must pay a levy (“the late night levy”) to the authority in respect of that authorisation for each levy year, in accordance with this Chapter. 30
  - (2) But a holder of a relevant late night authorisation who falls within an applicable exemption category is not liable to pay the late night levy in respect of that authorisation for the levy year.
  - (3) For this purpose, “applicable exemption category”, in relation to a levy year, means a permitted exemption category that the licensing authority has decided under section 131 or 132 is to apply in its area for the levy year. 35
- 127 Amount of late night levy**
  - (1) For any levy year, the amount of the levy is — 40
    - (a) the amount prescribed by regulations, or
    - (b) the amount calculated in accordance with regulations.
  - (2) But in the case of the holder of a relevant late night authorisation who falls within an applicable reduction category, the amount of the late night levy

payable in respect of the authorisation is the reduced amount that applies in relation to that category (see section 134(4)).

- (3) For this purpose “applicable reduction category”, in relation to a levy year, means a permitted reduction category that the licensing authority has decided under section 131 or 132 is to apply in its area for the levy year. 5
- (4) Subject to subsection (2), regulations under subsection (1) must provide for the amount of the late night levy, or the manner in which it is to be calculated, to be the same for all persons liable to pay the levy in respect of an authorisation for the levy year.

### *Administration of late night levy* 10

## 128 **Payment and administration of the levy**

- (1) Regulations –
  - (a) must make provision as to collection and administration, and
  - (b) may make provision as to enforcement, 15
 of the late night levy.
- (2) Regulations under subsection (1) must make provision as to the time or times for payment of the levy to a licensing authority by holders of relevant late night authorisations.
- (3) Provision made by virtue of subsection (2) may in particular provide for any such time or times to be determined by reference to the holders’ payment years. 20
- (4) Regulations under subsection (1) may make provision for adjustments to be made in cases where –
  - (a) a relevant late night authorisation ceases to be such an authorisation during the holder’s payment year; 25
  - (b) a premises licence or club premises certificate becomes a relevant late night authorisation during the holder’s payment year;
  - (c) an order under section 172A of that Act (early morning restriction orders) precludes the supply of alcohol by virtue of the relevant late night authorisation at all the times during the applicable late night supply period when it would otherwise have been permitted by virtue of the authorisation; 30
 including in cases where the change occurs after the end of the levy year.
- (5) Any payment of the late night levy which is owed to a licensing authority under this Chapter may be recovered as a debt due to the authority. 35
- (6) The following provisions of the Licensing Act 2003 apply for the purposes of this Chapter –
  - (a) section 55A (suspension of premises licence for failure to pay annual fee);
  - (b) section 92A (suspension of club premises certificate for failure to pay annual fee), 40

but as if a reference to an annual fee, or to the annual fee owed under section 55(2) or 92(2), were a reference to the late night levy, or to the amount of the late night levy owed under this Chapter.



- (7) Provision that may be made by regulations under this section includes provision conferring functions or a discretion on licensing authorities.

## 129 Net amount of levy payments

- (1) In this Chapter “the net amount of levy payments” of a licensing authority in respect of any period means the amount, calculated in accordance with regulations, which represents – 5
- (a) the aggregate amount of payments to the authority in respect of the levy that are attributable to that period, less
  - (b) the aggregate amount of expenses of the authority attributable to that period that are permitted deductions under regulations under subsection (2)(a). 10
- (2) Regulations under subsection (1) –
- (a) must prescribe descriptions of expenses which, if incurred by the licensing authority in connection with the collection, administration or enforcement of the late night levy for any period, may be deducted for the purposes of calculating the net amount of levy payments for the period, 15
  - (b) may make provision for determining the amounts to be taken into account in calculating the net amount of levy payments,
  - (c) may make provision for determining the period to which a payment or deduction is attributable. 20
- (3) A licensing authority must publish the following, in respect of each levy year –
- (a) before the beginning of the year, a statement of its estimate of the amount of deductions permitted under regulations under subsection (2)(a) to be made in respect of the year; 25
  - (b) after the end of the year, a statement of the net amount of levy payments for the year, showing in particular the amounts mentioned in paragraphs (a) and (b) of subsection (1) attributable to the year.
- (4) It is for the licensing authority to determine the manner in which any statement under subsection (3) is to be published. 30

### *Application of levy payments*

## 130 Application of net amount of levy payments

- (1) The net amount of levy payments for any levy year must be applied as follows.
- (2) The licensing authority –
- (a) must pay the specified proportion of that amount to the relevant local policing body, and 35
  - (b) must apply the remainder of that amount in accordance with regulations.
- (3) In subsection (2)(a), “specified proportion” means the proportion determined for the levy year under section 131(1)(b) or 132(1)(d). 40
- (4) The specified proportion must be not less than 70 per cent.
- (5) Regulations may amend subsection (4) by specifying a different proportion in place of the proportion for the time being specified in that subsection.

- (6) Regulations may make provision—
  - (a) as to the time or times at which payments are to be made by the licensing authority under subsection (2);
  - (b) for adjustments of payments in cases where payments or repayments are made in respect of the levy after the end of the levy year. 5
- (7) Regulations under this section may make provision conferring a function or a discretion on a licensing authority.

*Late night levy requirement: further provision*

**131 Introduction of late night levy requirement**

- (1) Where a licensing authority decides under section 124 that the late night levy requirement is to apply in its area, it must also decide— 10
  - (a) the date on which the late night levy requirement is first to apply, and
  - (b) for the first levy year and, subject to section 132, each subsequent levy year—
    - (i) the late night supply period; 15
    - (ii) the permitted exemption categories (if any) that are to apply in its area;
    - (iii) the permitted reduction categories (if any) that are to apply in its area;
    - (iv) the proportion of the net amount of levy payments that is to be paid to the relevant local policing body under section 130. 20
- (2) Subsection (1)(b)(i) is subject to section 125(4) and (5).
- (3) Subsection (1)(b)(iv) is subject to section 130(4).
- (4) Regulations under section 133 apply in relation to any decision of a licensing authority under section 124 or this section. 25

**132 Amendment of late night levy requirement**

- (1) Where the late night levy requirement applies in the area of a licensing authority under section 124, the authority may decide—
  - (a) that the requirement is to cease to apply in the area;
  - (b) that a different late night supply period is to apply; 30
  - (c) that different permitted exemption categories or permitted reduction categories are to apply in the area;
  - (d) that a different proportion of the net amount of levy payments is to be paid to the relevant local policing body.
- (2) Subsection (1)(b) is subject to section 125(4) and (5). 35
- (3) Subsection (1)(d) is subject to section 130(4).
- (4) Where—
  - (a) regulations under section 134 alter the permitted exemption categories or permitted reduction categories, and
  - (b) by virtue of the regulations any category that applies in the area of a licensing authority by virtue of section 131(1)(b) or (iii) ceases to be a permitted exemption category or permitted reduction category, 40



the licensing authority must exercise its power under subsection (1)(c) so as to secure that all the categories that apply in its area in respect of future levy periods are permitted exemption categories or permitted reduction categories.

- (5) Where –
  - (a) regulations under subsection (5) of section 130 amend subsection (4) of that section, and 5
  - (b) by virtue of the regulations the proportion of the net amount of levy payments to be paid to the relevant local policing body ceases to satisfy section 130(4),the licensing authority must exercise its power under subsection (1)(d) so as to secure that the proportion of the net amount of levy payments to be paid to the relevant local policing body in respect of future levy years satisfies that provision. 10
- (6) Any decision made under subsection (1) may take effect only –
  - (a) in the case of a decision under paragraph (a), at the end of a levy period, 15
  - (b) in the case of decision under paragraph (b), (c) or (d), in respect of future levy periods.
- (7) Regulations under section 133 apply in relation to any decision of a licensing authority under this section.

### 133 Introduction or variation of late night levy requirement: procedure 20

- (1) Regulations must make provision as to the procedure to be followed by a licensing authority in relation to any proposal for –
  - (a) a decision under section 124(2) that the late night levy requirement is to apply in the area of the licensing authority (and any related decision under section 131(1)); 25
  - (b) a decision under section 132(1)(a) that the late night levy is to cease to apply in the area of the licensing authority;
  - (c) a decision under section 132(1)(b), (c) or (d).
- (2) Regulations under this section must, in particular –
  - (a) require the licensing authority, where it proposes to make any decision mentioned in subsection (1), to consult the following about the proposal –
    - (i) the relevant local policing body;
    - (ii) the relevant chief officer of police;
    - (iii) holders of relevant late night authorisations; 35
    - (iv) any other persons prescribed by the regulations;
  - (b) make provision requiring the licensing authority to publish notice of any decision mentioned in subsection (1) (and of related decisions);
  - (c) in the case of a decision under section 124(2), make provision –
    - (i) enabling any relevant late night authorisation to be varied under section 34, 41A, 84 or 86A of the Licensing Act 2003, on the application of the holder, so as to cease to be a relevant late night authorisation before the beginning of the first levy year, and 40
    - (ii) for no fee to be payable in respect of any such application to the extent that it relates to such a variation. 45

- (3) In the case of a proposal that the late night levy requirement should apply to the area of a licensing authority, the consultation about the proposal required under subsection (2)(a) must include consultation about the matters to be decided under section 131(1).
  - (4) Regulations under this section may specify matters of which the licensing authority must be satisfied before deciding under section 124(2) that the late night levy requirement is to apply in its area. 5
  - (5) In subsection (2)(c), “relevant late night authorisation” includes a premises licence or club premises certificate which would be a relevant late night authorisation if the licensing authority were to make the decisions in subsection (1)(a) in accordance with the proposal. 10
- 134 Permitted exemption and reduction categories**
- (1) Regulations may prescribe –
    - (a) categories of holders of relevant late night authorisations in relation to whom, if a licensing authority so decides, the requirement to pay the late night levy is not to apply (“permitted exemption categories”); 15
    - (b) categories of holders of relevant late night authorisations in relation to whom, if a licensing authority so decides, a reduced amount of the levy is to apply (“permitted reduction categories”).
  - (2) References in subsection (1) to a decision of a licensing authority are to a decision by the authority under section 131(1)(b) or (c) or 132(1)(c) that the category in question is to apply in its area. 20
  - (3) Without prejudice to section 135(3), categories of holders may be prescribed for this purpose by reference, in particular, to –
    - (a) participation in arrangements of particular descriptions; 25
    - (b) particular descriptions of premises in respect of which authorisations are held.
  - (4) Regulations under subsection (1) which prescribe permitted reduction categories must also prescribe, in relation to each such category –
    - (a) what the reduced amount of the levy is, or 30
    - (b) the manner in which the reduced amount of the levy is to be calculated, and must provide for the reduced amount of the late night levy, or the manner in which it is to be calculated, to be the same for all persons liable to pay the late night levy in respect of an authorisation in that category for a levy year.
- 135 Late night levy: regulations** 35
- (1) Any power to make regulations under this Chapter is exercisable by the Secretary of State, but may be exercised only with consent of Treasury.
  - (2) Regulations may amend any provision made by or under an Act so far as necessary or expedient in consequence of any provision made by or under this Chapter. 40
  - (3) Any regulations under this Chapter may –
    - (a) make different provision for different cases;
    - (b) make provision subject to exceptions;

- (c) make supplemental, incidental, consequential and transitional provision.
- (4) Subsection (3) is subject to section 127(4) and 134(4).

### 136 Interpretation

In this Chapter –

- “club premises certificate” has the same meaning as in the Licensing Act 2003 (see section 60 of that Act); 5
- “late night levy” means a levy payable under section 126(1);
- “the late night levy requirement” has the meaning given by section 124;
- “late night supply period”, has the meaning given by section 125; 10
- “levy year”, in relation to a licensing authority, means a period of one year, beginning with the date specified under section 131(1)(a) or an anniversary of that date, for which the late night levy requirement applies in the area of the authority;
- “licensing authority” means an authority which is a licensing authority within the meaning of the Licensing Act 2003 (see section 3 of that Act); 15
- “net amount of levy payments” has the meaning given by section 128;
- “payment year”, in relation to the holder of a relevant late night authorisation, means a year to which any payment of the late night levy by the holder in respect of the authorisation relates; 20
- “permitted exemption category” and “permitted reduction category” have the meanings given by section 134;
- “premises licence” has the same meaning as in the Licensing Act 2003 (see section 11 of that Act);
- “relevant late night authorisation” has the meaning given by section 125; 25
- “relevant chief officer of police”, in relation to a licensing authority, means the chief officer of police for the police area which comprises or includes the area of the licensing authority;
- “relevant local policing body”, in relation to a licensing authority, means the local policing body for the police area which comprises or includes the area of the licensing authority; 30
- “supply of alcohol” has the same meaning as in Part 3 of the Licensing Act 2003 (see section 14 of that Act).

### 137 Crown application

- (1) This Chapter binds the Crown and has effect in relation to any premises licence, or club premises certificate, which relates to land in which there is – 35
  - (a) an interest belonging to Her Majesty in right of the Crown,
  - (b) an interest belonging to a government department, or
  - (c) an interest held in trust for Her Majesty for the purposes of such a department. 40
- (2) This Chapter also applies in relation to any premises licence, or club premises certificate, which relates to –
  - (a) land which is vested in, but not occupied by, Her Majesty in right of the Duchy of Lancaster, and
  - (b) land which is vested in, but not occupied by, the possessor for the time being of the Duchy of Cornwall. 45

- (3) Provision made by or under this Chapter applies to persons in the public service of the Crown as it applies to other persons.
- (4) But nothing in this Chapter affects Her Majesty in Her private capacity.

### 138 Amendments of the Licensing Act 2003

- (1) The Licensing Act 2003 is amended as follows. 5
- (2) In section 55 (fees: premises licences), after subsection (1) insert—
  - “(1A) Subsection (1) is subject to regulations under section 133(2)(c)(ii) of the Police Reform and Social Responsibility Act 2011 (exemption from fees for variation applications prior to introduction of late night levy).”
- (3) In section 92 (fees: club premises certificates), after subsection (1) insert— 10
  - “(1A) Subsection (1) is subject to regulations under section 133(2)(c)(ii) of the Police Reform and Social Responsibility Act 2011 (exemption from fees for variation applications prior to introduction of late night levy).”

## PART 3

### PARLIAMENT SQUARE GARDEN AND SURROUNDING AREA 15

#### *Repeal of SOCPA 2005 provisions*

### 139 Demonstrations in vicinity of Parliament: repeal of SOCPA 2005 provisions

- (1) Sections 132 to 138 of the Serious Organised Crime and Police Act 2005 (which regulate demonstrations and use of loudspeakers in the vicinity of Parliament) are repealed. 20
- (2) The public assemblies in relation to which section 14 of the Public Order Act 1986 applies, as a consequence of the repeal of section 132(6) of the Serious Organised Crime and Police Act 2005, include public assemblies which started, or were being organised, before this section comes into force.

#### *Controls on activities in Parliament Square Garden and adjoining pavements* 25

### 140 Controlled area of Parliament Square

- (1) For the purposes of this Part, the “controlled area of Parliament Square” means the area of land that is comprised in—
  - (a) the central garden of Parliament Square, and
  - (b) the footways that immediately adjoin the central garden of Parliament Square. 30
- (2) In subsection (1)—
  - “the central garden of Parliament Square” means the site in Parliament Square on which the Minister of Works was authorised by the Parliament Square (Improvements) Act 1949 to lay out the garden referred to in that Act as “the new central garden”; 35
  - “footway” has the same meaning as in the Highways Act 1980 (see section 329(1) of that Act).

## **Summary and observations, Licensing Act amendments proposed by the Police Reform and Social Responsibility Bill 2010**

### **Clause 103. Licensing authority to become a responsible authority.**

This is a proposal to enable licensing authorities acting in their own right to make representations on applications or to initiate reviews of premises licences or club premises certificates.

It is not immediately clear at what level this is intended to operate but the scheme of delegations currently found in section 8 of the Licensing Act does not preclude the delegation to officers of the powers available to a responsible authority, if a licensing authority is designated as such.

All Members of the authority have equivalent existing rights as interested parties so the option of a licensing committee convening in order to initiate a premises licence review looks rather cumbersome. A requirement for all applications of whatever kind to be referred to a special licensing committee for initial assessment would be similarly bureaucratic.

The intention appears to be to emulate the processes available in the Gambling Act, whereby a licensing officer can put forward expert advice and opinion on a formal basis, ensuring that a licensing panel is able to debate an application, irrespective of whether any other responsible authority has commented or not. The same would apply in relation to reviews.

This change would remove any doubt about the appropriateness of licensing officers offering expert guidance to licensing panels or setting out the context within which an application is determined. Since however representations from the licensing authority as responsible authority would be subject to normal time limits, the content of committee reports would be constrained by what has been said previously, within the time limit. The logic of that is for reports to contain a briefing and recommendations from the Head of Licensing as an appendix, much as Planning reports do now.

The proposals place far greater influence in the hands of licensing officers. It appears that licensing authorities will be able to initiate applications to review premises licences and club premises certificates but it would be helpful if the wording of the Act was explicit on that point.

### **Clause 104. Health bodies to become responsible authorities.**

This is a proposal to make Primary Care Trusts and Local Health Boards responsible authorities under the Licensing Act 2003. Since this extends the already over-burdensome notification procedures on making an application and will add a substantial burden of unproductive red tape to health bodies, this proposal looks to be fundamentally misconceived. All of the advantages can be gained without those burdens, by designating those bodies as interested parties [or 'persons' as they become under a separate modification], rather than as responsible authorities. Most of the existing responsible authorities do not exercise their powers as it is. Only three agencies do so on a regular basis.

### **Clause 105 and 107. Power to make representations.**

This clause proposes to remove the concept of 'interested parties' altogether, replacing that with two different categories, according to the process involved. An application must be made known to "persons who live, or are involved in a business, in the relevant licensing authority's area and who are likely to be affected by [the application]". In terms of who can comment though, all geographical limits are dispensed with and any 'person' from anywhere can comment.

The notification provision as proposed appears to exclude people just across the road but across the borough boundary. Removing the vicinity limitation will in any event have no practical effect unless the text of the statutory Guidance is re-drafted to encompass public nuisance other than that which occurs on or at premises. The clause proposes an arrangement whereby people will be invited to comment but will then have those comments struck out as being vexatious.

A sensible alternative would be to abandon the 'vicinity' test but to replace it with a 'real practical effect' test. In reality, that is what must happen anyway, if objections are to be persuasive.

It is not proposed to remove the obligation on applicants to advertise their proposals but the clause seeks to require licensing authorities to advertise them as well. Since the rules for both will be set by as yet unannounced regulations, the impact cannot be predicted. In the worst case scenario, a requirement to place newspaper advertisements could be placed on licensing authorities. If that were to happen it would effectively wipe out all licensing income apart from annual fees. In the best case scenario it would place a very large new burden on licensing authorities. In the Swindon case it would probably equate to at least one new full time administrative post.

### **Clauses 106 and 108. Eligibility to bring a review.**

The proposal is to remove the reference to interested person and to replace it with "any other person". There are no caveats at all beyond the usual limitations on representations which are vexatious, frivolous or repetitious. There is no requirement to show that the person will be affected in any practical way. This would open the way for campaigning groups from anywhere to submit objections based on the beliefs which they hold. There is limitless potential here for mischief and expensive litigation. Again, some limitation based on geography and real practical impact would be sensible.

### **Clauses 109, 110 and 111. Power of the Licensing Authority to take action.**

When powers such as those to impose conditions or to suspend a licence or to remove a designated premises supervisor are taken, the test which must be applied at the moment is that they are 'necessary'. That implies that the action is essential and that there is no reasonable alternative.

This clause seeks to shift the balance by applying a test of whether the measures are 'appropriate', meaning that they are reasonable, intelligent, proportionate etc.

This change will provide much more scope for the exercise of policy, allow a more flexible approach and the possibility of tighter and more future-proof controls. It will substantially reduce the vulnerability of the licensing authorities to legal challenge, provided that they stay within the realms of common sense.

It will provide Members with far more influence when pursuing the licensing objectives.

#### **Clause 112. Who may object to a temporary event notice.**

At present, only the Police can object to a temporary event notice and then only on crime prevention grounds.

This clause proposes to extend the right to object to noise / pollution teams.

At the same time, the potential scope of an objection will extend to any of the four licensing objectives.

This will at last do away with authorisations being granted as of right, even where it is obvious that there will be serious problems.

#### **Clause 113. Conditions on temporary event notices.**

As things stand, conditions cannot be attached to a temporary event notice at all. Where there is an objection, a licensing authority can only grant or deny the notice but cannot grant it with conditions. In practice that means that a counter notice is the only precautionary measure available. An ability to insist on stewarding or safety barriers might however allow an event to go ahead in safety.

The problem is that any condition applied must already be on any premises licence which is already in force for the venue. This makes little sense as a temporary event notice is often used to add a licensable activity not currently authorised by the licence. A boxing match, for example. Might merit additional constraints. It would also be odd if venues without a licence could have any reasonable set of conditions imposed, whereas those already with a licence could only be made subject to a limited, inflexible and potentially clumsy mix of conditions.

As framed, the wording makes little sense.

#### **Section 114. Late submission of temporary event notices.**

One of the frustrations of the existing rules is that low risk events such as school plays or a film show can be wrecked by the failure of the organiser to obtain an authorisation, giving ten working days notice. There is no flexibility or room for the exercise of common sense.

This clause introduces a new category of temporary event notice, for submissions five to nine working days before an event.

So as not to encourage lateness, this proposed flexibility is balanced by the fact that an objection notice automatically translates into a 'No'. Nobody will be allowed to enter all or most of their temporary event notices late though. This is an enlightened and fair amendment which will assist community groups and individuals, while blocking commercial misuse.

#### **Clause 115. Limits on temporary event notices.**

Surprisingly, this proposes far more flexibility in the use of temporary event notices. At the moment, two key limitations are that an event period cannot last more than 96 hours [i.e. spanning up to five days]. The proposal is to extend that to 168 hours [i.e. spanning up to eight days]. Commercially, that might allow a Christmas market to run for a week, without having to have an artificial break of a day, part way.

At the moment, temporary event notices are available for fifteen days in a calendar year [ but Saturday 22:00hrs until Sunday 01:00hrs is *two* days]. This clause proposes that this should rise to twenty-one days.

#### **Clauses 116 and 117. Notifications and police objections.**

These propose some changes to notifications and give Police an extra day to submit objection notices when they receive temporary event notices.

#### **Clause 118. Penalties for persistently selling alcohol to children.**

The clause proposes to double the potential fine, to £20,000. It is up to the courts, whether that has any real effect.

More importantly, it is proposed that the closure versus prosecution option offered to offenders be changed so that instead of closure being up to 48 hours, it would be at least 48 hours but anything up to 336 hours [i.e affecting up to fifteen days]. That would be a far more effective sanction. In this context, closure means exactly that, not just a suspension of licensable activities but exclusion of the public. What 'closure' means in relation to a internet or tele-sales operation needs some clarification, as these are not mentioned at all.

#### **Clause 120. Suspension of licence for non-payment of fees.**

This is broadly as expected but proposes suspension rather than revocation. There are some unfortunate loop-holes offered by the suggested wording. Suspension does not take place if the licence holder disputes that they are responsible or if they dispute the amount. They are also immune if they make an 'administrative error'. There is no specified mechanism for resolving any of these loose ends, so saying "Not me", "It should be £5 less" or "I forgot to put the cheque in the envelope" could stall suspension forever. This is a mounting problem and early implementation would be very welcome.

#### **Clause 121. Licensing Statement.**

This would require a revision every five years, rather than every three years.



## **Clause 122. Personal licences - offences**

This would make attempts at crime and conspiracy to commit crimes as relevant as the crimes themselves.

## **Clauses 119, 124, 125, 126, 127, 129, 130, 131, 132, 133, 134 and 135. Early morning restriction orders and late night levy.**

These clauses propose a complex set of new measures, involving two new schemes. These schemes have a lot of similarities but some important differences. They are either alternatives or potentially might be used in parallel.

An Early Morning Restriction Order is a mechanism for applying area controls over late sales of alcohol. It can be applied everywhere or just in particular places. It can apply differently to different types of venue or different days of the week. Imposed time restrictions must fall somewhere between midnight and 06:00hrs. The controls would be retrospective and would over-ride any authorisation already granted.

The test which a licensing authority must satisfy is that the application of the ban is 'appropriate'. This goes much wider than showing that it is 'necessary'. The power would enable either temporary or permanent bans to be put in place. There is no mechanism for challenge, if it becomes clear that a restriction has made no material difference.

Implementation would involve a standard set of consultations and notices.

A Late Night Levy follows the same options between midnight and 06:00hrs. It allows the activity of selling alcohol to go ahead but imposes a levy on those who trade late, whether on or off sales. A fundamental difference from the above is that it must apply across the whole area of the borough and cannot just be applied to zones such as town centres. That said, particular categories of premises can be exempted from the requirement to pay a levy. Instead of those categories being decided nationally, they would be decided locally. It is highly likely with that formulation that licensing authorities would come under intense lobbying and litigation, to pressure them to exempt certain traders, notably the big supermarket chains.

If government does not provide a clear framework for the liability of different types of premises, Councils will find themselves in a difficult position. Regulations (the detail of which is not known) will set applicable fees and prescribe reduced fees for some categories of premises.

It is proposed that payment will be triggered by the fact of having a licence, not by actual late trading. Liability would also be based on any authorisation for late trading, even if it is only for one day. There will be provisions for rebates but only when an authorisation begins or ends mid-year, not on the basis of whether an authorisation covers five days a year or two hundred days a year.

It appears that if a cut-off point of 02:00hrs is nominated by a local authority, a venue which opens until 02:15hrs one night a week will pay the same as an equivalent venue which opens until 05:00hrs six nights a week. If that were to be the case, the levy would likely provoke mass applications for later hours, from venues desiring to get the full benefit from the fee. That would produce the opposite of the desired outcome.

Fee calculations might be very complicated and require considerable administrative input. Dispute resolution could be a major drain and might conceivably wipe out any financial benefit.

It is proposed that the Police should have at least 70% of any funds raised, after deduction of collection costs. They would however have no liability at all for any costs incurred as a result of legal challenge. The local authority would benefit by a maximum of 30% of the net funds but would be liable for the whole cost of any legal challenge. There is a case to be made that the Police should be made liable for 70% of the risk, if they receive 70% of the benefit. From a local authority standpoint the balance between risk and benefit is an uncomfortable one.

It is very difficult to gauge the scale of funds which might accrue from such a scheme in Swindon but on the basis of what has been said so far it might be something in the order of £35k net, with around £25k going to the Police. The principal effect would perhaps be to retrench hours rather than to raise funds but while a nominated cut-off time of 02:00hrs might possibly pull back those trading until 03:00hrs, it appears that a cut-off of midnight (which would affect many more premises) would offer no incentive to change, for any late-opening premises.

The potential financial benefits look very small when compared with the potential cost of litigation. The more tightly the detail is framed, the lower the risk of legal challenge – but at the cost of local discretion. If for example the position on supermarket chains is left vague, no licensing authority will wish to lead the way, for fear of the likely legal costs.

As currently framed, a Late Night Levy looks to be a very high risk, low gain mechanism. Of course, a great deal depends on the terms of the regulations which set out the detail of the scheme.

## Revision of the Licensing Statement for Swindon

**Licensing Committee**

**Date: 5 January 2011**

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**Author: Head of Licensing**

**Wards Affected: All**

### **Purpose**

To re-ratify the current Licensing Statement, whilst launching a public consultation on an interim replacement document.

### **Recommendation**

Licensing Committee is asked : -

- To ratify the existing Licensing Statement but to start a consultation immediately, to secure a new version by late March or early April 2011.

## **1. Reasons**

- 1.1 The Licensing Act 2003 is undergoing a review, with major changes expected. The formal timetable for revision of the Licensing Statement (the policy of the Licensing Authority) would have stifled debate and denied the opportunity to take into account the wide ranging legislative changes which are in the pipe-line.

## **2. Detail**

- 2.1 A non-controversial proposal to give local authorities more say in the timing of licensing policy consultations was lost through lack of time just prior to the general election. The official implementation date of 7 January 2011 has two serious defects. Even in an ordinary year, agencies and businesses would have been denied meaningful involvement in a consultation timed to coincide with the busy festive season. The problem is compounded this time by the fact that major reforms to licensing laws have only just been announced. A debate which excluded consideration of imminent changes to the licensing landscape would have lacked any strategic coherence.
- 2.2 It is open to a licensing authority to review its licensing policy at any time, so it is possible to launch a consultation immediately. In legal terms this is a rather untidy and unconventional approach but it is the best option available under the circumstances.
- 2.3 It will be necessary to carry out a further consultation and revision somewhere between late 2011 and early 2012, to take account of the major changes which are expected in 2012.
- 2.4 Licensing statements last for three years at a time. Legislative change is likely to alter this to five years.

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Further information on the subject of this report can be obtained from Lionel Starling on 01793 466109 or e-mail [lstarling@swindon.gov.uk](mailto:lstarling@swindon.gov.uk).

## Revision of the Licensing Statement for Swindon

**Licensing Committee**

**Date: 5 January 2011**

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- 2.5 Ratification of the existing text on or before 7 January 2011 will secure a degree of compliance although that version is limited by the fact that it is not informed by current feedback from stakeholders. The spirit of the law will be upheld though by a genuine process of consultation, conducted at a sensible time. Relying on the already established policy until the consultation is complete will have a marginal impact overall.
- 2.6 A revised policy will only have a life of a few months so there are options between making minor changes now and reserving anything major for the substantive review later in the year or carrying out a root-and-branch review now and then again later in the year.
- 2.7 The issues will be the urgency of any proposed changes and whether they are likely to survive the second round, in the light of the legislative reform.
- 2.8 Government guidelines recommend a period of three months for consultations but it might be considered that this is not appropriate, given that the exercise is soon to be repeated. Debate should not be artificially curtailed however and it is recommended that the length of the consultation period be reviewed in line with the scale and complexity of the comments received.

### Alternative Options

- Committee must ratify a policy before 7 January but there are options around the extent of consultation and revision at this stage of the process.

### **Risk Management**

#### *Financial and Procurement Implications*

Any consultation involves costs. The extent will depend entirely on the volume and nature of the comments received. There are no plans to deploy any additional staff resources but there will be a need for additional correspondence and extra meetings of the licensing committee. Those costs can be absorbed within existing budgets, provided that the consultation actively invites comment only from those stakeholders specified by the Licensing Act 2003. That would not preclude input from those stakeholders not actively invited to comment but the similar debate later this year will be more suited to wider public involvement. As the debate progresses, policy changes may be proposed which would have financial consequences. Should that happen, those consequences will be set out at the time.

*Legal / Human Rights Implications* It is open to anyone with a relevant interest to contribute to the consultation proposals. .

#### *Links to Corporate Plans and Policies (in particular to Swindon 2010 Promises)*

The exercise of licensing and associated powers relates particularly to reduction of crime and the fear of crime.

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## **Revision of the Licensing Statement for Swindon**

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### **Consultees**

- The Director of Finance (Section 151 Officer) and Director of Law and Democratic Services (Monitoring Officer) are consulted on all reports.

### **Background Papers and Appendices**

- Licensing Statement 2008-2011

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# Licensing Statement of the Licensing Authority for the Swindon Borough Council area, Licensing Act 2003

## About this Statement

This is the formal policy statement of the Licensing Authority for the Swindon Borough Council area, showing how it will pursue the 'licensing objectives' defined by the Act. This version covers the period from 7 January 2008 to 6 January 2011.

The formal powers of the Licensing Authority are limited to securing the licensing objectives, which are ~

- (a) the prevention of crime and disorder;
- (b) public safety;
- (c) the prevention of public nuisance; and
- (d) the protection of children from harm

Licensing cannot address issues such as the collection of tax revenues, employment rights and working times, discrimination against people with disabilities etc. These are important issues but other legislation exists to deal with them. Race relations matters for example are addressed by the Race Relations Act 1976 and Swindon Borough Council has published a Race Equality Scheme. The Licensing Act is only one of many mechanisms for regulating the leisure, hospitality and retail economy and maintaining public order. Planning controls, partnerships, routine police enforcement and controls over street drinking are just some examples. This policy does not reflect every shade of opinion but all views expressed during consultation have been taken into account. It is a policy for Swindon, so although there is a lot of common ground it is not the same as the policy adopted by any other council.

## Statutory guidance

This policy was drawn up within limitations dictated by the 'Guidance issued under section 182 of the Licensing Act' issued by the Secretary of State for Culture, Media and Sport. Some of the content of the Licensing Statement is dictated by the Guidance.

## Our general approach

1. Swindon Borough Council is committed to building and maintaining a diverse, thriving, vibrant and sustainable leisure and hospitality economy. We value the contribution which this sector of the economy makes to the economic well being of Swindon and to the quality of life of those who live here and those who visit us.



2. This Licensing Statement reflects the need to regulate licensable activities in order to limit any adverse impact of those activities.
3. Licensing does not offer a universal remedy for anti-social behaviour or nuisance. The Licensing Authority will not hold a licence holder to account, where there is really nothing they could have done to prevent a particular problem. Where they bear direct or indirect responsibility the Licensing Authority will use its extensive powers to put things right.
4. This Licensing Statement applies to all of the workings of the Licensing Act 2003.
5. Market need is not a Licensing matter.
6. Where the proper management of premises is diluted or abandoned as a consequence of financial difficulties, the Licensing Authority will focus on the harm being done to the community and will not suspend its expectation that standards should be maintained, in the hope that the financial situation will improve if the problems are temporarily ignored.
6. Applicants for premises licences are advised to think carefully about any aspect of their proposal which might raise concerns and then explain in their application how they plan to prevent any problems. This will increase the chance that the licence will be issued without the need for a hearing.
7. Various official bodies (the police, fire officers, noise control officers etc.) can comment on new applications and ask for review of an existing licence. Local businesses and residents can do the same. Informal dialogue with these people at an early stage will often clear up any misunderstandings.
8. Where there are no representations on an application, the Licensing Authority cannot add anything to the process, for example by imposing conditions on the licence. Only where representations are made can the Licensing Committee impose safeguards.
9. The Licensing Committee will consider any relevant representations on their merits. As an example a venue where families are sat at tables eating will not pose the same issues as a bar of the same size, with standing crowds consuming large volumes of alcohol. Where there is a cluster of bars, the situation will be different again.
10. When a Licensing Panel imposes a condition, following a hearing, a brief opportunity will be given for the premises licence holder and any technical advisers to seek clarification.

11. Additional conditions applied to a licence at a hearing will be set out in unambiguous terms and with a view to practicality.

12. Licensing panels will not include Members from the ward in which the premises under discussion are situated or from any ward within the immediate area of the premises in question.

13 The Licensing Authority will not incite opposition or support for an application but Members of the Council will not be precluded from being kept informed of Licensing matters which affect those they represent.

### Concentrations of licensed premises

1. Licensing authorities are able to introduce a 'cumulative impact policy' where a cluster of late night bars are causing anti-social behaviour and high levels of crime, including violent crime. The effect of such a policy is to prevent new 'high risk' premises such as bars opening and to contain hours of opening, by imposing a presumption against longer opening hours.

2. Even in the town centre, Swindon has figures at or below the national average for alcohol related disorder. There are problems but they are not exceptional. That said, it is always of the highest importance that we reduce levels of crime, disorder and anti-social behaviour, whatever their level. The only area in which we have a problem substantially worse than elsewhere is where the harm to young men brought about by alcohol requires them to attend a hospital. This is not specifically a 'night economy' problem, as much of the alcohol which does that damage comes from off licences and supermarkets rather than bars.

3. In Swindon, crime data shows unambiguously that the Fleet Street and Bridge Street area is a hot spot for trouble, especially after midnight. This is not surprising, since the total capacity of the bars in that small area is around 8,500, sufficient to accommodate a very large proportion of Swindon's 18-30 generation.

4. Tight Planning controls now exist in this area and these have been shown to be very effective in curtailing further A5 (pub and bar) development and even in preventing the reinstatement of bars. It is not clear what a cumulative impact policy would add.

5. Licensed premises in the area generally shut well before the time officially allowed, so it seems there is no pent up desire to extend hours, so there is no strong case for a special policy to thwart that. The Fleet Street and Bridge Street area requires a lot of attention and support but the Licensing Authority has not taken the view that a cumulative impact policy would be useful. Review procedures already offer powerful controls.

6. Cumulative impact policies apply only to premises selling alcohol. The

Licensing Authority notes however that late night mobile fast food traders in town centres frequently act as a magnet for disorder, simply by their presence. They can encourage crowds to form and they impede dispersal in the early hours of the morning, when disorder peaks. When representations trigger a hearing, the Licensing Authority will be unsympathetic to any future applications from mobile traders who wish to use the town centre late at night. Similarly, it will not welcome applications for town centre take-aways in poorly lit areas or where there is a proposal to use a serving hatch, to pass food to customers queuing in the street.

7. The Licensing Authority notes that the street environment, including such matters as lighting, graffiti removal, the placing of street furniture etc. can have a dramatic effect on the achievement or otherwise of the licensing objectives and it is committed to the principle of 'joined up working' to enable Licensing to stand alongside other enforcement and improvement mechanisms.

8. The police are entitled at any time to make written representations to the Group Director of Environment and Resources, making links between transport infrastructure and crime and disorder. Matters which cannot be easily resolved will be referred in the first instance to the appropriate Lead Member. The police are guaranteed the right to insist that any transport concerns they have are put before an appropriate committee of the Council.

### A vibrant leisure sector

1. One of the most desirable characteristics of urban centres and one of the key drivers in reducing disorder and antisocial behaviour is the extent of diversity in the leisure and hospitality sector. The ideal is that a range of facilities should provide for people of all ages and all backgrounds.

2. The Licensing Authority welcomes any general shift away from the provision of leisure premises as "places for consuming alcohol", towards businesses which "also" sell alcohol.

3. The Licensing Authority will avoid unnecessary burdens on business by taking a light regulatory touch when premises operate without problems. In particular, we will generally impose very few conditions, when licences are granted. By contrast, where serious problems do arise, we will use our powers robustly. We are committed to protecting the wider community but we also believe that it benefits all well run businesses if those which do not maintain proper standards are confronted with the consequences.

4. The 'promotion of live music' falls outside the scope of the Licensing Act 2003 but Swindon Borough Council has a strong commitment to the arts. The Licensing Committee will consider any documented representation that Licensing is adversely affecting live music and dancing in Swindon. If it can be shown that

such entertainment has declined, mainly due to Licensing interventions, the Committee will consider what remedies are available.

5. The Licensing Authority welcomes reports from those council officers who manage Swindon's tourism, cultural and economic strategies.

6. Member training will aim to make clear the distinctions between Planning and Licensing processes and the impact of one on the other, in order to ensure a proper awareness of how Planning or Licensing determinations are made and to avoid confusion and duplication.

7. The Licensing Authority acknowledges that the potential for disorder increases if there is a sudden influx of people onto the street or if queues form for food and transport. Particularly in the town centre, anything which promotes peaks of movement (for example, a universal 'last admissions time' or standard opening hours will be resisted. Conversely, the Licensing Authority will promote as far as possible any measures which assist in effective dispersal.

8. The Licensing Authority will only limit the hours during which licensable activities can take place where there is a good reason for doing so. In view of the practical difficulties when a shop or supermarket is open for business but alcohol on display cannot be sold because the licensed hours are restricted, we will where practicable ensure that the opening hours and licensed hours are the same. Securing the licensing objectives will however always come first.

### Responsible trading

1. The Licensing Authority has no direct control over the price at which alcohol is sold and generally cannot ban even reckless promotions. Nevertheless, evidence of irresponsible trading will weigh heavily with the Licensing Committee at a review hearing.

2. The Licensing Authority does not oppose offers of benefit to the consumer provided that they do not undermine the licensing objectives.

### Outdoor events

1. The Licensing Authority considers that well managed outdoor festivals and events enrich the life of the community and should be facilitated rather than discouraged.

2. Generally speaking, large outdoor events occur seldom but usually at the same limited selection of venues. Such events always bring some inconvenience in the form of noise and disruption but that is generally outweighed by their positive contribution to the life of the community.

3. It is accepted that it will not always be appropriate to impose the sort of limitations (particularly in relation to noise) which would be right for fixed premises with very regular entertainment. This does not mean that the Licensing Authority will tolerate gratuitous nuisance, inconsiderate behaviour or breaches of public safety.

4. Outdoor events rely on building the infrastructure and assembling the right people, over a very short period. It is impossible to inspect the result until the last minute. For this reason, evidence of the competence of the organiser will be paramount when deciding whether to issue a licence. Documents to show that the event has been competently planned are essential. Whilst it is accepted that a very competent organiser with a call on the best specialist contract support can put together a well run event in a very short space of time, it is generally the case that if planning (including discussions with the responsible authorities) has been left until late, the competency of the organiser will be in doubt. Meeting the licensing objectives is our paramount concern and in view of the uncertainties inherent in temporary activities, the Licensing Authority will refuse a licence or scale an event down substantially, if preparations appears inadequate.

5. The emergency services will need time to prepare for an event, to play their proper part.

6. Community groups often present small scale events. Many of these are covered by temporary event notices and not constrained by licensing conditions. Within the limits of ensuring public safety and preventing unreasonable disturbance, the Licensing Authority will take a sympathetic approach to low risk events which attract perhaps one or two thousand people.

7. By the time attendance reaches around 10,000 the logistics are those of a 'large' event and the regulatory approach must reflect that. Documentation of a professional standard and adequate preparation with the responsible authorities will be expected. The Licensing Authority expects timely notice of unusual risks (such as firework displays) or changed features (celebrity guest appearances, stage configuration etc.) and may make a decision to limit the licence in such a way as to rule out all or any of the proposed changes if it is felt that the lateness of the decision to introduce these new features to the entertainment is likely to be prejudicial to the attainment of the licensing objectives.

### Joined up government

1. This Licensing Statement does not stand in isolation. In the course of its preparation, views have been sought from the Community Safety Team, lead officers in Planning, representatives from the Transport Working Party, the Tourism Development Officer and the Social Inclusion Working Party. It is informed by and has informed a range of other policies.



2. Good day-to-day communication is key to the effective integration between service areas. It enables a timely and flexible response to shared challenges. The Licensing Authority does not believe that better communication means more working parties.
3. Regular meetings between the Licensing Officers for the local authorities within the Wiltshire area will continue when the Wiltshire Unitary Authority comes into being . These meetings provide a mechanism for sharing best practice.
4. Contact with partner agencies is ongoing around particular issues but also promotes best practice, influences regeneration policies and shares knowledge. A Joint Enforcement Protocol guides the statutory bodies, particularly the police and council licensing officers. All joint work between police and local authorities takes place against the requirement in Section 17, Crime and Disorder Act 1998, that we co-operate to reduce crime and disorder.
7. Licensing Officers and Planning Officers regularly discuss matters of common interest and share information about applications.
8. Following representations, when the Licensing Committee is formulating conditions to be attached to a premises licence, it will have regard to the effect of those conditions on other enforcement regimes.
9. In order to avoid duplication and to safeguard the rights of applicants, the Licensing Authority will endeavour to ensure, so far as possible, that Planning and Licensing determinations are distinct from each other.

## Licensing and Planning

1. The Planning Authority is consulted about Licensing applications and can make representations on them. The Licensing Authority has no statutory right to comment on Planning applications but it can do so. For initial soundings, it is best to approach Planning and Licensing simultaneously about new proposals. No Planning decision can limit a Licensing decision or vice versa. The considerations are different. Duplication or mixed messages will be avoided where possible but on noise, for example, Planning and Licensing do overlap.
2. In any case where proposed Licensing conditions would fall foul of Planning laws (for example, sound-proofing a Listed building), alternatives will be sought.
3. The Planning process is concerned with establishing whether a building can be used for a broadly specified purpose, at a particular location. Its visual impact and the demands on local infrastructure are key considerations. Unlike Licensing permissions, Planning authorisations are generally irreversible.

4. There is overlap between the Planning and Licensing processes and residents can make similar representations about noise and disturbance under both.

6. Where a proper opportunity has been given to make a case against a proposal which is covered by both Planning and Licensing, the impact of the argument may be less, if presented to a second committee.

## The prevention of crime and disorder

### Public disorder

1. The central concern of licensing in relation to the crime and disorder objective is violent and anti-social behaviour caused by consumption of alcohol.

2. Those most at risk from alcohol fuelled violence are young men, so they are the main beneficiaries of any reduction in violence.

3. Licensing is not concerned with generic crime prevention in buildings or with the detection of crime unrelated to licensable activities.

4. The behaviour of customers beyond the immediate area of licensed premises can cause problems but the Act restricts potential objectors to commenting on impacts in the 'vicinity' of the licensed premises.

5. Anyone selling alcohol has a responsibility to control who purchases alcohol and how much they drink on site. On review, a licence may be revoked if that responsibility has not been properly discharged.

6. Groups of revellers celebrating special occasions are sometimes particularly motivated to drink to excess. Not all premises have the resources to deal with this and admission policies should reflect the capacity to manage their presence.

7. The Licensing Authority welcomes the creation of pavement cafes in the town centre and their operation well into the evening. They make a positive contribution to the Streetscene, increasing 'eyes and ears' on the street, reducing pedestrian movements and representing a shift away from 'vertical drinking'.

8. The Licensing Authority notes that the primary arguments for the use of polycarbonate drinking vessels are the economic case and the reduction in minor injuries to staff – neither of which are Licensing considerations. Where there is a cluster of town centre pavement enclosures which are primarily given over to the consumption of alcohol rather than outdoor dining, the balance of risk may lead to the Licensing Authority responding positively to an representation from the police, that glassware should not be permitted in a particular pavement area, after some time determined by the Licensing Panel which hears the



representation, where it appears that the only other option would be closure or refusal of a licence.

### Closed circuit television

1. In high risk circumstances, notably where there is a substantial consumption of alcohol and in an area where levels of disorder are relatively high, it may be appropriate to respond to representations asking for CCTV cameras and video recording. By contrast, for a rural public house with a mature clientele, the provision of CCTV is a matter for the proprietor, unless significant crime and disorder problems can be demonstrated. In all cases, risk assessment should dictate the extent and sophistication of any CCTV considered appropriate.

2. Even in the town centre there is no insistence on 'state of the art' facilities. Installations should simply reflect the technology available at the time for a moderate outlay i.e. the system should be colour not monochrome; resolution should be sufficient to enable a face to be recognised without undue difficulty from a still image; coverage should be good; camera views should not be fatally compromised by bright lights; recordings should be kept within Data Protection Act guidelines but sufficient to respond to any police request for data, made within a reasonable time.

3. Provided that the video data is accessible to authorised officers on request, no requirement will be imposed that recording equipment shall be compatible with that of enforcement bodies. Nevertheless, if there are no cost implications and no unreasonable diminution in the potential choice of equipment suppliers, the Licensing Authority will sympathetically consider representations that a new CCTV system should be compatible with a district CCTV system.

### Door supervision

1. Where premises are situated within areas of stress, making it likely that they will be challenged on a regular basis by individuals who are under age, inebriated, believed to be potentially violent or intent on trading in drugs the Licensing Authority will favour a formal condition, requiring sufficient provision of door supervisors. Outside of those stress areas, the Licensing Authority may impose such a condition where a review indicates that additional management controls are needed.

2. A quiet country pub has no need of door supervisors and a town centre bar is unlikely to need them in the early part of the week or when serving lunches. A heightened risk of disorder (e.g. from a 'local derby' football match) may result in a temporary need for door staff. This will not normally be covered by a licence condition but failure to make suitable arrangements may have consequences if there is a licence review.

3. Events primarily aimed at unaccompanied children need greater supervision. The same is true of pole dancing establishments, since additional supervision is required in the performance area. Formal requirements for door supervision will generally be framed in terms of risk assessment rather than numbers and times but where remedial measures are imposed at review, an explicit specification may be imposed.

4. Door supervisors are expected to prevent customers from departing premises with bottles or drinking vessels. In areas covered by Designated Public Place orders, it may be appropriate to advise customers that consuming alcohol outdoors other than in a beer garden or pavement café may leave them open to challenge by the police.

5. Door supervisors must be dressed in a way which distinguishes them from customers and the circumstances (e.g. a concentration of bars in a small area) may make it appropriate for them to wear high visibility clothing. The Licensing Committee will favourably consider representations for formal conditions to this effect.

## Illegal drugs

6. The Safer Clubbing Guide mainly addresses the use of Ecstasy tablets by those attending night clubs. The content is now very dated but it contains some useful insights. Of course, the distribution and consumption of unlawful drugs is by no means limited to licensed premises.

7. Licensed premises are also sometimes used for illicit trade in stolen or contraband goods. Proper standards of management greatly reduce both risks. The Licensing Authority will respond positively to representations from the police, where measures are needed to control such activities.

## Occupancy

1. Occupancy limits designed for fire safety cannot be placed on a licence but they can be used to address the crime and disorder consequences of crowding. Even where customers can get to a place of safety within a reasonable period, there may be significant effects from overcrowding. In circumstances such as a celebrity appearance, a special promotion or an emergency, gross overcrowding can generate resigned, collaborative behaviour which maintains order but in a crowded bar on Saturday night, the results may be frustration at not being served, arguments over invasion of personal space and an obstacle to door supervisors speedily defusing conflict. All of these problems are able (and likely) to occur long before the 'official' fire safety limit is reached. The Licensing Authority may therefore impose occupancy limits where representations describe these problems, irrespective of any ruling by the Fire Brigade on what is a safe

limit for their purposes.

## Public safety

1. The Licensing Act 2003 complements but does not duplicate legislation such as the Health and Safety at Work etc. Act 1974. Detailed safety requirements will always fall to those other legal frameworks. The Licensing Act is nevertheless concerned with 'broad brush' public safety, in deciding whether premises satisfy the licensing objectives.

2. Licences are specific permissions for an activity, rather than universal sets of rules. Licensing can assist by agreeing in advance e.g. a particular arrangement of linked seats or a particular number of stewards.

3. A feature of leisure businesses is that the co-operation between them is often as important as the way they are managed individually. Consistent policies on the admission of known troublemakers, competition for taxi services and networked radio systems illustrate this. What the Licensing Act does well is to address these networking and sharing issues and it can be used to bring irresponsible premises into line.

4. Participation in Pubwatch etc. is voluntary but failure to participate in schemes designed to maintain public order would weigh heavily, on licence review, as would evidence of a failure to engage with police officers or the Licensing Authority.

5. Detailed fire safety shortcomings cannot be remedied by Licensing but gross fire safety failings would determine whether premises are suitable for licensable activities. Similarly, the experience of Fire Officers when dealing with a particular business may inform the Licensing Authority when it has to make a determination at a hearing. Evidence of an unco-operative approach or of incompetent management would have a bearing on the usefulness or otherwise of, for example, imposing additional conditions.

## Prevention of public nuisance

1. The most obvious aspect of public nuisance is noise, the primary source of which is amplified music, either uncontained outdoors or emanating from poorly insulated premises.

2. As customers leave licensed premises, the sound of their conversation and car doors can disturb residents. Potentially greater problems arise when customers congregate outside the licensed premises. The licence holder has a direct responsibility for that and Licensing can be used to deal with those problems.

3. Disturbance caused some distance away is difficult to relate back and

generally falls outside the scope of the Licensing Act.

4. Ancillary noise from equipment directly associated with entertainment (e.g. portable generators) will be addressed when necessary through licence conditions. Licensing controls on such matters as siting, specification and times of use may be augmented by powers exercised under noise legislation.

5. Equipment there as part of the day-to-day functioning of the premises (e.g. air conditioning units) cannot be controlled by Licensing conditions.

6. The Licensing Committee will not take account of the special circumstances of individual residents when deciding what is acceptable. Shift workers or neighbours with a very exaggerated sensitivity to noise are not a reasonable benchmark. Dwellings will be treated as though they are occupied by an 'average' person, with average expectations. Where the dwelling serves a particular purpose in housing vulnerable people (e.g. a nursing home or a hostel for the homeless) the special nature of that building will be taken into account when evaluating applications. The nearness of dwellings and their construction type will be taken into account, along with the number of people potentially affected.

7. The extent of community participation in the licensed activity is also a factor in what will be seen as reasonable.

8. The frequency of relatively noisy licensable activities at a given site is a material factor. It may be that musical events should take place on a particular field no more than two or three times a year or that residents should be guaranteed relative peace from Sunday to Thursday, to make up for the impact of events or entertainment held at a public house at weekends.

11. The time of day is crucial to determining the impact of noise. Background noise falls away significantly, from the evening into the early hours. Amplified music which may not be noticed in the middle of the day may be very intrusive if it continues into the night.

12. Good neighbour practices such as keeping doors and windows closed while music is playing often make a greater contribution to avoiding nuisance than specialist technical measures. Nevertheless, more substantial sound attenuation and more robust management measures are appropriate where music is played regularly at high volume.

14. Movement in and out of a building can allow music to escape and that may lead to restrictions being imposed.

The protection of children from harm

1. The Act has inbuilt provision for the protection of children from harm. It does this by prohibiting the sale of alcohol to children and by controlling their unaccompanied access to licensed premises.
2. In most cases, these basic restrictions are adequate. Premises where children are accompanied and supervised by their parents or carers will not generally merit any special additional measures.
3. Where entertainment of an adult nature is being provided or the atmosphere within the premises is likely to be particularly boisterous, the presumption is that access by children should be restricted.
4. Where the Licensing Committee has a reasonably founded concern, based on representations made to it, that children may be exposed to an atmosphere in which drug taking is approved or that they may witness transactions of a drug related nature, it may exercise its discretion to limit access by children to those premises, without prejudice to any other formal action which might be appropriate in the circumstances.
5. Where representations are made about access by children, consideration will be given to restrictions specifying different cut off times for different ages. Restrictions may be related to particular circumstances, such as the showing of a football match on television, with an elevated consumption of alcohol.
8. Where children are old enough to be present on licensed premises without being accompanied by an adult, special restrictions will not be imposed, unless there are compelling reasons.
9. Staff at events such as youth discos, specifically targeted at unaccompanied children, may be required to submit to Criminal Records Bureau checks, as a licence condition, if representations to that effect are received.
10. The system of age classifications for films imposes controls on those who show them. The Licensing Authority will by default follow the recommendations of the British Board of Film Classification but retains the right to allocate its own classification or to modify advisory information to consumers or the manner in which it is given.
11. In matters concerning the protection of children from harm, the Licensing Authority nominates the Director of Children's Services for Swindon Borough Council as the 'responsible authority' within the terms of Section 13 (4).f of the Licensing Act.
12. When making an independent determination of the certificate to be applied to a film for local release, the Licensing Authority will broadly follow the BBFC

guidelines but will take into account the nature of the intended audience and any special circumstances which apply at the time.

## Delegation

The Licensing Authority will follow the scheme of delegations outlined in paragraph 13.79 of the Guidance issued under Section 182 of the Licensing Act 2003.

## Modification of this Licensing Statement

In accordance with the Licensing Act, this Licensing Statement will be reviewed to take account of legal changes as appropriate but a full review will be carried out every three years. Binding legal precedent may appear, invalidating parts of this policy. In such a case, the Statement shall stand but with the delegated deletion of the minimum amount of text necessary to restore compliance. This task only will be delegated to the Director of Law and Corporate Governance. No replacement or substitute wording will be inserted until a formal consultation accordance with the requirements of the Act, has been completed.