



Cherwell

DISTRICT COUNCIL
NORTH OXFORDSHIRE

Draft Statement of Licensing

Policy

Licensing Act 2003

February 2021

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1. Executive Summary

- 1.1 The Licensing Act 2003 introduced a revised licensing system for alcohol, entertainment and late-night refreshment.
- 1.2 Section 5 of the Licensing Act 2003 has imposed a statutory duty on the Licensing Authority to produce a statement of licensing policy for a five years period, beginning with such day as the Secretary of State may by order appoint.
- 1.3 This document sets out the Licensing Authority's policy, which will guide the Council when considering applications under the Act. The policy provides guidance on the general approach the Council, as the Licensing Authority within the meaning of the Act, will take in terms of licensing. However, each licence application will be considered separately on its individual merits.
- 1.4 The Licensing Authority in adopting this policy recognises both the needs of residents for a safe and healthy environment to live and work and the importance of safe and well run entertainment premises to the local economy and vibrancy of the area. However, the Council also recognises that balancing these interests will not always be straightforward and it will be guided by the four licensing objectives as set out in this policy.
- 1.5 This policy does not seek to undermine the right of any individual to apply under the Act for a variety of permissions and as stated above each application will be considered on its individual merits. Nor does the Policy seek to override the right of a person to make representations on an application or seek a review of a licence or certificate. However, this Council in adopting the policy is indicating that a wide range of considerations will be taken into account.
- 1.6 The Licensing Authority will use its powers to promote best practice in relation to the operation of licensed premises and is committed to partnership working with responsible authorities, local businesses, licensed trade, residents and others to ensure that they have a clear understanding of the legislation.
- 1.7 The Licensing Authority has had regard to the guidance issued by the Secretary of State under Section 182 of the Act when developing this statement of Licensing Policy. It is not possible to anticipate every scenario that may arise and there may be occasions when the guidance and policy may be departed from, and in such circumstances the Licensing Authority will give full reasons for doing so.
- 1.8 The scope of this policy covers new applications, renewal of personal licences, transfers and variations of licences and certificates including temporary event licences. This includes the review of licences and certificates which could lead to a range of sanctions including the revocation of a licence or a certificate.

2. Purpose and Scope of the Licensing Policy

- 2.1 The Licensing Act 2003 makes it a duty for the local authority to carry out its functions under the Act with a view to promoting the four licensing objectives:
- The prevention of crime and disorder
 - Public safety
 - The prevention of public nuisance, and
 - The protection of children from harm
- 2.2 The purpose of this policy is to detail how the Licensing Authority will comply with that duty.
- 2.3 The Act regulates the following activities:
- retail sales of alcohol;
 - the supply of alcohol by or on behalf of a club
 - the provision of regulated entertainment
 - the provision of late night refreshment.
- 2.4 In determining its statement of licensing policy, the Licensing Authority will have regard to the guidance issued by central government and other regulatory bodies to ensure that its actions are consistent with those nationally. To further ensure consistency the licensing authorities of Oxfordshire will meet as necessary to ensure that a consistent approach is being achieved.
- 2.5 Licensing decisions will be made in accordance with the current legislation, case law, relevant guidance and in accordance with this policy.
- 2.6 No decision will be made which undermines the right of any individual to apply under the terms of the Act for a variety of permissions and to have any such application considered on its individual merits.
- 2.7 Authorised persons, interested parties and responsible authorities, as defined in the Act, will have the right to make representations to the Licensing Authority on any application or seek a review of a licence or certificate where provision has been made for them to do so in the Act. The Licensing Authority recognises that in the absence of relevant representations it will grant licenses on the terms sought.
- 2.8 Licensing is about regulating the provision of licensable activities on licensed premises, by qualifying clubs and at temporary events within the terms of the Licensing Act 2003. The terms and conditions attached to various permissions will be focused on matters which are within the control of individual licensees and others granted relevant permissions. Accordingly, these matters will centre on the premises and places being used for licensable activities and the vicinity of those premises and places. The Licensing Authority will primarily focus on the direct impact of the activities taking place at the licensed premises and on members

of the public living, working or engaged in normal activity in the area concerned. However, the Licensing Authority recognises that licensing legislation is not a mechanism for the general control of anti-social behaviour by individuals once they are beyond the direct control of the individual, club or business holding the licence, certificate or permission concerned.

- 2.9 The Licensing Act 2003 is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from licensed premises and, therefore, beyond the control of the licence holder. Nonetheless, it is a key aspect of such control and licensing laws will always be part of the holistic approach to the management of the evening and night-time economy.
- 2.10 The objective of the licensing process is to allow for the carrying on of retail sales of alcohol and the prevention of public nuisance, prevention of crime and disorder, public safety and protection of children from harm. The Licensing Authority wishes to facilitate well run and managed premises with licence holders displaying sensitivity to the impact of the premises on local residents.
- 2.11 The Licensing Authority recognises that the provision of entertainment is a major contributor to the economy of the area attracting tourists and visitors and is a source of employment.
- 2.12 The Licensing Authority will also have regard to wider considerations affecting the residential population and the amenity of any area. These include littering, fouling, noise and street crime.
- 2.13 In determining a licence application, the overriding principle adopted by the Licensing Authority will be that each application will be determined on its merits. Only mandatory conditions and conditions offered or agreed with by the applicant will be imposed except where relevant representations against an application are received. Where relevant representations are received then further additional conditions to meet the licensing objectives may be added provided they are appropriate, proportionate, and reasonable and deal with the issues raised. Licence conditions will not be imposed where other regulatory regimes provide sufficient protection to the public e.g. health and safety at work and fire safety legislation.
- 2.14 In considering licensing hours The Licensing Authority will place significant emphasis on the individual merits of an application. In addition, the views of the Police and other Responsible Authorities will be important in this consideration.
- 2.15 Licensing hours will not inhibit the development of a thriving and safe evening and night-time local economy which is important for investment and employment locally and beneficial to tourism without compromising the ability to resource local services associated with the night-time economy. Providing consumers with greater choice and flexibility is an

important consideration.

- 2.16 Shops and public houses will generally be permitted to sell alcohol during the hours they intend to open. Entertainment providers will be encouraged to provide a range of entertainment during their operating hours and to promote live music, dancing and theatre for the wider cultural benefit of the community. Individual applicants should address the licensing objectives in their operating schedule within the context of the nature of the location, type of premises, entertainment to be provided, operational procedures and the needs of the local community.
- 2.17 The purpose of this policy document is to assist the Licensing Authority in reaching a decision on an application, setting out those matters which will normally be taken into account. In addition, this policy document seeks to provide clarity for applicants, residents and other occupiers of property and investors, enabling them to make plans to move, to remain or invest in the area with some measure of certainty.
- 2.18 Before determining its policy for any five-year period, the Licensing Authority will undertake full consultation as prescribed by the 2003 Act.
- 2.19 The views of all of those consulted will be given appropriate weight when the policy is determined together with those of any other persons or bodies which the Licensing Authority considers appropriate to consult with. When undertaking consultation exercises, the Licensing Authority will also have regard to cost and time.

3. Duplication

- 3.1 The enforcement of licensing legislation will at all times be distinct from other regulatory regimes such as fire safety and health and safety so far as is practicable.
- 3.2 Conditions will only be attached to premises licences and club premises certificates that are necessary for the promotion of the licensing objectives detailed in the introduction to this policy, be they mandatory conditions, conditions made against the operating schedule and/or following relevant representations. Under normal circumstances where matters are already provided for in other legislation, they cannot be considered necessary in the context of licensing law.
- 3.3 To ensure clarity of enforcement roles appropriate liaison with other enforcing authorities will take place and, where considered appropriate, joint inspections by enforcement agencies will be arranged.

4. Strategies

- 4.1 Where relevant representations are received, the Licensing Authority will attach conditions to premises licences and club premises certificates where appropriate to reflect local crime prevention strategies, for example, the provision of closed-circuit television

cameras in certain premises. The need for such conditions will be considered specifically as part of the application consultation process with Thames Valley Police and more generally through Crime and Disorder Partnerships.

- 4.2 The Licensing Committee will be advised of any relevant information received either reactively or proactively indicating that this policy is having a detrimental impact on live music and dancing and other regulated activities, to ensure that broader cultural activities and entertainment are not being affected. Where indications are that there is a negative effect on such events then this policy will be reviewed in order to identify how the issues may be remedied. Advice will be sought from other relevant bodies as appropriate where such issues are identified. Every care will be taken to ensure that only necessary, proportionate and reasonable licensing conditions are applied.

5. Live Music Act

- 5.1 The Live Music Act came into force on 1st October 2012 and is designed to encourage more performances of 'live' music.
- 5.2 Where licensable activities continue to take place on premises any licence conditions relating to 'live' music will be suspended between 08:00 hours and 23:00 hours, but it will be possible to impose new, or reinstate existing conditions following a review. When considering whether an activity constitutes 'the provision of regulated entertainment' each case will be treated on its own merits.

6. Operating Schedules

- 6.1 Under the Licensing Act 2003 applicants are required to complete an 'operating schedule' as part of their application. This is a key document and, if prepared comprehensively, will significantly reduce the likelihood of the application attracting representations.
- 6.2 Applicants need to be aware of the expectations of the Licensing Authority and the responsible authorities as to the steps that are appropriate for the promotion of the four licensing objectives and to demonstrate knowledge of their local area when describing the steps they propose to take to promote them.
- 6.3 Each objective is of equal importance, and the four objectives will be paramount considerations for the Licensing Authority at all times.
- 6.4 It is for the applicant to decide what, if any, measures to suggest in its operating schedule in order to address any potential concerns that might arise in the promotion of the licensing objectives. Applicants are reminded that measures proposed in the operating schedules will be converted into conditions on their licence.
- 6.5 The Licensing Authority recommends early consultation with

responsible authorities. In addition, many responsible authorities would be prepared to discuss matters on site with an applicant with a view to reaching agreement on measures to be proposed. Contact details for the responsible authorities can be found in Appendix 2.

- 6.6 The following sections are intended to assist applicants by setting out criteria and considerations relating to each of the four licensing objectives that they should bear in mind when drawing up an operating schedule. They alert applicants to any matters that responsible authorities are likely to consider when deciding whether to make representations on an application or whether to call for a review of the premises licence.

7. Prevention of Crime and Disorder

- 7.1 The Licensing Authority has a duty to act solely or with its partners to reduce crime and disorder throughout the district, consistent with its statutory duty under section 17 of the Crime and Disorder Act 1998. The council as a member of the Community Safety Partnership will work with partners to utilise legislation as required to prevent crime and disorder issues and promote public safety. In addition, the council will work in partnership with the Home Office in relation to illegal working on licensed premises.
- 7.2 The essential purpose of the licence or certificate is to regulate behaviour on premises and access to them where this relates to licensable activities and the licensing objectives. Conditions attached to licences cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and his staff or agents. They can however directly impact on the behaviour of those under the licensee's direction when on their premises or in the immediate vicinity of the premises as they seek entry or leave.
- 7.3 Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to reduce or prevent crime and disorder on and in the vicinity of their premises having regard to the location, character and condition of the premises, the nature and extent of the proposed use and the persons likely to be attracted to the premises or event.
- 7.4 There are a number of offences both within the Licensing Act 2003 and other legislation that relate to crime and disorder that a licensee should be familiar with. These offences stand and will not be duplicated as conditions on any licence or certificate.

Local Alcohol Profile

- 7.5 Before completing an operating schedule, applicants should have regard to the latest data set on alcohol related hospital admissions and alcohol related crimes for the district, which can be found on the

council's website at the following link: (insert link). The data aims to increase awareness of local risks and inform applicants of the specific risks that need to be considered prior to submitting an application.

Pubwatch

- 7.6 The Licensing Authority recognises the value of Pubwatch schemes and will play a supportive role and attend meetings whenever possible. Where such a scheme is active in the locality of a premises, the applicant is strongly encouraged to become an active member. As well as traditional pubs and entertainment venues, this includes premises that are licensed solely for the sale of alcohol for consumption off the premises.
- 7.7 Pubwatch provides a forum for sharing information, disseminating best practice and meeting with representatives of the Licensing Authority, the police and other responsible authorities. The Licensing Authority encourages all licensees to actively participate in their local Pubwatch scheme and will support the development of schemes where there is a demand but does not consider it appropriate to make it a condition of licence to be a member.

Information sharing and reporting incidents

- 7.8 As well as sharing information through formalised Pubwatch schemes, licensees are encouraged to share and report incidents to relevant agencies as and when appropriate, rather than waiting for a next meeting. Any issues of crime and disorder should be reported as soon as possible to Thames Valley Police. If persons or property are in danger then this should be done through calling '999', alternatively the '101' number should be used. Incidents that occur on licensed premises should be recorded and made available to Thames Valley Police and other agencies.
- 7.9 The police and the council work in partnership to target those individuals who cause crime and disorder. Powers under the Anti-social Behaviour, Crime and Policing Act 2014 such as Criminal Behaviour Orders (S22), Community Protection Notices (S43), Public Spaces Protection Orders (S59) and Closure Orders (S76) and any replacement powers will be utilised to assist in the prevention of crime and disorder. Information about relevant orders against persons will be shared with premises. Licence holders are also expected to assist in preventing crime and disorder by notifying the police of any persons who breach orders relevant to their premises.

Closed Circuit Television (CCTV)

- 7.10 CCTV has a key role to play in stopping and deterring crime and anti-social behaviour in town centres and is also used as an evidence and detection tool. Applicants are expected to consider the installation of CCTV covering both inside and outside of the premises and if they do not believe it to be appropriate, to detail why this is the case in their

application.

7.11 Surveillance cameras should only be used if necessary and proportionate, in addition:

- when considering the use of CCTV systems, either as part of the conditions attached to a licence or certificate, or within an operating schedule the Licensing Authority or applicant must in particular have regard to the Code of Practice on CCTV published by the Information Commissioner's Office.
- The Licensing Authority supports the use of CCTV systems in premises. Where a licence or certificate is granted subject to the installation of a CCTV system, it is the responsibility of the licensee to comply with any data protection considerations that may arise from the use of such a system.
- the public must have confidence that surveillance is necessary and proportionate, and that those who operate the camera systems, or use the images and information they capture, demonstrate integrity in doing so and can be held to account.
- Recordings should be retained for a minimum of 31 days and staff must be trained to operate the CCTV equipment and able to provide recordings within 24 hours to any of the responsible authorities on request.

Consumption of alcohol

7.12 The Licensing Authority expects all licence holders to take steps to control excessive consumption and drunkenness in licensed premises. This will reduce the risk of anti-social behaviour and violent crime occurring both on and away from the premises after customers have departed. Premises licence holders are expected to be able to demonstrate a general duty of care to customers using their premises and others affected by their activities, and this is supported by responsible retail sales of alcohol and appropriate staff training.

7.13 Premises should complete a specific risk assessment in respect of any alcohol promotions and should follow any industry codes of practice such as the Portman Group Code of Practice of the Naming, Packaging and Promotion of Alcoholic Drinks. A copy of the Code can be found at www.portman-group.org.uk. Promotions that encourage irresponsible consumption of alcohol should be avoided, including drinking games, as these would likely breach the relevant mandatory licence conditions and pose a risk to public safety. Consideration should be given to the promotion of smaller measures.

7.14 Where any of the following alcoholic drink is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a secured closed container) it must be available to customers in the following measures:

- - Beer or cider ½ pint;

- - Gin, rum, vodka or whisky: 25 ml or 35 ml;
- - Still wine in a glass: 125 ml;

- 7.15 These small measures must be displayed on menus, price lists or other printed material, and be available to customers on the premises. Where a customer does not specify the alcohol measure, the customer should be made aware that these small measures are available.
- 7.16 No alcohol should be sold or supplied for consumption on or off the premises for a price which is less than the alcohol minimum permitted price.

Door supervisors/stewards

- 7.17 Any person engaged at licensed premises to carry out security activities including the prevention of access to, or the physical ejection of, a person from the same premises on behalf of the licensee must hold and display a valid current licence issued by the Security Industry Authority (SIA) or any successor system.
- 7.18 The Licensing Authority will consider representations that indicate that specific premises require door supervision for the purpose of meeting the crime and disorder or public safety licensing objectives. In such cases, the Licensing Authority may impose a condition that an agreed number or ratio of licensed door supervisors must be present at the premises either at all times, or at such times as certain licensable activities are taking place.
- 7.19 In certain circumstances it may be appropriate to use trained stewards to provide a satisfactory level of customer care and safety awareness. These individuals must not carry out security activities and would not be required to hold an SIA licence. If they were employed to undertake duties involving children, then the applicant must consider whether such individuals should undergo a Disclosure and Barring Service check.
- 7.20 The applicant may find it beneficial in developing the operating schedule for a premises licence or certificate to have undertaken a security risk assessment in order to determine the resources necessary to meet the licensing objectives. The application should state if they propose the use of registered door supervisors which is supported by the completion of a risk assessment. Where it is felt that registered door supervisors are not required, the reasons for this should be provided in the application and again supported by the completed risk assessment.

Illegal drugs

- 7.21 The Licensing Authority recognises that the supply and use of illegal drugs by individuals is not relevant to all licensed premises, but it is recognised that conditions may need to be attached to the premises licences if problems arise. The aim will be to reduce the availability, sale, and consumption of illegal drugs and to create a safer environment for those who may have taken them. Any conditions will take into

account the relevant guidance and advice from appropriate bodies.

- 7.22 The Licensing Authority expects all premises to fully co-operate with the police including drug swabbing and permitting the access and use of drug dogs within the public and staff areas of the premises. It may also be appropriate to have procedures in place such as regular toilet checks and staff training to recognise the signs of drug taking on premises.

Modern Slavery

- 7.23 The Licensing Authority expects licence holders and applicants for new licences to be aware of the possibility of modern slavery, which can take many forms including the trafficking of people, forced labour, servitude and slavery. Traffickers and unscrupulous recruitment agencies target a range of industries including those involved in hospitality. The vast majority of employees will be recruiting people legitimately, but some firms could find themselves targeted by unscrupulous agencies or individuals.
- 7.24 Anyone can be a victim of modern slavery. However, victims of this crime in the hospitality sector are often Eastern European men and women who are promised a job in the UK and then forced by traffickers to work for little or no money. Through threat, violence or coercion they may be forced to live in squalid accommodation and have their identity documents taken from them.
- 7.25 All licence holders should make proper background checks on the agencies who supply them labour, including where the agency is operating in a supervisory role. The Association of Labour Providers and the Recruitment and Employment Confederation are the two main recruitment industry associations, and work with the Gangmasters and Labour Abuse Authority to tackle slavery.
- 7.26 For advice on how you can avoid employing victims of trafficking visit **stronger2gether.org**.

The Institute for Human Rights and Anti-Slavery International have produced specific advice for the hospitality industry to help combat forced labour visit **staff.wanted.org**

Other matters relating to crime and disorder

- 7.27 The following should also be considered:
- Measures to prevent the bringing of offensive weapons onto the premises
 - Illegal (illicit, counterfeit or non-duty paid) tobacco or alcohol
 - Use of toughened glass or plastic (consideration should be given to the use of plastic drinking receptacles in outside areas that are situated in town centres).
 - Access and last entry
 - Issues relating to staff and their right to work in the UK

- No external advertising of alcohol outside the premises or in the windows.

8. Public safety

- 8.1 The public safety objective is concerned with the physical safety, including fire safety, of the people using the relevant premises and not with public health, which is dealt with in other legislation. Public safety includes the safety of performers appearing at any premises.
- 8.2 From 1st October 2006 the Regulatory Reform (Fire Safety) Order 2005 replaced previous fire safety legislation and responsibility for complying with the order rests with the ‘responsible person’ who has control of premises.
- 8.3 Where applicants consider that the public safety objective could be compromised by their intended activities, they are encouraged to contact the council’s Health Protection and Compliance team and/or the Fire Authority as the most relevant responsible authorities for guidance.
- 8.4 The council is a member of the Nightsafe scheme, which seeks to promote public safety in the night-time economy through partnership working with licensed premises and responsible authorities.
- 8.5 The Licensing Authority is familiar with the “Safer Clubbing Guide” and its application to nightclubs and dance events. The guide contains a number of suggestions and safeguards, which appropriate premises should consider and include within their operating schedules as necessary. There are a number of other key publications that relate to public safety at entertainment events, which the Licensing Authority would recommend to applicants (see Appendix 3).
- 8.6 Applicants may also wish to consider the following within their operating schedule with a view to the safety of persons attending the premises.

Alcohol harm reduction

- 8.7 Excessive alcohol causes major health problems, increases the burden on health care and society, impacts individuals, families, society and the economy, increases health inequalities and impacts deprivation.
- 8.8 Communities, agencies and businesses are best placed to identify and deal with alcohol related problems in their area. It is important to maximise the benefits of partnership working, focusing and co-ordinating the efforts of local agencies, industry and the voluntary sector in tackling alcohol-related problems. Budgets and expertise can be pooled, providing the right services at the right time, making town centres safer and in doing so encourage more people to enjoy a night out, thus promoting economic growth.
- 8.9 Information is a powerful tool in tackling alcohol-related problems. It is vital to strengthen data sharing within local partnerships in particular

between crime and health agencies and licensing authorities. See Local Alcohol Profile section above.

- 8.10 The Licensing Authority will continue to work alongside their partners on a countywide and local level. The licensing team will work proactively with the Community Safety Partnership and Thames Valley Police and will support local initiatives to tackle alcohol misuse such as Pubwatch, Nightsafe and Community Alcohol Partnerships.
- 8.11 Alcohol related harm costs UK an estimated £21 billion per year, of which £11 billion is related to crime, £3 billion is related to NHS and £7 billion is related to lost productivity, sickness or unemployment. Alcohol is recognised as a causal factor for more than 60 diseases and a greater risk for mortality. Excessive alcohol consumption is a major cause of preventable premature death. Higher risk of alcohol misuse is seen in populations with severe disadvantage, especially those with poor mental health, offenders and the homeless. It is also seen in higher proportion in areas of deprivation and increases health inequality. The impact of harmful drinking and alcohol dependence is much greater for those in the lowest income bracket and those experiencing the highest levels of deprivation.
- 8.12 According to the 2019 Index of Multiple Deprivation (IMD), parts of Banbury Cross and Neithrop, Banbury Grimsbury and Hightown and Banbury Ruscote are among the 20% most deprived LSOAs (Lower Super Output Areas) nationally. For further information, maps of deprivation ranked nationally and within each district are available at <http://insight.oxfordshire.gov.uk/cms/jsna-district-summaries-2020>
- 8.13 The Oxfordshire Drug and Alcohol Partnership Strategy (2020-2024) brings together partners, including the Licensing Authority and Responsible Authorities to work together to reduce the harm caused to individuals and to society by misuse of alcohol and drugs

Safeguarding

- 8.14 It is important that licence holders are aware of their responsibilities relating to safeguarding. Individuals may be vulnerable for a number of reasons such as their age, mental health or intoxication. Premises should have a safeguarding/welfare policy, appropriate to the type of venue or event, available at the request of the Licensing Authority or any other responsible authority. This should cover matters such as proof of age checks, spotting signs of abuse or vulnerability, random toilet checks, how to challenge and report where there are concerns, provision of water and phone charging facilities, first aid and welfare support. This may also link with any dispersal and ejections policy. Staff should be trained so they are clear of the expectations of them in respect of safeguarding and wellbeing.
- 8.15 In addition, it may be worth considering having a dedicated safe space for vulnerable customers, with at least two members of staff present and

ideally covered by CCTV.

- 8.16 Some areas have Street Pastor schemes, where trained volunteers patrol the night time economy and take care of vulnerable people that they encounter. Applicants should find out if there are any such schemes operating in their area and make contact with them to encourage regular engagement.

Occupancy limits

- 8.17 It is recommended that the applicant or operating company assess and set occupancy limits following a risk assessment of the planned activities being carried out at the premises, having regard to other relevant legislation such as the Regulatory Reform (Fire Safety) Order 2005.
- 8.18 The Licensing Authority may set an occupant capacity following representations received if it is appropriate and proportionate to do so in order to meet the licensing objectives.

Health and Safety

- 8.19 Where five or more people are employed, the Health and Safety at Work etc Act 1974 requires there to be a written health and safety policy statement which must be brought to the employees' attention. Employers must also record the results of risk assessments and ensure a robust health and safety action plan is in place for both staff and customers. Applicants should have these documents available at the request of the Licensing Authority or any other responsible authority.

Other matters relating to public safety

- 8.20 The following should also be considered:
- Disabled access and evacuation
 - Emergency procedures
 - Special risks such as lasers or fireworks

9. The prevention of public nuisance

- 9.1 The public nuisance objective is designed to deal with the impacts of licensable activities on persons living and working (including doing business) in the vicinity that is disproportionate and unreasonable. The main issues for concern will be the control of noise nuisance, light pollution, noxious smells (odour) and litter.
- 9.2 Public nuisance is not defined within the Act but is given a broad common law definition. The prevention of public nuisance could therefore include low-level nuisance perhaps affecting a few people living locally as well as major disturbances affecting the whole community. This may also include in appropriate circumstances the reduction of the living and working amenity and environment of interested parties (as defined) in the vicinity of the licensed premises.

- 9.3 Applicants should carefully consider how they intend to promote the prevention of public nuisance objective in their operating schedule and the following sections provide some guidance:

Noise

- 9.4 Noise can come either directly or indirectly from licensed premises. Direct noise, such as that from entertainment activity, will be under the premises' direct control. Indirect noise, such as that from vehicles and customers coming to and from the premises may not be under direct control, but the premises can strongly influence it. Both types of noise will be of more significance in areas with residential accommodation and will usually, but not exclusively, be of greater importance between 11pm and 7am. However, it must be noted that noise and disturbance can also cause public nuisance outside these times. The operating schedule should identify the control measures that will be taken to minimise the impact of both types of noise on neighbouring residents and businesses.
- 9.5 Noise and disturbance from people outside can cause public nuisance even when those people are not behaving badly. The operating schedule should identify the control measures that will be taken to minimise the impact of use of outside areas. This may include noise and disturbance from customers on the premises and customers in outdoor areas such as terraces, beer gardens and smoking areas. It will also include noise, disturbance and obstruction from customers in the vicinity of the premises including customers congregating outside premises to smoke or drink, customers arriving, leaving or queuing outside premises.
- 9.6 Amendments to the Act have removed the requirement for licensing of a wide range of entertainment between the hours of 8am and 11pm. This does not reduce the risk of noise nuisance occurring. The risk increases when the entertainment takes place in the open air or within a marquee. Steps should be taken to prevent noise and vibration from entertainment causing nuisance. This may include noise from music, human voices and other forms of entertainment whether amplified or not. Consideration should also be given to ensure noise is not audible at sensitive locations such as dwellings, hospitals, hotels and other business premises. Any noise should also not cause unreasonable disturbance to the wider public, such as passers-by and people using public facilities. The Environmental Protection team are responsible for dealing with noise complaints arising from unregulated entertainment.
- 9.7 Steps should be taken to prevent noise from any servicing of the premises causing nuisance. This may include noise from deliveries, collections and the onsite disposal of bottles and other waste or recyclable materials.
- 9.8 The Licensing Authority will have regard to the powers available within the Anti-Social Behaviour Crime and Policing Act 2014. This provides

that if noise from licensed premises is causing a public nuisance the local authority has powers to issue a closure order for up to 24 hours. This compliments the police powers under Part 8 of the 2003 Act.

Light Pollution

- 9.9 Outdoor artificial lighting is used for a number of reasons, including for work, recreation, security, safety, advertising, display and to create a pleasant atmosphere where people gather socially. As many of the premises operating under the Licensing Act will use outdoor lighting late at night, it is important to ensure that it does not become a nuisance to others. Light 'spilling' onto other property can cause annoyance, distraction and discomfort. The design of larger outdoor lighting installations will need advice from a specialist Lighting Engineer.

Odour

- 9.10 The applicant should consider any odour that maybe emitted from the premises. This can include the generation of odour from food preparation, waste, bottle storage and smoking areas. The operating schedule should identify the control measures that will be taken to minimise the impact of odour from all sources.
- 9.11 When designating a smoking area outside it is important to consider who will be affected by the smoke, the possible number of persons using the area and ensuring a facility to safely dispose of lit cigarettes.
- 9.12 Oxfordshire has also signed up to creating a smoke free County by 2025, see section 30 below on Smokefree.

Waste and cleansing

- 9.13 Licensed premises of all types can potentially cause public nuisance from litter and waste. The Environmental Protection Act 1990 and the Clean Neighbourhoods and Environment Act 2005 impose responsibilities relating to proper waste collection and disposal, not least of which is the 'duty of care' to ensure any waste is properly contained and controlled while in the operator's possession, and that it is collected by a licensed waste carrier. The Act does not duplicate these laws, but licence holders will need to apply good waste management practice in order to prevent public nuisance.
- 9.14 The provision of welfare facilities such as toilets within licensed premises is relevant to the prevention of public nuisance. Adequate welfare provisions may prevent nuisance activities taking place within the street, such as urination. Licensees should therefore ensure that adequate facilities are provided within the premises and include these details within their operating schedule.

10. The protection of children from harm

- 10.1 For the purposes of this policy the Licensing Authority considers anyone under 18 years of age to be a child or young person.

- 10.2 The provisions of the Act are that unaccompanied children under 16 years should not be on 'premises being used exclusively or primarily for the supply of alcohol'.
- 10.3 The policy aims to work alongside the principles set out by the Oxfordshire Safeguarding Children Board at www.oscb.org.uk/.
- 10.4 The Licensing Authority expects that, whether alcohol is supplied or proposed to be supplied on or in the vicinity of the premises, operating schedules will identify:
- the extent to which it is proposed that children be admitted to the premises;
 - whether it is proposed that unaccompanied children will be admitted;
 - the type of regulated entertainment provided whilst children are present;
 - the specific steps undertaken to ensure the safety of children and to further ensure that no products or services are sold to children that are not appropriate for their use or consumption.
 - that staff are aware of their responsibility to ensure that an adult should not become over intoxicated if accompanied by a young person or child as to inhibit their ability to safeguard that young person.
- 10.5 Whether or not premises with a mixed use are 'exclusively or primarily used' is a matter of judgment and will depend upon the particular circumstances of the case. The guidance makes it clear that this does not mean that where the supply of alcohol is not the exclusive or primary use then young people should automatically be given access.
- 10.6 Applicants, who propose to admit children, particularly where they would not require them to be accompanied by a responsible adult, should be especially careful in ensuring they meet the requirement that their operating schedule fully and clearly sets out the nature of the activities for which permission is sought. Further, the operating schedule should specify the measures and management controls proposed to protect children from harm.
- 10.7 When deciding where restrictions should be imposed, the Licensing Authority will examine the individual merits of each application and only impose conditions where the circumstances justify them.
- 10.8 Aspects of an application that would be likely to raise concerns in relation to access by children would include:
- Where entertainment or services of an adult or sexual nature are commonly provided;
 - Where entertainment or services include strong or offensive language;
 - Where there have been convictions of members of the current staff at the premises for serving alcohol to minors or with a reputation

for underage drinking;

- Where there is a known association with drug taking or dealing;
- Where there is a strong element of gambling on the premises (but not, for example, the simple presence of a small number of cash prize gaming machines); and
- Where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.

10.9 Where conditions are required for the prevention of harm to children, a range of alternatives will be considered as methods for limiting access. These could include:

- Limitations on hours when children may be present;
- Limitations of the presence of children under certain ages when particular specified activities are taking place;
- Limitations on the parts of the premises to which children might be given access;
- Age limitations (below 18);
- Requirements for accompanying adults (including for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult); and
- Full exclusion of those people under 18 from the premises when any licensable activities are taking place.

10.10 Where the above restrictions are not considered necessary, access to licensed premises by children will remain a matter for the discretion of the individual licence holder or club. Where the licence holder volunteers prohibitions and restrictions and no other relevant representations are made, the volunteered prohibitions and restrictions will be made into conditions and no other conditions in relation to the presence of children will be applied.

10.11 The sale of alcohol to minors (under 18 years of age) is a criminal offence. The Licensing Authority, Oxfordshire County Council Trading Standards Service and Thames Valley Police take a very serious view of the persistent and illegal sale of alcohol and other age-restricted goods to children. Together with Trading Standards, the Licensing Authority will continue to seek to ensure that illegal sales of alcohol and other age-restricted goods are reduced and ultimately eradicated.

10.12 The Licensing Authority expects that staff are trained and aware of their responsibility for ensuring that customers are old enough to purchase alcohol. This requirement is particularly relevant for bar staff working at premises where door supervisors control entry to a premise. Particular care and appropriate measures should be in place for venues that, due to the nature of the events, attract both over and under 18-year-old patrons.

10.13 Thames Valley Police and Oxfordshire County Council Trading Standards Service are jointly responsible for the enforcement of

sections 146, 147, 147(a) and 147(b) of the Licensing Act 2003 (The sale of and allowing the sale of alcohol to children). Trading Standards are mainly responsible for 'off licence' premises and the Police have the main responsibility for 'on licence' premises.

10.14 The Licensing Authority will maintain close contact with Thames Valley Police, Oxfordshire Youth Justice Service and Trading Standards officers regarding unlawful activities and share actions and intelligence where appropriate.

Age verification and refusals log

10.15 There is a mandatory condition on all premises licensed to sell alcohol requiring them to have adequate age verification systems in place. The Licensing Authority would recommend the use of a Challenge 25 scheme i.e. 'challenging anyone who looks under 25 to prove their age by use of an approved means of identification'; such a scheme to be advertised and enforced on the premises.

10.16 Licensees must demonstrate that their staff receive regular and adequate training on the law and practice relating to age restricted sales (including challenging purchasers and checking identification). The training provided to members of staff to prevent the sale of alcohol to underage people must be properly documented in the training log so that there is an adequate audit trail. Records must be available for inspection.

10.17 The following are examples of identification used:

- Passport
- Photo-card driving licence
- PASS card or other nationally accredited photo ID document
- Official identity card issued by HM forces

10.18 Additionally, when a retailer refuses the sale of alcohol this should be recorded in a 'refusals log'. These documents must be kept available for inspection by a police officer or authorised officer of the Licensing Authority.

Proxy sales

10.19 Adequate procedures must be in place to ensure that all members of staff working at the premises are routinely trained and regularly reminded of their responsibilities in relation to the issue of proxy sales of alcohol, and shall ensure that all reasonable steps and procedures are in place and implemented to prevent adults purchasing alcohol for those underage.

10.20 Steps must be in place to ensure that any designated premises supervisors and members of staff involved with the delivery of alcohol to residential addresses are made fully aware of their responsibilities to ensure that no alcohol is sold or delivered to persons under the age of

18.

Film classification

- 10.21 The Licensing Authority will expect licensees or clubs to include in their operating schedules arrangements for restricting children from viewing age-restricted films classified according to the recommendations of the British Board of Film Classification (BBFC) or the Licensing Authority itself. The 2003 Act also provides that it is mandatory for a condition to be included in all premises licences and club premises certificates authorising the exhibition of films for the admission of children to be restricted in accordance with the recommendations given to films by the BBFC or by the Licensing Authority itself. The Licensing Authority will expect Licensees to demonstrate the controls they have in place for the showing of recordings which have no age classification.
- 10.22 In the event that the Licensing Authority is asked to stipulate an age category for a film or video that has not been classified by the BBFC, the licensing panel or its delegated officers may view the film or video and use the BBFC published guidelines on classification as a 'benchmark' in reaching their decision.
- 10.23 All requests for a classification must be accompanied by a synopsis of the film and a full copy of the film in DVD or other appropriate format and submitted at least 28 days before the proposed screening. Failure to submit a request in time may result in the Licensing Authority being unable to classify the film. Requests shall be assessed against the BBFC guidelines and the licensing objectives and a fee may be charged to cover the costs associated with this process.
- 10.24 In considering any application, the Licensing Authority will take into account any evidence that age restrictions for exhibitions of film are not being properly observed.

Child exploitation

- 10.25 The Licensing Authority expects licence holders and applicants for new licences to be aware of the possibility of exploitation including child sexual exploitation and child criminal exploitation taking place in or around licensed premises. Licence holders are expected to adopt suitable protective measures to assist in the detection and reporting of incidents of this kind. These may include staff training and management procedures to include monitoring and reporting. Child sexual exploitation is a type of sexual abuse. When a child is exploited, they are given things like gifts, drugs, money and affection in exchange for performing sexual activities. Child criminal exploitation is child abuse where children are manipulated and coerced into committing crimes, for example carrying drugs for gangs.
- 10.26 Premises licence holders and designated premises supervisors have a legal responsibility to ensure that children and young people are protected from harm at their premises. The guidance issued under

Section 182 of the Licensing Act requires that children must be protected from ‘moral, psychological and physical harm, which not only includes protecting children from the harms associated directly with alcohol consumption but also wider harms such as exposure to strong language and sexual expletives (for example, in the context of exposure of certain films or adult entertainment).’ It is important that the risk of child exploitation is managed at premises to both protect children and young people from harm as well as to protect the business, particularly financial and reputational risk if legal action is taken against the premises, which could result in suspension or revocation of the licence.

10.27 To minimise the risk to children and young people, premises need to have preventative systems in place. Below are some suggested safeguarding measures:

- Undertake a written children and young person’s risk assessment and use it to inform or complement your staff training and operation of the premises
- Staff should be trained to recognise indicators of child sexual exploitation and know how to report concerns, with records maintained of this training
- Activities at the premises should be monitored (by using CCTV or by regular patrols). If patrols are carried out, a record should be kept of who made the patrol, where they patrolled and the times and dates it was carried out
- Suspicious activities should be reported to the police, including details of vehicle registration numbers and description of any individuals involved and all incidents of this nature should be recorded in the premises incident log.
- If the designated premises supervisor, licence holder or staff are in a situation involving the supervision of a vulnerable person at the premises, it is important to follow a consistent and auditable protocol.

Other matters relating to protection of children from harm

10.28 The following should also be considered:

- Performances by children
- Alcohol delivery services

11. The Licensing Authority as a Responsible Authority

11.1 The 2003 Act enables licensing authorities to act as responsible authorities as a means of early intervention and may do so where the authority considers it appropriate without having to wait for representations from other responsible authorities.

11.2 The Licensing Authority will not normally act as a responsible authority on behalf of other parties (for example, local residents, local councillors or community groups) although there are occasions where the authority may decide to do so. Such parties can make relevant representations

to the Licensing Authority in their own right, and it is reasonable to expect them to make representations themselves where they are reasonably able to do so. However, if these parties have failed to take action and the Licensing Authority is aware of relevant grounds to make a representation, a choice may be made to act in its capacity as responsible authority.

- 11.3 The Licensing Authority expects that other responsible authorities should intervene where the basis for the intervention falls within the remit of that other responsible authority. For example, the police should make representations where the representations are based on concerns about crime and disorder. Likewise, it is reasonable to expect the local authority exercising environmental health functions to make representations where there are concerns about noise nuisance.
- 11.4 In cases where the Licensing Authority is also acting as responsible authority in relation to the same process, there will be a separation of responsibilities within the authority to ensure procedural fairness and eliminate conflicts of interest. In such cases licensing determinations will be made by the licensing committee or sub-committee comprising elected members of the authority (although they are advised by a licensing officer). Therefore, a separation is achieved by allocating distinct functions (i.e. those of licensing authority and responsible authority) to different officials within the authority.
- 11.5 Accordingly, the officer advising the licensing committee will be a different person from the officer who is acting for the responsible authority. The officer acting for the responsible authority will not be involved in the licensing decision process and will not discuss the merits of the case with those involved in making the determination by the licensing authority. Communication between these officers in relation to the case will remain professional and consistent with communication with other responsible authorities.

12. Public Health as a Responsible Authority

- 12.1 The inclusion of the Oxfordshire County Council Director of Public Health as a responsible authority under the Act enables Public Health to have a say in alcohol licensing. Public Health may have access to information that is unavailable to other responsible authorities, which help the licensing authority exercise its functions.
- 12.2 The role of the Director of Public Health is to help promote the health and wellbeing of the local populations they serve. This wide remit influences a wide range of circumstances, including local licensing arrangements. The licensing regime is concerned with the promotion of the licensing objectives which collectively seeks to protect the quality of life for those who live and work in the vicinity of licenced premises and those who socialise in licensed premises. The Director of Public Health could make or support representations as well as make observations on licensing applications. The focus on the wellbeing of the wider

community via licensing is an important addition to the role of public health in promoting the wellbeing of their localities.

13. Responsible Authorities

- 13.1 Thames Valley Police (Licensing)
- 13.2 Oxfordshire Fire and Rescue Service
- 13.3 Trading Standards
- 13.4 Regulatory Services and Community Safety (Environmental Health)
 - Environmental Protection
 - Health Protection
 - Community Safety
- 13.5 Planning Authority
- 13.6 Oxfordshire County Council Public Health
- 13.7 See Appendix 2 for contact details.

14. Planning

- 14.1 The Licensing Authority acknowledges that there must be proper separation of the planning and licensing regimes to avoid duplication and inefficiency. Licensing applications should not be a re-run of the planning application and should not cut across decisions taken by the Local Planning Authority, Planning Committee or following appeals against decisions taken by that committee.
- 14.2 The Licensing Committee may provide reports to the Planning Committee on the situation regarding licensed premises in the area to ensure proper integration, including the general impact of alcohol related crime and disorder, to provide background information to any planning applications for potential licensed premises under consideration.
- 14.3 The Planning Authority also has a duty to consider matters of crime and disorder at this stage. This will enable the Planning Committee to have regard to such matters when taking its decisions and avoid any unnecessary overlap.
- 14.4 Applications for premises licences for permanent commercial premises should normally be from businesses with planning consent for the property concerned. However, applications for licences may be made before any relevant planning permission has been sought or granted by the Planning Authority. There is no legal basis for the Licensing Authority to refuse a licence application because it does not have planning permission,
- 14.5 The strength of planning policies is that there is an obligation both on the council, as local planning authority, and the decision maker on any

appeal to give considerable weight to them. This helps ensure consistency in the decision making process.

15. Licensing Hours

- 15.1 Consideration will always be given to the individual merits of an application in line with the four licensing objectives and any relevant representations. The Licensing Authority recognises that longer licensing hours with regard to the sale of alcohol need to be managed effectively to ensure that the concentrations of customers leaving premises simultaneously are avoided. This is necessary to reduce the friction at late night fast food outlets, taxi ranks and other sources of transport, which may lead to disorder and disturbance.
- 15.2 However, when issuing a licence with hours beyond 23.00 hours, higher standards may be expected to be included in Operating Schedules to address the Licensing Objectives especially premises which are situated near to residential properties.
- 15.3 In considering licence applications, where relevant representations are made, the Licensing Authority will consider the adequacy of measures proposed to deal with the potential for public nuisance and/or public disorder having regard to all the circumstances of the case.
- 15.4 Where relevant representations are made, the Licensing Authority will demand stricter conditions with regard to noise control in areas that have denser residential accommodation, but this will not limit opening hours without regard for the individual merits of any application. The Licensing Authority will consider each application and work with the parties concerned to ensure that adequate noise control measures are in place.
- 15.5 In general terms, the Licensing Authority supports the view that, with regard to shops, stores and supermarkets, they should be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are very good reasons for restricting those hours. For example, a limitation may be appropriate following police representations in the case of isolated shops known to be a focus of disorder and disturbance.

16. Temporary Event Notices

- 16.1 Temporary event notices (TENs) may be used to authorise licensable activities at premises where there are 499 persons or fewer (including any staff and volunteers) present. TENs are not applications for permission to hold an event; they are notices of intention to hold an event to the Licensing Authority, Environmental Health and Thames Valley Police, subject to fulfilling certain conditions. If there are 500 or more persons present at the event, a premises licence will be required.
- 16.2 As many users giving TEN's will not have commercial backgrounds or

ready access to legal advice, the Licensing Authority will ensure that guidance is clear and understandable and will aim to keep arrangements manageable and user friendly for these groups.

- 16.3 Organisers of temporary events are encouraged to submit their TEN as soon as is reasonably practicable in order for the Police and Environmental Health to consider whether or not they have any concerns about the event and, if they have, to enable all parties to try and take steps to resolve those concerns. Persons intending to use premises under a TEN are encouraged to discuss their proposals with the community that may be affected before submission.
- 16.4 Although the legal requirement is 10 clear working days (or 5 clear working days for late TENs) not including the date of receipt or the date of the event, the Licensing Authority recommends that at least 28 days and no more than three months' notice be given to hold such events, to allow sufficient time for organisers to plan their events safely, for appropriate publicity and for consultation with responsible authorities and interested parties. Any longer period than this may mean that organisers do not have all the details available at the time of submitting the notice, and any lesser time means that planning may be rushed and haphazard.
- 16.5 The Licensing Authority will remind notice givers about relevant offences under licensing law, including the sale of alcohol to minors and the sale of alcohol to a person who is drunk,
- 16.6 The Licensing Authority will also advise notice givers of the police powers to close down an event with no notice on grounds of disorder or because of public nuisance caused by noise emanating from the premises. Where the application is not within the parameters described in the legislation, the Licensing Authority will issue a Counter Notice to the person giving the TEN.
- 16.7 In the event of an objection, if the matter cannot be resolved informally the matter will be considered by the Licensing Committee. Objection notices received for late TENs mean that the event cannot go ahead.

17. Sexual Entertainment

- 17.1 The Licensing Authority has adopted a policy in relation sexual entertainment venues under the Local Government (Miscellaneous Provisions) Act 1982, as amended by the Policing and Crime Act 2009. With reference to this related policy standard conditions are attached to such licences and where there are similar conditions in the two regimes, the more onerous apply.
- 17.2 The Licensing Authority acknowledges there is an exemption under the Local Government (Miscellaneous Provisions) Act 1982 that allows premises to provide sexual entertainment no more than 11 times per year and no more frequently than monthly,

18. Cumulative Impact and Special Policies

- 18.1 Commercial demand for additional licensed premises is not a matter for the Licensing Authority or its Statement of Policy but a matter for planning committees and for the market. On the other hand, the cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for the Licensing Committee.
- 18.2 Conditions may only relate to matters that the licensee can be expected to control. These are likely to relate to the premises themselves and the immediate vicinity. Where the number, type and density of premises selling alcohol are unusual, serious problems of nuisance and disorder can sometimes arise or begin to arise outside or some distance from the licensed premises. This has been described as the cumulative effect of the increasing capacity of all premises taken together and is outside of the control of licence conditions.
- 18.3 There may be circumstances where the Licensing Authority receives relevant representations from a responsible authority or interested party that the cumulative effect of new licences is leading to an area becoming saturated with premises, making it a focal point for large groups of people to gather and circulate, away from the licensed premises themselves. This might be creating exceptional problems of disorder and nuisance over and above the impact from the individual premises. In such circumstances the Licensing Authority may consider the question of whether the granting of any further premises licences or club premises certificates would undermine one of the licensing objectives. The Licensing Act 2003 allows for this, so long as cumulative impact is addressed in the context of the individual merits of any application.
- 18.4 However, it may be necessary for The Licensing Authority to adopt a special policy of refusing new licences because the area is already saturated with certain types of licensed premises. In such circumstances this policy is not absolute and will still allow for the circumstances of each application to be considered properly and for licences which are unlikely to add significantly to saturation to be approved provided all other requirements are met.
- 18.5 In deciding whether to adopt such a policy, the Licensing Authority will:
- identify evidence of concerns relating to a licensing objective;
 - consider whether the evidence demonstrates that a cumulative impact caused by the customers of multiple licensed premises is adversely affecting a licensing objective;
 - identify the precise area(s) where issues are occurring;
 - undertake consultation with those persons and bodies identified in Section 5(3) of the 2003 Act.
- 18.6 Where this process identifies such a need, the Licensing Authority will consider adoption of a special policy relating to future licence

applications from that area. Reference to any such special policy will be made in the Licensing Policy Statement and the special policy will be published as part of the statement of licensing policy.

- 18.7 A special policy cannot be used to set a terminal hour for premises in the identified area.
- 18.8 In considering representations the onus will be on the objector to lay an evidentiary base for the assertion that the addition of the premises in question would produce the cumulative impact claimed. The impact can be expected to be different for premises with different styles and characteristics.
- 18.9 Any special policy adopted by the Licensing Authority will be reviewed regularly to assess whether it has had the effect intended, whether it is needed any longer or whether it needs extending.
- 18.10 A special policy on cumulative impact will not be used as grounds for removing a licence when representations are received about problems with an existing licensed premise. Nor can it justify rejecting variations to a licence except where those variations are directly relevant to the policy (as would be the case with an amendment significantly to increase the capacity limits of a premises).
- 18.11 The Licensing Authority will not adopt quotas which pre-determine the individual merits of any application even in respect of premises selling alcohol for consumption on those premises as they have no regard to the individual characteristics of the premises concerned. Public houses, nightclubs, restaurants, hotels, theatres, concert halls and cinemas all sell alcohol, serve food and provide entertainment but with contrasting styles and characteristics. Proper regard will be given to those differences and the differing impact they will have on the local community.
- 18.12 The Licensing Authority recognises that once away from these premises, only a minority of consumers will behave badly and unlawfully. The licensing policy is part of a much wider strategy for addressing these problems. Other mechanisms which may be used to deal with such issues which fall outside of the scope of this licensing policy include:
- planning controls;
 - positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the local authority;
 - the provision of CCTV surveillance in town centres, ample taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols; powers of local authorities to designate parts of the local authority area as places where alcohol may not be consumed publicly;
 - police enforcement of the general law concerning disorder and

- antisocial behaviour, including the issuing of fixed penalty notices;
- the prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk;
- the confiscation of alcohol from adults and children in designated areas;
- Police powers to close instantly for up to 24 hours any licensed premises or temporary events on grounds of disorder, the likelihood of disorder or excessive noise emanating from the premises causing a nuisance;
- the power of the Police, other responsible authority or a local resident or business to seek a review of the licence or certificate in question.

18.13 The Licensing Authority and Thames Valley Police will continue to work closely together to ensure that these other mechanisms are used appropriately to deal with the issues of concern and where possible will supplement these with other local initiatives that similarly address these problems.

19. Early Morning Alcohol Restriction Order

- 19.1 Under sections 172A to 172E of the 2003 Act as amended by section 119 of the Police Reform and Social Responsibility Act 2011 the Licensing Authority can make an early morning alcohol restriction order (EMRO) if it considers it necessary for the promotion of the licensing objectives.
- 19.2 An order would mean that any premises licence, club premises certificate or temporary event notice that authorises the sale of alcohol within the location and during the period specified in the order would not have effect. The period specified must begin no earlier than midnight and end no later than 6am.
- 19.3 The only exemptions relating an EMRO are New Year's Eve and the provision of alcohol to residents in premises with overnight accommodation by means of mini bars and room service.
- 19.4 The decision to implement an EMRO will be evidence based and will be considered by Full Council.

20. Conditions

- 20.1 A key concept underscoring the Licensing Act 2003 is for conditions to be attached to licences and certificates that are tailored to the individual style and characteristics of the premises and events concerned. Conditions may only be applied following the receipt of relevant representations where they have been agreed by all parties concerned or have been applied by the Licensing Committee. This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises where there is no need for such conditions.

- 20.2 Conditions shall be appropriate and proportionate to achieve the promotion of the licensing objectives and shall be tailored to suit the circumstances and premises. Conditions will not be attached where adequate legislative control exists.
- 20.3 If no representations are received, there is no provision for a Licensing Authority to impose conditions on a licence other than the mandatory conditions and those proposed by the applicant within the operating schedule which will be translated into clear, enforceable conditions by the Licensing Authority.
- 20.4 The mandatory conditions that will apply to all licences for the promotion of the licensing objectives are specified in the Licensing Act 2003 (Mandatory Licensing Conditions) (Amendment) Order 2014 which can be found at the following link <https://www.legislation.gov.uk/ukdsi/2014/9780111116906>
- 20.5 The Licensing authority will therefore avoid the general application of standardised conditions to licences and certificates. However, to ensure consistency, when it is necessary to apply conditions, the Licensing Authority will draw from pools of model conditions where available, from which appropriate and proportionate conditions may be drawn in particular circumstances to suit individual cases. The model conditions will cover the four licensing objectives.

21. Reviews

- 21.1 The Licensing Act 2003 makes provision for the Review of premises licenses where problems associated with crime and disorder, public safety, public nuisance or the protection of children from harm are occurring.
- 21.2 At any stage following the grant of a premises licence or club premises certificate, a responsible authority or an interested party (such as a resident living in the vicinity of the premises), may request the Licensing Authority review the licence because of a matter arising at the premises in connection with any of the four licensing objectives.
- 21.3 A review of a premises licence will follow any action by Thames Valley Police exercising powers to close licensed premises under Section 161 of the Licensing Act 2003 on grounds of disorder or noise nuisance as a result of a Magistrates' Courts' determination sent to the Licensing Authority.
- 21.4 In all cases, the representation must relate to a premise for which a licence is in force and must be relevant to the promotion of the licensing objectives. Representations must be made in writing and may be amplified at the subsequent review or may stand in their own right. Additional representations, which do not amount to an amplification of the original representation, may not be heard at the hearing.

- 21.5 Where the request for a review originates from an interested party e.g. a local resident or residents' association, the Licensing Authority will first consider whether the complaint made is relevant, vexatious, frivolous or repetitious.
- 21.6 A repetitious complaint is one that is identical or substantially similar to:
- a ground for review made in respect of the same premises licence which has already been determined; or
 - representations considered by the Licensing Authority when the premises licence was granted; or
 - representations which would have been made when the application for the premises licence was first made and which were excluded then by reason of the prior issue of a provisional statement; and
 - in addition to the above grounds, a reasonable interval has not elapsed since that earlier review or the grant of a licence.
- 21.7 The Licensing Authority recognises the need to prevent attempts to review licences, following the failure of representations on earlier occasions. The Licensing Authority will judge what is to be regarded as a reasonable interval in these circumstances. The Licensing Authority has regard to the recommendation in the guidance that more than one review originating from an interested party should not be permitted within a period of 12 months on similar grounds except in compelling circumstances or where it arises following a Closure Order.
- 21.8 The Licensing Authority also recognises that the promotion of the licensing objectives relies heavily on a partnership approach. The Council would encourage authorised persons and responsible authorities to give licence holders warning of their concerns about problems identified at premises and of the need for improvement. The Licensing Authority will advise licence holders that a failure to respond to such a warning may lead to a responsible authority requesting a Review.
- 21.9 The Licensing Authority will hold a hearing following a request for a Review from a responsible authority, interested party or after closure procedures described earlier. The Licensing Authority will make the licence holder fully aware of the representations received together with supporting evidence in order for the licence holder or his legal representatives to be able to prepare a response.
- 21.10 In determining a Review, this authority has a range of powers it may exercise where it considers them necessary for the promotion of the licensing objectives:
- no action necessary as no steps required to promote the licensing objectives;
 - issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. The Licensing Authority regards such warnings as important mechanisms for ensuring that the licensing objectives are

effectively promoted, and any warning issued will be in writing to the licence holder.

- to modify the conditions of the premises licence (including adding new conditions, altering/omitting an existing condition);
- excluding a licensable activity from the licence;
- remove the designated premises supervisor,
- suspend the licence for a period of three months;
- to revoke the licence.

21.11 The Licensing Authority in determining what action to take will seek to establish the causes of concern and any action taken will be directed at these causes. Any action taken to promote the licensing objectives will be necessary and proportionate.

22. Minor Variations

22.1 The purpose of the minor variation process is to save time, money and regulatory resources by allowing small variations that could not impair the promotion of the licensing objectives to be made to premises licences and club premises certificates through a simplified and less costly procedure. Under this process, the applicant is not required to advertise the variation in a newspaper or copy it to Responsible Authorities. However, they must display it on a white notice at the premises. The notice must be displayed for a period of 10 working days starting on the working day after the minor variation application was given to the Licensing Authority.

22.2 The holder of a premises licence or a club premises certificate can apply to the licensing authority for a minor variation to the licence or the certificate using the prescribed form. In determining an application the Licensing Authority will consult such of the Responsible Authorities as it considers appropriate.

22.3 The Licensing Authority will take into account any relevant representations made concerning the application by Responsible Authorities or by an interested party, Relevant representations must be about the likely effect of the grant of the application on the promotion of the licensing objectives. The Licensing Authority will grant an application only if it considers that none of the variations proposed in the application could have an adverse effect on the promotion of any of the licensing objectives. In any other case the authority must reject the application. There is no right to a hearing in this process.

22.4 An application may not be made under the minor variation provision if the effect of the variations proposed in it would be to:

- extend the period for which a premises licence has effect;
- to vary substantially the premises to which a premises licence/club premises certificate relates;
- to specify (in a premises licence) an individual as the Designated Premises Supervisor (DPS);

- to authorise the sale or supply of alcohol or to authorise the sale by retail or supply of alcohol at any time between 11pm and 7am or increase in the amount of time on any day during which alcohol may be sold by retail or otherwise supplied; or
- to disapply the mandatory conditions concerning the supervision of alcohol sales by a personal licence holder and the need for a Designated Premises Supervisor who holds a personal licence at a community premises.

22.5 If an application is refused, the Authority must notify the applicant in writing, giving its reasons for the refusal. The Authority is required to reach its determination within a period of fifteen (15) working days starting on the first working day after the authority receives the application, otherwise the application is rejected, and the Authority must return the application fee.

22.6 Minor variations will generally fall into four categories:

- minor changes to the structure or layout of a premises;
- small adjustments to licensing hours;
- the removal of out of date, irrelevant or unenforceable conditions or volunteered conditions;
- the addition of certain licensable activities.

23. Enforcement

23.1 The Licensing Authority will establish protocols and have regular liaison with the local police, fire & rescue service, trading standards, other County local authorities and other agencies on enforcement issues. This will provide for a more efficient deployment of local authority staff and police officers who are commonly engaged in enforcing licensing law and the inspection of licensed premises. There will also be regular liaison with other enforcement authorities.

23.2 In particular, these protocols will provide for the targeting of agreed problem and high-risk premises which require greater attention, while providing a lighter touch in respect of low risk premises which are well run. The limited validity of public entertainment, theatre, cinema and late-night refreshment house licences has in the past led to a culture of annual inspections regardless of whether such inspections are necessary. The Licensing Act 2003 does not require inspections to take place save at the discretion of those charged with this role. The principle of risk assessment and targeting will prevail, and inspections will not be undertaken routinely but when and if they are judged necessary. This should ensure that resources are more effectively concentrated on problem premises.

24. Licence Suspensions

24.1 This is a power brought as part of the amendments brought about by the Police Reform and Social Responsibility Act 2011. The Licensing

Authority must suspend premises licences and club premises certificates on the non-payment of annual fees. The Licensing Authority will follow the relevant guidance in issuing suspensions for non-payment.

25. Administration, Exercise and Delegation of Functions

- 25.1 The Powers of the Licensing Authority under the Act may be carried out by the Licensing Committee, by a Sub-Committee or by one or more Officers acting under delegated authority.
- 25.2 Many of the licensing procedures will be largely administrative with no perceived areas of contention. In the interests of efficiency and effectiveness officers will generally carry out these duties.
- 25.3 On applications where there are relevant representations these will be dealt with by a Committee or sub-committee of the Licensing Authority, as will any application for review of a licence.
- 25.4 The Licensing Authority will expect applicants to address the licensing objectives in their Operating Schedule having regard to the type of premises, the licensable activities to be provided, the operational procedures, the nature of the location and the needs of the local community.
- 25.5 Applicants will be encouraged to make themselves aware of any relevant planning and transportation policies, tourism and cultural strategies or local crime prevention strategies and to have taken these into account, where appropriate, when formulating their Operating Schedule.
- 25.6 The 2003 Act provides that decisions and functions may be taken or carried out by licensing committees or delegated to sub-committees or in appropriate cases, to officials supporting the Licensing Authority. In the interests of speed, efficiency and cost-effectiveness, as many of the decisions and functions will be purely administrative in nature, functions will be delegated to the appropriate level within the organisation where possible. See Annex 1.
- 25.7 Where applications are non-contentious, for example, no representations to the grant of a premises licence are received, applications will be delegated to officers in order to speed matters through the system. Any such matters passed in this way will then be listed for comment at the next Committee meeting. The Committee will not have the opportunity to reverse officers' decisions

26. Advice and Guidance

- 26.1 Advice can be obtained by contacting the Licensing Team at Cherwell District Council. We will advise on the types of licence needed and can be contacted in the following ways: -

Website <http://www.cherwell.gov.uk/licensing.htm>

Email: licensing@cherwell-dc.gov.uk

Telephone: 01295 753744

In person or writing to:

Licensing Team
Cherwell District Council
Bodicote House
Bodicote
Banbury
Oxfordshire OX15 4AA

27. Equal Opportunities

- 27.1 Over the last four decades, discrimination legislation has played an important role in helping to make Britain a more equal society. However, the legislation was complex and, despite the progress that has been made, inequality and discrimination persist and progress on some issues has been stubbornly slow.
- 27.2 The Equality Act 2010 provides a new cross-cutting legislative framework to protect the rights of individuals and advance equality of opportunity for all; to update, simplify and strengthen the previous legislation; and to deliver a simple, modern and accessible framework of discrimination law which protects individuals from unfair treatment and promotes a fair and more equal society.
- 27.3 In implementing the Licensing Act 2003, associated legislation and guidance, The Licensing Authority is committed to ensuring that the obligations and duties within this legislation are met.

28. Review of the Policy

- 28.1 This licensing policy will be formally reviewed and published every five years (section 5 Licensing Act 2003). This review of the policy will be subject to the consultation process. Section 5(4) of the Act provides that the licensing authority must keep its policy under review during each five year period and make appropriate revisions. Again, any revisions must be subject to consultation.
- 28.2 Where a special policy relating to cumulative impact or early morning restriction orders is being adopted this will be reviewed regularly at least every five years, to assess whether it is needed any longer, or indeed needs expanding. Any cumulative impact policy will also be reviewed to ensure that it has had the intended effect. There will be on-going dialogue and consultation with local residents to consider whether any area is nearing the point where the concentration of premises has a cumulative impact.
- 28.3 The Licensing Authority will consider the most appropriate time to

refresh policies, with a view to balancing businesses' need to be kept advised of changes with the additional burden that responding to frequent consultations can bring.

29. Late night levy

29.1 The legislative provisions relating to the late-night levy are not part of the Licensing Act 2003 but are contained in Sections 125 to 139 of the Police Reform and Social Responsibility Act 2011. The provisions came into force on 31st October 2012.

29.2 Regulations have been brought into force setting out the way in which the levy must be applied and administered, and arrangements for expenses, exemptions and reductions. Guidance has also been introduced in relation to:

- implementing the levy and the consultation process
- the design of the levy
- exemptions from the levy
- reductions in levy charges
- how revenue raised from the levy may be spent the levy charges
- the levy collection process

29.3 Regarding exemptions, The Licensing Authority retains discretion whether to exempt certain premises or not but only for those types of premises set out in paragraphs 1.24 to 1.31 of the guidance on the Late-Night Levy.

29.4 The Licensing Authority also has the discretion whether to reduce the amount of the levy by 30% for premises which participate in business-led best practice schemes.

29.5 Any revenue from a levy will be split between The Licensing Authority and Thames Valley Police, with at least 70% of the 'net' levy (after expenses) paid to the Police. A formal service level agreement will be established to ensure that The Licensing Authority and Northamptonshire Police are aware of responsibilities and undertakings, and to ensure that the use of levy funds can be clearly communicated to those businesses contributing to it.

29.6 These powers enable licensing authorities to charge a levy in relation to persons who are licensed to sell or supply alcohol late at night as a means of raising a contribution towards the costs of policing the night-time economy. Any decision to introduce, vary or cease the requirement for a levy will be made by the Full Council. Other decisions in relation to how the levy is administered may be subject to delegation.

30. Smokefree

30.1 Oxfordshire is committed to creating a smoke free County by 2025, this is defined as when adult smoking rates reach $\leq 5\%$. Steps should be

taken towards supporting the proposed Oxfordshire Tobacco Control Strategy (provide link) through its four Pillars:

- Prevention
- Local Regulation and Enforcement
- Creating Smoke Free Environments
- Supporting Smokers to Quit

30.2 When designating a smoking area outside it is important to consider who will be affected by the smoke, the possible number of persons using the area and ensuring a facility to safely dispose of lit cigarettes. Wherever possible designated smoking areas should be out of site and not on the pavement at the front of the premises.

30.3 Where external seating is provided at least 70% of the seating must be no smoking with clear 'no smoking' signage displayed in the designated area. Applicants should aim for a minimum 2 metre distance between non-smoking and smoking areas, wherever possible.

Appendix 1 - Delegation of functions

Matter to be dealt with	Full Committee	Sub Committee or Panel	Officers
Application for personal Licence	-	If a police objection made	If no objection made
Application for personal licence with unspent convictions	-	All cases	-
Application for premises licence/club premises certificate	-	If a relevant representation made	If no relevant representation made
Application for provisional statement	-	If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate	-	If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor	-	If a police objection	All other cases
Request to be removed as designated premises supervisor	-	-	All cases
Application for transfer of premises licence	-	If a police objection	All other cases
Applications for interim Authorities	-	If a police objection	All other cases
Application to review premises licence/club premises certificate	-	All cases	-
Decision on whether a complaint is irrelevant frivolous vexatious etc	-	-	All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application	-	All cases	-
Determination of a police objection to a temporary event notice	-	All cases	-

Appendix 2 – Responsible Authority Contacts

<p>Thames Valley Police Licensing Department Thames Valley Police E Block HQ South 165 Oxford Road KIDLINGTON Oxfordshire OX5 2NX</p> <p>TEL: 0845 8505505</p> <p>Licensing@thamesvally.pnn.police.uk</p>	<p>Oxfordshire Fire and Rescue Service Oxfordshire Fire and Rescue Service Headquarters Sterling Road Kidlington Oxfordshire OX2 2DU</p> <p>TEL: 01865 897789</p> <p>Fire.service@oxfordshire.gov.uk</p>
<p>Trading Standards Oxfordshire County Council Trading Standards Service Electric Avenue Ferry Hinksey Road Off Botley Road Oxford OX2 0BY</p> <p>TEL: 0845 0510845</p> <p>Trading.standards@oxfordshire.gov.uk</p>	<p>Regulatory Services and Community Safety Cherwell District Council Bodicote House Bodicote Banbury OX15 4AA</p> <p>TEL: 01295 227990</p> <p>HPandCompliance@cherwell-dc.gov.uk</p>
<p>The Planning Authority Planning and Development Services Cherwell District Council Bodicote House Bodicote Banbury OX15 4AA</p> <p>TEL: 01295221883</p> <p>planning@cherwell-dc.gov.uk</p>	<p>Public Health Oxfordshire County Council County Hall New Road Oxford OX1 1ND</p> <p>publichealthlicensing@oxfordshire.gov.uk</p>

Appendix 3 Other policies, legislation, and guidance sources

There are a number of other local and national policies, strategies, responsibilities, and guidance documents which should be taken into account in order to complement this authority's licensing policy. In particular the policy should provide a clear indication of how the licensing authority will secure the proper integration of the licensing policy and other local policies such as the local crime prevention, planning, transport, tourism, cultural strategies and the local alcohol policy.

(i) Legislation

- Policing and Crime Act 2009
- Crime and Disorder Act 1998
- Crime and Security Act 2010
- Human Rights Act 1998
- Criminal Justice and Police Act 2001
- Private Security Industry Act 2001
- Equality Act 2010
- Anti-Social Behaviour Crime and Policing Act 2014
- Violent Crime Reduction Act 2006
- The Health Act 2006
- The Clean Neighbourhoods and Environment Act 2005
- Live Music Act 2012
- Gambling Act 2005
- Business and Planning Act 2020

Note: These and other relevant pieces of legislation can be found at www.opsi.gov.uk

(ii) Strategies and Policies

- Alcohol Strategy
- Best Bar None
- British Beer and Pub Association Partnerships Initiative
- Community Alcohol Strategy
- Community Safety Strategy
- Compliance Code
- Crime & Disorder Reduction Strategy
- Council's Enforcement Policy
- Cultural and Tourism Strategies including promotion of live music and community events
- Home Office: Selling Alcohol Responsibly: Good Practice Examples from the Alcohol Retail and Hospitality Industries
- Local Development Framework
- Local Transport Plan
- National and local PubWatch schemes
- Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks.
- Purple Flag (ATCM)
- Safer Socialising
- The Final Push – A Tobacco Control Strategy for a smokefree society in Oxfordshire 2020-2025

(iii)Guidance Documents

- Home Office 'Practical Guide for Preventing and Dealing with Alcohol Related Problems
- Home Office Safer Clubbing Guide
- Home Office Designated Public Place Order (DPPO) Guidance
- Home Office s182 Guidance
- LACORS/TSI Code of Practice on Test Purchasing
- The Event Safety Guide
- Licensing large scale events (music festivals etc)
- Managing Crowds Safely
- 5 Steps to Risk Assessment
- The Guide to Safety at Sports Grounds
- Safety Guidance for Street Arts, Carnivals, Processions and Large-scale Performances
- UK BIDS: Business Improvement Districts(national BIDS advisory service)
- BIS Code of Practice on Consultation

(iv)Relevant case law regarding policy statements

- Limits of licensing policy:
BBPA & Others v Canterbury City Council [2005] EWHC 1318 (Admin)
- “Strict” licensing policies and exceptions to policy:
R (Westminster City Council) v Middlesex Crown Court and Chorion plc [2002] LLR 538
- Cumulative impact policies and hours
R (JD Wetherspoon plc) v Guildford Borough Council [2006] EWHC 815 (Admin)
- Duplication and conditions:
R (on the application of Bristol Council) v Bristol Magistrates’ Court [2009] EWHC 625 (Admin)
- Extra-statutory notification by the licensing authority:
R (on the application of Albert Court Residents Association and others) v Westminster City Council [2010] EWHC 393 (Admin)
- The prevention of crime and disorder: ambit of the objective
Blackpool Council, R (on the application of) v Howitt [2008]
- Crime and disorder: sanctions on review: deterrence
Bassetlaw District Council, R (on the application of) v Workshop Magistrates Court [2008]

Note: This list is not exhaustive

Appendix 4 Useful References (organisations)

Local Government Association:

<http://www.local.gov.uk/regulatory-services-and-licensing>

Association of Convenience Stores (ACS)

<http://www.acs.org.uk/>

Association of Licensed Multiple Retailers (ALMR)

Now incorporating Bar, Entertainment and Dance Association (BEDA)

<http://www.almr.org.uk/>

Association of Town Centre Managers (ACTM and Purple Flag)

<http://www.atcm.org/>

Banbury BID

<https://www.banburybid.com/>

Better Regulation Delivery Office (BRDO)

<http://www.bis.gov.uk/brdo>

British Beer and Pub Association (BBPA)

<http://www.beerandpub.com/>

British Board of Film Classification (BBFC)

<http://www.bbfc.co.uk/>

British Institute of Innkeeping (BII)

<http://www.bii.org/home>

British Retail Consortium (BRC)

http://www.brc.org.uk/brc_home.asp

Cinema Exhibitors' Association (CEA)

<http://www.cinemauk.org.uk/>

Department for Culture, Media and Sport

www.culture.gov.uk

Home Office

www.homeoffice.gov.uk

Institute of Licensing (IoL)

<http://www.instituteoflicensing.org/>

Licensed Victuallers Associations (LVAs)

<http://www.flva.co.uk/>

National Association of Licensing and Enforcement Officers (NALEO)

<http://www.naleo.org.uk/>

The Portman Group

<http://www.portmangroup.org.uk/>