

# **CHILTERN District Council**



**CHILTERN**  
District Council

**Healthy Communities**

**LICENSING ACT 2003**

**STATEMENT OF  
LICENSING POLICY  
2017**

Adopted Full Council on 17 October 2017  
with effect 13 November 2017

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## 1. Introduction

- 1.1 The Licensing Act 2003 as amended (“the Act”) requires the Council, in its role as the Licensing Authority, to prepare a Statement of Licensing Policy that states its position in relation to its duties under the Act.
- 1.2 This policy relates to the following activities that are required to be licensed under the Act:
- a) the sale of alcohol by retail;
  - b) the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club;
  - c) the provision of regulated entertainment in the presence of an audience. Regulated entertainment includes the performance of a play; film exhibitions, indoor sporting events, boxing or wrestling events, performing live music and playing recorded music (except incidental music), dance performances and entertainment of similar descriptions and some ‘relevant entertainment’ (i.e. displays of nudity designed to sexually stimulate any member of the audience including, but not limited to, lap dancing and pole dancing)
  - d) the provision of late night refreshment.
- 1.3 This policy shall apply to Premises Licences, Club Premises Certificates, Personal Licences and Temporary Event Notices in respect of new consents, renewals, transfers and variations.
- 1.4 The Council recognises the powers granted to it by the Act, and intends to use them, in consultation with responsible authorities, licence holders and with the general public, in a socially responsible way.

This policy will be taken into account by the Council if its discretion is engaged (i.e. at a hearing following relevant representations).

- 1.5 The aim of the policy is to secure the safety and amenity of residential and working communities whilst facilitating a sustainable entertainment and cultural industry with effectively regulated local services where licensable activities take place. The Council in adopting this licensing policy recognises both the needs of residents for a safe and healthy environment in which to live and work and the importance of well-run entertainment premises to the local economy and vibrancy of the District. To achieve this aim The Council is committed to partnership working with the Police, fire service, local businesses, licensing trade, residents, Buckinghamshire Public Health and others towards the promotion of the objectives as set out in this policy.

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- 1.6 In accordance with the statutory procedures, a review of this policy will take place every 5 years, to take into account information collated over a period of time, coupled with the outcomes of initiatives relating to alcohol and entertainment at central and local government level. The Policy may also be subject to minor amendments from time to time, for example, when there are changes to relevant legislation; when this is necessary, changes will be authorised by the Head of Healthy Communities, in consultation with the Chairman of the Licensing and Regulation Committee.
- 1.7 In preparing this Policy The Council has consulted with and considered the views of a wide range of people and organisations including:
- a) Thames Valley Police;
  - b) Buckinghamshire Fire and Rescue;
  - c) Buckinghamshire Public Health
  - d) Buckinghamshire Safeguarding Child Board
  - e) Existing Premise Licence holders;
  - f) Existing Club Premise Certificate holders;
  - g) Existing Personal Licence holders;
  - h) Representatives of businesses and residents in the Chiltern DC area; and
  - i) Town and Parish Councils.
- 1.8 The consultation was also publicised on the website and via the Council's social media accounts.
- 1.9 In the preparation and publication of this policy Chiltern DC has had regard to national guidance issued under Section 182 of the Act.
- 1.10 Nothing in this policy document should be regarded or interpreted as an indication that any requirement of licensing or other law may be overridden. Any statement within the Policy will be relevant to all licensed premises (including Clubs) unless otherwise stated.

## **2. Objectives and Principles**

- 2.1 The Act provides that Chiltern DC has a duty to carry out its functions with a view to promoting the prescribed licensing objectives:
- a) The prevention of crime and disorder**
  - b) Public safety**
  - c) Prevention of public nuisance**
  - d) Protection of children from harm**

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Each objective is of equal importance.

2.2 Recognition is given to the variety of activities for which licences may be sought and this document specifies licensing policies in respect of those regulated entertainments, premises from which alcohol may be served, late night hot food outlets and others with proper regard to the following:

- a) Location of and environmental impact of the proposed activity;
- b) Suitability of applicants (for appropriate licences);
- c) Suitability of premises subject to the application;
- d) Operation and management functions;
- e) Consultation processes;
- f) Monitoring, review and enforcement.

2.3 Whilst these factors will be under consideration it should be stressed that the following fundamental principles will also be observed: -

- a) the right of any individual or body to apply for a variety of permissions is not undermined and that each application will be determined on its merits;
- b) the statutory right of any person to make appropriate representations or to seek a review in respect of any application;
- c) that the statutory function of licensing is primarily concerned with the regulation of persons, premises and temporary events within the legislation and that any terms and conditions will focus on:
  - i) matters within the control of individual licence holders and others who are granted any relevant permissions;
  - ii) the premises and places being used for licensable activities;
  - iii) the direct impact of the activities taking place at the relevant premises on the public living, working or engaged in normal activity in the area concerned;

2.4 All residents have equal rights to make representations concerning applications for premises licences and to receive appropriate consideration to their representations. However, unreasonable, frivolous and vexatious representations will be disregarded. Each representation will be considered on its own merits. In determining such matters, the Council will have regard to Act, the statutory Government Guidance, this policy and the licensing objectives.

2.5 Government Guidance is that licensing policies are not used as a mechanism for the general control of anti-social behaviour by individuals once they are beyond the immediate vicinity of the individual club, business or licensed premises holding the relevant licence, certificate or permission.

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### **Commercial Demand**

- 2.7 The commercial demand for additional premises licences [as distinct from cumulative impact] will not be a matter for the Council.

### **Zoning and Licensing Hours**

- 2.8 Individual applications will be considered on their own merits and in general terms a flexible approach will be adopted and arbitrary restrictions will be avoided. Fixed predetermined closing times for particular areas will not form part of the policy and restriction on trading hours will be considered only where appropriate to meet the licensing objectives.
- 2.9 Shops, stores and supermarkets will generally be permitted to sell alcohol for consumption off the premises during the normal hours they intend to open for shopping purposes. However, in the case of individual shops which are known to be a focus of disorder and disturbance then, subject to representations from the police, other responsible authorities and other persons, a limitation on licensing hours may be appropriate and imposed.
- 2.10 In general, the Council will deal with the issue of licensing hours on the individual merits of each application. However, when issuing a licence, stricter conditions are likely to be imposed with regard to noise control in the case of premises which are situated in largely residential areas, including premises which are licensed for and the supply of Alcohol both on and off the premises, and/or regulated entertainment.

### **Children**

- 2.11 Nothing in this statement of policy shall limit or require access to premises by children unless there is an overriding requirement of necessity to prevent physical, moral or psychological harm to children. Areas that will give rise to particular concern are highlighted elsewhere in this policy.
- 2.12 The Council considers that the Buckinghamshire Children's Safeguarding Board is a competent body to advise on matters of child protection, and in urgent cases, the Service Director of Child & Family Service at Buckinghamshire County Council is competent to give advice.

### **Conditions**

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- 2.13 The policy does not provide for any 'standard conditions' to be imposed to avoid the imposition of disproportionate and burdensome requirements. Conditions attached to licences if required in particular circumstances will be tailored to reflect the individual style and characteristics of the activities concerned. It should be noted that 'pools of conditions' from which appropriate and proportionate conditions may be drawn in particular circumstances are provided for in this policy statement. This may include those contained within the National Guidance and the District Surveyors Association Model National Standard Conditions.
- 2.14 Where relevant representations have been made and it has been satisfied at a hearing of the necessity to impose conditions, such conditions will only be imposed such as are appropriate and proportionate to promote the licensing objectives. Conditions will not be imposed which are beyond the responsibility or control of the licence holder.
- 2.15 Where no representations have been made, the licence or certificate will be granted subject only to conditions that are consistent with the operating schedule or club operating schedule and any mandatory conditions prescribed in the Act.

### **Community Premises**

- 2.16 Recent changes in legislation now permit community premises to be able to sell alcohol without the need for a Designated Premises Supervisor holding a personal licence and can instead specify that the committee will be responsible for alcohol sales. In such circumstances the Authority would expect to be provided with a name or names and contact number(s) for those individuals who could be contacted in case of emergency or general queries relating to the licence.

## **3. Strategic Links and other Regulatory Systems**

### **Strategic influences**

- 3.1 There is a range of national and local strategic influences and statutory controls which affect the licensing system in terms of policy formulation, administration and enforcement activities. In this respect, the Council has and will continue to take account of its obligations and powers under other legislation, including in particular, the Immigration Act 2016 the Crime and Disorder Act 1998, the Human Rights Act 1998, the Disability Discrimination Act 1996, the Anti Social Behaviour Act 2003 and the Equality Act 2010.
- 3.2 It has also taken account of Government and national strategies including:

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The Modern Crime Prevention Strategy; Home Office 2016  
The Immigration Act 2016  
Alcohol Harm Reduction Strategy for England (Prime Minister's Strategy Unit;  
Safe. Sensible. Social. The Next Steps in the National Alcohol Strategy;  
Home Office Safer Clubbing Guide;  
Action Plan for Tackling Alcohol Related Crime, Disorder and Nuisance;  
Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks.

- 3.3 The Council has also taken account of relevant local strategies relating to crime reduction, community development and tourism including:

Chiltern Community Plan;  
Chiltern Community Safety Strategy;  
Community Development Revitalisation Action Plan;  
Enforcement policies of Chiltern District Council and Thames Valley Police;  
'Calling Time on the Harms Caused by Alcohol in Buckinghamshire' (DAAT, 2007)

- 3.4 The Council recognises that licensed premises in the District are a major contributor to the District. They attract tourists and visitors, make for vibrant towns and communities and are major employers. Therefore, proper account will be taken of the need to encourage and promote a broad range of entertainment, particularly live music and entertainment, for the wider cultural benefit of communities within the context of residential amenity. To this end, the Council would encourage applications for premises licences from owners of public land in order to encourage circus and street arts into the area.

### **Other Regulatory Systems**

- 3.5 It is appreciated that there may be an overlap between the licensing regime and other statutory regulatory systems. To avoid such duplication, conditions will not be attached to licences if they are already adequately covered by other legislation. However, such regulations do not always cover the unique circumstances that arise in connection with licensable activities and so in these circumstances, tailored conditions may be appropriate.
- 3.6 The planning, building control and licensing regimes will be separated to avoid duplication and licence applications will not cut across decisions made under the other regimes. However, in circumstances where any

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restriction has been placed on the use of premises (through the imposition of planning conditions) prior to an application being made for a licence, certificate or provisional statement, consideration will be given to the extent to which the application meets the overall licensing objectives and the policies contained within this statement. The granting of a licence, certificate or provisional statement will not override any requirement of the planning system. The licensing system will provide the detailed control of operational matters, which are unlikely to be addressed through planning processes however there will be overlapping issues of interest i.e. disturbance, which will remain material considerations for planning purposes.

## **4. The Licensing Process**

### **General**

- 4.1 The powers of the Council under the Act may be carried out by the Licensing and Regulation Committee, by a Sub-Committee or, instead, by one or more officers acting under delegated authority. It is considered that many of the functions will be largely administrative with no perceived areas of contention. In the interests of efficiency and effectiveness these will, for the most part be carried out by officers.
- 4.2 Applications where there are relevant representations will be dealt with by the Licensing Sub-Committee of the Council, as will any application for review of a licence. Relevant representations will normally only be accepted when a name and address are provided as a minimum. A copy of the relevant representations will be passed to the Applicant as required by the Licensing Act 2003 (Hearings) Regulations 2005 as amended and in order for there to be an opportunity to resolve and/or address concerns without the need for a hearing if possible.
- 4.3 Persons wishing to submit relevant representations to the Council should notify the Council prior to submitting a relevant representation if they do not want their personal details to be passed to the applicant, so that the Council can consider whether there are circumstances to justify withholding some or all of the persons personal details from the Applicant giving only minimal details in line with the Statutory Guidance. Alternatively other approaches could be considered regarding submitting representations including contacting the relevant responsible authority or the Parish/Town Council who could then make representations if appropriate and justified.
- 4.4 The Council acknowledges the advice previously received from Department of Culture, Media and Sport (DCMS) that the views of vocal

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minorities should not be allowed to predominate over the general interests of the community. However, each case will be considered on its own merits.

### **Applications for Premises Licences and Club Premises Certificates**

- 4.5 Premises Licences and Club Premises Certificates will be determined in the same way. Club Premises operators may apply for a full Premises Licence, which (if granted) will allow them greater freedom in relation to the use of the premises.
- 4.6 The Immigration Act 2016 requires that Premises Licences may only be granted to individuals if they have provided evidence of their lawful immigration status and proven their eligibility to undertake work relating to the carrying on of a licensable activity in line with the requirements of the legislation and guidance. Existing licences automatically lapse if and when the licence holder's lawful leave or permission to work ends.
- 4.7 'Minor variation' applications can be used to make changes to licences which are unlikely to have any effect on the licensing objectives. Officers will consult with relevant responsible authorities where there is any doubt of possible impact on the licensing objectives. There is no right to a hearing with such applications although any comments made by other persons or responsible authorities must be taken into account before any decision is made.
- 4.8 The Council will expect individual applicants to address the licensing objectives in their operating schedule having regard to the type of premises, the licensable activities to be provided, their operational procedures, the nature of the location and the needs of the local community.
- 4.9 Applicants should make themselves aware of and comply with the Council's Statement of Licensing Policy and the advice provided for applicants when preparing their operating schedules.
- 4.10 When attaching conditions the Council will also be aware of the financial implications and the need to avoid measures which might deter entertainment by imposing indirect costs of a substantial nature.
- 4.11 Prospective holders of new premises licences, and those seeking variations to existing premises licences, are advised to consult with the Council's licensing officers, the various responsible authorities and where appropriate local residents or their representatives at the earliest possible planning stage in order to reduce the risk of confusion and dispute arising. The Council will endeavour to work in full co-operation with licence holders

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and applicants to minimise the number of disputes that may arise. The Council may consider charging for pre application advice, where this is the case this will be advised on the first occasion of contact.

### **Neighbour Notification Policy**

4.12 Neighbour notification seeks to ensure that those persons within the borough who live immediately next to, opposite or behind

- a licensed premises, or
- the proposed site for a licensed premises are notified when there is

4.13 a licence application made relating to that premises or site. Neighbour notification will allow immediate neighbours an opportunity to consider the application and respond if appropriate.

4.14 This process applies to any of the following:

- Application for new premises licence
- Application to full variation of a premises licence
- Application for new club premises certificate
- Application to full variation of a club premises certificate
- Application for new gambling premises licence
- Application to vary gambling premises licence
- Application for a review of a licence

4.15 The use of notification letters is in addition to the statutory requirements that are already in place for applicants to advertise applications in a local newspaper and on a blue notice outside the premises. The letter will contain the name of the premises, brief details of the application and how to get further information or make representations, as detailed on the public notices posted at the premises.

### **Properties to be notified**

4.16 Properties to be notified are as follows:

- Properties sharing a common boundary with the premises, including outside areas
- Properties immediately in front of premises (opposite side of road)

4.17 The Licensing Officer will use judgement in circumstances where:

- Other parties, not identified as above, may reasonably be considered to be affected.

- Distances between buildings, or other circumstances, are such that notification in precise accordance with the above guidance is considered unnecessary. The Council acknowledges the advice previously received from Department of Culture, Media and Sport (DCMS) that the views of vocal minorities should not be allowed to predominate over the general interests of the community. However, each case will be considered on its own merits.

- 4.18 In addition, the Licensing section will, in the case of new applications or full variation applications, write to District Councillors and Parish Councils advising them of the receipt of an application.

### **Temporary Events**

- 4.19 The Licensing Act 2003 provides for certain occasions when small scale events (for no more than 499 people at a time and lasting for no more than 168 hours) do not need a licence providing that advance notice is given to the police, and local authority exercising environmental health functions and the Council. The police or local authority exercising environmental health functions may intervene to prevent such an event taking place or agree a modification of the proposed arrangements, and their intervention may in some cases result in the Council imposing conditions on a temporary event notice. When giving a temporary event notice, consideration shall be given to the four licensing objectives. The Council only otherwise intervenes if the statutory permitted limits on temporary event notices would be exceeded.
- 4.20 The Council suggests, where possible and practical, that at least three calendar months' notice be given to hold these events, to allow it to help organisers plan their events safely. This is particularly important when considering more complex entertainment events. A longer period than this may mean that organisers do not have all the details available at the time of submitting the notice, and a lesser time means that planning may be rushed and haphazard. It is recognised however, that a high proportion of TENS will be less involved, in which case at least one calendar month notice is suggested. The statutory minimum notification period is ten working days for a 'standard' TEN, and no less than 5 working days for a 'late' TEN."
- 4.21 The Council has established a Safety Advisory Group, consisting of the emergency services and other statutory agencies such as the highways authority, to advise and co-ordinate planning for public events in the District, whether or not a premises licence or a temporary event notice is needed.

- 4.22 Organisers of temporary events are strongly advised to contact the Council's Licensing Team for advice at the earliest opportunity when planning events. Where necessary, the advice of the Safety Advisory Group can be obtained, or discussions held with the police to avoid any unnecessary objections being made that may arise from misunderstandings or confusion as to what is being proposed.
- 4.23 Local publicity will also remind notice givers of relevant offences under licensing law including the laws governing sales of alcohol to minors or to any person who is drunk, and of the police powers to close down events with no notice on grounds of disorder, the likelihood of disorder or because of public nuisance, including noise emanating from the premises.
- 4.24 The Council licensing officers and Environmental Health officers may visit events held under the terms of a temporary event notice on the basis of potential risk or impact.

### **No Smoking Legislation**

- 4.25 In July 2007, the government introduced new legislation under the Health Act 2006 to prohibit smoking in virtually all enclosed public places and work places. This includes both permanent and temporary structures such as tents and marquees. Smoking rooms in public places and workplaces are no longer permitted.
- 4.26 For some venues this has resulted in people smoking in the streets. The Authority works closely with the licence holders of such premises in conjunction with Thames Valley Police to ensure that nuisance and/or disorder are not caused by customers congregating in outside areas.

### **Films**

- 4.27 No film shall be exhibited at licensed premises which is likely to lead to disorder and/or stir up hatred or incite violence towards any section of the public on grounds of colour, race or ethnic or national origin, disability, religious beliefs, sexual orientation or gender.
- 4.28 If a licence holder is notified by the Authority that a particular film in the opinion of the Authority falls into that category and may not be shown, its decision shall be final in that respect.
- 4.29 The Council accepts that the British Board of Film Classification (BBFC) is best qualified to make age limitation decisions and will not seek to change or substitute its own age limitations in place of the Board's classification.

- 4.30 Where a request is made to screen a film which has not been classified by the BBFC, the Council will classify the film having followed the relevant guidelines provided by the BBFC and in accordance with its adopted Film Classification Policy.

### **Gambling in Licensed Premises**

- 4.31 The Gambling Act 2005 was implemented in 2007 and a separate policy has been created and approved by this Council which provides details on the Act and the manner in which the Authority will deal with applications made under the Act. The Authority will have due regard to this policy, where relevant, when considering applications under the Licensing Act 2003.

### **Sexual Entertainment Venues**

- 4.32 In November 2009, the Police and Crime Act 2009 was implemented, which amended Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 to incorporate sexual entertainment venues. Under the amended Act, premises offering lap dancing or any live performance or display of nudity on more than eleven occasions within a twelve month period will be required to obtain a sex establishment licence.
- 4.33 Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Police and Crime Act 2009 was adopted on 9th September 2010 requiring the licensing of Sexual Entertainment Venues.
- 4.34 Currently there are no such establishments within the Chiltern District area.

### **Applications for personal licences**

- 4.35 The Immigration Act 2016 requires that Personal Licences may only be granted to individuals if they have provided evidence of their lawful immigration status and proven their eligibility to undertake work relating to the carrying on of a licensable activity in line with the requirements of the legislation and guidance. Existing licences automatically lapse if and when the licence holder's lawful leave or permission to work ends.
- 4.36 All applicants for the grant of a personal licence are required to undertake a basic disclosure criminal record check. Where a criminal record check discloses an unspent relevant conviction (see schedule 4 of the Act) and the Police object to the application on crime prevention grounds, the Licensing Sub Committee will normally refuse such an application unless there are exceptional and compelling circumstances to justify the granting of a licence.

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## 5. Special Policy Relating to Cumulative Impact

- 5.1 It is clear that the vicinity within which licensed premises are or may be located is a major consideration in determining whether a licence should be granted and what conditions should be attached to it. Primarily consideration will be given to the direct impact of the licensed activity on members of the public living, working or engaged in normal activity in the vicinity of the premises. Although this is not explicitly defined in the Act or Guidance, the 'vicinity' will be determined as a matter of fact in each circumstance. However, it will need to be demonstrated that there is a causal connection between any disorder and the licensed premises themselves.
- 5.2 Licensing law is not a mechanism for the general control of the anti-social behaviour of patrons once they have left licensed premises. Other mechanisms for dealing with such behaviour exist and are outlined in Section 8 of this policy. However in some areas concentrated "pockets" of licensed premises can exist which lead to serious problems of nuisance and disorder arising in the area itself and even some distance away from the premises. In such circumstances the impact of those premises when taken as a whole can be far greater than that arising from individual premises and it may not be possible to distinguish individual premises as being the sole cause, or even a major contributing factor, of a particular problem. It is the **cumulative impact** of all of the premises, which causes problems for a wider area. This should not be confused with the issue of "need" which relates to commercial demand for licensed premises. "Need" is not a matter to be taken into account when determining licensing applications.
- 5.3 In some circumstances the area concerned may become saturated with licensed premises making it a focal point for large groups of people to congregate and eventually leave. This might create exceptional problems of disorder, noise and other nuisance and in such circumstances the grant of further premises licences or club premises certificates may undermine the licensing objectives.
- 5.4 Notwithstanding these concerns each application has to be considered on its own individual merits. Where an objector is seeking to establish that the grant of a premises licence would result in a cumulative impact which undermines one or more of the licensing objectives the following shall apply:

### Representations on the Grounds of Cumulative Impact

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5.5 In cases where objectors seek to establish that an application should be refused on the grounds that it would result in or further contribute to a cumulative impact which would undermine one or more of the licensing objectives the objector shall:

- a) Identify the boundaries of the area from which it is alleged problems are arising;
- b) Provide full details and evidence as to the seriousness and frequency of the nuisance and disorder caused in the area;
- c) Identify the licensing objective(s) which it is alleged will be undermined with specific regard to:
  - i) The occupancy figure (maximum capacity) for the proposed premises;
  - ii) The nature of the licensed activity to be carried on at the premises and its patrons.

5.6 The Council is keen to stress however, that as well as the licensing function there are a number of other mechanisms for addressing issues of cumulative impact. These include:–

- a) planning controls;
- b) ongoing measures to provide a safer and cleaner environment in partnership with local businesses and others;
- c) powers to designate parts of the District as places where alcohol may not be consumed publicly;
- d) confiscation of alcohol from adults and others in designated areas (where adopted);
- e) police enforcement of the law with regard to disorder and anti-social behaviour;
- f) police powers to close some premises for up to 24 hours in extreme cases of disorder or excessive noise;
- g) the power of police and other representative bodies, local businesses or residents to demand a review of the licence;
- h) enforcement action against those selling alcohol to people who are already drunk;
- i) Enforcement by Trading Standards Officers of underage sales.

The Council will address a number of these issues through the Council's Community Safety Partnership in line with the strategic objectives for crime and disorder reduction within the District.

### **Adoption of a Cumulative Impact Policy**

5.7 Where as a result of a representation under paragraph 5.5 above the Council is satisfied that there is clear evidence substantiating a serious or

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chronic concern about nuisance and disorder in a particular area, the Council may consider the adoption of a Cumulative Impact Policy (CIP) detailing the approach to future applications from that area. In doing so the Council shall:

- Identify a concern about crime and disorder or public nuisance;
- Consider whether crime and disorder and nuisance are arising or likely to arise, caused by the customers of licensed premises and if so, identifying the area from which problems are arising and the boundaries of that area;
- Consult with those specified by section 5(3) of the Act.
- Subject to that consultation, include a CIP relating to the area defined in that policy about future premises licence or club premises certificate applications within the terms of this Policy;
- Publish the CIP as part of the Policy as required by the Act.
- Review the need for the CIP when this policy is reviewed, and also midway through its period of effect.

5.8 The effect of adopting a CIP of this kind is to create a rebuttable presumption if relevant representations to that effect are received, that applications for new premises licences or club premises certificates or material variations that are likely to add to the existing cumulative impact will normally be refused, unless it can be demonstrated that the operation of the premises involved will not add to the cumulative impact already being experienced.

5.9 Applicants would need to address the CIP issues in their Operating Schedules in order to rebut such a presumption. Any CIP will stress that the presumption does not relieve responsible authorities or other persons of the need to make a relevant representation before the local authority may lawfully consider giving effect to its special policy.

5.10 The absence of a CIP does not prevent any responsible authority or other persons making evidence based relevant representations on a new application for the grant, or variation of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives.

### **Cumulative Impact Policy**

5.12 The effect of this CIP is to create a rebuttable presumption that applications for the grant or variation of premises licences or club premises certificates that are likely to add to the existing cumulative impact will normally be refused, following relevant representations, unless

the applicant can demonstrate in their operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives.

- 5.13 However this policy does not relieve responsible authorities or other persons of the need to make a relevant representation relating to cumulative impact before the Council will consider giving effect to the policy. If there are no relevant representations, the Council will grant the application in terms that are consistent with the operating schedule submitted.
- 5.14 This policy does not impose quotas that restrict the consideration of any application on its own merits within the area. The exercise of the policy is not absolute. There may be applications for licences and certificates that, because of their nature, will not add to the cumulative impact on the licensing objectives. After receiving representations, the Council will consider whether it is justified in departing from the CIP in light of the individual circumstances of the application. If the application is refused, the Council will need to demonstrate that the grant of the licence would undermine the licensing objectives and that appropriate conditions would be ineffective in preventing the problems involved.
- 5.15 It is recognised that there are other mechanisms available to address issues within a CIP.
- 5.16 This policy applies to all existing licensed premises and club premises and applications for such premises licences and club premises certificates whose curtilage falls within the delineated area and all areas within the control of the licence or certificate holder as set out in Appendix 1.
- 5.17 At the time that this policy was being reviewed, Cumulative Impact Policies ("CIPs") were not included within the Act, but were contained within the Section 182 Statutory Guidance. It is likely that these will become part of the primary legislation soon as this is proposed in the Policing and Crime Bill, which is currently passing through Parliament. The predicted implication for this is that CIPs will need to be reviewed at least every 3 years. Therefore, it is the intention of the Council to review any CIPs as part of the 5 year statutory review of this policy, and midway through that 5 year period, in order to meet the new legislative requirements if these are introduced. The policy will be updated at an appropriate time to reflect changes to the legislation,

## **6. Licence Conditions**

### **Prevention of crime and disorder**

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- 6.1 The Council's starting point is in terms of seeking a reduction in crime and disorder throughout the District consistent with its statutory duty under Section 17 of the Crime and Disorder Act 1998.
- 6.2 The Council will continue to play an active part in the Pubwatch scheme.
- 6.3 When preparing their operating schedules, applicants may wish to consider the following examples as they relate to the licensing objectives having regard to their particular type of premises or activities:
- a) the ability of the person in charge of the premises at the time to monitor the premises at all times it is open;
  - b) the training given to staff in crime reduction measures appropriate to those premises;
  - c) physical security features installed in the premises such as CCTV; where a licensed premises is required to have CCTV as a condition of the licence then, unless there are good reasons provided otherwise, the premises must be equipped to a standard and in a manner in accordance with established Thames Valley Police guidance;
  - d) measures taken to prevent bottles and glasses being used as weapons;
  - e) any other such measures as may be appropriate, such as participation in a local Pubwatch or Shopwatch scheme, 'music wind—down policies';
  - f) adherence to the Portman Group code of Practice;
  - g) the measures employed to prevent the consumption or supply of illegal drugs, including any search procedures and entry policies;
  - h) where premises are subject to age-restrictions, the procedures in place to conduct age verification checks;
  - i) the likelihood of any violence, public order or policing problem if the licence is granted;
  - j) representations from authorised persons, other persons and responsible authorities.

Applicants only need to consider those measures they feel are appropriate to their premises and locality. Conditions will only be attached to a licence which are consistent with their operating schedule unless representations are received and additional conditions are considered appropriate.

#### Premises used for clubbing

- 6.4 The Council recognises that the issue of drug use is not something that is applicable to all licensed premises and each case will be considered on its own merits. However, in some situations it may be appropriate to attach

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conditions to discourage the sale and consumption of drugs and to create a safer environment for those who may have taken them. If relevant representations are made in this respect and are upheld at a hearing, the conditions to be imposed will take into account the "Safer Clubbing" publication issued by the Home Office. In all cases where these conditions are to be imposed, advice will be taken from the local Public Health Authority and the Police.

#### Door Supervisors

- 6.5 Whenever any persons are employed at licensed premises to carry out any security activity, all such persons must be licensed with the Security Industry Authority. Where the Police make representations, the Council may consider that certain premises require particularly strict supervision for the purpose of promoting the reduction of crime and disorder. In such cases, the Council may impose a condition that licensed door supervisors must be employed at the premises either at all times or at such times as certain licensable activities are being carried out.

#### Public Space Protection Orders and Designated Public Places Orders

- 6.6 Prior to the introduction of Public Space Protection Orders, a number of Designated Public Places Orders ("DPPO") were introduced following requests from Thames Valley Police who expressed concern over alcohol induced disorder in certain areas. The DPPOs give power to police constables to request individuals to cease drinking or confiscate any alcohol where it is considered that the person is acting anti-socially as a result of alcohol consumption. All licensed premises are exempt and DPPOs do not affect people who are drinking socially and not causing any disturbance.
- 6.7 Public Space Protection Orders (PSPOs) were brought in under the Anti-social Behaviour, Crime and Policing Act 2014, Where a DPPO is currently in place, this will need to be replaced with a PSPO if appropriate and supported by evidence, following consultation with the public, local businesses and authorities.

### **Public Safety**

#### Occupancy limits

- 6.8 With the introduction of the Fire Safety (Regulatory Reform) Order 2004, it is recognised that existing prescriptive controls such as Fire Certificates have been replaced with the duty to produce risk assessments. In

accordance with the Secretary of State's guidance, the Council will avoid duplicating existing controls.

6.9 Where a relevant representation is received in respect of capacity, the Council may impose conditions in relation to the maximum number of persons to attend premises where:

- It considers it to be appropriate for the purpose of reducing crime and disorder;
- It considers it to be appropriate for the purpose of safety of occupants.

The issue of capacity will be decided on a case by case basis and will only be applied where there is a clear and justifiable need to do so based upon the nature and style of the premises and the licensing objectives.

6.10 The purpose of imposing a maximum number of persons to be in the premises at any one time is to ensure the safety of those persons at the premises. Where relevant representations have been made, the Council will set occupancy limits in consultation with the responsible authority.

#### Health and Safety

6.11 Every applicant granted a licence, certificate or permission would also be under a duty to comply with the Health and Safety at Work etc. Act 1974 and regulations made under it. In many cases, the Council will also be the enforcing authority responsible for ensuring compliance with the Health and Safety at Work Act in licensed premises.

#### **The prevention of nuisance**

6.10 The Council will protect the amenity of residents and businesses in the vicinity of licensed premises, and for these purposes 'vicinity' is taken to mean the immediate area around licensed premises.

6.11 The Council will interpret 'public nuisance' in its widest sense, and takes it to include such issues as noise, light, odour, litter and anti-social behaviour, where these matters impact on those living, working or otherwise engaged in normal activity in an area.

6.12 At the same time the Council is aware of the importance of the licensed trade to the revitalisation of the local area. Accordingly, it will try and work together with other persons, statutory agencies and licensed businesses to ensure a mutual co-existence.

- 6.13 Where the considerations apply to late-night refreshment premises, they shall only be taken to apply to their operation between the hours of 11 p.m. and 5 am for which a premises licence would be required.
- 6.14 When preparing their operating schedules, applicants may wish to consider the following examples as they relate to the licensing objectives having regard to their particular type of premises or activities:
- a) the steps to prevent noise and vibration escaping from the premises, including music; noise from ventilation equipment, and human voices. Such measures may include the installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices. Please note that where relevant representations have been made, a condition may be imposed requiring the assessment by the applicant, of potential noise sources which could cause disturbance to those in the vicinity and the identification and installation of appropriate control measures;
  - b) the steps to prevent disturbance by customers arriving at or leaving the premises. This will be of greater importance between 11 p.m. and 7 am than at other times of the day;
  - c) the steps to prevent queuing (either by pedestrian or vehicular traffic). If some queuing is inevitable then queues could be diverted away from neighbouring premises or be otherwise managed to prevent disturbance or obstruction;
  - d) the steps to ensure staff and patrons leave the premises quietly;
  - e) the arrangements for parking by patrons, and the effect of parking by patrons on local residents;
  - f) whether licensed taxis or private hire vehicles are likely to disturb local residents;
  - g) the installation of any special measures where licensed premises are or are proposed to be located near sensitive premises such as nursing homes, hospitals, hospices, places of worship, residential dwellings;
  - h) the use of gardens and other open-air areas;
  - i) delivery and collection areas and times at the premises;

- j) the siting of external lighting, including security lighting that is installed inappropriately;
- k) steps to minimise the impact of increased refuse storage or disposal problems, or additional litter (including fly posters and illegal placards) in the vicinity of the premises;
- l) any previous nuisance complaints or representations against the premises;
- m) steps taken to reduce litter (e.g. bottles, cans) in the immediate vicinity of the premises.

6.15 Applicants only need to consider those measures they feel are appropriate to their premises and locality. Conditions will only be attached to a licence which are consistent with their operating schedule unless representations are received and additional conditions are considered appropriate.

#### **Protection of children from harm**

6.16 The Council recognises that there are many activities for which licences may be sought. These will be located in a great variety of premises such as public houses, night-clubs, hotels, inns, theatres, cinemas, concert halls, restaurants, cafes, takeaways, fast-food outlets, community halls, schools and colleges.

6.17 The Act does not prevent children having free access to premises selling alcohol for consumption on those premises (including those listed above) although the Council will impose conditions restricting the access of children to premises where it is considered appropriate for the prevention of physical, moral or psychological harm to children and representations have been received to this effect. Where there are matters that give rise to serious concerns and restriction of access may not ensure adequate protection of children from harm, applications will be refused.

Examples which may give rise to concerns in respect of children include those:

- a) Where there have been convictions or other relevant actions taken against staff for serving alcohol to minors;
- b) Where there is an evidenced reputation for underage drinking;
- c) Where there is a known association for drug taking or dealing;
- d) Where there is a strong element of gambling on the premises but not the simple presence of a small number of AWP machines;
- e) Where entertainment or services of an adult or sexual nature are provided.

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- 6.18 In exceptional circumstances, where appropriate, and only where the Council has received relevant representations, it may impose conditions restricting access or excluding children from premises or part of licensed premises. The options available would include:
- a) Limitations on the hours when children may be present;
  - b) Age limitations for persons under 18;
  - c) Limitations on the exclusion of children under certain ages when certain activities are taking place;
  - d) Full exclusion of persons under 18 when certain licensable activities are taking place;
  - e) Limitations of access to certain parts of the premises for to which children might be given access;
  - f) A requirement for an accompanying adult to be present.
- 6.19 The Council will not impose any conditions that specifically require the admission of children to premises.
- 6.20 Where no conditions or restrictions are imposed, the issue of access for children still remains a matter of discretion for individual holders of premises licences, club premises certificates or Temporary Event Notice.
- 6.21 The Council supports and encourage the adoption of the Proof of Age Standards Scheme (PASS), which aims to approve and accredit proof of age schemes to assist in preventing underage access to unsuitable premises, films and the purchasing of alcohol. This scheme identifies reliable and secure proof of age schemes with the same hologram mark in order that retailers can easily distinguish accredited cards.
- 6.22 The Council also supports and encourages the adoption of the Challenge 21 campaign which recommends that anyone who appears to be under 21 is challenged for appropriate identification. It also supports the No ID, No Sale campaign.

#### Children and Public Entertainment

- 6.23 Where a large number of children are likely to be present on any licensed premises, for example a children's show or pantomime, the Council would expect an adequate ratio of adults to children in order to ensure the prevention of harm to the children and also to ensure public safety. If representations are received, the Council will impose such a ratio.

## **7. Complaints against Licensed Premises**

- 7.1 The Council will investigate relevant complaints against licensed premises. In the first instance, it is encouraged that complainants should raise the complaint directly with the licence holder or business concerned. All complaints will be investigated and enforcement action taken in accordance with the Council's Enforcement Policy and Complaints Procedure within this policy. It is recognised that another agency may be the more appropriate body to investigate the complaint and in such circumstances, the Council will maintain liaison with that agency in accordance with the Enforcement Protocol.
- 7.2 Where necessary, the Council will initially make contact with the licence holder to address, clarify and try to resolve the issues of concern.

This process will not override the right of any other person or responsible authority to request a review of a licence by the Licensing Sub-Committee at any stage following the grant of a premises licence or if the particular concerns are not addressed in a way that fulfils the licensing objectives.

### **Licence Reviews**

- 7.3 At any stage following the grant of a premises licence a responsible authority (including the Council in its role as Licensing Authority) or another person may ask the Council to review the licence because of a matter arising at the premises in connection with one of the four licensing objectives. In addition, a review of the licence will follow any action to close the premises (for up to 24 hours) on the grounds of disorder or noise nuisance or as a result of a magistrates' court determination.
- 7.4 Where the Council has applied to the Licensing Authority to review an authorisation, there will be a clear separation of responsibilities to ensure procedural fairness and eliminate conflicts of interest.
- 7.5 Under the Violent Crime Reduction Act 2006, following an application from the chief officer of police, the Authority can attach interim steps to licences pending a full review. The Act includes an offence in relation to persistent alcohol sales to minors.
- 7.6 Any application for review must relate to particular premises for which a premises licence is in existence and must be relevant to the promotion of one or more of the licensing objectives. Representations must be in writing and may be amplified at the subsequent hearing or may stand in their own right. Applications will not be accepted if they are considered to be frivolous, vexatious or repetitive. Government Guidance suggests that more than one request originating from an other person or responsible

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authority for a particular premises within a reasonable interval may be considered as repetitious.

7.7 Prior to the hearing, the licence holder will be made fully aware of the representations, the evidence supporting the request and will be given the opportunity to prepare a response.

7.8 The Council views particularly seriously applications for the review of any premises licence where there has been evidence of the following:

- a) use of licensed premises for the sale and distribution of drugs and/or the laundering of the proceeds of drug crimes;
- b) use of licensed premises for the sale and/or distribution of firearms;
- c) evasion of copyright in respect of pirated films and music;
- d) underage purchase and consumption of alcohol;
- e) use of licensed premises for prostitution or the sale of unlawful pornography;
- f) use of licensed premises for unlawful gaming;
- g) use of licensed premises as a base for criminal activity;
- h) use of licensed premises for the organisation of for example, racist, homophobic or sexual abuse or attacks;
- i) use of licensed premises for the sale of smuggled tobacco or goods;
- j) the use of licensed premises for the sale of stolen goods;
- k) where the police are frequently called to attend to incidents of disorder;
- l) prolonged and/or repeated instances of public nuisance;
- m) where serious risks to public safety have been identified and the management is unable or unwilling to correct those;
- n) where serious risks to children have been identified.

## **8. Enforcement Policy**

8.1 The Council has an established enforcement policy, based around the principles of consistency, targeting, transparency and proportionality set out in the Department of Trade and Industry's Enforcement Concordat. Due regard will also be given to the Regulator's Compliance Code issued by the Department for Business Enterprise and Regulatory Reform and the Attorney-General's Guidelines to Crown Prosecutors for bringing prosecutions.

8.2 The licensing policy proposes that a graduated response is taken where offences against licensing legislation are found or where licence conditions have been breached. An isolated administrative offence, such as failing to maintain certain records, may be dealt with purely by way of a written

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warning whilst more serious offences which have either been committed over a period of time or which jeopardise public safety, such as failing to maintain fire extinguishers properly, may result in a referral for prosecution.

- 8.3 The Council will seek to work actively with the police, and other statutory authorities in enforcing licensing legislation. It is a signatory to the Buckinghamshire Memorandum of Understanding and Joint Enforcement Protocol along with Thames Valley Police and other Buckinghamshire local authorities and enforcing agencies which seeks to ensure a consistent and appropriate approach to enforcement.

It expects the agencies to share information about licence holders and licensed premises under the Crime and Disorder Act 1998 and its common law powers, and to consult closely with the Council when any enforcement action may be required.

- 8.4 The Council will investigate allegations of unlicensed activities and to ensure that licence conditions are complied with.
- 8.5 The Council will continue to be a partner in the local partnership Licensing Liaison Group, and has established a local forum for liaison between the statutory agencies responsible for licensed premises.

### **Inspection of Premises**

- 8.6 Any inspection regime will be targeted at those premises that pose the greatest risk and are known to cause the greatest problems.

## **9. DELEGATION AND DECISION MAKING**

- 9.1 One of the major principles underlying the Licensing Act 2003 is that the licensing functions contained within the Act should be delegated to an appropriate level so as to ensure speedy, efficient and cost effective service delivery.
- 9.2 The Authority is committed to the principle of delegating its powers to ensure that these objectives are met and has arranged for its licensing functions to be discharged in accordance with the National Guidance, the Council's Constitution and procedures laid down for good governance.
- 9.3 In determining applications where the Council has acted as a responsible authority, there will be a clear separation of responsibilities to ensure

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procedural fairness and eliminate conflicts of interest. This will be achieved by allocating distinct functions to different Officers within the authority, so the Officer presenting the report to the Sub-Committee and advising the Members will be a different individual to the Officer who is acting as the responsible authority. The Officer acting as the responsible authority will not be involved in the decision making process.

## 10. FURTHER INFORMATION

Further information about the Licensing Act 2003 and the Council's licensing policy can be obtained from:

**Licensing  
Chiltern District Council  
King George V Road  
Amersham  
Bucks HP6 5AW**

**T: 01494 732068  
F: 01494 586504  
E: [licensing@chiltern.gov.uk](mailto:licensing@chiltern.gov.uk)  
Website: [www.chiltern.gov.uk](http://www.chiltern.gov.uk)**

**Information is also available from**

**(1) The Home Office,**

Direct	Communications	Unit
2	Marsham	Street
London		
SW1P 4DFT: 020 7035 4848		
E: <a href="mailto:public.enquiries@homeoffice.gsi.gov.uk">public.enquiries@homeoffice.gsi.gov.uk</a>		
W: <a href="https://www.gov.uk/government/collections/licensing-act-2003-supporting-guidance">https://www.gov.uk/government/collections/licensing-act-2003-supporting-guidance</a>		

(3) Copies of the Licensing Act 2003 and associated legislation is available from [www.legislation.hmso.gov.uk](http://www.legislation.hmso.gov.uk)

(4) Government's Licensing Act 2003, Section 182 Guidance is available from <https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>

(5) Copies of reports and minutes of the Licensing & Regulation Committee are available on the Council's website at [www.chiltern.gov.uk](http://www.chiltern.gov.uk), following the links

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to **Council and Democracy** or by contacting the Licensing Team (details as above)

