



# WORTHING BOROUGH COUNCIL

04 October 2018

## Licensing and Control Committee B

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|---------------|--|
| <b>Date:</b>  | <b>15 October 2018</b>                     |
| <b>Time:</b>  | <b>6.30pm</b>                              |
| <b>Venue:</b> | <b>Council Chamber, Worthing Town Hall</b> |

**Committee Membership:** Councillors Paul High (Chairman), Sean McDonald (Vice Chairman), Mike Barrett, Keith Bickers, Karen Harman, Lionel Harman, Joshua High, Charles James, Richard Mulholland, Louise Murphy, Jane Sim, Bob Smytherman, Paul Westover, Mark Withers, Tom Wye

## Agenda

### Part A

#### 1. **Declarations of Interest / Substitute Members**

Members and officers must declare any disclosable pecuniary interests in relation to any business on the agenda. Declarations should also be made at any stage such an interest becomes apparent during the meeting.

If in doubt contact the Legal or Democratic Services representative for this meeting.

#### 2. **Confirmation of Minutes**

To approve the minutes of the Licensing and Control Committee B meeting of held on the 7 June 2018 (adjourned and reconvened on the 12 July 2018 and 11 September 2018)

### 3. Public Question Time

To receive any questions from Members of the public in accordance with Standing Order 11.2

*(Note: Public Question Time will operate for a maximum of 30 minutes.)*

### 4. Licensing Act 2003 – Review of Statement of Licensing Policy

To consider a report by the Director for Communities, copy attached as item 4

## Part B - Not for publication - Exempt Information Reports

|  |  |
|--|--|
| For Democratic Services enquiries relating to this meeting please contact:                                   | For Legal Services enquiries relating to this meeting please contact:              |
| Chris Cadman-Dando<br>Democratic Services Officer<br>01903 221364<br>chris.cadman-dando@adur-worthing.gov.uk | Ruth Pallister<br>Solicitor<br>01903 221050<br>ruth.pallister@adur-worthing.gov.uk |

**Duration of the Meeting:** Four hours after the commencement of the meeting the Chairperson will adjourn the meeting to consider if it wishes to continue. A vote will be taken and a simple majority in favour will be necessary for the meeting to continue.



## Licensing Act 2003 – Review of Statement of Licensing Policy

### Report by the Director for Communities

#### 1.0 Summary

- 1.1 In accordance with the statutory requirements of the Licensing Act 2003 (the 2003 Act) the Council's statement of Licensing Policy is being reviewed. Following a wide ranging consultation exercise members are requested to consider the attached draft and the representations received and recommend a policy for adoption by full Council at its next meeting on 11 December 2018.

#### 2.0 Background

- 2.1 Worthing Borough Council's Statement of Licensing Policy together with the Statutory Guidance issued under Section 182 of the 2003 Act has provided the framework for members' and officers' decision making on applications for Premises Licences, Personal Licences and Temporary Event Notices (TENs) since the first appointed day in February 2005.
- 2.2 The Licensing Act 2003 requires the Council to regularly review its Statement of Licensing Policy with reviews being completed at least every five years. Under the provisions of the 2003 Act, before amendments can be made to a policy, the Council must embark on wide ranging consultation.
- 2.3 The current Statement of Licensing Policy (the Policy) now requires reviewing. An updated draft policy has been drafted in accordance with both the 2003 Act and the new Statutory Guidance that was published by the Home Office in April 2018. (Appendix A)
- 2.4 As part of the review process officers have conducted an extensive consultation process with members, the public, statutory consultees and the voluntary agencies. A list of consultees is provided. (Appendix B)

- 2.5 The draft policy contains no changes to the fundamental intent or direction of the policy but contains amendments necessary to accommodate the changes made to the act over the last 5 years. These include changes made by the:
- Deregulation Act 2015
  - Immigration Act 2016
  - Licensing Act 2003 (Miscellaneous Amendments) Regulations 2017
- It also includes the changes introduced by the new Guidance issued in April 2018 and the best practice within the sector.
- 2.6 If a new policy is adopted and put in place in December 2018 a further review will be required prior to December 2023 at the latest.

### **3.0 Consultation**

- 3.1 Between 25 July and 24 August 2018 both Adur and Worthing Councils' draft policies were the subject of an extensive consultation exercise which included Members, Officers, the general public, resident groups, voluntary groups, trade & stakeholder groups and the Responsible Authorities. A list of those directly consulted is attached.
- 3.2 Only five separate responses were received. These were from:

#### **A) Responsible Authorities:**

- West Sussex County Council (WSSCC) Public Health Lead for Substance Misuse, on behalf of the Director of Public Health

#### **B) Stakeholders:**

- Mr Doug Simmonds
- Cllr Kevin Boram
- Cllr David Simmons
- Friends of Shoreham Fort

**(Appendix C 1 - 5)**

- 3.3 Sussex Police confirmed they had no comment to make.
- 3.4 West Sussex County Council's Director of Public, a Responsible Authority, made a detailed representation. The information in the original draft policy published for consultation included in section 14 entitled Alcohol & Health information that was dated. Ms Holly Yandell on behalf of the WSSCC Director of Public Health has suggested detailed changes to some of the terminology used in the section. The non-contentious suggestions made in her representation have been incorporated into the draft policy attached.
- 3.5 Those representations received from stakeholders were generally supportive of the draft policy and concentrated on detailed wording of the policy. Mr Doug Simmonds highlighted that Section 14 needed updating. The non-contentious suggestions made in their representations have been incorporated into the draft policy attached.

- 3.6 Some of the representations received refer to the Adur DC Statement of Licensing Policy but the comments are non-contentious and are considered relevant to Worthing's Policy too.
- 3.7 When reading the draft policy it should be noted that current policy's text is in grey type the updated text that was published for consultation is in black type and the recommendations made as a result of consultation that were considered non contentious and valid have been absorbed into the draft and are marked in black & underlined.

#### **4.0 Proposals**

- 4.1 Members are invited to consider the enclosed draft Statement of Licensing Policy, the representations received as a result of consultation and either:
- a) Approve the attached draft policy with the minor amendments made as a result of the representations received.
  - b) Reject the draft and detail further major changes required.

#### **5.0 Legal**

- 5.1 The 2003 Act (Section 5) requires that a licensing authority prepare and publish a statement of its licensing policy at least every five years. Such a policy must be published before the authority carries out any function in respect of individual applications and notices made under the terms of the 2003 Act. During the five-year period, the policy must be kept under review and the licensing authority may make any revisions to it as it considers appropriate, for instance in the light of feedback from the local community on whether the licensing objectives are being met.
- 5.2 In determining all licensing matters, the principles of the Human Rights Act 1998 must be taken into consideration.
- 5.3 Members must ensure its policies allow all applications to be considered on their own merits, and in accordance with the principles of natural justice as well as the provisions of the 2003 Act. All relevant factors must be taken into account, and all irrelevant factors must be disregarded.
- 5.4 All matters before Committee must be considered against the backdrop of the Equality Act 2010 and also in accordance with the Council's stated policy on Equalities.
- 5.5 In accordance with Section 17 of the Crime and Disorder Act 1998 the Council is under a duty to exercise its functions with due regard to the likely effect on, and the need to do all it reasonably can to prevent, crime and disorder in its areas. The possible crime and disorder implications are clearly relevant factors in the consideration of all applications and this is re-emphasised by the 2003 Act itself.

## **6.0 Financial implications**

6.1 There are no financial implications for the Council.

## **7.0 RECOMMENDATION**

7.1 **The Committee is asked to consider the enclosed draft Statement of Licensing Policy and the representations received and recommend a final draft to full Council for adoption.**

Mary D'Arcy  
**Director for Communities**

### **Principal Author and Contact Officer:**

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Public Health & Regulation – Team Leader Licensing  
Senior Licensing Officer  
Telephone 01273 263191.

### **Background Papers:**

- Licensing Act 2003
- Guidance issued under section 182 of the Licensing Act 2003 (October 2012)  
<http://www.homeoffice.gov.uk/publications/alcohol-drugs/alcohol/guidance-section-182>
- Worthing Borough Council's current Statement of Licensing Policy (July 2012)  
<http://www.adur-worthing.gov.uk/media/media,98561,en.pdf>

### **Appendices:**

- Appendix A - Draft Statement of Licensing Policy
- Appendix B – List of Consultees
- Appendices C 1 to 5 - Letters of representation.

Public Health & Regulation – Licensing Unit, Portland House, Worthing

Ref: SJ/Lic.U/LA03/ Policy Review August 2018

Date: 2 October 2018

SEJ

## APPENDIX A

Key:

Current Policy text

Amendments published in Draft Policy Consulted on  
**Suggested Amendments as a result of Consultation**



# WORTHING BOROUGH COUNCIL

Licensing Act 2003

## **DRAFT STATEMENT OF LICENSING POLICY**

Sept 2018  
Committee Draft

# WORTHING BOROUGH COUNCIL'S STATEMENT OF LICENSING POLICY

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# WORTHING BOROUGH COUNCIL

## 1. INTRODUCTION

- 1.1 The Borough of Worthing is situated in the County of West Sussex which contains seven local councils in total; Worthing is a compact urban seaside borough. It is one of the largest towns in West Sussex with a population of around 100,000, covering an area of 3300 hectares. Worthing Borough Council and Adur District Council are served by a single officer structure but remain separate Authorities.
- 1.2 Worthing Borough Council is the Licensing Authority under the Licensing Act 2003 (as amended by the Violent Crime Reduction Act 2006, the Police & Crime Act 2009 and the Police Reform & Social Responsibility Act 2011, **Live Music Act 2012, Deregulation Act 2015, Immigration Act 2016 and Licensing Act 2003 (Miscellaneous Amendments) Regulations 2017**) and is responsible for the administration and enforcement of the Licensing Act 2003 within the borough of Worthing. This includes, among other duties, the granting of Premises Licences, Club Premises Certificates, Temporary Events Notices and Personal Licences in the borough in respect of the sale and/or supply of alcohol, the provision of regulated entertainment and late night refreshment. This statement has been prepared and updated in accordance with the latest provisions of the 2003 Act and the latest revised Guidance issued under Section 182 of the Act. The statement sets out the policies the Licensing Authority will generally apply to promote the Licensing Objectives when making decisions on applications made under the Act.
- 1.3 The 2003 Act requires that the Licensing Authority carries out its various licensing functions so as to promote the following four Licensing Objectives:
- the prevention of crime and disorder
  - public safety
  - the prevention of public nuisance
  - the protection of children from harm
- The Licensing Authority recognises that each objective is of equal importance and that there are no other statutory Licensing Objectives so that the promotion of the four objectives is paramount to its considerations at all times.
- 1.4 In addition, the legislation also supports a number of other key aims and purposes. The Licensing Authority considers these vitally important and should be principal aims for everyone involved in licensing work. They include:
- Protecting the public and local residents from crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises;

- Giving the police and licensing authorities the powers they need to effectively manage and police the night-time economy and take action against those premises that are causing problems;
  - Recognising the important role which pubs and other licensed premises play in our local communities by minimising the regulatory burden on business, encouraging innovation and supporting responsible premises;
  - Providing a regulatory framework for alcohol which reflects the needs of local communities and empowers local authorities to make and enforce decisions about the most appropriate licensing strategies for their local area; and
  - Encouraging greater community involvement in licensing decisions and giving local residents the opportunity to have their say regarding licensing decisions that may impact upon them.
- 1.5 Under the 2003 Act the Licensing Authority has a legal duty to review its statement of policy at intervals of at least every 5 years and will seek to obtain consensus regarding the main elements of this Policy amongst stakeholder groups, to provide partnership working to achieve high standards and good practice
- 1.6 **The Licensing Authority, in addition to administering the Licensing Act 2003, is also responsible for licensing a wide range of other activities including Taxis (Hackney Carriages & Private Hire), Gambling Establishments, Street Trading, Animal Establishments, Charitable Collections, Scrap Metal Dealers, Sex Establishments, Skin Piercing and Tattoo Parlours.**

## **2. CONSULTATION**

- 2.1 There are a number of groups who have a stake in the leisure industry, including providers, customers, residents and enforcers, all who have views and concerns that require consideration as part of the licensing function.
- 2.2 Before publishing this Policy Statement, the Licensing Authority consulted with Sussex Police, West Sussex Fire & Rescue Service, members of the Adur & Worthing Safer Communities Partnership, West Sussex Safeguarding Children Unit, The Drug & Alcohol Action Team, The Environmental Protection Team and the Head of Community Safety at West Sussex County Council, West Sussex Trading Standards Service, the Public Health Directorate of West Sussex County Council and bodies representing local holders of premises licences, club premises certificates, personal licences, businesses and residents in the Borough.
- 2.3 The Licensing Authority may, at its discretion, consult other persons/bodies when determining or reviewing this policy. Such other persons/bodies may include:
- Other Council services;

- West Sussex County Council;
  - British Transport Police;
- 2.4 The Licensing Authority apportions proper weight to the views expressed by all the persons/bodies consulted before its Policy Statement takes effect.
- 2.3 This policy will take effect on 11 December 2018. It will remain in force for a period of not more than five years and will be subject to review and further consultation prior to 11 December 2023.
- 2.4 Amendments to the Licensing Act have introduced new adoptive powers in the form of
- Early morning restriction orders
  - Late night levy.
  - Deregulation of late night refreshment

The Licensing Authority has not introduced these measures but will consult on the adoption of these powers, or the re-introduction of a Special Saturation Policy, if at any time in the future the imposition of any of these measures is considered necessary to promote the Licensing Objectives.

### **3. LICENSABLE ACTIVITIES & MAIN PRINCIPLES**

- 3.1 This Policy cannot detail all the factors that influence the achievement of the Licensing Objectives nor can it detail all the control measures that may be appropriate. It should be recognised, however, that this Policy covers a wide variety of premises and associated activities which include:

- Theatres
- Cinemas
- Restaurants
- Public Houses
- Night-clubs
- Private Members' Clubs
- Village Halls and Community Centres, as well as
- Certain shops, stores and supermarkets
- Off-licences
- Late night food premises including vehicles
- **Temporary & Pop Up Events**

- 3.2 For the purposes of the Act, the following are licensable activities:

- Sale by retail of alcohol.
- Supply of alcohol by or on behalf of a club to, or to the order of, a member of the club.
- Provision of regulated entertainment.
- Provision of late night refreshment.

- 3.3 The Act provides for four different types of authorisation to regulate the provision of these activities:
- Personal Licences – to sell or authorise the sale of alcohol from premises in respect of which there is a premises licence.
  - Premises Licences – to use a premise for licensable activities.
  - Club Premises Certificates – to allow a qualifying club to engage in qualifying club activities as set out in Section 1 of the Act.
  - Temporary Event Notices – to carry out licensable activities on a temporary basis.
- 3.4 Nothing in the ‘Statement of Policy’ will:
- undermine the statutory rights of any person to apply under The 2003 Act for a variety of permissions and have the application considered on its individual merits, and/or
  - override the right of any person to make representations on any application or seek a Review of a licence or certificate where they are permitted to do so under the 2003 Act
- 3.5 Licensing is about the control of licensed premises, qualifying clubs and temporary events within the terms of the 2003 Act, and any conditions attached to licences, certificates and permissions will cover matters that should reasonably be within the control of individual licensees. Accordingly, these matters will centre on the premises being used for licensable activities and the vicinity of those premises. Whether or not incidents can be regarded as being “in the vicinity” of licensed premises is a question of fact and will depend on the particular circumstances of the case. In cases of dispute, the matter will be decided by the courts. (see paragraphs 5.14 - 5.16)
- 3.6 When considering these conditions, the Licensing Authority will focus on the four statutory Licensing Objectives set out in 1.3 above, including the direct impact of the activities taking place at licensed premises on members of the public living, working or engaged in normal activity in the area concerned.
- 3.7 Operating Schedules, where required by the 2003 Act as part of an application for a Premises Licence, will be expected to set out and address all those issues specified in the Guidance issued under Section 182 of the Act and including the following:
- Nature, style and characteristics of the business, including seating provision.
  - Licensable activities to be conducted on the premises; including details of the forms of entertainment proposed (if any).
  - Times during which it is proposed that the relevant licensable activities are to take place;
  - Any other times when the premises are to be open to the public;
  - Where the licence is required only for a limited period, that period;
  - Where the licensable activities include the supply of alcohol, the name and address of the individual to be specified as the designated premises supervisor; and the management arrangements which will be in place,

including when the designated premises supervisor is not on the premises.

- Where the licensable activities include the supply of alcohol, whether the alcohol will be supplied for consumption on or off the premises or both;
- Maximum number of persons who will be permitted in the establishment at any one time, and the methods to be employed to ensure the maximum number is not exceeded and to keep associated records (this paragraph will not apply to retail shops)
- Time at which all customers will have left and the premises will be closed for business.
- Steps which the applicant proposes to take to promote the Statutory Licensing Objectives as set out in paragraph 1.3

3.8 Whilst the Licensing Authority accepts that differing needs apply to the range of premises that might be subject to Premises Licences under the Act, it nonetheless draws attention to the importance of the four Statutory Licensing Objectives, and the examples cited in the Guidance to the Act of ways in which licence holders can demonstrate support for the Licensing Objectives. This can involve, for example, Safer Clubbing as amended in the light of the Licensing Act 2003, the provision of Security Industry Authority registered door supervisors, arrangements for the protection of young people, venue drugs policies, signing and adhering to the Responsible Retailing in the Licensed Trade Charter and participation in Pub-Watch schemes. Nevertheless applicants may wish to demonstrate compliance with the Licensing Objectives in different ways in their respective Operating Schedules. This may, in particular circumstances, involve taking a different approach to an issue compared with the advice contained in the Guidance. If so the Licensing Authority will expect applicants, in their Operating Schedules, to demonstrate that their amended proposals are at least as effective as those advised in the Guidance.

3.9 Where the Responsible Authorities and other persons do not raise any relevant representations about an application made to the Licensing Authority, it is the duty of the Licensing Authority to grant the licence or certificate subject only to conditions that are consistent with the Operating Schedule and any mandatory conditions prescribed in the 2003 Act itself.

3.10 The Licensing Authority may not impose any additional conditions unless its discretion has been engaged by a relevant representation and it has been satisfied, at a hearing, that it is appropriate to impose conditions due to the representations raised. It may then only impose conditions it considers appropriate to promote the licensing objectives arising out of the consideration of the representations. However, in order to minimise problems and the necessity for hearings, it would be sensible for applicants to consult with the Responsible Authorities when schedules are being prepared. This would allow for proper liaison before representations prove necessary.

## **4. LICENSING OBJECTIVES**

4.1 The Statutory Licensing Objectives are:-

- Prevention of crime and disorder
  - Public safety
  - Prevention of public nuisance
  - Protection of children from harm
- 4.2 In respect of each of the four Licensing Objectives, applicants will need to provide evidence to the Licensing Authority that suitable and sufficient measures, as detailed in their Operating Schedule, will be implemented and maintained, relevant to the individual style and characteristics of their premises and events. Reference will need to be made as to whether additional measures will be taken on an occasional or specific basis such as when a special event or promotion is planned, which may pose additional risks that need to be controlled.
- 4.4 The Licensing Authority considers the effective and responsible management of the premises, instruction, training and supervision of staff and the adoption of evidence based best practice to be amongst the most important control measures for the achievement of all the Licensing Objectives. For this reason, the Licensing Authority will expect these elements to be specifically considered and addressed within an applicant's Operating Schedule.
- 4.5 The Premises Licence will in some cases not stipulate a maximum capacity for a venue or small event. However, the Licensing Authority will expect existing licence holders and applicants to have in place a Fire Safety Risk Assessment that complies with the Regulatory Reform (Fire Safety) Order 2005 and includes a safe occupancy level for a premises or event. The design and layout of premises are important in determining capacity, as is the availability and size of exits within recommended travel distances. Other factors should also be considered when assessing the appropriate capacity for premises or events. These include the:-
- Nature of the premises or event;
  - Nature of the licensable activities being provided;
  - Provision or removal of such items as temporary structures, including a stage, or furniture;
  - Number of staff available to supervise people attending the premises under normal circumstances and in the event of an emergency;
  - People attending the premises, including those with disabilities or special needs;
  - Availability of suitable and sufficient sanitary accommodation;
  - Adequate ventilation.
- 4.6 Each Responsible Authority will be an expert in their respective field, and in some cases it is likely that a particular responsible authority will be the Licensing Authority's main source of advice in relation to a particular Licensing Objective. For example, the Police have a key role in managing the night-time economy and should have good working relationships with those operating in their local area. The Police should usually, therefore, be the Licensing Authority's main source of advice on matters relating to the promotion of the Crime and Disorder

Licensing Objective. However, any Responsible Authority under the 2003 Act may make representations with regard to any of the Licensing Objectives if they have evidence to support such representations. The Licensing Authority will consider all relevant representations from Responsible Authorities carefully, even where the reason for a particular Responsible Authority's interest or expertise in the promotion of a particular objective may not be immediately apparent. However, it remains incumbent on all Responsible Authorities to ensure that their representations can withstand the scrutiny to which they would be subject at a hearing.

- 4.7 The Licensing Authority is included in the list of Responsible Authorities. The 2003 Act does not require Responsible Authorities to make representations about applications for the grant of Premises Licences or to take any other steps in respect of different licensing processes. It is, therefore, for the Licensing Authority to determine when it considers it appropriate to act in its capacity as a Responsible Authority; the Licensing Authority should make this decision in accordance with its duties under section 4 of the 2003 Act.
- 4.8 Licensing Authorities are not expected to act as Responsible Authorities 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 for the Licensing Authority to expect them to make representations themselves where they are reasonably able to do so. However, if these parties have failed to take action and the Licensing Authority is aware of relevant grounds to make a representation, it may choose to act in its capacity as a Responsible Authority.

#### **Prevention of Crime & Disorder**

- 4.9 The Licensing Authority places huge importance on the prevention of crime and disorder. A high standard of control is, therefore, expected to be exercised over all licensed premises.
- 4.10 Alcohol can fuel violence, disorder, domestic violence and anti-social behaviour that can seriously blight a community. The Licensing Authority recognises the need to crack down on one of the key causes of such behaviour - the binge drinking culture and fully supports the 'Alcohol Strategy 2012' published by the Home Office.
- 4.11 In accordance with Section 17 of the Crime and Disorder Act 1998 the Licensing Authority is under a duty to exercise its functions with due regard to the likely effect on, and the need to do all it reasonably can to prevent, crime and disorder in its areas. The possible crime and disorder implications are clearly relevant factors in the consideration of all applications and this is re-emphasised by the Licensing Act 2003 itself, the Guidance issued under section 182 to the Act and this policy. The Council will give "due regard" to all possible implications and its Licensing & Control Committee will always consider all the information available and relevant representations made,



including those from the public and the Responsible Authorities, particularly the Police.

- 4.4 In their role as a Responsible Authority, Sussex Police are an essential source of advice and information on the impact and potential impact of licensable activities in the borough, particularly on the crime and disorder objective. The Police have a key role in managing the night-time economy and usually have good working relationships with those operating in the local area. The Licensing Authority recognises that Sussex Police are the Licensing Authority's main source of advice on matters relating to the promotion of the crime and disorder objective, but may also be able to make relevant representations with regards to the other Licensing Objectives if they have evidence to support such representations. The Licensing Authority will accept all reasonable and proportionate representations made by the Police unless the authority has evidence that to do so would not be appropriate for the promotion of the licensing objectives. However, it remains incumbent on the police to ensure that their representations can withstand the scrutiny to which they would be subject at a hearing.
- 4.5 Licensed premises, especially those offering late entertainment, alcohol and refreshment for large numbers of people, can be a source of crime and disorder problems. The Licensing Authority will expect Operating Schedules submitted with applications to satisfactorily address these issues, from the design of the premises through to the daily operation of the business, including, where appropriate, the policy and arrangements proposed in respect of the prevention of both alcohol and drug misuse.
- 4.6 Applicants will be expected to identify any particular issues (having regard to their particular type of premises and/or activities) which are likely to adversely affect the promotion of the crime and disorder objective in their particular case. Such steps as are required to deal with these identified issues should be included within the applicant's operating schedule.
- 4.7 Applicants are expected to seek advice, where necessary from Council Licensing Officers and Sussex Police, as well as taking into account, as appropriate, local planning and transport policies, and crime prevention strategies when preparing their plans and schedules.
- 4.8 In addition to the requirements for the Licensing Authority to promote the licensing objectives, it also has a duty, as detailed in paragraph 4.3, under Section 17 of the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in the Borough. The Licensing Authority will consider attaching conditions to licences and permissions to deter and prevent crime and disorder within the vicinity if relevant representations are received. Whether or not incidents can be regarded as being in the vicinity of licensed premises is a question of fact and will depend on the particular circumstances of the case.
- 4.9 The Licensing Authority recognises that the Licensing Act is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from licensed premises. Nonetheless, it is a key

aspect of such control and licensing law will always be part of a holistic approach to the management of the evening and night time economy in town centres.

- 4.10 'Vertical Drinking Establishments\*' can encourage accelerated rates of alcohol consumption (binge drinking) and the resultant problems of violent crime and disorder. The applicant's Operating Schedule should address this potential problem and applicants are encouraged to consider providing substantial seating areas to encourage 'social drinking'.

### **Public Safety**

- 4.11 The 2003 Act covers a wide range of premises that require licensing, including, cinemas, concert halls, theatres, nightclubs, public houses, hotels, cafes/restaurants, shops and fast food outlets/takeaways.
- 4.12 Each of these types of premises present a mixture of risks, with many common to most premises and others unique to specific operations. It is essential that premises are constructed or adapted and operated so as to acknowledge and safeguard occupants against these risks.
- 4.13 The Licensing Authority also recognises that the provision of live music, discos and dancing within a premise can lead to potential flashpoints for violence and disorder. The Licensing Authority would expect all entertainment to be properly risk assessed in the Operating Schedule to ensure public safety.
- 4.14 Where an applicant identifies an issue in regard to public safety (including fire safety) which is not covered by existing legislation, the applicant should identify in their Operating Schedule and Fire Risk Assessment the steps, which will be taken to ensure public safety.
- 4.15 The Licensing Authority will expect Operating Schedules and Fire Risk Assessments to satisfactorily address these issues and new applicants are advised to seek advice, where necessary, from Council Licensing Officers and the West Sussex Fire & Rescue Service before preparing their plans and Schedules.
- 4.16 The Licensing Authority will consider attaching conditions to licences and permissions to promote public safety. In attaching conditions the authority will seek to avoid duplication with the requirements of other regulatory regimes, for example legislation covering health and safety at work and fire safety.

*\*establishments, such as public houses, where the consumption of alcohol while standing is one of the primary functions.*

## **Prevention of Public Nuisance**

- 4.17 Licensed premises, especially those operating late at night and in the early hours of the morning, can cause a range of disturbances impacting upon people living, working or sleeping in the vicinity of the premises or wider afield.
- 4.18 Noise disturbance can arise from entertainment or activities held within licensed premises and also from people or motor vehicles outside licensed premises. The Licensing Authority will expect Operating Schedules to address these issues. Advice and guidance can be obtained from Licensing Officers or the Council's Environmental Protection Team. If representations are received the Licensing Authority may utilise appropriate conditions to control noise disturbance and the use of such conditions will depend upon the activities/entertainment/hours of operation proposed; the nature of the locality; and existing background noise levels and ambient noise levels. Noise control conditions may include the satisfactory sound insulation of licensed premises; compliance with maximum noise levels; and limiting hours of operation.
- 4.19 When addressing public nuisance the applicant should initially identify any particular issues (having regard to their particular type/construction of their premises, proposed activities and nature of locality) which are likely to adversely affect the promotion of the objective to prevent public nuisance. Such steps as are required to deal with these identified issues should be included within the applicant's Operating Schedule.
- 4.20 Anti-social behaviour such as excessive noise from access and egress or patrons littering should also be addressed in the Operating Schedule.
- 4.21 Other matters that may give rise to nuisance are cooking odours, light pollution, waste collection and early morning/late night deliveries. The minimisation or prevention of such nuisance should also be addressed in the Operating Schedule if appropriate.
- 4.22 Patrons may no longer smoke inside licensed premises and consequently may go outside to smoke. Applicants and existing licence holders are encouraged to assess whether the noise from such patrons could potentially disturb nearby residents and whether there is potential for smoke to drift to nearby residential properties.
- 4.23 The Licensing Authority will consider attaching conditions to licences and permissions to prevent public nuisance, but will seek to avoid duplication with the requirements of other regulatory regimes.

## **Protection of Children from Harm**

- 4.24 The wide range of premises that require licensing means that children can be expected to visit many of these, perhaps on their own, for food and/or entertainment.

4.25 While the 2003 Act does not prohibit children from having free access to any licensed premises, the Licensing Authority recognises that limitations may have to be considered where it appears necessary to protect children from harm. In particular the following are examples of situations that will raise concern where:

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

4.26 Following relevant representations the Council will consider any of the following options when dealing with a licence application where limiting the access of children is considered necessary to prevent harm to children:

- Limitations on the hours when children may be present
- Age limitations (below 18)
- Limitations or exclusion for all or part of the premises when certain activities are taking place
- Requirements for an accompanying adult
- Full exclusion of people under 18 from the premises when particular licensable activities are taking place

4.27 No conditions will be imposed requiring that children be admitted to any premises and, where no limitation is imposed, this will remain a matter for the discretion of the individual licence holder. However, the Council will liaise closely with West Sussex County Council Trading Standards and Sussex Police who monitor and prosecute the suppliers of alcohol to the “underage” population and will co-operate fully with the Adur & Worthing Safer Communities Partnership so that intelligence gathering exercise can inform strategic planning and action.

4.28 **It is an offence to:**

- **To sell alcohol to someone under 18 years of age anywhere.**
- **For an adult to buy or attempt to buy alcohol on behalf of someone under 18. (Retailers can reserve the right to refuse the sale of alcohol to an adult if they’re accompanied by a child and think the alcohol is being bought for the child.)**
- **For someone under 18 to buy alcohol, attempt to buy alcohol or to be sold alcohol.**
- **For someone under 18 to drink alcohol in licensed premises, except where the child is 16 or 17 years old and accompanied by an adult. In this case it is legal for them to drink, but not buy, beer, wine and cider with a substantial table meal.**
- **For an adult to buy alcohol for someone under 18 for consumption on licensed premises, except as above.**

- **To give children alcohol if they are under five.**

**It is not illegal:**

- **For someone over 18 to buy a child over 16 beer, wine or cider if they are eating a table meal together in licensed premises.**
- **For a child aged five to 16 to drink alcohol at home or on other private premises.**

4.29 Licence holders are required to consider carefully ways to ensure that the sale of alcohol is restricted to those over the age of 18. Popular schemes include the 'Challenge 25 scheme' whereby if the individual looks under 25; they are required to prove that they are over the age of 18 when buying alcohol or tobacco. Acceptable forms of proof are: a photo card driver's licence, passport or PASS. PASS is the national guarantee scheme for proof-of-age, which is fully supported by the Home Office. Applicants are encouraged to introduce such schemes and detail them in operating schedules. The council may impose conditions requiring such schemes if relevant representation is received. Special care should be exercised and the licensed trade should be alert to counterfeit IDs and their fraudulent use.

**Children and cinemas**

4.29 Films cover a vast range of subjects, some of which deal with adult themes and/or contain, for example, scenes of horror or violence that may be considered unsuitable for children within certain age groups. No film shall be exhibited in a licensed premises unless it has received a "U", "PG", "12A", "15" or "18" certificate from the British Board of Film Censors or the British Board of Film Classification or has been approved, in writing, by the Licensing Authority, Worthing Borough Council. The council may impose suitable conditions, for example requiring licensees to restrict children from viewing age-restricted films. Films requiring approval from the Licensing Authority should be presented to the council at least 28 days before the proposed date of screening.

**Children and public entertainments**

4.30 Many children go to see and/or take part in an entertainment arranged especially for them, for example children's film shows, and additional arrangements are required to safeguard them while at the premises.

4.31 Where a regulated entertainment is specially presented for children, the Licensing Authority will require suitable arrangements in order to control their access and egress and to assure their safety, having regard to the size of the venue, the number and ages of children present, and the type of activity. In particular, a suitably competent adult member of staff to be stationed in the vicinity of each of the exits from any level, subject to there being a minimum ratio of staff to children as may be specified.

- 4.32 The Licensing Authority will expect the submitted Operating Schedules and Fire Risk Assessments to satisfactorily address these issues and will consider attaching conditions to licences and permissions to prevent harm to children.

## **5. APPLICATIONS**

- 5.1 The Licensing Authority will ensure that all relevant information is available on how to make applications for licences and other permissions under the Act. A full list of Responsible Authorities and their appropriate contact details is available on the council website together with all relevant application forms and guidance. In addition the council will ensure that information and advice regarding making representations, and applying for a review of a premises licence, is also available

### **Advice and Guidance**

- 5.2 The Licensing Authority recognises the cultural, social and business advantage that premises and events requiring a licence under the Act can provide and the diversity of activities that are provided by licence holders. For this reason, pre-application discussions will be encouraged to assist applicants develop their Operating Schedule. The Licensing Authority will offer as much advice and guidance to applicants as resources permit.
- 5.3 The Licensing Authority will encourage applicants and those who may make representations to work together in order to resolve areas of concern about an application. However, once an application has been lodged, there are statutory timescales imposed upon the application and determination processes which may then restrict the opportunity for discussion and liaison.

### **Premises Licences & Club Premises Certificates**

- 5.4 A Premises Licence or Club Premises Certificate is required where regulated activities are regularly going to take place. Application for a Premises Licence or Club Premises Certificate must be made in the prescribed manner and include a scale plan of the premises and the relevant fee.
- 5.5 The application forms for Premises Licences and Club Premises Certificates (new and variations) require the applicant to state in their Operating Schedule the additional steps they will take to promote the Licensing Objectives. Applicants are reminded that any information contained within the Operating Schedule may be converted into enforceable conditions of licence and this will occur even where there is no hearing.
- 5.6 Application forms and advice are available from the Council's Licensing Unit website or by contacting the licensing unit.

<http://www.adur-worthing.gov.uk/licensing-and-permits/>

## **Application for a Variation to an existing licence**

- 5.7 Where a premises licence holder or club premises certificate holder wishes to amend their licence, in most cases the licence holder may make an application to vary rather than an application for a new Premises Licence or Club Premises Certificate. However, a variation application cannot be made to extend the period for which the licence has effect (i.e. where there is a time limited premises licence) or vary substantially the premises to which it relates. 'Substantially' is not defined in the Act or Guidance, but this Licensing Authority takes it to mean 'large or considerable' and this will ultimately depend on the individual circumstances of the case. Normally an application for extended hours would be expected to be made by way of an application for a variation.

## **Application for a Minor Variation**

- 5.8 Under changes made to the Act in 2009 Minor Variations that will not impact adversely on the Licensing Objectives, such as minor structural alterations, are subject to a simplified 'Minor Variations' process. Under this process, the applicant is not required to advertise the variation in a newspaper or copy it to the Responsible Authorities. However, they must display a notice on the premises in accordance with regulation for a period of ten working days. On receipt of such an application the Licensing Authority must consider whether the variation could impact adversely on the Licensing Objectives and can consult any of the Responsible Authorities it deems necessary. Decisions on Minor Variations are delegated to licensing officers at this authority as recommended by the Government.

## **Advertising**

- 5.9 Applicants must comply with the Licensing Act 2003's regulations when advertising their applications for a Premises Licence, Club Premises Certificate or variation by displaying a blue notice for 28 days on the exterior of the premises and placing an advertisement in the legal section of a local newspaper (Worthing Herald or Evening Argus). **If advertising irregularities are found the advertising period may, at the discretion of the Senior Licensing Officer, be re-started or extended.**
- 5.10 Details of all new applications, variations and reviews are detailed on the council's website together with scheduled hearing dates and the results of each application.

## **Serving Applications on Responsible Authorities**

- 5.11 New applications, applications to vary and applications to review premises licences or club premises certificates must be made to the Licensing Authority with copies served on each of the responsible authorities on the same day. If application is made on-line through the government portal, which can be accessed through the Councils' website, the Licensing Authority will provide the responsible authorities with copies of the application electronically.

## Making a representation

- 5.12 Responsible authorities and ‘any other person’ may make representations on applications for premises licences or club premises certificates, or their variation. Only the Police and **Public Health & Regulation Environmental Team** may object to a Temporary Event Notice (TEN) and only the Police to Premises Licence Transfers, Variations of Designated Premises Supervisors and Personal Licence applications.
- 5.13 **In addition to the Responsible Authorities any person can make relevant representation to the Licensing Authority on applications for the grant, variation or review of a premises licence. In addition, any person may seek a Review of a Premises Licence.**
- 5.14 Representations must be made in writing and must be received by the Licensing unit within the relevant statutory consultation period. Representations received after the close of consultation cannot be considered, save in exceptional circumstances.
- 5.15 Representations to an application may be positive or negative, although only negative representations would result in a Licensing Sub-Committee hearing and determination of an application.
- 5.16 The Licensing Authority will carefully consider the weight it attaches to each relevant representation based on the:
- content of the representation and its relevance to the licensing objectives
  - size and nature of the premises
  - distance of the premises from the person making the representation
  - potential impact of the premises on the person making representation (nature of application, number of customers, routes likely to be taken by customers)

## Relevance

- 5.17 The recent amendments to the act, among other changes, mean any person may make representation regarding a Premises Licence or Club Premises Certificate application and that their representation should not be excluded based on the distance they live or work from a premise but on the representation’s relevance to the Licensing Objectives. However, the vast majority of individuals making representations are persons residing or persons involved in a business in the vicinity of that licensed premise. In making a decision as to what weight to attach to a relevant representation the Licensing Authority may consider whether the individual is likely to be directly affected by disorder or disturbance occurring, or potentially occurring, on those premises or immediately outside the premises. In other words, it is the impact of issues relating to the four licensing objectives that is the key consideration. Each representation will be judged on its own merit.



- 5.18 Upon receiving a representation, officers of the Licensing Authority may assess whether the application is likely to have any affect on the individual making representation. If the grant of the licence is considered to have absolutely no implications for the individual making representation the officers may choose to consult with the Chair of the Licensing Committee and legal advisors. The Senior Licensing Officer is empowered to make a decision, which would result in the representation not going before the Licensing Sub-Committee.
- 5.19 In borderline cases the benefit of doubt will be given to the person making representation and the representation will be included in the agenda for the Licensing Sub-Committee to determine what weight, if any, to apportion to it.
- 5.20 Any representation which in the opinion of the Senior Licensing Officer appears on a balance of probabilities to be irrelevant, frivolous or vexatious shall not be considered. The Senior Licensing Officer is empowered to make a decision, which would result in the representation not going before the Licensing & Control Committee.
- 5.21 In cases of doubt as to whether a representation is irrelevant, frivolous or vexatious the Licensing Officer will consult with the Chairman of the Licensing Committee or with legal advisors as appropriate.
- 5.22 Where persons or organisations, such as Councillors, MPs, Solicitors, Agents, Trade Unions and Residents/Tenants Associations are representing others such as members of the public, residents or businesses the Licensing Authority reserves the right to require written evidence that a person does represent the person(s) it claims to.

### **Registering to speak at a hearing**

- 5.23 Any person making a relevant representation that wishes to speak or be represented at a Licensing Sub-Committee or Licensing Committee hearing is expected to inform the Licensing Authority of their intention at least five working days before the hearing. Failure to do so may result in such a person not being heard, although the Chair may exercise their discretion and allow the person to speak.

### **Personal licences**

- 5.24 A Personal Licence is required to supervise the sale of alcohol in any premise including pubs, off-licences, restaurants, hotels etc. An application for a Personal Licence is made to the Licensing Authority for the area in which an individual resides. That Licensing Authority will then be responsible for continuing to license the individual, even if they move away from the area.
- 5.25 A Personal Licence is valid for the life of the holder and there are various duties on the holder of a Personal Licence. The courts can forfeit an individual's licence if they are convicted of various offences. The Police have

the right to object to the issue of a Personal Licence on the ground of crime prevention if the applicant has a relevant criminal conviction.

- 5.26 As required under the Licensing Act 2003 (Personal Licences) Regulations 2005, Personal Licence applications must be accompanied by two photographs of the applicant, one of which is endorsed with a statement verifying the likeness of the photograph to the applicant signed by a solicitor, notary, person of standing in the community or any individual with a professional qualification. Individuals applying for a Personal Licence must be entitled to work in the UK. A list of documents which an applicant may provide to demonstrate their entitlement to work in the UK is published on gov.uk website and the Councils' website. Applicants will be required to provide a basic Criminal Conviction Certificate and the appropriate Licensing Qualification. Applications not conforming to the requirements of the regulations as stated above will be rejected. Similarly the required criminal conviction check required shall not be accepted if issued earlier than one calendar month before receipt of the application by the Licensing Authority.
- 5.27 Personal Licence holders are encouraged, when authorising members of staff to sell alcohol, to keep a record of the authorisation. It is recommended that any authorisation should state who has been authorised and for what period. It is also considered to be good practice for Personal Licence holders to train staff as to their responsibilities in relation to the service of alcohol even if not required as a term of the Premises Licence.
- 5.28 Personal Licence holders have a legal obligation to notify the Licensing Authority as soon as reasonably practicable of any change of name or address or conviction for a relevant or foreign offence as defined in the Licensing Act 2003.
- 5.29 Where a Personal Licence holder is convicted by a court for a Relevant Offence, the court is under a duty to notify the Licensing Authority of the conviction and of any decision to order that the Personal Licence is suspended or declared forfeit.
- 5.30 The Policing and Crime Act 2017 gives the Licensing Authority the power to revoke or suspend personal licences. This is a discretionary power and the Licensing Authority is not obliged to give consideration to all personal licence holders subject to convictions for relevant offences, foreign offences or civil penalties for immigration matters. When a licensing authority has granted a Personal Licence and becomes aware that the licence holder has been convicted or been required to pay an immigration penalty, the licensing Authority may revoke the licence or suspend it for a period of up to six months. The decision to revoke or suspend a personal licence must be made by a Licensing & Control Committee or Sub-Committee and the licence holder and Police will be given opportunity to make representations to the committee considering the matter. The Licence holder has a right of appeal to the courts if a licence is revoked or suspended.

## **Designated Premises Supervisors**

- 5.31 The 2003 Act provides that, where a Premises Licence authorises the supply of alcohol, a mandatory condition is that no supply of alcohol may be made at a time when no Designated Premises Supervisor has been specified on the licence. That individual must hold a valid Personal Licence.
- 5.32 The Licensing Authority expects that the Designated Premises Supervisor (DPS) will spend a significant amount of time on the licensed premise. When not on the premise and unless exceptional circumstances prevail, the DPS must be contactable.
- 5.33 When not available on the premise a DPS should nominate and brief a competent, authorised 'person in charge' to act in their absence. The DPS is expected to give such delegation in writing to confirm this. It is expected that the nominated person will normally be a personal licence holder. However, the overall responsibility for the supervision of alcohol sales will always remain with the DPS.
- 5.34 The 2003 Act was amended in 2009 to allow certain Community Premises which have, or are applying for, a Premises Licence that authorises alcohol sales to also apply for the disapplication of certain mandatory conditions. Such applications can only be made by a committee or board of individuals with responsibility for the management of the premises. If such an application is successful, the main effect is that the licence holder becomes responsible for the supervision and authorisation of all alcohol sales and there will be no requirement for a DPS/Personal Licence holder.
- 5.36 Community Premises are defined as premises that are or form part of a church hall, chapel hall or other similar building; or a village hall, parish hall or community hall or other similar building.

## **Temporary Event Notices**

- 5.37 Temporary Event Notices (TENs) can be used by individuals to authorise relatively small-scale ad hoc events held in or on any premises involving no more than 499 people at any one time. For a standard TEN the premises user must, no later than 10 clear working days before the day on which the event is to start, give a copy of the notice to the council's Licensing Unit, together with the statutory fee. Copies of the notice must also be served on the Police and Environmental Protection Team on the same day. To accommodate more spontaneous events, where organisers have had only a very short period to prepare, changes to the act have established the 'Late TEN' which are not intended for use on a normal basis but only in exceptional circumstances. For a late TEN 5 clear days' notice is required. Anyone aged 18 or over can give a maximum of five standard TENs, including 2 late TENs, per calendar year. Personal licence holders can give a maximum of fifty TENs, including 10 late

TENs, per calendar year. TENs are subject to other maximum limits, as set out below.

- 5.38 Each event covered by a TEN can last up to 168 hours (7 days) and no more than fifteen TENs can be given in respect of any particular premises in any calendar year, subject to a maximum aggregate duration of the periods covered by TENs at any individual premises of 21 days in any year. There must be a minimum of 24 hours between events notified by a premises user or associates of that premises user in respect of the same premises.
- 5.39 Under the 2003 Act 'premises' can mean any place. Events authorised under a TEN will therefore not always be in a building with a formal address and can take place, for example, in public parks and plots within larger areas of land. In all cases, the premises user will be required to provide a clear description of the area in which they propose to carry on licensable activities, including whether the premises are, for example, an open field or a beer tent.
- 5.40 Provided that the criteria set out above are met, only Sussex Police and/or the Environmental Protection Team may intervene to prevent an event covered by a TEN notice taking place or agree a modification of the arrangements for such an event. If the police or environmental protection team serve a notice of objection, relating to concerns regarding any of the four licensing objectives, in the case of a standard TEN a hearing will be convened to consider the issues, however in the case of a late TEN the act allows no right of hearing and the event will simply not be allowed to proceed.
- 5.41 Temporary events involving more than 499 persons being present at any one time or that don't qualify for a TEN for any other reason will require a temporary premises licence.
- 5.42 Although only 10 clear working days' notice need be given for a standard TEN and only 5 clear working days' notice need be given for a 'late TEN' the Licensing Authority strongly recommends that at least 28 days' notice be given so that proper guidance can be given to the organisers. The Licensing Authority can provide local advice about issues which may be of concern to residents, such as noise, road closures, use of pyrotechnics, the need to prevent anti-social behaviour and matters such as health and safety.

### **Immigration Act 2016**

- 5.43 The Immigration Act 2016 places a duty on the council to ensure that all applicants for a Premises Licence & a Personal Licence have the right to work and licences are not issued to persons who do not have the correct 'right to work' documentation.

### **Large events (Events attended by over 5,000 persons)**

- 5.44 Organisers of festivals or concerts who require a temporary premises licence are strongly advised to contact the Licensing Authority at least six months

prior to the event, although there is no statutory requirement to do so. However, whilst a Premises Licence could be granted after 28 days of application being served, applicants should be aware that the processing time for an application that receives relevant representation can be up to two months.

- 5.45 Organisers should also have early discussions with Responsible Authorities such as the Police, Environmental Health Dept. and the Fire & Rescue Service. **For some events a single Premises Licence may be sought to cover a wide range of activities at varied locations within the premises. This would involve the preparation of a substantial Operating Schedule, and the Responsible Authorities can offer advice and assistance about its preparation.**

## 6. DEMAND, SATURATION & HOURS

- 6.1 In accordance with the Government's guidance the Licensing Authority recognises that demand is not a relevant criterion in considering an application under the Act.

### Licensing Hours

- 6.2 The Government has acknowledged that different licensing approaches may be appropriate for the promotion of the licensing objectives in different areas. The 2003 Act gives the Licensing Authority power to make decisions regarding licensed opening hours as part of the implementation of its licensing policy statement. The guidance recognises that local Licensing Authorities are best placed to make such decisions based on their local knowledge and in consultation with other responsible authorities. However, the Licensing Authority will always consider each application on its own merit and will not impose predetermined licensed opening hours, without giving individual consideration to the merits of each application.
- 6.3 Consideration will be given to the individual merits of each and every application. However, it is recognised, following Government recommendation, that flexible licensing hours permitting the sale of alcohol are important to ensure that concentrations of customers leaving premises simultaneously are avoided. Fixed and artificially early closing times promote, in the case of sales of alcohol, rapid binge drinking close to closing times; and are a key cause of disorder and disturbance when large numbers of customers are required to leave premises simultaneously. This in turn produces friction, particularly between young people, and gives rise to disorder and peaks of noise and other nuisance behaviour particularly in and around late night fast food outlets, taxi ranks and other sources of transport.
- 6.4 Consideration will be given to imposing stricter conditions in respect of noise control where premises are situated in mainly residential areas. This will particularly apply in circumstances where, having regard to the location, size and nature of the licensed premises, it is likely that disturbance will be caused to

residents in the vicinity of the premises, or its environs, by concentrations of people either present or leaving during normal night-time sleeping periods (23.00hrs to 07.00hrs).

- 6.5 The Licensing Authority recognises that longer and varied licensing hours for the sale of alcohol may avoid large numbers of people leaving premises at the same time, which in turn could reduce the friction focused on late night fast-food outlets, taxi ranks, and other sources of transport that can lead to disorder and disturbance. Nevertheless, they may need to be satisfied that suitable arrangements are in place to ensure public transport is available at appropriate times and that the licensing objectives regarding the Prevention of Public Nuisance or of Crime & Disorder are not compromised. This aspect should, therefore, be addressed in operating schedules in the appropriate circumstances.
- 6.6 The Council will generally consider the licensing of shops, stores and supermarkets to sell alcohol for consumption off the premises at any times they are open for shopping. However, it may consider that in some circumstances there are very good reasons for restricting those hours and these are detailed in paragraphs 7.1 to 7.13 below.

### **Zoning**

- 6.7 Fixed trading hours within designated areas i.e. zoning will not be set as this could lead to significant movements of people across boundaries at particular times seeking premises opening later, with the attendant concentration of disturbance and noise. This would treat residents in one area less favourably than those in another, as well as causing the peaks of disorder and disturbance the Act is trying to avoid.

### **Cumulative Impact**

- 6.8 There can be confusion about the difference between “need”, and the “cumulative impact” of premises on the licensing objectives, for example, on crime and disorder. It is the Council’s view that “need” concerns the commercial demand for another pub or restaurant, hotel or other establishment. This is not a matter for a licensing authority in discharging its licensing functions or for its statement of licensing policy. “Need” is 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 Council and its Licensing and Control Committee to consider.
- 6.9 Cumulative impact is not mentioned specifically in the 2003 Act but is in the Guidance issued under section 182 of the Licensing Act 2003. It means the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. For example, the potential impact on crime and disorder or public nuisance, on a town centre of a large concentration of licensed premises in that part of the local licensing authority area. The cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for the Council as licensing authority to consider in its licensing policy statement.

- 6.10 The Licensing Authority may not impose conditions on or refuse to grant or vary a premises licence or club premises certificate unless it has received a relevant representation from a responsible authority, such as the police or an environmental health officer, or any other person, including residents or business.
- 6.11 In considering the impact of a number of licensed premises on an area, The Licensing Authority will not impose quotas – either formal or informal – that restrict the consideration of any application on its individual merits or which seek to impose general limitations on trading hours in particular areas.
- 6.12 Quotas which indirectly have the effect of pre-determining the outcome of any application - even in respect of premises selling alcohol for consumption on those premises - will not be used, by the Licensing Authority, because they have no regard to the individual characteristics of the premises concerned. Public houses, nightclubs, restaurants, hotels, community halls, theatres, concert halls and cinemas all, in particular circumstances, 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.
- 6.13 It is however important that applicants, responsible authorities, other parties and the public should know through the statement of licensing policy, whether the Licensing Authority already considers that a particular concentration of licensed premises in a particular part of its area is considered to be already causing a cumulative impact on one or more of the licensing objectives. Whether an area has reached this point is one of the issues on which the Licensing Authority will seek the views of local consultees on a regular basis.

### **Special Saturation Policies**

- 6.14 Due to concerns regarding the cumulative impact of licensed premises on crime and disorder in Worthing town centre, expressed by Sussex Police and based on statistical evidence, the Licensing authority put in place a Special Saturation Policy covering the borough's Central Ward between 2005 and 2013. The policy placed a presumption of refusal regarding applications for
- New premises licenses, or
  - Substantial variations to existing licences, for any vertical drinking establishments\* whenever the Licensing Authority received relevant representations.

Subject to relevant representations being properly made relating to cumulative impact on the Licensing Objectives.

*\*establishments, such as public houses, where the consumption of alcohol while standing is one of the primary functions.*

- 6.16 The Licensing Authority considers that this special policy was effective in reducing the number of licensed premises in the ward and their cumulative impact on crime and disorder to the extent that by April 2013 it was resolved that the policy was no longer required to effectively promote the licensing objectives.
- 6.17 The need for any such policy to be re-introduced will be reviewed regularly and at least every five years. Should the reintroduction of a special saturation policy be required the Licensing Authority will re-consult on the matter and review this policy.
- 6.18 If reintroduced such a policy will not be used as a ground for revoking a licence when representations are received about problems with an existing licensed premises. Nor will it be used to justify rejecting applications to vary an existing licence unless those modifications are directly relevant to the policy (as would be the case with an application to vary a licence with a view to increasing significantly the capacity of the premises or the hours of trade).
- 6.19 The Licensing Authority recognises that once away from these premises, a minority of consumers will behave badly and unlawfully. Outside the licensing regime, a breadth of strategies and mechanisms for addressing these problems are possible, although, complete reliance cannot necessarily be made on all or any of them. For example:
- Planning controls
  - Positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and relevant departments of the Council.
  - Powers to designate parts of the local authority area as places where alcohol may not be consumed publicly. Worthing has a borough wide Designated Public Places Order giving Sussex Police the power to remove alcohol from anyone acting in an anti-social manner.
  - Police enforcement of the normal law concerning disorder and antisocial behaviour, including the issuing of fixed penalty notices.
  - Prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk or under age.
  - Confiscation of alcohol from adults and children in designated areas.
  - Police powers to close down 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.
  - Provision of CCTV surveillance.
  - Short term Dispersal Zones

## **7. SPECIFIC CONSIDERATIONS**

### **Alcohol – On & Off Sales**

- 7.1 It is now a mandatory condition that all licence holders selling alcohol put in place an age verification policy for the premises. In some circumstances the



Licensing Authority will impose, where necessary to promote the Licensing Objectives, implicit conditions on the checking of the age of those who appear under 21 or 25 to ensure that alcohol is not sold to those under 18 years of age.

- 7.2 Licence holders need to have sufficient day to day control of operations at their premises. They will be held responsible for breaches of the licence and ensuring there is adequate staffing and training. The authorities will continue to use young people for the 'test purchasing' of alcohol and CCTV evidence, which has proved its usefulness in prosecutions for unlawful sales of alcohol. The likely consequences of a review of licence for underage sales include the imposition of additional conditions such as the attendance of a personal licence holder, licence suspensions and in some cases revocation to act as deterrence.

### **Alcohol Stores & Supermarkets – Off Sales**

- 7.3 The Home Office Guidance to the Act recommends that shops, stores and supermarkets selling alcohol should generally be permitted to match the hours during which they may sell alcohol with their normal trading hours, unless there are exceptional reasons related to the licensing objectives, in particular 'the prevention of crime and disorder' and 'the prevention of public nuisance'.
- 7.4 The council will consider all applications on their own merit and will not consider 'need or demand' but if an area is experiencing problems and this is linked to the number of premises in the area already selling alcohol, for consumption off the premises, the council will carefully consider the cumulative impact on the licensing objectives of any new application if relevant representation is received.
- 7.5 The council will be particularly concerned with regard to the granting of new licences to stores and supermarkets in localities where the following problems have been identified:
- Alcohol sales to persons who are drunk
  - Underage drinking
  - Street drinking
  - Pre-loading & post-loading
- 7.6 Selling alcohol to a person who is drunk or to a person who is under the age of 18 are both offences under the Licensing Act. The council recognises that the vast majority of licensees are very aware of their responsibilities and the duty of care they have selling alcohol to the public. However, the council takes both these issues extremely seriously.
- 7.7 The Council considers it vital that licence holders provide formal and effective training to all staff involved in the sale of alcohol to recognise members of the public who are drunk or underage and give their staff the ability and

confidence to refuse service. The council will expect operating schedules to demonstrate that the licence holder has considered such matters and addressed them as far as possible and that formal training records are kept on the premise and are to be made available for inspection by Police and/or Licensing Unit officers on request.

- 7.8 Over recent years problems associated with street drinking have been experienced across the borough but particularly in the town centre, on the promenade, the beach and Worthing's public parks & gardens. While there are some areas with recurring problems with regard to street drinking groups they also crop up in different areas at different times. These individuals and the shops that supply them can be a focus of antisocial behaviour, disorder and disturbance. The supply of alcohol to individuals involved in the day-long consumption of alcohol on the street and in open spaces can directly lead to these groups of drinkers causing various types of crime, public nuisance and anti-social behaviour.
- 7.9 Pre-loading and post-loading, the sale of alcohol to people who consume it on the way to or from venues licensed for the consumption of alcohol on the premises, gives rise to problems of drunkenness and disorderly behaviour. The proliferation of stores selling alcohol for consumption off the premises is of concern if it leads to drinking on the streets or alcohol being carried into premises such as pubs and nightclubs. The council is concerned that alcohol loading from off-licence sales is a significant problem in the town and adversely affects the licensing objectives.
- 7.10 Where the police or others make representations against the grant of a further licence for off sales, because of their serious concerns over any of the problems listed above and the disorder associated with the off sale of alcohol in the area, the council will give specific consideration to restricting the number, type, and the hours of premises selling alcohol exclusively for consumption off the premises. The council will want to be assured that the Operating Schedule of premises, and their overall management, training and levels of staffing, are appropriate to ensure that the licensing objectives are promoted in what may be challenging circumstances. The earliest and latest hours of opening will be of particular concern. This is because problematic street drinkers and others who are seriously addicted to alcohol, may be drawn to shops that sell alcohol earlier in the morning and later in the evening than other premises and consequently create public nuisance. Where there are representations on problems of disorder the hours when alcohol may be sold for consumption off the premises may be conditioned to be less than the generally granted hours issued to public houses and restaurants in the area.
- 7.11 Due to these concerns and their link to crime, disorder and disturbance, the Council will not, as a general rule, grant applications for the 24-hour sale of alcohol for consumption off the premises. It will consider very seriously any representation made by Sussex Police, other responsible authorities, and relevant representations from the public before determining such applications.

- 7.12 To address the problems of street drinkers, underage drinkers and pre/post loaders the council has introduced a controlled drinking zone across the whole borough giving the police powers to stop street drinking and seize alcohol and receptacles under the powers of the Criminal Justice and Police Act 2001. In addition short term Dispersal Zones have and will be used in parts of the town where the breakup of street drinking groups is required to disrupt any emerging patterns of street drinking.
- 7.13 When requested by the police, or other authorities, the Licensing Authority may impose on new applications, or on existing licences at review, conditions requiring:
- No sales of alcoholic beverages (*beers, lagers & ciders*) over a specified limit of alcohol by volume or of specified quantities (e.g. of beers, lagers and ciders over 6.0% alcoholic content by volume).
  - No sales of single cans or bottles of beer, lager and cider in containers containing less than 500ml.
  - No sales of miniature bottles of wine or spirit in units of less than 35cl.
  - Other conditions may be imposed directed at reducing problematic street drinking.
  - Conditions stopping irresponsible drink promotions that do not follow best practice, that would appeal to underage drinkers or street drinkers or encourage excessive consumption.
  - Conditions relating to the positioning of alcohol within the shop and the types of displays of alcohol within the store. Particularly those displays that might appeal to younger consumers.

### **Alcohol Public Houses and Bars – On Sales**

- 7.14 Worthing contains a wide variety of pubs and bars that contribute to the town's appeal and its character. They provide food and refreshment for residents and for people working in and visiting the borough. They also provide venues for live music which, aside from its cultural benefits and its enjoyment by customers, often has a positive effect on licensing objectives. However, premises that primarily serve alcohol, with or without the provision of any ancillary playing of music, can give rise to public nuisance for residents and other businesses, particularly where there is a concentration of such premises. This is principally due to noise from the premises and from patrons when they leave. In addition pubs and bars present opportunities for crime and they can also give rise to disorder.
- 7.15 The Licensing Act 2003 details a number of mandatory conditions where a licence authorises the supply of alcohol: these cover: a designated premises supervisor for the premises who holds a personal licence whenever alcohol is sold, sales of alcohol to be authorised by a personal licence holder, no irresponsible alcoholic drink promotions, free tap water to be available, set measures for the sale of alcohol and age verification measures.

- 7.16 The Council as the Licensing Authority regards these as the minimum required and will expect applicants to have regard to additional measures appropriate for their premise, area and character of business to demonstrate his/her promotion of the licensing objectives. If the proposals are inadequate and representation has been received the council may impose conditions as it deems appropriate or even refuse an application.
- 7.17 The Licensing Authority will work closely with its partners, including Sussex Police and the borough's relevant Pubwatch groups, and will consult the recognised SIA approved organisations providing door supervisors and taxi marshals in the town centre to identify potential problems and minimise the crime, disorder and public nuisance that can sometimes be associated with public houses, nightclubs and taxi ranks.

### **Late Night Refreshment Cafes & Takeaways**

- 7.18 Fast food premises which are open after 23.00hrs can attract large groups of customers, many of whom have been consuming alcohol in pubs, bars, or night clubs sometimes some distance away. The congregation of people around these premises leads to additional noise and disturbance and further congestion in the area. Although premises which serve cold food and drink are not subject to licensing and may stay open all night, they are not so attractive to people who have been drinking as those providing hot food and drink. The council considers that the addition of hot fast food and hot drink adds to the attractiveness of premises to people who have been drinking and who are consequently more likely to be involved in anti-social behaviour.
- 7.19 Sussex Police have in the past raised concerns about the levels of crime & disorder that can occur outside fast food premises late at night due to alcohol fuelled behaviour, and the opportunities for crime afforded by the congregation of people. Fast food premises have a comparatively high association with reports of crimes of violence against the person. The consumption of food outside premises can result in food waste and litter on pavements, to an extent that amounts to a public nuisance.
- 7.20 In addition, where there are fast food premises in the vicinity of public houses and nightclubs the rapid dispersal of people leaving these venues is significantly hindered. This delay in dispersal causes the potential for the licensing objectives to be compromised.
- 7.21 Where the police or others make representations against the grant or variation of a licence for late night refreshment regarding a premise in the vicinity of alcohol licensed premises because of serious concerns over dispersal problems the council will want to be assured that the Operating Schedule of the premise, and their overall management, training and levels of staffing, are appropriate to ensure that the licensing objectives are promoted in what may be challenging circumstances. Applications for extended hours may be refused in such circumstances where relevant representations on problems of late night disorder in an area are expressed. Alternatively the

licence may be conditioned to include measures to address any concerns. Such as the provision of SIA door supervisors for example.

- 7.22 Each application will be considered on its merits, but the Licensing Authority will generally refuse to grant licences to late night fast food vans/trailers that encourage persons to congregate and remain within the locality of licensed premises after they close due to the potential for the licensing objectives regarding the Prevention of Public Nuisance or of Crime & Disorder to be compromised.
- 7.23 The Deregulation Act 2015 permits Licensing Authorities to relax the requirements for licensing late night refreshment in certain circumstances. The council can now designate
- a particular description of premises as not requiring permission to sell hot food and drink after 23:00,
  - an area of the district where premises do not need a Premises Licence to sell hot food or drink after 23:00
  - stipulate that during periods between 23:00 and 05:00, premises may trade freely for the provision of hot food and drink without the need for a licence.
- 7.24 When choosing to designate particular categories of premises as exempt, a licensing authority can only exempt types of premises set out in the regulations. These are:
- Motorway service areas;
  - Petrol stations;
  - Local Authority premises (except domestic premises) unless there is an event taking place at which more than 500 people are present;
  - Schools (except domestic premises) unless there is an event taking place at which more than 500 people are present;
  - Hospitals (except domestic premises);
  - Community premises (church, chapel, village, parish or community hall or other similar building) unless there is an event taking place at which more than 500 people are present;
  - Licensed premises authorised to sell by retail alcohol for consumption on the premises between the hours of 11pm and 5am.
- 7.25 The Licensing Authority has not identified any particular category, area or periods which require deregulation but will consult and review its policy should relevant representation be received from the Responsible Authorities or other parties. When deciding if an exemption is appropriate the Licensing Authority will always consider what the risks are in terms of the promotion of the Licensing Objectives.

**Entertainment**  
**Live Music, Dancing & Theatre**

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

### **Entertainment**

#### **Deregulation: Live Music Act 2012, Deregulation Act 2015 etc.**

7.27 The Live Music Act and the Deregulation Act 2015 have deregulated the provision of live and recorded music and other previously licensable entertainment in certain circumstances. Its aim is to encourage its growth and development in front of small audiences.

7.28 The main effect of this deregulation has been to allow some previously licensable entertainment to be provided without licence in certain circumstances including:-

- Removal of the licensing requirement for unamplified live music taking place between 08:00hrs and 23:00hrs
- Removal of the licensing requirement for amplified live music and **recorded music** taking place between 08.00hrs and 23.00hrs before audiences of no more than 500 persons on premises authorised to supply alcohol for consumption on the premises, subject to the right of a licensing authority to remove the effect of deregulation and impose conditions about live music and recorded music following a review of a premises licence or club premises certificate
- Remove the licensing requirement for amplified live music taking place between 08.00hrs and 23.00hrs before audiences of no more than 500 persons in workplaces not otherwise licensed under the 2003 Act (or licensed only for the provision of late night refreshment)
- Allow the provision of amplified live music without licence in beer gardens provided the beer garden is included in the licence or certificate and is before an audience of no more than 500 persons, and the performance takes place between 08.00 and 23.00hrs
- Removal of the licensing requirement for a performance of amplified live music **and recorded music** between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that the audience does not exceed 500,

The licensing requirement to stage Plays, Dance and Indoor Sporting Events have also been affected by deregulation in certain circumstances.

7.29 At venues with a premises licence that authorises regulated entertainment the existing licence conditions which relate to live music or recorded music remain in place, but are suspended between the hours of 08.00 and 23.00 on the same day where the following conditions are met:

- At the time of the music entertainment, the premises are open for the purposes of being used for the sale or supply of alcohol for consumption on the premises
- If the music is amplified, it takes place before an audience of no more than 500 people
- The music takes place between 08.00 and 23.00 on the same day.

7.30 The Licensing Authority supports the ambitions that have led to this change in legislation but will expect licence holders, venue owners and performers to carefully consider any noise issues and the precautions they take to avoid disturbing local residents and businesses. Particularly as the conditions originally placed on a premises licences regarding entertainment were placed there specifically to address concerns that the provision of entertainment could undermine one or more of the licensing objectives.

7.31 If the provision of entertainment at a licensed premises is found to be undermining the licensing objectives at review then section 177A of the Licensing Act permits the Licensing Authority to lift the suspension and give renewed effect to any existing conditions relating to music. Similarly, the Licensing Authority may add a condition relating to music as if music were regulated entertainment, and as if that premises licence or club premises certificate licensed the music.

## **8. GRANTING A LICENCE, MEDIATION & CONDITIONS**

8.1 Where the responsible authorities and other persons do not raise any relevant representations about an application made to the Licensing Authority, it is the duty of the Licensing Authority to grant the licence or certificate subject only to conditions that are consistent with the Operating Schedule and any mandatory conditions prescribed in the 2003 Act itself.

8.2 If relevant representation has been received regarding an application then a hearing must be held unless all parties agree it is unnecessary, with the exception of a Review application, where a hearing must always be held, even if mediation has been successful.

### **Mediation**

8.3 Where a responsible authority or another person (such as a member of the public, a local resident or residents' association) has made a valid representation about an application or for a licence to be reviewed, the Licensing Authority will seek to

encourage direct contact between the parties to try and achieve agreement. This process will not override the right of any responsible authority or other person to ask that the Licensing Committee consider a valid representation.

## **Conditions**

- 8.4 The Licensing Authority may not impose any additional conditions unless its discretion has been engaged by a relevant representation and it has been satisfied, at a hearing, that it is appropriate to impose conditions due to the representations raised. It may then only impose conditions it considers appropriate to promote the licensing objectives arising out of the consideration of the representations. However, in order to minimise problems and the necessity for hearings, it would be sensible for applicants to consult with responsible authorities when schedules are being prepared. This would allow for proper liaison before representations prove necessary.
- 8.5 When considering any conditions, the Licensing Authority acknowledges that the licensing function cannot be used for the general control of anti-social behaviour by individuals once they are beyond the direct control of the licensee of any premises concerned. However, other mechanisms may be utilised, where appropriate, to tackle unruly or unlawful behaviour of people attending the premises when beyond the control of premises. These include:
- Partnership working with Sussex Police and Adur & Worthing Safer Communities Partnership to promote enforcement of the law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices;
  - Powers to designate parts of the Adur District as places where alcohol may not be consumed publicly;
  - Partnership working with businesses, transport operators and other sections of the Licensing Authority to create a safe and clean environment.
- 8.6 Specific conditions may be attached to premises licences to reflect local crime prevention strategies. Such conditions may include amongst other things, the use of closed circuit television cameras, the provision and use of shatterproof drinking receptacles, drugs and weapons search procedures, the use of registered door supervisors, specialised lighting requirements and hours of opening. Regard should also be had to any local bye-laws and/or strategies relating to street drinking. However, any conditions imposed by the authority, as a result of relevant representation, must be appropriate and proportionate.
- 8.7 Certificates issued to Club Premises shall reflect local crime prevention strategies and may include any or all of the requirements listed above.
- 8.8 The Licensing Authority shall have regard to the need to disperse people quickly and safely to avoid concentrations which may produce disorder and disturbance. The policy shall reflect any protocols agreed between the Licensing Authority and Sussex Police, and/or other licensing authorities



- 8.9 The Licensing Authority shall consider any reports relevant to the needs of the local tourist economy and the cultural strategy for the area.
- 8.10 The Licensing Authority shall consider any relevant information relating to the employment situation of the area and the need for new investment and employment where appropriate.

### **Specimen Conditions**

- 8.11 This policy does not support the use of blanket conditions which, if imposed, may be seen as disproportionate and overly burdensome. Conditions attached to licences shall be tailored to the individual styles and characteristics of the premises and events concerned. However, the Licensing Authority may draw up a pool of specimen conditions which will be relevant to the majority of applications and from which appropriate and proportionate conditions may be drawn in particular circumstances.

### **Duplication**

- 8.12 In exercising its functions under the Act the Council will seek to avoid duplication with other regulatory regimes. When attaching conditions to licences the Council will not only seek to avoid duplication with other regulatory regime but will ensure conditions relate to the promotion of the licensing objectives and have regard to the individual style and characteristics of the particular premises and events concerned.
- 8.13 It is recognised that there should be a clear separation of the land use planning and licensing regimes. It is expected that any necessary planning consents will be obtained prior to any licence application.

## **9. INTEGRATION OF STRATEGIES**

- 9.1 The Council will secure integration with other relevant strategies, including those relating to the town centre, community safety and economic development, land use planning, transport, crime prevention, tourism and culture, by liaising and consulting with Sussex Police, The Local Strategic Partnership, Adur & Worthing Safer Communities Partnership (through the Community Safety Manager), the Council's Development Control, Policy Development, and Leisure and Cultural Services Officers. When relevant the Licensing & Control Committee will receive reports including the needs of the local tourist economy, cultural strategy and employment and investment needs.
- 9.2 Other permissions or consents may be applicable to licensed premises and applicants are expected to ensure that such permissions etc. are obtained where necessary.

## **10. DELEGATION**

- 10.2 The Council is involved in a wide range of licensing decisions and functions and has established a Licensing and Control Committee to administer them.
- 10.3 The Council appreciates the need to provide a speedy, efficient and cost-effective service to all parties involved in the licensing process, and will delegate certain decisions and functions to sub-committees as appropriate.
- 10.4 The grant of non-contentious applications, including those licences and permits where no representations have been made, are delegated to Council Officers in accordance with statutory requirements.

## **11. EQUALITY & HUMAN RIGHTS**

- 11.1 This statement of licensing policy recognises that The Equalities Act 2010 places a legal obligation on this Council to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; and to advance equality of opportunity between different groups; and foster good relations between different groups.
- 11.2 The Human Rights Act 1998 makes it unlawful for a local authority to act in a way, which is incompatible with a right under the European Convention on Human Rights, except in certain circumstances. In carrying out its licensing functions the Council will have particular regard to:
- Article 6 that in the determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established in accordance with the law.
  - Article 8 that everyone has the right to respect for his home and private and family life.
  - Article 1 of the First Protocol that every person is entitled to the peaceful enjoyment of his or her possessions (including for example the possession of a licence)
  - Article 14 the prohibition of discrimination. The rights and freedoms within the Convention shall be secured without discrimination on any ground.
- 11.2 However it is important to understand that many of the rights and freedoms are subject to limitations, enabling a balance to be struck between the rights of an individual and the wider interests of a democratic society. Thus a person's individual convention rights may be lawfully interfered with but only if there is a law which permits it. The interference must also be no more than is necessary and proportionate to the aims.

## 12. ENFORCEMENT

- 12.1 Once licensed, it is essential premises are maintained and operated so as to ensure the continued promotion of the licensing objectives and compliance with the specific requirements of the 2003 Act and the Council will make arrangements to monitor premises.
- 12.2 The Licensing authority will work closely with all other statutory bodies to establish protocols to ensure an efficient deployment of all personnel engaged in enforcing licensing law and inspecting licensed premises, in order to ensure that resources are targeted at problem and high risk premises, whilst ensuring that all licensed premises meet the required standards. Failure to maintain compliance will result in action being taken in accordance with the Council's relevant Enforcement Policies.
- 12.3 The Licensing Authority will maintain close contact with the police, young offenders' teams and the WSCC Trading Standards (who can carry out test purchases under section 154 of the 2003 Act) about the extent of unlawful sales and consumption of alcohol by minors and to be involved in the development of any strategies to control or prevent these unlawful activities and to pursue prosecutions. The Licensing authority, alongside the police & trading standards, are prosecuting authorities for the purposes of these offences, except for the offences under section 147A (persistently selling alcohol to children). Where, as a matter of policy, warnings are given to retailers prior to any decision to prosecute in respect of an offence, it is important that each of the enforcement arms should be aware of the warnings each of them has given.
- 12.4 Relevant offences under the 2003 act include:

| Section      | Offence   | Prosecuting Authority   |
|--------------|---|---|
| Section 145  | Unaccompanied children prohibited from certain premises | Police and/or Licensing Authority                                       |
| Section 146  | Sale of alcohol to children                             | Police, Licensing Authority and/or Local Weights and Measures Authority |
| Section 147  | Allowing the sale of alcohol to children                | Police, Licensing Authority and/or Local Weights and Measures Authority |
| Section 147A | Persistently selling alcohol to children                | Police and/or Local Weights and Measures Authority                      |
| Section 149  | Purchase of alcohol by or on behalf of children         | Police and/or Licensing Authority                                       |
| Section 150  | Consumption of alcohol by children                      | Police and/or Licensing Authority                                       |
| Section 151  | Delivering alcohol to children                          | Police and/or Licensing Authority                                       |
| Section 152  | Sending a child to obtain alcohol                       | Police and/or Licensing Authority                                       |
| Section 153  | Prohibition of unsupervised sales by children           | Police and/or Licensing Authority                                       |

## Review Applications

- 12.5 The 2003 Act provides a clear focus on the promotion of the four statutory licensing objectives which must be addressed when licensing functions are undertaken. The Act provides tough powers, in the form of the review procedure, to enable licensing authorities to bring the minority of badly managed premises, which are failing to promote the licensing objectives, into line with the best.
- 12.6 Responsible Authorities and/or any other person can trigger a review of a Premises Licence but must provide evidence to the Licensing Authority to substantiate any allegations. In every case, the representation must relate to particular premises where a premises licence has been granted and it must be relevant to the promotion of the licensing objectives.
- 12.7 Where a responsible authority or another person (such as a member of the public, a local resident or residents' association) has made an application for a licence to be reviewed, or valid representation about a licence to be reviewed, the Licensing Authority will seek to encourage direct contact between the parties to try and achieve agreement. This process will not override the right of any responsible authority or other person to ask that the Licensing Committee consider a valid representation at hearing.
- 12.8 The Licensing Authority fully recognises the statutory rights of Responsible Authorities and any other person to apply for a Review of a Premises Licence/Club Premises Certificate. However, an application for a Review will not be granted if the grounds for review are deemed to be:
- not relevant to one or more of the Licensing Objectives
  - in the case of an application by a person other than a Responsible Authority that the ground is:-
    - frivolous or vexatious.
    - repetitious.

The Licensing Authority would expect a reasonable interval to have elapsed since an earlier application for a review. The Secretary of State recommends that more than one review originating from an individual should not be permitted within a period of 12 months on similar grounds save in compelling circumstances or where it arises following a closure order. Unless there are exceptional circumstances the Council would not expect to hold more than three review hearings within any 12-month period for any specific Premises Licence.

- 12.9 Review hearings are determined by the full Licensing & Control Committee. The Committee must, have regard to an application and any relevant representations, and take such steps as it considers necessary for the promotion of the licensing objectives. It is able to:
- take no action;

- issue an informal warning to the licence holder and/or recommend improvement within a particular period of time.
- modify the conditions of the licence;
- exclude a licensable activity from the scope of the licence;
- remove the designated premises supervisor;
- suspend the licence for a period not exceeding three months;
- revoke the licence

12.10 When considering an application for a Review the priority of the Licensing Authority will be to establish the cause or causes of the concerns and failures and to take necessary and proportionate remedial action.

12.11 However, when considering applications for Review arising in connection with crime deterrence is an appropriate objective. Whilst punishment may not strictly be a valid tool on an application for Review in cases where there has been activity in connection with crime, deterrence can be. The Licensing Authority will not confine its decision simply to considerations of remedying. To simply re-emphasise conditions which clearly have not been adhered to in the past will not, in most cases, prevent further breaches of the law in the future and consequently would not promote the Licensing Objectives.

12.12 Where the Licensing Authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. Whilst criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence, the licensing authority is still empowered to take any appropriate steps to remedy the problems.

12.13 The Guidance to the Act lists criminal activities that may arise in connection with licensed premises which should be treated particularly seriously and the Licensing Authority, responsible authorities and law enforcement agencies are expected to use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crime then revocation of the licence – even in the first instance – will be seriously considered.

### **Other Police Objections**

12.14 In exceptional circumstances, the Police are able to object to the transfer of a premises licence, and/or designation of a new premises supervisor where they believe that the transfer/appointment would undermine the crime prevention objective.

### 13. RIGHTS OF APPEAL

- 13.1 The avenues of appeal against decisions by a licensing authority are set out in Section 181 and Schedule 5 of the Act, the following rights of appeal to the Magistrates' Court in respect of applications for new premises licences, club premises certificates, the variation of an existing licences or certificates and reviews include:
- The applicant may appeal against any decision to modify the conditions of the application or licence.
  - The applicant may appeal against a rejection in whole or part of an application.
  - A person who has made relevant representations may appeal against a new licence or variation being granted, or against the modification or lack of modification of any conditions.
  - In the case of a review the licence holder, applicant or those making relevant representation may appeal against the decision of the Licensing Authority.
- 13.2 The Council's Licensing & Control Committee will give clear and comprehensive reasons for any rejection of an application or grant of licence or any other decisions. **will in most cases be made public at the hearing.**
- 13.3 The Licensing Authority will provide full written details of the decision with its reasons to all parties within five working days. From receipt of the written decision, the parties have 21 days to lodge an appeal at the magistrates' court if they consider a decision unjust.

### 14. ALCOHOL & HEALTH

- 14.1 The Police Reform & Social Responsibility Act 2011 amended the Licensing Act 2003 to make the **Directors of Public Health** a Responsible Authority giving health bodies a greater say in Licensing issues so that they are automatically notified about new premises applications, can make representations and even apply for reviews of licences. **In West Sussex, this function is undertaken by the West Sussex County Council (WSCC) Public Health Lead for Substance Misuse, on behalf of the Director of Public Health** However, the government stopped short, in England at least, of making health a licensing objective. Any representation made by the Public Health Directorate must be relevant to the existing statutory Licensing Objectives.
- 14.2 The Licensing Authority recognises that the entertainment and alcohol industry contributes to the borough by providing a variety of opportunities for entertainment & relaxation as well as employment & career opportunities. The Licensing Authority is dedicated to providing support for cultural activities, live music and public houses serving the community. It wants businesses to thrive and residents and visitors to be able to enjoy the facilities that Worthing's

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

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

**Alcohol is a causal factor in more than 60 medical conditions, including: mouth, throat, stomach, liver and breast cancers; high blood pressure, cirrhosis of the liver; and depression.**

**Binge drinking can lead to injuries, anti-social behaviour and other societal harm.**

**Harmful alcohol consumption not only impacts on individuals, but also on their families and communities, as well as society as a whole. The annual cost of alcohol-related harm in England is estimated to be £21 billion pounds, including £11 billion in crime and disorder, £7 billion in lost productivity through unemployment and sickness, and a burden of £3.5 billion to the NHS.**

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

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

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

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

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

**Pregnant women are advised that:**

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

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

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

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

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

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

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

- 14.6 What does this currently look like?

In West Sussex:

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



### In Worthing Borough:

- The rate of alcohol-related harm hospital stays is 695 per 100,000 population, worse than the average for England. This represents 762 stays per year.
- The rate of alcohol-specific hospital stays among those under 18 is 51.3 per 100,000 population. This represents 33 stays per year.
- The estimated rate of alcohol-related deaths in Worthing for 2016 is 43.0 per 100,000 population. This equates to 51 deaths in 2016.

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

14.10 The Government's Alcohol Harm Reduction Strategy identified addressing sensible drinking and alcohol harm as a key priority, particularly with regard to increasing trends in levels of harm and health service use linked to alcohol. Whilst Alcohol Concern's publication, 'One on Every Corner', looked at the link between increasing off-licence density, and the harm done to children by underage drinking. The evidence around alcohol outlet density and alcohol harm has recently been added to with the publication of a study in 2018. The key findings were:

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

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

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

The WSCC Public Health Directorate may have access to data that is not always available to other Responsible Authorities, for example data relating to the local population and their alcohol-related health needs; evidence of alcohol-related harm; areas in which there are vulnerable

**groups who may be at higher risk of alcohol-related harm. The WSCC Public Health Directorate may also develop or collate qualitative evidence form the local area, to add to the quantitative data available.**

## **15. INFORMATION EXCHANGE**

- 15.1 In exercising its functions under the Act the Council will conform to the protocols established with the Information Commissioner's Office (ICO) to ensure efficient and effective exchange of information. The existing protocols established in connection with the Licensing Act 2003 are utilised for information exchange with other regulatory bodies. All information exchanged is in accordance with the requirements of the **General Data Protection Regulations 2018 (GDPR)** and the Freedom of Information Act. The name and address of those making Licensing Act representations will be disclosed to applicants except in exceptional circumstances where there is a genuine threat of intimidation or violence if personal details were divulged.

## **16. POLICY REVIEW & SUPPORT**

- 16.1 This Policy provides guidance to members, officers, applicants, objectors and interested residents on the general approach the Licensing Authority will take in terms of licensing. Although each licence application must be considered separately on its individual merits, in adopting this policy, the Licensing Authority is making it clear that wider considerations other than the fitness of the applicant and suitability of the premises will be taken into account when determining an application.
- 16.2 The Policy is written in pursuance of the Licensing Act 2003 but may be revised at any time there is considered to be a need for adjustment. The Licensing Authority will comply with any statutory requirements. Where required there will be public consultation before any revision of the policy.
- 16.3 Guidance notes to accompany this policy and details about the licensing application process, including application forms, can be found on the council's website at:

- <https://www.adur-worthing.gov.uk/licensing-and-permits/>

Queries and advice regarding the policy and licensing in general can be accessed through:

- Email: [Licensing.Unit@adur-worthing.gov.uk](mailto:Licensing.Unit@adur-worthing.gov.uk)
- Telephone: 01273 263331

Information regarding current & past applications can be found on the council's website at:

- <https://www.adur-worthing.gov.uk/licensing-consultations/licensing-act-2003/#applications-worthing>

Worthing Borough Council's Licensing & Control Committee Hearings are held at:

- Worthing Town Hall  
Chapel Road, Worthing, BN11 1HA

The Public Health & Regulation Licensing Team is based at:

Adur & Worthing Councils  
Portland House, Richmond Road  
Worthing, BN11 1HS

**Director for Communities:** Mary D'Arcy

**Principal Author and Contact Officer:** Simon Jones

Public Health & Regulation - Team Leader Licensing

## Appendix I – Glossary of Terms

**Note:** In this Policy, the following definitions are included to provide an explanation of certain terms included in the Act and therefore in the Policy. In some cases they are an abbreviation of what is stated in the Licensing Act 2003 or an interpretation of those terms. For a full definition of the terms used, the reader must refer to the Licensing Act 2003.

**‘Designated Premises Supervisor’** means the person (who must be a Personal Licence holder), in the case of premises selling alcohol, who will normally have been given the day to day responsibility for running the premises by the holder of the Premises Licence or will be the Premises Licence holder himself (who must also be a Personal Licence holder).

**‘Late Night Refreshment’** means the supply of hot food or hot drink to members of the public (whether for consumption on or off the premises) between the hours of 11.00 pm and 5.00 am.

**‘Licensable Activities’** means:-

- the sale by retail of alcohol
- the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club
- the provision of Regulated Entertainment
- the provision of Late Night Refreshment

**‘Licensed Premises’** includes club premises and events unless the context otherwise requires.

**‘Operating Schedule’** means a document containing a statement of the following matters (and any others that may be prescribed):-

- the relevant Licensable Activities
- the times at which the Licensable Activities are to take place and any other times when premises are open to the public
- information regarding the person who will be specified in the Premises Licence as the Premises Supervisor
- where the Licensable Activities involve the supply of alcohol, whether it is for the supply on and/or off the premises
- the steps being taken to promote the Licensing Objectives

**‘Regulated Entertainment’** means:-

- a performance of a play
- an exhibition of a film
- an indoor sporting event
- a boxing or wrestling entertainment
- a performance of live music
- any playing of recorded music
- a performance of dance

(or entertainment of a similar description falling within the last three of the categories listed above), where the entertainment takes place in the presence of and for the purposes of entertaining that audience or spectators.

**‘Responsible Authority’** means any of the following:-

- *Sussex Police West Downs Division*
- *West Sussex Fire and Rescue Service*
- *Head of Child Protection at West Sussex County Council*
- *West Sussex Trading Standards Service*
- *Adur & Worthing Councils – Planning Services*
- *Adur & Worthing Councils – Public Health & Regulation Environmental Protection Team*
- *Adur & Worthing Council – Public Health & Regulation Environmental Health Food & Occupational Health Group*
- *Worthing Borough Council - Licensing Authority*
- *Health and Safety Executive*
- *Public Health Directorate of West Sussex County Council*
- *Home Office Immigration*

**‘Temporary Event Notice’** means a Permitted Temporary Activity involving one or more Licensable Activities subject to the following various conditions and limitations:-

- *duration – they are limited to events lasting for up to 96 hours;*
- *scale – they cannot involve the presence of more than 499 people at any one time;*
- *use of the same premises – the same premises cannot be used on more than 15 occasions in a calendar year, but are subject to the overall aggregate of 21 days irrespective of the number of occasions on which they have been used, and*
- *the number of notices given by an individual within a given period of time – a Personal Licence holder is limited to 50 notices in one year, including 10 ‘late notices’, and any other person to five notices, including 2 late notices, in a similar period.*

*(In any other circumstances, a full Premises Licence or Club Premises Certificate will be required for the period of the event involved)*

### **Definition of ‘Child’ and ‘Children’**

*The terms child/children are not formally defined in either the Act or the Guidance, however, in two sections within the Act, they are defined for the purpose of that section only:*

- **Part 3 – Premises Licences, Section 20(4) in this section**  
*‘Children’ means persons aged under 18*
- **Part 7 – Offences, Section 145 (2) (a) and (b)**  
*‘Child’ means an individual aged under 16.*  
*A child is deemed to be unaccompanied if he/she is not in the company of an individual aged 18 or over.*

## **Appendix II – Exemptions**

*The following activities are not regarded as Regulated Entertainment and are therefore exempt for the purposes of the Act:-*

### **Exhibition of a Film**

*If the sole or main purpose of the entertainment is to demonstrate any product, advertise any goods or services, or provide information, education or instruction.*

*If the entertainment consists of or forms part of an exhibit put on show for any purposes of a museum or gallery.*

### **Live Music or the Playing of Recorded Music**

*If the entertainment is incidental to some other activity which is not in itself within the description of Regulated Entertainment or the provision of entertainment facilities.*

### **Television or Radio Receivers**

*If the entertainment consists of the simultaneous reception and playing of a programme included in a programme service within the meaning of the Broadcasting Act 1990.*

### **Religious Services and Places of Worship, etc.**

*If the entertainment is for the purposes of, or for the purposes incidental to, a religious meeting or service or at a place of public religious worship.*

### **Garden Fetes, etc.**

*If the entertainment is at a garden fete or at a function or event of a similar character, unless the fete, function or event is promoted with a view to applying the whole or part of its proceeds for purposes of private gain (as defined in the Lotteries and Amusements Act 1976).*

### **Morris Dancing, etc.**

*If the entertainment is a performance of morris dancing or any dancing of a similar nature or a performance of unamplified, live music as an integral part of such a performance, or facilities for enabling persons to take part in such activities.*

### **Vehicles in Motion**

*If the entertainment is on premises consisting of or forming part of a vehicle and at a time when the vehicle is not permanently or temporarily parked.*



WORTHING BOROUGH  
COUNCIL

Licensing Act 2003

**DRAFT STATEMENT OF  
LICENSING POLICY**

**CONSULTATION**

25 July - 24 August 2018

## Public Consultation

- Details of the consultation were published on Adur & Worthing's Website at:
  - <https://www.adur-worthing.gov.uk/>
  - <https://www.adur-worthing.gov.uk/licensing-consultations/licensing-act-2003/#applications-worthing>

## Responsible Authorities

- Sussex Police - West Downs Division
- West Sussex Fire and Rescue Service
- West Sussex County Council - Head of Child Protection
- West Sussex County Council - Trading Standards Service
- Adur & Worthing Councils – Planning Services
- Adur & Worthing Councils – Public Health & Regulation Environmental Protection Team
- Adur & Worthing Council – Public Health & Regulation Environmental Health Food & Occupational Health Group
- Worthing Borough Council - Licensing Authority
- Health and Safety Executive
- West Sussex County Council - Public Health Directorate
- Home Office Immigration

## Other Authorities

- Adur & Worthing Councils – Community Safety & Anti-Social Behaviour Team
- Adur & Worthing Councils – Licensing Team
- Worthing Town Centre Initiative
- Worthing Street Pastors
- Worthing Pubwatch
- Worthing Late Night Partnership
- West Sussex County Council - Community Safety & Wellbeing
- West Sussex County Council – Drug & Alcohol Support

## WBC Licensing & Control Committee

- Paul High
- Sean McDonald
- Mike Barrett
- Keith Bickers
- Karen Harman
- Lionel Harman
- Joshua High



- Charles James
- Richard Mulholand
- Louise Murphy
- Jane Sim
- Robert Smytherman
- Paul Westover
- Mark Withers
- Tom Wye
- All Adur & Worthing Councillors via the Members Bulletin

## **WBC Officers**

- Mary D'Arcy – Director for Communities
- Jacqui Cooke – Interim Head of Wellbeing
- Kathryn Adderson – Public Health & Regulation Manager

## **Industry Consultees**

- Adur & Worthing Chamber of Commerce
- The Warwick Arms
- The Slug & Lettuce
- The Rose & Crown
- Wetherspoon
- Greene King
- Bookers
- Bar Ten
- Lounge Leisure Group
- Regency Corporation
- Co-Operative Group
- Sainsbury's
- Tesco
- Morrisons
- Iceland
- Mitchell & Butler
- Blake Morgan LLP
- Poppleston Allen LLP
- Doug Simmonds
- John Gaunt LLP
- Lockett LLP
- WS Law
- LB Law

## **Resident Groups**

- Becket Residents' Association
- Broadwater (Worthing) Community Association
- Charmandean Residents' Association
- Findon Valley Residents' Association (FVRA)
- Goring Residents' Association
- Heene Residents' Association
- High Street Tarring Residents Association
- High Salvington Residents' Association
- South Broadwater Residents' Association

## APPENDIX C 1

### PH contribution to statements of licensing policy

Dear Simon,

I have quite substantially re-written the alcohol and health section of both the Adur and Worthing policies, to bring them in line with up to date evidence and guidance.

I have attached both clean versions (with the text I have added in black and the original text in grey) and also versions showing my tracked changes, in case you need to see what text has been removed.

Happy to discuss in more detail if needed.

Best wishes,

Holly

**Holly Yandall**

**Public Health Lead for Substance Misuse** – Healthy Lifestyles Team, Public Health

#### 14. ALCOHOL & HEALTH

14.1 The Police Reform & Social Responsibility Act 2011 amended the Licensing Act 2003 to make Directors of Public Health a Responsible Authority giving health bodies a greater say in Licensing issues so that they are automatically notified about new premises applications, can make representations and even apply for reviews of licences. In West Sussex, this function is undertaken by the West Sussex County Council (WSCC) Public Health Lead for Substance Misuse, on behalf of the Director of Public Health. However, the government stopped short, in England at least, of making health a licensing objective. Any representation made by the Public Health Directorate must be relevant to the existing statutory licensing objectives.

14.2 The council recognises that the entertainment and alcohol industry contributes to the borough by providing a variety of opportunities for entertainment & relaxation as well as employment & career opportunities. The council is dedicated to providing support for cultural activities, live music and public houses serving the community. It wants businesses to thrive and residents and visitors to be able to enjoy the facilities that Worthing's licensed businesses offer. It is, however, mindful of the potential health issues that alcohol misuse can generate. For this reason the Licensing Authority will seek to promote high standards of management in licensed premises to ensure businesses operate responsibly and exercise their 'duty of care' for the health of their customers. Problem premises will be controlled, while those that seek to operate responsibly will not be subject to unreasonable restrictions.

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

Alcohol is a causal factor in more than 60 medical conditions, including: mouth, throat, stomach, liver and breast cancers; high blood pressure, cirrhosis of the liver; and depression.

Binge drinking can lead to injuries, anti-social behaviour and other societal harm.

Harmful alcohol consumption not only impacts on individuals, but also on their families and communities, as well as society as a whole. The annual cost of alcohol-related harm in England is estimated to be £21 billion pounds, including £11 billion in crime and disorder, £7 billion in lost productivity through unemployment and sickness, and a burden of £3.5 billion to the NHS.

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

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

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

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

- limit the total amount of alcohol you drink on any single occasion
- drink more slowly, drinking with food, and alternating with water
- plan ahead to avoid problems e.g. by making sure you can get home safely or that you have people you trust with you<sup>1</sup>.

Pregnant women are advised that:

- If you are pregnant or think you could become pregnant, the safest approach is not to drink alcohol at all, to keep risks to your baby to a minimum.
- Drinking in pregnancy can lead to long-term harm to the baby, with the more you drink the greater the risk<sup>2</sup>.

For most alcohol-related diseases and injuries, there is a clear relationship between the volume of alcohol consumed and the risk of a given harm; as the amount of alcohol increases, so does the risk of harm<sup>3</sup>.

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<sup>1</sup> Department of Health. (2016). UK Chief Medical Officers' Low Risk Drinking Guidelines. P.6. Available online at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/545937/UK\\_CMOs\\_report.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/545937/UK_CMOs_report.pdf)

<sup>2</sup> Department of Health. (2016). UK Chief Medical Officers' Low Risk Drinking Guidelines. P.8. Available online at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/545937/UK\\_CMOs\\_report.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/545937/UK_CMOs_report.pdf)

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

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

If young people aged 15 to 17 years consume alcohol, it should always be with the guidance of a parent or carer or in a supervised environment<sup>4</sup>.

#### 14.4 How is alcohol harm measured?

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

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

#### 14.5 What does this currently look like?

##### In West Sussex:

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

##### In Worthing Borough:

- The rate of alcohol-related harm hospital stays is 695 per 100,000 population, worse than the average for England. This represents 762 stays per year.

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<sup>3</sup> Public Health England. (2016). The Public Health Burden of Alcohol and the Effectiveness and Cost-Effectiveness of Alcohol Control Policies: An evidence review, P.15. Available online at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/733108/alcohol\\_public\\_health\\_burden\\_evidence\\_review\\_update\\_2018.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/733108/alcohol_public_health_burden_evidence_review_update_2018.pdf)

<sup>4</sup> Chief Medical Officer for England. (2009). Guidance on the consumption of alcohol by children and young people, P.i Available online at: [http://webarchive.nationalarchives.gov.uk/20130104153257/http://www.dh.gov.uk/prod\\_consum\\_dh/groups/dh\\_digitalassets/documents/digitalasset/dh\\_110256.pdf](http://webarchive.nationalarchives.gov.uk/20130104153257/http://www.dh.gov.uk/prod_consum_dh/groups/dh_digitalassets/documents/digitalasset/dh_110256.pdf)

- The rate of alcohol-specific hospital stays among those under 18 is 51.3 per 100,000 population. This represents 33 stays per year.
- The estimated rate of alcohol-related deaths in Worthing for 2016 is 43.0 per 100,000 population. This equates to 51 deaths in 2016.

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

14.10 The Government's Alcohol Harm Reduction Strategy identified addressing sensible drinking and alcohol harm as a key priority, particularly with regard to increasing trends in levels of harm and health service use linked to alcohol. Whilst Alcohol Concern's publication, 'One on Every Corner', looked at the link between increasing off-licence density, and the harm done to children by underage drinking. The evidence around alcohol outlet density and alcohol harm has recently been added to with the publication of a study in 2018. The key findings were:

- A higher density of on-trade outlets is associated with higher hospital admissions for conditions wholly attributable to alcohol.
- A higher density of licensed convenience stores is also associated with higher hospital admissions for conditions wholly attributable to alcohol.
- The relationship between outlet density and hospital admissions is largely the same for men and women, though appears more pronounced for older people.
- The overall relationship between outlet density and hospital admissions appears to be the same in deprived areas and affluent areas<sup>5</sup>.

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

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

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

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<sup>5</sup> Maheswaran, R., Green, M.A., Strong, M., Brindley, P., Angus, C. and Holmes, J. (2018). Alcohol outlet density and alcohol-related hospital admissions in England: a geographical analysis. Available online at: [http://alcoholresearchuk.org/downloads/finalReports/FinalReport\\_0155.pdf](http://alcoholresearchuk.org/downloads/finalReports/FinalReport_0155.pdf) Accessed 31/08/2018.

## APPENDIX C2

Cllr David Simmons (ADC)

Highlighted the following sections for discussion

- 4.6 Each **responsible authority?** will be an expert in their respective field, and in some cases it is likely that a particular responsible authority will be the licensing authority's main source of advice in relation to a particular licensing objective. For example, the police have a key role in managing the night-time economy and should have good working relationships with those operating in their local area.....
- 4.28 It is an offence to sell **Supply?** alcohol to an individual aged under 18. Licence holders are encouraged to consider carefully ways to ensure that the sale of alcohol is restricted to those over the age of 18. Popular schemes include the 'Challenge 25 scheme' whereby if the individual looks under 25; they are required to prove that they are over the age of 18 when buying alcohol or tobacco.
- 5.12 Responsible authorities and 'any other person' may make representations on applications for premises licences or club premises certificates, or their variation. Only the police and environmental protection team may object to a **Temporary Event Notice?** (TEN) and only the police to premises licence transfers, variations of designated premises supervisors and personal licence applications.
- 7.4 Selling alcohol to a person who is drunk or to a person who is under the age of 18 are both offences under the Licensing Act. The council recognises that the vast majority of licensees are very aware of their responsibilities and the duty of care they have selling alcohol to the public. However, the council takes both these issues extremely seriously. **Supply under 18?**
- 11.2 The Human Rights Act 1998 makes it unlawful for a local authority to act in a way, which is incompatible with a right under the European Convention on Human Rights, except in certain circumstances. In carrying out its licensing functions the Council will have particular regard to: **Will need review after next year?**

## APPENDIX C3

From: **Kevin Boram** <[kevin.boram@adur.gov.uk](mailto:kevin.boram@adur.gov.uk)>

Date: Wed, 22 Aug 2018 at 11:00

Subject: Re: Consultation : Adur District Council's Draft Statement of Licensing Policy

To: Simon Jones <[simon.jones@adur-worthing.gov.uk](mailto:simon.jones@adur-worthing.gov.uk)>

Simon, many thanks for the draft copy. My comments are as follows:

1. Generally, there is nothing about taxis, sex shops and casinos. Whilst the latter two are unlikely I think we need to caveat the report and state that any applications will be reviewed against the four statutory Licensing requirements. However, taxis are a regular feature and do give rise to issues. Is it worth developing a policy for these? If not then I suggest we caveat the beginning of the report that our policies on these matters can be found elsewhere ( ?);
2. Clause 1.9 could be widened to include charities and other organisations and individuals wishing to carry on such activities;
3. Clause 3.1 include a comment about temporary or pop up activities (eg Perch);
4. The four stat licensing requirements are so important I would cross ref para 3.4 to 4.1.

Hope this is useful.

Regards  
Kevin



## APPENDIX C4

### **Re: Consultation : Adur District Council & Worthing Borough Council's Draft Statements of Licensing Policy**

1 message

**Doug Simmonds Ltd** <info@dougsimmonds.co.uk> 15 August 2018 at 10:44  
To: Simon Jones <simon.jones@adur-worthing.gov.uk>

Simon

Have read through your proposed policies and would make two observations

The way Child Protection under 18 ID requirements at 7.12 is placed to me makes it seem as though it only applies to Off Licences and Supermarkets and I wonder if it should be placed differently.

At 14.3 I would question the number of units stated for men and women which was revised in January last year and is now lower especially for men? being no more than 14 units a week for all and none for pregnant women?

Best of Luck

Doug Simmonds FBII, tp.  
Licensing Consultant  
Doug Simmonds Ltd  
[info@dougsimmonds.co.uk](mailto:info@dougsimmonds.co.uk)  
[LicensingAdvisor@gmail.com](mailto:LicensingAdvisor@gmail.com)  
[www.dougsimmonds.co.uk](http://www.dougsimmonds.co.uk)

01273 597 125

07889 37 99 64

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## APPENDIX C5

### RE: Consultation : Adur District Council & Worthing Borough Council's Draft Statements of Licensing Policy

1 message

**Secretary** <secretary@shorehamfort.co.uk> 31 July 2018 at 01:32

To: Simon Jones <simon.jones@adur-worthing.gov.uk>

Dear Simon

I have reviewed the Adur doc and many of my comments are actually grammar issues, as follows:

Throughout entire doc - You need to keep consistency with capital letters for the likes of Licensing Authority, Premises Licences Certificate, Licensing Objectives, Personal Licence, Council etc

Use of Council or Licensing Authority needs to be consistent, especially section 7

Section 1.9 - **Businesses**

Section 4.6 - Horrendously long sentence! Each **Responsible Authority** will be an expert in their **field**. **In** some cases

it is likely...

Section 4.6 - The police should usually, therefore - just wrong... **Therefore, the Police will usually** be the council's...

Section 4.6 - This whole section needs looking at - it really doesn't read well at all.

Section 4.8 - their own **right and** it is...

Section 4.8 - make representations **themselves, where** they are reasonably...

Section 5.1 - In addition the council will ensure that information and **advice,**

**regarding** making representations and

applying for a review of a premises licence, is also available.

Section 5.5 - into enforceable conditions of **the** licence...

Section 5.7 - wishes to amend their licence **the licence holder may, in most cases, make** and application to vary...

Section 5.7 - is it really necessary to define the word substantially? Large and considerable are just as vague...

Section 5.8 - struggling to even understand what that first sentence means

Section 5.8 - on the **Licensing Objectives** and **will consult with** any of the...

Section 5.9 - why are Adur advertising in the Worthing Herald and not the Lancing or Shoreham Herald?

Section 5.9 - If advertising irregularities are found the advertising period **may, at the discretion of the Senior Licensing Officer, be extended or started again.**

Section 5.10 - **All** new applications, variations and reviews are detailed...

Section 5.11 - **If an** application is made online...

Section 5.12 - 'Only the police and environmental protection team may object to a TEN' - really? So if someone

applies to have a rave at Shoreham Fort the Port Authority, as owners, or us as custodians cannot object?

Section 5.20 & 5.21 - are these two not one and the same?

Section 5.22 - **Residents'/Tenants'** Associations

Section 5.26 - solicitor, **notary, person** of standing in the community or any...  
Section 7.2 - 'need or **demand**'. If an area is experiencing **problems which are**  
linked to...  
Section 7.12 ~ 7.22 - Indent formatting  
Section 7.22 - Hideously long sentence - punctuation needed  
Section 7.28 Paragraphs 2 & 3 - need punctuation  
Section 8.3 - **Residents' Association**  
Section 12.4 - needs punctuation  
Section 13.1 - Schedule 5 of the ... Act - needs to be clear which Act  
Section 14.2 - Adur is a **District**, not a Borough  
Section 14.2 - **Adur's** licensed businesses - not Worthing's  
Section 14.4 - You are referring to data that is 10 years old - by the time you review  
this doc again it will be even more  
irrelevant  
Section 15.1 - under the ... Act - needs to be clear which Act

Appendix 1 -

Temporary Event Notice / Section 5.37  
Duration - limited to events lasting up to 96 hours / TEN can last up to 168 hours (7  
days)

Definition of Child / Children  
Part 3 under 18  
Part 7 under 16  
Is it right there are two different ages?

At this late hour I'm sure I have missed some things but hopefully this is useful  
starting point.

Kind regards  
Sharon Penfold  
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