



**NOTICE OF MEETING**

<b>Meeting:</b>	<b>Licensing Committee</b>
<b>Date and Time:</b>	<b>Tuesday 23 November 2021 7.00 pm</b>
<b>Place:</b>	<b>Council Chamber</b>
<b>Telephone Enquiries to:</b>	<b>Committee Services Committeeservices@hart.gov.uk</b>
<b>Members:</b>	<b>Butler, Coburn, Davies, Delaney, Drage, Farmer, Forster, Lamb, Smith, Wildsmith (Chairman) and Wright</b>

Joint Chief Executive

CIVIC OFFICES, HARLINGTON WAY  
FLEET, HAMPSHIRE GU51 4AE

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## **AGENDA**

**This Agenda and associated appendices are provided in electronic form only and are published on the Hart District Council website.**

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- At the start of the meeting, the Lead Officer will confirm the Fire Evacuation Procedure.**
- The Chairman will announce that this meeting may be recorded and that anyone remaining at the meeting has provided their consent to any such recording - Please see our protocol on [Attending and Reporting Meetings](#).**

**1 MINUTES OF THE PREVIOUS MEETING (Pages 3 - 5)**

The minutes of the meeting held on 1 June 2021 are attached for confirmation and signature as a current record.

## **2 APOLOGIES FOR ABSENCE**

To receive any apologies for absence from Members\*.

**\*Note:** Members are asked to email Committee Services in advance of the meeting as soon as they become aware they will be absent.

## **3 DECLARATIONS OF INTEREST**

To declare disclosable pecuniary, and any other, interests\*.

**\*Note:** Members are asked to email Committee Services in advance of the meeting as soon as they become aware they may have an interest to declare.

## **4 CHAIRMAN'S ANNOUNCEMENTS**

## **5 DRAFT SHARED STATEMENT OF LICENSING POLICY (Pages 6 - 52)**

The purpose of this report is to consider a new Shared Statement of Licensing Policy and to approve it for consultation.

### **RECOMMENDATION**

1. Licensing Committee is recommended to approve the draft Shared Statement of Licensing Policy, set out in Annex A to this report, for consultation and
2. Authorise the Head of Place in consultation with the Portfolio Holder for Regulatory to make minor alterations and typographical corrections to the document before it is published.

## **6 TAXI AND PRIVATE HIRE POLICY: MANDATORY CARD PAYMENTS (Pages 53 - 60)**

The purpose of this report is to consider an amendment to the Taxi and Private Hire Policy, relating to the mandatory card payment acceptance in licenced vehicles, following consultation with the public and responsible authorities.

### **RECOMMENDATION**

Licensing Committee is recommended to:

1. Approve the amendment to the Taxi and Private Hire policy relating to mandatory card payment acceptance in licenced vehicles; and
2. Authorise the Head of Place in consultation with the Portfolio Holder for Regulatory to make minor alterations and typographical corrections to the document before it is published.

**Date of Dispatch: Monday, 15 November 2021**

## LICENSING COMMITTEE

**Date and Time:** Tuesday 1 June 2021 at 7.00 pm

**Place:** Council Chamber

**Present:**

Butler, Coburn, Farmer, Forster, Lamb (7.26pm), Smith and Wildsmith (Chairman)

**In attendance:** Councillor Kinnell (7.26pm)

**Officers:**

Mark Jaggard	Head of Place
Sophy Brough	Licensing Shared Service
Rob Draper	Licensing Shared Service
Louise Misselbrook	Shared Legal Services
Rebecca Borrett	Committee Services Officer

### 1 ELECTION OF VICE CHAIRMAN

Councillor Farmer was elected as Vice Chairman.

### 2 MINUTES OF THE PREVIOUS MEETING

The minutes of 2 March 2021 were agreed and confirmed and signed as a correct record.

### 3 APOLOGIES FOR ABSENCE

Apologies received from Councillor Delaney, Councillor Drage and Councillor Wright.

### 4 DECLARATIONS OF INTEREST

None declared.

### 5 CHAIRMAN'S ANNOUNCEMENTS

The Chairman expressed thanks to Sophy Brough of the Licensing Service Team for all her work with the Licensing Committee and wished her well in her future role.

### 6 AMENDMENT TAXI AND PRIVATE HIRE POLICY

The Committee considered an amendment to the Council's Taxi and Private Hire Policy to make card payments mandatory in all licensed vehicles. This would be

included in the specifications and conditions of Hackney carriage and Private Hire vehicles.

## **DECISION**

Approved the draft amendment to the Taxi and Private Hire Policy for consultation with trade and interested parties.

## **7 RENEWAL OF THE SHARED LICENSING SERVICE WITH BASINGSTOKE & DEANE BOROUGH COUNCIL**

The Committee considered the renewal of Shared Licensing Service between Hart District Council and Basingstoke & Deane Borough Council,

Members discussed:

- The proposed length of the Shared Service renewal
- The net cost of the Shared Service
- The improved resilience by operating a Shared Service
- Performance against a set of key performance indicators (KPIs), and while this was a matter for Overview & Scrutiny, asked for a note on KPIs be circulated to Licensing Committee prior to the next meeting
- Whether there was a sustainability issue in relation to the Climate Change Emergency due to taxi drivers needing to travel to Basingstoke. Officers outlined that now most of the process elements are done online and plates are sent in the post, so there is a reduced need to travel to Basingstoke; but the efficiencies of the shared service would not work if the service was operated from both Hart and Basingstoke.
- The Portfolio Holder asked if any Members had complaints about the service which had not been raised with Officers that they be raised with the Portfolio Holder and copied to the Chairman of the Licensing Committee

## **DECISION**

Agreed:

the following comments for Cabinet to take into account when considering the renewal of the Shared Licensing Service:

- The current service was very efficient and did not generate complaints
- Licencing Hearings were always well run
- The shared licensing service had led to increased resilience compared with a small team in Hart previously
- Cabinet should consider the appropriate timeframe for the renewed shared service to get most efficiency and price
- Cabinet should consider the cost of the service and be satisfied it is value for money

to invite the Chair of Overview and Scrutiny Committee to consider whether to retrospectively consider the Shared Licensing Service following the Cabinet decision in July 2021.

The meeting closed at 7.45 pm

## LICENSING

**DATE OF MEETING:** 23<sup>rd</sup> November 2021

**TITLE OF REPORT:** Draft Shared Statement of Licensing Policy

**Report of:** Head of Place

**Cabinet member:** Cllr Sara Kinnell, Regulatory

### **1 PURPOSE OF REPORT**

1.1 The purpose of this report is to consider a new Shared Statement of Licensing Policy and to approve it for consultation.

### **2 OFFICER RECOMMENDATION**

2.1 Licensing Committee is recommended to:

2.2 Approve the draft Shared Statement of Licensing Policy, set out in Annex A to this report, for consultation; and

2.3 Authorise the Head of Place in consultation with the Portfolio Holder for Regulatory to make minor alterations and typographical corrections to the document before it is published.

### **3 BACKGROUND**

3.1 The Council is required to prepare and publish a Statement of Licensing Policy every five years in accordance with Section 5 of the Licensing Act 2003 ('the Act'). The Statement of Licensing Policy outlines the general approach of the Licensing Authority when making licensing decisions under the Act and can be reviewed and revised by the Authority at any time.

3.2 At part of the Shared Licensing Service with Basingstoke & Deane it is proposed to take this opportunity to create a Shared Statement of Licensing Policy.

### **4 CONSIDERATION**

4.1 There are only a few amendments in the draft document when compared to the previous version of the Hart District Council policy. This is due to the fact that there have been no significant changes to the legislation or regulations. The key amendment is the incorporation of the two Council's Policies into one shared policy.

4.2 Before determining the policy for any 5-year period, the licensing authority must consult the persons listed in section 5(3) of the Act. These are:

- i. The Chief Officer of police for the area;
- ii. The fire and rescue authority for the area;
- iii. Persons or bodies representative of holders of local personal licences, premises licences and club premises certificates; and

- iv. Persons or bodies representative of businesses and residents in its area.
- 4.3 The views of all consultees should be given appropriate weight when the policy is determined. Beyond the statutory requirements, it is for the licensing authority to decide the full extent of its consultation. Whilst it is clearly good practice to consult widely, this may not always be necessary or appropriate.
- 4.4 Consultation will take place for a 12-week period from November 2021 to February 2022. The consultation letter is attached at Appendix B.
- 4.5 On conclusion of the consultation exercise, a further report will be presented to the licensing committees of both Councils in Spring 2022 with a view to adopting new Shared Statement of Licensing Policy having taken into consideration any consultation responses.
- 4.6 Once approved, the policy would be in place for a 5-year period unless the Council determines it appropriate to revise before that date.

## **5 ALTERNATIVE OPTIONS CONSIDERED AND REJECTED**

- 5.1 The alternative would be to keep two separate policies, one for Hart District Council, and one for Basingstoke & Deane Borough Council.

## **6 CORPORATE GOVERNANCE CONSIDERATIONS**

### **Service Plan**

Is the proposal identified in the Service Plan?	No
Is the proposal being funded from current budgets?	Yes
Have staffing resources already been identified and set aside for this proposal?	Yes

### **Legal and Constitutional Issues**

The Council is required to prepare and publish a Statement of Licensing Policy every five years in accordance with Section 5 of the Licensing Act 2003 ('the Act')

### **Financial and Resource Implications**

There are no significant financial implications arising from this report.

## **7 EQUALITIES**

- 7.1 There are no direct equalities impacts arising from the recommendations.

## **8 CLIMATE CHANGE IMPLICATIONS**

- 8.1 There are no direct carbon/environmental impacts arising from the recommendations.

**Contact Details:** Emma Coles, Shared Licensing Team Leader  
emma.coles@basingstoke.gov.uk

## **APPENDICIES**

Appendix A: Draft Shared Service Statement of Licensing Policy  
Appendix B: Consultation Letter



## APPENDIX A



# **Statement of Licensing Policy**

## **Licensing Act 2003**

### **2021 to 2026**

### **Joint statement of licensing**

*‘to encourage in our Areas covered by this policy a wide choice of high quality and responsibly managed entertainment and cultural venues which provide a diverse range of licensed activities, community interaction and a variety of places for retail and refreshment, ensuring at all times the safety and amenity of residential communities, business communities and the visiting public’*

**Prevention of Crime and Disorder**

**Public Safety**

**Prevention of Public Nuisance**

**Protection of Children from Harm**

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## **PART A**

### **Statement of Licensing Policy**

#### **Licensing Act 2003**

**2021 to 2026**

#### **Joint statement of licensing**

### **INTRODUCTION**

This is the Statement of Licensing Policy as determined by Basingstoke and Deane Borough and Hart District Council's in its role as the Licensing Authorities in respect of our licensing functions, with regard to the Licensing Act 2003. This document sets out the position and view of the Licensing Authorities in respect of matters in connection with the discharge of its licensing function.

This Statement of Licensing Policy commences on the 1<sup>st</sup> February 2022 and continues for a five-year period. During the five-year period the Policy will be kept under review and the Authorities will make such revisions to it at such times as it considers appropriate. Further licensing statements will be published every five years thereafter or earlier as necessary.

All references to the 'Guidance' refer to the latest version of the Home Office Guidance to Licensing Authorities issued under section 182 of the Licensing Act 2003.

The document is not a full and authoritative statement of the Law or statutory guidance and does not constitute professional or legal advice. The council welcomes comments and observations on this Statement of Licensing Policy. These should be addressed to:

Head of Environmental Services  
Basingstoke and Deane Borough Council  
Civic Offices  
London Road  
Basingstoke  
Hampshire  
RG21 4AH  
Tel: 01256 844844

Email: [licensing@basingstoke.gov.uk](mailto:licensing@basingstoke.gov.uk) or [licence@hart.gov.uk](mailto:licence@hart.gov.uk)

### **PUBLICATION**

**This version of the Statement of Licensing Policy of Basingstoke and Deane Borough Council and Hart District Council areas covered by this policy was approved on X 2021 for a period of 5 years or until further amended.**

## **1 CONSULTATION**

- 1.1 The Statement of Licensing Policy will be kept under review and where any significant amendments are considered necessary these will only be made after consultations have taken place in accordance with Section 5 of the Act. Amendments required due to a change in legislation that do not impact on the aims and objectives of the Policy or the promotion of the Licencing Objectives will be made with the approval of the Shared Licensing Team Leader for the policy to remain legislatively current.
- 1.2 Proper weight, in accordance with the Guidance, has been given to the views of all those consulted. Those consulted in the preparation of this Policy included:
- the Chief Officer of Police for Hampshire
  - the Superintendent of Police for Basingstoke and Deane Borough Council and Hart District Council covered by this policy Council area
  - one or more persons who appear to the Authorities to represent the interests of persons carrying on licensed businesses in the council areas
  - one or more persons who appear to the authorities to represent the interests of persons who are likely to be affected by the exercise of the Authorities functions under the Act
  - any other bodies the councils deemed appropriate.
  - members of the public who requested to be consulted and have responded.
- 1.3 In accordance with the guidance the following persons have also been consulted on this revised statement:
- all areas covered by this policy ward members
  - all parish councils
  - all bordering local authorities
  - Hampshire Police Licensing Team
  - all responsible authorities under the Licensing Act 2003
  - holders of existing licences and certificates who will be affected by the provisions of the Act
  - British Beer and Pub Association
- 1.4 The Licensing Authorities consultation on this revised Policy took place between November 2021 and January 2022 and followed the revised Code of Practice and the Cabinet Office Guidance on Consultations by the Public Sector.

## **THE POLICY**

### **2 BACKGROUND**

2.1 When administering licensing matters the council as the Licensing Authorities will have regard to and promote the four Licensing Objectives set out in section 4 of Part 2 of the Licensing Act 2003.

**The four licensing objectives are:**

- **Prevention of Crime and Disorder**
- **Public Safety**
- **Prevention of Public Nuisance, and**
- **Protection of Children from Harm**

The Councils gives equal weight to each of these objectives.

2.2 The 2003 Act requires Licensing Authorities to publish a 'Statement of Licensing Policy' (the Policy) that sets out the approach the Licensing Authorities will take when administering applications and other processes under the Licensing Act 2003 to ensure the promotion of the licensing objectives.

2.3 This Statement of Licensing Policy has been prepared in accordance with the provisions of the 2003 Act having regard to:

2.4

- The revised guidance issued under section 182 of the Act
- The Police Reform and Social Responsibility Act 2012
- The Live Music Act 2012.
- The Deregulation Act 2015
- The Immigration Act 2016

2.5 The 2003 Act further requires the Licensing Authorities to monitor, review and where appropriate, amend their Statement of Licensing Policy. Where significant changes or a review of this Policy is undertaken, the Licensing Authorities will consult with those parties listed at paragraphs 1.2 and 1.3 above and others prior to amending the Policy and also in preparing each statement of Licensing Policy in the future. Minor amendments reflecting legislative changes will be undertaken by officers to maintain accuracy.

### **3 SCOPE**

3.1 Licensing authorities regulate the Licensing Act 2003 ('the Act') and are responsible for considering a range of licence applications and amendments to licences for a number of activities detailed below. Basingstoke and Deane Borough and Hart District Councils are licensing authorities for the purposes of the Act. This 'Statement of Licensing' ('policy') covers the areas of Basingstoke and Deane Borough Council and Hart District Council ('the councils'). The Act requires the councils to produce a statement of principles concerning their duties under the Act every five years. The purpose of licensing is to regulate the carrying on of licensable activities on licensed premises, at qualifying clubs and under temporary event notices. The activities as defined by the Act include:

- Sale and/or supply of alcohol
- The provision of regulated entertainment which includes:
  - the performance of a play
  - an exhibition of a film
  - an indoor sporting event (subject to some exemptions)
  - boxing or wrestling entertainment
  - a performance of live music (subject to some exemptions)
  - playing of recorded music (subject to some exemptions)
  - Provision of late night refreshment

Some exemptions exist for audiences of fewer than 500 if provided between the hours of 8am and 11pm.

3.2 The types of premises likely to be included within the licensing regime include:

- Pubs and night clubs
- Off licences (includes supermarkets/shops selling alcohol)
- Restaurants serving alcohol
- Restaurants and other premises serving hot food and drink after 11pm
- Private members clubs/social clubs
- Hotels/guest houses selling alcohol
- Cinemas/theatres
- Community premises and village halls
- Street vendors serving food after 11pm
- Providers of temporary events involving licensable activities

and any other premises at which licensable activities are to be provided.

3.3 The Policy will apply across a range of applications which include the following:

- New Premises Licences and Club Premises Certificates
- Variations to Premises Licences and Club Premises Certificates
- Provisional Statements for proposed premises yet to be built
- Transfer of Premises Licences
- Disapplication of mandatory condition in respect of alcohol sales at village Halls and community premises
- Variations of licences to change the Designated Premises Supervisor
- Reviews of Premises Licences and Club Premises Certificates
- Personal Licences
- Temporary Events Notices

3.4 The Councils have a wide range of premises across their areas covered by this policy to which the policy licences and activities apply. These include:

Licensed private members clubs/social clubs	Wholesalers/Internet sales of alcohol	Supermarkets
Cafes	Licensed open spaces	Off Licences
Cinemas/Theatre/concert Hall	Public Houses	Late night food traders
Hotels and guest houses	Restaurants/cafes	Night clubs
Community premises/village halls	Sports clubs with Bars	Mobile food vendors
Stately homes		

3.5 The Licensing Authorities also regulate other activities at licensed premises which could include pavement cafes, sexual entertainment events, gambling, and performances of stage hypnotism.

#### 4 **LINKS TO OTHER COUNCIL STRATEGIES AND PROJECTS**

##### 4.1 **Council Plans**

The Council Plans set out each Council's ambition for the Areas covered by this policy, identifying key themes and priorities. More information on the plans can be found on the councils' websites:

[Strategies, plans and policies \(basingstoke.gov.uk\)](http://basingstoke.gov.uk)

[Corporate Plan 2017-2022.pdf \(hart.gov.uk\)](http://hart.gov.uk)

The Council Plans links to and is supported by a range of other published strategies and policies including this Statement of Licensing Policy.

4.2 It is fact that well managed licensed premises and licensable activities contribute to the Areas covered by this policies activity, vitality, vibrancy, and economy by attracting local residents and visitors to use the premises and facilities on offer and provide sustainable employment for people who work at those premises. The licensed premises and licensable activities regulated by the Licensing Act 2003 will play a significant part in realising that vision.

#### 5 **POLICY AIMS**

5.1 This Policy aims to promote the Licensing Authorities' vision for the areas covered as a whole and its hopes:

***'to encourage in the areas covered by this policy a wide choice of high quality and responsibly managed entertainment and cultural venues which provide a diverse range of licensed activities, community interaction and a variety of places for retail and refreshment; ensuring at***

***all times the safety and amenity of residential communities, business communities and the visiting public'***

- 5.2 Basingstoke and Deane is a large borough situated in the County of Hampshire covering 634.5 square kilometres (245 square miles) with a population of 165,800. Basingstoke is surrounded by small picturesque villages and smaller towns. The borough also boasts the North Wessex Downs Area of Outstanding Natural Beauty, and the River Loddon area within its boundaries.
- 5.3 Hart is a smaller area situated in the County of Hampshire covering a total of 83.1 sq. miles (215.3 km<sup>2</sup>). Hart had a population of 91,033 according to 2011 Census data from the Office of National Statistics. In Hart the largest concentration of the population is in Fleet including Church Crookham, which had a population of 37,760 in 2011 (Office of National Statistics). The other larger settlements are not on the same scale as Fleet with Church Crookham, with populations of 14,829 in Yateley, 10,115 in Blackwater, 8,334 in Hook, 4,999 in Hartley Wintney, and 4,610 in Odiham (including North Warnborough area).
- 5.4 The business and transport links to the areas covered by this policy are good with a number of purpose built business parks. The proximity to London and the south coast alike makes the areas covered by this policy an attractive business location.
- 5.5 The Policy aim is to clearly set out how the Licensing Authorities will promote the four licensing objectives when dealing with licensing matters. The four licensing objectives are:
- Prevention of Crime and Disorder
  - Public Safety
  - Prevention of Public Nuisance
  - Protection of Children from Harm
- 5.6 The Licensing Authorities will regulate licensable activities at licensed and unlicensed premises in the combined interests of the public and licensed trades and recognises that these activities contribute to the quality of lives of the areas covered by this policy's residents, businesses and visitors and help support the local economy.
- 5.7 To achieve this aim, the Licensing Authorities are committed to partnership working with the responsible authorities, local businesses, licensing trade, residents, those involved in the protection of children and other interested parties towards the promotion of the objectives. The Licensing Authorities will ensure that they take into account the views of these stakeholders and ensure proper integration of local crime prevention, planning, transport, employment, tourism and cultural strategies.
- 5.8 The Licensing Authorities aim to balance the protection of the amenity of the local population with the expectations and ability of local businesses to operate in an environment that is attractive and sustainable for their business. The Policy aims to minimise the impacts of licensable activities on residents, visitors, stakeholders and the environment.



- 5.9 This Policy aims to guide applicants, residents and other persons on the general approach that the council will take to licensing applications and other related issues. Although each application will be considered individually on its own merits, this Policy indicates the wider considerations that will be taken into account when determining applications. However, it is not the Councils' intention in adopting this Policy to override the right of any person to make an application and have it considered on its merit.
- 5.10 The council will work with other local authorities, particularly those with whom boundaries are shared, to ensure a consistent approach is taken to licensing issues whilst respecting the differing needs of the individual communities.

## **6 LICENSING AUTHORITIES' GENERAL POLICY CONSIDERATIONS**

- 6.1 The Licensing Authorities encourage the development of premises which are not alcohol led and which are aimed at different sectors of the population, including age and gender. Premises that promote the arts, a food offer, or other cultural activities are particularly encouraged.
- 6.2 Where premises such as pubs are alcohol-based, they are encouraged to consider diversifying their provisions to encourage a mixed customer-base and wider attractions, including community uses, soft refreshments, snacks and live entertainment. Diversification is important in the promotion of the licensing objectives as well as ensuring a sustainable economic future for premises
- 6.3 The Licensing Authorities recognises the need to promote and encourage live and recorded music, dancing, theatre and other forms of entertainment for the wider cultural benefit of communities generally. The potential for disturbance in neighbourhoods will be carefully balanced with the wider benefits.

### **Advice**

- 6.4 Pre application advice is available from licensing officers upon request and where appropriate. The Licensing Authorities expect that applicants will have researched and understood the relevant laws in relation to their application and their particular business plans as well as this Policy. It is not for licensing officers to determine the business needs and capabilities of an applicant, but advice can be offered in relation to the licensing objectives. In addition, guidance notes are available on the licensing pages of Councils' websites at

[Alcohol licensing \(basingstoke.gov.uk\)](http://www.basingstoke.gov.uk/alcohol-licensing)

<http://www.hart.gov.uk/alcohol-entertainment#alcohol>

- 6.5 Licensing officers will also provide advice to other parties on the licensing process where needed in relation to objecting to or supporting applications that may affect them. Guidance is available to all parties on the licensing pages of the Council's website at:

[Licensing Act 2003 \(basingstoke.gov.uk\)](http://www.basingstoke.gov.uk/licensing-act-2003)

[Alcohol & entertainment | Hart Areas covered by this policy Council](#)

### **Supermarkets and other 'off' licensed premises selling alcohol**

- 6.6 The Licensing Authorities will generally consider licensing shops, stores and supermarkets to sell alcohol for consumption off the premises throughout opening times. However, where there are reasons for restricting or amending hours, for example, where premises become the focus of disorder and disturbance, such restrictions or amendments will be considered where relevant representations have been made.
- 6.7 All 'off' licensed premises must comply with the *Licensing Act 2003 Mandatory Conditions Order* in relation to age related sales. The Licensing Authorities also expect such premises to implement additional measures to prevent and deter proxy sales on behalf of under 18's.
- 6.8 Licensees should ensure consideration is given to refusing sales of alcohol to customers who can be clearly identified as having an alcohol related health condition and who may be a source of nuisance or annoyance through street drinking.
- 6.9 The Licensing Authorities expect adequate checks to be made and all reasonable steps taken to ensure alcohol delivered by way of online shopping services (as provided by most large supermarket chains) is not delivered to minors to prevent a risk of underage consumption.
- 6.10 Where self-pay till points are made available in stores selling alcohol, provision must be included for alcohol sales to be identified and approved prior to completion of the purchase to prevent underage sales.
- 6.11 **Designated Premises Supervisor (DPS) at alcohol licensed premises**

Whilst this role has a limited definition under the Licensing Act 2003, it is expected that the person nominated on a licence will have overall responsibility for the day to day management and control of the licensed premises and in particular be responsible for the safe receipt, storage and sale of alcohol.

- 6.12 The Licensing Authorities would expect the DPS to be onsite at the licensed premises for the majority of time when alcohol is being sold subject to working hours' legislation and absence for sickness and holidays. The Licensing Authorities expects the DPS to provide training to staff in relation to alcohol sales and to authorise the employees the DPS considers competent to sell alcohol on their behalf in writing.
- 6.13 The Licensing Authorities expects that a DPS should have responsibility for only one licensed premises at a time to ensure good management of the premises and the licensable activities. Where the same person is a nominated DPS on more than one premises licence and representations are made, the relevant Licensing Authority will wish to satisfy itself that the premises in question can properly be managed by that person whilst responsibly promoting the licensing objectives.

### **Live Music**

- 6.14 It is acknowledged that the implementation of the Live Music Act in 2012 has resulted in a lighter touch regulation of live music up to 11pm on alcohol licensed premises, and this is seen as a positive approach for premises wishing to provide live music. However, the Licensing Authorities do not see this as an opportunity for licensees to provide live music events that cause nuisance and disturbance to local residents or businesses.
- 6.15 The Licensing Authorities expect that where unregulated live music is proposed at licensed premises, all due care and consideration is taken to prevent disturbance. The councils will use their powers under the Environmental Protection Act 1990 to prevent and control public nuisance caused by poorly managed live music at licensed premises.

### **Deregulated Entertainment**

- 6.16 Where the further deregulation of schedule 1 of the Licensing Act has reduced the regulatory controls on some regulated entertainment activities, the Licensing Authorities will expect licensees to ensure that no nuisance or disturbance is caused to local residents and businesses when providing the deregulated activities. The Licensing Authorities will consider using alternative powers as per para 6.15.

### **Late Night Levy (LNL)**

- 6.17 The creation a late night levy arises from the Police Reform and Social Responsibility Act 2011, any levy will potentially have a direct impact on all licensed premises within the areas covered by this policy. The Licensing Authorities have considered the options around the imposition of a LNL and have no plans at the time of drafting this policy to consider an imposition of the levy. Should evidence arise to support implementing a levy the statutory consultation process will be followed and the relevant Licensing Authority will very carefully use its discretion in relation to design and impact of a levy.
- 6.18 In advance of any decision to implement a LNL, the relevant Licensing Authority will enter into discussions with the Police to agree the allocation of the Police share of the levy to support the policing of the night time economy within this areas covered by this policy.

### **Early Morning Alcohol Restriction Order (EMRO)**

- 6.19 The Licensing Authorities have considered the options around the imposition of an early morning alcohol restriction order and has no plans at the time of developing this policy to consider an imposition of this Order. There is currently evidence of low levels of alcohol related crime and disorder, nuisance and anti-social behaviour within the areas covered by this policy. Should evidence arise to support implementing an EMRO, the statutory consultation process will be followed and the matter referred to the relevant Licensing Authority for determination.

### **Licensing and planning permission**

- 6.20 The use of a licensed premises or place may be subject to planning controls. This is a separate regulatory regime outside the scope of the Licensing Act 2003. The Licensing Authorities recognise that there is no legal basis for

refusing a licence application in the absence of any planning permission for the business to which the licence application relates. However, all applicants will be expected to be in possession of the necessary planning authorisation.

### **Need for licensed premises and Cumulative Impact**

- 6.21 'Need' concerns the commercial demand for particular licensed premises such as a pub, club or hotel. This is a 'market forces' matter and is not of concern to the Licensing Authority. 'Cumulative Impact' means the potential impact on the promotion of the licensing objectives by a significant or excessive number of licensed premises concentrated in one locality. This is a matter for consideration by the relevant Licensing Authority.
- 6.22 The Licensing Authorities acknowledge that a concentration of some types of licensed premises in a locality can result in increased footfall, congregation of the public in the streets and potential for increased crime and disorder, litter and anti-social behaviour, as well as noise nuisance to local residents. This would be a result of the presence of the number of premises and not attributable to individual businesses.
- 6.23 The Licensing Authorities, having regard to the evidence available, consider that currently there is no particular part of the areas covered by this policy where there is a cumulative impact of licensed premises on any of the licensing objectives. If the public or a responsible authority (in particular the Police) provide relevant evidence through a representation in the future that support the imposition of a Policy that restricts the number of new and/or later opening premises, this will be considered and consulted on.
- 6.24 The absence of an existing cumulative impact or saturation policy does not, however, prevent any responsible authorities or other person making representations on a new application for the grant of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives. The Licensing Authorities will also take into account the effect on resources, including police resources, to cope with any influx of visitors to an area, particularly late at night.

## **7 RESPONSIBLE AUTHORITIES AND OTHER PERSONS**

- 7.1 Responsible authorities are public bodies that are statutory consultees that must be notified of applications by the applicant. The full list and contact details can be found at Appendix A and are contained on the Councils websites at:

[Responsible authorities\(basingstoke.gov.uk\)](https://www.basingstoke.gov.uk)  
[Responsible authorities August 2019.pdf \(hart.gov.uk\)](https://www.hart.gov.uk)

- 7.2 When dealing with applications for licences and reviews of premises licenses, the Licensing Authorities are obliged to consider representations from two categories of persons, referred to as 'responsible authorities' and 'other persons'. This allows for a broad range of persons including ward councillors to comment both for and against applications for premises licences and club premises certificates and for reviews.

- 7.3 The Licensing Authorities can only consider representations that are relevant. In that they relate to the promotion of the licensing objectives, or that they raise issues in relation to this Statement of Licensing Policy or Home Office Guidance.
- 7.4 The Licensing Authorities will take care to ensure that concerns raised by responsible authorities in relation to their own legislative functions are not taken into account if they are not relevant to the application for a premises licence under the Act, or the promotion of the licensing objectives. It would expect those authorities to use their powers and duties within their statutory roles to control such matters. Any representation made by a responsible authority that relates to the promotion of the licensing objectives will be accepted.
- 7.5 The Licensing Authorities must give the appropriate amount of weight to representations made by the Police on crime and disorder matters. The Police are the Licensing Authorities' main source of advice on matters relating to the promotion of the crime and disorder licensing objective. The Licensing Authorities will accept representations made by the Police unless the Authorities have evidence that to do so would not be appropriate for the promotion of the licensing objectives.
- 7.6 Where an 'other person or persons' request to be represented when seeking to make a representation, the Licensing Authorities will require written evidence from the person/s being represented that they have authorised a third party to speak or write on their behalf.
- 7.7 The Licensing Authorities will examine closely all representations to ensure that they are not frivolous, repetitive or vexatious. Matters that the authorities will consider are likely to include:
- who is making the representation, and whether there is a history of making representations that are not relevant or which have been previously considered vexatious or frivolous
  - whether the representation raises a 'relevant' issue
  - whether the representation raises issues specifically to do with the premises and/or the licensable activities that are the subject of the application.
- 7.8 The above considerations are not exhaustive, and the Licensing Authorities will have regard to anything a person making a representation, or persons representing them, say about his or her status to make representations. Nothing in this Policy should be taken to undermine the right of any person to make a representation on an application or to seek a review of a licence where provision to do so exists.
- 7.9 The Health Authority is now included on the list of responsible authorities. It is acknowledged that they may be useful in providing evidence of alcohol related health harms that are directly linked to premises or a cluster of premises. It may also be able to provide relevant information on alcohol related admissions and sickness that relate to specific licensed premises.

### **The Licensing Authorities as a responsible authority**

- 7.10 The Licensing Authority must carefully considered its role as a responsible authority under the Act. It will achieve a separation of responsibilities through procedures and approved delegations within the Authority to ensure procedural fairness and eliminate conflicts of interest. A separation is usually achieved by allocating distinct functions (i.e. those of Licensing Authorities and responsible authorities) to different officers within the licensing team.
- 7.11 The Licensing Authorities do not expect to act as a responsible authority on behalf of third parties but accepts that there may be rare circumstances where this approach may be required. An example may be where matters arise at premises of which the licensing Authorities is aware that impact negatively on the promotion of the licensing objectives and residents, and other third parties are unwilling or unable to either request a review or make a representation.

## **8 POLICY APPROACH TO LICENSING IN BASINGSTOKE AND FLEET TOWN CENTRE**

- 8.1 Basingstoke town centre is the area that contains the highest concentration of licensed premises of all types. The town centre is where large numbers of people go for a night out to eat and/or drink or enjoy a film, concert or play and that many wish to enjoy the facilities into the early hours. It also accepts that the majority of the customers are well behaved and respectful of others.

### **TOP OF TOWN BASINGSTOKE**

- 8.2 The Top of Town with its historic buildings and unique independent units houses the majority of the late night economy premises and offers a cultural mix of restaurants, bars and pubs with live and recorded music, a range of menus as well as the historic Haymarket Theatre. This area is currently subject to an regeneration and improvement programme including an element of residential properties that will upgrade much of the fabric of the area, whilst still maintaining the historic charm.
- 8.3 The Top of Town currently contains several alcohol led premises that trade until 3am and 4am. The Licensing Authority will carefully consider the impacts of any new or variation applications for late hours for premises within this area that may arise out of the regeneration to ensure the character of the locality is retained. However, a presumption will be made to grant hours no later than between 12 midnight and 2am at the Top of Town.
- 8.4 Careful consideration will be given to new or variation applications seeking closing times after midnight on London Street and Winchester Street to prevent nuisance to residents in nearby accommodation. It is likely that premises closing times will be restricted to between 12 midnight and 2 am in these streets and in other streets where licensed premises are close to residential areas in the town.
- 8.5 This policy will be applied to regulate and promote licensable activities in the Top of Town area to encourage a diverse range of experiences for the customer and opportunities for a broad range of offerings in that area to complement the unique charm and historic importance.

## **CENTRAL AREA VISION BASINGSTOKE**

- 8.6 The council has a long term vision for the town centre called 'A Vision for Central Basingstoke' which includes the regeneration of Basing View. The Vision is supplemented by a Town Centre Programme, approved in 2013, which includes a raft of initiatives to improve the town centre. The improvements associated with the Vision and Programme are likely to attract businesses that will wish to provide a range of licensable and non-licensable activities. The Licensing Authority will wish to support the achievement of the Vision and Programme through the licensing process.
- 8.7 Whilst it is acknowledged that the improvement and regeneration of the town centre is still in progress, the life of this policy is such that it will be relevant to future licensees and businesses that are likely to be attracted to that area in the medium and longer term.
- 8.8 Where applications are eventually received for this area, the Licensing Authority will welcome a diverse range of businesses offering a broad choice of activities and will expect applications to complement the new development by enhancing the vitality, character and appearance of the area. This may lead to a consideration of restricted or more tightly controlled trading hours and a management of the numbers and types of premises to ensure that the desired vitality is secured and maintained and to prevent any negative impact on the promotion of the licensing objectives.

## **FLEET TOWN CENTRE**

- 8.9 Within Hart Fleet town centre is the area that contains the highest concentration of licensed premises of all types. The town centre is where large numbers of people go for a night out to eat and/or drink or enjoy a concert or play and that many wish to enjoy the facilities into the early hours. It also accepts that the majority of the customers are well behaved and respectful of others.
- 8.10 Fleet town centre is concentrated along (and off) the length of Fleet Road, and house the majority of the late night economy premises and offers a cultural mix of restaurants, bars and pubs with live and recorded music, and a range of menus.
- 8.11 The town centre currently contains several alcohol led premises that trade until 03.30hrs. The Council will carefully consider the impacts of any new or variation applications for late hours for premises within this area that may arise at any time to ensure the character of the locality is retained. However, a presumption will be made to grant hours no later than between 12 midnight and 2 am along Fleet Road.
- 8.12 Careful consideration will be given to new or variation applications seeking closing times after midnight on streets off Fleet Road to prevent nuisance to residents in nearby accommodation. It is likely that premises closing times will be restricted to between 12 midnight and 2 am in these streets and in other streets where licensed premises are in close proximity to residential areas in the town.

- 8.13 This policy will be applied to regulate and promote licensable activities in the town centre area to encourage a diverse range of experiences for the customer and opportunities for a broad range of offerings in that area to complement the unique charm and historic importance.

### **Closing times**

- 8.14 It is acknowledged that a range of different closing hours prevents customers leaving all the licensed premises simultaneously, creating a concentration of people within the town centre and also allows for more efficient and staggered use of public transport to get home. As a result, the Licensing Authorities will not set a fixed closing time for all premises and will promote varied closing times. At the same time, it will monitor the impact of staggered closing times to identify any benefits or disadvantages.
- 8.15 The Licensing Authorities in their partnership role with the Police, aim to maintain the current status of low numbers of crimes and antisocial behaviour within the Town Centre, but will use the licensing process where necessary to tackle any issues that impact on the promotion of the Licensing Objectives and in particular those issues that can be attributed to a specific licensed premise.
- 8.16 The Licensing Authority will expect all applicants for new licences and for variations to existing licences in the Town Centre area to include a detailed operating schedule within the application to ensure that their new business or changes to the operation of their business enhances and compliments the existing style and characteristics of the Town and does not create a negative impact.
- 8.17 Where matters of concern arise from an application which generates representations, the Licensing Authorities will, where appropriate, control or restrict trading hours and/or activities and impose appropriate and proportionate licence conditions to adequately mitigate those concerns where evidence supports such control in order to promote the licensing objectives.
- 8.18 Where noise nuisance arises from customers some distance from licensed premises affecting local residents which is caused by customers leaving the late night premises, the relevant council may use its powers under the Environmental Protection Act 1990 where evidence is obtained of statutory nuisance.

## **9 LICENSING AUTHORITIES' POLICY APPROACH TO LICENSING IN RURAL AREAS AND VILLAGE CENTRES**

- 9.1 The Council areas covered by this policy includes rural and semi-rural villages with their individual characteristics and qualities commonly found in rural and village life.
- 9.2 The Licensing Authorities expect that, in general licensed premises in rural locations will operate earlier terminal hours to reflect the lifestyle within the village area, and to protect local residents living close to the premises. It is acknowledged that on occasions such premises will wish to extend their hours to support community and other events attended by the village residents.



- 9.3 Applicants will be expected to offer a range of steps within their operating schedule to protect the amenity of the residents where occasional later closing hours are utilised. Alternatively, licensees can make use of Temporary Event Notices to temporarily extend their hours of operation and range of licensable activities on offer.

## **10 EXCHANGE OF INFORMATION**

- 10.1 The Licensing Authority will act in accordance with the provisions of the Licensing Act 2003 and the General Data Protection Regulation (GDPR), which replaced the Data Protection Act 2018, in its exchange of information. Where a protocol is established to set out the mechanism for exchange of information with other regulatory bodies, any such protocol will be made publicly available.

## **11 HUMAN RIGHTS AND EQUAL OPPORTUNITIES**

- 11.1 The Human Rights Act 1998 makes it unlawful for a Local Authority to act in a way which is incompatible with the European Convention on Human Rights. In making decisions and determining appropriate action the council will have due regard to the Convention. The Council will interpret the LA2003 in a manner consistent with the Human Rights Act 1998.
- 11.2 The Councils will consider the effect upon people's human rights and adopt a principle of proportionality and the need to balance the rights of the individual with the rights of the community as a whole. Action taken by the council which affects another's rights must be no more onerous than is necessary in a democratic society.
- 11.3 The Equality Act 2010 requires public bodies to consider all individuals when carrying out their day to day work – in shaping policy, in delivering services and in relation to their own employees. It requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity, and foster good relations between different people when carrying out their activities.
- 11.4 The equality duty supports good decision making – it encourages public bodies to understand how different people will be affected by their activities, so that their policies and services are appropriate and accessible to all and meet different people's needs. By understanding the effect of their activities on different people, and how inclusive public services can support and open up people's opportunities, public bodies can be more efficient and effective. The equality duty therefore helps public bodies to deliver the Government's overall objectives for public services.
- 11.5 This policy was reviewed, and consideration has been given to the potential impact on the protected characteristics groups included in the Equality Act 2010.
- 11.6 That review concluded that the policy has a generally positive impact on all groups. It has a differentially positive impact on children due to the guidance included on the 'protection of children from harm'. No negative impacts of the policy were identified. In addition, no differential impacts of the licencing

application process were identified for any protected characteristics groups. The policy promotes equality and good relations by taking into account the principles of the Human Rights Act 1998 and the Equality Act 2010.

## **12 COMPLIANCE AND ENFORCEMENT**

- 12.1 There are a range of other offences detailed under Part 7 of the Licensing Act 2003. The Council will liaise with the responsible authorities to determine enforcement of specific offences on a case by case basis. Offences related to sales of alcohol to minors will be enforced by the Police or Trading Standards Authorities unless they form part of a range of offences identified by the Licensing Authorities.
- 12.2 The Licensing Authorities have a shared Licensing Enforcement Policy which complies with the Regulatory Compliance Code and is available on the Council's websites:  
[Licensing Act 2003 \(basingstoke.gov.uk\)](http://licensing.act.2003.basingstoke.gov.uk)  
[www.hart.gov.uk/corporate-policies](http://www.hart.gov.uk/corporate-policies)
- 12.3 A risk-based inspection programme is in place, which includes the targeting of high risk premises which require greater attention, whilst operating a lighter touch in respect of low risk and well managed premises. The risk-based approach is based on Home Office Guidance; the activities authorised and premises compliance history.
- 12.4 The Licensing Authorities have established protocols with the local Police on enforcement issues where necessary. This enables the more efficient deployment of council staff and Police officers who are commonly engaged in enforcing licensing law and the inspection of licensed premises. Where necessary, inspections will be carried out jointly. The aims of the protocol are to target agreed problem and high risk premises which require greater attention whilst providing a lighter touch in respect of low risk premises which are well run.
- 12.5 The Authorities acknowledges that where annual fee payments for premises licences and club premises certificates are not made it must serve 2 working days' notice on the licensee to suspend the licence or certificate and inform the Police Authorities of the suspension. All licensees will receive a reminder that fees are due at least one month before the due date.
- 12.6 Where licences are suspended, the premises or club will be visited, and enforcement action taken where licensable activities are being provided unlawfully while a licence is suspended.

## **13 ADMINISTRATION AND DELEGATION OF FUNCTIONS**

- 13.1 The Licensing Authorities acknowledge the default position of granting licences or certificates under the Licensing Act 2003 where there are no valid representations received in respect of an application.

- 13.2 In the interests of speed and efficiency the council will, where possible, delegate licensing decisions and functions to licensing officers including validation of applications, relevance of representations and review applications and minor variations. They will seek advice from the Councils' Legal Services Team where necessary.
- 13.3 If a matter to be decided is controversial in any way, or the determination of the matter under delegated powers is precluded by law, then it will be decided by the Licensing Sub-committee. A table showing the approved delegation of functions is attached at Appendix B.

## PART B

### **CONSIDERATION OF APPLICATIONS**

#### **14 NEW PREMISES LICENCES**

14.1 When making decisions about applications for licences the relevant Licensing Authority will have regard to:

- this Shared Statement of Licensing Policy made under section 5 of the Licensing Act 2003
- the Statutory Guidance issued under section 182 of the Licensing Act 2003, and that decisions made are reasonably consistent with the four licensing objectives.

14.2 Details on the application process can be found on the relevant Council's website:

[Premises Licence - guidance on making an application \(basingstoke.gov.uk\)](https://www.basingstoke.gov.uk/premises-licence-guidance)

<http://www.hart.gov.uk/alcohol-entertainment#application-forms>

14.3 Where elements of applications are unclear or unspecific, particularly in relation to operating schedules and trading hours, the Licensing Authorities will expect the applicants to provide additional clarity on a request from the licensing team.

14.4 Licensing officers will routinely check that the Public Notices at the premises and the Public Notices in newspapers are displayed in accordance with the regulations as part of the validation process.

14.5 Licensing officers will also notify ward councillors to whose ward the application relates, and the parish council for the relevant parish.

14.6 Where there are no representations about an application the licence will be automatically granted after 28 days under the terms and conditions applied for. Licensing officers will interpret the detail of the operating schedule and convert them into licence conditions.

14.7 Where relevant representations are received the application will be referred to the relevant Licensing Sub-committee for determination at hearing, unless all parties agree that a hearing is not necessary. Where applications result in the need for a hearing the process at section 23 of this policy will apply.

#### **Annual fees and suspension of licences for non-payment**

14.8 The Licensing Authorities are required under section 55A of the Licensing Act to suspend premises licenses where the annual fee has not been paid. The relevant Licensing Authority will invoice each licensee at least one month before the annual fee is due setting out the fee that is due and the consequences for non-payment. Where the fee has not been paid or there has been no claim of administrative error by the end of 21 days of the due

date, the relevant Licensing Authority will serve the required 2 working day notice to suspend the licence.

- 14.9 Where a licence is suspended this means that no licensable activities will be authorised to be provided at the premises until the suspension is lifted on receipt of payment of the overdue fee. Officers will conduct enforcement visits to premises where a licence has been suspended and will take the appropriate action in accordance with the councils' shared enforcement policy.
- 14.10 Each case will be determined on its individual merits and depending upon the circumstances and where appropriate in accordance with the Licensing Act, the relevant Council may decide not to suspend a licence or carry out enforcement pending payment of the overdue fee.

## **15 VARIATIONS TO LICENCES**

- 15.1 From time to time licensees may wish to change the nature of the business and vary the trading hours or the licensable activities on offer. These can range from minor changes having little or no impact such as limited changes to the premises plan to more significant changes that will affect the promotion of the licensing objectives. These could include for example, the provision of additional activities, increasing capacities or longer and later trading hours. However, where a variation is so substantial that it significantly changes the nature of the business and layout of the premises it is likely that a new premises licence application will be required rather than a variation.
- 15.2 The relevant parts of this Policy to be applied to significant variation applications is the same as for new premises licence applications at section 14 above.
- 15.3 Where applications are made for minor variations<sup>1</sup> officers will consider whether there are any impacts on any of the Licensing Objectives. Where the variation proposed creates a significant impact on any of the Licensing Objectives the application will be rejected, and the applicant advised to seek a standard variation.
- 15.4 Where minor impact or no impact is considered officers will consult with the relevant (if any) responsible authorities. Further information on minor variations can be found on the relevant Council's website:

[Minor Variation \(idoxds.com\)](http://www.idoxds.com) - Basingstoke

<https://www.gov.uk/apply-for-a-licence/premises-licence/hart/change-8>

## **16 VARIATIONS TO SPECIFY A NEW DESIGNATED PREMISES SUPERVISOR (DPS)**

- 16.1 The Licensing Authorities expect the nominated DPS on a licence to be involved in and supervising the day to day operation of licensed premises that sell alcohol. Where the person nominated as DPS ceases to undertake that role the Licensing Authorities will expect the licensee to replace that person as

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<sup>1</sup> Not applicable for variations to changes to hours for the sale of alcohol

soon as is reasonably practicable to maintain adequate control of the premises.

- 16.2 Where a DPS notifies the relevant Licensing Authority that he, she, or they have resigned, the licensing officers will enter into immediate discussion with the licensee in relation to the mandatory conditions concerning the sale of alcohol and provide appropriate advice to prevent unauthorised alcohol sales.
- 16.3 All applications to specify a new DPS must be made by the licence holder or by a person/body authorised in writing to act on the licensee's behalf.
- 16.4 Para 6.11 to 6.13 above should also be noted.
- 16.5 Where there are no representations the default position is to grant the variation.
- 16.6 The Licensing Authorities will add the appropriate weight to relevant representations received from the Police about a proposed DPS. Applications that receive relevant representations will be referred for a hearing at which point the relevant Licensing Sub-committee may approve or reject the application.

## **17 TRANSFERS OF PREMISES LICENCES**

- 17.1 Before a licence transfer can be administered, the Licensing Authorities expect consent to have been obtained from the previous premises licence holder. If this is not possible the applicant will be expected to demonstrate that he, she, or they have taken all reasonable steps to secure consent to transfer the licence.
- 17.2 It is acknowledged that in some cases licensees leave premises and do not provide any forwarding contact details, or there has been a death or incapacity of the licence holder. In such cases where a licensee cannot be contacted to give approval, a licence will be transferred in accordance with the requirements of the Act.
- 17.3 Where a relevant Police objection to the transfer is received the application will be determined through the hearings process as detailed at section 22.

## **18 PROVISIONAL STATEMENTS FOR PREMISES**

- 18.1 A provisional statement may be applied for where a proposed licensed premises has yet to be built or altered for the purpose of becoming a licensed premises. This option allows potential applicants advance notice of whether a premises licence is likely to be granted on completion of its construction or conversion.
- 18.2 The process for considering an application for a provisional statement is the same as that for a premises licence application (see section 14). The applicant is obliged to give notice of the application in the same way as applying for a premises licence. Responsible authorities and other parties may make representations and there are rights of appeal.

- 18.3 The holder of a provisional statement may apply for a premises licence once the premises are constructed, altered or acquired. The relevant Licensing Authority will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises licence applications that follow the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless they concern matters which could not have been addressed at the provisional statement stage, or they reflect a change in the applicant's circumstances.
- 18.4 In addition, relevant Licensing Authority may refuse the premises licence application (or grant it on terms different to those attached to the provisional statement) only by reference to matters:
- which could not have been raised by way of representations at the provisional statement stage,
  - which, in relevant Licensing Authority's opinion, reflect a change in the operator's circumstances, or
  - where the premises has not been constructed in accordance with the plan and information submitted with the provisional statement application. This must be a substantial change to the plan and this authority will discuss any concerns with the applicant before making a decision.

## **19 CLUB PREMISES CERTIFICATES – CONSIDERATION OF APPLICATIONS**

- 19.1 The Licensing Authorities acknowledge the importance and history of members clubs and the privileged position held by clubs historically in relation to alcohol licensing.
- 19.2 Members clubs are able to obtain a club premises certificate to authorise licensable activities for their members and their guests. There is no requirement for any members to hold a personal licence under the Licensing Act 2003, and there is no requirement to specify a designated premises supervisor. It is acknowledged that alcohol is supplied by and for the members through their membership of the club.
- 19.3 In order to apply for a club premises certificate, the relevant Licensing Authority must satisfy itself that the club is a bona fide club and satisfies the legal conditions set out in the Act which are available on the relevant Council's website:
- [Club premises certificate - guidance on making an application \(basingstoke.gov.uk\)](https://www.basingstoke.gov.uk/club-premises-certificate-guidance-on-making-an-application)
- <https://www.gov.uk/apply-for-a-licence/club-licensing/hart/change-1>
- 19.4 Applicants for a club premises certificate will be required to complete a club declaration form setting out how the club will meet the conditions and definitions stated in the Act. Licensing officers will have delegated authority to make additional enquiries where appropriate in order to satisfy that a proposed club meets the criteria laid out in the Act.

- 19.5 The fundamental principles for premises licence applications set out at section 14 of this Policy will apply to applications for club premises certificates subject to exemptions in respect of the DPS and the requirement for evidence of the club's status.
- 19.6 Any qualifying club wishing to offer licensable activities at events to which non-members will attend will be required to authorise such activities by way of a Temporary Event Notice or by ensuring compliance with the club rules to allow the public to enjoy the club's facilities and activities without jeopardising the validity of the club premises certificate.
- 19.7 The Licensing Authorities expect 'public' events on club premises to be authorised by a Temporary Event Notice. It is expected that club committee members will seek advice from the relevant Council prior to providing such activities for non-members to prevent any unauthorised activities.
- 19.8 Where the relevant Licensing Authority identifies that a club no longer meets the conditions set out in section 62 of the Licensing Act 2003 or where the Council obtains evidence to demonstrate that a club no longer acts in good faith as a qualifying club, it will give the club a notice withdrawing the club premises certificate.
- 19.9 Suspension of Club Premises Certificates may also occur under section 92A of the LA2003 under the process described at paras 14.8 to 14.10 above.

## **20 REVIEW OF A PREMISES LICENCE OR CLUB PREMISES CERTIFICATE**

- 20.1 The Licensing Authorities acknowledge that matters can arise at premises that raise concern as to the continued promotion of the licensing objectives at licensed premises.
- 20.2 The Act allows a licence to be reviewed where such matters arise. It is expected that most reviews will be applied for by responsible authorities.
- 20.3 Although a Licensing Authority is also a responsible authority and entitled to bring about a review application, it is not expected that it will act as a responsible authorities on behalf of other parties (for example, local residents, local councillors or community groups).
- 20.4 Such parties can make relevant representations to the relevant Licensing Authority in their own right, and it is reasonable for the relevant Council 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 relevant Licensing Authority is aware of relevant grounds to make a representation, it may consider acting in its capacity as a responsible authority.
- 20.5 The relevant Licensing Authority will determine whether a review application is relevant and the validity of a review application will be determined by a licensing officer. This will be on the basis of whether the request for the review is relevant to the matters listed below:

- in accordance with the Guidance issued by the Home office



- relevant to the non-promotion of the licensing objectives

- 20.6 The request for the review will also be subject to the consideration by the licensing officer as to whether the request is frivolous, vexatious, or repetitious. (See Paragraph 7.7)
- 20.7 The Licensing Authorities will expect grounds for a review to be evidence based but will consider each application on its merits and allow the benefit of doubt where necessary.
- 20.8 Where a review application is accepted, the relevant Licensing Authority will encourage the parties to enter into mediation during the consultation period to help resolve issues arising. Such mediation would usually be chaired by the Shared Licensing Team Leader or a licensing officer, but all parties may choose to have a different third party as a mediation chairperson.
- 20.9 All representations received in support of or against a review application will be considered by the licensing officers as to whether such representations are relevant to the application. Where appropriate the benefit of doubt will be given and representations accepted.
- 20.10 All reviews will lead to a hearing conducted by a Licensing Sub-committee. This may be a full hearing or a condensed hearing to consider the outcome of mediation. However other parties who have made representation but not been involved in mediation will be permitted to voice their representations at the hearing in accordance with the Hearings Regulations. The Policy applied to hearings can be found at section 22.
- 20.11 Where reviews are raised as a result of serious crime and disorder causing that licensing objective to be undermined, then it is likely that a revocation of the licence will be considered.

## **21 APPLICATION TO VARY PREMISES LICENCE AT COMMUNITY PREMISES TO REMOVE THE MANDATORY REQUIREMENT FOR A DPS.**

- 21.1 The Licensing Authorities recognise the value that local community premises bring to their localities and that most are operated and managed by volunteers. The mandatory requirement for a nominated DPS to be in place at alcohol licensed community premises can be burdensome and difficult for an individual to manage at such premises.
- 21.2 The Act allows management committees at community premises to take over the responsibility of the alcohol sales by applying to the relevant Council to remove the requirement to have a nominated DPS at the premises to authorise sales of alcohol. The Licensing Authorities will, subject to strong evidence that a community premises is well managed by an experienced committee, support applications to remove the mandatory condition requiring all alcohol sales to be authorised by a personal licence holder
- 21.3 Before considering an application, the relevant Licensing Authority will satisfy itself that a premises meets the definition of a community premises. Enquiries will be made as to the regular use of the premises and whether it is in the main 'community' based. Where there is a regular 'commercial' or 'non-

community based' use or a membership requirement to use the premises, it is unlikely that such a premises would meet the definition of a community premises and permission to remove the requirement for a DPS is likely to be refused.

- 21.4 In general, it is expected that premises that form part of a church hall or chapel hall or are a village or community hall would in most cases meet the definition of a community premises, although each will be considered on its individual merits and the evidence provided or obtained.
- 21.5 Licensing officers will consider on a case by case basis all applications to remove the mandatory condition and will ask such questions or seek the necessary evidence to confirm the suitability of the management committee to collectively authorise the alcohol sales.
- 21.6 Committees that make an application will be expected to have members who are aware of the law relating to the sale of alcohol, contain steps within their operating schedule to prevent offences relating to alcohol sales and also to include appropriate rules in hiring agreements where the premises is hired out to the public for events that will involve the sale of alcohol.

## **22 HEARINGS**

- 22.1 Any application that has resulted in the submission of relevant representations from any party will be referred to the relevant Licensing Sub-committee for a hearing and determination in accordance with the 2003 Act and the Licensing Act 2003 (Hearings) Regulations 2005.
- 22.2 A Licensing Sub-committee will consist of three suitably trained members of the relevant Licensing Committee. No members will serve on a Licensing Sub-committee involving an application for a licence within their own areas covered by this policy ward. The Licensing Sub-committee will be advised on the law by a member of the Councils' Shared Legal Services Team. That legal team member will not be involved in the application process to prevent a conflict of interest by ensuring a clear separation of roles.
- 22.3 This Policy will play a key role in achieving consistency in decision making and will ensure decisions are made in a way which promotes a sustainable leisure economy for the areas covered by this policy.
- 22.4 Where representations are made only by responsible authorities, the Licensing Authorities expect applicants and responsible authorities to enter into negotiation or mediation prior to a hearing in an attempt to resolve issues before attending the licensing hearing.
- 22.5 Where mediation is successful, and a hearing is deemed unnecessary by all parties the mediation outcome will be presented to the Licensing Sub-committee in writing and signed by all parties for ratification and determination<sup>2</sup>. The relevant Licensing Sub-committee may still determine that the addition of appropriate licence conditions at the determination stage.

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<sup>2</sup> Not applicable to applications for a review of a Premises Licence or a Club Premises Certificate

- 22.6 Parties will be advised of the hearing date and procedure in advance and in accordance with the statutory process. At all hearings the sub-committee will have regard to the Guidance issued under section 182 of the Act. The Authorities covered by this policy may use their discretion where there are strong and defensible reasons for departing from the Guidance and where it considers it right to do so. In any such case the relevant Authority will clearly express and explain its reasons for doing so.
- 22.7 The Licensing Authorities must give the appropriate amount of weight to representations made by the Police on crime and disorder matters. It will give appropriate weight to all representations made by all parties based on the content and relevance to the promotion of all licensing objectives.
- 22.8 All decision notices will be in writing and will include clearly stated reasons to explain a decision on an application.
- 22.9 In respect of all of the licensing objectives, licensing officers may be asked to assist in the drafting of licence conditions relevant to the application and representations in order to assist the Licensing Sub-committee at a hearing.

## **23 LICENCE CONDITIONS**

- 23.1 A key concept in the Licensing Act is that conditions that are attached to licences or certificates are tailored to suit the individual style and characteristics of the premises and its activities and the impact of those activities. Those conditions will be deemed appropriate and proportionate in order to promote the licensing objectives at that premises.
- 23.2 All licences that authorise the sale of alcohol will be subject to the mandatory conditions set out in the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010.
- 23.3 Applicants will be expected to include appropriate steps within their operating schedule which will be converted to conditions on a premises licence or club premises certificate. Those steps will be expected to be achievable and relevant to the business in question and will ensure the promotion of each of the four licensing objectives.
- 23.4 Where applications receive valid representations and are subject to a hearing, the relevant Licensing Sub-committee will consider the evidence provided within representations, the detail of the application, the nature of the premises and business and only where appropriate will attach conditions to a licence to secure the promotion of the licensing objectives in light of the evidence provided.
- 23.5 Decisions on individual licence conditions will be made on a case by case basis, and where there are concerns over the effective promotion of the licensing objectives, the applicant will be expected to offer suggestions on how the objectives can be met. The Authorities will work closely with all parties and the applicant in establishing workable and reasonable conditions for new and variation applications.

- 23.6 In all cases the Council will have regard to the Guidance when considering the implementation of licence conditions. Further information on the Guidance can be found at the Home Office website:

[Guidance to the Licensing Act issued by the Home Office](#)

- 23.7 In all cases conditions will aim to promote the licensing objectives, be unambiguous and enforceable, appropriate to the activities and the business, achievable and applicable to the premises itself and the areas around the premises which is within the licence holders' control.
- 23.8 The Licensing Authorities recognise the need to avoid, so far as possible, duplication with other regulatory systems including Health and Safety at Work, Fire Safety, Food Hygiene and Nuisance Control. However, these regulations may not cover the unique circumstances of some activities and entertainment. In these circumstances, the council may therefore, where necessary, attach conditions to premises licenses for the promotion of the licensing objectives.

**Conditions to promote the Prevention of Crime and Disorder**

- 23.9 Under the Act the Licensing Authorities have a duty to promote the licensing objectives, and a further duty under the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in the areas covered by this policy.
- 23.10 The applicant will be expected to detail in their operating schedule how they will prevent crime and disorder on and close to the premises. Such detail should reflect the licensable activities on offer, location and character of the area, the nature of the premises use, and the range of customers likely to use the premises.

These may include, but are not limited to, the following:

- Prevention of disorderly conduct and anti-social behaviour
- Prevention of underage drinking
- Prevention of sales of alcohol to intoxicated customers
- Prevention of drunkenness both on and in the vicinity of the premises
- Prevention of drug use and drug dealing
- Restriction of drinks promotions
- Use of safety glass
- Inclusion of a wind-down time following alcohol sales period
- Adequate seating to discourage "vertical drinking"
- The offer of food and snacks or other entertainment or occupation to discourage persistent drinking

- Prevention of noise nuisance by customers waiting to enter a premises and on leaving

- 23.11 In busier premises the Licensing Authorities expect to see a short (say 30 mins) 'wind down' or 'drinking up' period allowed for after the cessation time of entertainment and alcohol sales as this is effective in assisting in a reduction in noise and exuberance of customers before leaving the premises.
- 23.12 Where the relevant Licensing Authority determines after consultation with the police that a premises is one that warrants additional security and monitoring it would expect applicants to include the provision of SIA approved door staff at the premises at appropriate times. Relevant premises are usually those used mainly for drinking alcohol, have later opening hours, and are situated within the town centre night time economy area. Applicants will be expected to seek advice from the Police and the relevant Council will give appropriate weight to requests by the Police for premises to be protected by SIA registered door staff subject to the provision of relevant evidence.
- 23.13 Where appropriate, applicants for licences in the town centre areas providing mainly alcohol, music and dancing would be expected to include a provision of safety glasses to prevent a risk of injury on the rare occasion that a glass may be used as a weapon.
- 23.14 The Licensing Authority would expect licences or the DPS to be members of and regularly attend local Pubwatch meetings.
- 23.15 The use of CCTV should be considered where appropriate or on the advice and recommendations of the Police and to a quality and standard approved by the Police for evidence purposes. Licence holders will be expected to fully comply with the requirements of the Information Commissioners Office and the Data Protection Act 1998 in respect of any surveillance equipment installed at a premises.
- 23.16 In any application the sub-committee will consider each application on its individual merits and determine the imposition of conditions that are appropriate to the objectives.

### **Conditions to promote Public Safety**

- 23.17 The applicant will be expected to show that the physical safety of persons attending the premises will be protected and will offer relevant steps in the operating schedule to promote this.
- 23.18 Such steps will not replace the statutory obligation on the applicant to comply with all relevant legislation under the Health and Safety at Work etc. Act 1973 or under the Regulatory Reform (Fire Safety) Order 2004.
- 23.19 Applicants will be expected to have carried out the necessary risk assessments to ensure safe occupancy levels for the premises. Where a representation from the Fire Authority suggests that for the promotion of the Public Safety objective a maximum occupancy should be applied, the relevant Licensing Authority will consider adding such a limit as a licence condition.

It is expected that an operating schedule will specify occupancy limits for the following types of licensed premises:

- High Volume Vertical Drinking e.g. premises that provide mainly stand up drinking facilities with limited seating/table space and the prime activity is the sale of alcohol
- Nightclubs
- Cinemas
- Theatres
- Other premises where regulated entertainment is likely to attract a large number of people.

### **Conditions to promote the Prevention of Public Nuisance**

- 23.20 The applicant will be expected to detail steps to prevent nuisance and disturbance arising from the licensable activities at the premises and from the customers using the premises.
- 23.21 The applicant will be expected to demonstrate that they have considered the following and included steps to prevent public nuisance:
- Proximity of local residents to the premises
  - Licensable activities proposed and customer base
  - Hours and nature of operation
  - Risk and Prevention of noise leakage from the premises from equipment, customers and machinery
  - Prevention of noise from customers leaving the premises and customer pick up points outside premises and from the car park.

- Availability of public transport to and from the premises
- Noise from use of the garden/outside space including smoking shelters.
- Delivery and collection times and locations.
- Impact of external security or general lighting on residents.
- History of management of and complaints about the premises.
- Applicant's previous success in preventing public nuisance.
- Outcomes of discussions with the relevant responsible authorities.
- Impact of location, noise and contamination from outside smoking areas on neighbours and other customers
- Collection of litter arising from the premises
- Appropriate times of disposal of glass bottles into external waste receptacles
- Provision of and encouraging use of toilet facilities for customers prior to leaving a premises.

23.22 Steps to prevent public nuisance may include a range of options including noise limiting devices, sound insulation, wind down periods, acoustic lobbies, management of smoking areas etc.

23.23 Steps will differ depending on the individual premises and activities and it is for the applicant to ensure that reasonable, effective and appropriate steps are included within the operating schedule.

### **Conditions to promote the Protection of Children from Harm**

23.24 Applicants will be expected to detail steps to protect children at the premises from any harm. The Licensing Authorities recognise the right of licensees (serving alcohol) to allow accompanied children into their premises. The Licensing Authorities will not seek to restrict access by children (above that specified in the Act) unless it is necessary for the prevention of physical, moral or psychological harm.

23.25 Steps to prevent children from harm must be included where:

- There is entertainment or services of an adult nature provided.
- There have been previous convictions for underage sales of alcohol.
- There is a known association with drug taking or dealing.
- There is a significant element of gambling on the premises.

- There is a presumption that children under 18 should not be permitted entry such as to nightclubs (apart from when specific events are held for under 18's).
- Outcomes of discussions with relevant responsible authorities suggest such steps are applicable.

23.26 Nothing in the Licensing Act prevents licensees from excluding children from a licensed premises and no condition can be added to require the admission of children.

23.27 Where there are no matters that give rise to concern in respect of children at premises the Licensing Authorities expect to see the relevant box on an application form completed to specify NONE.

## **24 PERSONAL LICENCES**

24.1 Any person who wishes to act as a DPS at licensed premises must be in possession of a personal licence issued under the Licensing Act 2003. Any other person may also apply for a personal licence subject to meeting the necessary criteria. The Licensing Authorities acknowledge the default grant position for applicants who meet the statutory criteria under the Licensing Act 2003.

24.2 The Police will only be consulted where the applicant declares a previous conviction for a relevant offence. A relevant conviction is one that is listed on Schedule 4 of the Licensing Act 2003.

24.3 Where a representation is received from the Police the Licensing Authorities acknowledge that they have discretion whether or not to grant the licence.

24.4 Where a representation is received from the Police objecting to an application for a personal licence, and that representation is deemed relevant by the licensing team in that there is a belief that granting the licence will undermine the prevention of Crime and Disorder licensing objective, the application will be referred to the Licensing Sub-committee for determination at a hearing where the Licensing Sub-committee will either grant or refuse the application.

24.5 The Police must give a notice of objection to the relevant Licensing Authority within the statutory 14 day consultation period. The Licensing Authorities accept that there is no discretion to accept a late notification from the Police even if the objection provided evidence that to grant the licence would undermine the crime prevention objective.

24.6 The Licensing Authorities require all personal licence holders to advise them each time there is a change of their name or address. All licence holders are advised of this requirement when a licence is granted. Any changes will be updated, and an amended licence will be issued within 10 working days of a notification of change.

24.7 The Licensing Authorities anticipate that the Magistrates and Crown Courts will take appropriate action in relation to a personal licence where licence holders are convicted of relevant offences in those courts after the grant of a



personal licence and to notify the relevant Licensing Authority of any action taken in respect of a personal licence.

- 24.8 The Licensing Authorities require personal licence holders to undertake their duty to disclose any convictions for a relevant offence after a personal licence has been granted. The relevant Licensing Authority and/or the Police will take appropriate formal action against the licence holder where subsequent relevant convictions are not declared under that duty. Further information on personal licences can be found on the Councils' websites:

[Personal licence \(basingstoke.gov.uk\)](https://www.basingstoke.gov.uk)  
[https://www.hart.gov.uk/sites/default/files/2\\_Businesses/Licensing\\_and\\_permits/Application\\_forms/Personal%20Licence.pdf](https://www.hart.gov.uk/sites/default/files/2_Businesses/Licensing_and_permits/Application_forms/Personal%20Licence.pdf)

## **25 TEMPORARY EVENTS**

- 25.1 The Licensing Act 2003 makes provision for the authorisation of a person (known as a premises user) to provide licensable activities on a temporary basis at unlicensed premises, or to add activities and/or extend the hours of existing activities at a licensed premises. The activities are authorised by the serving of a Temporary Event Notice (TEN) on the relevant Licensing Authority, subject to the notice meeting the proper criteria as detailed under the Act.
- 25.2 Comprehensive planning of events is essential and where there are likely to be impacts on neighbouring residents or businesses as a result of the activities to be authorised by a TEN, the Licensing Authorities expect the premises user to have advised those residents and businesses and considered any potential impacts and how they may be mitigated.
- 25.3 The Licensing Authorities welcome requests for advice from applicants who wish to provide temporary events to ensure they understand the law relating to such events and to reduce the likelihood of objections being made.
- 25.4 There are two types of TEN, Standard or Late. Both are subject to a numerical limit on the number of each type of TEN that can be served by personal licence holders and non-personal licence holders in a calendar year. There is also a numerical limitation on the number of TENs that may be served in respect of individual premises or places. Information on the law relating to temporary events is detailed on the Councils' websites:

[Temporary event notice \(basingstoke.gov.uk\)](https://www.basingstoke.gov.uk)

<https://www.gov.uk/apply-for-a-licence/temporary-event-notice/hart/apply-1>

### **Standard TEN**

- 25.5 A Standard TEN must be served at least 10 working days (Monday to Friday excluding Bank Holidays) before the event commences. The 10 working days excludes the day of service and the day on which the event starts. Copies of the TEN must be served on the relevant Licensing Authority, The

Environmental Health (EH) Department, and the Police. The fee is payable only to the relevant Council. Applicants are encouraged to serve TENs at least 28 days before the proposed events to allow greater time for an event to be planned.

- 25.6 Where numerical limits are exceeded the Licensing Authorities will serve a counter notice and the proposed licensable activities will not be authorised.
- 25.7 Where objections are received from the Police and/or EH and not withdrawn, the notice will be referred for a hearing before the Licensing Sub-committee. The Sub-committee may approve the TEN as applied for, add appropriate conditions (if the TEN takes place on a premises with an existing licence) or reject a TEN by serving a counter notice.

### **Late TEN**

- 25.8 A late TEN (may be served between 9 and 5 working days before a proposed event commences. Where numerical limits are exceeded a counter notice will be served and the proposed licensable activities will not be authorised.
- 25.9 If the late TEN is served with fewer than 5 working days' notice it is deemed invalid and would be rejected, the proposed activities would not be authorised. The Licensing Authorities have no discretion to accept TENs outside the permitted statutory deadlines.
- 25.10 Where valid representations are received from the Police or EH in respect of a late TEN, the TEN will be rejected and proposed activities will be unauthorised.
- 25.11 The relevant Licensing Authority will take the appropriate action where there is evidence that licensable activities have been provided without the authorisation of a TEN.
- 25.12 There are restrictions on the numbers of each type of TEN that can be submitted.

## **26 ONLINE APPLICATIONS THROUGH GOV.UK**

- 26.1 Applications for all licence types under the Licensing Act may be made online using the GOV.uk website portal.
- <https://www.gov.uk/alcohol-licensing>.
- 26.2 This facility is not owned, operated or maintained by the Licensing Authorities and the Licensing Authorities cannot be held responsible if the system is unavailable. There is no discretion to accept applications outside statutory deadlines if the GOV.uk website is unavailable. Applicants should make applications well in advance to avoid the risk of any issues, delays, or rejection of a late application if the online facility is unavailable.
- 26.3 Where applications are made using the online facility the Licensing Authorities will distribute copies of applications to the relevant responsible authorities behalf of the applicant.

- 26.4 Applicants are strongly encouraged to use the online facility to complete their applications. Hardcopy forms are available on request from the licensing team.

## **27 OTHER RELEVANT MATTERS**

### **Adult entertainment.**

- 27.1 The Licensing Authorities have adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 and premises offering regular entertainment of a sexual nature must be licensed as a sex establishment under those provisions.
- 27.2 The Licensing Authorities acknowledge that exemptions under the above legislation do allow sexual entertainment to be provided at premises licensed under the Licensing Act 2003, as long as it is provided on no more than 11 occasions within 12 months and with at least 1 month between each occasion. Those infrequent events will be regulated by the licence granted under the Licensing Act 2003 where that licence authorises performances of dance and where the original application specified that such adult entertainment was proposed to be provided.
- 27.3 Where application forms for premises licences and club premises certificates specify that no entertainment of an adult nature is proposed then the exemptions referred to at Para 18.3 will not be permitted.
- 27.4 Where licensees have declared that no adult entertainment will take place at a premises, wish to use the exemption allowed at Para 28.3 the relevant Licensing Authority will expect them to make an application to vary the licence (or club premises certificate) to include such entertainment. The Licensing Authorities expect that any application to provide sexual entertainment will incorporate appropriate steps within the operating schedule to protect all parties at the premises including performers and the public and in particular prevent access to such events by children to promote the prevention of children from harm licensing objective.
- 27.5 Applicants will be advised to seek advice from the Licensing Authority before applying to vary a licence to permit adult entertainment and are also advised to consider the relevant Council's Sex Establishment Licensing Policy and licence conditions adopted by this authority in respect of the licensing of sexual entertainment venues and sex establishments.

### **Gaming machines in licensed premises - Automatic entitlement**

- 27.6 There is provision in the Gambling Act 2005 (GA2005) for premises licensed to sell alcohol for consumption on the premises to automatically have two gaming machines of category C and/or D. The premises licence holder merely needs to notify the relevant Licensing Authority and pay the prescribed fee.
- 27.7 This relevant Licensing Authority can remove the automatic authorisation in respect of any particular premises if:

- Provision of the machines is not reasonably consistent with the pursuit of the licensing objectives (under the GA2005 Act):
- Gaming has taken place on the premises that breaches a condition of section 282 of the GA2005 Act (for example, the gaming machines have been made available in a way that does not comply with requirements on the location and operation of gaming machines):
- The premises are mainly used for gaming: or
- An offence under the GA2005 Act has been committed on the premises.

### **Gaming Machine Permit**

- 27.8 If a premises wishes to have more than 2 machines of categories C and/or D, then it needs to apply for a permit and this authority will consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission under section 25 of the Act, and such matters as officers consider relevant.
- 27.9 In determining such matters, consideration will be given to the need to protect children from harm and to the need to protect vulnerable persons from harm or being exploited by gambling. The applicant will be required to satisfy the authority that there will be sufficient measures to ensure that minors do not have access to the adult only gaming machines.
- 27.10 Measures to satisfy the authority relate to restricting access to age restricted machines and adult machines being in sight of the bar, or in sight of staff who will monitor that the machines are not being used by minors. Notices and signage should also be displayed to this effect. Applicants may consider the provision of information leaflets and helpline numbers for organisations such as GamCare to demonstrate their responsibility in the protection of vulnerable persons and compliance with Codes of Practice issued by the Gambling Commission.

### **Gambling in alcohol 'On' licensed premises**

- 27.11 Exempt gaming is equal chance gaming that is generally permissible in any club or alcohol licensed premises. Equal chance gaming includes games such as backgammon, mahjong, rummy, kalooki, dominoes, cribbage, bingo and poker. Such gaming should be ancillary to the purposes of the premises.
- 27.12 This exemption is automatically available to all clubs or alcohol licensed premises, but is subject to statutory stakes and prize limits determined by the Secretary of State. Licensees are expected to seek advice from the Gambling Commission website or the relevant Licensing Authority before providing any forms of gambling at alcohol licensed premises.

### **Outdoor seating areas at licensed premises**

- 27.13 It is recognised that many 'on' licensed premises are located in pedestrianised streets with areas of outdoor space on the public highway adjacent to the

premises. Customers like to sit outside such premises when the weather is suitable, and a 'café' style culture is encouraged.

- 27.14 The Licensing Authorities require all licensees who wish to expand their eating and drinking areas to include the public highway adjacent to the premises to discuss those plans with the Licensing team and ensure they have read and understood the guidance notes on what would be deemed safe and acceptable before making an application for a licence to permit them to place tables and chairs on the highway. Further advice can be obtained at on the relevant Council's website.
- 27.15 Licensees will be expected to make appropriate arrangements for customers who wish to smoke outside the premises to ensure that the licensed highway area is not also used as the allocated smoking area. This is to prevent nuisance and potential ill-health to non-smokers who wish to use the outside seating.

**INFORMATION: Basingstoke and Deane Borough Council**

- 27.16 In order to ensure that applicants and persons who make representations have the necessary information to be able to do so, information is available on the Basingstoke and Deane Borough Council website [www.basingstoke.gov.uk](http://www.basingstoke.gov.uk) or by contacting the licensing team by email ([licensing@basingstoke.gov.uk](mailto:licensing@basingstoke.gov.uk) ) , or by telephone on 01256 844844.

**INFORMATION: Hart District Council**

- 27.17 In order to ensure that applicants and persons who make representations have the necessary information to be able to do so, information is available on the Hart District Council website [www.hart.gov.uk](http://www.hart.gov.uk) or by contacting the licensing team by email ([licence@hart.gov.uk](mailto:licence@hart.gov.uk) ) , or by telephone on 01252 622122.

## **APPENDIX A - Responsible Authorities**

The responsible authorities for the council areas under the Act, and their contact details are as follows.

Contact details may change, and other responsible authorities may be designated by regulations by the Secretary of State. For latest information, please check with the relevant council's licensing team.

<b>Responsible Authority</b>	<b>Address</b>	<b>Telephone, e-mail and website</b>
The licensing authorities	Licensing Team Basingstoke and Deane Borough Council London Road Basingstoke RG21 4AH	<b>01256 844844</b>  <a href="mailto:licensing@basingstoke.gov.uk">licensing@basingstoke.gov.uk</a>  <a href="http://www.basingstoke.gov.uk">www.basingstoke.gov.uk</a>
	Licensing Team Hart District Council Basingstoke and Deane Borough Council London Road Basingstoke RG21 4AH	<b>01252 622122</b>  <a href="mailto:licence@hart.gov.uk">licence@hart.gov.uk</a>  <a href="http://www.hart.gov.uk">www.hart.gov.uk</a>
The planning authorities	Planning Basingstoke and Deane Borough Council London Road Basingstoke RG21 4AH	<b>01256 844844</b>  <a href="mailto:planning.comments@basingstoke.gov.uk">planning.comments@basingstoke.gov.uk</a>  <a href="http://www.basingstoke.gov.uk">www.basingstoke.gov.uk</a>
	Planning Hart District Council Harlington Way Fleet GU51 4AE	<b>01252 774419</b>  <a href="mailto:planningadmin@hart.gov.uk">planningadmin@hart.gov.uk</a>  <a href="http://www.hart.gov.uk">www.hart.gov.uk</a>

<p>Hampshire Safeguarding Children Partnership</p>	<p>Hampshire Safeguarding Children Partnership Falcon House Monarch Way Winchester SO22 5PL</p>	<p>01962 876355 <a href="mailto:hscp@hants.gov.uk">hscp@hants.gov.uk</a> <a href="http://www.hampshirescp.org.uk">www.hampshirescp.org.uk</a></p>
<p>Public Nuisance and Public Safety</p>	<p>Environmental Protection Basingstoke and Deane Borough Council London Road Basingstoke RG21 4AH  Environmental Protection Hart District Council Harlington Way Fleet GU51 4AE</p>	<p><b>01256 844844</b> <a href="mailto:eht@basingstoke.gov.uk">eht@basingstoke.gov.uk</a> <a href="http://www.basingstoke.gov.uk">www.basingstoke.gov.uk</a>  <b>01252 622122</b> <a href="mailto:eh@hart.gov.uk">eh@hart.gov.uk</a> <a href="http://www.hart.gov.uk">www.hart.gov.uk</a></p>
<p>Police</p>	<p>The Licensing Officer Hampshire Constabulary Basingstoke Police Station London Road Basingstoke Hampshire RG21 2AD</p>	<p><a href="mailto:licensing@hampshire.pnn.police.uk">licensing@hampshire.pnn.police.uk</a></p>
<p>Fire Service</p>	<p>Service Delivery (Community Safety Delivery) Protection Department Southsea Fire Station Somers Road Southsea Hampshire PO5 4LU</p>	<p><a href="mailto:Csprotection.admin@hantsfire.gov.uk">Csprotection.admin@hantsfire.gov.uk</a></p>
<p>Health and Safety Executive</p>	<p>Priestley House Priestley Road Basingstoke Hampshire RG24 9NW</p>	<p><a href="mailto:concerns@hse.gsi.gov.uk">concerns@hse.gsi.gov.uk</a></p>

Trading Standards	Head of safety and Standards The Trading Standards Service Montgomery House Monarch Way Winchester SO22 5PW	<a href="mailto:tsadvice@hants.gov.uk">tsadvice@hants.gov.uk</a>
Primary Care Trust	Licensing Public Health Manager Public Health Department 1 <sup>st</sup> Floor Room 153 Elizabeth II Court South Hampshire County Council Winchester SO23 8TG	<a href="mailto:Publichealth.licensing@hants.gov.uk">Publichealth.licensing@hants.gov.uk</a>
Care Commissioning Groups	North Hampshire & Farnham Clinical Commissioning Group Aldershot Centre for Health Hospital Hill Aldershot GU11 1AY	<a href="mailto:NEHCCG.public@nhs.net">NEHCCG.public@nhs.net</a>



**APPENDIX B - Table – Delegation of Functions for decision making under the Licensing Act 2003**

<b>MATTER TO BE DEALT WITH</b>	<b>FULL COUNCIL</b>	<b>LICENSING COMMITTEE</b>	<b>SUB-COMMITTEE</b>	<b>OFFICERS</b>
Approval and adoption of Statement of Licensing Policy	X	X		
Application for personal licence			If a Police objection	If no objection made
Application for personal licence with unspent convictions			If an objection is made by the Police and not disregarded by the officers	If no objection is made by the Police
Application for premises licence/club premises certificate			If a relevant representation is made	If no relevant representation is made
Application for provisional statement			If a relevant representation is made	If no relevant representation is made
Application to vary premises licence/club premises certificate			If a relevant representation is made	If no relevant representation is made
Application to vary designated premises supervisor			If a Police objection	All other cases
Request to be removed as designated premises supervisor				All cases
Application for transfer of premises licence			If a Police objection	All other cases
Applications for interim authorities			If a Police objection	All other cases
Application to review premises licence/club premises certificate			All cases	
Decision on whether a complaint is irrelevant frivolous vexatious etc.				All cases
Decision to object when local Authorities is a consultee and not the relevant Authorities considering the application				All cases

Determination of an objection to a temporary event notice			All cases	
Determination of application to vary premises licence at community premises to include alternative licence condition			If Police objection	All other cases
Decision whether to consult other responsible authorities on minor variation application				All cases
Determination of minor variation application				All cases
Decision on whether to make a representation about a premises licence or club premises certificate application or major variation or call for a review of a licence/club premises certificate				Officer graded at a level above the grade of the case officer



## HART DISTRICT COUNCIL

### Consultation on Statement of Licensing Policy under the Licensing Act 2003

#### Introduction

Hart District Council as the Licensing Authority under the Licensing Act 2003 must publish its Statement of Licensing Policy every five years.

This sets out how the licensing authority will carry out its functions under the Act and how it will promote the four licensing objectives.

The four objectives are:

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

The Licensing Authority has reviewed the current Statement of Licensing Policy and has made several changes to ensure it remains current and to include more detail to support applicants and the council in the application and determination process.

#### Consultation

The licensing Authority must consult on its Policy with a broad range of statutory and non-statutory consultees.

The draft Policy for consultation can be found at [www.hart.gov.uk/consultations](http://www.hart.gov.uk/consultations). If you would like a hard copy of the draft Policy please contact the licensing team on 01252 622122.

Hart District Council will welcome your comments and will consider them all before confirming the final Policy at the Council's Licensing Committee and Full Council meetings later in 2022.

#### Submitting your views

To submit your views and comments in relation to this consultation you may either send them via email to: [licence@hart.gov.uk](mailto:licence@hart.gov.uk)

Alternatively you may post your comments to:

## **APPENDIX B**

Shared Licensing Services Team  
Civic Offices  
London Road  
Basingstoke  
RG21 4AH

The closing date for the receipt of these consultation responses to the Council is **XXXX 2022**.

When responding to the Council please state whether you are responding as an individual or representing the views of an organisation. If responding on behalf of an organisation, please make clear who or what that organisation represents. If responding as an individual, please mention your own interest.

Please note that responses may be made public or published in a summary of responses to the consultation unless you state clearly that you wish your responses or name to be treated confidentially. Confidential responses will be included in any statistical summary of numbers of comments received. If you are replying by email, unless you specifically include a request to the contrary in the main text of your submission, the Council will assume your consent overrides any confidentiality disclaimer that is generated by your organisation's IT system.

Any information or material sent to us and which we record may be subject to the Freedom of Information Act 2000. The Council's policy on release of information is available on request or by reference to our website at [www.hart.gov.uk](http://www.hart.gov.uk)

All information provided to the Council will be processed in accordance with the Data Protection Act 1988. However, it may be disclosed to another body in order to carry out the functions of the Council and where the Council is legally required to do so.

## LICENSING

<b>DATE OF MEETING:</b>	<b>23 November 2021</b>
<b>TITLE OF REPORT:</b>	<b>Taxi and Private Hire Policy: Mandatory Card Payments</b>
<b>Report of:</b>	<b>Head of Place</b>
<b>Cabinet member:</b>	<b>Cllr Sara Kinnell, Regulatory</b>

### **1 PURPOSE OF REPORT**

- 1.1 The purpose of this report is to consider an amendment to the Taxi and Private Hire Policy, relating to the mandatory card payment acceptance in licenced vehicles, following consultation with the public and responsible authorities

### **2 OFFICER RECOMMENDATION**

- 2.1 Licensing Committee is recommended to:  
Approve the amendment to the Taxi and Private Hire policy relating to mandatory card payment acceptance in licenced vehicles; and
- 2.2 Authorise the Head of Place in consultation with the Portfolio Holder for Regulatory to make minor alterations and typographical corrections to the document before it is published.

### **3 BACKGROUND**

- 3.1 The Taxi and Private Hire Policy sets out the Council's approach to the administration of the Taxi and Private Hire licensing functions under the Town Centre Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.
- 3.2 The policy was updated in line with the Department for Transport Statutory Taxi and Private Hire Vehicle Standards (hereafter referred to as DfT guidance). The policy was approved by Licensing Committee on 2 March 2021 following a 12-week consultation period.
- 3.3 During that consultation comments were received from members of the trade asking that card payments should be made mandatory in all licensed vehicles. As this was not in the original consultation it could not be included in the new policy in March without a separate consultation. Licensing Committee agreed that they wished this to be undertaken.
- 3.4 Licensing Committee at its meeting of 1 June 2021 considered the proposed draft amendment to the Taxi and Private Hire Policy relating to mandatory card payment acceptance in licenced vehicles. The Committee approved the draft amendment for consultation.

## 4 CONSIDERATIONS

- 4.1 The key benefit of mandating the acceptance of card payments would be to provide customers with a wider range of payment options. This is especially important during the current climate where contactless payments are preferred to reduce the risk of the transmission of Covid 19. Members must decide if they wish to pursue this as a mandatory option for licensing.
- 4.2 The Council will only be able to mandate that card payments are accepted, but not how. This will be up to the licensed drivers or vehicle proprietors to determine.
- 4.3 Passengers can already pay by contactless card on the bus and rail Networks. There is therefore an expectation that similar arrangements are in place for licensed vehicles.
- 4.4 All taxi drivers must accept card payments via a card payment device located within the licensed vehicle and provide printed receipts for those payments upon request.
- 4.5 During the consultation responses were received from three people / organisations. These responses are set out in Appendix A, along with the Council's response.
- 4.6 Appendix B sets out the proposed amendment to the Licensing Policy for Hackney Carriage and Private Hire Vehicles.
- 4.7 Appendix C sets out the guidelines for electronic payment devices.

## 5 ALTERNATIVE OPTIONS CONSIDERED AND REJECTED

- 5.1 Cash Payments are already available to the public and will continue to be available as an alternative to card payments.

## 6 CORPORATE GOVERNANCE CONSIDERATIONS

### Service Plan

Is the proposal identified in the Service Plan?	No
Is the proposal being funded from current budgets?	Yes
Have staffing resources already been identified and set aside for this proposal?	Yes

### Legal and Constitutional Issues

The updated policy sets out how Hart District Council intends to administer its adopted function under the Local Government (Miscellaneous Provisions) Act 1976 in respect of the licensing of hackney carriage and private hire vehicles, drivers and operators. The policy has been appropriately amended in line with the Statutory Taxi and Private Hire Vehicle Standards published in July 2020.

## **Financial and Resource Implications**

There will be an additional cost to drivers, vehicle proprietors or operators if every vehicle is required to provide means of card payment. There are a number of options for electronic payment, and it will be up to individual drivers or proprietors to choose a system that best meets their needs, and their customer's needs.

### **7 EQUALITIES**

7.1 There are no direct equalities impacts arising from the recommendations.

### **8 CLIMATE CHANGE IMPLICATIONS**

8.1 There are no direct carbon/environmental impacts arising from the recommendations.

**Contact Details: Emma Coles, Shared Licensing Team Leader**  
**emma.coles@basingstoke.gov.uk**

## **APPENDICIES**

Appendix A: Consultation Responses

Appendix B: Proposed amendment to the Licensing Policy for Hackney Carriage and Private Hire Vehicles

Appendix C: Guidelines for Electronic Payment Devices

	<b>Consultation comments (verbatim/anonymised)</b>	<b>HDC response</b>
1	<p>I would like to request regarding card payment. I have chip &amp; pin which is not touch screen.</p> <p>Many asks if I take card payment. Yes but then I do tell them I only accept cards &amp; don't have contact less.</p> <p>Now request is that when we drop them that time we notice regarding Wi-Fi connection. What shall I do then? Many places we find it difficult to get connection &amp; can't process payment.</p> <p>Like Quetta Park, Crondall, Edenbrook, Elvetham Heath, Hartley Wintney, Ancells farm,</p> <p>Can you please advise on this issue please?</p>	<p>The Council will only be able to mandate that card payments are taken, but not how. This will be up to the licensed drivers or vehicle proprietors to determine. Many card payment machines have an offline function that will update when mobile telephone or Wi-Fi signal are available</p>
2	<p>I think the amendment should read all DRIVER'S should have card payment facilities. Also think there should be NO minimum fee payment, so if a fare is £3.60 that is the payment on the card. If for any reason a driver refuses a fare he should go to back of the rank.</p>	<p>Payment are taken within the licenced vehicle which is why the condition relates to the vehicle and not the driver</p>
3	<p>Whilst I agree with the proposal to ensure card payment is available to the public, could I check if the rule is being implemented against the vehicle license or the driver license.</p> <p>I ask, as to gain a card machine an individual or company has to sign up to it (not a vehicle) and its vital to understand who has to own the device. It's crucial this amendment is made to the driver licenses rather than the vehicles so each driver must have a device. Some companies hire out a vehicles and for the companies to take responsibility of the card machine to get a vehicle licensed seems wrong. It also create issues with VAT and potential employment/self-employment rules as drivers are required to provide their own tools to retain self-employment status. If companies start taking payments on behalf of drivers (into our Banks) and providing tools to do so, it brings into question not only VAT but also the working relationship (employed/Self-employed) between the parties.</p>	<p>The Council will only be able to mandate that card payments are taken, but not how. This will be up to the licensed drivers or vehicle proprietors to determine</p>



## **Appendix B**

### **HACKNEY CARRIAGE AND PRIVATE HIRE VEHICLES**

#### **Specifications**

All Licensed vehicles must have the facility to accept card payments, and the facility to provide a receipt if requested by the customer. The card payment device must accord with the guidelines provided in this policy at Appendix H.

#### **Signage**

Signage must be displayed identifying the payment cards/method accepted; these should be clearly visible from the exterior and interior of the vehicle.

The signage must be displayed in such positions so as to minimise obstruction of vision and to make it as visible as possible to passengers after entering the vehicle.



### **Guidelines for Electronic Payment Devices**

#### **General Requirements**

All payment devices must:-

- comply with the requirements of the current UK banking industry standards as stipulated by the Financial Conduct Authority (FCA).
- be listed on UK Finance (formally the UK Cards Association) website as an approved device.
- comply with latest release of the UK Finance approved guidelines relating to organisational security policies.
- meet all requirements as regards safety, technical acceptability and operational/data integrity.
- be checked regularly and maintained to operational standards, including any repairs after damage.
- be designed, constructed, installed and/or carried in such a way and in such materials as to present no danger to passengers or driver, including impact with the equipment in the event of a collision.
- be protected from the elements, secure from tampering and theft and located such as to have the minimum intrusion into any passenger area, including designated wheelchair space, or impact on the luggage carrying capacity of the vehicle.
- be free from obscuring or interfering with the operation of any of the vehicle's standard and/or mandatory equipment, i.e. not mounted on or adjacent to air bags/air curtains or within proximity of other supplementary safety systems which may cause degradation in performance or functionality of such safety systems.
- comply with any legislative requirements in respect of the Motor Vehicle (Construction and Use) Regulations, 1986, in particular with regard to equipment obscuring the view of the road through the windscreen.

#### **Automotive Electromagnetic Compatibility Requirements (EMC)**

Any charging equipment used must not interfere with any other safety, control, electrical, computer, navigation, satellite, or radio system in the vehicle.

Information regarding type approval of the payment device or payment system will be required. The installed equipment should be clearly e-marked. If any electrical equipment is CE marked for EMC, a certificate will be required from an appropriate authority declaring that the equipment is non 'immunity-related' and suitable for automotive use, as part of the approval process.

## **APPENDIX C**

### **Payment Device Functionality**

All payment devices must:-

- meet all requirements and standards as stipulated by the card scheme companies in terms of connections to a host such as GPRS, 3G, 4G, bluetooth or other connection methods to complete payment transactions.
- links between a taximeter, card payment applications and other electronic devices must be in 'read only' format.
- provide functionality to protect the confidentiality of critical data (in particular PINs) whilst the card transaction is being processed.
- allow card details to be stored for the minimum amount of time required to enable the payment transaction to complete, thereafter card details must be deleted / disposed of in a secure manner.
- have the facility to produce printed receipts which comply with the current banking standards.

### **Payment Device Approval/Certification**

The payment device/solution must comply with the following standards (as supplied in conjunction with UK Finance):-

- Transactional Smartcard Reader Protection Profile (TSRPP).
- Current Card Acceptor to Acquirer Interface, UK Finance Standard 70.
- Pass a security integrity evaluation process by a PCI Security Standards Council approved testing laboratory (PCI PTS Testing and Approval Programme).
- Payment Card Industry Data Security Standards (PCI DSS) - (This compliance may be provided through the services of a third party provider).
- Payment Card Industry Data Security Standards (PCI PA-DSS).
- Type approval specifications as set by EMVCo (level 1 Electromechanical, level 2 Kernel software).
- The UK Finance Common Criteria Evaluation (EAL4+). Evaluation completed against the **JIL** Terminal Evaluation Methodology Subgroup (JTEMS) POI Protection Profile or;
- Common.SECC certification and registered on the Common.SECC web site.

### **Payment Transactions**

All payment transactions processes must operate in accordance with UK Finance.

All payment transactions processes must operate in accordance with Payment Card Industry Data Security Standards (PCI DSS).

All Payment applications processes must meet Data Security Standard (PA-DSS).

All payment transactions processes must operate in accordance with the Acquirer Bank regulations and standards.

## **APPENDIX C**

From 2<sup>nd</sup> April 2016 all card payment surcharges to passengers have been removed.

### **Data Protection**

You are legally obliged to comply with the requirements of privacy and data protection legislation in respect of all transaction processes, data management and storage. This includes the General Data Protection Regulation (GDPR) and the Data Protection Act 2018. You can find out more about your obligations from the [Information Commissioner's Office \(ICO\)](#).

Note:-

Sending or handling personal data outside the European Economic Area (EEA) must comply with the specific principle(s) set out in GDPR to ensure an adequate level of protection is in place for the storage and processing of personal data. Compliance issues may be avoided by ensuring the any cloud data handling is restricted to servers domiciled within UK the countries that make up the EEA.

### **Documentation Required**

- PCI DSS certification (PCI-PTS and PCI PA-DSS where relevant to the solution configuration).
- EMC certification/documentation (where applicable).
- UK Finance Common Criteria Evaluation (EAL4+) certification/documentation, or; Common.SECC certification.
- EMVCo. Type Approval certification/documentation.
- Confirmation of registration on the public register of data controllers maintained by the Information Commissioner's Office (where applicable).

### **Signage**

Signage must be displayed identifying the payment cards/method accepted; these should be placed for view from the exterior and interior of the vehicle.

The signage must be displayed in such positions so as to minimise obstruction of vision and to make it as visible as possible to passengers after entering the vehicle.