

Statement of Licensing Policy

Licensing Act 2003

2022 to 2027

Joint statement of licensing

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 Council 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.

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 Councils ('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:
 - o the performance of a play
 - o an exhibition of a film
 - o an indoor sporting event (subject to some exemptions)
 - o boxing or wrestling entertainment
 - o a performance of live music (subject to some exemptions)
 - o playing of recorded music (subject to some exemptions)
 - o Provision of late night refreshment

4 LINKS TO OTHER COUNCIL STRATEGIES AND PROJECTS

Hart is a small but very strongly performing economy in the northeast corner of Hampshire. It borders Berkshire to the north and Surrey to the south-east. Two of the largest settlements, Fleet and Yateley, lie towards the east of the Areas covered by this policy. The remainder of the areas covered by this policy is largely rural with 16 parishes and a number of lively smaller rural settlements.

The area has good communication links with London, Heathrow and Gatwick Airports and the rest of southern England and is close to the Farnborough and Aldershot conurbation. The M3 motorway and main London to Southampton railway both pass through the Areas covered by this policy. The M4 motorway is some 12 miles to the north of Fleet, and the M25 is some 15 miles to the east. The highly attractive rural character of the Areas covered by this policy and good communication links are key factors that help to make it an attractive area for commercial and residential development.

5 POLICY AIMS

5.1 This Policy aims to promote the Licensing Authority's 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'

5.3 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).

5.5 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 Authority is 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 Authority will ensure that it takes 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 aims 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 Council's intention in adopting this Policy to override the right of any person to make an application and have it considered on its merit.

6 LICENSING AUTHORITIES' GENERAL POLICY CONSIDERATIONS

6.1 The Licensing Authorities encourages 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.

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 does 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 expects that where unregulated live music is proposed at licensed premises, all due care and consideration is taken to prevent disturbance. The council will consider using its powers under the Environmental Protection Act 1990 to prevent and control public nuisance caused by poorly managed live music at licensed premises

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 of this Licensing Statement and are contained on the Councils website.

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 may 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.

7.6 Where an 'Other Person or Persons' request to be represented when seeking to make a representation, the Licensing Authority 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 this authority will look at 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.

THE LICENSING AUTHORITIES AS A RESPONSIBLE AUTHORITY

7.10 The Licensing Authorities has carefully considered its role as a Responsible Authorities under the Act. It will achieve a separation of responsibilities through procedures and approved delegations within the Authorities to ensure procedural fairness and eliminate conflicts of interest. A separation is 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 does 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.

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 expects that, in general licensed premises in rural locations will operate earlier terminal hours to reflect the tranquillity and 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.

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 Licensing Authority will interpret the LA2003 in a manner consistent with the Human Rights Act 1998.

11.2 The Council 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.

12 COMPLIANCE AND ENFORCEMENT

12.1 There are a range of other offences detailed under Part 7 of the Licensing Act 2003. The Licensing Authority 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 Authority unless they form part of a range of offences identified by the Licensing Authority.

12.2 The Licensing Authorities have an approved Licensing Enforcement Policy which complies with the Regulatory Compliance Code and is available on the Council's website.

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 Authority has 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.

PART B

CONSIDERATION OF APPLICATIONS

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 minor 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

22 HEARINGS

22.1 Any application that has resulted in the submission of relevant representations from any party will be referred to the 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 sub-committee will consist of 3 suitably trained members of the Licensing Committee. No members will serve on a sub-committee involving an application for a licence within their own ward. The subcommittee will be advised on the law by a member of the Council's 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.

22.6 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. This authority may use its 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 this authority will clearly express and explain its reasons for doing so.

22.8 All decision notices will be in writing and will include clearly stated reasons to explain a decision on an application.

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 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.

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 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. This authority 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 Licensing Authority 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.

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 Authority recognises 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.

23.9 Conditions to promote the Prevention of Crime and Disorder.

Under the Act the Licensing Authority has 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

23.15 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

23.17 Conditions to promote Public Safety.

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.

23.20 Conditions to promote the Prevention of Public Nuisance. 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.
- 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

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.

23.24 Conditions to promote the Protection of Children from Harm.

Applicants will be expected to detail steps to protect children at the premises from any harm. The Licensing Authority recognises the right of licensees (serving alcohol) to allow accompanied children into their premises. The Licensing Authority would 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.