

# AGENDA

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**Meeting:** Licensing Committee

**Place:** West Wiltshire Room - County Hall, Bythesea Road, Trowbridge,  
BA14 8JN

**Date:** Monday 11 March 2019

**Time:** 10.30 am

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Please direct any enquiries on this Agenda to Lisa Pullin, of Democratic Services, County Hall, Bythesea Road, Trowbridge, direct line 01225 713015 or email [lisa.pullin@wiltshire.gov.uk](mailto:lisa.pullin@wiltshire.gov.uk)

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## Membership:

Cllr Allison Bucknell	Cllr George Jeans
Cllr Trevor Carbin	Cllr Jim Lynch
Cllr Sue Evans	Cllr Leo Randall
Cllr Jose Green (Vice-Chairman)	Cllr Pip Ridout
Cllr Mike Hewitt	Cllr John Smale
Cllr Peter Hutton (Chairman)	Cllr Ian Thorn

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## Substitutes:

Cllr Clare Cape	Cllr Nick Murry
Cllr Ernie Clark	Cllr Steve Oldrieve
Cllr Anna Cuthbert	Cllr Stewart Palmen
Cllr Peter Evans	Cllr James Sheppard
Cllr Gavin Grant	Cllr Graham Wright
Cllr Howard Greenman	

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## **Public Participation**

Please see the agenda list on following pages for details of deadlines for submission of questions and statements for this meeting.

For extended details on meeting procedure, submission and scope of questions and other matters, please consult [Part 4 of the council's constitution](#).

The full constitution can be found at [this link](#).

For assistance on these and other matters please contact the officer named above for details

# AGENDA

1      **Apologies**

To receive any apologies and details of any substitutions.

2      **Minutes** (*Pages 7 - 22*)

To confirm and sign the minutes of the meetings held on 3 and 26 September 2018 (copies attached).

3      **Chairman's Announcements**

4      **Declarations of Interest**

To receive any declarations of disclosable interests or dispensations granted by the Standards Committee.

5      **Public Participation**

The Council welcomes contributions from members of the public.

Statements

If you would like to make a statement at this meeting on any item on this agenda, please register to do so at least 10 minutes prior to the meeting. Up to 3 speakers are permitted to speak for up to 3 minutes each on any agenda item. Please contact the officer named on the front of the agenda for any further clarification.

Questions

To receive any questions from members of the public or members of the Council received in accordance with the constitution.

Those wishing to ask questions are required to give notice of any such questions in writing to the officer named on the front of this agenda no later than **5pm on Monday 4 March** in order to be guaranteed of a written response. In order to receive a verbal response questions must be submitted no later than 5pm on **Wednesday 6 March**. Please contact the officer named on the front of this agenda for further advice. Questions may be asked without notice if the Chairman decides that the matter is urgent.

Details of any questions received will be circulated to Committee members prior to the meeting and made available at the meeting and on the Council's website.

6 **Minutes of the Licensing Sub Committees** *(Pages 23 - 80)*

To receive and sign the minutes of the following Licensing Sub Committees:

**Northern Area**

05/10/18 Application for a Variation of a Premises Licence – Whitehall Garden Centre, Corsham Road, Lacock

22/10/18 Review of a Premises Licence, Royal Sports Bar and Cue Club, Ivy Road Industrial Estate, Ivy Road, Chippenham

**Eastern Area**

12/12/18 Application for a Premises Licence, The George Narrowboat, Devizes Wharf

**Southern Area**

14/05/18 Application for a Premises Licence – Chalke Valley History Festival, Church Bottom, Broad Chalke, Salisbury

10/09/18 Application for a Variation of a Premises Licence - The Bank Cocktail Lounge & Events, 18 High Street, Amesbury

**Appeal against a Refusal of a Street Trading Consent**

23/01/19 Appeal against a refusal for a Street Trading Consent for a Kebab Van in George Lane Car Park, Marlborough

7 **Statement of Licensing Policy - Update** *(Pages 81 - 134)*

The report of Linda Holland (Licensing Manager) seeks to provide background information concerning the new proposed Statement of Licensing Policy and to recommend that the Licensing Committee request officers to carry out a full consultation of the updated Statement of Licensing Policy.

8 **Consideration of the Report of the Late Night Taxi Fares Task Group** *(Pages 135 - 150)*

The Licensing Committee are asked to note the final report of the Late Night Taxi Fares Task Group that was presented to Environment Select Committee on 8 January 2019 and to give their views on the recommendations that are proposed to enable the Cabinet Member to prepare a response.

9        **Briefing Note - The Animal Welfare (Licensing Of Animals) (England) Regulations 2018** *(Pages 151 - 156)*

The briefing note (which has been prepared by Linda Holland (Licensing Manager) seeks to update the Licensing Committee on the implementation of the new Animal Activities Regulations in Wiltshire.

10       **Update on the Licensing Service** *(Pages 157 - 162)*

This update has been prepared by Linda Holland (Licensing Manager) and seeks to update the Committee on the work of the Licensing Team in 2018/early 2019.

11       **Dates of Future Committee Meetings**

Members are asked to note the future meetings of the Licensing Committee, all to commence at 10.30am:

3 June 2019  
2 September 2019  
2 December 2019  
2 March 2020.

12       **Urgent Items**

Any other items of business, which in the opinion of the Chairman, should be taken as a matter of urgency. Urgent items of a confidential nature may be considered under Part II of this agenda.

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## LICENSING COMMITTEE

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### **DRAFT MINUTES OF THE LICENSING COMMITTEE MEETING HELD ON 3 SEPTEMBER 2018 AT WEST WILTSHIRE ROOM - WILTSHIRE COUNCIL OFFICES, COUNTY HALL, TROWBRIDGE.**

#### **Present:**

Cllr Allison Bucknell, Cllr Trevor Carbin, Cllr Peter Evans (Substitute - Part II), Cllr Sue Evans, Cllr Jose Green (Vice-Chairman), Cllr Peter Hutton (Chairman), Cllr George Jeans, Cllr Pip Ridout, Cllr Ian Thorn and Cllr John Smale

#### **Also Present:**

Linda Holland (Licensing Manager), Tony Johnson (Solicitor), Jemma Price (Public Protection Officer – Licensing), and Lisa Pullin (Democratic Services Officer)

Julia Corbett – Wiltshire Times

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#### 11 **Apologies/Substitutions**

Apologies were received from Cllrs Mike Hewitt, Leo Randall and Pip Ridout and from Tracy Daszkiewicz (Director – Public Health and Protection) and Ceri Williams (Head of Prevention from Harm).

Cllr Peter Evans was substituting for Cllr Mike Hewitt.

#### 12 **Minutes**

The Minutes of the meeting held on 4 June 2018 were presented to the Committee.

#### **Resolved:**

**That the minutes of the meeting held on 4 June 2018 be approved and signed as a correct record.**

#### 13 **Chairman's Announcements**

The Chairman, Councillor Peter Hutton made the following announcement:

## **Update on Overview & Scrutiny Late Night Taxi Fares Task Group**

The following update has been prepared by Henry Powell, Senior Scrutiny Officer - The task group held its first meeting on 31 July and discussed how it would address its terms of reference. It received evidence from members of the council's licensing team, including comparisons between the maximum tariffs set by Wiltshire Council and those set by neighbouring local authorities. Initial comparisons with other local authorities' tariffs suggest that Wiltshire's are comparable until 1.00am, but then rise steeply and can be as much as double those in some neighbouring areas.

Key discussion points:

- The current system was introduced by the Licensing Committee in 2014 in order to harmonise the different tariffs of the four district councils. It includes a single set of maximum tariffs that applies across the whole county.
- Members noted that the 2014 system followed consultation with the taxi trade, but not anyone else, e.g. representatives of the night-time economy (NTE). Members agreed to seek evidence from:
  - Taxi trade representatives
  - Salisbury Business Improvement District (BID)
  - Salisbury Chamber of Commerce
  - Pubwatch
  - Purple Flag (which includes representation from a number of other organisations)
  - Wiltshire Police
  - Licensing teams from neighbouring areas
- Members considered whether to engage with equivalent groups from other parts of the county e.g. Chippenham. However, it was believed that only Salisbury now has nightclubs (with Chippenham only now having bars) that open late into the night and the question of late-night tariffs was therefore significantly more relevant in that area.
- The task group agreed to meet again in Salisbury in September.

### **Licensing Events**

Linda Holland (Licensing Manager) provided a verbal update on the activity of the Licensing Team and it was agreed that this update would be attached to the minutes as **Appendix 1**.

The Chairman wished to record his thanks to all the Licensing Officers for their work and support.

### **Appendix 1 to Minutes - Licensing Team Update - September 2018**



14 **Declarations of Interest**

There were no declarations of interest.

15 **Public Participation**

No questions had been submitted to the Committee from the public prior to the meeting. There was one member of the public present to observe from the Wiltshire Times.

16 **Minutes of the Licensing Sub Committees**

**Western Area**

09/07/18 Application for a Premises Licence – The Toast Office, 116 Top Lane, Whitley, Melksham

**Resolved:**

**That the Minutes of the meeting detailed above be approved and signed as correct records by the Chairman.**

The Chairman wished to thank all Officers for the support received for Licensing Sub Committee hearings and for the Councillors that had sat on the hearings. A Councillor asked if more hearings were coming through and Linda Holland (Licensing Manager) reported that her Officers were pro-active in resolving concerns raised by those who make relevant representations, often resulting in hearings not being required.

17 **Statement of Gambling Principles**

Linda Holland (Licensing Manager) referred to the report circulated with the Agenda which asked the Committee to note the consultation that was undertaken and the subsequent amendments that were made to the Council's revised Statement of Gambling Principles. Linda highlighted the following:

- Following the last Committee meeting in June, a statutory consultation was carried out during which two responses were received – one from Wiltshire Council Planning Department (Responsible Authority) who requested additional wording in the document which sought to advise licence holders to seek planning guidance on any proposed changes to their building. The other response was from William Hill questioning the interpretation of Significant Change in relation to the Local Area Risk Assessment and remarking on an omission in the wording of section 5.2.1;
- Following the responses received, changes were then made to the Statement of Gambling Principles and that is now before the Committee;

- The Military were not consulted on this document because they are not a Responsible Authority and this was not a public consultation. As a licensing authority, we have had no issues with Military Personnel and our Gambling Premises within Wiltshire; therefore there has been no need for us to specifically engage with the Military in relation to the Statement of Principles. If this changed however we would of course consider the need to do so;
- The amendments of the document from the previous one for 2016 – 2018 were;
  - A change to the layout of the document to make it flow better
  - Addition of the Public Health and Money Laundering Section
  - Stronger and larger section on Social Responsibility
  - Inclusion of the Local Area Risk Assessment as the main document not an appendix.
  - Making the Local Area Profile an Appendix with more info that can be required instead of all needing to be requested
- Once approval from the Committee for the Statement of Principles is obtained, this would then be put forward to Full Council in October 2018 for final ratification. The Statement would then commence from January 2019.

The Chairman thanked Officers for the preparation of the document and commended its approval.

**Resolved:**

**That the Licensing Committee notes the amendments made to the Statement of Gambling Principles and commends the final version of the Statement of Gambling Principles in relation to the Gambling Act 2005 to Full Council for approval at its meeting on 16 October 2018.**

18 **Dates of Future Committee Meetings**

Members noted the date of future meetings of the Licensing Committee as detailed below, all to start at 10.30am-

3 December 2018

11 March 2019

3 June 2019.

19 **Urgent Items**

**The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018**

Linda Holland (Licensing Manager) wished to give pre-warning to the Committee of animal welfare legislation that was due to come into force on 1 October 2018. A large guidance document was issued to the Local Authority at the end of July which gave details of the changes that are being made to improve the effectiveness of existing regulations and to simplify the application and inspection process for businesses as well as maintaining and improving existing animal welfare standards. All previous animal legislation relating to dog boarding, dog breeding, sale of pets, hiring out horses and exhibiting animals would cease from 1 October.

This change would bring a significant increase in workload to the Licensing Team as new licenses would be granted on a risk rating basis for a period of 1 – 3 years and each premise would receive a 1-5-star rating (as food premises currently do).

Linda would prepare a briefing note for all members as it was anticipated that there would be a lot of enquiries in relation to this. Wiltshire currently has 269 establishments. Linda was in the process of arranging three seminars across the county to inform on the new legislation. This would be to advise on changes and answer any questions.

Venues and times as follows:-

- County Hall, Bythesea Road, Trowbridge, BA14 8JN - 9th October 2018 - 6pm to 8pm. [Book here](#)
- Monkton Park, Chippenham, SN15 1ER - 10th October 2018 - 6pm to 8pm [Book here](#)
- The Old Fire Station, Salt Lane, Salisbury, SP1 1DU - 15th October 2018 - 6pm to 8pm [Book here](#)

Linda was currently working on setting up the fee structure and a full report on the implications of the legislation would be brought to the next meeting of the Committee. It was also agreed that a Chairman's announcement would be drafted for circulation at all upcoming Area Board meetings.

(Duration of meeting: 10.30 - 11.05 am)

The Officer who has produced these minutes is Lisa Pullin, of Democratic Services, direct line 01225 713015, e-mail [lisa.pullin@wiltshire.gov.uk](mailto:lisa.pullin@wiltshire.gov.uk)

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## **Update on the Licensing Service: September 2018**

To update the Committee on the work of the Licensing Team in 2018

### **Licensing Activity Festivals**

Wiltshire is a popular venue for festivals, by early intervention and positive engagement we are seeking to guide and educate organisers around managing alcohol consumption levels, drug prevention, antisocial behaviour, and wellbeing of all at the event.

Prevention of harm is a key element when planning an event; Licensing Officers are involved in considerable pre event work guiding organisers in managing their own event to lessen the impact on the local community and emergency services of Wiltshire.

Following the risk rating of the festivals over the past few years, the Licensing team have targeted its resources and focused on the events that are either high profile, have experienced issues previously or are new to Wiltshire. As with all our engagements with festival organisers and their staff, the focus is on a safe secure and enjoyable event for all, within sensible and responsible parameters.

A number of events are channelled through the Event Safety Advisory Group to be offered well informed advice and guidance from responsible authorities and emergency services in attendance, and to give the group the opportunity to learn more about the event and any potential issues and the positive benefits to Wiltshire from a well-run event taking place.

Wiltshire attracted a diverse range of events from motor bike rallies, pride marches to large events and small scale festivals in a rural location. Still planned for this year are carnivals, Christmas markets, Christmas lights switch on. A number of new events have come to Wiltshire this year.

### **Events 2018**

The Licensing team have inspected / carried out prevention visits to festivals/ events during 2018, attending events over a number of weekends and evenings. The team were engaged in ensuring the safety of the public attending and staff working at the events and ensuring compliance with licences issued.

The weather played a significant part this summer; with events having to manage the very hot conditions, ensuring adequate water supply and increasing fire prevention measures, to reminding attendee's around sun prevention precautions.

Licensing Officers have been actively engaging with organisers prior to events in 2018, with the most high profile events being , Chalke Valley History Society in Broad Chalke in June, Womad in Charlton Park in July .

Visits were also made to:

Once Upton a Time in the West,  
Trowbridge Festival  
Trowbridge Armed Forces Day  
Melksham Party in the Park  
Field View Festival  
Lamer Tree  
Cock & Bull Festival  
Saddlebacks Festival  
Devizes Beer Festival  
Westbury Festival

Womad

This year's event was a success with large numbers attending (the weather was very inclement and windy) with no significant issues noted by the Licensing or Public Protection Teams that visited the site. The team at Womad was geared up for the high winds and proactive measure meant the gusting winds caused little or no interference with the event, just inconvenienced the attendees who had been advised to collapse gazebos and ensure tents were securely rigged.

### **On A Disappointing Note**

Sadly one event drew more attention of officers than others due to poor management and lack of planning, this required intervention by way of advice and a number of visits during the duration of the event.

Although the attendance was not significant in numbers the safety of the attendees was paramount and responsible agencies were asked to carryout joint visits to offer guidance to the licence holders. The event passed without incident and an urgent debrief was called by the Licensing Authority.

The event had been through an Event Safety Advisory Group meeting prior to the event taking place, which highlighted a number of concerns to the organisers.

### **Partnership Working**

Purple Flag: Licensing supported Chippenham's recent re-assessment of their Purple Flag status by attending the meet and greet session with the assessors side a number of partner agencies, highlight the work of the licensing team and how it works with its key partners.

Wiltshire Council Licensing is working in partnership with Swindon Licensing and Wiltshire Police licensing preparing to launch the "Ask Angela" campaign as a cross county initiative.

“Ask Angela” campaign has been run successfully in Gloucester for the past year and its hoped to mirror is success in Swindon and Wiltshire, the launch will be through pub watches initially seeking the support of licensed premises whose participation will be recognised on our websites.

The aim of the scheme is to promote a safe route from an uncomfortable or difficult situation a person may find themselves in and applies equally to men and women when perhaps a date is not working out or they feel unsafe in the current situation.

Members will be asked to support this positive initiative to assist a person a time of vulnerability

The launch is aimed to coincide with fresher week at the local colleges

We are also working on a possible Christmas drink drive campaign as a across county initiative.

### **Licensing Applications**

To give the Committee an update on the work of the Licensing Team, detailed in the table below are some the Licensing Applications from 1 January – 10 August 2018.

### **Licence Applications Jan – August 2017 &18**

Year comparison	<b>2017</b>	<b>2018</b>
Temporary Events Notices	<b>1053</b>	<b>1085</b>
Late Temporary Events Notices	<b>211</b>	<b>245</b>
Licensing Applications ( New /variation/minor variation/Variation of DPS)	<b>581</b>	<b>615</b>
Personal Licences	<b>216</b>	<b>174</b>
Gambling Permits ( Gaming Machines )	<b>25</b>	<b>27</b>

### **Hearings**

This year to date we have held 7 licensing hearings compare to 5 at the same time last year.

### **Off Licence Premises**

The Licensing team have started a programme of inspections of all off licence shops within Wiltshire. The inspections are been carried out to check compliance and to ensure staff employed at these premises receive regular reminders / training in regard to the Licensing Act 2003.

## **Animal Licensing**

As previously advised a new licensing regime for Animal licensing is taking effect from 1 October 2018, with significant implications for the service and new and existing licence holders

Links to the new regulations and DEFRA guidance documents are available on our website.

Below is a brief summary of the implications of the new regulations:

The Animal Welfare (Licensing of Activities Involving Animals)(England) Regulations 2018 define the animal based activities that require licences as follows:

- Selling animals as pets (or with a view to their being later resold as pets) in the course of a business including keeping animals in the course of a business with a view to their being so sold or resold.
- Providing or arranging for the provision of accommodation for other people's cats or dogs in the course of a business on any premises where the provision of that accommodation is a purpose of the business.
- Hiring out horses in the course of a business for either riding, instruction in riding, or both.
- Breeding three or more litters of puppies in any 12-month period; or breeding dogs and advertising a business of selling dogs.
- Keeping or training animals for exhibition in the course of a business for educational or entertainment purposes, either to any audience attending in person, or by the recording of visual images of them by any form of technology, or both.

All four existing types of licence, together with the additional activity of keeping and training animals for exhibition, will be encompassed by one new 'Animal Activity licence'. If an applicant is running more than one licensable animal related activity, each activity will be assessed separately and set out in one licence. The length of licence (previously one year in most cases) may be anything between one and three years dependent on the outcome of their inspection, and the type of licence

Our existing arrangements included locally set conditions. The new provisions contain nationally set regulations for each animal based activity, which cannot be changed in any way and form the basis for conditions on the new licences going forward.

The fees are now to be split into two parts – the application fee, payable at the time of submission to cover the Council's costs in considering and determining the application, and the licence fee, which covers ongoing enforcement and compliance requirements.

Ahead of the implementation date, revised fees need to be set to accommodate the changes.



Currently there are 269 licensed premises that will be affected by the changes and the majority will need to be inspected prior to 1<sup>st</sup> January 2019.

The new regime requires a 'qualified inspector' to carry out the inspections, and in the case of the grant of a dog breeding establishment and at grant and renewal of horse riding establishments they must be accompanied by a veterinary surgeon. To qualify to inspect these premises, a person must hold a Level 3 certificate granted by a body, recognised and regulated by the Office of Qualifications and Examinations Regulations which oversees training and assessment of persons inspecting and licensing certain animal activities businesses, and must have passed an independent exam. Their certificate must apply to the specific type of activities they are inspecting. If an inspector is not available, then a qualified veterinary surgeon must carry out the inspection.

Transitional provisions are in place to enable any person that can show evidence of at least one year of experience in licensing and inspecting animal activities businesses to carry out the inspections until October 2021. After that time, the above requirements will need to be met.

Nationally a new course is currently being developed to meet the new demands of the regulations and the indicated costs are over £1000 per person.

Under the new arrangements, the inspection process will be much more comprehensive, and built around providing the premises with a 'risk rating'. This process will establish whether the business is 'low risk' or 'higher risk' based on the level to which it meets the standards set out in regulations and guidance, and award between one and five stars, thus determining the length of the licence (with the exception of 'Keeping and Training Animals for Exhibition' for which all licences will be issued for 3 years as default). The star rating will be displayed on the licence, and included in the Council's public register, published on Wiltshire Councils website.

### **Conclusion**

The Licensing function continues to develop within Wiltshire Council. The core activity of supporting the licensing process has shown year on year improvement. There is also now a greater focus on preventing harm.

The new Animal Licensing regime will place huge demands on the team to ensure that it is implemented in line with the new regulations.

**Linda Holland**  
**Licensing Manager**  
**3 September 2018**



## LICENSING COMMITTEE

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### DRAFT MINUTES OF THE LICENSING COMMITTEE MEETING HELD ON 26 SEPTEMBER 2018 AT KENNET ROOM - WILTSHIRE COUNCIL OFFICES, COUNTY HALL, TROWBRIDGE.

#### Present:

Cllr Allison Bucknell, Cllr Trevor Carbin, Cllr Peter Evans (Substitute - Part II), Cllr Sue Evans, Cllr Jose Green (Vice-Chairman), Cllr Peter Hutton (Chairman), Cllr George Jeans, Cllr Pip Ridout, Cllr Ian Thorn and Cllr John Smale

#### Also Present:

Sukdave Ghuman (Solicitor), Linda Holland (Licensing Manager) and Lisa Pullin (Democratic Services Officer)

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#### 20 Apologies

Apologies were received from Councillors Hewitt, Lynch and Randall.

Councillor Peter Evans was substituting for Councillor Mike Hewitt.

#### 21 Chairman's Announcements

There were no Chairman's announcements.

#### 22 Declarations of Interest

There were no declarations of interest.

#### 23 Public Participation

No questions had been submitted to the Committee from the public prior to the meeting and there were no members of the public present at the meeting.

#### 24 Procedures and fees in relation to the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018

Linda Holland (Licensing Manager) referred to the report circulated with the Agenda which informed the Committee of forthcoming changes to the way in which animal boarding establishments, dog breeding establishments, pet shops

and riding establishments are licensed; and the commencement of responsibility for the licensing of the keeping of animals for exhibition. The report also sought to recommend adoption of delegation arrangements and approval of fee levels required to administer the new arrangements. Linda highlighted the following:

- At the last committee meeting on 3 September, Members were informed about the new animal licensing regulations that would come into force from 1 October 2018. Following legal advice, it had been confirmed that the Council would need to have agreed fees in place by that date to apply to any applications after that date and have a set out appeals process;
- The legislation sought to ensure more robust measures for animal welfare and Officers would seek to award well run establishments a full 3-year licence;
- The proposed fees (attached at Appendix 2 of the report) had been calculated to cover the costs of the implementation of the licence grant and subsequent inspection visits that would be required;
- It was anticipated that the Officer time for inspections would at least be doubled as the inspection document had gone from 8 pages to 24 pages;
- Three information seminars were planned for evenings in October and 120 of the 150 spaces offered had already been filled;
- It was hoped that the Council would be able to “go live” with the new application process from 1 October and had currently designed their own application form as Defra still had not produced one for use;
- From 31 December 2018, all existing licences would expire and all those currently with a licence would need to reapply should they choose to do so;
- The proposed fees (if agreed) would be in place until the end of the financial year. They would be reviewed as part of the budget process by Council in February 2019 and if there were any changes proposed to the fees, this would be brought back to the Licensing Committee in March 2019 as part of the briefing document; and
- Linda would be utilising the existing Dog Warden service to help carry out the inspections whilst a couple members of the Licensing Team gained the relevant training and experience. The new regulations have meant that the Team were having to be pulled away from their current licensing work.

The Chairman thanked Linda and her team for all their work in implementing the new regulations and requested that a briefing note be prepared for Members in anticipation of any questions they may receive from their constituents.

Councillors asked the following questions:

Q How much would a licence cost today and then after 1 October?

A For a home border now it would cost £111 pa and then for a 3 year licence after 1 October it would be approximately £60 more.

Q Does the legislation affect franchise businesses?

A Yes, the franchisee would need to be licensed as they are captured by the legislation.

Q Would there be conditions placed on a licence?

A Yes, both general and activity specific.

Q What are the vet's fees?

A Average vet's fees are £75 per hour and the Council have to attend vet inspection also. We pay the vets bill and this cost is then recouped from the Applicant. The Council are responsible for finding appropriately qualified vets. We are currently in the process of contacting all local vets to come on board with us.

Q What is the grant fee?

A The issuing of the licence – including any associated administration costs, the cost of a yearly unannounced inspection, the anticipated costs of any enforcement in relation to the licensable activity, the anticipated cost of any activity of unlicensed operators.

Q What is the appeal process?

A There is a first-tier tribunal process, which is similar to a Magistrates process. If concerns about the premises were received the Council has the authority to suspend, vary or revoke a licence (under the existing regulations the only option is to prosecute). The licence can be varied with or without the consent of the licence holder.

Q Are Councillors required to hear appeal applications?

A No.

**Resolved:**

**That the Licensing Committee:**

- 1. Notes the adoption of the powers and obligations contained within the Animal Welfare Act 2006, and the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018.**

2. **Delegate all decisions in relation to the determination of licences and enforcement action to relevant Head of Service and/ or Licensing Manager - Public Health and Protection from the 1st October 2018.**
3. **Recommends to Council that the Scheme of Delegation for Licensing be amended and updated to reflect these changes.**
4. **The Licensing Committee approves the fees payable in relation to animal licensing as of 1st October 2018, these fees and charges to be reviewed in line with all fees and charges for 2019/2020.**

25 **Dates of Future Committee Meetings**

Members noted the date of future meetings of the Licensing Committee as detailed below, all to start at 10.30am

3 December 2018  
11 March 2019.

26 **Urgent Items**

There were no urgent items.

(Duration of meeting: 9.00 - 9.35 am)

The Officer who has produced these minutes is Lisa Pullin, of Democratic Services, direct line 01225 713015, e-mail [lisa.pullin@wiltshire.gov.uk](mailto:lisa.pullin@wiltshire.gov.uk)

Press enquiries to Communications, direct line (01225) 713114/713115

## **NORTHERN AREA LICENSING SUB COMMITTEE**

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**MINUTES OF THE NORTHERN AREA LICENSING SUB COMMITTEE MEETING  
HELD ON 5 OCTOBER 2018 AT COMMITTEE ROOM D - WILTSHIRE COUNCIL  
OFFICES, MONKTON PARK, CHIPPENHAM SN15 1ER.**

**Present:**

Cllr Trevor Carbin, Cllr Peter Evans and Cllr Ian Thorn

**Also Present:**

Cllr Sue Evans and Cllr Ben Anderson

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**19 Election of Chairman**

Nominations for a Chairman of the Licensing Sub Committee were sought and it was

**Resolved:**

**To elect Councillor Ian Thorn as Chairman for this meeting only.**

**20 Apologies for Absence/Substitutions**

There were no apologies or substitutions.

**21 Procedure for the Meeting**

The Chairman explained the procedure to be followed at the hearing, as contained within the "Wiltshire Licensing Committee Procedural Rules for the Hearing of Licensing Act 2003 Applications" detailed in the agenda papers.

**22 Chairman's Announcements**

The Chairman gave details of the exits to be used in the event of an emergency.

**23 Declarations of Interest**

There were no interests declared.

## 24 Licensing Application

### **Application by Whitehall Garden Centre Ltd for a variation of a Premises Licence at Whitehall Garden Centre, Corsham Road, Lacock, Chippenham, SN15 2LZ.**

The Licensing Officer, Jemma Price, introduced the purpose and scope of the variation application, the premises to which it related and the key issues for consideration including the four licensing objectives and the representations received. The existing Premises Licence has been in place since 24 November 2005.

The initial application sought to amend the existing licence as follows:

- To amend the current ON Sales hours to mirror those of the OFF Sales, 08:00hrs to 23:00hrs Monday to Saturday, 12:00hrs to 22:30hrs Sunday.
- Include the Lavender Lodge for the sale of alcohol ON Sales.
- Include the Ice Rink Café for sale of alcohol ON Sales – October to January.
- To allow a pop up bar in the garden for ON Sales one weekend in April, May, June, July, August and September.
- To remove the current Non Standard Timings for ON Sales;
  - a) On Good Friday, 12:00hrs to 22:30hrs.
  - b) On Christmas Day, 12:00hrs to 15:00hrs and 19:00hrs to 22:30hrs.
  - c) On New Year's Eve, (except on a Sunday) 10:00hrs to 23:00hrs.
  - d) On New Year's Eve (on a Sunday) 12:00hrs to 22:00hrs.
  - e) On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day.
- For OFF Sales;
  - a) Good Friday 08:00hrs to 22:30hrs
  - b) Christmas Day 12:00hrs to 15:00hrs - 19:00hrs to 22:30hrs

The variation was subsequently amended by the applicant as follows:

- To withdraw the provision to allow a pop up bar.
- To reduce the proposed hours for the Ice-Rink sale hours to 0900-1930 Monday-Saturday, and 1030-1630 on Sunday.
- Acceptance of additional conditions as detailed in the agenda pack.

In accordance with the procedure detailed in the agenda, the Applicant and those who had made a Relevant Representation were given the opportunity to address the Sub Committee.

Key points raised by Mr Peter Self of Whitehall Garden Centre Ltd, including in response to questions raised by the Sub-Committee and questions from Cllr Ben Anderson on behalf of those making a relevant representation were:



- The variation was to cover two buildings on the site, the Lavender Lodge and the Ice-Rink, which was a season activity. The alcohol offering was intended to be glasses of wine, prosecco, mulled wine, liquored chocolate beverages and similar other options, not full-scale bars.
- Alcohol was already available from the main restaurant on the site, which could be carried to the other areas.
- The proposals were to add to the existing experiences on the site as a compliment to the existing offer, not attract a new clientele. The site was a family attraction in a rural location, not suitable for general drinking activity, and the proposals were about diversifying the offer for those already attending, particularly with retail offers struggling more than food and beverage sales.
- Traffic management on the site itself had been adjusted to mitigate traffic flow and parking concerns, and traffic light adjustments had been undertaken by Wiltshire Council Highways to assist that. Yellow lines had been included near the site to reduce the issues.
- People would not be able to consume alcohol and skate on the ice-rink. People booked slots of time to skate, and those watching could purchase a drink but would then leave after the skate slot was concluded.

Key points raised by the Cllr Ben Anderson, the local unitary member, on behalf of those making a relevant representation, and including responses to questions from the applicant and the Sub-Committee, were:

- Traffic management into and exiting the site was a concern on the small village roads and the A350 junction.
- Concerns had been raised about safety on the site with an increase in alcohol consumption on more areas of the site, and an increase in noise nuisance.
- Concerns were expressed that the changes to the licence could lead to more temporary events and unregulated events on the site
- The impact on younger, more vulnerable visitors from a change in the nature of the site if more alcohol purchasing was permitted was raised as a concern.

Both parties then had the opportunity to summarise their positions. Mrs Newbury (relevant representation) questioned why if the main clientele of the ice-rink were young teenagers alcohol needed to be served, and reiterated concerns regarding parking around the site which yellow lines had not resolved, and not all areas were covered by red lines. Cllr Anderson emphasised the concerns raised by local representations was not just about traffic management but also public nuisance.

Mr Self reiterated that the intention was not to attract a new and rowdier clientele but to expand the offer available on the site. Alcohol around the ice-rink was for parents and adults to enjoy a treat such as a liquored hot chocolate. He highlighted that alcohol could already be purchased on the site, and that traffic management off the site was not within his control

The Sub Committee members sought clarification on some points before retiring to consider the application and were accompanied by a Solicitor for Wiltshire Council and the Democratic Services Officers.

The Sub Committee retired to consider the application at 1100.

The Hearing reconvened at 1110.

### **Resolved:**

**The Sub-committee has resolved to vary the Premises Licence for the Whitehall Garden Centre, Corsham Road, Lacock, Chippenham, SN15 2LZ as follows:-**

- 1. To amend the current ON Sales hours to mirror those of the OFF Sales, being Monday to Saturday 08:00hrs to 23:00hrs, Sunday 12:00hrs to 22:30hrs.**
- 2. To Include the Lavender Lodge for the sale of alcohol ON Sales.**
- 3. Include the Ice Rink Café for sale of alcohol ON Sales – 1<sup>st</sup> October to 31<sup>st</sup> January, Monday to Saturday 09:00hrs to 19:30hrs and Sunday 10:30hrs to 16:30hrs.**
- 4. To amend the current Non Standard Timings for ON Sales as follows;**
  - a) Good Friday, 12:00hrs to 22:30hrs.**
  - b) Christmas Day, 12:00hrs to 15:00hrs and 19:00hrs to 22:30hrs.**
  - c) New Year's Eve, (except on a Sunday) 10:00hrs to 23:00hrs.**
  - d) New Year's Eve (on a Sunday) 12:00hrs to 22:00hrs.**
  - e) New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day.**

**For OFF Sales;**

- a) Good Friday 08:00hrs to 22:30hrs**
- b) Christmas Day 12:00hrs to 15:00hrs - 19:00hrs to 22:30hrs**

### **Reasons**

The Sub Committee took into account the written representations, along with verbal representations made at the hearing from the applicant and on behalf of those making a relevant representation.

The Sub Committee noted the residents' concerns that an extension of licensable activities at the Centre could lead to both additional vehicle movements and a potential increase in public nuisance, particularly from the sale of alcohol in the ice-rink area.

However, the Sub Committee did not consider that the proposed limited extension to the areas of the Centre in which alcohol could be sold, and the hours for such sales, would have any material impact on the numbers of visitors or vehicles to the Centre. They also accepted that the nature of the proposed alcohol would not lead to any increased risk of public nuisance, particularly with the addition of the conditions that had been agreed with the Applicant, which

they supported. Therefore, they did not believe that the proposed licence variation would have any material impact on the licensing objectives. If there were to be such an impact, then the option of a Review would be available to the residents.

The Sub-committee accepted that there remained traffic issues at the Centre, although the Applicant had sought to address these to some extent. However, those issues arose from the general operation of the Centre, not from the licensing activities, so could not be addressed through the licensing regime.

In reaching its decision the Sub Committee also considered the relevant provisions of the Licensing Act 2003 (in particular Sections 4 and 35); the guidance issued under Section 182 of the Act and the Licensing Policy of Wiltshire Council.

### **Right to Appeal**

All parties have the right to appeal to the Magistrates Court within 21 days of receipt of this decision. Any person has the right to request a Review of the Licence, in accordance with the provisions of section 51 of the Licensing Act 2003.

(Duration of meeting: 10.15 - 11.15 am)

The Officer who has produced these minutes is Kieran Elliott, tel 01225 718504 or email [committee@wiltshire.gov.uk](mailto:committee@wiltshire.gov.uk)

Press enquiries to Communications, direct line (01225) 713114/713115

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## NORTHERN AREA LICENSING SUB COMMITTEE

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### DRAFT MINUTES OF THE NORTHERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 22 OCTOBER 2018 AT COUNCIL CHAMBER - WILTSHIRE COUNCIL OFFICES, MONKTON PARK, CHIPPENHAM SN15 1ER IN RESPECT OF AN APPLICATION FOR A REVIEW OF A PREMISES LICENCE - ROYAL SPORTS BAR AND CUE CLUB, UNIT F, IVY ROAD INDUSTRIAL ESTATE, IVY ROAD, CHIPPENHAM

#### **Present:**

Cllr Allison Bucknell, Cllr Trevor Carbin, Cllr Ian Thorn and Cllr Stewart Palmen (Reserve Member)

#### **Also Present:**

##### Wiltshire Council Officers

Roy Bahadoor (Public Protection Officer – Licensing)  
Frank Cain (Head of Legal Services)  
Linda Holland (Licensing Manager)  
Lisa Pullin (Democratic Services Officer)

##### Wiltshire Police

Martin O'Neill (Police Licensing Officer)

##### On behalf of Royal Sports Bar & Cue Club

Gordon Smart (Premises Licence holder)  
Richard Griffiths (Solicitor for Mr Smart)  
Robert Iggulden (Landlord for Premise)

##### Others in attendance

John White (Chair of Snooker League)  
Julia Corbett (Press)

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#### 1 **Election of Chairman**

Nominations for a Chairman of the Licensing Sub Committee were sought and it was

#### **Resolved:**

**To elect Councillor Ian Thorn as Chairman for this meeting only.**

**2 Apologies for Absence/Substitutions**

No apologies were received.

**3 Procedure for the Meeting**

The Chairman explained the procedure to be followed at the hearing, as contained within the "Wiltshire Licensing Committee Procedural Rules for the Hearing of Licensing Act 2003 Applications" (Pages 5 – 11 of the Agenda refers).

**4 Chairman's Announcements**

The Chairman gave details of the exits to be used in the event of an emergency.

**5 Declarations of Interest**

There were no interests declared.

**6 Exclusion of Press and Public**

The Sub Committee considered whether the press and public should be excluded from all or part of the hearing due to the possibility of confidential/sensitive information being disclosed.

**Resolved:**

**That the hearing should be held in public and that the press and public should not be excluded from the meeting.**

**7 Licensing Application**

**Application by Wiltshire Police for a Review of a Premises Licence in respect of Royal Sports Bar and Cue Club, Ivy Road Industrial Estate, Ivy Road, Chippenham**

Roy Bahadoor (Public Protection Officer – Licensing) presented his report which outlined the licensing objectives and the options the Committee could take to meet these objectives. The history of the premises licence and the current licence was described alongside the grounds for its review. Mr Bahadoor advised that one relevant representation had been received from Wiltshire Council as Licensing Authority.

Key points raised by Martin O'Neill on behalf of Wiltshire Police, Review Applicant, were that:

- Wiltshire Police Authority has no confidence in the Premises Licence holder's ability to uphold the licensing objectives, specifically the prevention of crime and disorder. There was evidence of a high level of crime and disorder permitted at the premises by the Premises Licence holder and he had shown a disregard to comply with the conditions attached to the Premises Licence;
- 41 intelligence reports (graded "B" for strength/reliability of source) relating to the premises gave reason for the Police to apply for a Warrant under Section 23 of the Misuse of Drugs Act. The Warrant was executed on 15 August 2018 and Mr O'Neill, along with other Police Officers attended the premises, including PC Rossiter whose statement appeared as page 41 in the Agenda pack;
- Mr Smart (Premises Licence holder) was present during the raid and all customers were detained whilst a search of the premises was carried out. Three arrests were made as one person was found in possession of 2 snap bags of a substance suspected as cannabis, with evidence on a mobile phone suggesting that that this substance had been dealt by another person located inside of the club. The keys to a car located next to another person being detained were for a car outside the club where a fence panel had been damaged that lead into the car park of the primary school next door. This car smelt of cannabis and a bag of a suspected substance along with a small amount of white powder was found on the dash board. The owner of this vehicle was arrested. In the men's toilets, a residue was found in small plastic bags on the toilet floor which was suspected as an illegal substance;
- It was believed that the fence between the premises and the school car park had been damaged so to provide a quick escape from the premises when needed;
- Whilst speaking to Mr Smart during the execution of the warrant, he informed Mr O'Neill that he had held a Personal Licence since 2015, but he was unable to demonstrate any knowledge of the four licensing objectives, nor was able to tell Mr O'Neill what any of the conditions that are part of his premises licence;
- Mr Smart said that he did not attend the Pubwatch meetings due to a fallout with the Chippenham BID and was not able to send anyone else. Mr Smart was asked to supply CCTV recordings for evidential purposes but was unable to provide this upon request and his hard drive was seized. The external system was directly linked to Mr Smart's mobile phone and as he was not able to provide the recordings from this, the phone was also seized;

- Several text conversations found on Mr Smart's phone seemed to indicate that he was instructing his staff not to challenge patrons for age identification as per the conversation detailed on restricted page 37 of the Agenda;
- On 11 March 2018, a serious assault occurred at the premises and Mr O'Neill had arranged to meet with Mr Smart following this incident to obtain details/evidence. On restricted page 39 of the Agenda, Mr Smart appears to have a conversation with someone, stating that he would be meeting the Police at the premises and whilst that person was there they were not to go behind the bar and if asked by the Police if they worked there they should say that they didn't. When Police attended they saw a male at the premises who if not an employee was not authorised to sell alcohol. At that meeting in relation to the assault, Mr Smart was unhelpful and was not able to provide CCTV recordings to aid the investigation which subsequently meant that the case was not able to proceed; and
- It is the view of Wiltshire Police that Mr Smart has allowed the supply and use of controlled substances on his premises, there was no management structure in place. Mr Smart appears to have no authority or control and has allowed the premises to be used for criminal activity. Wiltshire Police ask the Sub Committee to revoke the Premises Licence.

Questions were asked of Mr O'Neill (Review Applicant) by the Sub Committee members about the 41 intelligence reports received. Mr O'Neill confirmed that if around 5 or 6 concerns graded at category "B" were raised as intelligence that would be enough for the Police to take this to a Magistrates Court to apply for a Warrant. In this case there were 41 reports graded at "B". Reports are graded with A being the highest. Grade A evidence would be CCTV which is the strongest. Consideration is given to all reports and Police Officers would look at the individuals submitting the concerns and grade accordingly. Those carrying out the gradings were satisfied with the reports and accordingly graded them at "B". These intelligence reports were received from 11 March to 14 August 2018 and were coming in on a regular basis.

It was noted that in the conditions it stated that children shall not be permitted in the bar area. Mr O'Neill was asked to clarify what he felt was the bar area in the premises. He referred to the current plan of the premises which indicated that the whole premises area was licenced so it was not clear which area was the "bar area". It may have referred to the area where the seating was but it was not clear in which area children should not be in.

Mr Smart asked Mr O'Neill if there had been children in the premises at the time of the execution of the warrant. Mr O'Neill confirmed that there were none at that time.



Mr Richard Griffiths (Solicitor acting on behalf of Mr Smart) asked about the intelligence reports. Mr O'Neill reported that he was unable to confirm how many were from anonymous sources and how they could be graded as a reliable "B" grading when it was not known who was reporting it as he was not involved in the grading process.

Mr Griffiths questioned why there were only selected extracts from Mr Smart's mobile phone text conversations and felt that it was a breach of natural justice that Mr Smart had not had the opportunity to respond to the extracts. Mr O'Neill confirmed that the messages were submitted as evidence used to highlight the issues of concern at the premises.

Mr Griffiths referred to specific parts in the text conversation in relation to alleged under age sales of alcohol stating that a "can" would have meant a soft drink as at that time the premises did not sell any alcohol in cans. Mr O'Neill felt that this was open to interpretation as to what that conversation alluded to.

In relation to the meeting with the Police when a male was present at the premises, Mr Smart reported that he had asked for him to help whilst he was in a meeting with the Police and didn't want him to be "cross examined" by the Police.

In relation to the layout of the premises, Mr Smart reported that he had called Mr O'Neill to ask to attend the premises to discuss this. Mr O'Neill reported that he had not received this message.

Mr Smart reported that he had contacted the Police to advise on which CCTV should be installed at the premises but they were not able to give details of this. Mr Smart went ahead and bought a system which connected to his mobile phone – and felt unsure as to why this was then a problem for the Police? Mr O'Neill explained that it was due to the fact that he was not able to download the recordings from it that was the issue as he was not complying with the conditions on his licence.

Mr Smart asked Mr O'Neill if he knew that the Club was set up as a venue for the unemployed people of Chippenham. Mr O'Neill reported that he had only known the premises as a snooker club.

Mr Smart reported that around 27 snooker matches a year are played at the club which promotes a healthy activity.

When questioned about the alleged drugs paraphernalia in the men's toilet Mr O'Neill confirmed that these were empty plastic clip seal bags with suspected substance residue inside of them. Mr O'Neill confirmed that these were still subject to forensic examination and were part of an ongoing investigation.

Mr O'Neill was asked - Of the three arrests made on 15 August at the premises – had those persons been charged with any offences? Mr O'Neill confirmed

that this was part of an ongoing investigation and no formal charges had been made yet. It would be a CPS decision as to whether charges would be brought and the suspected substances had not been identified yet.

Mr O'Neill was asked if any under 16's were present when the raid was carried out on 15 August around 7pm. Mr O'Neill confirmed that there were not any under 16's present at that time.

In relation to the allegations made about the damaged fence – Mr Griffiths confirmed that Mr Smart is not in control of this fence, but when he saw that it had been damaged he purchased a replacement from B & Q. Mr Smart refuted the allegation that he was aware of the damage to the fence to access the school car park as a short cut and allowed this to happen.

Key points raised by Mrs Linda Holland (Licensing Manager, Licensing Authority, Wiltshire Council) who had made a relevant representation were:

- The Licensing Authority made a representation in support of Wiltshire Police's Review due to their concerns around the management of the premises and the Mr Smart's understanding of the requirement to promote the licensing objectives;
- Mr Smart states in his statement that he has a condition on his licence that permits children on his premises after 9pm provided they are accompanied by an adult. I refer you to the copy of Mr Smart's licence on page 24 of the Agenda where you will see that the condition states children shall not be permitted in the bar area – it does not give reference to timings or having to be accompanied by an adult;
- In May 2015 on a visit to the premises we found that a gaming machine was in use without a Notification or Permit which the Gambling Commission had warned was an illegal machine. We also found that there was music at the premises without regulated entertainment being permitted on the Premises Licence. Also at this time we received transfer and variation of DPS applications;
- In July 2015, we received representations including concerns about access/egress to carpark via lane to Ivy Cottages due to broken fence panels. The fence panels were mended at this time and the representations were withdrawn following the licence holder's response. At this time the licence was granted to include music until 01:00 on Friday and Saturday night;
- In July 2018, we received a phone call from Mr Smart asking about changing to a Club Licence. The authority called back and left voicemail but then had no response:

- On 29 August, Mr Smart called us concerning the Police and actions to be undertaken. He asked about committee meetings and the next pub watch meeting (which he subsequently did not attend);
- Colleagues from the Council’s Food Team have also tried to engage with the premises but they do not seem to be aware of their requirements in relation to food safety management;
- Once the Licensing Authority we were aware of the Police interest in the premises we agreed to keep a watching brief and not attend the premises. The Licensing Authority continues to be concerned about the lack of attendance at the local Pubwatch meetings and hearsay evidence regarding the times of opening and closing and the individuals frequenting the premises. None of this was brought to Mr Smart’s attention due to the Police’s ongoing activities;
- During all our engagement with Mr Smart throughout the period he has held the licence and prior he has undertaken activities without the required authorisations, but I do acknowledge he has resolved these once it is pointed out to him; however, this is not good management practice to rely on other authorities to assist with compliance – this is not proactive;
- We feel that the above demonstrates that whilst Mr Smart has obtained the necessary licences to operate the premises, areas of concern still prevail around his poor management decisions, failure to deal with issues taking place at his premises, directing staff to ignore the legal requirements of the Licensing Act 2003 (under age sales), lack of knowledge of his premises licence and no understanding of a licence holder’s responsibility to promote the licensing objectives; and
- I would draw the Sub Committee’s attention to section 11:27 / 11:28 of the revised section 182 guidance dated April 2018 which outlines the seriousness and the consideration the Sub Committee should give any review in connection with certain criminal activities.

Questions were asked of Mrs Holland (Licensing Authority) by the Sub Committee members

Q Is the level of interaction shown by Mr Smart normal?

A No, we feel that this base level of interaction for this premise is low.

Q What is your understanding of where the “bar area” is in the premises - where are under 16’s allowed to be within the premises?

A I would say the snooker table area is Ok for under 16’s to be in.

Q How effective and useful are the Pubwatch meetings?

A In recent times the Chippenham area Pubwatch has had its ups and downs, but it is our view that it has now been running effectively for over a year and is supported by the Chippenham BID.

Q Is there any evidence of proactive promotion of the Licensing Objectives?

A Officers will only tend to get involved with middle of the road and poorly run premises – and in this premise instance we are concerned.

Q What staff training has taken place?

A (Answered by Mr O'Neill) – There was no evidence of any staff training records available on the evening the raid was carried out (August 2018).

Q How crucial is Pubwatch attendance?

A The meetings are an opportunity for pubs to get together to share intelligence of persons who are causing trouble in the area and to make others aware of who they are. The meetings are also attended by the Police and the Local Authority. The meetings are arranged for the benefit of the Licence holders. All Local Authorities are very keen on Pubwatch attendance by premises and it is a condition on most licences. It would be another way to demonstrate proactive management.

Mr Griffiths (Solicitor acting on behalf of Mr Smart) asked if Mr Smart would be top of the list of “concerns about premises”. Mrs Holland responded that although there are a number of concerns about Mr Smart and his management of the premises, he was not at the top of the list.

Mr Griffiths asked if the authority was aware of Mr Smart’s problems with the local Pubwatch. Mr Bahadoor (Licensing Officer) said that he had been advised by Mr Smart that he found it difficult to attend meetings.

Mr Griffiths advised the Sub Committee that he had received an undertaking from Mr Smart that he would attend future Pubwatch meetings.

Mr Smart (Premises Licence holder was then asked to address the Sub Committee. He read out his statement dated 12 October 2018 (which had been circulated as an exempt Agenda Supplement (1). Mr Smart highlighted the following:

- He had sought help to assist him in his compliance;
- He had attended Pubwatch meetings previously;
- He does not tolerate drugs in the premises, and he had signage to that effect within the premises;
- His Landlord had installed CCTV in the outside area in order for him to control the area;

- He denied that he did not know the Licensing Objectives – he accepted that he didn't answer when questioned about them but there was a reason for that;
- He had complied with all parts of his licence except for the attendance at Pubwatch meetings;
- He liked to discuss things via email rather than by a gentleman's agreement as an email is proof of what is discussed/agreed – for example he had not received a response from his call to the Licensing Authority in relation to his query about the possibility of changing to a Club Premises licence;
- He explained that he views the premises as a place for the Chippenham community – 27 snooker teams played at the premises; and
- He has no criminal record and have not any involvement in drugs and he does not tolerate anyone else's drug use at the premises. If patrons are drinking too much he would remove them from the premises – he has a zero tolerance.

Questions were asked of Mr Smart (Premises Licence holder) by the Sub Committee members as follows:

Q There are 6 specific conditions on your licence – without checking are you able to tell us what they are?

A *Mr Smart was unable to answer this question.*

Q What does your licence condition say in relation to the sale/consumption of alcohol?

A It says that proof of age is to be requested for anyone appearing to be under age 21.

Q When did you last review/carry out a risk assessment of your CCTV?

A July 2018.

Q How many cameras are in operation?

A 13.

Q What do your licence conditions say about the maintenance of the CCTV system?

A That they should be further inspected – technology is not my forte. If someone told he what system to install I would have done it but no one would tell me what system I should use.

Q How often do you test the CCTV system?

A I test it often. The TV screens that I can see from the bar show that the cameras are all working.

Q We have heard that when the Police requested CCTV recordings that they were not available – why was this?

A The CCTV had just been installed at that time and I was waiting for information on how to fully operate the system – I did not know how to download it at that time.

Q Have you ever had cause to eject someone who was under the influence of drugs or excess alcohol?

A Yes there was a case of a patron who had clearly been drinking before arriving at the premises and in that case, they were ejected from the premises.

Q You appear to have asked people to “stand in” for you at the premises that are not staff?

A It was intended that the premises would be operated as a family business but my sister is ill and I have a couple of people who provide cover for me.

Q Can you list the four Licensing Objectives?

A *Mr Smart was able to identify these.*

Q How often are formal tournaments held at the premises?

A We host a snooker and a pool league over 5 days of the week and there are also competitions at the premises.

Q How many patrons are there usually in club at a time?

A There are usually 15-20 persons playing pool. On a snooker competition night, there would be a minimum of 24 people.

Q Have you ever asked anyone to leave following suspected drug use?

A No.

Q What would you do if you suspected drug use?

A I would report it to the Police.

Q What else would you do – shouldn't you file an incident report and follow it up with the Police?

A *No answer recorded.*

Q You say that the CCTV was installed some 3 weeks before the Police raid and you have said that it was working adequately, yet you were unable to provide the recordings that were requested by the Police. It was then that the hard drive was seized so that Police could attempt to retrieve the CCTV footage. Do you accept that it was your responsibility to ensure that the CCTV was working as it should be?

A Yes, I accept that.

Q At that time you were not able to supply the footage to the Police – was this subsequently provided to the Police?

A The Police had seized all of the equipment and had sole access to it.

Q You mention that you had issues with the members of the Pubwatch scheme – should you just have “sucked it up” and attended?

A No, it was better for me not to attend until the issues I had with the Chippenham BID were resolved. They had walked into my premises demanding payment for a publication of which my premises was not included.

Q You say that you spoke to the Police about the CCTV system and the bar layout – why did you speak to Police about this and not the Local Authority?

A The Police were coming in more than anyone else and generally the Police have more information about CCTV. I felt it was more appropriate to ask the Police for guidance about CCTV.

In response to Mr Smart’s submissions above, the Licensing Officer, Mr Bahadoor recalled that he had received a message from Mr Smart in July 2018 when he had asked about the possibility of changing to a Club Premises licence and had left a voicemail in response, but no conversation since that time had taken place.

Mr Smart referred to an incident in which he thought that two young girls had attended the premises (aged approximately 12-14) and had asked for the availability of drugs. He felt that these girls were deliberately “planted” and asked to come into the premises to try and catch him out.

Mrs Holland (Licensing Authority) asked Mr Smart the following questions:

Q In relation to the incident with the two girls – was this recorded on CCTV and did you report this to the Police?

A No this incident was after the raid and I did not report it.

Q Do you have an incident log/refusals book at the premises? Did you record the incident with the two girls?

A We don’t have a book. We did have one but it got mislaid when we did our refurbishments. No, I didn’t record the incident with the two girls.

Mrs Holland (Licensing Authority) made the following points in summation:

The Licensing Authority has no confidence in Mr Smart’s ability to promote the four Licensing objectives and he has shown a lack of positive engagement with the authority and the Police. We request that the Sub Committee take the necessary steps to ensure this premise is run in the appropriate manner.

If revocation of the licence is not deemed the appropriate action, I would suggest the Sub Committee consider the removal of the DPS and/or a period of suspension. A reduction of operating hours could be considered to permit the premises to re-align its self and a more robust management of the premises be put in place.

Mr Griffiths made the following points in summation on behalf of Mr Smart:

- Mr Smart feels that he has been treated unfairly – he has made an investment into his livelihood and is a valuable amenity to the community. If you have an issue with him you should raise it to him directly and not at a meeting like this;
- It was unfair of the Police to include the text messages as part of the Agenda papers and not give Mr Smart the chance to respond to the content in advance of the hearing – we say this is a breach of natural justice. Incidentally, we would say that the text messages show the reverse of how the Police portray them;
- We would say that Mr Smart is not the most articulate of gentlemen but that what is alleged about him is scandalous. To say that that he condones and allows the dealing of drugs at the premises is not right – there is no evidence of this;
- The Police say that they have received anonymous information/intelligence but we are at a loss to see how the validity of anonymous information can be verified and we would say that this simply casts doubt on any statements that are provided anonymously;
- What evidence do you have that Mr Smart allowed the hole in the fence to remain? We would say that Mr Smart sought his Landlord's permission to replace the fence and this was installed before the raid in August 2018. If this is used by others as a shortcut this is beyond Mr Smart's control and to suggest that he acquiesced to this is wrong;
- If the premises were to be closed you would deprive Mr Smart of his livelihood and the investment that he has made. The three arrests made at the time of the raid have not progressed to any charges being made;
- We would say that empty plastic bags in the men's toilets does not constitute evidence as drugs paraphernalia – this is weak evidence that has not been proven as drugs;
- We accept that earlier Mr Smart was unable to recall the specific conditions on his licence but that he is aware of the four Licensing Objectives and he has a clear understanding of them;



- If a gram of cannabis was found on a person this would be classed as personal possession and not dealing and would not be regarded as a serious crime and would be unlikely to result in a charge;
- There has been no evidence presented of dealing in the premises and how can Mr Smart be expected to control what someone has in the car that is not even on the premises?;
- We repeat the undertaking that Mr Smart or a representative would attend future Pubwatch meetings. We accept that he did have issues previously with the group and it wasn't that he just didn't want to go; and
- We accept that Mr Smart does not run a "tight ship" but there is no evidence to suggest that there is underage drinking or drugs use at the premises. It may be that Mr Smart has "failed the attitude test" but that does not mean that he should lose his licence. This has been a learning curve for him and he does respect Pubwatch and the job that it does. He does respect the Police and that's why he had asked for their help with the CCTV – he felt it was common sense to ask them.

Mr O'Neill (Wiltshire Police) did not wish to make any closing submissions but wished to clarify that the drugs seized were Class A substances and not cannabis.

The Sub Committee then adjourned at 12.20 and retired with the Lead Advisor and the Democratic Services Officer to make a decision on the licensing application.

The Hearing reconvened at 13.40.

Following the deliberations of the Sub Committee Members, it was

**Resolved:**

**That the Premises Licence Holder, Mr Gordon Sean Smart be issued with an informal warning in respect of his failure to proactively manage the premises to ensure that the licensing objectives are being promoted.**

**To show that the Premises Licence holder is taking proactive steps to manage the premises to ensure the licensing objectives are being promoted the Sub Committee recommended that the following be carried out by 31 January 2019:**

**The Premises Licence holder is to:**

1. **Submit revised plans to the Local Authority (by way of the required application process) to clearly show the bar area of the premises (in which children are not permitted to be) and the correct entrance/exit.**
2. **Produce Risk Assessments to show how the premises actively promote the licensing objectives.**
3. **Display signage at the premises relating to the promotion of the licensing objectives, (in particular the prevention of crime and disorder, public safety and protection of children from harm) the wording and location of to be agreed with the Licensing Authority.**
4. **Ensure that relevant Policies/Procedures are in place to affect the robust management of the premises (to include a drugs policy) to the satisfaction of the Local Authority.**
5. **Produce and maintain details of relevant staff training which can be produced to relevant Officers upon request.**
6. **Produce a clear process for the management of the CCTV system so that the conditions on part 2b of the licence are adhered to and can be produced to relevant Officers upon request.**
7. **Produce and maintain an incident log for the premises which can be produced to relevant Officers upon request. All staff to be aware of and maintain the incident log.**
8. **Produce and maintain a refusals log for the premises which can be produced to relevant Officers upon request. All staff to be aware of and maintain the refusals log.**
9. **Ensure that the premises re-register as a member of the local Pubwatch Scheme and that a representative of the Management Team attends all meetings.**

**Reasons:**

- a) The Sub Committee was of the view that the evidence presented by Wiltshire Police and the Licensing Authority demonstrated the Premises Licence holder's inability to effectively manage the premises and actively promote the licensing objectives.
- b) Based on the evidence they considered that the revocation/suspension of the licence was not appropriate as whilst there was evidence of drug use on the premises there was a lack of evidence that the Premises Licence holder had allowed or permitted the premises to be used for dealing or supplying of illicit drugs. The evidence presented suggested poor management practices which were capable of being remedied if the Premises Licence holder engages with appropriate management techniques. Therefore, the

revocation/suspension of the licence and attendant financial consequences was not proportionate as a viable alternative was available to rectify the failings.

- c) The possible modification of conditions was considered. However, it was felt that the existing conditions were appropriate to meet the licensing objectives and the main issue was a failure by the Premises Licence holder to actively comply with those conditions and promote the licensing objectives.
- d) The Sub Committee also considered whether to remove the Designated Premises Supervisor but as the Management model used is that the Premises Licence holder and Designated Premises Supervisor are one and the same for the reasons set out in paragraph b) above this was not appropriate at this time.
- e) On balance, the Sub Committee determined that the Premises Licence holder should be given a time limited opportunity to prove his ability to adhere to the existing licensing conditions, and be given a list of recommendations that if implemented would satisfy the requirement to proactively manage the premises to meet and promote the licensing objectives. If the Licensing Authority were not satisfied that these recommended improvements had been met by 31 January 2019 then they should consider issuing an immediate further action for review.

In reaching its decision the Sub Committee took into account all of the written representations in addition to oral arguments presented at the hearing by all parties.

The Sub Committee also considered the relevant provisions of the Licensing Act 2003 (in particular Sections 4 and 52); the guidance issued under Section 182 of the Act and the Licensing Policy of Wiltshire Council.

### **Right to Appeal**

All parties have the right to appeal to the Magistrates Court within 21 days of receipt of this decision. The decision of the Licensing Sub Committee does not take effect until the end of the period for appealing against that decision. In the event of an appeal being lodged, the decision made by the Licensing Sub Committee does not take effect until any appeal is heard and finally determined.

(Duration of meeting: 10.00 am - 1.45 pm)

The Officer who has produced these minutes is Lisa Pullin. tel 01225 713015 or email [committee@wiltshire.gov.uk](mailto:committee@wiltshire.gov.uk), of Democratic Services

Press enquiries to Communications, direct line (01225) 713114/713115



## EASTERN AREA LICENSING SUB COMMITTEE

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**DRAFT MINUTES OF THE EASTERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 12 DECEMBER 2018 AT WEST WILTSHIRE ROOM - COUNTY HALL, BYTHESEA ROAD, TROWBRIDGE, BA14 8JN IN RESPECT OF Application for a Premises Licence - The George Narrowboat, Devizes Wharf, Devizes, Wilts**

**Present:**

Cllr Stewart Palmen, Cllr Peter Hutton and Cllr Ian Thorn

**Also Present:**

Wiltshire Council Officers

Sarah Marshall (Senior Solicitor)

Jemma Price (Public Protection Officer – Licensing)

Lisa Pullin (Democratic Services Officer)

Asifa Ashraf (Solicitor – Observing)

Kevin Fielding (Democratic Services Officer – Observing)

Relevant Representations

Mr Nigel Carter on behalf of Devizes Town Council

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**1 Election of Chairman**

Nominations for a Chairman of the Licensing Sub Committee were sought and it was

**Resolved:**

**To elect Councillor Peter Hutton as Chairman for this meeting only.**

**2 Apologies for Absence/Substitutions**

There were no apologies or substitutions.

**3 Procedure for the Meeting**

The Sub Committee decided to delay the start of this hearing as the Applicant was not present at the due start time of the meeting (10.15am). At 10.45am, the Applicant was still not present and during that period, three attempts to call

her had been made, two voicemail messages left and an email was also sent to the Applicant.

Jemma Price (Public Protection Officer – Licensing) reported that she had met with the Applicant on 11 December (day before the hearing) and all of arrangements for the hearing were discussed and the Applicant had confirmed to Jemma Price that she was intending to attend the hearing along with her representative.

Sarah Marshall (Senior Solicitor) referred the Sub Committee to paragraph 9 of the procedural rules for the hearing of Licensing Act applications (page 9 of the Agenda pack) and advised the Members that they were able to hold the hearing in a party's absence. The Sub Committee were confident that they had sufficient information within the Agenda and that the Applicant was fully aware of the date and time of the hearing and in accordance with Regulation 20 (2) (b) of the Licensing Act 2003 (Hearings) Regulations 2005 the Sub Committee resolved that it would hold the hearing in the absence of the Applicant and would make its determination based on consideration of the application and the written representations that had been received, together with any further oral representations that may be received on behalf of Devizes Town Council, of which a representative was present. If the Applicant were to arrive whilst the hearing was in progress, the Sub Committee would allow the Applicant the opportunity to address the Sub Committee should she wish.

The Chairman explained the procedure to be followed at the hearing, as contained within the "Wiltshire Licensing Committee Procedural Rules for the Hearing of Licensing Act 2003 Applications" (Pages 5 – 12 of the Agenda refers).

#### 4 **Chairman's Announcements**

The Chairman gave details of the exits to be used in the event of an emergency and asked all those present to introduce themselves.

#### 5 **Declarations of Interest**

There were no interests declared.

#### 6 **Licensing Application**

##### **Application made by Anna Baker for a Premises Licence in respect of The George Narrowboat, Devizes Wharf, Devizes**

Jemma Price (Public Protection Officer – Licensing) introduced the purpose and scope of the application, the premises to which it related and the key issues for consideration. Jemma highlighted the following:

- This was an application for a Premises Licence which sought to provide late night refreshment from Monday to Sunday from 23:00 to 23:30 and sale by retail of alcohol (off sales) from 11:00 to 23:30, Monday to Sunday;
- One relevant representation was received from Devizes Town Council in objection to the application. Their representations were made in relations to concerns about public safety and the prevention of public nuisance; and
- The Applicant had been trading for 21 days at Devizes Wharf under the permission of Temporary Event Notices with no issues reported to Wiltshire Council Licensing Team.

The Applicant nor any representative, were present at the meeting.

Key points raised by Mr Nigel Carter on behalf of Devizes Town Council who made a Relevant Representation were:

- That the Town Council were concerned that this appeared to be an application for a mobile licence for a winter mooring that was due to expire on 15 March 2019. At the Town Council's planning meeting, they had had a robust debate and objected to the application as they felt that the proposed location on the canal tow path was not appropriate for a licenced premises' both in terms of safety due to the lack of light and proximity to deep water and narrowness which would result in an unacceptable impact on other users of the tow path. They were also concerned that should a licence be granted it would be to the detriment of other boat users in the area and that the lack of toilet facility in the area would lead to acts of anti-social behaviour;
- The Town Council stated that a number of premises were believed to have licences to trade in a similar context for example with private events taking place on board (boats) using the canal;
- There was also a concern that the premises would be on the route (the tow path) which is transited by many children whilst walking to and from school.

The Sub Committee members noted at 11.03am that there was still no attendance by the Applicant and the Sub Committee asked the following questions of Mr Carter who was representing Devizes Town Council:

Q Who manages the tow path?

A It is managed by the Canal and River Trust.

*Mr Carter questioned the location of The George Narrowboat and according to the map on page 43 of the Agenda and felt that its usual location was near to the Wharf Theatre which was close to the number "5" indicated on the map.*

The Sub Committee wished to clarify that if the licence was to be granted would the Applicant be able to trade in any location within the Devizes Wharf. Jemma Price (Public Protection Officer – Licensing) clarified that she believed that the Applicant was trading on the opposite side of the tow path (which was hard to indicate on the plans within the agenda with the large dot). Mr Carter said he understood that with the mooring permit, boat owners would be allocated a certain berth for their boat.

Mr Carter on behalf of Devizes Town Council did not wish to make any points in summation.

The Sub Committee then adjourned at 11:05am and retired with the Senior Solicitor and the Democratic Services Officer to make a decision on the licensing application.

The Hearing reconvened at 11:25.

Sarah Marshall (Senior Solicitor) confirmed that she had advised the Sub Committee and had given the Sub Committee relevant legal advice to confirm that the Sub Committee were able to determine the application without the presence of the Applicant as they felt that had sufficient information with the application and the representations to make the decision.

The Sub Committee wished to record that they hoped the Applicant was safe and well as she had not arrived for the hearing.

Following the deliberations of the Sub Committee Members, it was

**Resolved:**

**The Eastern Area Licensing Sub Committee GRANT the application for a Premises Licence to 15 March 2019 which will only be permanently extended if the Applicant provides evidence to the satisfaction of Wiltshire Council as Licensing Authority of a permanent mooring licence within the Devizes Wharf by 15 March 2019.**

The Premises Licence is to include the activities and timings detailed below:

<b>Licensable Activity</b>	<b>Timings</b>	<b>Days</b>
Provision of late night refreshment	23.00 – 23.30	Mon - Sun
Sale by retail of alcohol (OFF sales)	11:00 – 23:30	Mon – Sun



Subject to the following condition:

1. That there be no public access onto The George Narrowboat whilst the premises are trading to the public.

Advisory:

That the Applicant is requested to inform the Canals and River Trust of the dates that she intends to trade from the Devizes Wharf.

### **Reasons**

As the Applicant was not present at the hearing, in accordance with Regulation 20 (2) (b) of the Licensing Act 2003 (Hearings) Regulations 2005 the Sub Committee resolved that it would hold the hearing in the absence of the Applicant and would make its determination based on consideration of the application and the written representations that had been received from the Devizes Town Council ('The Town Council') and the representations made by a representative of the Town Council at the hearing.

The Town Council had expressed concern about the potential for public nuisance and public safety and the protection of children from harm. The Town Council representative raised concerns for public safety due to the lack of light and proximity to deep water and narrowness of the tow path which could result in an unacceptable impact on other users of the tow path. The Town Council also highlighted the lack of toilet facilities in the Devizes Wharf area which could lead to anti-social behaviour and the potential for harm to children using the tow path as a school route.

The Sub Committee noted that the Applicant had been trading for 21 days in the Devizes Wharf area under the permission of Temporary Event Notices with no issues reported to Wiltshire Council Licensing Team.

In reaching its decision the Sub Committee also considered the relevant provisions of the Licensing Act 2003 (in particular Sections 4 and 18); the guidance issued under Section 182 of the Act, the Licensing Policy of Wiltshire Council and the conditions offered by the Applicant within the application.

### **Right to Appeal**

All parties have the right to appeal to the Magistrates Court within 21 days of receipt of the written decision. Any person has the right to request a Review of the Licence, in accordance with the provisions of section 51 of the Licensing Act 2003.

(Duration of meeting: 10.45 - 11.25 am)

The Officer who has produced these minutes is Lisa Pullin, Tel 01225 713015 or email [committee@wiltshire.gov.uk](mailto:committee@wiltshire.gov.uk), of Democratic Services

Press enquiries to Communications, direct line (01225) 713114/713115

## SOUTHERN AREA LICENSING SUB COMMITTEE

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**DRAFT MINUTES OF THE SOUTHERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 14 MAY 2018 AT THE NADDER CENTRE, WEAVELAND ROAD, TISBURY, SP3 6HJ IN RESPECT OF AN APPLICATION FOR A PREMISES LICENCE; CHALKE VALLEY HISTORY FESTIVAL, BROAD CHALKE, SALISBURY, SP5 5DS**

**Present:**

Councillor George Jeans  
Councillor Robert Yuill  
Councillor Allison Bucknell

**Also Present:**

Lisa Moore, Democratic Services Officer  
Sarah Marshall, Senior Solicitor, Legal  
Asifa Ashraf, Legal Officer  
David Foster, Relevant Representation  
Caroline Foster, Relevant Representation  
Philip Cryer, Solicitor for Mr & Mrs Foster  
Rachel Holland, Applicant  
Marcus Lavell, Barrister for the Applicant  
Ian Garrod, Licensing Officer  
Linda Holland, Licensing Team Leader

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**1 Election of Chairman**

Nominations for a Chairman of the Licensing Sub-Committee were sought and it was

**Resolved:**

**To elect Councillor Allison Bucknell as Chairman for this meeting only.**

**2 Apologies for Absence/Substitutions**

Cllr Mike Hewitt gave his apologies and was substituted by Cllr George Jeans.

**3 Procedure for the Meeting**

The Chairman explained the procedure to be followed at the hearing, as contained within the "Wiltshire Licensing Committee Procedural Rules for the Hearing of Licensing Act 2003 Applications" (Pages 1 – 6 of the Agenda refers).

#### 4 **Chairman's Announcements**

The Chairman gave details of the exits to be used in the event of an emergency.

#### 5 **Declarations of Interest**

There were no interests declared.

#### 6 **Licensing Application**

##### **Licensing Application**

##### **Application by The Chalke Valley History Festival, Church Bottom, Broad Chalke, Salisbury, SP5 5DS.**

The Licensing Officer introduced the purpose and scope of the application, the premises to which it related and the key issues for consideration and referred to the Officers report, appendices, the 2017 application and decision notice and the Event Safety Plan. The Licensing officer also referred to the appeal procedure. The application process requires the application to be advertised by the Applicant in a local news publication and by public notice on blue paper posted on the premises. The application was also advertised by the Licensing Authority on its website for 28 days. The applicant delayed advertising the blue notices at the site and the consultation period was extended to 27 April 2018 to reflect this and the short delay in placing the blue notices on site was considered to have no effect on the consultation

During the consultation period one relevant representation in objection has been received from Mr David and Mrs Caroline Foster and one relevant representation in support has been received from the Broad Chalke Parish Council.

The event would take place between 25 June 2018 to 1<sup>st</sup> July 2018.

The Applicant confirmed that the Application was not to be time limited.

The representations in objection had raised concerns relating to disturbance caused by visiting large crowds; noise; influx of large numbers of vehicles in small streets; excessive alcohol and entertainment hours and light pollution;

In accordance with the procedure detailed in the agenda, the Applicant was given the opportunity to address the Sub Committee. The Applicant referred to the Event management plan, Site plan and other plans which were included with the application documents.

There was no attendance (and no representation made) by the Responsible Authority.

Mr Marcus Lavell for the Applicant spoke to inform the Sub Committee that the parties considered that a number of the issues raised in the objection could be narrowed, following further discussions with the Objector's solicitor Mr Cryer. Mr Cryer and Mr Lavell both felt that a short adjournment to consider and narrow those issues would be helpful for the parties and Sub-Committee.

The Applicant had produced a short statement by Rachel Holland as late correspondence and it was proposed by Mr Lavell that if the members could read the statement during the adjournment. Mr Cryer confirmed there was no objection to the statement of Rachel Holland being read, however there was an objection to the appendices referenced in the statement.

Mr Lavell informed the Sub-Committee that a discussion with Mr Cryer would deal with the duration of the license, the period in which the licence could be used, the activities (including the duration/timings of the activities) in the licence and he would wish to propose some suggested conditions to the Sub-committee following a discussion with Mr Cryer.

The Sub-Committee agreed to the request for a short adjournment and to being presented with copies of the Statement (without appendices) of Rachel Holland, for consideration during the adjournment.

The Sub-Committee adjourned at 10.42am to 11.05am.

The Chairman welcomed parties back at 11.05 Mr Lavell and Mr Cryer confirmed to the Sub-Committee that they have been able to reach a compromise and if the modifications are agreed by the Sub-Committee the representation can be withdrawn. The Chair confirmed that the Sub-Committee had only read the statement of Rachel Holland (without the appendices).

The Chair noted and accepted an amendment (to correct a typographical error on page 52/53) to the Event Management Plan.

- Key point raised by Mr Lavell representing the Applicant were that as the Sole Representation may be now withdrawn the Applicant can present their proposed amendments.
- The amendments as proposed by the Applicant now are;
- Sale of alcohol hours  
Sunday 10:00 - to 23:00 – the Applicant will reduce 10:00 - 22:00  
Monday – Thursday 10:00 – 23:00 remains as is  
Fridays and Saturdays 10:00 - 00:00
- The application does not limit the dates on which alcohol can be carried out – restricted to a single event, no more than 10 days in duration to be held in the months of June and July.
- A separate condition – on the wording to be detailed by Mr Cryer.

Questions - None from officers or members.

Key point raised by Mr Cryer, Solicitor representing Mr and Mrs Foster who made a Relevant Representation were:

- Concerning the wording – he noted the Applicants are happy to restrict the licence to one event for the purposes of the Chalke Valley History Festival featuring Workshops for which licensing ancillary activities are licensable to the event but his clients are prepared to concede that in future an extension to the days maybe necessary and they are happy to be flexible about this
- His clients have lived in the village for 23 years, and though they intend to move they do feel an obligation to the village in the future.
- This licence as a permanent licence needs to be fit for the purpose for the holding of the Chalke Valley History Festival in future.
- An additional increase of half hour on all days except Sundays which would be 22:30.

His clients had been affected by the constant intermittent noise by the vehicles attending the Chalke Valley History Festival coming down the track every day and the Applicants were now hoping to implement an improved trackway, battery operated generators and reconfigured lighting to ensure less intrusion to residents late at night so not as intrusive to the residents late at night.

#### **Questions from the Sub-Committee:**

**The Chair informed Mr Lavell and Mr Cryer that some of the points they have raised concerning the lighting and generators are not licensable but were happy that the parties had been able to discuss the issues face to face.**

*Mr Lavell accepted the comment regarding the licensable activities from the Chair but also stated that the generators that the generators, which are attached to lighting towers where the generator for the tower closest to the Mr and Mrs Foster's property will be changed to a quieter battery pack. Steps will also be taken to reduce the creeping of the associated light from the tower which will be actively monitored in the car parking areas to reduce the amount of time they are in use.*

*For the one hundred yards to the event site the tracking will be replaced by a plastic system which does not generate the same level of noise.*

**Chair – Can we have additional wording on the licence to deal with the ancillary issues raised by the parties and asked if the serving of alcohol throughout the event will be ancillary to the programme?**

*Mr Cryer – Informed the Sub-Committee that the reduction in the alcohol sale hours is more conducive to the History Festival event.*

**Councillor Yuill – Mr Cryer, you came up with a list of activities – does that include future similar activities? For example it could be called the Chalke Valley History Festival but not actually have any history behind it so necessary that the wording of the condition would tie the event to the history themed activities.**

*Mr Cryer – would want the activities to tie into the History Festival. If the Applicant wanted to move away from this, they would need to seek a variation to the licence on which the public would have notice.*

**Councillor Bucknell – If the event does not go as well as planned then a review of the licence can take place.**

*Mr Lavell confirmed that the proposed conditions would set a minimum of events that must happen whilst the History Festival is on. If there are other additional activities such as a historical 'flyby' for example, then that activity would not fall foul of the licence as there is no attempt to restrict other activities.*

Second brief adjournment at 11.25 to clarify the wording of the proposed activities and proposed conditions; Literary Talks, History and ancillary activities to the event, seminars and writing workshops.

The Sub-Committee members sought clarification from the Parties before retiring to consider the application accompanied by the Senior Solicitor for the council and the Democratic Services Officer.

Following the deliberations of the Sub Committee Members, the Solicitor for the Council confirmed that the Sub-Committee received brief advice on licensable activities but otherwise no further material legal advice was given to the Sub Committee in the closed session.

The Sub Committee considered all of the submissions made and the written representations together with the Licensing Act 2003, Statutory Guidance and Regulations and the Licensing Policy of the Council and

**Resolved:**

**That the Application for a Premises Licence in respect of Chalke Valley History Festival, Church Bottom Road, Broad Chalke, Salisbury, Wiltshire, SP5 5DS, be granted as applied for (and without prejudice to any other consents or approvals, including any planning permission that may be required), and with the following conditions:**

- 1. One single event per year only, no more than 10 days in duration, to be held in the months of June and July.**
- 2. The Permitted Hours for the sale of alcohol on and off to be:**
  - **Monday to Thursday 10.00 – 23:00**
  - **Friday and Saturday 10:00 – 00:00**
  - **Sunday 10:00 – 22:00**
- 3. The name of the event shall be 'The Chalke Valley History Festival', and the licensable activities will be ancillary to the main event, which should focus on:**
  - **Literary talks and seminars**
  - **Living History demonstrations**
  - **Writing Workshops**

**Reasons:**

This is an application for a permanent Premises Licence and the Sub-Committee has carefully considered and taken into account the concerns and written representations received both during the consultation period prior to the hearing and the oral submissions from legal representatives for both the Applicant and the Objector along with the suggested amendments to the application as proposed by the legal representatives for both parties.

The Sub-Committee accepted that it was inevitable that an annual event of this size and duration would have an impact on local residents, given the nature of the local area. However, it was not the Sub-Committee's role to consider the suitability or otherwise of the event as a whole. That had been considered by the other relevant authorities as appropriate. The role of the sub-committee was to consider the licensable activities that were proposed to take place within the overall Festival and the impact of those activities on the licensing objectives.

The Sub-Committee felt that the presence or otherwise of these licensable activities would have a minimal effect on the issues that were principally causing concern for the Objectors, those being mainly the numbers of people and vehicles attending the site and the consequent noise and disruption. The Applicant accepted that last year that contractors involved in the post Festival site clearance had spontaneously broken into loud singing and would therefore be taking steps this year to ensure contractors were aware of the need to keep noise such as singing at a low level to avoid the disturbance of residents out of licensing hours and/or after the Festival had concluded. The Objectors raised concerns about non- licensable activities such as the noise of vehicle movements and generators and the position of lighting. The Applicant was able to confirm that a different and quieter trackway would be used and changes to the lighting would be made and quieter generators would now be used.

The Sub Committee noted the willingness of the Applicant to reduce the hours for the sale of alcohol on Sunday, and to implement changes to the position of the current generator lighting, trackway and generators to be put in place and considered that such measures would be appropriate to address the relevant concerns regarding the non- licensable activities that had been raised. The Sub-Committee further took into account the willingness of both the Applicant and Objectors to seek to resolve the concerns raised by the Objectors during the consultation and that both parties were able to agree changes to the Application.

The Sub Committee also considered the relevant provisions of the Licensing Act 2003 (in particular Sections 4 and 18); the guidance issued under Section 182 of the Act and the Licensing Policy of Wiltshire Council.

(Duration of meeting: 10.30 - 11.44 am)



The Officer who has produced these minutes is Lisa Moore 01722 434560, of Democratic Services, direct line 01722 434560, e-mail [lisa.moore@wiltshire.gov.uk](mailto:lisa.moore@wiltshire.gov.uk)

Press enquiries to Communications, direct line (01225) 713114/713115

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## SOUTHERN AREA LICENSING SUB COMMITTEE

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**DRAFT MINUTES OF THE SOUTHERN AREA LICENSING SUB COMMITTEE MEETING HELD ON 10 SEPTEMBER 2018 AT THE ENTERPRISE NETWORK, (THE OLD FIRESTATION), SALT LANE, SALISBURY, SP1 1DU IN RESPECT OF AN APPLICATION FOR A VARIATION TO A PREMISES LICENCE; THE BANK COCKTAIL LOUNGE & EVENTS, 18 HIGH STREET, AMESBURY, WILTSHIRE, SP4 7DN**

**Present:**

Cllr Trevor Carbin, Cllr Jose Green, Cllr Mike Hewitt

Cllr John Smale (Substitute – non participating)

**Also Present:**

Hannah Hould – Licensing Officer  
Sarah Henry – Environmental Health  
Tony Johnson – Legal Officer  
Lisa Moore – Democratic Services Officer  
Steve Hedge – Objectors' representative  
Nathan Muirhead – Applicant  
Steve Cox - Supporter

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**1 Election of Chairman**

Nominations for a Chairman of the Licensing Sub-Committee were sought and it was

**Resolved:**

**To elect Councillor Trevor Carbin as Chairman for this meeting only.**

**2 Apologies for Absence/Substitutions**

**3 Procedure for the Meeting**

The Chairman explained the procedure to be followed at the hearing, as contained within the "Wiltshire Licensing Committee Procedural Rules for the Hearing of Licensing Act 2003 Applications" (Pages 1 – 6 of the Agenda refers).

#### 4 **Chairman's Announcements**

The Chairman gave details of the exits to be used in the event of an emergency.

#### 5 **Declarations of Interest**

There were no interests declared.

#### 6 **Licensing Application**

##### **Application by Keystone Entertainment for Variation to a Premises Licence at The Bank, 18 High Street, Amesbury.**

The Licensing Officer Hannah Hould introduced the purpose and scope of the Application, the premises to which it related and the key issues for consideration.

The details of the variation as set out in the Officer report attached to the agenda were read out.

Nine representations had been received as detailed on p61 of the report.

In accordance with the procedure detailed in the agenda, the Applicant, the Responsible Authorities and those who had made a Relevant Representation were given the opportunity to address the Sub Committee.

Key points raised by Nathan Muirhead of Keystone Entertainment Limited (the Applicant) were:

- The Application could be considered a little controversial by some, however we have taken steps to promote the licensing objectives.
- Originally, we had applied for a variation to extend our opening hours to 03.30 and to include Christmas, Eve, Christmas and New Year's Eve. After consideration that did not seem appropriate so we amended our application.
- The Town Council believe local residents are kept awake until early hours, windows smashed and people urinate on the streets, we feel that this is simply not the case, and if this is happening the it is not coming from our venue.
- We have Pubwatch in operation and have increased our door supervision. We are also the only venue in town that has an ID scanner, which is an excellent piece of equipment.

- The proposed extension to the condition around music, is for when we open on bank holidays and special events.
- As a gesture we have proposed a reduction in our start time from 8am to 12 noon.
- There is currently a Planning condition on noise levels.
- We have been working with Environmental Health to set a reasonable noise level on our first floor.
- Environmental Health had visited on 2 occasions, and failed to take a suitable reading. We have agreed for them to visit again in next few weeks and assess our sound system and put the necessary limits in place.
- They have not given us a specific limit for us to work with – and so we have made our own assessment.
- We have exceeded our Planning Permission by 2 decibels but considering we have not been given a limit by Environmental Health, we feel that this is not bad.
- We have 5 door supervisors and a taxi liaison officer to aid dispersal.
- There are many people leaving our venue and neighbouring venues at a similar time. We had 5000 visitors this weekend.
- There are not scores of people complaining, just a small group of residents – no evidence or reliable source.
- We will continue to work with the Town Council and Environmental Health and Pubwatch.
- This variation will allow us to play music for an additional 12 hours. All other venues have this on their licence.
- We do have empathy for local residents, and work hard to monitor the situation.

Mr Steve Cox spoke in support of the Applicant, key points raised were:

- I am here to represent Keystone Entertainment Limited and local residents. I live 80 meters from the venue. I have read the objections. My family and other residents have spoken to agree that no additional level of noise has been heard.

- The noise is coming from the older venues which were not designed to contain noise. Keystone have gone to extreme lengths to limit the noise coming from its venue.
- I am concerned with the erosion of local business in Amesbury town. We do have some local members supporting the Applicant and its business. Sad to see most of the Town Council not in support of this local business.
- We need to consider the youth of this community and encourage them to stay in the town and having such a venue at least provides them with some entertainment venue.
- Keystone has invested in this project, and done its best to work with local residents and authorities to improved issues which have arisen.

#### Questions – To the Applicant

Panel members:

- Have you increased door supervisors? Answer: We have had 5 from the start, one outside, one in reception and 3 in the building.
- What take-up of the free taxi service has there been? Answer: I pay the taxi £5 to take people within Amesbury, so £100 a weekend at £5 a ride = 20 people used the service a week.
- As the noise of the music is one of the planning conditions, is there a certain decibel where it cuts out? Answer: Its built into our amplifier, we can set each individual speaker and the noise cannot go above that level.
- What do you mean when you refer to Community focus? Answer: We tried to set up a Community Focus Group through Pubwatch. 200 letters were sent out through people's doors inviting them to attend a meeting. Only one person came. In addition, through the licensing process and planning process we had an initial meeting with the public. There is nothing more formal we can do until the Town Council get back to us.
- What are the changes to the layout? Answer: Building control came in and said we should have a fire exit in a certain place (from the VIP room) and so we have made those changes. Upstairs would be for a lounge area for non mainstream music.

Questions from Environmental Health:

- No questions.

Questions from the Representative: (Mr Hedge)

- I was invited to the focus group meeting. I had several conversations with the Applicant where he said he would invite 13 people, He wanted me to go and canvas the streets to get a street representative. Answer: In the letter I put a list of the streets in each area, and made a suggestion of having a group rep for each area.
- The decibel level for a cocktail bar is 40db, it does not state whether that reading is in or outside? As a resident, we have all different figures thrown at us. What is correct? Answer: No level has been put to us.
- Do you have a noise cut off limiter on each floor? Answer: There are settings on each floor, the upstairs limiter is less technical.
- There has been an escalation of events in the street.

Key points raised by the Responsible Authority, Sarah Henry of Environmental Health were:

- We are currently investigating complaints from music coming from the Bank, at this time we are not able to support the application for an extension.
- Discussions are ongoing with Mr Muirhead on how to control music levels.
- It is more of a nightclub atmosphere with associated noise levels emanating from the premises. There was large levels of background noise from people in the street when we took readings, which made it difficult to get an accurate readout. We need to re-visit when the background level noise is less.
- When the new door from the VIP room is opened the noise will escape. We strongly object to the new door to the smoking area being implicated as an access route.
- Noise escaping from the front of the building could be dealt with by putting in a type of lobby area.
- The variation came in quite soon after the premises opened, so our team has had difficulties getting out in the time frame to work with the Applicant to reduce noise levels.

#### Questions from the Panel:

- Do you have concerns on access to smoking area from the side door? Answer: Noise from the premises is our concern. There are also issues of people queueing on the side to get in.
- A noise level has not been set, is that correct? Answer: A colleague attended on 31<sup>st</sup> August to monitor and assess the noise levels. That is where we found concern due to the base level.
- Can you confirm what that level it will be set at? Answer: Not as yet. 40db was set from Planning, before 23:00, then between 23:00 and 02.00 it should be below 35db.
- The Panel is not permitted to consider anything set by Planning as we are a separate tribunal. Would there be protection for residents if the Planning conditions set were breached? Answer: We would need to investigate in future as we would with any complaint.
- How long do you expect your investigations to take? Answer: To be complete within a month or so.

#### Questions from Applicant:

- With regards to the ongoing noise complaint, how many formal complaints do you have? Answer: One currently; for us that is sufficient to start an investigation.
- You thought there would be a small DJ booth downstairs, can you define what you mean by small? Answer: The plans made it look like there was a small booth upstairs. That was one of the sources of the complaint.
- Do you agree that it is difficult for us to achieve compliance without having any level set? Answer: Yes, but we have had residents come to us with concerns, we would still be trying to work with you.
- Why did Environmental Health not visit in the 9 weeks since we opened to set the limit? Answer: We have tried to monitor the noise level. There were pressures in the summer, which have meant that we have not been able to get there sooner.
- In terms of monitoring over the 9 weeks – what evidence do you have to support that we have not been complying with our licensing objectives. Answer: Not able to say – some of the levels did reach the set level when visited on 31<sup>st</sup> August.

Key points raised by those who made a Relevant Representation. Mr Hedge (who also spoke on behalf of Adam Woods & Mrs Madeley, who had been unable to attend) were:

- I am now in my fourth property in Amesbury, I currently live in the High-street, and have been there for the last 10 years.



- We are trying to balance the benefits of the night time economy against the negative affects some of the residents are experiencing. It comes down to 2 things, the noise from music, audience and the street and antisocial behaviour.
- The side door is used at all times, but is held open whilst people queuing.
- We approve of the additional door supervisors from 4 to 5. The plans need to be updated to bring them up to current status.
- There was confusion as the original request was to increase hours to 3am but now back to 2am on some nights. The verbal agreement with Amesbury TC to reduce the opening hours from 8.00am to 12.00 noon, this has no effect on the night time problems.
- The main issue is that he is asking for non-standard hours over Christmas Eve, Christmas Day and New Years Eve, and bank holidays. Still the same effect on residents even if they do not have to work the next day.
- On New Years Eve, they want to open from 08:00 on the morning of 31<sup>st</sup> December, all through to New Years Day and through to 02:00 on 2<sup>nd</sup> Jan. We don't know what type of music will be played during these hours, it has not been defined. Our main objection is over the holidays as they are our holidays as well.
- Reducing noise levels after midnight, it would be better to be quieter late at night so we can stop these arguments. Noise and music are different things, need to separate the two. It all adds up. When the building was tested there wasn't an audience in there.
- Since original tests done from JSP consultants, they have rebranded themselves as a cocktail bar. No one has been back to test again.
- Noise is a public or statutory nuisance.
- I was invited to an informal meeting with residents, but it was felt that there were already so many other parties involved, why do we need a focus group.
- There was concern at the Town Council meeting this week not to go ahead with this.
- Response: The Licensing Officer then noted that Amesbury Town Council had withdrawn its representation so in effect they had not objected to this application.

- We have had a few variations posted on the venue – these have been very vague and not stated clear details of what was being changed? We have to go to Chippenham to view it as not available online.
- Response: The Licensing Officer noted that she and Mr Hedge had had a number of conversations about the notices. It was explained that the Council did not currently have the facilities to provide full detailed information locally, however, the Licensing Officer was able to email Mr Hedge the complete document whilst he was on the telephone with her. Adding that the application was not started again, it was a case of thins being removed and not added. All of the details were emailed out to all who had made representations.
- I objected to items 1, 3 and 4, until improvements could be made by the owner. There needed to be a plan of action ahead of the returning service men to the area.
- We questioned whether he could use the front lobby as a holding area, to prevent the overflow of people coming out whilst waiting for taxis. To reduce the noise on the street.
- There has been a lack of councillors out on the street at 02:00, they could hear it first hand then.
- Could the residents have an independent focus group?

#### Questions from the Panel:

- You are currently already part of a focus group – residents' association – Answer: It is so informal basically a cup of tea and a discussion. Some are from Salisbury Street and one from Church Street. We talk about general antisocial issues, not just from the Bank. Lots of residents have journals.
- Planning allows for 40db and 35db after a set time – I heard a reference to 60db. Eventually it has to be a maximum of 40db and 60db is irrelevant as you have to comply to the conditions from planning. Answer: Environmental Health added that they would be looking to 40db.

#### Questions from the Applicant:

- Why are you objecting when you frequent our premises? Answer: I am trying to be balanced, I cannot moan about what is going on if I have not been in to experience it.

- Would you agree that since we opened, that our door supervision is visible out on the streets – Answer: Yes they are, and was impressed with one who asked me if I had a way of getting home. No issues with them at all.
- Why make reference to the Domino pizza window smashed, where is that shop? – Answer: It is not near your building it is down Salisbury Street. I did not mean to say it was one of your customers.
- Given the proximity of our venue – would you agree that the noise that is visible on the street is not all directly involved with the Bank? – Answer: Well it is the nearest building to me, and I would not be able to hear from the others as you are closest to me. Most of it is the voices and the laughing of people out the front.
- From a noise level prospective, when you are taking noise readings, how do you differentiate from one building to another? Answer -Environmental Health - my colleague noted that after 00:30 they could no longer hear the New Inn, they moved down another room, and noted the New Inn had stopped and they were satisfied that the noise they were recording was from the Bank. The octave band that relates to base was showing up.
- You said there had been a deluge of complaints but then you said there was only one. Answer: We had had daily emails and calls so had to filter the type of noise these were about and have now fielded those to make sure they go to the correct people. They are all from the same persons, probably around 5 or 6 residents in total.
- The focus group in terms of support, if there was so much objection why has the focus group not come together – Answer: It is in its infancy, a maximum of 6 people who came together. We did not want to hold the meeting in the Bank.
- Do you have intention of future monitoring in Sep/Oct – would it make more sense to do it unannounced? – Answer: Yes we will be making unannounced monitoring visits.

Environmental Health then gave a summary of their case:

In our opinion the Bank has only been open only a few weeks – the variation has been put in quite soon after opening and not given us enough time to fully assess the impact and hope to work with the Applicant to move forward.

Mr Hedge gave a summary of his case:

I am not trying to shut the Bank down. Hopefully with this focus group starting up this will be a good thing.

The Applicant gave a summary of his case:

I feel disappointed if we have to wait for Environmental Health to come out before we can have the extra hours. Two years in and still no noise limit next door.

I have agreed to a cordoned off area at the back, and to have a lobby. We are ready and waiting to adjust our noise levels. We feel that we are working with all involved and essentially feel that we have been penalised.

This is a business decision. This is a community facility not just a cocktail bar, the Bank should not be discriminated against if the other venues are allowed the same consideration.

Hannah Hould – I spoke to The Town Council and it was felt that a focus group was the way forward, not to be held at the bank. For all residents to air their views.

The Sub Committee members retired to consider the application and were accompanied by the Solicitor for Wiltshire Council and the Democratic Services Officer.

The Sub Committee retired to consider the application at 12.00 noon.

The Hearing reconvened at 1.00pm

Following the deliberations of the Sub Committee Members, the Solicitor for the Council made a statement of material legal advice given in closed session as follows:

Legislation relating to ASB had been explained as well as the review process available to address matters if complaints were received in the future.

The Sub Committee considered all of the submissions made to it and the written representations together with the Licensing Act 2003, Statutory Guidance and Regulations and the Licensing Policy of the Council

**Resolved:**

**That the Southern Area Licensing Sub-Committee resolved to part grant variations 1 to 6 to the licence, for The Bank, 18 High Street, Amesbury, as applied for, as follows:**

**1. Granted - Update the plans as submitted with works to the lobby area as outlined by the Applicant to be completed by the Premises Licence Holder by 31<sup>st</sup> October 2018.**

**2. Granted - Amend two of the conditions on the licence, as follows:**

**Condition 1 currently states: The entrance of the building will be relocated to the side door on a Friday and Saturday night, and for major events.**

**Amend to read: The entrance of the building will be relocated to the side door at all times.**

**Condition 2 currently states: A minimum of four Door Supervisors will be provided from 2200 hrs on Thursdays, Fridays and Saturdays, until 30 minutes after close, to ensure the quiet dispersal of patrons, from the area.**

**Amend to read: A minimum of five Door Supervisors will be provided from 2200 hrs on Thursdays, Fridays and Saturdays, until 30 minutes after close, to ensure the quiet dispersal of patrons from the area.**

**3. Refused – to remove one of the current conditions on the premises licence:**

**Currently states: Amplified sound will be reduced in the main pub from 0000 hrs. (Noting that we (the Applicant) are committed to keeping noise levels below 40 DBL in line with planning conditions.)**

**This condition will be retained.**

**4. Granted - Include non-standard timings for recorded music (indoors) to reflect the current non-standard timings for alcohol on the premises licence:**

**Bank Holidays & Christmas Eve 0800 - 0200  
New Year's Eve 0800 to start of business the following day.**

**5. Granted – To reduce the current start time for the sale of alcohol (ON and OFF Sales), but not extend the terminal hour. The current start time on the premises licence is 0800 Monday-Sunday, including non-standard timings:**

**To amend the opening hours to 1200 hrs Monday-Sunday and to include non-standard timings, as agreed by the Applicant.**

**6. Granted – To include an additional condition on the premises licence:**

**No entry or re-entry after 0130 hrs other than for use of the smoking area. (As agreed by Wiltshire Police Licensing and the Applicant)**

**With the following condition:**

- **That the Premises Licence Holder complies with any conditions imposed by Environmental Health, once the appropriate Noise Level evaluation had been carried out. This evaluation is to be carried out and communicated to the Premises License Holder, by 30<sup>th</sup> September 2018.**

**Reasons:**

***The Sub-Committee have considered the relevant provisions of the Licensing Act 2003 (in particular Sections 4 and 18); the guidance issued under Section 182 of the Act and the licensing policy of Wiltshire Council.***

***The Sub-Committee have considered the written evidence presented in the agenda, together with the oral evidence given at the hearing from the Applicant, the applicant's representative, Environmental Health and One of the objectors who also spoke on behalf of two other objectors, and raised concerns about the variation application. These concerns related primarily to noise created by the patrons of the premises, and the music levels within the premises.***

The Sub Committee noted that although the parties raised concerns relating to public nuisance, the applicant had and would take steps to limit the noise levels in accordance with the set levels once Environmental Health had set them.

**Appeals**

All parties have the right to appeal to the Magistrates Court within 21 days of this decision. A Responsible Authority or interested party has the right to request the Local Authority to review the licence. Such an application may be made at any time, but it is in the discretion of the Local Authority to hold the review, and a review will not normally be held within the first twelve months of a licence, save for the most compelling reasons.

7 **Appendix 1 - Original Application Form**

7 **Appendix 2 - Updated Premises Licence Plans**

- 8     **Appendix 3 - Current Premises Licence and plans**
- 9     **Appendix 4 - Decision Notice - Hearing 21 February 2018**
- 10    **Appendix 5 - Relevant Representations**
- 11    **Appendix 6 - Applicant response to representations**
- 11    **Appendix 7 - Location plan of premises and other licensed premises in the vicinity**

(Duration of meeting: 10.30 – 13.35)

The Officer who has produced these minutes is , of Democratic Services, direct line 01722 434560, e-mail [lisa.moore@wiltshire.gov.uk](mailto:lisa.moore@wiltshire.gov.uk)

Press enquiries to Communications, direct line (01225) 713114/713115

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## LICENSING SUB COMMITTEE - APPEAL AGAINST STREET TRADING CONSENT DECISION

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MINUTES OF THE LICENSING SUB COMMITTEE - APPEAL AGAINST STREET  
TRADING CONSENT DECISION MEETING HELD ON 23 JANUARY 2019 AT  
KENNET ROOM - COUNTY HALL, BYTHESEA ROAD, TROWBRIDGE, BA14 8JN.

**Present:**

Cllr Allison Bucknell, Cllr Trevor Carbin and Cllr Stewart Palmen

**Also Present:**

Jim Brewster (Democratic Services Officer – Observing), Tom Ince (Authorised  
Officer – Amenity Partnership Team Leader), Sarah Marshall (Legal Adviser), Tracey  
Morris (Markets Officer), Cllr Jim Lynch (Observing), Lisa Pullin (Democratic Services  
Officer)

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1 **Election of Chairman**

Nominations for a Chairman were sought, and it was,

**Resolved:**

**To elect Councillor Trevor Carbin as Chairman of the Sub Committee for  
one meeting only.**

2 **Declarations of Interest**

There were no declarations of interest.

3 **Meeting Procedure**

The Chairman explained the meeting procedure that would be followed as  
detailed in the agenda papers at pages 5 - 10.

4 **Consideration of Exclusion of the Press and Public**

Following input from those present, and with no members of the press or public  
in attendance, the Sub Committee determined there was no need to formally  
pass a resolution excluding any other attendees.

## 5 **Appeal Against Street Trading Consent Decision**

Mr Tom Ince (Amenity Partnership Team Leader and Authorised Officer), presented a report detailing the decision to refuse the Appellant, Mr Mehmet Yilmaz a street trading consent for kebab van, which was to be situated in George Lane car park, Marlborough. Mr Ince highlighted the following:

- During the 30-day consultation process a number of representations were received. Three objections from Wiltshire Police who were particularly concerned that the proposed location was also the site of a Police 'touchdown point' and that a food establishment in that area would cause them difficulties in managing on ongoing situation with anti-social behaviour in the area. They were also concerned about noise disturbance, litter, drug dealing and the fact that there are residential properties nearby;
- Marlborough Town Council also shared the same concerns as the Police and highlighted the fact that the trader would be within 200m of a school;
- Cllr Nicholas Fogg also supported the objections raised by the Town Council and Police and considered that such a food outlet could lead to breaches in public order; and
- The issues raised and the subsequent objections met the criteria for determining applications detailed in the Street Trading Consent Guidelines – Public Order, which determined that consent should be refused.

The Appellant, Mr Yilmaz did not wish to ask any questions of the Authorised Officer.

Members of the Sub Committee then had the opportunity to ask questions of the Authorised Officer as detailed below:

**Q Was there any evidence of anti-social behaviour?**

A No, this was accepted as the Police's recommendation that a van in his area would exacerbate anti-social behaviour.

**Q Are there any other mobile hot food takeaways in Marlborough?**

A There are some in outlying roads of Marlborough on the A road but none in the Town Centre.

**Q What is the proposed proximity of the kebab van to the Police touch down point?**

A I believe it is within 10 metres of the area the Police were planning to use. The Appellant had suggested another area which was closer to Waitrose, but this site was still of concern to all those who had replied

to the consultation and it was felt that it would still compound the existing anti-social behaviour concerns.

**Q There are no noise concerns raised in the Town Council's representation?**

A No, they were concerned with the anti-social behaviour.

**Q Could the Appellant do anything to help control the anti-social behaviour?**

A The Appellant has offered to have CCTV on the kebab van, but the area proposed is large and the CCTV from the van would not give coverage of a very large area. It is felt that it would attract young adults to the area and encourage drugs and anti-social behaviour to the area.

**Q The Police intend to use this area as a touch down point – why would this be a problem?**

A We aim to work in partnership with the Police and as they have made a strong objection we feel we should support their view with their knowledge of the area.

**Q Is St Mary's School within a 200-metre radius of the proposed site?**

A We have measured the distance and it is about 198 metres away – we used our GIS mapping tool but we cannot say it is 100% accurate. We did feel that due to the proposed start time (16:00) this would not affect those walking home from primary school unless they had attended after school clubs. Other venues that may be near to schools have had time restrictions, with those venues able to trade from 18:00.

**Q What time does the school finish?**

A I believe it is 15:30.

The Appellant, Mr Yilmaz was then given the opportunity to present his case against the refusal of street trading consent. Mr Yilmaz highlighted the following:

- That he could commence trading from 16:30/17:00 so that there was no conflict with the primary school children walking home;
- He was aware that Waitrose closed at 22:00 and he therefore intended to trade until 23:00 to be able to serve potential customers coming out of the Waitrose store;
- When they were serving customers they would be able to watch the area as there would be CCTV installed on the van; and

- He had 15 years' experience in the trade, having been previously sited in Melksham, but ending this as there was not enough trade.

Mr Ince (Authorised Officer) was then given the opportunity to ask questions of the Appellant.

**Q The Police are concerned that the kebab van will encourage anti-social behaviour in the area – how would a kebab van reduce this?**

A They will see our CCTV cameras and not do any naughty things.

**Q The proposed site is a large car park around 150 metres – the van would attract people and that would be a greater opportunity for more issues to arise.**

A I don't believe that the kebab van would cause anti-social behaviour – we did suggest an alternative place which is nearer to Waitrose.

*The Chairman confirmed that any new proposed locations were not able to be considered by the Sub Committee at this meeting and that they could only consider the location as detailed in the application.*

**Q We know that there is an established anti-social behaviour problem in this area and we don't want to compound the problem. What is the coverage of your CCTV?**

A Around 10/20 metres. We would have two staff present on the van whilst trading for our safety. It is the Council's job to put up CCTV if they wish to monitor an area. I feel that this is the best location for the van in Marlborough.

The Sub Committee then had the opportunity to ask questions of the Appellant.

**Q Why did you chose this location for the kebab van?**

A I checked everywhere and spent time looking around. I feel this is the best location, there will be footfall from those shopping in Waitrose.

**Q I would have thought that you're more likely customers are those who have been drinking, not Waitrose customers. Have you been situated near to a supermarket before with your van?**

A Yes, I was previously situated in Bath Road in Melksham – people will come to you if you are good.

**Q Have you spent time in the area in the evening and observed what happens?**

A Yes, I have spent time there around 21:00/23:00. I did not witness any anti-social behaviour, just saw young people in the cars with no problems.

**Q Can you understand the concerns that have been raised?**

A I have never had a problem, people don't do it (anti-social behaviour- because we are there.

**Q In previous places where you have been situated, were there problems before?**

A No, people get their takeaway and eat in their car or take their food home.

**Q Will you install CCTV to check the area?**

A That is for us and our customers. It would be situated behind and in front of the trailer.

Q Have you talked to Marlborough Town Council to see where they might think a kebab van would be acceptable?

A I have been trying for 8 years to find a location in Marlborough.

The Authorised Officer offered to supply the Appellant with details of Councillors he could contact.

The Chair explained it was not for Wiltshire Council Officers to assist him with locations but had he considered asking local Councillors or Town Councillors or other street traders in Marlborough for help to find a suitable location

**Q Do you intend to have two people on the van all the time?**

A Yes.

**Q How long to you keep your CCTV recordings?**

A We keep them for one month and have signs on the van to say that we have CCTV.

The Authorised Officer made the following points in summation:

- We want to work in partnership with the Police and we believe that the location will compound an existing anti-social behaviour issue;
- We do challenge objections but we are concerned here that a sitting vehicle in this location will compound the existing anti-social behaviour issue and encourage more people to park at night. Re the objection

concerning litter we could manage litter with conditions but it is the anti-social behaviour which is causing us the concern.

The Appellant made the following points in summation:

- Please give me the chance to open for a certain time as I don't think there will be a problem. If anything happens to my site I will close my business. I don't like anti-social behaviour and I have run 4 businesses in the past. People like to take foot to eat in their car before they go home.

The Sub Committee then retired with the Legal Adviser and Committee Manager at 10:55 and returned at 11:25, where the Sub Committee considered all of the submissions made and the written representations together with the Street Trading Consent Guidelines and the Local Government (Miscellaneous Provisions) Act 1982.

### **Resolved**

**The Licensing Sub Committee resolved to allow the appeal.**

**The Street Trading Consent for George Lane car park, Marlborough to be granted for a period up to 31 July 2019.**

<b>Licensable Activity</b>	<b>Timings</b>	<b>Days</b>
Permitted trading hours	16:30 – 23:00	Mon – Sun

### **Conditions**

- 1. Two people to be present on the premises (van) during all trading hours.**
- 2. CCTV to be operational during trading hours and available for checking by the Council's Authorised Officer and the Police for 30 days.**
- 3. The Appellant pays 50% of the annual street trading fee for the period up to 31 July 2019.**

### **Reasons**

After taking into account the written representations from the Council's Authorised Officer and the Appellant and the oral submissions received from both parties at the hearing, the Sub Committee considered the appeal and the concerns raised in the objections to the application received from Wiltshire Police, Marlborough Town Council and the local Ward Member.

It was noted that these concerns related to the perceived public nuisance arising from anti-social behaviour in the area although no substantiated evidence was provided to the Sub Committee to this effect. In view of this, the Sub Committee agreed to grant the Street Trading Consent for a shorter period up to 31 July 2019 and for the Appellant to provide CCTV which would be available for checking by the Council's Authorised Officer or the Police. Another factor that was considered was the location of a primary school within approximately 200 metres of the trading van. However, the Sub Committee took the view that this could be mitigated by the Appellant not commencing trading until 16:30 hours.

In reaching its decision the Sub Committee also considered the Street Trading Consent Scheme Guidelines and the Local Government (Miscellaneous Provisions) Act 1982, Schedule 4 Street Trading.

### **Right to Appeal**

A person aggrieved by the decision of the Licensing Sub Committee may make an application to the High Court for judicial review of the decision.

(Duration of meeting: 10.30am - 11.30am)

The Officer who has produced these minutes is Lisa Pullin, Tel 01225 713015 or email [committee@wiltshire.gov.uk](mailto:committee@wiltshire.gov.uk) of Democratic Services, direct line , e-mail

Press enquiries to Communications, direct line (01225) 713114/713115

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Wiltshire Council

Licensing Committee

11 March 2019

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## Statement of Licensing Policy - Update

### Summary

To provide background information concerning the proposed updated Statement of Licensing Policy.

### Proposal(s)

It is recommended:

That the Licensing Committee requests officers to carry out a 12 week consultation process on the proposed Statement of Licensing Policy 2019-2024.

### Reason for Proposal

In order for the Licensing Authority to discharge its licensing functions it is required to draw up a Licensing Policy or Statement of Licensing Policy under the Licensing Act. This policy is to be reviewed every five years and be the subject of a full consultation process.

Tracy Daszkiewicz  
Director Public Health and Protection

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Statement of Licensing Policy – Update

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Purpose of Report

1. Is to provide background information concerning the new proposed Statement of Licensing Policy.
2. To recommend that the Licensing Committee request officers to carry out a full consultation of the updated Statement of Licensing Policy. As attached at Appendix 1. The summary of amendments is attached at Appendix 2.
3. To inform the Licensing Committee that at its meeting in September 2019, the committee will be required to consider recommending the finalised Statement of Licensing Policy to Full Council for consideration.

Relevance to the Council's Business Plan

4. "People in Wiltshire work together to solve problems locally and participate in decisions that affect them".

"People are as protected from harm as possible and feel safe".

Main Considerations for the Council

5. It is a statutory requirement that the Statement of Licensing Policy must be approved by Council as this is not a function that can be delegated to the Licensing Committee.

Background

6. Wiltshire Council is the Licensing Authority, and is required to discharge its responsibilities under the Act with a view to promoting four licensing objectives, namely:

- The prevention of crime and disorder
- Public Safety
- The prevention of public nuisance, and
- The protection of children from harm

The Licensing Act 2003 was designed to be light touch legislation covering a number of "licensable activities". Such activities are defined within the Act and broadly relate to the sale of alcohol, provision of regulated entertainment and provision of late night refreshment. There are close links to Wiltshire Alcohol strategy.

7. In order for the Licensing Authority to discharge its licensing functions it is required to draw up a Licensing Policy or Statement of Licensing Policy under the Licensing Act. This policy is to be reviewed every five years and be the subject of a full consultation process.
8. In April 2017 the Immigration Act 2016 made substantial changes to the Licensing Act 2003, in summary these were to introduce a “Right to work” test for applicants, provide enforcement powers to the Home Office Immigration team and to include the Home Office Immigration team as a Responsible Authority.
9. In April 2015 the Legislative Reform (Entertainment Licensing) Order 2014 made substantial changes to the Licensing Act 2003, this removed the requirement for many forms of entertainment to be licensed under the Licensing Act 2003.
10. Officers will arrange to carry out an extensive public consultation process over a twelve week period to consider the views of those affected and the public of Wiltshire.

#### Safeguarding Implications

11. One of the key objectives of the Licensing Act 2003 is ‘The Protection of Children from Harm’. Wiltshire Council’s Child Protection Team, are a Responsible Authority under the Licensing Act 2003. In this capacity they are required to ensure that decisions about licensing are taken with due regard to the need to safeguard and promote the welfare of children. Public Health Implications.

#### Environmental and Climate Change Considerations

12. There is minimal environmental impact of these proposals.

#### Corporate Procurement Implications

13. There are no procurement implications contained within this report.

#### Equalities Impact of the Proposal

14. The impact of these proposals is assessed as ‘low’ against the Council statutory responsibilities. There are potential implications with respect to human rights.

#### Risk Assessment

15. Licensing is a statutory undertaking. Should the proposals in this report not be adopted it would leave Wiltshire Council in a position of being unable to undertake its statutory responsibilities and functions under the Act.

Risks that may arise if the proposed decision and related work is not taken

16. Criticism of the Council and compromise the reputation of the Wiltshire Council

Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks

17. There are no particular risks identified from any of the proposals.

#### Financial Implications

18. There are no additional financial implications of the proposals contained within this report.

#### Legal Implications

The provisions contained within the Licensing Act 2003 are, in the Government's view compatible with the requirements of the Human Rights Act 1998. However whilst it appears that the Licensing Act itself is compatible with the Human Rights Act there remains an obligation on the Council as Licensing Authority itself to act in a way that is also compatible with this Act. The possibility of acting in an incompatible way may arise at various stages such as during the review of premises licenses or drawing up the Statement of Licensing Policy. It is therefore incumbent on the Council to remain vigilant to these possibilities at all times as it discharges its responsibilities (including in its role as a quasi judicial committee for the Council) under the Licensing Act in accordance with the rules of natural justice.

19. The licensing service is a high profile regulatory service important for protecting the public but also for ensuring the development of the leisure industry and economic viability. Fair application of licensing functions is critical for the reputation of the Council and for building trust and confidence in its service provision.

#### Conclusions

20. The adoption of a revised Statement of Licensing Policy by December 2019 is a statutory requirement.

#### Proposal

21. That the Licensing Committee requests Officers to carry out a 12 week consultation process on the proposed Statement of Licensing Policy 2019-2024.
22. The Licensing Committee note that at its meeting in September 2019, the committee will be required to consider commending for approval the finalised Statement of Licensing Policy to Full Council.

## Reason for Proposal

23. The Wiltshire Council's Statement of Licensing Policy must be reviewed every five years and be the subject of a full consultation process.

Tracy Daszkiewicz  
Director Public Health & Public Protection

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Report Author: Linda Holland, Licensing Manager Public Health and Protection

[linda.holland@wiltshire.gov.uk](mailto:linda.holland@wiltshire.gov.uk), 01249 706410

13 February 2019

## Background Papers

- Licensing Act 2003
- Secretary of State 182 Guidance
- The Legislative Reform (Entertainment Reform) Order 2014
- The Police and Crime Act 2017
- Immigration Act 2016
- Psychoactive Substances Act 2016

## Appendices

1. Updated Statement of Licensing Policy
2. Summary of changes to 2014-2018 Policy

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# Statement of Licensing Policy

**The Licensing Act 2003**

**2019 – 2024 (Draft)**

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**Please read this document carefully and retain it for future reference**

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## 1.1 Introduction

This statement has been prepared having regard to the guidance issued by the Secretary of State for Culture, Media and Sport under Section 182 of the Licensing Act 2003 ('the Act') and as required of the licensing authority under Section 5 of the Act.

This statement of licensing policy will be kept under review throughout its period of validity and amended as considered necessary. Any amendments will be subject to consultation.

This statement takes effect from 1 November 2019 and will be scheduled for review in 2024

The licensing regime implemented by the Act and operated by Wiltshire Council as licensing authority is about the appropriate control of licensed premises, qualifying clubs and temporary events. It also covers the people who manage these premises or hold personal licences within the terms of the Act. Applications covered by the Act and relevant to this statement include:

- personal licences
- premises licences – including provisional statements
- variations
- transfers
- interim authorities
- temporary events
- club premises certificates
- designated premises supervisors
- reviews.

### 1.1 Purpose and Scope

This statement sets out the policy of the licensing authority with respect to carrying out its licensing functions under the Licensing Act. These include policy formulation, administration, monitoring, and enforcement activities. The latter will include working with and sharing permitted data with other regulatory and enforcement agencies.

The following will also be relevant to the way in which the licensing authority exercises its functions under the Act:

- Each application will be determined on its own merits having regard to the licensing objectives; relevant guidance including that issued under Section 182 of the Licensing Act 2003, and local criteria.
- The solicitor to the council will ensure that the Committee in its role as a quasi judicial Committee acts in accordance with the rules of 'natural justice' and ensure the Committee acts and appears to act fairly and approaches all matters before the Committee with an open mind during hearings or reviews.

- The statutory right of any responsible authority or other person to make appropriate representations to an application or to seek a review in respect of a granted authorisation where appropriate is accepted.
- The impact of the activities taking, or proposed to take, place at a licensed premises on businesses or individuals who are likely to be affected by it.
- The licensing authority, on behalf of the council, may notify parties they consider appropriate such as divisional councillors, town and parish councils of relevant applications.
- There is no presumption that any application for a licence under the Licensing Act will be granted.

## 1.2 Key Aims

The key aims of this statement of licensing policy are for the council as the licensing authority to:

- Promote and give precedence to the licensing objectives.
- Recognise the need to assist in building a fair, vibrant, and prosperous society in Wiltshire that properly balances the rights of residential communities, the business sector and other relevant parties.
- Secure the safety and amenity of residential communities whilst facilitating a sustainable, diverse, entertainment and hospitality sector in Wiltshire.
- Integrate its aims and objectives with other initiatives that will:
  - create an attractive and vibrant area, which has a positive effect on employment
  - reduce local crime, disorder and anti-social behaviour
  - reduce alcohol harm
  - reduce the supply and use of illegal drugs in licensed premises
  - encourage the self-sufficiency of local communities
  - reduce the burden of unnecessary regulation on businesses and promote self-help
  - reduce the health impacts of alcohol misuse and dependence; reduce the impact of alcohol related incidences on A&E services
  - continue its commitment to working in partnership with other agencies and organisations through both formal and informal arrangements towards the promotion and achievement of the objectives set out in this policy
  - endeavour to reflect the diversity of Wiltshire through its blend of urban and

rural settlements

- give direction to applicants, so that they can make informed decisions in respect of their own ventures.

### **1.3 Consultation**

In reviewing this statement the licensing authority consulted widely with all necessary bodies and relevant stakeholders. A list of those consulted is available from the licensing authority on request. The consultation process was conducted between May 2019 and July 2019 by way of a direct letter to those identified and also via publication on the council's website. Responses received were listed on a matrix document and each point made was given due consideration.

### **1.4 Licensing function**

The licensing authority recognises that the provision of entertainment is a major contributor to the economy of the council's area. It makes for a vibrant and attractive area, which subsequently has a positive effect on employment. The licensing authority also recognises that owners and occupiers of commercial premises have a legitimate expectation of an environment that makes and keeps their businesses sustainable.

The licensing authority welcomes the opportunity to encourage the development of the cultural, artistic, leisure and hospitality sectors in Wiltshire. It will assist all applicants in endeavouring to meet their aspirations within the law.

The licensing authority also has regard to wider considerations affecting the residential population and the amenity of any area. These include dropping litter and street fouling, noise and street crime. It is, however, recognised that the licence holder has limited control over individuals once they are away from the premises.

The licensing authority recognises that the diverse range of licensed premises throughout Wiltshire makes a major contribution to attracting both initial and repeat visitors to both the historic localities, and diverse venues.

The licensing authority acknowledges that circuses can fall on the edge of the licensing regime depending on the nature of their show. The Deregulation Act 2015 removed the requirement for the need of circuses to be licensed between 08.00 and 23.00, providing that the circus is of a traditional nature, i.e. it is a travelling circus which takes place within a moveable structure.

### **1.5 Licensing objectives**

The council will carry out its statutory duties under the Licensing Act 2003 as the licensing authority and have due regard to the licensing objectives.

It is important to note that all objectives have equal importance in the implementation of this policy.

The Licensing objectives are:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance and;
- the protection of children from harm

The licensing authority expects individual applicants to address the licensing objectives in their operating schedule having regard to the type of premises, the licensable activities to be provided, the nature of the location and the impact on the local community.

Where there are no relevant representations, or they have been withdrawn at or before a hearing, the application will be granted as requested subject only to conditions which reflect the operating schedule and any mandatory conditions. Most premises do and will operate without any significant concerns to the licensing objectives. However, where there is a relevant representation, the application will usually proceed to a hearing, following which the licensing authority may take such steps as are necessary to promote the licensing objectives, as provided for in the Act.

The following sections set out the licensing authority's policy relating to the four licensing objectives. It is emphasized that these objectives are the only matters which can be taken into account by the Licensing Committee and they will pay particular attention to them at a hearing, when determining applications and applying any conditions. A hearing must be called when relevant and valid representations are made by any person or responsible authority, based upon the four licensing objectives.

## 2.0 Prevention of crime and disorder

The council acting as the licensing authority has a duty to act solely or with its partners to reduce crime and disorder throughout Wiltshire, consistent with its statutory duty under section 76 of the Anti-Social Behaviour, Crime & Policing Act 2014. The council as a member of the Wiltshire Community Safety Partnership will work with relevant partners to utilise legislation as required to prevent crime and disorder issues.

Applicants are required by law to set out in their operating schedule the steps they propose to promote the prevention of crime and disorder. Responsible applicants will ensure proper regard in their operating schedule to the location, character and condition of the premises, the nature and extent of the proposed use and the persons likely to be attracted to the premises.

The council expects the premises licence, or club certificate holder to take steps to control excessive consumption and drunkenness on their premises. This will reduce the risk of anti-social behaviour and violent crime occurring both on the premises and elsewhere after customers have departed. Licence holders are expected to be able to demonstrate a general duty of care to customers using their premises and others affected by their activities. The licensing authority expects all applicants to consider a number of key conditions, where relevant to the type of licensable activity being proposed:

### 2.1 Toughened/safety glasses

Standard annealed glass bottles and drinking containers used in the leisure and hospitality sectors to supply alcoholic and non-alcoholic drinks may be used as weapons inflicting serious harm during incidents of disorder. Police evidence indicates that incidents are particularly likely in or within the immediate vicinity of a pub, club or nightclub. It is suggested that where the application relates to the sale of alcohol on the premises, the applicant considers measures to prevent glass bottles or glasses being taken off the premises.

In particular this is expected in premises considered to be high volume vertical drinking establishments and those premises open beyond 11pm. Possible exceptions would be facilities for hotel residents and their guests or a restaurant where the bar is primarily provided for restaurant customers.

Outside licensed premises, glass containers, as well as being potential weapons, add to street debris, pose risks to street cleaners and pedestrians and generally undermine the objective to minimise public nuisance. Therefore the policy also applies to any premises where outside areas are provided for consumption of alcohol, particularly where the outside area is in or adjacent to a public place.

The licensing authority believes that the use of safer alternatives to annealed glass i.e. polycarbonate “glasses” will help promote public safety and the prevention of crime and disorder in licensed venues.

## 2.2 Pubwatch

The licensing authority recognises the value of Pubwatch schemes and will therefore play a supportive role and attend meetings as appropriate. Where such a scheme is active in the locality of a premise, the applicant is strongly encouraged to become an active member of Pubwatch. As well as traditional pubs and entertainment venues, this includes premises that are licensed solely for the sale of alcohol for consumption off the premises. Pubwatch provides a forum for sharing information, disseminating best practice and meeting with representatives of the licensing authority, the police and other responsible authorities. The licensing authority encourages all licensees to actively participate in their local Pubwatch scheme and is keen to support the development of more schemes where there is a demand.

## 2.3 Information sharing and reporting incidents

As well as sharing information through formalised Pubwatch schemes, licensees are encouraged to share and report incidents to relevant agencies as and when appropriate, rather than waiting for the next meeting. Licensed Premises are often favoured for criminal activities such as child sexual exploitation, modern slavery, human trafficking, drug dealing and violence. Any issues of crime and disorder should be reported as soon as possible to Wiltshire Police. If persons or property are in danger then this should be done through calling '999', alternatively the '101' number should be used. Incidents that occur on licensed premises should be recorded and made available to Wiltshire Police and other agencies. Wiltshire Police and Wiltshire Council work in partnership to target those individuals who cause crime and disorder. Drink Banning Orders (sec 1-14 Violent Crime Act 2006), Exclusion Orders (sec 1 Licensed Premises Act 1980), Anti-Social Behaviour Orders (sec 1 Crime and Disorder Act 1998), Public Space Protection Orders (sec 59-68 Anti-Social Behaviour, Crime and Policing Act 2014) and any replacement powers will be utilised to assist in the prevention of crime and disorder. Information about relevant orders against persons will be shared with premises. Licence holders are also expected to assist in preventing crime and disorder by notifying Wiltshire Police of any persons who breach orders relevant to their premises.

## 2.4 Door supervisors/stewards

Any person engaged at licensed premises to carry out security activities including the prevention of access to or the physical ejection of a person from the same premises on behalf of the licensee must hold and display a valid current licence issued by the Security Industry Authority (SIA) or any successor system.

The licensing authority will consider representations that indicate that specific premises require door supervision for the purpose of meeting the crime and disorder or public safety licensing objectives. In such cases, the licensing authority may impose a condition that an agreed number or ratio of licensed door supervisors must be employed at the premises either at all times, or at such times as certain licensable activities are taking place.



In certain circumstances it may be appropriate to use trained stewards to provide a satisfactory level of customer care and general safety awareness. These individuals must not carry out security activities, and would not be required to hold an SIA licence. If they were employed to undertake duties involving children then the applicant should consider whether the relevant level of disclosure check is appropriate.

Front line staff should receive relevant training in conflict management and basic first aid training.

The applicant may find it beneficial in developing the operating schedule for a premises licence or certificate to have undertaken a security risk assessment in order to determine the resources necessary to meet the licensing objectives.

## **2.5 Dispersal policy**

Every venue whether a pub, club or bar will prepare and implement a dispersal policy working in partnership with other venues within the vicinity through mechanisms such as Pubwatch. Applicants should consider how the venue will minimise the potential for disorder and disturbance as customers leave the premises. This should be prepared in consultation with the licensing authority and police and reviewed regularly and staff should be trained in how to implement this policy.

## **2.6 Drugs in premises**

The licensing authority recognises that the supply and use of illegal drugs by individuals is not relevant to all licensed premises but it is recognised that conditions may need to be attached to the premises licences for certain venues if representations are received. The aim will be to endeavour to reduce the availability, sale, and consumption of illegal drugs and to create a safer environment for those who may have taken them. Any conditions will take into account the relevant guidance and advice from appropriate bodies.

The licensing authority expects licensees to permit the access and use of drug dogs within the public and staff areas of the premises upon request of the licensing authority and/or police involved in such an initiative.

The licensing authority expects licensees to permit access for drugs analysis equipment and staff so that random drug tests can be carried out on the skin of persons wishing to have access to the licensed premises, in addition to the staff and contractors employed at the premises.

Psychoactive substances are those intended for human consumption that are capable of producing a psychoactive effect. These substances prior to May 2016 were more commonly known as “legal highs” and included items such as Nitrous Oxide (NOS), Spice and Black Mamba amongst others. It is a criminal offence to produce, supply or sell psychoactive substances. The Psychoactive Substances Act 2016 amends the Licensing

Act 2003, creating new powers of entry relating to any of the offences mentioned above. These offences are also considered “relevant offences” in relation to Personal licences.

It is expected that licensees have a written drugs policy for their premises or event which staff are fully trained in.

## **2.7 Immigration and modern slavery**

Modern slavery is the recruitment, movement, harbouring or receiving of children, women or men through the use of force, coercion, abuse of vulnerability, deception or other means for the purpose of exploitation. Individuals may be trafficked into, out of or within the UK, and they may be trafficked for a number of reasons including sexual exploitation, forced labour, domestic servitude and organ harvesting

Forced labour is a situation in which victims are forced to work against their own will under the threat of violence or some other form of punishment. Labour exploitation is placing a worker under extremely poor conditions such as very low wages, being forced to work long hours, having their movements supervised, living in very poor conditions and having their identification documents taken away to prevent them from leaving.

As of April 2017, the Immigration Act 2016 introduced a “Right to Work” test for personal licence and individual premises licence holders (where the licence permits alcohol sales and late night refreshment). The Home Office Immigration Enforcement department became a responsible authority of the Licensing Act 2003.

Premises licence holders, as employers, have a duty to ensure that their employees have a right to work in the UK. The Licensing Authority will work with Immigration Enforcement to ensure that people are not illegally brought into the UK to be exploited as cheap labour in licensed premises.

Any offences committed under the Immigration Act are considered relevant offences for the purposes of a personal licence and are notifiable to the Home Office in the same way that other relevant offences are notifiable to the Police.

## **3.0 Promotion of public safety**

The public safety objective is concerned with the physical safety of the people performing in and staff and customers using the relevant premises. Applicants should carefully consider how they intend to promote the public safety objective in their operating schedule.

Where applicants consider that the public safety objective could be compromised by their intended activities, they are encouraged to contact the Wiltshire Council’s Health and Safety Section and/or Wiltshire Fire & Rescue Service as the most relevant responsible authorities for guidance. Other organisations such as the Event Safety Advisory Group will be able to offer advice. Contact details for these authorities/groups are available from the licensing authority.

Wiltshire Council promotes the use of community initiatives such as Purple Flag which has been awarded to Salisbury and Chippenham. Wiltshire Council aspires to support similar schemes across the county.

### **3.1 CCTV**

CCTV has a role to play in stopping and deterring crime and anti-social behaviour in certain hotspots and is also used as an evidence and detection tool. However, surveillance cameras should only be used if necessary and proportionate, in addition:

- When considering the use of surveillance camera systems, either as part of the conditions attached to a licence or certificate, or within an operating schedule the licensing authority or applicant must in particular have regard to Code of Practice on CCTV published by the Information Commissioner's Office. Any proposed blanket requirement to attach surveillance camera conditions to a licence or certificate is likely to give rise to concerns about the proportionality of such an approach and will require an appropriately strong justification and must be kept under regular review.
- Applications in relation to licensed premises must take into account the circumstances surrounding that application and whether a requirement to have a surveillance camera system is appropriate in any particular case. For example, it is unlikely that a surveillance camera condition would be justified for a trouble-free community pub. Where a licence or certificate is granted subject to surveillance camera system conditions, it is the responsibility of the licensee to comply with any data protection considerations that may arise from the use of such a system.
- The public must have confidence that surveillance is appropriate and proportionate, and that those who operate the camera systems, or use the images and information they capture, demonstrate integrity in doing so and can be held to account.
- CCTV recordings should be kept for a minimum of 31 days and shared with the licensing authority and Wiltshire Police upon request.

### **3.2 Alcohol consumption**

The council expects all premises licence holders to take steps to control excessive consumption and drunkenness on relevant alcohol licensed premises. This will reduce the risk of anti-social behaviour and violent crime occurring both on and away from the premises after customers have departed. Premises licence holders are expected to be able to demonstrate a general duty of care to customers using their premises and others affected by their activities.

### **3.3 Alcohol harm reduction**

Communities, agencies and businesses are ultimately best placed to identify and deal

with alcohol-related problems in their area. It is important to maximise the benefits of partnership working, focusing and co-ordinating the efforts of local agencies, industry and the voluntary sector in tackling alcohol-related problems. Budgets and expertise can be pooled, providing the right services at the right time, making town centres safer and in doing so encourage more people to enjoy a night out, thus promoting economic growth.

Information is a powerful tool in tackling alcohol-related problems. It is vital to strengthen data sharing within local partnerships, in particular between crime and health agencies and licensing authorities.

The licensing authority will continue to work alongside their partners on a countywide and local level. Groups such as licensing tasking will continue to formulate the basis of partnership work and will have clear aims and objectives to ensure they are fit for purpose. This group will sit within the governance of Wiltshire Community Safety Partnership and will feed into local initiatives such as Pubwatch, Purple Flag, and other new schemes as and when required.

### **3.4 Public health**

The inclusion of the health service as a responsible authority under the Licensing Act 2003, which occurred in 2012, enables health bodies to have a say in alcohol licensing. The Licensing and Public Health teams work together within the council to ensure that the health impacts of alcohol licensing are considered.

As there is not a specific licensing objective related directly to health within the current legislation, health bodies, when making a representation, are most likely to relate such representations to the objectives on public safety and protecting children from harm. This is likely to include the prevention of accidents, injuries and other immediate harms that can result from alcohol consumption, such as unconsciousness or alcohol poisoning. Anonymised data can be collected about incidents relating to specific premises or areas when representations are made.

Health bodies hold valuable information which may not be recorded by other agencies, including analysis of data on attendance at emergency departments and the use of ambulance services following alcohol related incidents. Sometimes it may be possible to link ambulance callouts and attendance to irresponsible practices at specific premises.

The Director of Public Health is responsible for making representations and observations on applications on behalf of health bodies.

### **3.5 Health and safety**

If more than five people are employed, by law the applicant or operating company must have a health and safety policy statement which must be brought to their attention. Employers must also record the results of risk assessments and ensure a robust tailor made

health and safety action plan, is in place for both staff and customers. Applicants should have these documents available at the request of licensing authority or any other responsible authority.

### **3.6 Occupancy limits**

It is recommended that the applicant or operating company assess and set occupancy limits following a risk assessment of the planned activities being carried out at the premises. The licensing authority may set an occupant capacity following representations received in order to meet the licensing objectives. It is recommended that premises assess and set limits appropriate to their premises/event.

### **3.7 Positive campaigns to promote public safety**

The Licensing Authority will actively promote campaigns which help to reduce or remove risks to vulnerable people who visit or work in licensed premises. Examples of this would be the “Ask for Angela” scheme. The scheme aims to reduce sexual violence and vulnerability by providing customers with a non-descript phrase they can use to get the attention of staff members who can help separate them from the company of someone with whom they feel unsafe due to that person's actions, words or behavior . Licensing Officers seek to work closely with landlords to encourage positive engagement with such campaigns and to help promote and explain the importance of keeping the public safe.

## **4.0 Prevention of public nuisance**

Public nuisance is a broad concept, which concerns how the activity of one person (or business) affects the rights of others, for example, how noise from playing music interferes with another person's right to sleep.

The Act requires, and the licensing authority expects, applicants to demonstrate within their operating schedule how they intend to prevent public nuisance arising. This will be of particular importance where there are residential properties in the vicinity of the licensed premises.

When appropriate on application or review the licensing authority will consider the adequacy of proposed measures to remove or effectively manage the potential for public nuisance, anti- social behaviour and other crime which may impact on the promotion of the licensing objectives.

When an operating schedule does not sufficiently address the prevention of public nuisance the licensing authority will consider all reasonable conditions recommended by responsible authorities to prevent public nuisance. In some locations it may be necessary to limit opening hours or the times of other licensable activities.

Where considerations apply to late night refreshment premises, they shall only be taken to apply to their operation between the hours of 11pm and 5am when a premises licence would be required.

Applicants should carefully consider how they intend to promote the prevention of public nuisance objective in their operating schedule. This can include several considerations:

#### **4.1 Odour**

The applicant should consider any odour that maybe emitted from the premises. This can include the generation of odour from food preparation, waste, bottle storage and/or from smoking areas. Steps should be taken or proposed to be taken by the applicant to prevent odour from the premises causing nuisance.

Most commercial kitchens will require a mechanical extraction system, and the type and size will depend on the size of the cooking facility, type of food prepared and type of cooking appliances used. The applicant may need to get advice from specialist air handling engineers about controlling odour from kitchen air extraction systems.

Controlling odour from waste and bottle storage areas is entirely down to good management practice which involves using sealed waste bins big enough to hold all waste, which can be thoroughly cleaned and are regularly emptied.

When designating a smoking area outside it is important to consider who will be affected by the smoke, the possible number of persons using the area and ensuring a facility to safely dispose of lit cigarettes.

#### **4.2 Lighting**

Outdoor artificial lighting is used for a number of reasons, including work, recreation, security, safety, advertising, display and to create a pleasant atmosphere where people gather socially. As many of the premises operating under the Licensing Act will use outdoor lighting late at night, it is important to ensure that it does not become a nuisance to others. Light 'spilling over' onto other property can cause annoyance, distraction and discomfort and may cause driving problems by glaring into drivers' eyes or competing with signs and other traffic signals.

#### **4.3 Waste/litter**

Licensed premises of all types can potentially cause public nuisance from litter and waste. There are a number of laws relating to proper waste collection and disposal, not least of which is the "duty of care" to ensure any waste is properly contained and controlled while in the operator's possession, and that it is collected by a reputable waste carrier. The Licensing Act does not duplicate these laws, but licence holders will need to apply good waste management practice in order to prevent public nuisance.

Uncontrolled litter, waste and street fouling is unsightly and can lead to a negative image of the area. It can cause offensive odour, may attract rats and insects and therefore be a public health risk, it may cause people to slip, trip and injure themselves, and it may harm the reputation of the licence holder's business.

Typical examples of litter, waste and street fouling that may cause problems include take-away packaging and food dropped by customers, wind-blown waste and litter from refuse storage areas, discarded and broken bottles, glasses and cans, promotional leaflets (flyers) and posters, cigarette ends and chewing gum discarded by customers and people who have consumed too much alcohol urinating and vomiting in the street.

#### **4.4 Noise**

Noise can come either directly or indirectly from licensed premises. Direct noise, such as that from entertainment activity, will be under the premises' direct control. Indirect noise, such as that from vehicles and customers coming to and from the premises may not be under direct control, but the premises can strongly influence it. Both direct and indirect noise will be of greater importance between 11pm and 7am. Specific types of noise each need different consideration when reducing their impact on public nuisance.

Small outdoor multiday music festivals (often where camping is also involved) can quickly become a source of public nuisance, organiser's of such events are advised to contact the public protection noise team at an early stage. Organiser's are encourage to employ event management techniques similar to larger scale events to avoid public nuisance, these can include considering the suitability of the location, the geography, limiting amplifier output, duration or direction.

#### **4.5 Entertainment**

Appropriate control measures are needed for premises that operate late at night (after 11pm) and/or have regular entertainment or when the entertainment takes place in the open air or within a marquee. Steps should be taken or proposed to be taken to prevent noise and vibration from entertainment causing nuisance. This may include noise from music, human voices and other forms of entertainment whether amplified or not. Consideration should also be given to ensure noise is not audible at sensitive locations such as dwellings, hospitals, hotels and other business premises. Any noise should also not cause unreasonable disturbance to the wider public, such as passers-by and people using public facilities.

#### **4.6 Disturbance from customers**

Appropriate steps must be taken or proposed to be taken to prevent noise and disturbance from customers causing nuisance and anti-social behaviour. This may include noise and disturbance from customers on the premises and customers in outdoor areas such as terraces, beer gardens and smoking areas. It will also include noise, disturbance and obstruction from customers in the vicinity of the premises including customers

congregating outside premises to smoke or drink, customers arriving, leaving or queuing outside a premises.

Particular consideration now has to be given to the potential for public nuisance arising from outside areas following the implementation of smoke free laws in July 2007. It must be noted that there is no legal requirement for licensed premises to provide an outdoor smoking area. However, Wiltshire Council encourages premises where practical to do so to minimise congestion on pavements.

Noise and disturbance from people outside can cause public nuisance even when those people are not behaving badly. This will be of more significance in areas with residential accommodation and will usually, but not exclusively, be of greater importance between 11pm and 7am. However it must be noted that noise and disturbance from customers out of doors can cause public nuisance outside of these times.

#### **4.7 Plant and equipment**

Steps should be taken or proposed to be taken to prevent noise and vibration from plant or equipment causing nuisance. This includes noise and vibration from ventilation, air conditioning and refrigeration equipment.

#### **4.8 Servicing**

Steps should be taken or proposed to be taken to prevent noise from servicing of the premises causing nuisance. This may include noise from deliveries, collections and the onsite disposal of bottles and other waste or recyclable materials.

#### **4.9 Fly posting, flyers and graffiti**

Steps should be taken to prevent fly posting and litter problems arising from the distribution of flyers advertising the premises or events at the premises. The applicant should endeavour to reduce the use of promotional leaflets and only hand flyers directly to the public. Flyers should not be left on vehicle windscreens. Ensure a litter bin is near to the distribution point and clear discarded flyers afterwards. The applicant should also remove any graffiti and fly posting from their surfaces as soon as it appears.

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

For the purposes of this policy the licensing authority considers anyone under 18 years of age to be a child or young person unless otherwise agreed.

The policy aims to work alongside the principles set out in the Wiltshire Safeguarding Children Board and Wiltshire Children and Young People's Trust revised Multi-Agency Thresholds for Safeguarding Children (can be found by following this link:



<http://www.wiltshirepathways.org.uk>).

The licensing authority expects that, whether or not alcohol is supplied or proposed to be supplied on or in the vicinity of the premises, operating schedules will identify:

- the extent to which it is proposed that children be admitted to the premises;
- whether it is proposed that unaccompanied children will be admitted;
- if they are, the type of regulated entertainment provided whilst children are present;
- The specific steps undertaken to ensure the safety of children and to further ensure that no products or services are sold to children that are not appropriate for their use or consumption.
- That an unaccompanied young person (i.e. somebody under the age of 16 who is not accompanied by a person over the age of 18) must not be allowed into any premises which are "exclusively or primarily used for the supply of alcohol for consumption on the premises".
- That staff are aware of their responsibility to ensure that an adult should not become over intoxicated if accompanied by a young person or child as to inhibit their ability to safeguard that young person.

Whether or not premises with a mixed use are "exclusively or primarily used" is a matter of judgment and will depend upon the particular circumstances of the case. The guidance makes it clear that this does not mean that where the supply of alcohol is not the exclusive or primary use then young people should automatically be given access.

Where it is appropriate and permissible within the law the Licensing Committee should impose conditions that restrict young people from entering all or part of any premises licensed to supply alcohol:

- at certain times of the day and/or;
- when certain licensable activities are taking place and/or;
- where there is an age limitation (over 18);
- unless accompanied by an adult
- where there is a history of crime and disorder
- where the premises are in a high risk area e.g. close to school; in an area with a history of underage sales; in an area with anti-social and criminal behaviour linked to persons under 18.

Applicants, who propose to admit children, particularly where they would not require them to be accompanied by a responsible adult, should be especially careful in ensuring they meet the requirement that their schedule fully and clearly sets out the nature of the activities for which permission is sought. Further, the schedule should specify in sufficient detail the measures and management controls proposed to protect children from

harm.

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

### **5.1 Age verification underage sales on/off premises**

There is now a mandatory condition on all premises licenses (in the case of alcohol supply) to have adequate age verification systems in place. This could be through the use of a Challenge scheme i.e. “challenging anyone who looks under 25 to prove their age by use of an approved means of identification”; such a scheme to be advertised and enforced on the premises.

The licensing authority supports and may condition an appropriate age policy in licensed premises. Licensees will need to demonstrate that their staff receive regular and adequate training on the law and practice relating to age restricted sales (including challenging purchasers and checking identification). The training provided should be properly documented so that there is an adequate audit trail and records are available for inspection.

The following are examples of identification used:

- Passport
- Photo-card driving licence
- PASS card
- Official identity card issued by HM forces

Details of training provided to members of staff to prevent underage sales should be recorded in a log. Additionally, when a retailer does refuse the sale of alcohol this should be recorded in a ‘refused sales log’. These documents should be kept available for inspection by a police officer or authorised officer of the licensing authority.

### **5.2 Proxy sales**

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

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

### **5.3 Children and cinemas/theatres**

The licensing authority will expect licensees or clubs to include in their operating schedules their arrangements for restricting children from viewing age restricted films according to the recommendations of the British Board of Film Classification (BBFC) or the licensing authority itself. In the event that the licensing authority is asked to stipulate an age category for a film, video etc. that has not been dealt with by the BBFC, the licensing sub-committee or its delegated officers may view the film etc. and use the BBFC published guidelines on categorisation as a 'bench mark' in reaching their decision, which will then become a condition.

In considering any application, the licensing authority will take into account any evidence that age restrictions for cinema exhibitions are not being properly observed.

Where performances are for unaccompanied children in theatres and cinemas and relevant representations are received in response to an application/review, the licensing authority may impose conditions requiring an adequate ratio of adult attendants (over 18 years and relevant criminal record check).

#### **5.4 Child Sexual Exploitation (CSE)**

Licensed Premises are often used as a place to exploit and abuse victims of CSE. They provide an ideal environment for the grooming and sexual exploitation of children and young people. As part of the grooming process adults may meet young people or take them to licensed premises, to develop a relationship of trust and make them feel special by giving them 'treats' such as meals or alcohol, or by involving them in adult parties. A premise could be misused for this kind of activity by the people who are socialising or working there.

Under the Licensing Act 2003, premises licence holders and designated premises supervisors have a legal responsibility to make sure that children and young people are protected from harm at their premises.

It is expected that licence holders will take all reasonable steps to promote safeguarding from CSE in their premises. Such steps may include but are not limited to; having a written children and young person's risk assessment to be used in conjunction with the premises operating schedule. It is important for staff to be mindful of areas that are not always supervised or covered by CCTV, for example toilets, beer gardens and play areas. For premises that provide a delivery service (eg a takeaway under a licence for late night refreshment), licence holders should enforce a code of conduct to promote safeguarding when deliveries are made to unaccompanied children.

Staff should be trained on how to recognise indicators of CSE and be confident in their knowledge on how and what to report to the Police.

It is expected that any incidents or suspicions are also recorded by the licence holder or their managers in the premises' incident book if appropriate to do so.

## 6.0 Licensing process

A licensing committee, sub-committee, or licensing officers acting under delegated authority, may carry out the powers of the licensing authority under the Act, in accordance with the council's scheme of delegation.

Many of the licensing procedures are largely administrative with no perceived areas of contention. In the interests of efficiency and effectiveness licensing officers generally carry these out.

The licensing authority ensures that all officers and members who deal with applications have received adequate training for their role under the Licensing Act 2003.

A sub-committee of the licensing authority deals with applications and the review of a licence, where there are relevant representations.

When determining applications the licensing authority has regard to any guidance issued by the relevant government department. In particular, account is taken of the need to encourage and promote live music, dancing and theatre for the wider cultural benefit of the community as a whole. If representations are made concerning the potential for limited disturbance in a particular neighbourhood, the licensing authority's consideration will be balanced against the wider benefits to the community e.g. single or multiple day events at outdoor event arenas in Wiltshire. Any conditions imposed on licences do not seek to discourage such entertainment, but are aimed solely at promoting the licensing objectives.

### 6.1 Application for premises licences and club premises certificates

The licensing authority will expect individual applicants to address the licensing objectives in their operating schedule having regard to the location and type of premises, the licensable activities to be provided, and the operational procedures.

Applicants should make themselves aware of the council's statement of licensing policy, in particular the issues that will need to be addressed in formulating the operating schedule.

Applicants will be encouraged to make themselves aware of any relevant planning policies, tourism, cultural or local crime prevention, alcohol reduction strategies; and to have taken them into account, where appropriate, when formulating their operating schedule.

When determining applications the licensing authority will have regard to Section 182 (of the act) and other relevant guidance issued.

Prospective holders of new premises licences and those seeking variations to existing premises licences are advised to consult with the council's licensing team and the various responsible authorities early in the planning stages in order to reduce the risk of confusion and disputes arising. The licensing authority will endeavour to work in full co-operation with licensees and applicants to minimise the number of disputes that may otherwise arise in

this area.

## 6.2 Licence conditions

Licensing relates to the control of licensed premises, and other events within the terms of the Act. As part of this control, conditions may be attached to licences, and the various other permissions, which focus on matters falling within the control of individual licence holders.

Any conditions will relate to the premises and other places being used for licensable activities, and the impact of those activities in the vicinity. In this regard the licensing authority primarily focuses on the direct impact of any activities taking place on those living, working, or otherwise engaged, in the area concerned.

The licensing function is not a mechanism for the control of anti-social behaviour by individuals once they are beyond the direct control of the licence holder of any premises concerned. Conditions attached to licences must only seek to impact on the behaviour of customers on, or in the immediate vicinity of the premises as they seek to enter or leave.

The licensing authority may impose conditions following a hearing. These conditions must not be disproportionate or over burdensome. The licensing authority does not implement any standard conditions. Conditions may be attached as appropriate given the circumstances of each individual case. Conditions will not be attached where adequate legislative control exists.

## 6.3 Licensing hours

The licensing authority deals with the issue of licensing hours on the individual merits of each application. However, when issuing a licence with hours extending beyond 11pm, higher standards of control generally need to be included in operating schedules in order to promote the licensing objectives, especially for premises, which are situated in, or near, residential areas or in areas where crime and / or anti-social behaviour takes place. There is no presumption within the legislation for longer opening hours.

In considering all licence applications, the licensing authority takes into account the adequacy of the measures proposed to deal with the potential for nuisance and/or public disorder and has regard to all the circumstances of the case.

Where no representations are received an application is approved as applied for. Where a hearing or a review takes place the licensing authority may set an earlier terminal hour where it considers this is appropriate to the nature of the activities and the amenity of the area. In addition the licensing authority may in the case of an application refuse to grant a licence and at a review, revoke an existing licence. Throughout the application process consultation with relevant partners is welcomed and encouraged.

The licensing authority recognises that having fixed and artificially early closing times

in certain areas can lead to peaks of disorder and disturbance on the streets when large numbers of people leave licensed premises at the same time. The licensing authority aims, through the promotion of the licensing objectives, to reduce the potential for concentrations of people and thus achieve a slower dispersal of people from licensed premises through longer opening times when appropriate.

The licensing authority does not seek to adopt fixed terminal hours in designated areas (known as “zoning”), as this can lead to the significant movement of people across boundaries in search of premises opening later.

Shops, stores and supermarkets are generally permitted to sell alcohol for consumption off the premises during their normal trading hours, unless there are exceptional reasons relating to the licensing objectives, in particular the prevention of crime and disorder and public nuisance.

#### **6.4 Permitted temporary activities (TENS)**

The Licensing Act 2003 provides for certain occasions when small-scale events (where no more than 499 people at a time attend and last for up to 168 hours) do not need a licence if advance notice (temporary events notice) is given and no relevant objections are received.

The licensing authority recommends that at least one month’s notice be given to hold these events to allow it to help organisers plan their events safely. Any significantly longer period than this may mean that organisers do not have all the details available at the time of submitting the notice. Any lesser time means that planning may be rushed and haphazard. The minimum legal timescale may be less than this period.

Event organisers are encouraged to make contact for advice at the earliest opportunity when planning their community events. Persons intending to use premises under a TEN are encouraged to discuss their proposals with the community that may be affected before submission.

The police or environmental health may issue an Objection Notice where they consider that any of licensing objectives may be undermined. In such circumstances, the Licensing Sub-Committee will consider the objection by way of a hearing. If the objection notice relates to a “late TENS” a Counter Notice will be issued making the TENS notice invalid.

#### **6.5 Large scale events**

These are events that are temporary but more than 499 people are expected to attend. Much larger crowds may be attracted to large-scale events and the risk to public safety and to crime and disorder, as well as public nuisance, may be considerable. The licensing authority and all other statutory consultees, should be given at the earliest opportunity, notice of such major events to discuss operating schedules with the organiser, prior to a formal application being submitted. It is the responsibility of the event organizer / applicant to provide the licensing authority and all other statutory consultees, at the earliest

opportunity, notice of such major events. This will enable discussion about operating schedules prior to a formal application being submitted.

It is expected that the applicant will consider how their event will take place safely and how it will impact on the surrounding area. For large events such as festivals the licensing authority will expect to receive an event management plan to be submitted with their application for a licence. An event management plan should be a working document to include information which outlines how the premises will be run during the event. Details should be provided of (although not limited to):

- Roles and responsibilities of the event organiser
- Crowd management
- Contractor management
- Electrical, gas and water supply
- Temporary structures
- Fire safety
- Medical and first aid provision
- Site accessibility
- Traffic Management (including blue routes)
- Security staff/stewards/marshalls
- Incident management

The licensing authority requires they are given at least six months' notice to allow for a sufficient lead in time. Failure to consult in sufficient time may result in an objection on the grounds that insufficient time has been allowed to properly assess and consult to ensure that, in particular, public safety is not undermined.

Wiltshire Council has an established Events Safety Advisory Group (ESAG). This includes relevant council officers, representatives of the emergency services and the voluntary first aid sector. ESAG's aim is to advise on safety at public events held throughout Wiltshire, regardless of whether or not a premises licence or a temporary event notice is required. Event organisers are encouraged to make contact with the Licensing team for advice at the earliest opportunity when planning their community events.

## **6.6 Delegation of decision making**

One of the major principles underlying the Licensing Act 2003 is that the licensing functions contained within the Act should be delegated to an appropriate level so as to ensure efficient and cost effective service delivery.

The Act itself requires that applications be granted unless a representation or objection is raised. Where a function is delegated to an officer they will be responsible for liaising with the applicant, interested parties and the responsible authorities to ensure that any licence granted is subject to proportionate and necessary conditions. Where objections/representations are made, the officer will liaise with the applicant, those making the representation and the responsible authorities to see if a settlement is

possible to overcome the representations without the need for the matter to go before the licensing subcommittee. Only where issues are raised which cannot be agreed will the application be referred through to the licensing sub-committee for determination.

Whilst contested licensing applications are quasi-judicial in nature, the licensing subcommittee will try to keep the proceedings as informal as possible. However, some degree of formality is needed to ensure that all parties receive a fair hearing. The procedures are designed to ensure that all parties are able to express their views openly and fairly. The procedure is inquisitorial rather than adversarial and, whilst applicants, individuals and businesses who may be affected, and responsible authorities are entitled to bring legal representation with them if they wish, this is not a requirement.

Whilst the licensing sub-committee usually meets in public, it does have power to hear certain applications in private and to receive legal advice similarly. A decision is made publicly when the matter has been determined.

The licensing sub-committee will determine each case on its individual merits whilst taking into consideration the terms of this policy document. Where the licensing subcommittee determines that it is appropriate to attach conditions to a licence or certificate it will ensure that those conditions are focused on the direct impact of the activities taking place at the premises concerned. Such conditions will be proportionate to the activity to be controlled and will only be imposed in the interests of the licensing objectives.

The licensing authority will expect the applicant to have had due regard to the contents of this policy and the attached appendices that provide guidance only.

A decision of the licensing authority can be the subject of an appeal at the magistrates' court. As a consequence the licensing authority will record full reasons for any decision(s) made. The refusal of an application does not prevent a further application being made, but the licensing authority would expect the applicant to carefully consider the issues of concern before doing so.

## **6.7 Application for personal licences**

The police and Home Office Immigration will have the right to object to a person applying for a personal licence if that person has a relevant unspent conviction (at the time of application) or if they obtain a relevant conviction during the application period of their licence.

An individual may seek a personal licence regardless of whether or not they have current employment or business interests associated with the use of the licence. Applications cannot be made in the name of a corporate body.

The licensing authority must grant a personal licence if the applicant:



- is aged 18 years or over
- is in possession of a relevant licensing qualification or is a person of a prescribed description
- has not forfeited a personal licence in the previous five years, beginning with the day the application was made
- has not been convicted of any relevant offence under Schedule 4 of the Act, or a foreign offence
- has paid the appropriate fee to the licensing authority.

Applicants with unspent criminal convictions for the relevant offences set out in the Licensing Act 2003 are encouraged to first discuss their intended application with the police and licensing authority before making an application.

In order to substantiate whether or not an applicant has a conviction for an unspent relevant offence, applicants will be required to produce a relevant criminal record office basic disclosure certificate, with the application form, together with a signed disclosure form by them.

The licensing authority and police may arrange a joint interview with a prospective personal licence holder(s) to discuss the circumstances surrounding their conviction(s). Ultimately, the police may be minded to object to the grant of the personal licence. In these circumstances, the applicant is entitled to a hearing before the licensing sub-committee. The application will be refused, based on the police's objection, if the licensing authority considers it appropriate for the crime prevention objective to do so.

Wiltshire licensing authority will be the 'relevant licensing authority' for all personal licences, regardless of the subsequent place of residence of the holder. It will maintain all notified changes of address on its database.

## **6.8 Delegation to premises supervisors**

The designated premises supervisor need not be physically on the premises at all times when there is a supply or sale of alcohol but the licensing authority expects that there will be an appropriate authorisation system in place in line with the Section 182 (or other) guidance regarding the sale of alcohol at the licensed premises.

Where a designated premises supervisor is to be newly specified, the premises licence holder will apply to the licensing authority (including an application for immediate effect) and show that the individual concerned consents to taking on this responsible role, and notify the police of the application.

The police are able to object to the designation of a new premises supervisor where in exceptional circumstances, they believe the appointment would undermine the crime prevention objective. Similarly, the police are able to object where a designated premises supervisor is first appointed or transfers to a particular premises, and this combination

gives rise to exceptional concerns; such as where a personal licence holder who has been allowed by the courts to retain their licence, despite convictions for selling alcohol to minors transfers to premises which has a degree of notoriety for underage drinking.

The Act provides that the applicant may apply for the individual to take up the post of designated premises supervisor immediately, and in such cases the issue would be whether the individual should be removed. The licensing sub-committee considering the matter must confine their consideration to the issue of crime and disorder. They will give comprehensive reasons for their decision and either party would be entitled to appeal if their argument is rejected.

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## 7.0 Enforcement

The licensing authority will seek to work actively with the police in enforcing licensing legislation. It expects the police (subject to public interest immunity) to share relevant information about licensees and licensed premises under the Crime and Disorder Act 1998 and its common law powers, and to consult closely with the licensing authority when any enforcement action may be required. A joint enforcement protocol is in place with the police and other statutory agencies. These protocols provide for the targeting of agreed problem and high risk premises, but with a lighter touch being applied to those premises which are shown to be well managed and maintained.

The licensing authority have a well-established licensing forum 'Licensing Tasking' for the representatives of relevant organisations to meet on a regular basis to discuss licensing matters related to the four licensing objectives.

The licensing authority recognises that balancing the interests of owners, employees, customers and neighbours of pubs, clubs and off-licences will not always be straightforward, but it will always have regard to the licensing objectives.

The licensing authority will promote 'good practice' in relation to the operation of licensed premises. It will work closely with stakeholders so as to achieve on-going improvements in standards over reasonable periods of time, in the belief that this is in the long term interests of owners, operators, employees, customers and neighbours alike.

In general, action is taken in accordance with agreed enforcement principles and in line with the enforcement policies of the licensing authority and all responsible authorities. The key principles of consistency, transparency and proportionality are acknowledged. Any government advice or requirement in relation to enforcement will be taken into account.

A graduated response is affected where there is evidence of contravention of licensing legislation or licence conditions. Whilst an isolated or minor breach might be dealt with by way of an oral or written warning, more serious breaches and consistent lower level pattern of continued problems are likely to attract prosecution and/or a review of the licence.

Where contraventions or concerns as to compliance with regulations enforced by other agencies are identified during enforcement activities, these matters will be reported to the relevant agency. Complaints against licensed premises, allegations of unlicensed activities, and the breach of licence conditions will be investigated by Public Protection Officers

The licensing authority will refer to the Public Protection Enforcement Policy when considering enforcement. This policy is reviewed every two years and can be found on the council's website: [www.wiltshire.gov.uk](http://www.wiltshire.gov.uk).

Under the Licensing Act 2003 as amended by the Police Reform and Social Responsibility

Act 2011 the licensing authority must suspend a premises licence or club premises certificate if the holder has failed to pay the authority the annual fee. This does not apply if the failure to pay the fee when it was due was because of administrative error or the holder informed the authority in writing at or before the fee was due that they were disputing liability.

## **7.1 Inspection of licensed premises**

The licensing authority aim to inspect premises on a risk based approach to secure compliance with the Licensing Act and to promote the licensing objectives.

Authorised officers will have the discretion as to which premises require a 'during performance' inspection and the frequency when they are undertaken. Where appropriate, joint visits will take place encompassing a number of relevant agencies.

Licensed premises will be risk-rated by the licensing authority so as to develop a proportionate and targeted inspection program.

## **7.2 Complaints regarding licensed premises**

The licensing authority will investigate or refer to other relevant agencies/council services complaints received against licensed premises where appropriate, normally providing that the complainant's personal details and the nature of the issue(s) must be provided from the outset. For certain matters the complainant may be encouraged to raise the issue of concern directly with the licensee.

In exceptional circumstances the personal details referred to above may not be required, whilst the facts of the complaint are referred onto the police.

## **7.3 Reviews of licences**

The Act sets out the arrangements to enable a review of a premises licence where it is alleged that the licensing objectives are not being promoted. This arrangement will follow an application from a responsible authority or any other person. The Section 182 guidance will be used to ensure that all matters for review are considered appropriately. The process shall not be subject to abuse by disaffected parties. Matters for consideration must be relevant, and not vexatious, frivolous or repetitious. However, matters involving the following may be considered as serious shortcomings by the licensing sub-committee at their hearings:

- use of licensed premises for the sale and distribution of Class A drugs and/or the laundering of the proceeds of drug crimes
- use of licensed premises for the sale and/or distribution of firearms
- evasion of copyright in respect of "pirated" films and music
- underage purchase and/or consumption of alcohol
- use of licensed premises for prostitution or the sale of unlawful pornography

- use of licensed premises for unlawful gaming
- use of licensed premises as a base for organised criminal activity
- the closure of the premises by a senior police officer, or an environmental health officer due to noise nuisance
- use of licensed premises for the organisation of racist, homophobic or sexual abuse or attacks
- use of licensed premises for the sale of smuggled tobacco or goods
- the use of licensed premises for the sale of stolen goods
- where the police are frequently called to attend to incidents of disorder
- prolonged and/or repeated instances of public nuisance
- where serious risks to public safety have been identified, and the management is unable or unwilling to correct those
- where serious risks to children have been identified e.g. repeat underage sales
- significant or repetitive breaches of licence conditions/licensing law
- failure to act on previous warnings/advice/uncooperative attitude towards authorised officers.

In a hearing to determine an application for a licence or consider a review application, the overriding principle adopted by the licensing authority is that each application will be considered on its own individual merits. Licence conditions applied at such a hearing will be tailored to the individual premises and activities and only those necessary to meet the licensing objectives will be applied.

Upon review of a premises licence, the licensing authority must, having regard to the application for review and any relevant representations, take such steps as it considers necessary for the promotion of the licensing objectives. Such steps might be:

- the modification of the conditions of the licence
- the exclusion of a licensable activity from the scope of the licence
- the removal of the designated premises supervisor
- the suspension of the licence for a period not exceeding three months
- the revocation of the licence.

#### **7.4 Other powers and legislation**

A senior police officer, of the rank of superintendent or higher, or an inspector of weights and measures, may issue a closure notice where there is evidence that a person has committed the new offence of persistently selling alcohol to children at the premises in question, and he considers that the evidence is such that there would be a realistic prospect of conviction if the offender was prosecuted for it. A closure notice will prohibit sales of alcohol at the premises in question for a period not exceeding 48 hours; and will offer the opportunity to discharge all criminal liability in respect of the alleged offence by the acceptance of the prohibition proposed in the notice. The premises licence holder will have fourteen days to decide whether or not to accept the proposed prohibition or to elect to be tried for the offence. Where the licence holder decides to accept the prohibition, it must

take effect not less than fourteen days after the date on which the notice was served at a time specified in the closure notice. Closure notices may be served by police officers, trading standards officers and community support officers.

Anti-Social Behaviour Act 2003 permits an authorised officer acting on behalf of the council, to require the immediate closure, for a period of up to 24 hours of any licensed premises if it is considered that noise emanating from within its curtilage is causing a public noise nuisance. The 'test' is a lesser one than required to determine a statutory noise nuisance and the statutory defence of 'best practicable means' is not available.

The licensing authority also recognises that there are other tools and powers at their, and their partner agencies', disposal. All powers are subject to change and amendments, in particular by the Anti-Social Behaviour, Crime and Policing Act 2014. More details can be made available on request to the licensing authority.

Other statutory requirements and opportunities for control, for example relating to planning, building regulations, fire safety, nuisance and health and safety, may apply to the provision of any regulated activities at a premises and the responsibility for compliance lies with the licence holder. Advice may be obtained from the appropriate enforcing authority or from the licensing authority's Licensing Officers.

In general, premises referred to in an application for a licence or certificate should have planning permission granted for that use and be compliant with, or have arrangements in place to be compliant with any conditions attached to the planning permission. It is however recognised that licensing applications should not be a re-run of a planning application and the two regimes are entirely separate.

The licensing team will liaise with the relevant planning authority as appropriate.

The Immigration Act 2016 amends the Licensing Act 2003 to provide Immigration Officers enforcement powers. An Immigration Officer will be able to issue an "illegal working closure notice" for up to 48 hours if he or she is satisfied, on reasonable grounds, that an employer operating at the premises is employing a person who does not have the correct work status.

The closure notice prohibits access to the premises unless authorised in writing by the immigration officer.

An application to the Court for a compliance order must be made by the immigration officer and heard within 48hrs after service of the closure notice. The Court may issue the compliance order if satisfied, on the balance of probabilities, that an illegal worker was working on the premises and that it is necessary to make the order to prevent the employer at the premises from employing illegal workers.

The Court can make an order which includes, prohibiting the access to the premises; requiring right to work checks to be carried out; requiring right to work documents to be

produced and specifying times for an immigration officer to enter the premises. A compliance order can have effect for a maximum of 12 months, but the immigration officer may apply for this to be extended.

The Court will notify the licensing authority of the order and the licensing authority must then review the premises licence.

If an offence is committed in relation to the compliance order, the court can impose a prison sentence for up to 51 weeks or a fine.

The licensing authority will have regard to the European Convention on Human Rights particularly:

- Article 6- entitlement to a fair and public hearing within a reasonable time by an independent and impartial tribunal and
- Article 8 - the right to respect for home and private life; and
- Article 1 of the First Protocol - that every person is entitled to the peaceful enjoyment of their possessions, as they may interface with the licensing objectives.

## 8.0 Other licensing authority powers

### 8.1 Cumulative impact policy

In the Secretary of State's Section 182 guidance on the Licensing Act 2003, 'Cumulative Impact' is defined as 'the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area'. The number, type and density of licensed premises within an area may be such as to give rise to serious problems of crime, disorder and/or public nuisance.

The locality within which licensed premises are, or may be, located is a major consideration in determining whether a licence should be granted and what conditions should be attached to it. Primary consideration will be given to the direct impact of the licensed activity on those living, working or enjoying the local environment.

Licensing law is not a mechanism for the general control of any anti-social behaviour being displayed by patrons once they have left the curtilage of the licensed premises. Other more specific legislation should be used. However when issues can be linked to customers from a particular premise or area then the licensing authority may consider it relevant to the licensing framework.

In some areas there may be concentrated numbers of licensed premises that can lead to problems with the licensing objectives in the area itself or even some distance away. In such circumstances the impact of those premises when taken as a whole can be far greater than that arising from individual premises. It may not be possible to distinguish individual premises as being the sole cause, or even a major contributory factor to, a particular problem; it is the cumulative impact of all the premises that causes problems for a wider area.

All applications will be considered on their own merits, and no restriction of numbers will be imposed by this policy.

However the licensing authority may receive representations from a responsible authority or an interested party that the cumulative impact of the existing licensed premises or the granting of new licences will lead to an area becoming 'saturated' to the detriment of the locality because of impact on the licensing objectives over and above the impact of the individual premises. In these circumstances the licensing authority may consider that it needs to have a special policy in place.

### 8.2 Late night levy

Following the introduction of the Police Reform and Social Responsibility Act 2011 the licensing authority may introduce a late night levy. The levy would relate to a late night supply period which begins at or after midnight and ends at or before 6am. Any premises which are not subject to an exemption who supply alcohol during the supply period on any



night of the year would be required to pay the late night levy, the level of which is based on rateable value.

After a night out, members of the public will often migrate to premises offering late night refreshment on their way home. The culmination of over-intoxicated people in a small space often leads to public nuisance from people fighting, shouting and dropping litter. Under the Policing and Crime Act 2017, the government can implement legislation to bring late night food venues into the scope of late night levies. Late night levies are a means through which local councils and police forces can raise funds to help pay for additional enforcement required to deal with increased public nuisance around these premises.

The late night levy will not be introduced without the required consultation as detailed in the legislation and accompanying guidance.

### **8.3 Early morning restriction order (EMRO)**

Following the introduction of the Police Reform and Social Responsibility Act 2011, if the licensing authority considers it appropriate for the promotion of the licensing objectives they can make an early morning alcohol restriction order.

An order would mean that any premises licence, club premises certificate or temporary event notice that authorises the sale of alcohol during the period specified in the order would not have effect. The period specified must begin no earlier than midnight and end no later than 6am.

## **9.0 Links to strategies and plans**

The Wiltshire Community Safety Partnership is a statutory partnership, which includes a number of local partners. Together the partnership oversees the development of various Wiltshire strategies, in particular:

- Wiltshire Drug Strategy
- Wiltshire Alcohol Strategy
- Wiltshire Children and Young People's Substance Misuse Strategy
- Wiltshire Anti- Social Behaviour Strategy
- Wiltshire Violent Crime Strategy
- Wiltshire Domestic Abuse Strategy.

To obtain a copy of any of these documents please contact the licensing authority.

## **10.0 Further advice and guidance**

Can be obtained from Wiltshire Council's Licensing Team and on the licensing pages of the council's website.

[www.wiltshire.gov.uk](http://www.wiltshire.gov.uk)

Government information on the Licensing Act 2003 and other relevant legislation is available on:

[www.gov.uk/government/organisations/home-office](http://www.gov.uk/government/organisations/home-office)

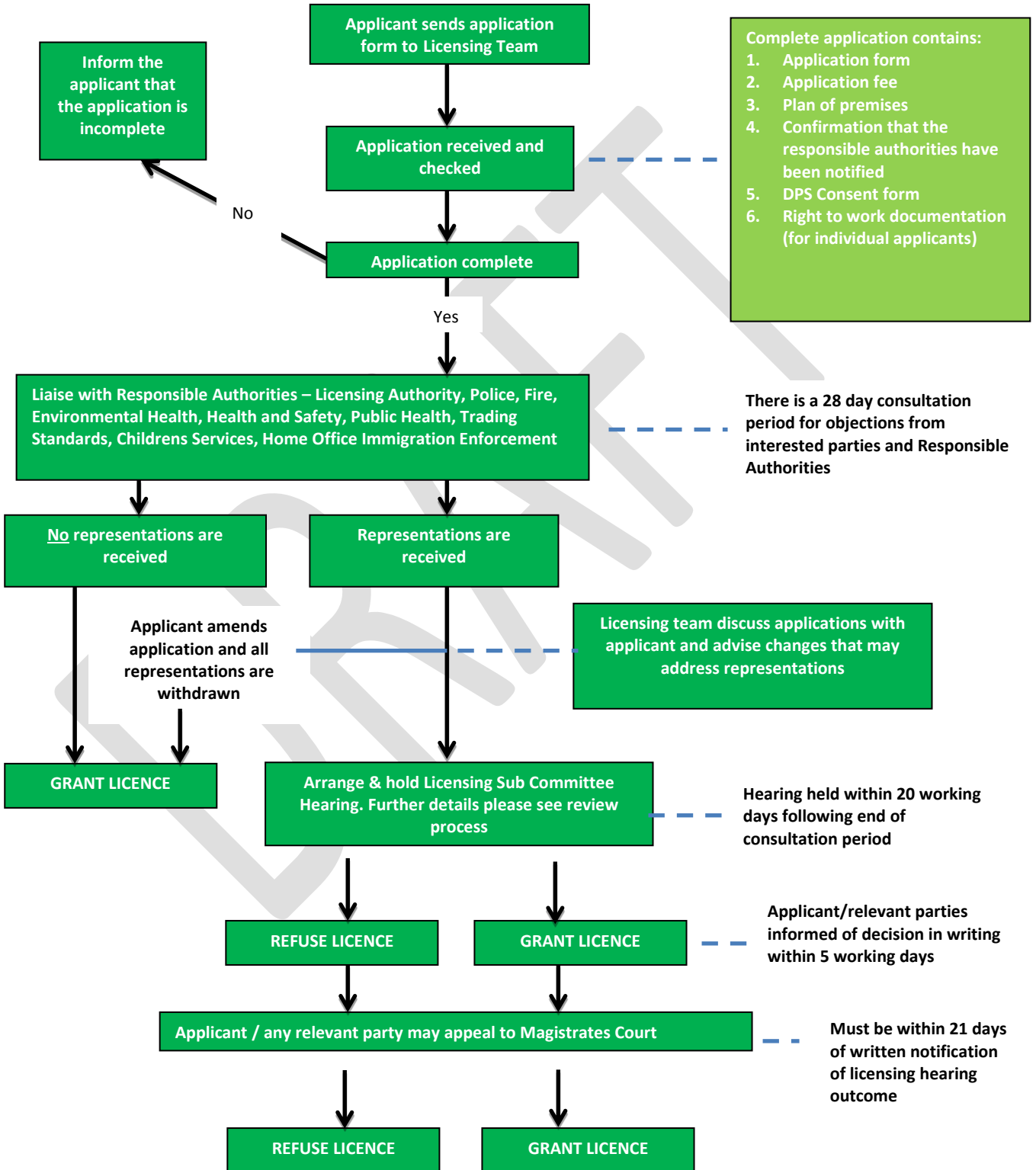
NHS guidance on Units of alcohol and recommended drinking levels:

<http://www.nhs.uk/Livewell/alcohol/Pages/Alcoholhome.aspx>

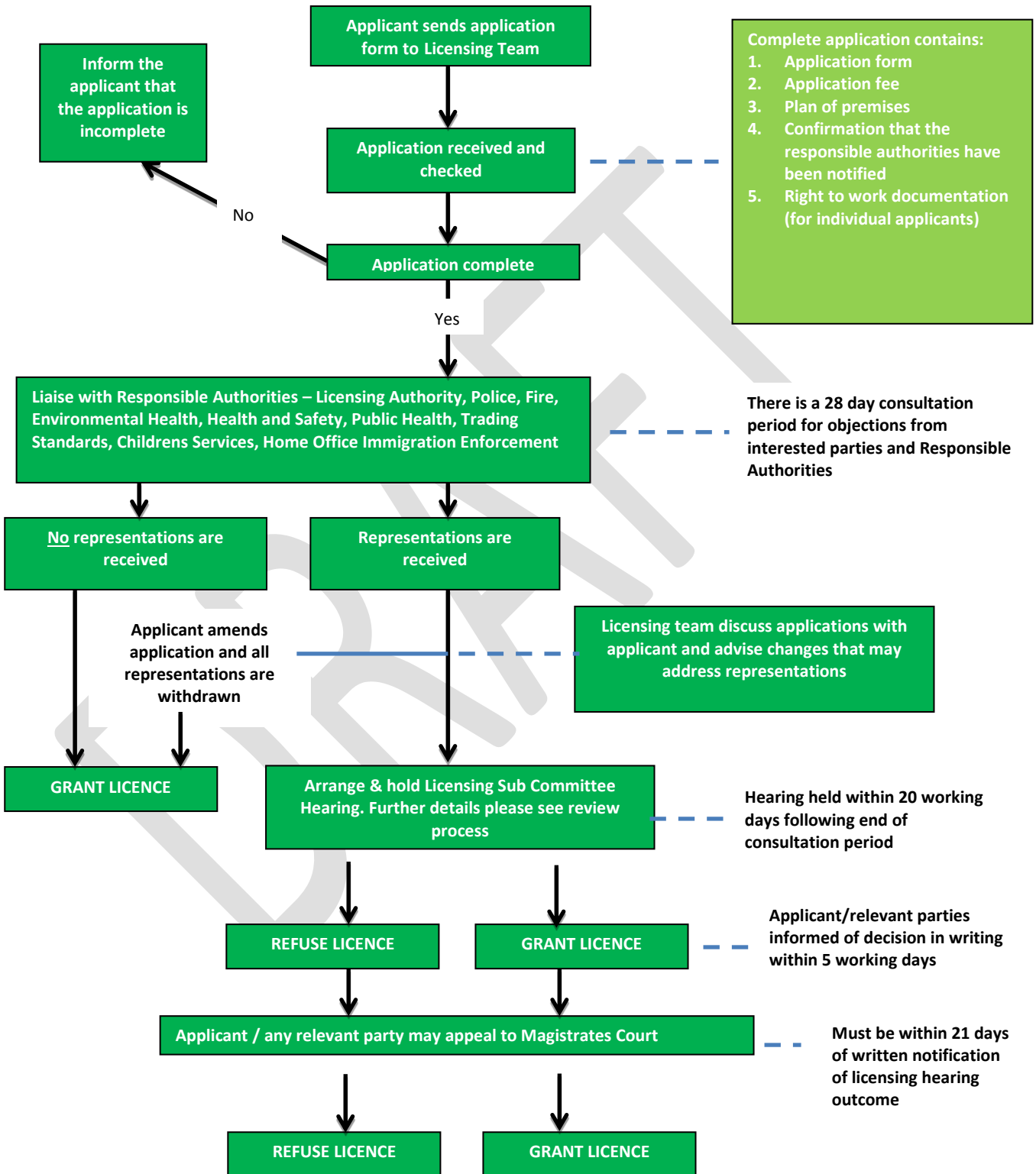
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# 11.0 Appendices

## APPENDIX A – Premises Licence – New Applications

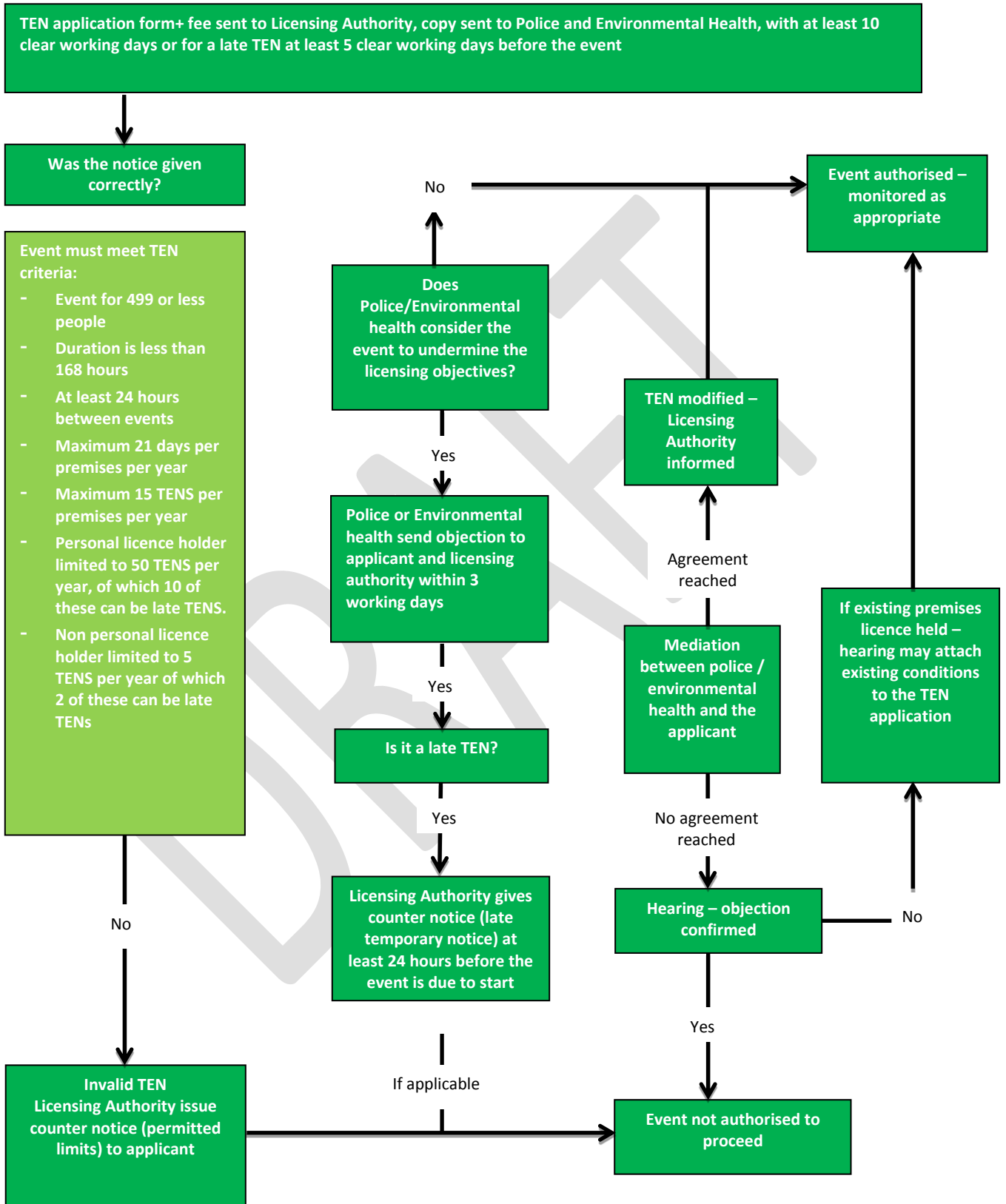


**APPENDIX B – Premise Licence – Variations**

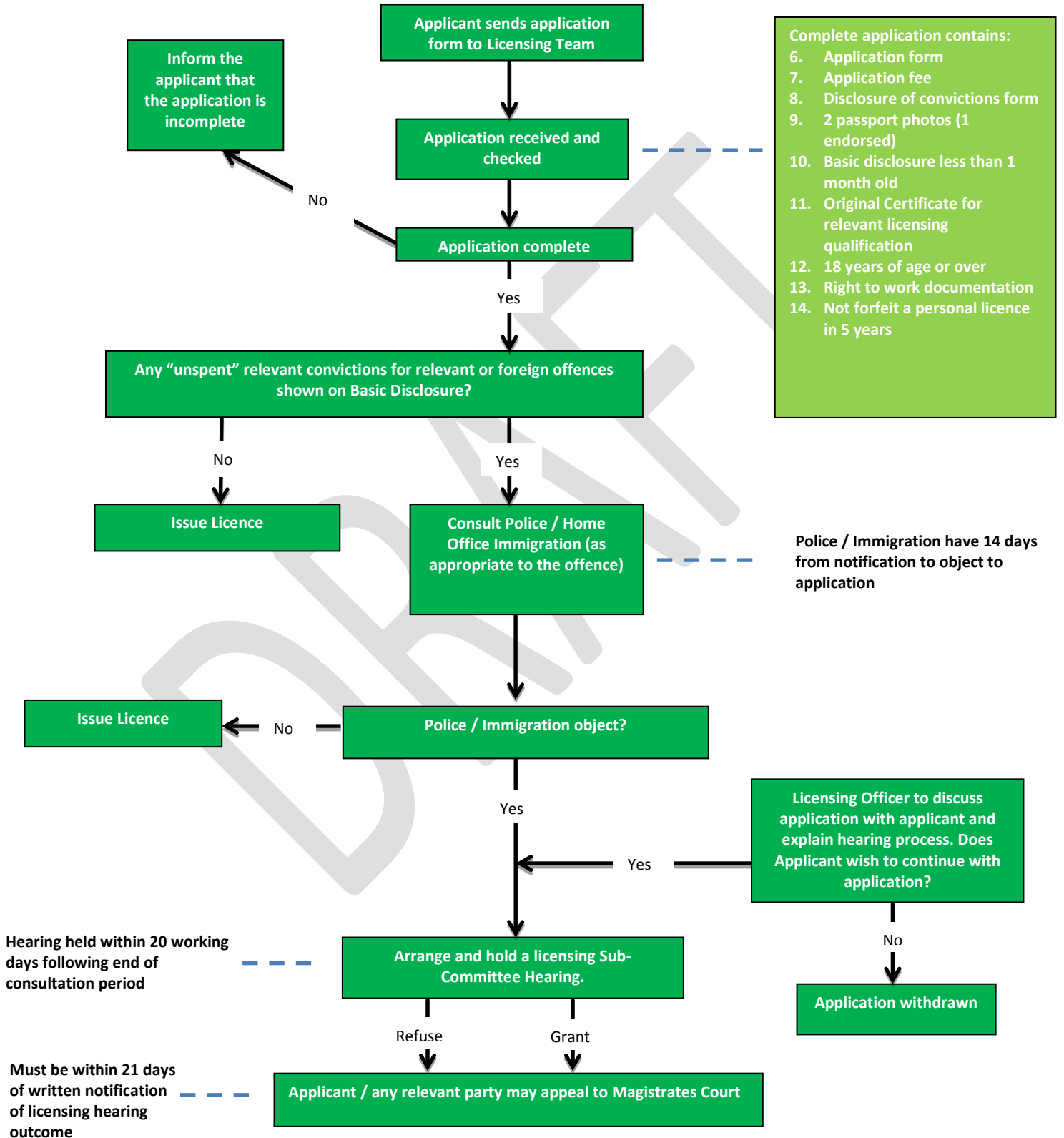


If the request is to substantially change the original licence – a new application must be submitted. Variations of name, address or DPS are covered by a separate process.

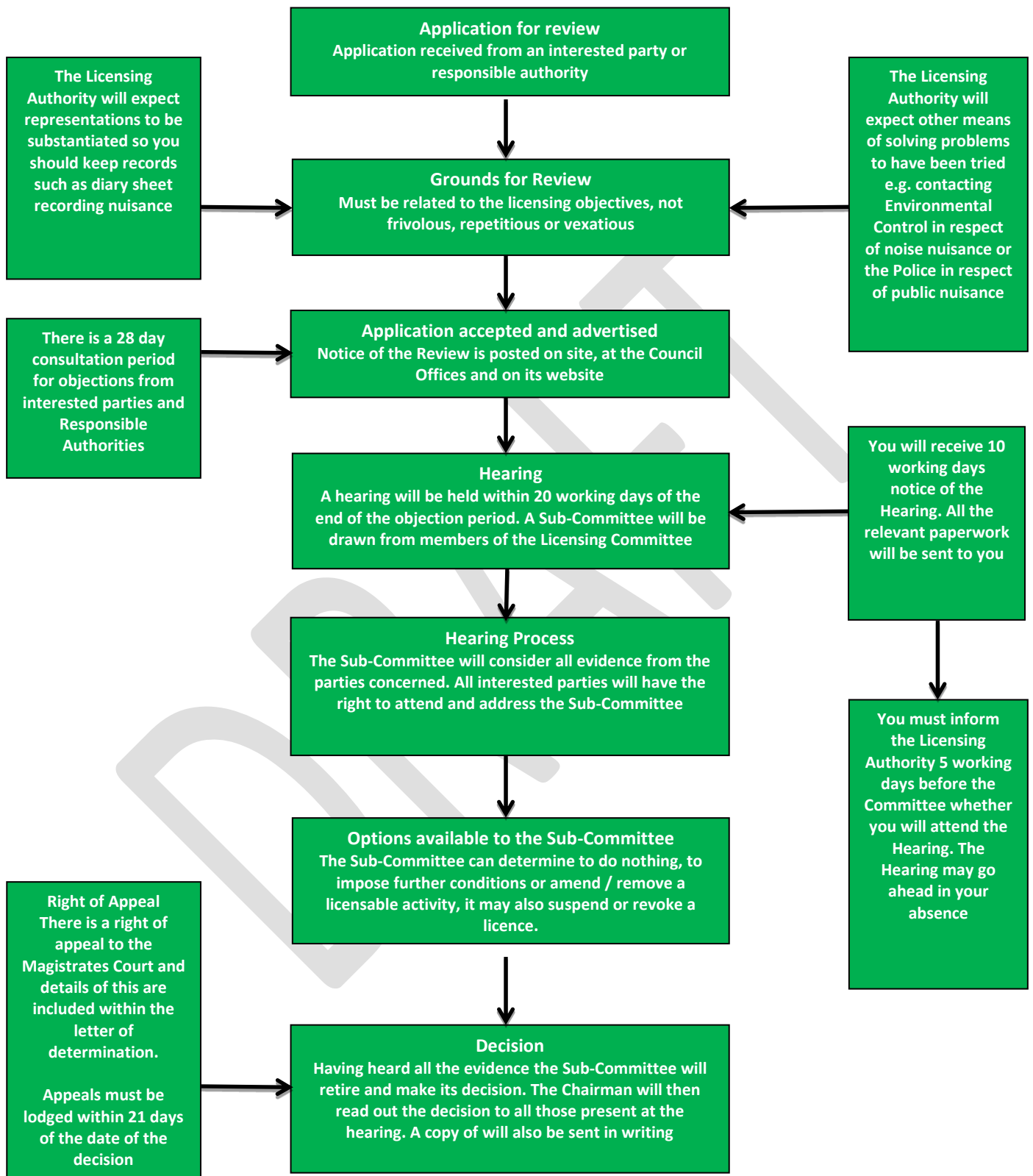
**APPENDIX C – Temporary Event Notice**



**APPENDIX D – Personal Licence – New Applications**



## APPENDIX E – Review Process for Licensed Premises and Club Premises Certificates



## **APPENDIX F – The Legislation Reform (Entertainment Licensing) Order 2014**

In April 2015 the Legislation Reform Order was introduced to remove the regulatory burden of the Licensing Act 2003 so that certain entertainment activities in defined circumstances no longer require a licensing authority to have granted an authorisation before they can take place. As such the Licensing Act 2003 was amended to deregulate the following entertainment:

### **Live music in relevant alcohol licensed premises and workplaces**

The audience limit for a performance of live amplified music in relevant alcohol licensed premises or in a workplace between 08.00-23.00 on the same day will be raised from 200 to 500.

### **Recorded music in relevant alcohol licensed premises**

Any playing of recorded music in relevant alcohol licensed premises will be deregulated (on a conditional basis) when it takes place between 08:00-23:00 on the same day for audiences of up to 500.

### **Live and recorded music exemptions**

- Local authorities, health care providers and schools will be exempt from entertainment licensing when making their own defined premises available to third parties for live and recorded music activities between 08:00-23:00 on the same day for audiences of up to 500.
- Community premises not licensed to supply alcohol will be exempt from entertainment licensing requirements for live and recorded music between 08:00-23:00 on the same day for audiences of up to 500

### **Travelling circuses**

Travelling circuses will be exempt from entertainment licensing in respect of all descriptions of entertainment, except an exhibition of a film or a boxing or wrestling entertainment, where the entertainment or sport takes place between 08:00-23:00 on the same day, with no audience limit.

### **Greco-Roman and freestyle wrestling**

Greco-Roman and freestyle wrestling will be deregulated between 08:00-23:00 for audiences of up to 1000 people.

### **Cross-activity exemption**

The provision of regulated entertainment by or on behalf of local authorities, health care providers, or schools on their own defined premises will be exempt from entertainment licensing between 08.00-23.00 on the same day, with no audience limit.

A licence to sell or supply alcohol would still be required, and any controls in place in relation to the alcohol licence would remain. Furthermore, the exemptions will not extend to adult entertainment. The background and policy position on adult entertainment was set out in the 2011 consultation, and there was a strong consensus in the consultation responses that existing restrictions on sexual entertainment should be maintained.



## APPENDIX G – Live Music Act 2012

The Live Music Act took effect from 1 October 2012, and since 6th April 2015 now applies to recorded music, and covers larger audiences.

The Act disapplies live music related conditions if the following criteria are satisfied:

- There is a premises licence or club premises certificate in place permitting 'on sales';
- The premises are open for the sale or supply of alcohol for consumption on the premises;
- Live or recorded music is taking place between 8am and 11pm;
- If the live music is amplified or recorded, the audience consists of no more than 200 people

Live music also ceases to be classed as regulated entertainment under the Licensing Act 2003 if the above criteria are satisfied.

"Live Music" includes vocal and instrumental music and also karaoke singing. Pre-recorded videos played on karaoke machines are likely to require authorisation for "Films" but if only the words to the song are displayed then no authorisation is required.

The Act also creates a general exemption that live unamplified music provided anywhere shall not be regarded as the provision of regulated entertainment under the Licensing Act 2003 if it takes place between 8am and 11pm, regardless of the number of people in the audience.

There are a number of mechanisms for the protection of residents and these are:

- Upon a review of the premises licence the Licensing Authority can determine that conditions on the premises licence relating to live or recorded music will apply even between 8am and 11pm;
- If the Premises Licence doesn't presently authorise live or recorded music the Licensing Authority can add conditions to the Premises Licence as though the live or recorded music were regulated entertainment authorised by that Premises Licence, again to apply between 8am and 11pm
- The Licensing Authority can determine that live or recorded music at the premises is a licensable activity and live or recorded music can no longer be provided without permission on the Premises Licence or a Temporary Event Notice
- Other noise legislation, for example in the Environmental Protection Act 1990, will continue to apply. The Live Music Act does not allow licensed premises to cause a noise nuisance

The Live Music Act removed the need to licence entertainment facilities completely - regardless of time or audience size. This means that dance floors, microphone stands, pianos made available for use by the public etc. will not be licensable once the Act comes into effect. Health & safety law will of course continue to apply.

The Live Music Act does not remove the requirement for permission to play live and recorded music from PPL PPR.

## **APPENDIX H – Glossary**

The following comprises a glossary of terminology used within the statement of licensing policy. Terms defined at length within the Licensing Act 2003 have generally not been included.

### **Alcohol harm reduction strategy**

A strategy issued by the Government aimed at identifying initiatives and priorities, which may help in the promotion of the licensing objectives.

### **Appropriate representations**

See 'Relevant Representation'.

### **Basic disclosure check**

The Criminal Records Bureau (CRB) and the Independent Safeguarding Authority (ISA) have merged to become the Disclosure and Barring Service (DBS). CRB checks are now called DBS checks. A DBS check may be needed for certain jobs or voluntary work particularly when working with children.

### **Club premises certificate**

A certificate authorising the use of premises by a qualifying club for one or more club activities.

### **Crime and Disorder Reduction Partnership**

A partnership comprising relevant sections of the council, the police and other interested parties, established to develop a strategy for the reduction of crime and disorder in the area.

### **Cumulative impact**

The potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area.

### **Designated premises supervisor**

The individual specified in the premises licence as the premises supervisor.

### **High volume vertical drinking establishments**

A licensed premise that targets, persons wishing to consume a number of drinks, often with minimal seating to maximise room for customers.

### **LACORS/TSI code of best practice on test purchasing**

The Code of Best Practice on Test Purchasing issued by the Local Authorities Co-ordinators of Regulatory Services (LACORS) and the Trading Standards Institute (TSI). The code gives guidance as to the test purchasing of alcohol by trading standards officers.

### **Licensing committee**

The committee established by the licensing authority to discharge the licensing functions of the

authority.

### **Licensing hours**

The hours during which authorised licensable activities, take place.

### **Licensing tasking**

A Wiltshire based multi-agency meeting where premises causing issues are raised, discussed and actions decided.

### **Natural justice**

In English Law this is the technical term for a rule against bias and the right to a fair hearing.

### **Operating schedule**

A prescribed document which must accompany any application for a premises licence or a club premises certificate, setting out the nature of the proposed licensable activities, the proposed trading hours, and the steps envisaged promoting the licensing objectives, amongst other things.

### **Personal licence**

A licence which authorises an individual to supply or authorise the supply of alcohol in accordance with the premises licence.

### **Premises licence**

A licence authorising premises to be used for one or more licensable activities.

### **Proportionality**

The principle under which, in the licensing context, only appropriate conditions can be imposed on licensable activities, taking specific account of the size, style, and characteristics of such activities taking place at the premises concerned.

### **Pubwatch scheme**

An agreement reached by a group of licence-holders in a particular locality to counter, on a collective basis, those who threaten damage, disorder, and violence or use or deal in drugs in their premises. Normally, action consists of agreeing not to admit or serve individuals who cause such problems.

### **Purple Flag**

Purple Flag is the “gold standard” for town centres at night, it aims to raise standards and improve the quality of our towns and cities between 5pm and 5am.

### **Qualification approved by DCMS**

A licensing qualification accredited by the Secretary of State.

### **Quasi-judicial**

Is an entity or a function, generally of a public administrative agency, which has powers and procedures resembling those of a court of law or judge, and which is obligated to objectively determine facts and draw conclusions from them so as to provide the basis of an official action.

### **Relevant offence**

Any offence listed in Schedule 4 of the Licensing Act 2003.

### **Relevant representation**

A representation regarding the likely effect of the grant of a licence on the promotion of one or more of the licensing objectives.

### **Responsible authorities**

The public bodies that must be fully notified of applications and that are entitled to make relevant representations to the licensing authority in relation to the grant, variation or review of a premises licence. These include as at 1 April 2014:

- the chief officer of police
- the local fire and rescue authority
- the local authority with responsibility for public health
- the local enforcement agency for the Health and Safety at Work etc. Act 1974
- the local authority with responsibility for environmental health
- the local planning authority
- a body that represents those who are responsible for or interested in matters relating to the protection of children from harm
- the local weights and measures authority (trading standards)
- the relevant licensing authority and any other licensing authority, in whose area part of the premises are situated.

### **Safer clubbing**

Guidance issued by the Home Office giving advice to nightclub owners, dance event promoters and local authority licensing departments on how to ensure the health and safety of persons attending dance events.

### **Special policy**

A policy setting up a rebuttable presumption that applications for new premises licences or club premises certificates will normally be refused whenever relevant representations are received as to the cumulative impact on the licensing objectives.

### **Terminal hours**

The times at which authorised licensable activities should cease.

### **Zoning**

The adoption of fixed terminal hours in designated areas.

February 2019

## Statement of Licensing Policy – Summary of changes

<b>Section</b>	<b>Title</b>	<b>Comment</b>
2.6	Drugs in premises	Updated to include Psychoactive Substances Act
2.7	Immigration and modern slavery	New section
3.0	Promotion of public safety	Updated to include Chippenham in Purple Flag
3.7	Positive campaigns to promote public safety	New section
5.4	Child Sexual Exploitation in licensed premises	New section
6.5	Large Scale Events	Updated to include event management plans
6.7	Personal licences	Updated to include Home Office Immigration responsibilities. Removal of ten year expiry date
7.4	Other powers and legislation	Updated to include Home Office Immigration powers.
8.2	Late Night Levy	Updated to include additions made by Policing & Crime Act 2017
Appendix A	Premises licence – New Application	Updated to include Home Office Immigration as a responsible authority. Updated to include right to work documents to application requirements
Appendix B	Premises licence – Variations	Updated to include Home Office Immigration as a responsible authority. Updated to include right to work documents to application requirements
Appendix C	Temporary Event Notice	Updated to change permitted number of TENs at a premises from 12 to 15 per year
Appendix D	Personal Licence – New Application	New Section
Appendix F	The Legislative Reform (Entertainment Licensing) Order 2014	New Section
Appendix G	Live Music Act 2012	New Section

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**Wiltshire Council**

**Environment Select Committee**

**8 January 2019**

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## **Final Report of the Late-night Taxi Fares Task Group**

### **Purpose**

1. To present the findings and recommendations of the Late-night Taxi Fares Task Group for endorsement and referral to the Cabinet Member for Adult Social Care, Public Health and Public Protection.

### **Background**

2. The Task Group was established by Environment Select Committee on 26 June 2018. This followed a request from the Cabinet Member for Adult Social Care, Public Health and Public Protection for a scrutiny review of the current schedule of late-night tariffs for Hackney Carriages as adopted by the Licensing Committee in 2014.
3. The current tariff schedule has been adopted across the current four hackney carriage zones. These zones are North, South, East and West and are based on the previous district council areas. The tariff schedule was approved by the Licensing Committee in 2014 having considered the findings of a consultation on the introduction of a single charging zone and one table of fares to apply throughout all four zones. This was implemented as part of the council's plan at the time to harmonise hackney carriage and private hire licence guidelines and hackney carriage tariffs across the county.
4. In requesting the scrutiny review, the Cabinet Member reported that:
  - A number of complaints had been received regarding the charging of high late-night fares (tariffs 4 and 5) in the Salisbury area and the alleged detrimental effect this might be having on Salisbury's night time economy (NTE).
  - Anecdotally, these incidences often related to military personnel returning from Salisbury to their bases.
  - Concerns had also been raised regarding whether Wiltshire's late-night tariffs were competitive with those in nearby night-time centres such as Andover, Swindon, Southampton and Bournemouth.
  - In the context of the ongoing recovery effort in Salisbury following the events of 4 March 2018, it was appropriate to undertake a review of this issue at this time.

## Methodology

5. The task group comprised the following membership:

Cllr Derek Brown OBE  
Cllr Brian Dalton  
Cllr Matthew Dean  
Cllr Peter Evans  
Cllr Ian McLennan  
Cllr Graham Payne (Chairman)

NB. It should be noted as a written declaration of interest that Cllr Dean is a publican in Salisbury.

6. The Task Group's terms of reference were:

"In the context of the Salisbury recovery effort and reports of high late-night fares being charged in the Salisbury area,

1. To investigate whether the current schedule of late-night tariffs for Hackney Carriages, as adopted by the Licensing Committee in 2014,
  - a) Is supportive of Wiltshire's night time economy (NTE)
  - b) Is comparable to, and competitive with, night time centres in adjoining counties
  - c) Provides a fair system across all parts of the county.
2. To make any evidenced recommendations for improvement as appropriate."

7. The task group met on 5 occasions and is grateful to the following witnesses for contributing to its review:

Amanda Newbery	Chairperson of Pubwatch Salisbury, and owner of Chapel Nightclub in Salisbury
Steve Godwin	Operations Manager of Salisbury Business Improvement District (BID)
Tim Deacon	Managing Director of Value Cars and Vice-president of Salisbury and District Chamber of Commerce
Ceri Hurford-Jones	Managing Director of Spire FM and Director of Salisbury and District Chamber of Commerce
Alex Oram	Salisbury and District Chamber of Commerce
Jo Hulbert	Compliance Officer, Fleet Compliance Team, Wiltshire Council
Dan Farr	Compliance Officer, Fleet Compliance Team, Wiltshire Council
Julie Anderson-Hill	Head of Service, Culture and Operational Change, Wiltshire Council



Tom Ince	Amenity Partnership Team Leader, Wiltshire Council
Cllr Jerry Wickham	Cabinet Member for Adult social care, public health and public protection, Wiltshire Council
Cllr Peter Hutton	Chairman, Licensing Committee, Wiltshire Council
	5 x representatives of the taxi trade in Wiltshire (East x 1, South x 2, West x 3)

## Evidence

### Background to the current tariffs and system

8. The current Hackney Carriage vehicle tariffs (set out at Appendix 1) were introduced by the Licensing Committee in 2014 in order to harmonise the different tariffs of the four former district councils. It represents a single set of **maximum** tariffs that applies to Hackney Carriages (often referred to as 'taxis') across the whole county.
9. To be clear, a Hackney Carriage,
  - Can be flagged down by passengers in the street and can use designated taxi ranks
  - Must be fitted with a roof sign and a meter, the meter must be calibrated to the maximum fare, which is set by the council. The driver must always use the meter and must not charge more than the maximum fare for the journey, although can charge less.
10. A private hire vehicle (sometimes referred to as a minicab), however,
  - Must be booked in advance of the journey
  - Must not have a roof sign and does not have to have a meter fitted
  - The council has no control of the fare
  - Bookings must be taken through a private hire operator.
11. While the Licensing Committee resolved to introduce a single table of Hackney Carriage tariffs, it resolved not to remove the four district-based 'zones'. This means that drivers may still only pick up customers (off the street or rank) from within their designated zone – though drivers' adherence to this is not proactively policed by the council. Drivers can, however, take customers beyond their designated zone. Private hire vehicles are not zoned and so can be pre-booked to pick up anywhere in the county.
12. The Licensing Committee's decision not to remove taxi zones was against the preference of the Department of Transport, whose guidance advises in favour of harmonisation.
13. The taxi tariff options put before Licensing Committee in 2014 were developed following a survey of the taxi trade, with each license holder and operator written to by the council and invited to consultation meetings. The overall response to the survey was low, but was considered fairly typical for this service. The taxi

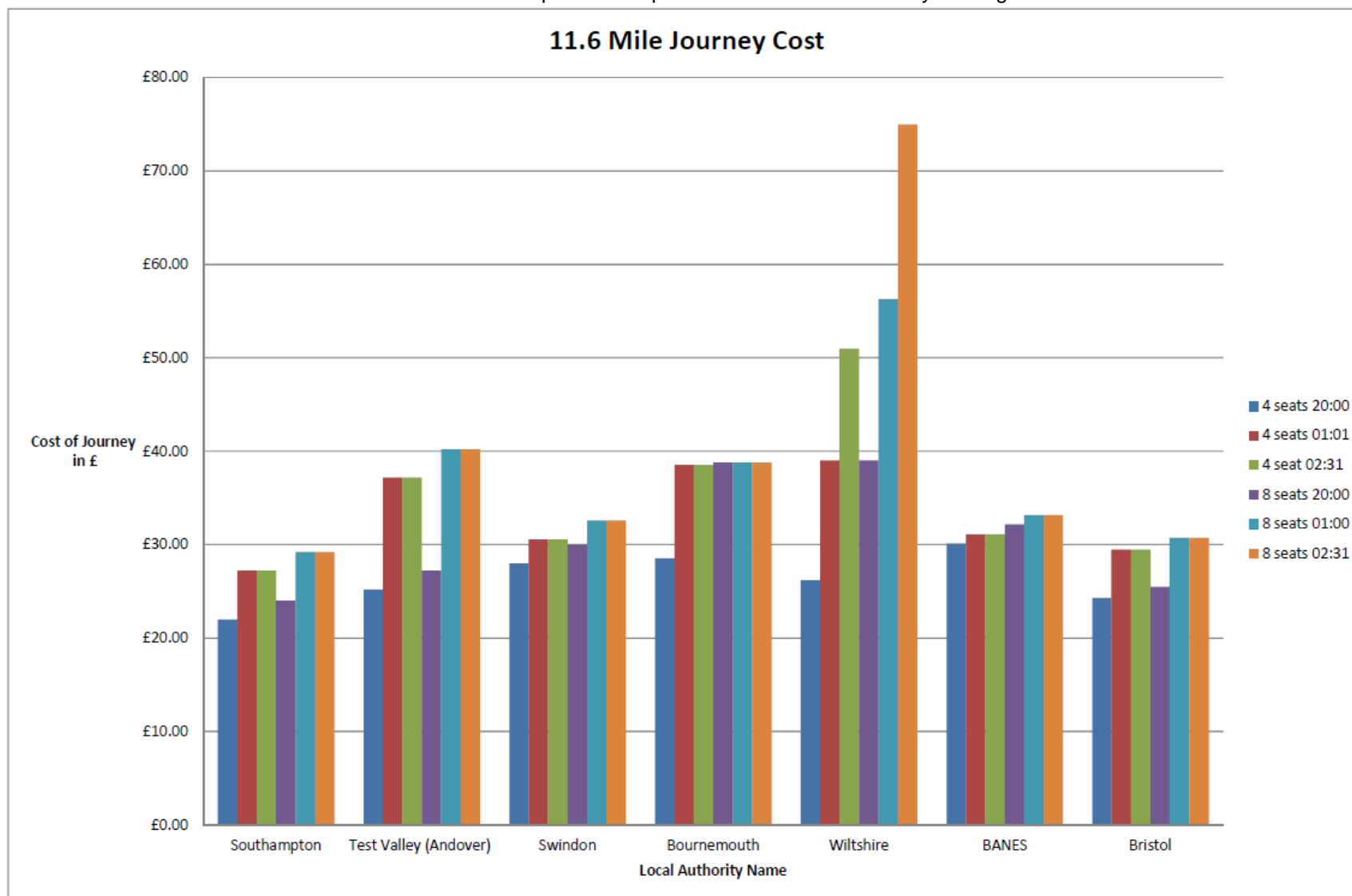
trade had also, since 2009, been regularly updated regarding the need to review the zoning and table of fares. Therefore, the low response rate could have been due to a degree of trade acceptance of a harmonised single zone and tariff for the county.

14. Following the Licensing Committee's decision, a public notice was published in the local newspapers, but no comments or objections were received.

#### Tariff comparisons with other local authority areas

15. A comparison of fares charged for an 11.6 mile journey under the jurisdiction of seven local authorities in the South West is shown in Graph 1 below (and is further detailed under Appendix 2). 11.6 miles is the distance between the Bulford army base and the largest nightclub in Salisbury. This was considered an appropriate exemplar journey given the Task Group's terms of reference.
16. Graph 1 shows the fares charged for both 5-seater and 8-seater taxis, the latter of which carry a higher fare in some local authority areas (including Wiltshire).
17. The data shows that, in comparison with the other areas, Wiltshire's maximum tariffs for 5-seater taxis are,
  - a) Approximately average for a journey starting at 8:00pm
  - b) High for a journey starting at 1:01am (marginally the highest)
  - c) Very high for a journey starting at 2:31am (significantly the highest).
18. The data also shows that, in comparison with other areas, Wiltshire's maximum tariffs for 8-seater taxis are,
  - a) High for a journey starting at 8:00pm (approximately joint highest)
  - b) Very high for a journey starting at 1:01am (significantly the highest)
  - c) Very high for a journey starting at 2:31am (significantly the highest).

Graph 1 – Comparison of maximum Hackney Carriage fares



## Views on Wiltshire's late-night maximum tariffs (3 and 5)

19. The Task Group met with six witnesses from the Salisbury area, including a member and a representative of the late-night economy, the managing director of a Salisbury-based taxi company and a representative of the taxi trade in the Salisbury area (see paragraph 7 for details). The following points were put forward on a number of occasions:

### Witness comments:

- a) The introduction of revised tariffs in 2014 caused problems for businesses and the taxi trade. It has been on the Purple Flag and Pubwatch agenda as an issue of concern since then.
- b) Some Salisbury taxi companies have never applied Tariff 3 (which can be charged 2.30-5.59am). However, some companies and independent drivers do charge Tariff 3. There are some stories of drivers potentially capitalising on public confusion about the late-night tariffs by charging unreasonable amounts.
- c) The inconsistent use of Tariff 3 (and consequent confusion) may cause delays in getting people who have been drinking off the streets and home, increasing the risk of antisocial behaviour. It also increases the likelihood of customers being surprised by the amounts charged, which can lead to arguments and non-payment. Some customers reject drivers at the front of the queue if they charge Tariff 3 (when permitted to), causing discord at the rank.
- d) Two night-time venues in Salisbury now shut at 2:00am so people wanting to go home can be on the threshold of the 2.30am change to Tariff 3, causing confusion.
- e) The current tariff system makes Salisbury less competitive with neighbouring areas and discourages people from coming to the city for evenings out. Customers in the Salisbury area – including military personnel at the Bulford and Larkhill bases – are increasingly choosing alternative night-time attractions like Andover, Bournemouth, Gillingham and Southampton.
- f) With the Salisbury area's population set to grow significantly in the coming years due to military rebasing and large housing developments, it is important that newcomers are encouraged to choose Salisbury as their evening destination. Without action, they may get used to visiting other areas for nights out rather than Salisbury.
- g) Three of the Salisbury witnesses spoken to specifically suggested the following alternative tariff system:
  - Tariff 1 at all times except,
  - Tariff 2 from 11.00pm or 12.00am Saturday night and throughout Sunday

- Tariff 3 on Bank Holidays only

20. However, the Task Group also met with taxi trade representatives from **other parts of the county** who, in general, reported that:

Witness comments:

- a) Tariffs 3 and 5 are essential to enable drivers and companies to make a profit, as late-night is the highest earning period of the day.
- b) If Tariffs 3 and 5 were removed then many drivers would not work late hours, making it difficult for people to get home, *potentially* increasing incidences of antisocial behaviour and causing problems for the police (this has not been checked with the police by the Task Group).
- c) In recent years drivers need to work significantly more hours than historically due to the reduction in people going for nights out (with more people drinking and socialising at home). The tariffs, introduced in 2014, have also never been adjusted to reflect increases in fuel and maintenance costs and higher licensing fees, which also make it harder for drivers and companies to make a profit. Removing Tariffs 3 and 5 would therefore exacerbate this issue.

21. It should be noted that changes to maximum tariffs carry a cost of approximately £20 per taxi, payable by the operator.

Maximum tariffs for 8-seater vehicles

22. Some witnesses suggested that 8-seater taxis should either follow the same maximum tariffs as 5-seater taxis or be able to charge a slightly higher upfront fee, but not the markedly higher fares currently permitted.
23. Some commented that the higher tariffs were essential for making a profit from larger taxis and that higher tariffs made up for fewer trips and the higher running costs of larger vehicles.

Customer service and protection of the public

24. Some witnesses commented that greater measures should be put in place to protect standards of customer service and the welfare of passengers. Taxis are used regularly by vulnerable groups, and drivers have significant power over passengers who place themselves in drivers' hands.
25. The Task Group received some reports (**unsubstantiated by the Task Group**) of passengers being,
  - Overcharged, sometimes through the driver illegally selecting an 8-seater tariff when driving a 5-seater taxi (stated several times)
  - Being escorted to cashpoints and left at isolated spots when unable to pay excessive fares (stated several times)

- Inappropriate comments being made to female passengers, or drivers making inappropriate contact with them following the journey (stated once).
26. The council's website includes a [page](#) where complaints about taxis, private hire vehicles and their drivers and operators can be made. These are then investigated by the licensing team.
27. The Department of Transport 'Taxi and Private Hire Licensing – Best Practice Guide' states,  
*"The aim of local authority licensing of the Taxi and Private Hire Vehicles (PHV) trades is to protect the public."*
28. There are no statutory criteria for awarding vehicle licences and therefore local authorities have discretion in this regard. The council currently has two 'fit and proper person' policies for new and existing hackney carriage/private hire **operators** and **drivers**. It is now also developing a 'fit and proper person' policy to include all hackney carriage and private hire **licences**, which will be presented to the Licensing Committee soon. The current policies set out a number of conditions that must be met, and these include,
- Driving experience in the UK
  - Disclosure and Barring Service (DBS) enhanced criminal records check
  - DVLA live driving licence check
  - Medical form completed by GP and driver medical fitness declaration
  - Completion of online safeguarding training
  - Hackney Carriage and private hire knowledge test
  - Hackney Carriage geographical knowledge test (if applicable)
  - National Anti-Fraud Network database on refusals and revocations of licences check (when available).
29. A number of other local authorities require taxi drivers to have completed a 'BTEC in Taxi and Private Hire vehicles' certificate. These include Bristol, Southampton, Oxford, Reading, Woking and Cardiff. The Certificate is designed to develop the knowledge of prospective or existing drivers and covers things like,
- Health and safety
  - Customer service
  - Car maintenance
  - Regulatory framework
  - Services for passengers who need assistance
  - Routes and fares
  - Transporting luggage and other items
  - Transporting children and young people
30. Another way of protecting passengers and drivers is through having CCTV inside taxis. This has been made mandatory by a number of local authorities, but is still the subject of considerable national debate. CCTV in taxis carries potential benefits such as,

- Deterring and preventing crime
  - Assisting the Police by providing evidence
  - Assisting insurers following incidents
  - Protecting both drivers and passengers.
31. However, it also carries risks and challenges such as,
- Real or perceived infringement of passenger and driver privacy
  - Cost of installation
  - Risks regarding the loss or misuse of data and consequent sanctions.
32. Regarding this final bullet, who is considered the “data controller” for the CCTV footage determines who would any fine from the Information Commissioner’s Office (ICO) for the loss or misuse of the data. The ICO [website](#) states that, “In most circumstances a council which instructs systems to be installed [in taxis] should be responsible for the data. It’s the council which is the data controller, not an individual taxi driver. Councils need to make sure they understand this part of the law.”

#### Accessible taxis and private hire vehicles

33. Currently the council requires taxi and private hire companies to have at least one vehicle suitable for disabled passengers for every 10 vehicles in their fleet. This requirement was introduced by the Licensing Committee in 2010. The initial proposal was for one in five vehicles to be adapted, but concerns were raised by the taxi industry regarding the financial cost of implementing that ratio.
34. Some companies operate with licenses for only nine taxis, but in addition use self-employed drivers as franchisees who license their own vehicle. The requirement outlined above consequently does not apply to these companies.
35. The council currently has licensed 940 vehicles, with 109 being wheelchair accessible. However, it needs to be established how many of the accessible vehicles are deployed on Wiltshire Council contracts (e.g. for school transport) and are therefore generally not available for public use.

### **Findings**

#### Late-night tariffs (Tariffs 3 and 5)

36. While Wiltshire’s daytime maximum tariff (1) appears to be average, the evening tariffs (2 and 4 – 10.30pm-2.29am\*) and late-night tariffs (3 and 5 – 2.30am-5.59am\*) make evening and late-night taxi journeys in Wiltshire significantly more expensive than in the other areas reviewed (when drivers opt to use these tariffs).
37. Different maximum tariffs appear to be desired by the various witnesses interviewed by the Task Group.

38. There was a request from three of the witnesses from **Salisbury** interviewed by the Task Group for the removal of Tariffs 3 and 5 in order to,
  - a) Remove the confusion and discord caused by some taxi drivers and companies charging these tariffs and others not;
  - b) Support the night time economy by encouraging more visitors to the area, particularly in light of the alleged reduction in evening visitors in recent years, projected population growth and the 2018 Novachok incidents in Salisbury and Amesbury;
  - c) Be more comparable with the maximum tariffs in neighbouring local authority areas.
39. Although it would be very difficult to quantify the impact, the Task Group conclude that the significant differences between the late-night tariffs in Wiltshire and those in nearby, competing destinations could discourage some people from visiting Salisbury and have a negative impact on the city's night-time economy.
40. However, there was a clear request from the taxi trade reps **in other parts of the county** interviewed by the Task Group for Tariffs 3 and 5 to remain, stating that their removal or reduction would have an adverse effect on taxi companies' and drivers' income, exacerbating an already challenging financial situation.
41. It should be noted that the Task Group did not interview representatives of Wiltshire's night-time economies outside of Salisbury. Consultations on any proposed changes to the tariffs should include these (as well as in Salisbury) rather than only the taxi trade. The council may want to consider broadening the consultation even further, to ensure the views of the general public – the actual users of taxi and private hire services – are considered.
42. Given this disparity between Salisbury and the other areas, the Task Group considered the option of having different tariffs in different areas of the county (as was the case prior to tariff harmonisation in 2014). However, it is mindful that,
  - a) Since 2009, the council's ambition has been to achieve uniformity across the county to ensure clarity and consistency for the customer. Harmonisation was also intended to reduce the administration costs to the council. Any financial impact of returning to a fully zoned scheme would need to be considered.
  - b) Under the current legislation, changing the tariffs for just one of the current zones would open the possibility of requests for different regulations to match local circumstances in all of the zones, not just on tariffs, but also on regulations and fees etc. Changes would all need to be consulted on individually in each of the zones.
43. Given the complexity of this issue the Task Group cannot make a firm recommendation regarding the appropriateness (or otherwise) of Wiltshire's current late-night tariffs across the whole county without further analysis and consultation. It therefore recommends that the Cabinet Member and officers note the evidence presented here, but also undertake further work to either determine a schedule of tariffs that is acceptable across all parts of the county, or fully



assess the potential for having different tariffs in different parts of the county to suit local circumstances. (**Recommendation 1**)

#### Tariffs for 8-seater vehicles

44. The maximum **daytime** tariffs for 8-seater taxis in Wiltshire are relatively high, but not significantly so when compared with the other areas reviewed. However, the maximum 8-seater tariffs for **evenings** and **night-time** journeys are both
  - a) significantly higher than other areas, and
  - b) unusually 'inflated' in comparison with Wiltshire's tariffs for 5-seater taxis.
45. Wiltshire's late-night tariffs for 8-seater taxis should undergo the same further assessment as recommended for 5-seaters under Recommendation 1. As part of this work, the council should assess the true additional expense of running a large taxi to ensure this is reflected as appropriate. (**Recommendation 2**)

#### Customer service and protection of the public

46. The Task Group supports the expansion of the council's existing 'Fit and Proper Person' requirements in order to provide reassurance and protection for passengers, as well as the reputation of the trade. As already stated, taxis are often used by members of vulnerable groups and recent cases of child sexual exploitation in [Rotherham](#) and [Northumberland](#) (weblinks to BBC News) involving victims being transported by taxi have highlighted the need for local authorities to put appropriate safeguarding protections in place.
47. A requirement on drivers to undergo relevant training would further reassure passengers, and would also help ensure good overall standards of service, with the BTEC Certificate described under paragraph 29 appearing to cover all aspects of the profession. Given the limited resources available to proactively enforce taxi licensing rules, a preventative approach in which drivers' suitability is assessed before gaining a license is required. (**Recommendation 3**)
48. The council needs to consider whether the introduction of CCTV in all taxis carries enough advantages in terms of protecting passengers and drivers to balance out the risks and challenges – including the financial impact on taxi drivers and companies. (**Recommendation 4**)

#### Accessible taxis and private hire vehicles

49. It is a concern that the current policy allows taxi companies with ten or fewer vehicles to have no accessible vehicles in their fleet; particularly given the reliance of some older people and people with health issues on taxis. An assessment of the total number of adapted taxis (that are not consistently in use under council contracts) is required and, if appropriate, the revision of the relevant policy. (**Recommendation 5**)

## Recommendations

That the Cabinet Member for Adult Social Care, Public Health and Public Protection,

1. Taking into account the evidence presented, considers and consults on whether the current maximum late-night taxi tariffs are appropriate across the county – including in Salisbury – and to consider,
  - a) removing tariffs 3 and 5 altogether (currently 2.30-5.59am), and
  - b) operating tariff 2 between 12.00-5.59am rather than between 10.30pm-2.29am.
2. Reviews the significant difference between the current maximum tariffs for 5- and 8-seater taxis (particularly when compared with equivalent differences in other areas) and considers if these are justified by any additional costs associated with operating larger vehicles.
3. In addition to expanding the council’s existing ‘Fit and Proper Person’ requirements regarding taxis, which the task group supports, considers introducing a requirement that all drivers pass a BTEC qualification in the Role of the Professional Taxi and Private Hire Driver in order to ensure the highest standards of service and protection for the public.
4. Considers whether the introduction of CCTV in taxis as a way of safeguarding passengers and drivers is appropriate, having assessed the opportunities and risks, and the experiences of other local authorities.
5. Calculates the total number of taxis in Wiltshire that are suitable and available for disabled passengers (other than those generally being used under council contracts) and takes action to increase this if necessary, including, if appropriate, by amending the requirement on taxi companies within the relevant policy.

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**Cllr Graham Payne, Chairman, Late-night Taxi Fares Task Group**

Report author: Henry Powell, Scrutiny Lead, 01225 718052,  
[henry.powell@wiltshire.gov.uk](mailto:henry.powell@wiltshire.gov.uk)

## Appendices

- |            |  |
|------------|--|
| Appendix 1 | Wiltshire Council Hackney Carriage maximum table of fares (May 2015) |
| Appendix 2 | Tariff comparisons with other local authority areas                  |

# Wiltshire Council hackney carriage, maximum table of fares (North, South, East & West Zones)

For journeys starting	Vehicles up to four seats	Vehicles with more than four seats carrying more than four passengers
6 am – 10:29 pm	Tariff 1	Tariff 2
10:30pm – 02:29 am and Sundays, Bank Holidays, Public Holidays and Easter Sunday and after 8pm Christmas Eve & New Years Eve	Tariff 2	Tariff 4
2:30 am – 5:59 am and all day on 25 December, 26 December and 1 January	Tariff 3	Tariff 5

	Tariff 1	Tariff 2	Tariff 3	Tariff 4	Tariff 5
Journeys up to 176 yards, 1/10 Mile	£3.20	£4.50	£5	£4.50	£6
Subsequent 176 yards, 1/10 Mile	20p	30p	40p	45p	60p
Waiting time per minute	20p	30p	40p	45p	60p
Minimum fouling charge	£100	£100	£100	£100	£100

**Hackney Carriages are regulated by Wiltshire Council.**

**In case of a complaint regarding this vehicle or its driver, please**

**Contact :** Fleet, Wiltshire Council, County Hall, Bythesea Road, Trowbridge BA14 8JN

e-mail : [fleet.licensing@wiltshire.gov.uk](mailto:fleet.licensing@wiltshire.gov.uk). **Telephone No 01225 770271**

8 May 2015

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Tariff 1

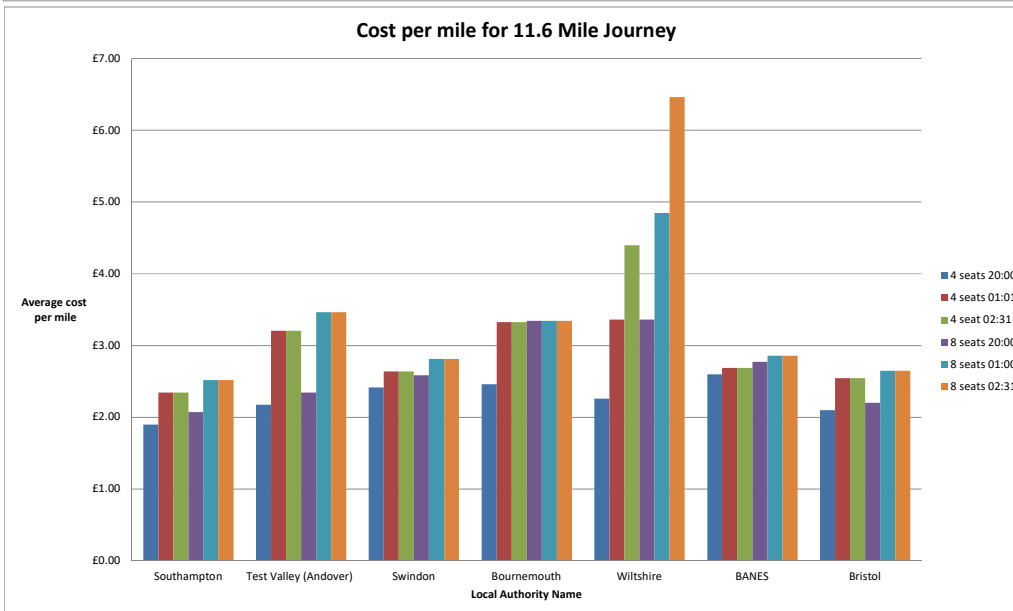
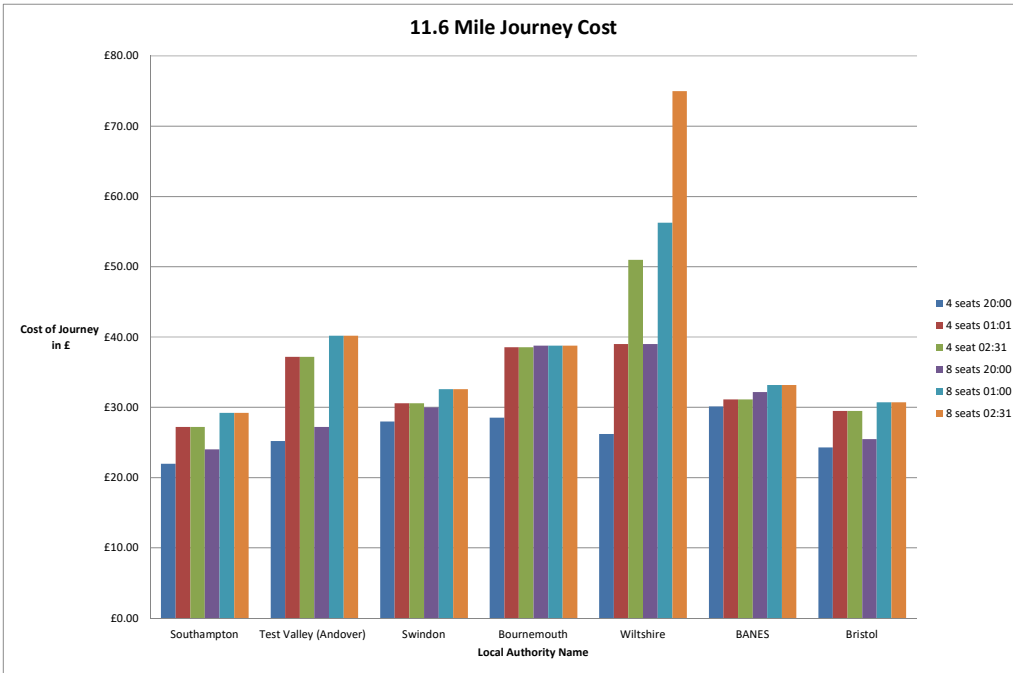
Authority	Flag	1/10
Southampton	2.80	0.20
Test Valley (Andover)	3.60	0.20
Swindon	3.50	0.20
Bournemouth	3.00	0.20
Wiltshire	3.20	0.20

Bulford Camp to Chapel night Club 11.6 miles	4 seats 20:00	4 seats 01:01	4 seat 02:31	8 seats 20:00	8 seats 01:00	8 seats 02:31
Southampton	£22.00	£27.20	£27.20	£24.00	£29.20	£29.20
Test Valley (Andover)	£25.20	£37.20	£37.20	£27.20	£40.20	£40.20
Swindon	£28.00	£30.60	£30.60	£30.00	£32.60	£32.60
Bournemouth	£28.54	£38.55	£38.55	£38.80	£38.80	£38.80
<b>Wiltshire</b>	<b>£26.20</b>	<b>£39.00</b>	<b>£51.00</b>	<b>£39.00</b>	<b>£56.25</b>	<b>£75.00</b>
BANES	£30.15	£31.15	£31.15	£32.15	£33.15	£33.15
Bristol	£24.30	£29.50	£29.50	£25.50	£30.70	£30.70

Comparison based on 4 seat vehicle with 4 passengers & 8 seat vehicle with 8 passengers

Average cost per mile	4 seats 20:00	4 seats 01:01	4 seat 02:31	8 seats 20:00	8 seats 01:00	8 seats 02:31
Southampton	£1.90	£2.34	£2.34	£2.07	£2.52	£2.52
Test Valley (Andover)	£2.17	£3.21	£3.21	£2.34	£3.47	£3.47
Swindon	£2.41	£2.64	£2.64	£2.59	£2.81	£2.81
Bournemouth	£2.46	£3.32	£3.32	£3.34	£3.34	£3.34
<b>Wiltshire</b>	<b>£2.26</b>	<b>£3.36</b>	<b>£4.40</b>	<b>£3.36</b>	<b>£4.85</b>	<b>£6.47</b>
BANES	£2.60	£2.69	£2.69	£2.77	£2.86	£2.86
Bristol	£2.09	£2.54	£2.54	£2.20	£2.65	£2.65

Comparison based on 4 seat vehicle with 4 passengers & 8 seat vehicle with 8 passengers



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## **Briefing Note – The Animal Welfare (Licensing Of Animals) (England) Regulations 2018**

### **1. Purpose of Briefing Note**

The purpose of the briefing note is to update the Licensing Committee on the implementation of the new Animal Activities Regulations in Wiltshire.

### **2. Background**

The new regulations introduce minimum welfare standards, seeking compliance from all those responsible for boarding, breeding, exhibiting and recreational use involving animals. They replace several pieces of old legislation, streamline previous local authority systems and attempt to provide clarity for both local authorities and business.

Schedules attached to the new regulations provide detailed animal welfare standards for each of the activities listed. These standards impose clear welfare conditions on anyone who receives a licence for dog breeding, selling pets, boarding dogs and cats, hiring out horses or keeping or training animals for exhibition.

These regulations endeavour to make it easier for those operating within this industry to understand their responsibilities within legislation and simpler for authorities to administer and control.

Under previous legislation, breaches of conditions or unlawful trading required local authority to prosecute and seek revocation of the licence on conviction.

The new regulations allow the local authority to vary, suspend or revoke a licence without the need for legal action, making the process easier to enforce, with the likelihood of an expedited result.

### **3. Scope of the new Animal Activities Regulations**

A brief summary of the implications of the new regulations:

The Animal Welfare (Licensing of Activities Involving Animals)(England) Regulations 2018 define the animal based activities that require licences as follows:

- Selling animals as pets (or with a view to their being later resold as pets) in the course of a business including keeping animals in the course of a business with a view to their being so sold or resold.

- Providing or *arranging* for the provision of accommodation for other people's cats or dogs in the course of a business on any premises where the provision of that accommodation is a purpose of the business. (*Arranging is New – An arranger's licence required*).
- Hiring out horses in the course of a business for either riding, instruction in riding, or both.
- Breeding three or more litters of puppies in any 12 month period; or breeding dogs and advertising a business of selling dogs.
- Keeping or training animals for exhibition in the course of a business for educational or entertainment purposes, either to any audience attending in person, or by the recording of visual images of them by any form of technology, or both. (*New – replaces and expands the performing animals' registration scheme*).

All four existing types of licence, together with the additional activity of keeping and training animals for exhibition, are encompassed by one new 'Animal Activity licence'. If an applicant is running more than one licensable animal related activity, each activity is assessed separately and set out in one licence.

The regulations do however provide for operation of a business under the regulation without requiring a licence dependant on trading income these are deemed as "out of Scope" a number of existing Home Boarders now fall in this category.

DEFRA has left it up to Local Authorities how it ensures that Host families (out of Scope) who work through franchise operator (Arrangers) meet the criteria set out in the regulations. Wiltshire Council has set up a system to run parallel with the Licensing regime, to inspect these premises and ensure they met the required standards.

The length of licence (previously one year in most cases) can be anything between one and three years dependent on the outcome of their inspection, and the type of licence

The new provisions contain nationally set regulations for each animal based activity, which cannot be changed in any way and form the basis for conditions on the new licences.

The fees are now split into two parts – the application fee, payable at the time of submission to cover the Council's costs in considering and determining the application, and the licence fee (grant), which covers ongoing enforcement and compliance requirements.

Links to the new regulations and DEFRA guidance documents are available on our website.



#### 4. Implementation of the new regulations

Four licensing seminars took place in October 2018 when over 200 members of the animal licensed trade used the opportunity provided by Wiltshire Council to learn about the implementation and potential impact of the new regulations.

This applied to both existing and new business falling under the new regime.

Under the old licensing legislations (Prior to December 2018) the following were licensed by this authority:

Boarding Catteries & Kennels	50
Home Boarders	137
Day & Home Boarders ( Dual)	11
Dog Crèches ( commercial)	5
Dog Breeders	10
Pet Shops	25
Riding schools	21
Performing Animal Registrations	10
	269

New application forms were created and handed out at the seminars; these are also available on our website alongside the relevant DEFRA guidance documents.

Pre-inspection guides for the differing premises types have been developed, these outline what documentation will be required to be presented to the inspecting officer, these are sent out by email when the inspection date is confirmed. They are also available on our website.

The computer software we use for Licensing has had to be managed / manipulated to create a new process for the new licensing procedures and star rating system, allowing for 1 – 3 year licences.

Unfortunately the DEFRA guidance introduced to assist with the interpretation of the new legislation has already been changed significantly, and DEFRA appears to be responding to the trade representatives and softening the animal welfare standards. Numerous updates and clarifications have been issued by DEFRA on an informal basis using the Knowledge Hub, which has not been promulgated to all local authorities. The service has expressed our concern to DEFRA in writing but the reply avoided a direct response to the issues we raised.

#### 5. Inspections

The new regime requires a 'qualified inspector' to carry out the inspections, and in the case of the grant of a dog breeding establishment and at grant and renewal of horse riding establishments they must be accompanied by a veterinary surgeon.

Due to the high volume of inspections and the lateness of the guidance documents from DEFRA, the Licensing Team had to rely on the generous support of the Dog Warden Service to fulfil its obligations to meet the requirements to inspect premises by 31<sup>st</sup> December 2018.

The new regulations meant most inspections took at least an hour and half with the more complex premises or dual licence premise (Catteries and Kennels) taking a number of hours.

Most applicants had attended one of the four licensing seminars so were aware of the new requirements in relation to documentation in the form of policies and procedures needed to meet the licensing conditions.

Some struggled to understand the importance of demonstrating their common work practices in paper format, and therefore were unable to meet the new required standards.

The inspections were not assisted by DEFRA who sought on a number of occasions to clarify their guidance directly to the trade which often undermined the inspecting officers. This was a source of frustration for both the Local Authority and applicants as the guidance provided to applicants often differed from that published for the Local Authority.

Licensing Authorities were not directly advised of these changes or amendments until sometime after the trade and only through an information portal (The Knowledge Hub) which is not commonly used by all local authorities.

## **6. Risk Rating**

The new regulations provide two guidance tables for inspecting officers, setting out a risk rating process for welfare standards of operators and to determine whether an operator is high or low risk.

All operators receive a star rating from one to five stars, based on the welfare standards that they demonstrate during their inspection and their compliance records.

For example, a new operator (automatically deemed high risk) who has no evidence of compliance could start at two stars and will receive a licence for 1 year.

During the licensed period, the operator will received an unannounced visit by an inspecting officer where a further assessment will be conducted and the operator will be reassessed to see if they continue to meet the standards. This is a statutory requirement and provides a consistent approach for all operators.

Scoring Matrix		Welfare Standards		
		Minor Failings (existing business that are failing to meet minimum standards)	Minimum Standards (as laid down in the schedules and guidance)	Higher Standards (as laid down in the guidance)
Risk	Low Risk	<b>1 Star</b> 1yr licence Min 1 unannounced visit within 12 month period	<b>3 Star</b> 2yr licence Min 1 unannounced visit within 24 month period	<b>5 Star</b> 3yr licence Min 1 unannounced visit within 36 month period
	Higher Risk	<b>1 Star</b> 1yr licence Min 1 unannounced visit within 12 month period	<b>2 Star</b> 1yr licence Min 1 unannounced visit within 12 month period	<b>4 Star</b> 2yr licence Min 1 unannounced visit within 24 month period

## 7. Current Position

As of the 20<sup>th</sup> February 2019 the following have applied for and been granted a licence under the new regulations

Boarding Catteries & Kennels	43
Home Boarding & Dog day care	97
Commercial Dog Crèche	6
Dog Breeders	11
Pet Shop	18
Riding Schools	To be rated
Exhibition of Animals	3
Arrangers Licences	2

A small number of premises / establishments have decided not to renew their licence.

To date five (this includes one new premise) have had their applications refused under the regulations whose primary objective is to improve welfare standards.

Of the five refused no formal appeals have been made against the decision of the Licensing Authority to the first tier-tribunal.

One operator has successfully re-applied and has been granted a licence, a further two are seeking to re-apply. These can only be considered following works carried out by the applicants, which they believe will address the concerns found on the initial inspection. There can be no assumption these premises will now meet the required standards until a further inspection is carried out.

## 8. Impact on the Licensed Trade

The star rating has had a mostly positive reaction from the trade with premises / operators seeking to get the highest rating possible for their business. The star rating reflects the length of the licence, Wiltshire has seen a pleasing result with a considerable number of premises reaching the highest 5 star 3 year licence.

5 star – 3 year licences	83
4 star – 2 year licences	19
3 star – 2year licences	33
2 star – 1 year licences	23
1 star – 1 year licences	9
N/A	9

Public registers are now available on our website displaying premises star ratings.

Pet sales sites can no longer accept adverts without licence numbers being displayed where required.

## 9. Conclusion

The smooth implementation of the new regulations could not have taken place without the hard work and flexibility of the whole of the Licensing Team who were strongly supported by the dog wardens who assisted with the inspections and colleagues in the wider public protection service who covered some of the day to day work of the technical officers.

The continual explanation of the regulations and guidance notes by DEFRA directly with the licensed trade did not assist Officers and often caused considerable consternation with officers from all Local Authority battling to complete inspections on time.

## 10. Summary

These changes in legislation have had significant impact on our animal licensing regime. However, these changes will strengthen and support welfare elements of animal licensing, and the increased legislative focus on breeding establishments, specifically dog breeders, is likely to increase activity, demand on resource and our future approach.

The Licensing Committee is asked to support the work of the Licensing Team in implementing and enforcing the new regulations.

Linda Holland  
Licensing Manager  
Public Health & Public Protection  
25<sup>th</sup> February 2019

## Update on the Licensing Service: March 2019

To update the Committee on the work of the Licensing Team in 2018 / early 2019

2018 has proven to be a challenging year for the Licensing Team. The biggest impact towards the later part of the year was the introduction of the new Animal Welfare Regulations in October, which replaced a number of pieces of outdated animal welfare legislation. The licences issued under the previous legislation were all due to expire by 31<sup>st</sup> December 2018, which gave only a short turnaround time to learn the new legislation, update our systems and carry out inspections for all of our existing customers.

The end of the year saw a Public Health and Public Protection service restructure. The outcome of the review meant that the licensing team moved from reporting to the Head of Prevention of Harm and placed under Head of Public Protection.

### **Festivals and large scale events**

Due to being a rural county with lots of large outdoor spaces, Wiltshire is a popular venue for festivals and other large scale events. Prevention of harm is a key element when planning an event; Licensing Officers are involved in considerable pre event work guiding organisers in managing their own event to lessen the impact on the local community and emergency services of Wiltshire. By early intervention and positive engagement we seek to guide and educate organisers around managing alcohol consumption levels, drug prevention, antisocial behaviour, and the wellbeing of all at events.

Some events are supported through the Event Safety Advisory Group (ESAG). This is a forum where the organisers of events meet with the responsible authorities including the emergency services to discuss details of the event and any potential issues, and are offered multi-agency advice. The aim of these meetings is to promote well-run, safe events in Wiltshire.

Some of our high profile events include, Chalke Valley History Society in Broad Chalke in June, WOMAD at Charlton Park in July. A three day Armed Forces event and the OVO cycle race both in Salisbury have both triggered ESAG meetings.

In 2018 there were over 55 festivals and events in Wiltshire. Many of these will be held again this year along with a number of new events planned.

### **Partnership Working**

Wiltshire Council Licensing, Swindon Licensing and Wiltshire Police licensing have been working together to promote the "Ask for Angela" campaign. This is a cross county initiative which was launched in Wiltshire and Swindon in October 2018.

The aim of the campaign is to promote a safe route from an uncomfortable or difficult situation a person may find themselves in and applies equally to men and women when perhaps a date is not working out or they feel unsafe in the current situation.

Initially the launch has been through pub watches and as a result a list of participating licensed premises has been published on our website.

Members are asked to continue their support of this positive initiative to assist a person at time of vulnerability.

## **Immigration Service**

In April 2017 the Home Office Immigration department became a Responsible Authority under the Licensing Act.

Following intelligence relating to potential illegal workers at a licensed premise in Wiltshire, the Licensing Team recently carried out a joint visit with the Immigration Service.

The visit resulted in two arrests being made with persons detained in immigration detention, five illegal workers encountered and “referral notice served”. (This is a civil penalty notice for employing illegal workers and entails a potential £20,000 fine per illegal worker).

Further action in relation to the premise’s licence is being considered by the Immigration Service.

Further joint working is planned in the future.

## **Licensing Applications**

To give the Committee an update on the work of the Licensing Team, the table below details some the licensing applications in the 2017 and 2018 calendar years, but excludes the animal welfare regulations work.

### **Licence Applications: 2017 / 2018**

Year comparison	2017	2018
Temporary Events Notices	1703	1715
Late Temporary Events Notices	395	448
Licensing Applications ( New /variation/minor variation/Variation of DPS)	1171	1145
Personal Licences	338	295
Lotteries	534	536
Gambling Permits ( Gaming Machines )	28	31

## **Hearings**

Last year we have held 12 licensing hearings compared to 11 in 2017. To date in 2019 no hearings have been held.

## **Off Licence Premises**

The Licensing team is continuing the programme of inspections of all off licences within Wiltshire. The inspections are being carried out to check compliance and to ensure staff employed at these premises receive regular reminders and training in regard to the Licensing Act 2003.

## **Gambling Act 2005**

The Gaming Machine (Miscellaneous Amendments and Revocation) Regulations 2018 were made on the 20th December 2018 and come into force on the 1st April 2019.

The widely publicised changes will see the maximum permitted stake for category B2 gaming machines (Fixed Odds Betting Terminals) reduced from £100 to £2.

### **Guidance aimed at protecting children and young people**

The Committee of Advertising Practice issued revised guidance on the 13<sup>th</sup> February 2019.

The aim is to assist advertisers' agencies and media owners with their interpretation of the Committee of Advertising Practice (CAP) and the Broadcast Committee of Advertising Practice (BCAP) gambling rules (Codes), as they relate to the protection of children and young people.

*It applies to marketing communications appearing in all media, including online channels such as social media.*

The revised guidance will come into force on 1st April 2019 and supports the Advertising Codes, which require that marketers take all reasonable steps to:

- Ensure that advertising is not targeted at under-18's, either through the selection of media or the advertisement's content; and
- Prevent advertising being directed at adult audiences posing a risk to under-18.

The revised guidance provides greater detail on the approaches that are likely to be considered unacceptable by the Advertising Standards Authority in individual marketing communications.

### **Licensing Officers (Map of their areas attached)**

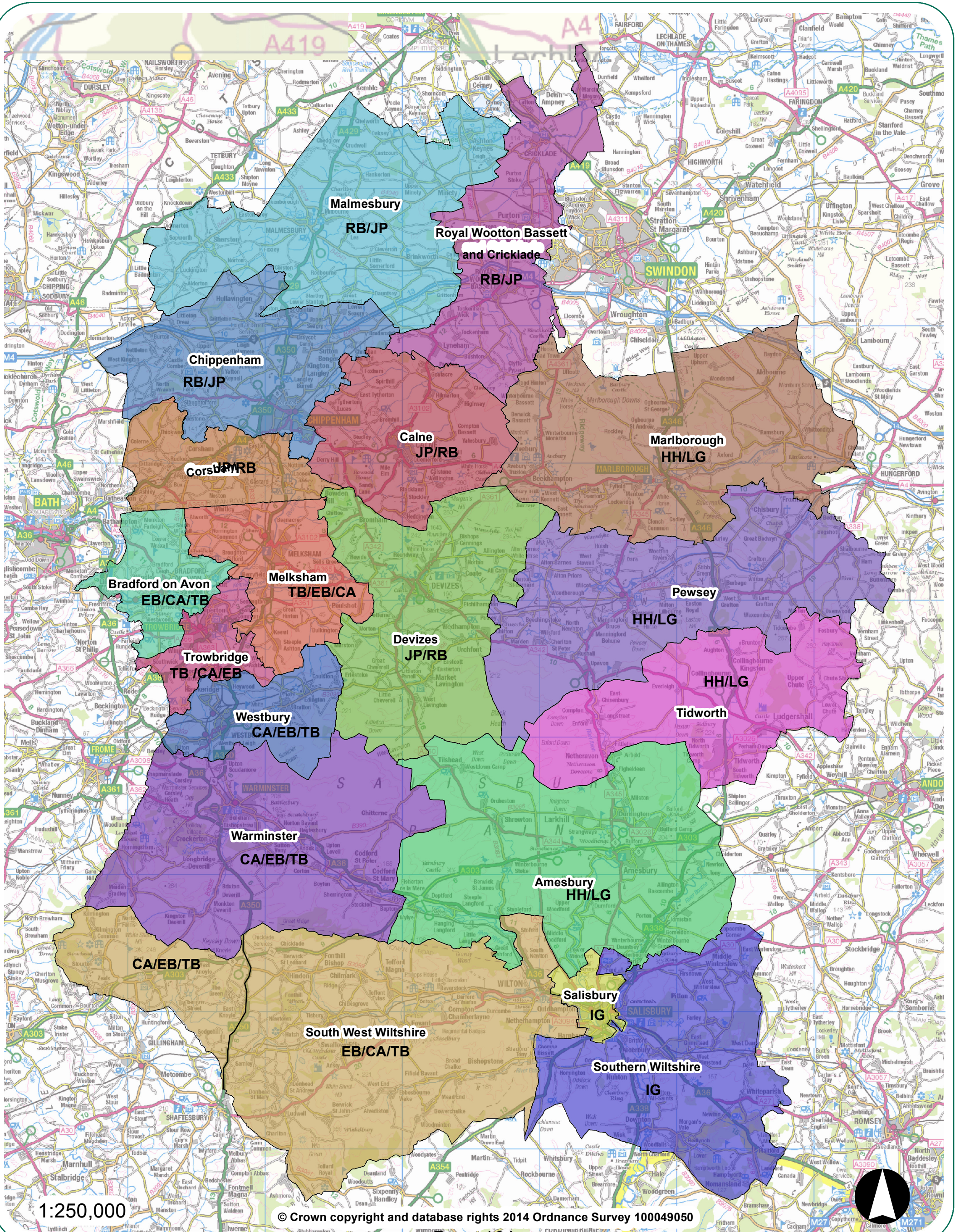
<b>Carla Adkins</b>	01249 706438	carla.adkins@wiltshire.gov.uk
<b>Roy Bahadoor</b>	01249 706439	roy.bahadoor@wiltshire.gov.uk
<b>Emma Batchelor</b>	01249 706414	emmaA.batchelor@wiltshire.gov.uk
<b>Teresa Bray</b>	01249 706413	teresa.bray@wiltshire.gov.uk
<b>Ian Garrod</b>	01722 432484	ian.garrod@wiltshire.gov.uk
<b>Lisa Grant</b>	01380 826332	lisa.grant@wiltshire.gov.uk
<b>Hannah Hould</b>	01722 434414	hannah.hould@wiltshire.gov.uk
<b>Jemma Price</b>	01249 706436	jemma.price@wiltshire.gov.uk

### **Technical Support Officers**

<b>Lesley Elven</b>	01249 706435	publicprotectionnorth@wiltshire.gov.uk
<b>Julie Macey</b>	01225 716681	publicprotectionwest@wiltshire.gov.uk
<b>Sue Lewis</b>	01249 706555	publicprotectionnorth@wiltshire.gov.uk

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