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6 September 2010

S U M M O N S

MEETING: Licensing Board
DATE: 14 September 2010
TIME: 6.00pm
PLACE: Council Chamber, Town Hall, Gosport
Democratic Services contact: Lisa Young

LINDA EDWARDS
BOROUGH SOLICITOR

MEMBERS OF THE BOARD

Councillor Beavis (Chairman)
Councillor Murphy (Vice Chairman)

Councillor Bradley	Councillor Mrs Cully
Councillor Carter C K	Councillor Foster-Reed
Councillor Carter C R	Councillor Jacobs
Councillor Chegwyn	Councillor Scard

The Mayor (Councillor Allen) (ex officio)
Chairman of P & O Board (Councillor Hook) (ex officio)

FIRE PRECAUTIONS

(To be read from the Chair if members of the public are present)

In the event of the fire alarm (continuous ringing sound) sounding, please leave the room immediately.

Proceed downstairs by way of the main stairs or as directed by GBC staff, following any of the emergency exit signs. People with disability or mobility issues please identify yourself to GBC staff who will assist in your evacuation of the building.

IMPORTANT NOTICE:

- If you are in a wheelchair or have difficulty in walking and require access to the Committee Room on the First Floor of the Town Hall for this meeting, assistance can be provided by Town Hall staff on request

If you require any of the services detailed above please ring the Direct Line for the Democratic Services Officer listed on the Summons (first page).

NOTE:

- i. Councillors are requested to note that, if any Councillor who is not a Member of the Board wishes to speak at the Board meeting then the Borough Solicitor is required to receive not less than 24 hours prior notice in writing or electronically and such notice shall indicate the agenda item or items on which the member wishes to speak.
- ii. Please note that mobile phones should be switched off for the duration of the meeting.

AGENDA

RECOMMENDED
MINUTE
FORMAT

PART A ITEMS

1. APOLOGIES FOR NON-ATTENDANCE
2. DECLARATIONS OF INTEREST

All Members present are required to declare, at this point in the meeting or as soon as possible thereafter, any personal or personal and prejudicial interest in any item(s) being considered at this meeting.

3. MINUTES OF THE MEETING OF THE BOARD HELD ON 20TH JULY 2010 [copies herewith].
4. DEPUTATIONS – STANDING ORDER 3.5

(NOTE: The Board is required to receive a deputation(s) on a matter which is before the meeting of the Board provided that notice of the intended deputation and its object shall have been received by the Borough Solicitor by 12 noon on Friday, 10 September 2010. The total time for deputations in favour and against a proposal shall not exceed 10 minutes).

5. PUBLIC QUESTIONS – STANDING ORDER 3.6

(NOTE: The Board is required to allow a total of 15 minutes for questions from Members of the public on matters within the terms of reference of the Board provided that notice of such Question(s) shall have been submitted to the Borough Solicitor by 12 noon on Friday, 10 September 2010).

6. ADOPTION OF REVISED STATEMENT OF LICENSING POLICY UNDER THE LICENSING ACT 2003

To approve adoption of a revised Gosport Borough Council Statement of Licensing Policy.

PART II
Contact Officer:
David Jago
Ext 5517

7. CONSIDERATION OF AN EXCEPTIONAL VEHICLE FOR LICENSING

To consider the grant of a Hackney Carriage licence for a vehicle that is over three years of age.

PART II
Contact Officer:
Russell Bray
Ext 5553

8. CRIME AND DISORDER PRESENTATION – PC JOHN CONNELLY

Licensing Board
14 SEPTEMBER 2010

9. ANY OTHER ITEMS

Which by reason of special circumstances the Chairman determines should be considered as a matter of urgency

10. EXCLUSION OF PUBLIC

To consider the following motion:

That in relation to the following item the public be excluded from the meeting, as it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during these items there would be disclosure to them of exempt information within Paragraph 1 of Part 1 of Schedule 12A to the Local Government Act 1972, and further that in all circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information, for the reasons set out.

**PART B ITEMS
FOLLOWING THE EXCLUSION OF PRESS AND PUBLIC**

Item No.	Item	Paragraph no. of Part I of Schedule 12A of the Act	
11	APPLICATION FOR THE ISSUE OF A PRIVATE HIRE/ HACKNEY CARRIAGE VEHICLE DRIVERS LICENCE	Paragraph 1 The report identifies sensitive personal information	PART II Contact Officer: Gaynor Williams Ext 5503
12	APPLICATION FOR THE ISSUE OF A PRIVATE HIRE VEHICLE DRIVERS LICENCE	Paragraph 1 The report identifies sensitive personal information	PART II Contact Officer: Gaynor Williams Ext 5503

AGENDA ITEM NO. 6

Board/Committee:	Licensing Board
Date of Meeting:	14 th September 2010
Title:	Adoption of Revised Statement of Licensing Policy under the Licensing Act 2003
Author:	Environmental Services manager
Status:	FOR RECOMMENDATION TO THE POLICY AND ORGANISATION BOARD

Purpose

To approve adoption of a revised Gosport Borough Council Statement of Licensing Policy.

Recommendation

That the Licensing Board recommends to Policy and Organisation Board

1. That the revised Statement of Licensing Policy, as set out in Appendix A to this report, is adopted.
2. That the scheme of delegation set out in the original Statement of Licensing Policy, and repeated in the revised policy at Appendix A, continues to be incorporated into the Council's Constitution and Authority is delegated to the Borough Solicitor to make any necessary and any consequential amendments to the Constitution.

1 Background

- 1.1 The Licensing Act 2003 ('the Act'), transferred responsibility for the licensing of all premises that sell alcohol and or provide licensable activities to local authorities. The Act requires local authorities when carrying out their functions, known as the Licensing Functions, to have regard to their own Statement of Licensing Policy and any guidance issued by the Secretary of State under the Act. The Licensing Authority is required to review their Statement of Licensing Policy every three years.

2 Report

- 2.1 A revised Statement of Licensing Policy has been prepared incorporating changes in the statutory guidance issued by the Secretary of State. The changes reflect the maturing nature of the licensing regime. Matters relating to the recent changes to licences issued under Local Government (Miscellaneous Provisions) Act 1982) have been included in the policy. The opportunity has been

taken to reference the Statement of Licensing Policy to the recently published the Department of Culture Media and Sport (DCMS) amended Guidance issued under section 182 of the Licensing Act 2003 – March 2010.

- 2.2 The original Statement of Licensing Policy ('the Licensing Statement') for the Council was developed in conjunction with other local authorities in Hampshire. The revised policy incorporates this document with appropriate updates. This policy is attached as Appendix A
- 2.3 The Statement of Licensing Policy provides guidance for officers and members when carrying out licensing functions including determining applications that are subject to representations or reviews by relevant authorities or the public.
The Act provides for 4 types of licence:-
 - a) Premises licences
 - b) Club Premises Certificates
 - c) Temporary Event Notices
 - d) Personal licences.
- 2.4 The Act and the Secretary of State's subsequent guidance make it clear that the Council must carry out its licensing functions with a view to promoting the Licensing Objectives contained within the Act. These are :-
 - a) The prevention of crime and disorder
 - b) Public safety
 - c) The prevention of public nuisance
 - d) The protection of children from harm.
- 2.5 The Statement of Licensing Policy has to be applied in a manner which promotes the Licensing Objectives and must not ignore or be inconsistent with the provisions of the Act.
- 2.6 As part of the process of revising the Statement of Licensing Policy the Authority has consulted with a number of stakeholders. Details of the consultation process are attached as Appendix B.
- 2.7 The Statement of Licensing Policy sets out the delegation of functions to the Licensing Sub Committees and officers in accordance with the statute and the guidance issued by the Secretary of State. These delegations will need to continue to be incorporated into the Council's Constitution.

3 Risk Assessment

- 3.1 The Council must have a Statement of Licensing Policy. The statement must be reviewed every 3 years once adopted to comply with Central Government requirements.

4 Conclusion

- 4.1 The revised Statement of Licensing Policy attached as Appendix A has been subject to consultation.
- 4.2 The Statement of Licensing Policy is subject to review on a triennial Basis. This allows for further modification to the policy as experience in matters relating to the Act develops and to reflect other legislative changes.
- 4.3 The revised Statement of Licensing Policy has been updated to incorporate revisions to the guidance issued by the Secretary of State under section 182 of the Act, the Health Act 2006. Matters relating to the recent changes to licences issued under Local Government (Miscellaneous Provisions) Act 1982) have been included in the policy. There have only been minor local amendments to the remainder of the original document which is still seen as fit for purpose.

Financial Services comments:	None
Legal Services comments:	Contained in the Report
Service Improvement Plan implications:	
Corporate Plan:	
Risk Assessment:	
Background papers:	
Appendices/Enclosures:	
Appendix 'A'	Gosport Borough Council's Revised Statement of Licensing Policy
Appendix 'B'	Appendix B, Details of the consultation process for the review of the Statement of Licensing Policy.
Report author/ Lead Officer:	D Jago, Environmental Services Manager

APPENDIX A

Gosport Borough Council's Revised Statement of Licensing Policy

**NOTICE OF PUBLIC CONSULTATION OF REVIEW OF THE GOSPORT
BOROUGH COUNCIL STATEMENT OF LICENSING POLICY 2011 – 2014**

The Licensing Act 2003 Section 5 (1) requires that the licensing authority must in respect of each three year period determine its policy with respect to the exercise of its licensing functions, and publish a statement of that policy (a “licensing statement”) before the beginning of the period.

By copy of this notice the draft Review of Gosport Borough Council of Statement of Licensing Policy 2011 – 2014 will be published on Monday 5th July 2010. The final approved Revised Gosport Borough Council of Statement of Licensing Policy 2011 – 2014 will be published and come into effect on 7th January 2011. The draft Revision of Gosport Borough Council of Statement of Licensing Policy 2011 – 2014 will be published for viewing on Gosport Borough Council’s website www.gosport.gov.uk. Printed Copies will be placed in local public libraries and a copy of the Draft Review of Statement of Licensing Policy can be viewed during normal office hours at the Environmental Services Public Counter 2nd Floor Town Hall High Street Gosport PO12 1EB. Any person wishing to make comment on the Gosport Borough Council Draft Statement of Licensing Policy 2011 - 2014 should do so by submitting their comment in writing to The Borough Solicitor Gosport Borough Council Town Hall High Street Gosport PO12 1EB so that it arrives no later than 5th October 2010.

Linda Edwards

The Borough Solicitor
Gosport Borough Council,
Town Hall,
High Street,
Gosport
PO12 1EB



LICENSING ACT 2003

DRAFT STATEMENT OF LICENSING POLICY

2011 to 2014

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**GOSPORT BOROUGH COUNCIL
LICENSING ACT 2003
SECTION 5**

**Statement of Licensing Policy
2011 - 2014**

A licensing policy as determined by the Council in respect of its licensing functions for the three year period commencing 7 January 2011 is set out in this Statement of Licensing Policy. During the three year period the Policy will be kept under review and the Council will make such revisions to it, at such times, as it considers appropriate. Further Statements will be published every three years thereafter.

PART 1: BACKGROUND

- 1.1 Gosport is situated in the County of Hampshire and has a large number of licensed premises. The Council recognises that licensed premises are an important part of the Borough and are major contributors to the local economy, attracting tourists and visitors, and making for vibrant towns and communities, whilst at the same time providing employment.
- 1.2 At June 2010 there were 266 premises in the borough that require licensing under the Act. These premises include:
- public houses and nightclubs
 - off licences
 - hot food take aways operating between 23:00 and 05:00
 - hotels, guest houses, restaurants and other places that sell alcohol
 - private members clubs and social clubs
 - theatres and amateur dramatic groups
 - premises where indoor sporting events take place
- 1.3 In addition, any provision of entertainment by way of a cinema will also fall under the licensing requirements.

Other Legislation

- 1.4 Prior to submitting an application to the Licensing Authority the applicant must ensure that there is appropriate current planning permission for the hours and activities for which application is being made.
- 1.5 The Licensing Authority recognises that there should be a clear separation of the planning and licensing systems and licensing applications will be viewed independently of planning applications. Licensing applications are not a re-run of the planning application and

should not cut across decisions taken by the Regulatory Board or following appeals against decisions by that Board. The granting Licensing Board, where appropriate, will provide reports to the Regulatory Board on the situation regarding licensed premises in the area including the general impact of alcohol-related crime and disorder.

- 1.6 Furthermore premises must comply with all other relevant legislation, e.g.
- Food Safety Act 1990
 - Health & Safety at Work etc Act 1974
 - Disability Discrimination Act 1995
 - Building Regulations 2000
 - The Anti-Social Behaviour Act 2003
 - The Regulatory Reform (Fire Safety) Order 2005
 - The Violent Crime Reduction Act 2006
 - The Health Act 2006
 - Policing and Crime Act 2009
- 1.7 The Licensing Authority will seek to avoid duplication with other regulatory regimes as far as possible. However, if other statutes do not cover the unique circumstances that arise in connection with, for example, entertainment at specified premises then additional controls may be imposed
- 1.8 The Licensing Authority will work with other Local authorities, particularly those with whom boundaries are shared, to ensure a consistent approach is taken to licensing issues whilst respecting the differing needs of the individual communities.

PART 2: INTRODUCTION

- 2.1 Gosport Borough Council ("the Council") is the Licensing Authority pursuant to the Licensing Act 2003 ("the Act") and is responsible for considering all applications for licensable activities, as defined in Part 1 of the Act. The purpose of licensing is to regulate licensable activities on licensed premises, by qualifying clubs and at temporary events. Licensable activities, identified by the Act are:
- The sale by retail of alcohol,
 - Supply of alcohol by or on behalf of a club to, or to the order of, a member of the club,
 - Provision of regulated entertainment, and
 - The provision of late night refreshment

The following licensable activities are also qualifying club activities:

- The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club,
- The sale by retail of alcohol by or on behalf of a club to a guest of a member of the club for consumption on the premises where the sale takes place, and
- The provision of regulated entertainment where that provision is by or on behalf of a club for members of the club or members of the club and their guests

In the Act, references to the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club do not include a reference to any supply which is a sale by retail of alcohol.

The descriptions of entertainment are:

- a) A performance of a play,
- b) An exhibition of a film,
- c) An indoor sporting event,
- d) A boxing or wrestling entertainment,
- e) A performance of live music,
- f) Any playing of recorded music,
- g) A performance of dance,
- h) Entertainment of a similar description to that falling within paragraph (e), (f) or (g),

where the entertainment takes place in the presence of an audience and is provided for the purpose, or for purposes which include the purpose, of entertaining that audience.

- 2.2 There are a number of exceptions and details of these are set out in Sections 173 to 175 of the Act.
- 2.3 This Statement of Licensing Policy has been prepared in accordance with the provisions of the Act and having regard to the Guidance issued under Section 182 of the Act. Where revisions to the Guidance issued under Section 182 of the Act are issued by the Secretary of State there may be a period of time when this Policy is inconsistent with the Guidance. In these circumstances the Licensing Authority should have regard and give appropriate weight to the Guidance and its own licensing policy statement.
- 2.4 The Policy will be kept under review and where any amendments are considered necessary these will only be made after consultation has taken place in accordance with Section 5(3) of the Act. Appropriate weight shall be given to the views of all those consulted. Those to be consulted will include:
 - The Chief Officer of Police for Hampshire
 - The Chief Officer of Hampshire Fire & Rescue Service
 - Bodies representing local holders of premises licences

- Bodies representing local holders of club premises certificates
- Bodies representing local holders of personal licences
- Hampshire Social Services, Area Child Protection Team
- Bodies representing businesses and residents in the Licensing Authority's area
- The Crime and Disorder Reduction Partnership (CDRP)
- Any other bodies the Licensing Authority deems appropriate

The Licensing Authority may hold open meetings as necessary, well publicised amongst the community, at which the community can express how well it feels the licensing objectives are being met.

The Licensing Authority consults widely and follows the Consultation Guidance published by the Cabinet Office to allow all persons sufficient opportunity to comment on and influence local policy. A full list of those consulted is available from the Environmental Health Section, Environmental Services Unit.

- 2.5 The Licensing Authority recognises that the best means of promoting the Licensing Objectives (see 2.6 below) is through the co-operation and partnership of local authorities, the police, local business, performers, local people and those involved in child protection. As such, we will establish a local forum which will include these partners.

Licensing Objectives

- 2.6 When dealing with licensing matters the Licensing Authority will promote and have regard to the four licensing objectives set out in the Act. These are:

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

- 2.7 The Licensing Authority's primary focus is the direct impact of activities taking place at licensed premises on members of the public who are living, working or engaged in normal activity in the vicinity of the premises/place concerned. Licensing law is not a mechanism for the general control of anti-social behaviour by individuals once they are away from the premises/place and, therefore, beyond the direct control of the individual, business or club holding the licence or certificate concerned.
- 2.8 Accordingly, any conditions attached to the licence/certificate will centre on the premises and places being used for licensable activities and the vicinity of those premises and places. Whether or not an instance can be regarded as being in the vicinity of licensed premises

or places is a question of fact and will depend on the particular circumstances of the case.

Integration of Strategies

- 2.9 The Licensing Authority will take into consideration the following in so far as they are relevant to the licensing objectives. The Licensing Board will receive, when appropriate, reports on:
- The needs of the local tourist economy
 - The cultural strategy for the district and the Licensing Authority's wish to encourage and promote live music, dancing and theatre to the wider cultural benefit of its community
 - The employment situation in the district and the need for investment and employment where appropriate.
- 2.10 There are many stakeholders in the leisure industry. Many are involved, directly or indirectly, in the promotion of the Licensing Objectives, particularly those relating to the prevention of crime and disorder and public nuisance.
- 2.11 The Licensing Authority will ensure at all times that it takes into account the views of these stakeholders and ensures proper integration of local crime prevention, planning, transport, tourism and cultural strategies. The Licensing Authority will work closely with the police and Hampshire County Council Trading Standards Service on issues of enforcement. Where appropriate, neighbouring authorities and their parish councils will also be consulted.
- 2.12 Conditions attached to premises licences and club premises certificates will, so far as possible, reflect local crime prevention strategies.

Cumulative Impact of a Number of Licensed Premises in One Area

- 2.13 The Licensing Authority will not take 'need' into account when considering an application, as this is a matter for planning development control and the market. However, it recognises that the cumulative impact of the number, type and density of licensed premises in a given area may lead to serious problems of nuisance and disorder both in the vicinity of and at some distance from the premises.
- 2.14 Representations may be received from a responsible authority/interested party that an area has become saturated with premises making it a focal point for large groups of people to gather and circulate away from the licensed premises themselves. This concentration of premises may be creating exceptional problems of disorder and nuisance over and above the impact from the individual premises.

- 2.15 In these circumstances, the Licensing Authority may consider that the imposition of conditions is unlikely to address these problems and may consider the adoption of a special policy of refusing new premises licences or club premises certificates if it believes that there is a cumulative impact in the area from existing premises and the granting of any more would undermine one of the licensing objectives.
- 2.16 The Licensing Authority does not consider there to be any particular concentrations of licensed premises in any parts of its area considered to be already causing a cumulative impact on one or more of the licensing objectives.

Other Controls on Anti-social Behaviour

- 2.17 Other mechanisms exist to control the anti-social behaviour of a minority of consumers who behave badly and unlawfully after leaving licensed premises etc. These controls include:
- Planning controls
 - Positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the Local Authority.
 - The provision of CCTV surveillance in town centres, ample taxi ranks, provisions of public conveniences open late at night, street cleaning and litter patrols.
 - Powers of local authorities to designate parts of their area as places where alcohol may not to be consumed publicly.
 - Police enforcement of the general law concerning disorder and anti-social behaviour including the issuing of fixed penalty notices.
 - The prosecution of any personal licence holder or member of staff at licensed premises who is selling alcohol to people who are drunk.
 - The confiscations of alcohol from adults and children in designated areas.
 - Police powers to close down instantly for up to 24 hours any licensed premises or temporary events on grounds of disorder, the likelihood of disorder or excessive noise emanating from the premises causing a nuisance.
 - The power of the Police and other responsible authorities or a local resident or business to seek a review of the licence or certificate in question.

Drinking on the Streets

- 2.18 Local authorities are empowered under section 13 of the Criminal Justice and Police Act 2001 to make Designated Public Place Orders (DPPOs) to control the consumption of alcohol in a public place outside of licensed premises. Orders made by the Council under the Criminal Justice and Police Act 2001 to control the drinking of alcohol in the streets will be regularly reviewed as part of the licensing policy review. Gosport Borough Council has implemented a DPPO to encompass the entire Borough of Gosport.
- 2.19 The Violent Crime Reduction Act 2006 provides for powers for Local authorities and police to designate Alcohol Disorder Zones (ADZs) as a last resort to tackle alcohol related crime and disorder

Licensing Hours

- 2.20 Consideration will be given to the individual merits of an application when determining licensing hours. Flexible licensing hours relating to the sale of alcohol are important to ensure that concentrations of customers leaving premises simultaneously are avoided. It is hoped that longer hours will also result in a reduction in binge drinking at the end of an evening. This is necessary to reduce friction leading to problems of disorder and disturbance at late night food outlets, taxi ranks and other sources of transport.

Conditions

- 2.21 Where the responsible authorities and interested parties do not raise any representations about the application made to the Licensing Authority it is the duty of the Licensing Authority to grant the licence or certificate subject only to conditions that are consistent with the operating schedule or club operating schedule and any mandatory conditions prescribed in the 2003 Act itself.
- 2.22 A key concept of the Act is that conditions attached to licences and certificates should be tailored to the individual style and characteristics of the premises and events concerned. Accordingly, conditions will only be imposed to the extent that the Licensing Authority considers them necessary to promote the Licensing Objectives arising out of consideration of representations received. They will focus on matters that are within the control of individual licensees or others in control of relevant activities. The conditions imposed will be drawn from a pool of conditions amended where necessary. These will be based on those matters contained in the *Department for Culture, Media and Sport (DCMS) Guidance issued under Section 182 of the Licensing Act 2003 - Appendix D Pool of Conditions*.

Live Music, Dancing and Theatre

- 2.23 The Licensing Authority recognises that as part of implementing any cultural strategy as may from time to time apply, proper account will need to be taken to encourage and promote live music, dancing and theatre for the wider cultural benefit of the community. Conditions to be imposed on relevant licences will not discourage the promotion of such entertainment but will relate solely to the promotion of the licensing objectives.
- 2.24 To ensure that cultural diversity thrives, the Council has been issued a number of premises licences by the Licensing Authority for public spaces in the community in their own name.

Enforcement

- 2.25 The Licensing Authority has established protocols with the local Police, Trading Standards Service and Fire and Rescue Authority on enforcement issues. This will enable the more efficient deployment of local authority staff, Police Officers, Trading Standards Officers and Fire Officers who are commonly engaged in enforcing licensing law and the inspection of licensed premises. The aim of the protocol will be to target agreed problem and high risk premises which require greater attention while providing a lighter touch in respect of low risk premises which are well run.

Closure

- 2.26 The provisions of Part 8 of the Licensing Act 2003 enable a senior police officer to close down instantly for up to 24 hours licensed premises and premises carrying on temporary permitted activities that are causing nuisance resulting from noise emanating from the premises. Guidance to the police powers to close premises can be found on the DCMS website. For further information see the [DCMS Website](http://www.culture.gov.uk/)
- 2.27 The Violent Crime Reduction Act 2006 (the Policing and Crime Act 2009 amends the offence of persistently selling alcohol to children so that the offence is committed if alcohol is sold to an individual under the age of 18 on two or more occasions within three months) allows a closure notice to be offered as an alternative to prosecution under Section 147A of the 2003 Act for persistently selling alcohol to children. That offence may be committed by the holder of a premises licence if on two or more occasions within 3 consecutive months alcohol is sold unlawfully to an individual aged under 18 on the premises to which the licence relates. If he considers on the evidence that there is a realistic prospect of conviction of the licence holder for such an offence a police

officer of the rank of Superintendent or an Inspector of Weights and Measures may give a closure notice under the Act proposing that the premises concerned be “closed” (that is alcohol sales be prohibited) for a period of up to 48 hours beginning not less than 14 days after the date of the closure notice is served.

- 2.28 The Anti-Social Behaviour Act 2003 provides that if noise from any licensed premises is causing a public nuisance, an authorised officer will have the power to issue a closure order in respect of the premises effective for up to 24 hours. Under this provision, it is for the Chief Executive of the local authority to delegate their power to Environmental Health Officers within their authority.
- 2.29 The Fire Safety Order 2005 covers general fire precautions and other fire safety duties which are needed to protect relevant persons in case of fire in and around most premises. The local fire and rescue authority will enforce the Order in most premises and have the power to check the responsible person is complying with their duties under the Order. If the enforcing authority is dissatisfied with the outcome of a fire risk assessment or the action taken they may issue, in extreme cases, a prohibition notice that restricts the use of all or part of the premises until improvements are made. Further information and guidance on the Order and fire safety legislation is available from the Communities and Local Government website www.communities.gov.uk/fire

Objections/Review Hearings

- 2.30 Responsible authorities and or interested parties may make representations to the Licensing Authority on any application for grant, variation or for the review of a Premises Licence. The Licensing Authority expects that where possible such representations will be made in writing.
- 2.31 Interested parties are the bodies or individuals who are entitled to make representations to licensing authorities on applications for the grant, variation or review of premises licences. In addition, interested parties may themselves seek a review of a premises licence. This group includes:
- a person living in the vicinity of the premises in question;
 - a body representing persons living in that vicinity, for example, a residents' association, or a parish or town council;
 - a person involved in a business in the vicinity of the premises in question;
 - a body representing persons involved in such businesses, for example, a trade association; and
 - a member of the relevant licensing authority i.e. elected councillors of the licensing authority for the area in which a premises is situated.

The expression “a person involved in business” will be given its widest possible interpretation, including partnerships, and need not be confined to those engaged in trade and commerce and may extend to include the functions of charities, churches and medical practices.

- 2.32 Any of these individuals or groups may specifically request a representative to make a representation on their behalf. For example, a legal representative, a friend, a Member of Parliament, a Member of the National Assembly for Wales, or a local ward or parish councillor could all act in such a capacity.
- 2.33 Local councillors play an important role in their local communities. They can make representations in writing and at a hearing on behalf of an interested party such as a resident or local business if specifically requested to do so. They can also make representations as an interested party in their own right if they live, or are involved in a business, in the vicinity of the premises in question. Local councillors can also, as elected members of the licensing authority, make representations in their own right if they have concerns about any premises, regardless of whether they live or run a business in the vicinity of those premises. For example, councillors may apply for a review of a licence if problems at specific premises which justify intervention are brought to their attention.

DISCLOSURE OF PERSONAL DETAILS OF INTERESTED PARTIES

- 2.34 Where a notice of a hearing is given to an applicant, the licensing authority is required under the Licensing Act 2003 (Hearings) Regulations 2005 to provide to the applicant with the notice and copies of the relevant representations that have been made.
- 2.35 In some exceptional and isolated circumstances interested parties may be reluctant to make representations because of fears of intimidation or violence if their personal details, such as name and address, are divulged to the applicant.
- 2.36 Where the licensing authority considers that the interested party has a genuine and well founded fear of intimidation and may be deterred from making a representation because of this, the licensing authority will consider alternative approaches.
- 2.37 The licensing authority may also decide to withhold some or all of the interested party’s personal details from the applicant, giving only enough details (such as street name or general location within a street) which would allow an applicant to be satisfied that the interested party is within the vicinity of the premises. However, withholding such detail will only be considered where the circumstances justify such action and the licensing authority is satisfied that the complaints are not frivolous or vexatious.

- 2.38 The Licensing Authority can only review a licence where it is alleged that the Licensing Objectives are not being kept. The Licensing Authority will hold a review hearing to consider the merits of an application or licence where the representation is considered relevant. In order to be relevant it must relate to the likely effect of the grant of the licence on the promotion of at least one of the Licensing Objectives. Review hearings will be heard by a panel of elected members. Applicants and objectors will be informed of the hearing protocol and invited to attend such hearings to present their arguments.
- 2.40 The Licensing Authority will, however, make every effort to consult with the applicant and objector to resolve any issues as appropriate.
- 2.41 An aggrieved interested party whose representation is not regarded as relevant may challenge the Licensing Authority by way of a judicial review.
- 2.42 Following a review hearing the Licensing Authority may:
- modify the conditions of the licence
 - exclude a licensable activity from the scope of the licence
 - remove the designated premises supervisor
 - suspend the licence for a period (not exceeding three months)
 - revoke the licence
 - take no action

Offences

- 2.43 The Act sets out a number of offences, proceedings for which may be instigated by:
- The Licensing Authority
 - The Director of Public Prosecutions
 - In the case of an offence under section 146, 147 or 147A (sale of alcohol to children and persistently selling alcohol to children) by a local Weights and Measures Authority (within the meaning of section 69 of the Weights and Measures Act 1985 (c.72)).
- 2.44 Any action instigated by the Licensing Authority will be undertaken having regard to the Enforcement Policy of the council.

Appeals

- 2.45 Within the Licensing Act 2003 there is provision for appeals for aggrieved parties in connection with decisions made by the Licensing Authority. Other than in the case of personal licences, an appeal has to be made to the Magistrates Court.
- 2.46 The Licensing Authority will provide all parties concerned with any licensing decision, with the reason for that decision(s) and details of the

rights of appeal under the Act. Any reasons given will address the extent to which the decision was made with regard to the Licensing Authority's statement of licensing policy, statutory guidance, regulations and the Act itself.

Equal Opportunities & Race Equality

- 2.47 Subject to the general requirements of the Act, the Licensing Authority will promote equality of opportunity. In such respects, nothing within this Statement of Licensing Policy shall undermine the right of any individual to apply for any of the licences and/or authorisations provided for under the terms of the Act.
- 2.48 No applicant and/or licence holder shall receive less or more favourable treatment on the grounds of sex, sexual orientation, age, disability, marital status, colour, religion, race or ethnic origin. No applicant and/or licence holder shall be disadvantaged by conditions or requirements which are not relevant to their application and/or their licence, the promotion of the four Licensing Objectives and this Statement of Licensing Policy.

Disability Discrimination & Human Rights

- 2.49 It is the policy of the Licensing Authority that facilities for people and performers with disabilities should be provided at places for entertainment under the duties imposed by the Disability Discrimination Act 1995.
- 2.50 The Licensing Authority will have particular regard to the following relevant provisions of the European Convention on Human Rights:
- Article 6 that in the determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.
 - Article 8 that everyone has the right to respect for his home and private life.
 - Article 1 of the First Protocol that every person is entitled to the peaceful enjoyment of his or her possessions.
- 2.51 Subject to the general requirements of the Act, nothing within this Statement of Licensing Policy shall undermine the right of any person to make representation(s) on an application, or seek a review of an existing licence or certificate, where provision has been made for them to do so under the Act.

Data Protection

2.52 The Licensing Authority may use the information submitted on any application form for any licence(s) and/or permission(s) provided under the terms of the Act for the purpose of carrying out its statutory function(s) in its capacity as the relevant Licensing Authority.

2.53 The Licensing Authority may disclose all such information to its agents or service providers. The Licensing Authority may also share this information with other Council Services (departments).

2.54 All applicants have the right to ask for a copy of the information that the Licensing Authority holds about them (for which we may charge a fee) and to correct any inaccuracies held.

2.55 By making application to the Licensing Authority for any licence and/or permission under the terms of the Act all applicants consent to our processing sensitive personal data about them where this is necessary.

2.56 The Act requires the Licensing Authority to keep a register of:

- A record of each Premises Licence, Club Premises Certificate, and Personal Licence issued by it
- A record of each temporary event Notice received by it
- The matters mentioned in Schedule 3 for example :-

i) any application made to the licensing authority under section 17 (grant of premises licence)

ii) any notice given to it under section 28 (surrender of premises licence)

iii) any application made to it under section 34 (variation of premises licence)

iv) any application made to it under section 37 (variation of licence to specify individual as premises supervisor)

- Such other information as may be prescribed.

Any person is permitted to obtain a copy of this information from the Licensing Authority and information included in this register may be published on the Council's website [Licensing page](http://www.gosport.gov.uk) www.gosport.gov.uk.

Delegation of Functions

- 2.57 In the interests of speed and efficiency the Licensing Authority will, where possible, delegate licensing decisions and functions to officers. However, if the matter to be decided is controversial in any way or the determination of the matter under delegated powers is precluded by law then it will be decided by the Licensing Board or a Sub-Committee of that Board.

See Appendix A for Schedule of Delegation

PART 3: TYPES OF LICENCES, CERTIFICATES AND NOTICES

Personal Licences

- 3.1 A personal licence will be granted to any applicant, aged 18 or over, who possesses a relevant qualification or is a person of a prescribed description as determined by the DCMS. A licence will not be granted to any applicant who has forfeited a personal licence in the five year period ending with the date of the application.
- 3.2 Where an applicant has an unspent conviction for a relevant or foreign offence, the police can object to the application.
- 3.3 Applicants who meet the statutory criteria in terms of age, qualifications and non-forfeiture, as mentioned above, will be granted a licence (subject to any police objections being received). Applications that do not meet those criteria will be rejected.
- 3.4 Where the police have issued an objection notice, refusal of the application should be the normal course unless there are, in the opinion of the Licensing Authority, exceptional and compelling circumstances that justify granting the application. Such circumstances could be that the applicant is able to demonstrate that the offence in question took place so long ago and that there is no longer any likelihood of re-offending. The Licensing Authority may consider that the individual circumstance of the case is so exceptional and compelling that any risk to the community has diminished that it is right to grant the application.
- 3.5 There will be no need for a hearing if the applicant, Licensing Authority and Chief Officer of Police agree that a hearing is not necessary.
- 3.6 The Licensing Authority requires every application for a personal licence to be accompanied with a criminal conviction certificate or a

criminal record certificate or the results of a subject access search of the police national computer by the National Identification Service to the Licensing Authority. This will assist the Licensing Authority in determining whether the applicant has any relevant unspent convictions.

- 3.7 Applicants who originate from, or who have lived under, foreign jurisdiction will be required to provide a document from that jurisdiction, equivalent to the criminal records disclosure form, or swear a statutory declaration confirming that they have not been convicted outside of England and Wales of a relevant offence or equivalent offence. Applicants should be warned that the making of a false declaration for the purpose of obtaining a licence is a criminal offence for which they will be prosecuted.

Temporary Event Notices (TEN)

- 3.8 The Temporary Events procedure involves notification of an event to the Licensing Authority and the police, subject to fulfilling certain conditions prescribed in the legislation and regulations. In general only the police may intervene to prevent such an event taking place or to agree a modification of the arrangements for such an event. The most important aspect of the procedure of permitted temporary activities is that no authorisations as such are required for these events from the Licensing Authority. The Licensing Authority encourages persons organising such events to have due regard for the concerns of local residents and to seek advice from the Local Authority regarding other legislative requirements that event organisers should consider.
- 3.9 When a temporary event is proposed, notice of the event, along with the relevant fee, must be served on the Licensing Authority at least 10 working days before the event (although the Licensing Authority hopes that in most cases the premises user will serve notice on the Licensing Authority as far as possible ahead of the proposed event).
- 3.10 Section 193 of the Act defines “working day” as any day other than a Saturday, a Sunday, Christmas Day, Good Friday, or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in England and Wales. **“Ten working days notice” means ten working days exclusive of the day on which the event is to start, and exclusive of the day on which the notice is given.**
- 3.11 On receipt of a Temporary Event Notice the Licensing Authority will issue an acknowledgement notice in accordance with the requirements of the Act, unless a counter notice has been served under Section 107 of the Act. Counter notices under this Section relate to circumstances where the limits permitted under the Act for the service of temporary events notices are exceeded. The premises user must also serve a copy of the notice on the local Chief Officer of Police no later than 10

days before the day on which the event specified in the temporary event notice begins.

- 3.12 If the Chief Officer of Police is satisfied that allowing the premises to be used in accordance with the notice will undermine the crime prevention objective he/she must serve an objection notice, stating his/her reasons, on both the Licensing Authority and the premises user within 48 hours of receiving the temporary event notice.
- 3.13 If the Licensing Authority receives an objection notice it will hold a hearing to consider the objections (unless the Licensing Authority, police and premises user agree that a hearing is unnecessary) and will give the premises user a counter notice under Section 105 of the Act if it considers it necessary for the promotion of the crime prevention objective to do so.
- 3.14 The Fire and Rescue Service is not a statutory consultee in the TEN process. However, when a TEN is received by the Licensing Authority it may, where considered necessary, for information purposes only, notify the Fire and Rescue Service at the earliest possible opportunity.

Club Premises Certificates

- 3.15 The Licensing Authority acknowledges that private premises to which public access is restricted and where alcohol is supplied, other than for profit, give rise to different issues for licensing law than those presented by commercial enterprises selling direct to the public. The Licensing Authority encourages clubs to take advantage of the benefits offered to such premises such as the absence of a requirement for a Personal Licence Holder (PLH) or Designated Premises Supervisor (DPS).
- 3.16 The Licensing Authority will consider applications for premises licences if the Club decides that it wishes to offer its facilities commercially for use by the general public but the Applicant should remember that the appropriate planning consent should be sought prior to the application for a premises licence being submitted.
- 3.17 When a premise has the benefit of a Club Premises Certificate, an application may be made to allow those running the premises to supply alcohol for consumption off the premises. Such supply will only be allowed during the hours that the premises are open for supply of alcohol to its members on the premises. Any such permission that is granted will be subject to conditions that any alcohol supplied will be in a sealed container and will only be supplied to members.

Premises Licences

- 3.18 A premises licence is required for any premises which are used for one or more licensable activity as defined in 2.1 above. Those who may apply for licences are defined in Section 16 of the Act.
- 3.19 The requirements in relation to applications for premises licences are set out in Section 17 of the Act and the Licensing Authority will not be able to consider applications which do not comply with those requirements. This Section requires that applications must be accompanied by:
- a) an operating schedule that demonstrates that the licensed premises can comply with the Licensing Authority's licensing policy and promotes the 4 Licensing Objectives. The operating schedule must set out the following details:
 - the relevant licensable activities to be conducted on the premises
 - the times during which it is proposed that the relevant licensable activities are to take place, including the times during each day of the week, during particular holiday periods and during particular seasons if it is likely that the times would be different during different parts of the year
 - any other times when the premises will be open to the public
 - where the licence activities include the supply of alcohol, the name and address of the individual to be specified as the Designated Premises Supervisor
 - where the licensable activities include the supply of alcohol, whether the alcohol will be supplied for consumption on or off the premises or both
 - the steps which the applicant proposes to take to promote the licensing objectives
 - b) a plan of the premises to which the application relates in the prescribed form
 - c) an appropriate consent form completed by the relevant Designated Premises Supervisor
 - d) the appropriate fee.
- 3.20 Applicants for variations to an existing licence or club registration certificate need only include in their operating schedule those additional steps necessary to promote the Licensing Objectives in respect of the variation applied for.
- 3.21 The Licensing Authority requires that applicants shall provide evidence that they have complied with all relevant statutory procedures. The Licensing Authority requires applicants to submit, with their application, certificates of service and certificates of display of notice on the Licensing Authority's standard forms. The Licensing Authority also requires applicants to submit a copy of the newspaper in which notices

of application have been published within 5 working days of the date of publication.

Note: Fee levels and prescribed forms may be viewed on the websites of the DCMS www.culture.gov.uk/ and the Council's Fees and Charges Book www.gosport.gov.uk/ Or can be obtained from the Licensing Authority's licensing team.

PART 4: LICENSING POLICIES & MATTERS FOR CONSIDERATION BY APPLICANTS

Section A: Prevention of Crime and Disorder

Matters to be considered by Applicants.

- 4.1 Applicants should have regard to the following matters when writing their operating schedules and are advised to consult Hampshire Police before submitting their application. If the Licensing Authority receives a representation, additional conditions may be imposed at the hearing that determines the application.
- 4.2 It should be noted in particular that it is unlawful under the 2003 Act:
- To sell or supply alcohol to a person who is drunk
 - To knowingly allow disorderly conduct on licensed premises
 - For the holder of a premises licence or a Designated Premises Supervisor to knowingly keep or to allow to be kept on licensed premises any goods that have been imported without payment of duty or which have otherwise been unlawfully imported
 - To allow the presence of children under 16 who are not accompanied by an adult between midnight and 05:00 hours at any premises licensed for the sale of alcohol for consumption on the premises and at any time in premises used exclusively or primarily for the sale and consumption of alcohol
 - To supply alcohol to those under 18.

Conditions enforcing these arrangements are therefore unnecessary.

- 4.3 When addressing crime and disorder the applicants should initially identify any particular issues (having regard to their particular type of premises and/or activities) which are likely to adversely affect the promotion of the crime and disorder objective. Such steps as are required to deal with these identified issues should be included within the applicant's operating schedule. The measures laid down in *DCMS Guidance issued under Section 182 of the Act - Appendix D Pool of Conditions - Part 1. Conditions relating to the Prevention of Crime and Disorder* should be considered as practices, which if necessary, may promote the prevention of crime and disorder.

- 4.4 Any adoption of the measures outlined in the *DCMS Guidance issued under Section 182 of the Act - Appendix D Pool of Conditions - Part 1. Conditions relating to the Prevention of Crime and Disorder* will depend on a range of factors including:

- The nature and style of the venue
- The activities being conducted there

- The location of the premises
- The anticipated clientele of the business involved.

It should also be borne in mind that club premises operate under their own codes of discipline to ensure the good order and behaviour of members.

- 4.5 Whether it is necessary to impose conditions on the licence or certificate will also depend on local knowledge of the premises.
- 4.6 Under no circumstances should the following measures be regarded as standard conditions to be automatically imposed in all cases. They are designed to provide a range of conditions drawn from experience relating to differing situations and to offer guidance.
- 4.7 Any individual preparing an operating schedule is at liberty to volunteer any measure, as a step he or she intends to take to promote the Licensing Objectives. When incorporated into the licence or certificate as a condition, they become enforceable under the law and a breach of such a condition could give rise to prosecution.

Summary

- 4.8 The Licensing Authority will expect operating schedules for:
 - a) Premises open between 23:00 and 08:00
 - b) Other premises where appropriate to have considered measures such as -
 - Use of CCTV both within and outside the premises in accordance with the code of practice issued by the Information Commissioner from time to time, e.g. warning signs
 - Metal detection and search facilities
 - Procedures for risk assessing promotions and events such as "happy hours" including the potential to cause crime and disorder and plans for minimising such risks
 - Measures to prevent the use or supply of illegal drugs
 - Employment of door supervisors licensed by the Security Industry Authority and other appropriately trained staff
 - Participation in an appropriate Watch Scheme or other body designed to ensure effective liaison with the local community
 - Prevention of fire setting
 - Proof of Age schemes
 - Controls on bottles, glasses and containers
 - Capacity limits
 - Notices and signage, including a prominent sign giving the name of the personal licence holder in charge of the premises.
 - No admissions after a specified time
 - A personal licence holder to be on duty at the premises during opening hours

- Consideration of design, character and layout

Further guidance is included in the *DCMS Guidance issued under Section 182 of the Act - Appendix D Pool of Conditions - Part 1. Conditions relating to the Prevention of Crime and Disorder.*

Reason

4.9 Prevention of crime and disorder is one of the four licensing objectives of the Licensing Act 2003. It is important that applicants identify measures taken to address this objective in their operating schedule.

Drugs/Alcohol Abuse

Drugs and Drunkenness on Premises.

- 4.10 The Licensing Authority will expect licensees to have adequate management practices in place as well as suitable training for staff to ensure that sales are not made to persons under the age of 18, or to persons who may supply to persons under that age. These practices also need to be in place to ensure that sales are not made to persons who are drunk, or to whom it is believed the sale of alcohol may result in crime and disorder.
- 4.11 The Government has published its updated Alcohol Harm Reduction Strategy document "*Safe. Sensible. Social. The next steps in the National Alcohol Strategy*" in June 2007. It complements local authorities' licensing strategies and may help to promote one or more of the Licensing Objectives.
- 4.12 The Licensing Authority will also expect licensees to be aware of the potential for the misuse of drugs on their premises. Where such a potential exists they should:
- take all reasonable steps to prevent the entry of drugs into licensed premises
 - take appropriate steps to prevent drugs being supplied within the premises
 - take practical measures to prevent tragedies as a result of drug misuse
- 4.13 In particular, the Licensing Authority will expect licensees of venues likely to be affected by alcohol or drug abuse to be familiar with the contents of Chapter 4 (drug awareness) of the BIIAB Level 2 National Certificate for Entertainment Licensees and to be following the recommendations of that handbook www.bii.org
- 4.14 The Licensing Authority will also expect the relevant licensees to be following the recommendations of the book "*Safer Clubbing*" issued by the Home Office (ISBN 1840827807).

- 4.15 The Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks is recommended by the Licensing Authority to all relevant licensees www.portmangroup.org.uk/
- 4.16 The Drinkaware Trust is an independent UK-wide, public-facing body with the objective of positively changing public behavior and the national drinking culture to help reduce alcohol misuse and minimise alcohol-related harm. The Trust is recommended to all relevant licensees. Further information can be found on the Trust's website www.drinkaware.co.uk/
- 4.17 Drug and alcohol abuse are problems associated with licensable premises. Conditions are required to assist operators of such premises to meet both the crime and disorder objective and the prevention of public nuisance.

Shops Stores and Supermarkets.

- 4.18 The Licensing Authority will generally consider licensing shops, stores and supermarkets to sell alcohol for consumption off the premises at any times they are open for shopping. Shops must have adequate management practices to ensure that sales are not made to under 18 year olds and persons where there are grounds to believe that the sale will result in crime and disorder. Reference should be made to the *"Responsible Retailing of Alcohol: Guidance for the Off-Trade"* produced by the Association of Convenience Stores, the British Retail Consortium and the Wine & Spirit Association www.brc.org.uk/default.asp
- 4.19 However, if there are good reasons for restricting those hours, for example, where police representations made in respect of shops known to be the focus of disorder and disturbance, then restriction of hours will be considered.
- 4.20 Procedures must be in place to ensure that only persons eighteen years or older sell alcohol directly to consumers of eighteen or over. Where sales persons are under eighteen they must be adequately supervised for alcohol sales. Staff training, good procedures and management, a "No ID No Sale" Policy combined with "Challenge/Think 21" Policy and some in store signage, and sensible siting of drinks can all reduce the likelihood of illegal sales.

Reason

- 4.21 The sale of alcohol from premises other than pubs or clubs throughout the day is integral to the Act. It is, however, necessary to ensure that suitable regimes are in place to prevent the sale of alcohol to persons under 18 years of age. Controls will meet the need to address the potential for crime and disorder problems that underage sales

represent. In addition, the controls required will also address the requirement under the Act to protect children from harm.

Section B: Public Safety

Matters to be considered by Applicants

5.1 The Act covers a wide range of premises that require licensing, including cinemas, concert halls, theatres, nightclubs, public houses, cafes/restaurants and fast food outlets/takeaways. Each of these types of premises presents a mixture of risks with many common to most premises and others unique to specific operations. It is essential that premises are constructed or adapted and operated so as to acknowledge and safeguard occupants against these risks.

5.2 The Licensing Authority will not impose standard conditions but will consider attaching conditions to licences and permissions to promote public safety (including fire safety) where appropriate and necessary which may be based on the *DCMS Guidance issued under Section 182 of the Act - Appendix D Pool of Conditions - Part 2. Conditions relating to Public Safety.*

Reason

5.3 The safety of the public at licensed premise is paramount and is one of the four Licensing Objectives.

5.4 Licensed premises that provide regulated entertainment for large numbers of people create additional safety hazards that need to be controlled. Operating Schedules must demonstrate how effective fire safety management is being provided and maintained.

Section C: The Prevention of Public Nuisance

Matters to be considered by Applicants

- 6.1 It should be noted that provisions of the Environmental Protection Act 1990 and the Noise Act 1996 provide some protection to the general public from the effects of noise nuisance. In addition, the provisions of Part 8 of the Licensing Act 2003 enable a senior police officer to close down instantly, for up to 24 hours, licensed premises and premises carrying on temporary permitted activities that are causing nuisance resulting from noise emanating from the premises. Further provisions are available to local authorities under the Anti- Social Behaviour Act 2003 that if the noise from any licensed premises is causing a public nuisance an authorised officer has the power to issue a closure order effective up to 24 hours. Under this provision, it is for the Chief Executive of the local authority to delegate their power to Environmental Health Officers within their authority.

These matters should be considered before deciding whether or not conditions are necessary for the prevention of public nuisance as defined in the *DCMS Guidance issued under Section 182 of the Act - Appendix D Pool of Conditions - Part 4. Conditions relating to the Prevention of Public Nuisance.*

- 6.2 Licensing law is not the primary mechanism for the general control of individuals once they are away from a licensed premises and therefore beyond the direct control of individual licensees or certificate holders. However, licensees and certificate holders should take reasonable steps to prevent the occurrence of crime and disorder and public nuisance immediately outside their premises, for example on the pavement, in a beer garden, or in a smoking shelter, where and to the extent that these matters are within their control.
- 6.3 Public nuisance is given a statutory meaning in many pieces of legislation. It is, however, not narrowly defined in the 2003 Act and retains its broad common law meaning. It is important to remember that the prevention of public nuisance could therefore include low-level nuisance, perhaps affecting a few people living locally, as well as major disturbance affecting the whole community. It may also include in appropriate circumstances the reduction of the living and working amenity and environment of interested parties (as defined in the 2003 Act) in the vicinity of licensed premises.
- 6.4 The 2003 Act requires licensing authorities (following receipt of relevant representations) and responsible authorities, through representations, to make judgements about what constitutes public nuisance and what is necessary to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on

impacts of the licensable activities at the specific premises on persons living and working (including doing business) in the vicinity that are disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.

- 6.5 As with all conditions, it will be clear that conditions relating to noise nuisance may not be necessary in certain circumstances where the provisions of the Environmental Protection Act 1990 or the Noise Act 1996 adequately protect those living in the vicinity of the premises. But as stated earlier in this Guidance, the approach of licensing authorities and responsible authorities should be one of prevention and, when their powers are engaged, the Licensing Authority will be aware of the fact that other legislation may not adequately cover concerns raised in relevant representations and additional conditions may be necessary.
- 6.6 Applicants should have regard to the following matters when writing their operating schedules and are advised to consult the Environmental Health Officers at the Council before submitting their application. Additional matters that may be considered are contained in the *DCMS Guidance issued under Section 182 of the Act - Appendix D Pool of Conditions - Part 4. Conditions relating to the Prevention of Public Nuisance*. If the Licensing Authority receives a representation at the hearing that determines the application, additional conditions may be imposed.
- 6.7 Licensed premises, especially those operating late at night and in the early hours of the morning, can cause a range of nuisances impacting on people living, working or sleeping in the vicinity of the premises.
- 6.8 When addressing public nuisance the applicant should initially identify any particular issues (having regard to their particular type of premises and/or activities) which are likely to adversely affect the promotion of the objective to prevent public nuisance. Such steps as are required to deal with these identified issues should be included within the applicant's operating schedule.

Noise from Patrons

- 6.9 The Licensing Authority will expect popular venues (including take-aways), that attract queues, to formulate a system to avoid disturbance to residents.
- 6.10 However, excessive noise and/or disorder require more rigorous action. It is important that queues formed later in the evening are supervised to keep noise to a minimum. Door supervisors will generally carry out this role, but they must be given clear instructions as to their duties and responsibilities and where necessary they should be adequately supervised.

- 6.11 In terms of patrons leaving the premises, particularly late at night (after 23:00 hours) or early in the morning, the Licensing Authority will expect the applicant to have included in the operating schedule such practical steps as necessary to avoid noise nuisance to local premises.
- 6.12 It is self evident that the risk of disturbance to local residents is greater when licensable activities continue late at night and into the early hours of the morning.
- 6.13 The policy of the Licensing Authority is to strike a fair balance between the benefits to a community of a licensed venue and the risk of disturbance to local residents. Consequently, in sensitive areas the Licensing Authority may restrict the hours of operation as an alternative to extensive sound insulation and noise control measures.

Street Furniture

- 6.14 The beer gardens and smoking shelters of public houses are an asset to the premises. Similarly, the provision of tables and chairs outside the premises, either on the highway or on private land, can enhance the attractiveness of the venue. It can have the benefit of encouraging a continental style café culture. However, late at night these same tables and chairs and in some cases smoking shelters can contribute to noise problems and in the case of tables and chairs can be used as weapons.
- 6.15 The positioning of tables and chairs on the public highway requires the consent of the Highway Authority. On private land consent may not be required, but the operating schedule must adequately address public nuisance. However, if not volunteered by the applicant in their operating schedule and following relevant representations, conditions may be applied to address the public nuisance.

Reason

- 6.16 A policy is required to balance between providing refreshment and facilities in the open air and avoiding nuisance to others. The need to control street furniture also impacts on the public safety and the crime and disorder requirements as the abuse of street furniture must be considered.

Exterior Lighting

- 6.17 Exterior lighting and security lighting must be positioned to avoid disturbing neighbouring residential property.

Reason

- 6.18 Prevent the potential for nuisance due to bright lights shining into neighbouring properties.

Section D: Protection of Children

Matters to be considered by Applicants

- 7.1 Applicants should have regard to the following matters when writing their operating schedules and are advised to consult the Hampshire County Council, Area Child Protection Team. If the Licensing Authority receives a representation at the hearing, that determines the application, additional conditions may be imposed.
- 7.2 When addressing the protection of children, the applicant should initially identify any particular issues (having regard to their particular type of premises and/or activities) which are likely to cause concern in relation to children. Such steps as are required to deal with these identified concerns should be included within the applicant's operating schedule.
- 7.3 It should be noted that it is unlawful under the Licensing Act 2003 to permit children under the age of 16 unaccompanied by an individual aged 18 or over to be present on premises:
- a) exclusively or primarily used for supply of alcohol for consumption on those premises under the authorisation of a premises licence, club premises certificate or a temporary event notice when open for the purposes of being used for the supply of alcohol for consumption there; or
 - b) between midnight and 05:00 hours at all premises supplying alcohol for consumption on those premises under the authorisation of any premises licence, club premises certificate or temporary event notice.

Conditions duplicating these provisions are therefore unnecessary. However, this does not mean that children should automatically be admitted to such premises.

Adult Entertainment

- 7.4 Where the activities proposed under the licence include those of a sex-related nature (e.g. topless waitresses, striptease, table dancing, etc.) the Licensing Authority would take into account the increased risk to the Licensing Objectives.

Note: For the sake of convenience the term "striptease" in this part of the policy should be taken to refer to any entertainment or service involving nudity or the sexual stimulation of patrons.

- 7.5 Section 27 of the Policing and Crime Act 2009 (PCA) reclassifies certain entertainment activities and the venues for such activities sex

establishments. The Local Government (Miscellaneous Provisions) Act 1982 (LGMPA) gives local authorities in England and Wales the power to regulate such venues as sex establishments under Schedule 3 of LGMPA.

7.6 These new measures took effect in 6th April 2010 in England and where they are adopted they will give local people a greater say over where and how many lap dancing clubs can open and operate in their neighbourhoods.

7.7 Schedule 7 to the PCA amends the Licensing Act 2003 (LA03) to ensure that premises for which a sex establishment licence is required or held (or for which a requirement has been waived under paragraph 7 of Schedule 3 to the LGMPA) do not also require a premises licence, club premises certificate or temporary event notice in order to provide the relevant entertainment. (This is because such entertainment is expressly excluded from the definition of regulated entertainment found in the LA03). However if the premises also carry on other licensable activities (e.g. the sale of alcohol or the provision of regulated entertainment that is not relevant entertainment) they will nevertheless continue to require a premises licence, club premises certificate or temporary event notice under the LA03 for those activities subject to any exclusion contained in that Act.

7.8 Premises that offer on an irregular basis entertainment of a sexual nature may not require a sex establishment licence in which case the provisions of the premises licence especially with reference to the protection of children will apply.

For further information see the Home Office Sexual Entertainment Venues Guidance for England and Wales available from the Home Office website: [Home Office Crime Reduction National Archives](http://webarchive.nationalarchives.gov.uk/20100413151441/http://www.crimereduction.homeoffice.gov.uk/cpindex.htm)
<http://webarchive.nationalarchives.gov.uk/20100413151441/http://www.crimereduction.homeoffice.gov.uk/cpindex.htm>

7.5 Where such entertainment is provided the premises licence operating schedule must include controls designed to ensure that children are not admitted to the activity and cannot witness the activity. The area proposed for striptease shall:

- (a) be in a position where the performance cannot be seen from the street
- (b) be in a designated area of the premises with segregation from the audience and
- (c) be in a position where the performers will have direct access to the dressing room without passing through or in close proximity to the audience.

7.6 Whilst striptease entertainment is taking place no person under the age of 18 shall be on the licensed premises and a clear notice shall be displayed at each entrance to the premises in a prominent position, so

that it can be easily read by persons entering the premises, in the following terms:

“NO PERSON UNDER 18 WILL BE ADMITTED”

- 7.7 Where a part of the premises can be effectively screened from persons under the age of 18 the requirements of paragraph 7.5 can be applied to that part of the building.
- 7.8 To prevent the possibility of children seeing unsuitable advertisements, unless the advert has been previously agreed by the Licensing Authority, the policy of the Licensing Authority will be to attach a condition to the effect that “Except with the consent of the Licensing Authority there shall be no external advertising of the striptease entertainment either at the premises or in its immediate vicinity.”

Reason

- 7.9 These policies are designed to further the Licensing Objective of protecting children by preventing them being exposed to unsuitable material or acts. They are also designed to further the crime prevention and prevention of nuisance objectives by recognising the increased risk of nuisance or illegal activities such as performers offering “extras” to customers or the plying for trade by prostitutes.

Additional Controls

- 7.10 The Licensing Authority will take strong measures to protect children from harm. Examples of premises where the introduction of additional controls are likely to be necessary are:

- Where there have been convictions for serving alcohol to a minor or with a reputation for under-age drinking
- With a known association with drug taking or dealing
- Where there is a strong element of gambling on the premises
- Where entertainment of an adult or sexual nature is provided

- 7.11 In such circumstances while it may sometimes be necessary to impose a complete prohibition this would be only rarely imposed. The Licensing Authority would normally require:

- Limitations on the hours when children may be present
- Age limitations below 18
- Limitations or exclusions when certain activities are taking place
- Requirements for accompanying adults
- Full exclusion of people under 18 from the premises when any licensable activities are taking place

- 7.12 Where there is provision of entertainment specifically for children (e.g. a children’s disco) the Licensing Authority will require the presence of

sufficient adults to control the access and egress of the children and ensure their safety.

Reason

7.13.1 These policies are designed to allow flexibility for the licensee, to ensure that where appropriate licensed premises are “user friendly” for children but to ensure they are adequately protected.

7.13.2 For further information see the *DCMS Guidance issued under Section 182 of the Act - Appendix D Pool of Conditions - Part 5. Conditions relating to the Protection of Children.*

Children & Cinemas

7.14 The Licensing Authority expects licensees to include in their operating schedule arrangements for restricting children from viewing age restricted films classified according to the recommendations of the British Board of Film Classification.

7.15 Where the exhibition of films is permitted the Licensing Authority will expect the age restrictions of the British Board of Film Classification (BBFC) in respect of the films to be exhibited to be complied with. Only in exceptional cases will variations of this general rule be granted by the Licensing Authority and then only with appropriate safeguards.

7.16 In relation to specialist Film Festivals where it is desired to show films not classified by the BBFC the Licensing Authority will, provided adequate notice has been given, classify the films concerned. To achieve consistency and the protection of children the Licensing Authority will use the guidelines published by the BBFC <http://www.bbfc.co.uk/>

Reason

7.17 To prevent children from viewing unsuitable films.

Children and Regulated Entertainment

7.18 It is expected that adult staff will be at places of public entertainment to control the access and egress of children and to protect them from harm. This requirement also applies to children present at an event as performers, in which case, for every ten children there must be one supervising adult present at all times.

7.19 For additional matters see the *DCMS Guidance issued under Section 182 of the Act - Appendix D Pool of Conditions - Part 3. Conditions relating to Theatres, Cinemas, Concert Halls and Similar Places (Promotion of Public Safety).*

Appendix A

SCHEDULE OF DELEGATIONS

Matter to be dealt with	Licensing Sub-Committee	Officers
Application for personal licence	If a police objection	If no objection made
Application for personal licence with unspent convictions	All cases	
Application for premises licence/club premises certificate	If a relevant representation made	If no relevant representation made
Application for provisional statement	If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate	If a relevant representation made	If no relevant representation made
Application for a Minor Variation to Premises Licence /club premises certificate.		All cases
Application to vary to disapply mandatory Section 19 conditions for sales of alcohol at community premises	If a Police objection	All other cases
Application to vary designated premises supervisor	If a Police objection	All other cases
Request to be removed as designated premises supervisor		All cases
Application for transfer of premises licence	If a Police objection	All other cases
Applications for interim Authorities	If a Police objection	All other cases

Application to review premises licence / club premises certificate	All cases	
Decision on whether a complaint is irrelevant frivolous vexatious etc		All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application	All cases	
Determination of a Police objection to a temporary event notice	All cases	
In cases where the Magistrates Court has determined the licence on Appeal		All cases

The Licensing Committee shall receive regular reports on decisions made by officers so that they maintain an over view of the general situation.

APPENDIX B

Responsible Authorities

The Responsible Authorities that must be fully notified of applications and that are entitled to make representations to the Licensing Authority in relation to the application for the grant, variation or review of a premises licence.

For all premises these include:

Police

Chief Officer of Police,
Central OCU Headquarters,
Fareham Police Station,
Quay Street,
Fareham, PO16 0NA.
Tel: 08450454545

Fire

Chief Fire Officer,
Hampshire Fire and Rescue Service,
Service Delivery (Community Safety Delivery)
Protection Department,
Southsea Fire Station,
Somers Road,
Southsea,
Hampshire PO5 4UL
Tel: 023 9285 5180

Local Agency for Health & Safety at Work etc. Act 1974

Principal Environmental Health Officer (Commercial)
Environmental Services,
Town Hall,
High Street,
Gosport,
Hampshire, PO12 1EB
Tel: 0239254 5505/6/7

Local Agency for Environmental Health

Principal Environmental Health Officer (Residential)
Environmental Services,
Town Hall,
High Street,
Gosport,
Hampshire, PO12 1EB
Tel: 0239254 5505/6/7

Local Planning Authority

Head of Development Control
Town Hall,
High Street,
Gosport,
Hampshire, PO12 1EB
Tel: 0239254 5483

Local Weights and Measures Authority

Head of Safety and Standards, Hampshire County Council,
Trading Standards Service,
Montague House,
Monarch Way,
Winchester
Hampshire, SO22 5PW
Tel: 01962 833620

Matters Relating to the Protection of Children

The Safeguarding Unit
Clarendon House
Monarch Way
Winchester
SO22 5PW

Matters Relating to Vessels (ONLY FOR VESSELS - THEN INCLUDE)

The Surveyor in Charge,
The Maritime and Coastguard Agency
Spring Place,
105 Commercial Road,
Southampton,
Hampshire,
SO15 1EG
Tel: 02380 329100

APPENDIX C



CERTIFICATE OF DISPLAY OF NOTICE

I

of,

hereby certify that on theday of,20... the
Notice required to be displayed in accordance with the regulations made
under, and in accordance with the Licensing Act 2003 was prominently
displayed at..... [state
where displayed], on or near the site of the
premises..... [state *where displayed*]
to which the application relates where it can conveniently be read by the
public on the site of the premises [state *the dates of the period the
notice was placed on display*]
from the day of, 20 ,

to the day of, 20 .

Dated the day of, 20 ,

Signature.....

I

hereby certify that on the _____ day of _____, 20____, I served each of the persons named in the schedule hereto with the notice, of which the attached copy is a true copy by:

- at o'clock in the noon and addressed to such persons
at the addresses set out in the said schedule under their names
being their respective last known (or usual) place of abode (or
business)

Signed.....

- ## SCHEDULE OF PERSONS NOTIFIED

APPENDIX B

Details of the consultation process for the review of the Statement of Licensing Policy.

CONSULTATION PROCESS UNDERTAKEN IN THE FORMULATION OF THE GOSPORT BOROUGH COUNCIL REVISED STATEMENT OF LICENSING POLICY 2011 – 2014

1. Gosport Borough Council's Licensing Forum has been established with representative members from the Borough's commercial licensing trade, local social clubs in the Borough, the taxi trade, local Councillors and Council officers from Environmental Health, Community Safety, Legal and Democratic Services.

2. The Licensing Forum met on 31st August 2010. The Forum deliberated on how effective the current Statement of Licensing Policy has been in fulfilling the purpose of presenting to the public how the Licensing Authority exercises its licensing functions under the Licensing Act 2003.

3. The consensus of opinion of the Licensing Forum was that the current Statement of Licensing Policy adequately fulfilled the purpose it was produced for. However, due to the evolutionary changes in the legislation and the revision of the Secretary of State's Guidance under section 182 of the Licensing Act 2003, the Statement of Licensing Policy needed to be updated to reflect those changes. The Licensing Forum concluded that no wider changes were necessary.

4. For the purpose of determining the licensing policy for a three year period the Licensing Act 2003 names two statutory consultees as the Chief Officer of Police and the Fire Authority. Both have been consulted and their recommendations have been incorporated into the draft revised Statement of Licensing Policy.

5. The draft revised Statement of Licensing Policy has been published on the Gosport Borough Council website for a three month public consultation period ending on 5th October 2010.

6. Copies of the draft revised Statement of Licensing Policy has been placed in the public libraries across the borough. The covering notice explains how comments can be sent to the Borough Solicitor to be received by 5th October 2010.

7. A copy of the draft revised Statement of Licensing Policy has been sent to Blake Laphorn Solicitors acting for a national supermarket group that trades in the borough of Gosport.

AGENDA ITEM NO. 7

Board/Committee:	Licensing Board
Date of Meeting:	14 th September 2010
Title:	Consideration of an Exceptional Vehicle for Licensing
Author:	ENVIRONMENTAL SERVICES MANAGER
Status:	FOR DECISION/ FOR RECOMMENDATION TO

Purpose

To consider the grant of a Hackney Carriage Licence for a vehicle that is over three years of age. Conditions adopted by this Council preclude the initial licensing of vehicles over three years old other than in exceptional circumstances.

Recommendation

That the Licensing Board considers the application on its own merits and determines, in their absolute discretion, whether or not there are exceptional circumstances to depart from the requirement that the vehicle to be licensed must be less than three years old.

1 Background

- 1.1 Mr. Peter Robin Edgar has been a longstanding Hackney Carriage proprietor and operator in the Borough of Gosport and held Gosport Borough Council Hackney Carriage Licence number 25. The Hackney Carriage Licence was held jointly in the names of Mr. Peter Edgar and Mrs. Patricia Fay Edgar for many years. In June 2009 Mr. Julian Edgar became the third named person on the Hackney Carriage Licence. The Gosport Borough Council Hackney Carriage Licence number 25 is an original Gosport Borough Council hackney carriage licence that has ongoing "grandfather rights" attached to the licence. Those "grandfather rights" exempts the licensed vehicle from having to be of a type that is adapted for disabled and wheel chair accessibility.
- 1.2 Mr Peter R Edgar and his co - licence holders have operated a Skoda Octavia Classic saloon car registration number KW05 SXS as Gosport Hackney Carriage Licence number 25 since 21st August 2007. The vehicle was first registered on 26th July 2005 and is now just over 5 years old.

2 Report

- 2.1 Mr. Edgar and his co - licence holders sold the Skoda Octavia Classic saloon car registration number KW05 SXS as a licensed

Gosport Hackney Carriage, licence number 25, to Mr. Ali Nohut on 7th June 2010. Mr. Ali Nohut is entitled to continue to operate the Hackney Carriage vehicle licence granted to the previous owners of Hackney Carriage Vehicle Licence number 25 until it expires on 9th December 2010.

- 2.2 Mr. Nohut is aware of the Gosport Borough Councils Hackney Carriage and Private Hire (GBHCPH) condition number 3 (viii) which states that other than in exceptional circumstances, a vehicle submitted by an applicant on initial application or transfer must be no more than three years old.
- 2.3 Mr. Nohut is applying to the Licensing Board to consider his situation as being exceptional circumstances. He seeks approval, subject to a satisfactory mechanical inspection of the vehicle, for the grant of a hackney carriage licence on number 25 when the current licence expires on 9th December 2010.
- 2.4 The vehicle was first registered on 26th July 2005 and has been operated as a Gosport Borough Hackney Carriage since 21st August 2007. There is a full independent engineering history record of the vehicle held by the council. The vehicle is described as being in very good condition and mechanically capable of continuing to satisfactorily operate as a licensed hackney carriage.
- 2.5 The (GBHCPH) condition regarding the age of a vehicle is made to ensure that vehicles used to transport members of the public are safe. Where a pre-used vehicle is presented for licensing its previous mechanical history is unknown and for this reason the three year rule has been adopted as the mechanical and physical condition of a vehicle of this age should render it suitable for licensing on first application.
- 2.6 In this instance the vehicle is over the age threshold for licensing. However it has a known and continuous mechanical history since first being licensed on 21 August 2007.
- 2.7 The Council can consider the continuation of a Hackney Carriage vehicle licence for a vehicle which the council has licensed over a continuous 3 year period as exceptional circumstances. Each exceptional application shall be individually assessed on its own merits and prevailing circumstances taking into account the particular vehicles condition and mileage.
- 2.8 The vehicle will be subject to those existing licensing conditions that can reasonably be applied together with any additional conditions identified by the Licensing Board to address the exceptional nature of the circumstances.

3 Risk Assessment

- 3.1 Any deviation from the council's stated conditions may bring the Council's decision making process into question and devalue the adopted conditions

4 Conclusion

- 4.1 The Council has adopted conditions to ensure the safety of the travelling public on both hackney carriages and private hire vehicles.
- 4.2 These conditions require that on initial application or transfer a vehicle must be no older than 3 years other than in exceptional circumstances.
- 4.3 The proposed application to licence the Skoda Octavia Classic saloon car registration number KW05 SXS in December 2010 by a new owner will be a breach of the condition relating to vehicle age.
- 4.4 The Skoda Octavia Classic saloon car registration number KW05 SXS has been licensed as a hackney carriage since 21 August 2007 with this authority on a continuous basis.
- 4.5 The Hackney Carriage and Private Hire conditions adopted by this Council provide for exceptional circumstances to be considered in respect of vehicles.

Financial Services comments:	None
Legal Services comments:	The applicant has a right of appeal to the Magistrates' Court in respect of a refusal by the licensing board to grant the vehicle licence or any conditions attached to the grant of such of a licence.
	The Human Rights Act 1998
	The procedures adopted by the Board in determining the application for a vehicle licence are believed to comply with Article 6, the right to a fair trial. A formal appeal procedure against the Board's determination is provided via the Magistrate's Court.
Service Improvement Plan implications:	
Corporate Plan:	
Risk Assessment:	
Background papers:	
Appendices/Enclosures:	None
Report author/ Lead Officer:	Russell Bray Extension 5553