



**BARNSLEY**  
Metropolitan Borough Council

# Licensing Act 2003 Statement of Licensing Policy 2023

Barnsley Metropolitan Borough Council  
Legal Services  
PO Box 634  
Barnsley  
S70 9GG

Telephone: 01226 773555  
Email: [licensing@barnsley.gov.uk](mailto:licensing@barnsley.gov.uk)  
Website: [www.barnsley.gov.uk](http://www.barnsley.gov.uk)

## Contents

Glossary of Terms.....	5
1. Overview .....	6
1.01 Introduction .....	6
1.02 Purpose of the Statement of Licensing Policy .....	7
1.03 Scope of Policy .....	7
1.04 Integrating Strategies.....	9
1.05 Introduction to Public Health involvement .....	9
1.05.1 Points to consider in order to reflect the Public Health perspective.....	10
1.05.2 Alcohol Harm .....	10
1.05.3 The consumption of alcohol and associated health risks .....	10
1.06 Administration, Exercise and Delegation of Functions .....	12
1.07 Decision-Making.....	12
1.08 Live Music, Dancing and Theatre .....	13
1.09 Promotion of Equality .....	13
1.10 Promotion of the Licensing Objectives .....	14
1.10.1 The Prevention of Crime and Disorder .....	14
1.10.2 Public Safety.....	15
1.10.3 The Prevention of Public Nuisance .....	16
1.10.4 The Protection of Children from Harm .....	17
1.11 Child Sexual Exploitation (CSE) .....	19
1.11.1 Issues to be aware of:- .....	19
1.12 Child Criminal Exploitation (CCE) .....	20
1.13 Summary of Process.....	20
2. Preparation for submitting an application.....	22
2.01 Operating Schedule.....	22
2.02 Local Risk Assessments and Local Area Profiling .....	23
2.02.1 Risk Assessments .....	23
2.03 Advice for applicants.....	24
2.03.1 Operating Schedule.....	24
2.03.2 Local Risk Assessment and Local Area Profile.....	24
2.03.3 Public Health Measures to be Considered .....	24
2.03.4 Deciding on operating hours.....	25
2.03.5 Applications.....	25
2.03.6 Representations .....	25
2.03.7 Licensing Hours .....	26

2.03.8 Licensing Conditions .....	26
2.03.9 Alcohol Deliveries.....	27
2.03.10 Club Members.....	27
2.04 Immigration Act 2016 requirements for applicants and licensees.....	28
2.05 Role of the Designated Premises Supervisor .....	28
2.06 Personal Licences.....	29
2.07 Annual fees and suspension of licence or certificate .....	30
2.08 The Review Process.....	30
2.08.1 Reviews by responsible authorities .....	30
2.08.2 Applications by 'Other Persons' .....	30
2.09 Minor Variations .....	31
2.10 Temporary Event Notices (TENs) .....	32
2.11 Planning and Licensing.....	33
3. Miscellaneous .....	34
3.01 Adult Entertainment .....	34
3.02 Cumulative Impact.....	34
3.02.1 Other methods of controlling cumulative impact .....	36
3.03 Open Air and Large-Scale Events .....	36
3.04 Pavement Licences.....	37
3.05 Wholesale purchases of alcohol .....	37
3.06 Written and Spoken English.....	38
3.07 Other mechanisms of control .....	38
4. Enforcement .....	39
5. Statement of Policy Consultation .....	41
6. Human rights.....	42
7. Advice.....	43
Appendices.....	44
Appendix 1 – Delegations .....	44
Appendix 2 – Pool of Conditions.....	46
1. General Considerations .....	46
2. Licence Conditions.....	46
3. Premises Categories .....	49
Appendix 3 – Responsible Authorities .....	63
Appendix 4 – Mandatory Conditions .....	65
Appendix 5 – Enforcement Policy .....	69
1. Enforcement Policy Statement.....	69

2. Introduction.....	69
3. Enforcement Options .....	70
4. References.....	73
<b>Notes.....</b>	<b>74</b>

## Glossary of Terms

The following is a glossary of terms used in this Statement of Licensing Policy.

‘the Act’

- The Licensing Act 2003, unless in reference to a different act named in the same sentence

‘the borough’

- the total area and people as governed by Barnsley Metropolitan Borough Council

‘the Council’

- Barnsley Metropolitan Borough Council

‘DPS’

- Designated Premises Supervisor

‘the licensing authority’

- The Council, acting solely in its capacity as a licensing authority as stipulated under the Licensing Act 2003, to differentiate between other functions, duties or bodies of the Council

‘the Licensing Objectives’

- the four Licensing Objectives as stipulated under the Licensing Act 2003 and clarified in section 1.10 of this policy

‘policy’

- this Statement of Licensing Policy, unless in reference to a different policy named in the same sentence

‘Public Health’

- the Council’s Public Health department. If not capitalised, ‘public health’ refers to the general concept of a population’s wellbeing and not a particular body

‘TEN’

- Temporary Event Notice

# 1. Overview

## 1.01 Introduction

Future Council ambitions, together with the Barnsley 2030 strategy, sets out the Council's long-term vision for Barnsley and how the Council will work with the people of Barnsley together to achieve its visions and ambitions.

The Barnsley 2030 strategy is about celebrating and championing the borough. The Council has identified 2030 as it feels this will give the Council enough time to make defined progress in achieving its stated ambitions. The Council's strategic partnership defines an achievable vision of a future in which Barnsley is an innovative and vibrant 21st century market town, at the centre of a modern, dynamic economy and a "great place to live". Priorities within the Council's plan to transform the borough include bringing about a step-change in its approach to provision of regeneration in the borough, ensuring that it achieves a new and sustainable economic future in the community.

The urban core of Barnsley is home to approximately 82,000 people. The Glass Works is the name given to the new town centre redevelopment project and is the focus for the borough's main retail, restaurants, cafes and leisure facilities. It includes a modern, landscaped public square where routes into the town centre converge. The square, looking into the indoor market, can hold market stalls and public events. Barnsley has been long-famous for its market and more recently has become noted for its club scene and nightlife. To the west of the urban core is the lightly populated and attractive hilly country centred on the market town of Penistone. To the south and east there are a number of dispersed towns and villages, separated by open land of the former coalfield, which are home to some 95,000 people.

Integral in making Barnsley a great place to live is to ensure that its communities are attractive, safe living environments with convenient access to good quality local services and amenities, including leisure, entertainment and cultural facilities. Neighbourhoods must be clean, safe and secure and their environments respected and cared for. They must also be friendly and caring places where people are welcome from all backgrounds and cultures and both young and old alike will feel part of the community.

The licensed entertainment and hospitality industry is a major provider of full time, part-time and casual employment and it makes a significant contribution to the local economy. It fulfils an important social and community role, providing facilities for both residents and businesses and is a vital support infrastructure for related sectors, such as retail and tourism.

The Council is the Licensing Authority under the Licensing Act 2003 and is responsible for granting premises licences and other permissions under the Act within the Metropolitan Borough of Barnsley.

This Licensing Statement forms an essential part of the Council's integrated approach to alcohol-related issues and the provision of regulated entertainment which seeks to strike a balance between the need to embrace a vibrant and dynamic entertainment industry as part of the regeneration of the borough and the need to ensure that concerns relating to public disorder are effectively addressed. The policies in this statement aim to contribute to making the borough as a whole, and its town centres in particular, pleasant, safe and prosperous places in which to live, work, learn and

relax. The licensing authority wants to work with partners and the licensing trade to provide a safe, diverse and family-orientated night-time economy for people to enjoy.

We will work in partnership with other local authorities, statutory bodies and agencies, especially those located in South Yorkshire, to ensure a consistent approach is taken on licensing matters whilst respecting the differing needs of individual communities.

## 1.02 Purpose of the Statement of Licensing Policy

This Statement of Policy has been prepared and updated in accordance with the Licensing Act 2003 ('the Act') and any accompanying Guidance issued under section 182 of the Act. The statement sets out the principles that the licensing authority will generally apply in order to promote the Licensing Objectives when making decisions on applications made under the Act.

The main purpose of this policy is to provide clarity to applicants, interested parties and responsible authorities on how the licensing authority will determine applications for the supply of alcohol, the provision of regulated entertainment and the provision of late night refreshment, and to provide a basis for all licensing decisions taken by the Council. It will also inform elected members of the parameters within which licensing decisions can be made.

Our policy sets out the process the licensing authority will adopt in dealing with licence applications with particular regard to the various types of premises and permissions, and the various conditions that can be attached to licences if relevant representations are made. It also highlights the licensing authority's undertaking to avoid duplication with other statutory provisions and its commitment to work in partnership with other enforcement agencies.

When carrying out its licensing functions, the licensing authority will always have regard to this Statement of Policy and the Guidance issued by the Secretary of State under section 182 of the Licensing Act 2003.

The licensing authority may depart from this policy or the Guidance if the individual circumstances of any case merit such a decision in the interests of promoting the four Licensing Objectives. However, whenever the licensing authority takes a decision to depart from this policy or the Guidance, clear reasons will be given for doing so.

## 1.03 Scope of Policy

The policy covers new applications, reviews, transfers and variations etc. of licences for the following licensable activities:

- the sale by retail of alcohol (including via the internet or mail order);
- the supply of alcohol by or on behalf of a club to, or to the order of a member of that club;
- the provision of regulated entertainment; and
- the provision of late night refreshment

Any application for a new licence, variation or review will be dealt with on its own individual merits and with a view to promoting the four Licensing Objectives set out in the Act.

Licensing is about regulating the carrying on of licensable activities on licensed premises, qualifying clubs and by way of temporary events within the terms of the Act. Any conditions attached to various permissions will be focused on matters that are within the control of individual licensees and others in possession of relevant authorisations.

Accordingly, these matters will centre on the premises being used for licensable activities and the vicinity of those premises. In addressing these matters, we will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the area concerned. Licensing law is not, however, intended to be the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from licensed premises.

This policy seeks to provide advice to applicants about the approach they should take to making applications and the view the licensing authority is likely to take on certain key issues where representations have been made. As stated, the licensing authority may depart from the policy if the individual circumstances of any case merit such a decision in the interests of promoting any or all of the licensing objectives.

Being a licence holder carries extensive responsibilities. Consequently, the licensing authority expects all applicants to demonstrate that they will run licensed premises responsibly. It is essential that applicants make a realistic effort to assess the implications of their proposals and, having regard to the terms of this policy, include in their risk assessment or operating schedule measures and conditions to manage such impacts. Where an applicant fails to propose adequate measures to deal with relevant concerns arising from the Licensing Objectives, this will be brought to the Licensing Committee's attention at any subsequent hearing.

Responsible authorities and any other persons may also examine applications for club premises certificates and premises licences, and may make representations to the licensing authority where they believe the application undermines – or perhaps fails to adequately address – one or more of the Licensing Objectives.

Therefore, we strongly advise applicants to reference this policy when preparing their applications. Responsible authorities or any other persons should also reference this policy when making their own representations.

If the licensing authority receives relevant representations, then, unless all parties agree that a hearing is unnecessary, the Licensing Committee will determine the application. The Committee may:

- amend the conditions volunteered in the operating schedule
- restrict the hours during which licensable activities may take place
- limit the type of licensed activities that may be carried out
- impose further conditions on the licence or certificate
- refuse the application



## 1.04 Integrating Strategies

The Licensing Committee of the Council may receive reports from time to time on other policies, strategies and initiatives that may impact on licensing activity within the remit of the committee. Subject to the general principles set out in this policy and the overriding need to promote the Licensing Objectives it may have regard to them when making licensing decisions.

The Committee may, after receiving such reports, make recommendations to the Council or other bodies about the impact of the licensing policy on such policies, strategies and initiatives. The Committee may also make recommendations relating to the impact of such policies, strategies and initiatives on the licensing policy, which may include recommendations to amend the licensing policy itself.

Other plans, policies and strategies which have a link to this one include:

- Barnsley 2030 <https://www.barnsley.gov.uk/services/our-council/barnsley-2030/>
- Barnsley Inclusive Economy <https://www.barnsley.gov.uk/services/our-council/barnsley-2030/growing-barnsley/>
- Barnsley Alcohol Strategy
- Barnsley Children and Young People's Early Help Strategy <https://www.barnsley.gov.uk/services/our-council/our-strategies/early-help-strategy/>
- Barnsley Health and Wellbeing Strategy <https://www.barnsley.gov.uk/media/19957/barnsley-hwb-strategy-final-web.pdf>

The Government's Alcohol Strategy

- This sets out proposals to crack down on the 'binge drinking' culture, reduce alcohol linked violence and disorder and reduce the number of people drinking to levels which damage their health <https://www.gov.uk/government/publications/alcohol-strategy>

## 1.05 Introduction to Public Health involvement

The Council recognises that public health is not currently one of the Licensing Objectives under the Licensing Act 2003 so therefore cannot carry out its licensing function in order to specifically promote public health.

However, as a responsible authority under the Act, the Council's Director of Public Health can make representations in relation to applications for the grant, variation, or review of premises licences and club premises certificates; the Council's Public Health department ('Public Health') may also themselves seek a review of a premises licence if it is felt that the Licensing Objectives in a particular case are not being promoted properly.

The Council recognises the impact of alcohol harm and it is hoped that through the implementation of this licensing policy the promotion of the four Licensing Objectives will in turn have a positive effect on preventing alcohol harm. For example, by ensuring licensed premises refuse sales of alcohol to children, or those attempting to purchase it on behalf of children, this will impact positively on a reduction in child alcohol-related health problems.

The Council also takes the view that Public Health should play a key role in developing its licensing policy, particularly as health bodies generally have access to data that can inform licensing decisions and policy. As stated, although the protection of public health is not, in itself, a licensing objective, it can be pertinent to each of the licensing objectives.

The role of Public Health is to help promote the health and wellbeing of the local populations they serve. Promotion of the Licensing Objectives, which collectively seek to protect the quality of life for those who live and work in the vicinity of licensed premises, is an important contribution to this.

The licensing authority recognises the importance of the population's health and, therefore, customers of licensed premises. Premises are expected to follow guidance and comply with legislation in relation to any public health issues that may arise at local or national level.

#### 1.05.1 Points to consider in order to reflect the Public Health perspective

- The Council will already have in place strategies and policies to improve health and wellbeing and reduce health inequalities
- This will include alcohol harm reduction strategy
- Having a partnership approach to reducing alcohol related harm
- Targeting improvements in health and wellbeing as well as a reduction in inequalities, crime, disorder and offending

#### 1.05.2 Alcohol Harm

Alcohol misuse is a significant public health challenge; it affects thousands of individuals, families and communities across the country and is a significant drain on resources for a number of partner agencies.

Although public health is not one of the licensing objectives in the Act, applicants should be required to demonstrate what steps they intend to take with regard to patrons who may be in a state of incapability.

Consideration should be given to sign-posting individuals to intervention or referral policies, including the option of licence holders displaying paraphernalia in premises toilets promoting support services which can be clearly seen by all patrons.

It is expected that all staff working in places licensed to sell alcohol are trained appropriately to recognise the signs of intoxication and support patrons to leave venues safely.

#### 1.05.3 The consumption of alcohol and associated health risks

Alcohol has formed an important part of the UK's culture for centuries. In moderation, the consumption of alcohol can have health benefits, as well as acting as a social lubricant and enhancing many activities. It can make people feel more confident and talkative, and mood can be enhanced.

However, it must also be recognised that when misused, there are a number of associated health risks. Alcohol misuse is generally categorised as regularly consuming over the weekly guideline amounts (14 units for men and women), or through binge drinking (8 units for men, or six units for women) in one session). Short-term health risks include:

- Increased risk of accident or injury
- Violent behaviour / being a victim of violence
- Loss of memory or blackouts
- Alcohol poisoning

Most of these issues are short-lived, and are reversible. However, long-term alcohol misuse can lead to a variety of other health issues such as

- Heart disease
- Stroke
- Liver disease (fatty liver or cirrhosis)
- Several cancers, including liver, bowel and mouth
- Pancreatitis
- Dementia

People who regularly drink over the prescribed amount, or regularly binge-drink are more at risk of the above health concerns. Fortunately, there are a wide range of organisations to offer help with levels of drinking including:-

Barnsley Recovery Steps - this is our Public Health commissioned substance misuse service, offering help and support for those with drug or alcohol problems, please visit -

[humankindcharity.org.uk/service/barnsley-recovery-steps](http://humankindcharity.org.uk/service/barnsley-recovery-steps), call 01226 779 066 or email [brs.referrals@humankindcharity.org.uk](mailto:brs.referrals@humankindcharity.org.uk) for more information.

In January 2021, we our Public Health Department also partnered with [DrinkCoach](#) to commission a new digital platform with access to free online appointments to help residents cut down their drinking. Residents can take the [two-minute alcohol test](#) to see if they're eligible for up to six free sessions with a specialist.

For some it may be as simple as reducing drinking by a little to get back into a healthier relationship with alcohol. For others, however, they simply may not be able to control their alcohol intake and may need to seek to stop drinking completely.

Whilst there may be evidence that people dependent on alcohol and their families are at risk of significant health and social problems such as mental illness, gambling and drug misuse, relationship breakdown, criminal activity and financial difficulties, public health is not a licensing objective and therefore, cannot be taken into account when deciding on applications.

However, the Director of Public Health's team is a Responsible Authority under the Act and as such is able to make representations either in their own right or in support of other representations.

The Council will also ensure that Public Health plays an important role in developing its licensing policies.

## 1.06 Administration, Exercise and Delegation of Functions

The Council has established a Licensing Committee to administer the wide range of licensing decisions and functions which we will be involved in.

The Licensing Committee has certain delegated decisions and functions and has established a number of sub-committees to deal with these. This will provide an efficient and cost-effective service for all parties involved in the licensing function.

The grant of non-contentious applications has largely been delegated to Officers. Decisions made by Officers under their delegated powers will be reported to the Licensing Committee for information and comment.

The table in Appendix 1 sets out the agreed delegation of decisions and functions to the Licensing Committee, Sub-Committees and Officers alike.

The agreed delegation of decisions and functions is without prejudice to the ability of Officers to refer an application, or any matter, to the Licensing Committee or a Sub-Committee if considered appropriate in the particular circumstances.

## 1.07 Decision-Making

The Council has a wide range of licensing functions and has established a Statutory Licensing Board to administer them. Appreciating the need to provide a speedy, efficient and cost-effective service to all parties involved in the licensing process, the Board has delegated certain decisions and functions, and has established a Sub-Committee to deal with them.

A Licensing Sub-Committee of three Councillors will sit to hear applications where representations have been received from interested parties or responsible authorities. Ward Councillors will not be allowed to sit on a Sub-Committee involving an application within their ward. The Statutory Licensing Board will also sit to determine general licensing matters that have been delegated to it by the full Council that are not associated with the Act. Where a Councillor who is a member of the Statutory Licensing Board is making or has made representations regarding a licence on behalf of an interested party, in the interests of good governance, they will disqualify themselves from any involvement in the decision-making process involving the licence in question. The Sub-Committee will also refer to the Statutory Licensing Board any matter it is unable to deal with because of the number of its members who are unable to take part in the consideration or discussion of any matter or vote on any question with respect to it.

Every determination of a licensing decision by the Statutory Licensing Board or a Sub-Committee will be accompanied by clear, cogent reasons for the decision. The decision and the reasons for that decision will be sent to the applicant and those who have made relevant representations as soon as practicable. A summary of the decision shall also be posted on the Council's website as soon as possible after the decision has been confirmed, where it will form part of the statutory licensing register required to be kept by the Council.

The Council's Licensing Officers have the delegated authority to deal with all other licensing applications or matters where either no representation has been received, or where representations have been received and it is agreed by the parties that a hearing is not necessary.

Decisions as to whether representations are irrelevant, frivolous or vexatious will be made by Officers, who will make the decisions on whether representations or applications for licence reviews should be referred to the Statutory Licensing Board or Sub-Committee. Where representations are rejected, the person making that representation will be given a written reason as to why that is the case. There is no right of appeal against a determination that a representation is not admissible.

The form of delegation is without prejudice to Officers being able to refer any matter to a Subcommittee or Statutory Licensing Board if it is considered appropriate in the circumstances of any particular case. An applicant or person making representations will have a right of appeal to the Magistrates' Court if they are aggrieved by any decision made by the Council.

Every decision made by the Licensing Committee, Sub-Committee or an Officer shall be accompanied by full and detailed reasons for the decision in order to ensure transparency and accountability.

### 1.08 Live Music, Dancing and Theatre

Determining what conditions should be attached to licences is a matter of necessity for the promotion of the Licensing Objectives. The licensing authority will be aware of the need, where possible, to avoid measures that might, indirectly, deter entertainment. The licensing authority considers live performances central to the development of cultural diversity and vibrant, exciting communities. It subscribes to the view expressed in the statutory guidance that the absence of cultural provision in any area can lead itself to a loss of community awareness and can expose young people to anti-social activities that have the potential to damage local communities.

With a view to encouraging the development of cultural diversity and vibrant, exciting communities, the licensing authority will look favourably upon applications from the Council itself which seek premises licences or other permissions for public spaces in the community in its own name. This may include, for example, appropriate open spaces, town centre squares, community halls and similar public spaces. With regard to those places, performers and entertainers should not need to obtain a licence or give a temporary event notice themselves in order to perform; instead they will simply require permission from the Council as the premises licence holder.

### 1.09 Promotion of Equality

The Equality Act 2010 and section 149, the Public Sector Equality Duty, places a legal obligation on public authorities to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; to advance equality of opportunity; and to foster good relations between persons with the following protected characteristics: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

In seeking to support a community in which diversity is encouraged, we will expect all applicants and licensees to take steps to ensure that no person is treated differently on the grounds of race, colour, religion, ethnic or national origins, age (unless an age-related event), sex (unless a single-sex event),

sexual orientation (unless a gay or lesbian event), or disability, and that the management and operating practices of licensed premises within the borough comply with all race relations, equal opportunities and anti-discrimination legislation.

## 1.10 Promotion of the Licensing Objectives

The licensing authority will act in accordance within its duty to carry out its functions under the Act with a view to promoting the statutory Licensing Objectives, which are:-

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

Each objective is of equal importance. There are no other licensing objectives; therefore, all four objectives are of paramount consideration at all times.

Each applicant must provide with their application full details as to how they will promote each the four Licensing Objectives detailed above, by stating what steps they intend to take to promote each of the objectives. Applicants are reminded that any measures proposed in their operating schedules may be converted into conditions on their licence.

### 1.10.1 The Prevention of Crime and Disorder

Under the Crime & Disorder Act 1998, the Council must have regard to the likely effect of the exercise of its licensing function on, and do all it can to prevent, crime and disorder in the borough. In doing so, the Council will have regard to the likely impact of licensing and related crime and disorder when considering the location, operation and management of all proposed licence applications, reviews and variations.

Licensed premises, especially those offering late night or early morning entertainment, alcohol and refreshment for large numbers of people, can sometimes, if not properly managed, become a source of public nuisance or crime and disorder. The Council as the licensing authority will expect licensees of premises to develop Operating Schedules that satisfactorily address these issues from the design of the premises through to the daily operation of the business.

There are many steps an applicant might consider in preventing prevent crime and disorder. The licensing authority will look to the Police as the main source of advice and information in these matters. In accordance with the statutory guidance, Police views on matters relating to crime and disorder will be given due weight. It is recommended that applicants seek advice from South Yorkshire Police when addressing this issue as well as taking into account local planning and transport policies, and tourism, cultural and crime-prevention strategies. Licensees will be encouraged to attend any training courses provided by the local authority and/or the Police, and town centre venues will be invited to join the Best Bar None Scheme.

If relevant representations are made in relation to a premises licence or club premises certificate, the licensing authority will consider whether it is necessary to impose conditions to regulate behaviour on the premises and have access to them where this relates to licensable activities and the licensing objectives. Any conditions attached will seek to impact on the behaviour of customers on or in the immediate vicinity of premises as they seek to enter or leave.

The licensing authority may attach conditions to licences to promote the crime-prevention licensing objective both inside and outside premises. These conditions will be based on the applicant's operating schedule and drawn from a pool of conditions relating to this objective - see Appendix 2.

Conditions will normally be targeted towards deterrence and the prevention of crime and disorder. For example, such conditions could include:

- Membership of a recognised Pubwatch or similar scheme
  - Pubwatch can be an invaluable resource for licensees. It enables them to share information, intelligence and advice about crime, disorder and antisocial behaviour in the area with each other, the Council and the Police.
- The need for door supervision (must be registered by the Security Industry Authority, SIA)
- The need for and location of CCTV cameras
- Provision of regular training for staff in relation to public safety, conflict management and drug related issues
- Maintain records for staff training, refusals and incidents
- Alternatives to glass: i.e., restricting the use of glass bottles and drinking vessels to customers in preference for containers made from soft and environmentally friendly materials, polycarbonates, shatterproof or toughened glass that comply with weights and measures legal requirements
- Maintaining incident and refusals books: keeping an incident book on the premises so staff can record any instances of crime and disorder, or sales refused for any reason

### 1.10.2 Public Safety

The public safety objective is concerned with the physical state of people using the premises. Public safety includes the safety of staff and performers appearing at any premises. The Act covers a wide range of premises that require licences, including cinemas, night clubs, public houses, village and community halls, schools, cafes, restaurants and fast-food outlets and takeaways. Each of these premises present a mixture of risks to public safety, some of which may be common to most premises, whilst others will be unique to specific operations.

All premises must be constructed, adapted, or operated to safeguard all users against such risks or issues.

The operating schedule, which is an integral part of all applications for a licence or a certificate, will be expected to demonstrate to the satisfaction of the licensing authority that all potential public safety issues connected with the premises have been thoroughly addressed.

Where appropriate, applicants are advised to seek guidance from the Council's Regulatory Services Health and Safety Team, the District Fire Safety Officer for the South Yorkshire Fire and Rescue Service and, if appropriate, a suitably qualified Health and Safety specialist.

The licensing authority may attach conditions to licences to promote the Public Safety objective and to promote general safety and thought should be given in relation to:

- **Emergency procedure:** issues in relation to fires, bomb threats, emergency management, contingency planning and evacuation
- **Safe capacity:** the licensing authority does not necessarily set safe capacity limits for premises
  - For many, the venue risk assessment will determine the premises safe capacity. This risk assessment should consider factors such as floor space, numbers of toilets, potential queuing time, and available fire exits.
  - Consideration should be given as to the number of staff that is necessary to deal comfortably with the needs of persons attending the premises. If the venue has a capacity limit, operators should ensure it is not exceeded by putting a counting mechanism in place.
- **Special effects:** if special effects are to be used on the premises such as flame, lasers, pyrotechnics, smoke, fog, foam or firearms, the licensing authority encourages risk assessments to be carried out in respect of each such activity, detailing the steps to be taken to prevent and control risk to customers and staff.
- **Drunkenness:** selling alcohol to someone who is drunk is a criminal offence. Drunken customers can be noisier, and are more prone to aggressive behaviour. They are less likely to respond to reason. The licensee should instruct staff to monitor customers and refuse to serve alcohol to anyone who is obviously intoxicated and no longer able to exert reasonable control over their behaviour.
- **'Soft finishes':** A 'soft finish' encourages customers to disperse gradually and gives greater control over their exit. Premises should implement a 'soft finish' at least half an hour before the premises close. A 'soft finish' can be implemented by:
  - gradually turning up the lighting
  - playing slower music and reducing the volume
  - visible signs, such as putting up bar shutters or stacking furniture away
  - closing external areas such as beer gardens
  - using the DJ to make announcements for people to leave the premises quietly
  - ceasing the sale of alcohol
  - providing hot drinks and/or snacks

Special considerations apply to late night venues and applicants are encouraged to consider the Safer Clubbing guide published by the Home Office which gives advice on these issues:

[http://www.csdp.org/research/safer\\_clubbing\\_txt.pdf](http://www.csdp.org/research/safer_clubbing_txt.pdf)

[accessed 06/12/2022]

### 1.10.3 The Prevention of Public Nuisance

Applicants for a licence are reminded that one of the four Licensing Objectives is the prevention of public nuisance, and therefore they will be required to demonstrate in their operating schedule how they intend to deal with this objective. Applicants will need to focus on the effects of licensable activities on persons living and working in the area around the premises which might be considered disproportionate or unreasonable.



Issues will mainly concern noise nuisance, light pollution, noxious smells and litter. Nuisance in this context can include low-level nuisance affecting a few people living locally, as well as a major disturbance affecting the whole community.

Applicants are also advised to seek guidance from the Council's Pollution Control Section, based in Regulatory Services, and/or a suitably qualified Noise Consultant for advice on measures that may need incorporating into an operating schedule. Regard should be given specifically to the location of the proposed or actual premises, and the likely impact of any licensable activities on those working or living in the vicinity of the premises.

Specifically, the following issues may be worthy of consideration;

- Provision of litter bins in the vicinity of premises
- The size and location of smoking areas and beer gardens which may encourage patrons to use the external areas more extensively than for just smoking and returning inside the premises
- Time restrictions on the use of beer gardens (such as no use after 9pm)
- Signs encouraging patrons to be quiet when on and leaving the area and to respect the rights of residents
- Light pollution from security/advertising lights
- Whether doors and windows will or can be kept closed after a particular time
- Provision of noise-limiting devices and other noise control measures such as acoustic curtains, speaker mounts etc.
- Collections and deliveries: made outside daytime hours, especially early morning and late evening or night, may cause significant noise nuisance

If relevant representations are made, the licensing authority will consider whether it is necessary to impose conditions to regulate behaviour on the premises where this relates to licensable activities and their impact on the licensing objectives. Conditions may particularly seek to reduce the impact of the behaviour of customers entering or leaving the premises on people living or working near to the premises.

The licensing authority considers that patrons who are using external smoking shelters or other similar areas are there as a direct result of attending the licensed premises and are therefore within the control of the Licensee.

When considering nuisance issues, the Licensing Authority will have specific regard to any representations made by Pollution Control officers within Regulatory Services, and those made by local residents. The licensing authority recognise at all times that it is necessary to balance the rights of local residents, businesses and others with those wishing to provide and enjoy licensable activities.

#### 1.10.4 The Protection of Children from Harm

The protection of children from harm includes their protection from physical and/or psychological harm. The Council recognises the Barnsley Safeguarding Children Board as the responsible authority for the protection of children from harm. In addition to the usual consultees, the licensing authority

will consult specifically with the Barnsley Safeguarding Children Board on any application that raises concerns regarding access for children.

Due to the wide range of premises that may be licensed under the Act, children or young persons may visit licensed premises at any time, either as part of a family group or on their own. Applicants for a licence are reminded that one of the four Licensing Objectives is the protection of children from harm, and that they will therefore be required to demonstrate in their operating schedule how they intend to promote this objective. The licensing authority recognises that many premises such as restaurants, café bars, hotels and certain types of public houses have developed family-friendly environments and the licensing authority does not wish to restrict the development or encouragement of such premises.

Where children are to be admitted to premises the provision of extra resources or measures to ensure their safety could, for example, include extra staffing or stewarding and producing risk assessments which clearly acknowledge the times and the areas of the premises to which children will be admitted.

Applicants should, in their operating schedule, set out any limitations that will be in place for the protection of children from harm. For example, that there will be no access when sex shows or other adult entertainment is provided. Equally, any staff having significant unsupervised access to children, such as those who are responsible for the supervision of children's play areas, should have undergone a voluntary DBS check to ensure their suitability.

The licensing authority will not impose any condition requiring children to be admitted to the premises. This will continue to remain a matter for individual licensees.

The Act does not prohibit the access of children to licensed premises, including those selling alcohol for consumption on the premises. However, the licensing authority may limit the access of children to any premises where it is necessary to do so to protect their physical, moral or psychological harm.

The licensing authority encourages applications from potential or existing licensees that create venues that are intended to be family-friendly and safe for children. However, the licensing authority may have some concerns about access to children where, for example:

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

On receipt of relevant representations, the licensing authority will consider whether conditions are necessary. Amongst others, these may include:

- limitations on the hours when children may be present (e.g. no children after 9.00 pm);
- a restriction on the age of children to be admitted to the premises (e.g. over 14 years of age only)

- a limitation or exclusion of children when certain activities are taking place (e.g. no children when entertainment of an adult or sexual nature is taking place)
- a requirement for accompanying adults (e.g. all children must be accompanied by a person over 18 years of age)
- limitations on the parts of premises to which children might be given access
- a full exclusion of children when licensable activities are taking place (complete bans are likely to be rare).
- prevention of underage sales: operating a 'challenge 25' policy
- keeping a refusals book on the premises and ensuring it is completed whenever sales are refused to a person who appears to be under the age of eighteen
- for off-licensed premises, not selling individual cans and bottles of beer, cider, alcopops or mixed alcoholic drinks
- a combination of any of the above measures

In such cases, representations by the Barnsley Safeguarding Children's Board and the Police will be given specific weight where they address issues regarding the admission of children and their protection from harm.

It is mandatory for premises that sell or supply alcohol to have an age verification policy in place. All staff responsible for the sale of alcohol should receive appropriate training on the licensing laws relating to children and young persons in licensed premises.

Licensees selling alcohol either on or off the premises should be aware that the Police routinely implement test purchasing to reduce sales to persons under 18 years of age. They also carry out age challenges to reduce underage drinking in pubs and licensed venues. Licensees who are convicted of an illegal sale may have their licence reviewed.

In relation to premises showing film exhibitions, the licensing authority expects licence holders or clubs to include arrangements for restricting children from viewing age-restricted films in their operating schedules in accordance with the certification of the British Board of Film Censors recommendations.

## 1.11 Child Sexual Exploitation (CSE)

Alcohol is often a factor in Child Sexual Exploitation (CSE), where young people may be encouraged or coerced to drink, or alcohol may be a factor in risk-taking behaviour by young people who drink irresponsibly and then get involved in activities that otherwise they would not.

Nationally, evidence has been found of the sexual exploitation of children taking place on licensed premises and licensed premises being used for the purposes of grooming and enticement.

### 1.11.1 Issues to be aware of:-

- Where underage drinking takes place, children and young people are vulnerable as their judgement is impaired
- There is a risk of CSE at premises where goods or services can be offered in exchange for sexual favours (such as free food, transport, drinks, cigarettes, or free access to a venue). This can happen if a perpetrator is employed there (or works voluntarily) and has regular or private contact with children

- Children and young people are vulnerable in areas of premises that are not monitored (such as toilets, beer gardens)
- Risk may present if information technology is in use at a premises (internet, mobile phones/cameras/video recorders)
- Premises providing facilities for private parties, private dancing/entertainment booths or overnight accommodation may be vulnerable to child sexual exploitation

The licensing authority therefore encourages licence holders and operators of licensed premises:

- To ensure that they are fully aware of the signs of child sexual exploitation and to understand that the sexual exploitation of a child is sexual abuse and a crime
- To raise the awareness of their staff about child sexual exploitation and provide intelligence for the appropriate authorities about concerns, including perpetrators who may be operating in their areas.
- Report suspicious activity to the Police and record in an incident book
- Train staff to operate an age verification scheme
- Maintain staff training records
- Monitor activity at the premises using CCTV or regular patrols
- To ensure efficient entry and dispersal procedures are in place so that young people are not left in a vulnerable position outside of the premises.
- To ensure a policy is in place for dealing with under 18's who appear to be under the influence of drugs or alcohol which incorporates the level of duty of care expected to be provided

## 1.12 Child Criminal Exploitation (CCE)

Alcohol and drugs can also feature strongly in Child Criminal Exploitation (CCE); criminal exploitation includes County Lines but also includes children being coerced and manipulated into criminal activity, such as to courier drugs and money. Children and young people can be recruited through deception, intimidation, violence, debt and/or grooming. It is understood that children and young people are utilised in the dealing of drugs as the children/young people are a relatively inexpensive resource and can be easily controlled.

It is evidenced that criminal exploitation of children and young people have been found in licensed premises as the children and young people are encouraged to sell drugs in these settings, at entertainment functions, in toilet areas or darkened areas that facilitate music and dancing.

The risk of child sexual, or criminal, exploitation can be present at all types of premises, and it is expected that risk management systems will be in place to identify and report suspicious activity. Premises that fail to do so may put children at risk of harm and in such cases, action will be taken which could result in the suspension or revocation of the licence.

## 1.13 Summary of Process

Each application for a licence will be considered:-

- on its own individual merits

- in accordance with the Licensing Act 2003 together with any amendments and supporting Regulations;
- with reference to the guidance issued under section 182 of the Licensing Act 2003
- under the terms of this policy

One of the key principles of the Act is that every application must be treated on its own individual merits.

Nothing in this statement of policy will:

- prevent any person from applying under the Act for any of the permissions and from having that application considered on its own individual merits
- prevent or stop any person from making representations on any application or from seeking a review of a licence or certificate where the Act permits them to do so.

The licensing authority recommends early consultation with the appropriate responsible authorities (see list of responsible authorities and their contact details – Appendix 3). Many responsible authorities would be prepared to discuss matters with an applicant with a view to reaching agreement on measures to be proposed prior to making an application.

## 2. Preparation for submitting an application

The licensing authority sets out below its approach to the submission of applications that gives information on preparing a local risk assessment (LRA), the Council's Local Area Profile (LAP) and potential concerns from a Public Health point of view.

### 2.01 Operating Schedule

The statutory guidance issued under section 182 of the Act, paragraph 8.41 advises that when completing an operating schedule, applicants are expected to have regard to the statement of licensing policy for their area. They must also be aware of the expectations of the licensing authority and the responsible authorities as to the steps that are appropriate for the promotion of the licensing objectives, and to demonstrate knowledge of their local area when describing the steps they propose to take to promote the licensing objectives.

The Guidance continues, stating in paragraph 8.42 that:

*'Applicants are, in particular, expected to obtain sufficient information to enable them to demonstrate, when setting out the steps they propose to take to promote the licensing objectives, and that they understand [...] the layout of the local area and physical environment including crime and disorder hotspots, proximity to residential premises and proximity to areas where children may congregate'.*

Paragraph 8.47 of the guidance advises that applicants are expected to provide licensing authorities with sufficient information to determine the extent to which their proposed steps are appropriate to promote the licensing objectives in the local area. In other words, applicants are expected to include positive proposals in their application on how they will manage any potential risks.

When preparing their operating schedule, applicants should have particular regard to the relevant premises policies, framework hours and any relevant matters referred to in this policy.

The operating schedule will form the basis of any conditions attached to any licence if granted. The following applies:

- if no relevant representations are made, the licensing authority will grant the licence in accordance with the application and with conditions that are consistent with the operating schedule and the relevant mandatory conditions (see Appendix 4 for all mandatory conditions)
- if any relevant representations are made, the licensing authority will (unless all parties agree otherwise) hold a hearing. Where the authority holds a hearing, the Licensing Committee has discretion as to whether or not to grant the application

When determining applications at a hearing, the licensing authority will consider whether the steps or conditions offered by the applicant in the operating schedule are proportionate and appropriate to promote the licensing objectives.

Applicants should be aware that breaching the conditions of a premises licence or club premises certificate is a criminal offence. Therefore, applicants should only volunteer conditions in their operating schedule that they can comply with and are willing to do.

If applicants volunteer conditions in the operating schedules, they should express the conditions in clear, meaningful and unambiguous terms. For example, an applicant should not make the statement “door supervisors shall be provided at the premises” without stating the number of staff to be provided and the times or precise circumstances during which those staff shall be deployed. The more detail provided by the applicant, the better.

## 2.02 Local Risk Assessments and Local Area Profiling

### 2.02.1 Risk Assessments

While the production of a risk assessment to accompany an application under the Act is not mandatory, the licensing authority encourages applicants to complete one prior to making an application so that all parties can consider the impact of their proposals.

The following is a non-exhaustive list of potential factors that risk assessments should have regard to:

- the location of the premises, for example, the nature of nearby premises, the times they are used, what they are used for, and whether this could affect the proposed activities at the licensed premises. This could include circumstances where the applicant intends to provide late night refreshment and the surrounding premises are mostly houses, in which case applicants should consider the risk of causing nuisance to local residents.
- the individual style and characteristics of the premises, for example are there double-glazed windows to minimise noise breakout? Is there adequate ventilation, or is it likely that doors and windows will have to be kept open to provide ventilation? If people must queue to gain admission, can they do so safely without causing an obstruction or compromising their own safety by mingling with other pedestrians or traffic?
- the proposed licensable activities and use
- the proposed hours of operation
- the anticipated number of persons who will be on the premises when licensable activities are taking place
- the expected customer profile: what kind of persons are the premises likely to attract? How might these people behave? Bear in mind customer profiles may change depending on the time of day, the time of the week or the entertainment being provided
- the potential for public nuisance arising from customers smoking, eating and drinking in outdoor areas and on the highway outside the premises

It is important to note that the operating schedule forms part of the application. It identifies the proposed licensable activities, the times during which the applicant proposes that licensable activities will take place, any other times during which the premises are to be open, and the steps that the applicant will take to promote the Licensing Objectives.

Premises can vary enormously, and it is important that operating schedules are specific to the premises and the proposed use of the premises in respect of which the application is made.

Applicants should therefore make informed judgments as to the steps that they may need to take to promote the Licensing Objectives and consider whether these steps need to be included within the operating schedule.

## 2.03 Advice for applicants

### 2.03.1 Operating Schedule

Under the Act, applicants are required to complete an operating schedule as part of their application. An operating schedule should include enough information to enable a responsible authority or any other person to assess whether satisfactory steps have been taken to promote the licensing objectives.

### 2.03.2 Local Risk Assessment and Local Area Profile

The Council's Local Area Profile is an assessment of the local environment and identifies the key characteristics of the borough. It is the Council's intention that the Local Area Profile will provide licensees, the various departments of the Council, and the public with a better understanding and awareness of the alcohol-related risks in the borough.

In this context, risk includes actual and potential risk, taking into account any future or emerging risks. The Local Area Profile takes account of a wide number and range of factors and information. It enables the Council to better serve its local communities by providing clarity for licensees as to the relevant factors likely to be of consideration in the decision-making process. It also enables the Council to make evidence-based decisions from a clear and published set of factors and risks.

It is expected that the Local Area Profile will lead to improved premises licence applications and that licensees will be able to incorporate controls and measures within their applications to mitigate risk. Through this proactive approach to risk, the Council is aiming to reduce the need for compliance and enforcement action. The Council's Local Area Profile can be accessed via the Council's website: <https://www.barnsley.gov.uk/media/17269/our-borough-profile-20190724.pdf>  
[accessed 06/12/2022]

### 2.03.3 Public Health Measures to be Considered

Although 'protecting and improving public health' is not a licensing objective, alcohol-related harm is a particular cause for concern in Barnsley. The licensing authority will therefore always consider health-related harms where they are relevant to the promotion of the Licensing Objectives.

Public Health will also use the powers available to them as a responsible authority to work with the Council's partners to promote sensible drinking messages and support the approach to managing the local availability of alcohol, ensuring the links between density of licensed premises, alcohol availability and indicators of health related harm to inform licensing decisions.

The licensing authority recognises that licensees are generally supportive of the need to address health issues relating to alcohol. The licensing authority expects applicants to consider the health impacts of their proposed activities in relation to the Licensing Objectives and have set out below some best practice for applicants to consider when completing their operating schedules:



- restricting special offers such as cheap shots, 'happy hours', 'buy one, get one free', 'buy two glasses of wine and get the whole bottle'. This slows down consumption, the rate at which blood alcohol concentrations increase and the peak levels are reached by drinkers. Rapidly ascending and high blood alcohol concentrations are shown to be associated with violence and uninhibited behaviour.
- aligning price with alcohol by volume (ABV), and ensure that non-alcoholic drinks are much cheaper than alcoholic drinks
- increasing seating for customers to reduce intensive drinking
- reducing the volume of music as loud music can increase alcohol consumption.
- actively promoting designated driver schemes where a driver is offered discounted or free non-alcoholic drinks
- making food available in late venues
- starting the sale of alcohol later in the day and not aligning it purely with opening hours
- not advertising alcohol in the shop window
- storing alcohol behind the shop counter
- not using display boards or other advertising on the shop floor
- not selling single cans of alcohol
- not selling single bottles of beer, and other alcohol beverages such as cider, under 1 litre
- not selling beer or cider over 5.5% ABV

#### 2.03.4 Deciding on operating hours

Applicants should limit their applications to the hours they genuinely intend to operate.

#### 2.03.5 Applications

The licensing authority requires all applications to be made using the correct form and in accordance with, and having satisfied, the requirements of the Act and the associated regulations. The licensing authority actively supports the ability for applicants, where permitted, to submit applications electronically.

Any application not properly made in accordance with, or not having satisfied the requirements of the Act or the associated regulations, may be returned to the applicant for resubmission.

Where an application is required to be advertised in a local newspaper, it is the policy of the Council that the chosen newspaper should be one which is published daily or weekly and is widely available in the vicinity of the premises to which the application relates.

#### 2.03.6 Representations

Depending on the type of application, representations can be made by a responsible authority or any other person (as defined by the Act). This includes any individual, body or business entitled to make representations to licensing authorities in relation to applications, regardless of their geographic proximity to the premises.

The representation must be submitted in writing or by email to the licensing authority (see contact details in Appendix 3) within the relevant time period for comments. The representation must be relevant to the likely effect of the grant of the licence or variation on the promotion of one or more of the licensing objectives.

Anonymous representations will not be accepted.

The issues on which the representation is made should not be frivolous or vexatious. Where it is determined that a representation is not relevant, or is frivolous or vexatious, the person who made the representation will be notified of the reasons and the representation will not be considered.

Where relevant representations are received about an application, the licensing authority will hold a hearing to consider them, unless the authority, the applicant and all those making representations agree that a hearing is not necessary. Applicants and those making representations should seek to try to reach agreement or narrow the areas in dispute prior to any hearing.

#### 2.03.7 Licensing Hours

Providing customers with a greater choice is an important consideration in the development of a thriving and safe evening and night-time economy in Barnsley. The Council supports the development of a wide ranging and culturally diverse night-time economy where this can be achieved whilst promoting the four Licensing Objectives.

The licensing authority will have a flexible approach to opening hours and will generally deal with the issue of licensing hours having regard to the individual merits of each application. Requests in respect of terminal hours will be determined in the light of the potential impact upon environmental quality, residential amenity, character or function of the particular area, nature of proposed activities to be provided at the premises and the proposals contained within the operating schedule and how the applicant intends to promote the four Licensing Objectives.

The licensing authority may impose stricter conditions in respect of noise control where relevant representations have been received and premises are situated in mainly residential areas.

#### 2.03.8 Licensing Conditions

The licensing authority recognises that it may not impose any conditions of its own unless the authority's discretion has been exercised following receipt of relevant representations and the authority is satisfied as a result of a hearing that it is appropriate to impose conditions to promote one or more of the four Licensing Objectives. Conditions include any limitations or restrictions attached to a licence or certificate and are essentially the steps the holder of a licence or certificate will be required to take at all times when licensable activities are taking place at a premise.

The licensing authority will only impose conditions on licenses and certificates that are proportionate and appropriate for the promotion of the Licensing Objectives and will not impose conditions for any other purposes.

The licensing authority will also ensure that conditions attached to licences or certificates are tailored to the individual style and characteristics of the particular premises and events concerned.

#### 2.03.9 Alcohol Deliveries

The Licensing Authority is aware of the increase in alcohol delivery services, not just from supermarkets but from specialist alcohol retailers or food delivery outlets.

Such businesses, whilst many are operated very well, can cause concern due to their method of operation and applicants should consider very carefully how they promote the licensing objectives, particularly the protection of children from harm.

The sale or delivery of alcohol to children should be avoided at all cost and practices put into place to ensure alcohol does not get into the hands of children. A strict Challenge 25 scheme should be put into place and a strong training programme on underage sales deliveries.

Operators should expect that close attention will be given to the vetting of operating schedules of premises applications to assess how the Challenge 25 scheme will be complied with particularly when the deliveries are made by a third party. There is also an expectation that business websites will make it clear that sales may not be fulfilled if appropriate ID is not provided, and that terms of conditions of sales are robust and understood by both the customer and the persons completing the delivery.

An applicant seeking a licence to enable them to provide alcohol as part of an alcohol delivery service should consider including in their operating schedule the appropriate procedures to ensure that:

- The person they are selling alcohol to is over the age of 18
- That alcohol is only delivered to a person over the age of 18
- That a clearly documented trail of the order process from order, despatch from the licensed premises and delivery to the customer is maintained (with times and signatures) and available for inspection by an authorised officer of the Council and Police
- The time that alcohol is sold on the website/over the phone and the time the alcohol is delivered is within the hours stated on the licence for the sale of alcohol
- A genuine age verification procedure is in place at the point of order and delivery

If alcohol is sold via a website, the licensing authority expects applicants to apply for a 24/7 licence to cover sales made at any time of the day.

#### 2.03.10 Club Members

A club premises certificate permits only the supply of alcohol to club members and sale to their bona fide guests. Clubs cannot sell alcohol to members of the public unless they are guests of a member and in line with the club's specific rules or constitution.

Clubs that wish to let rooms out for private hire with a paid bar, or that provide entertainment facilities to members of the public such as the provision of a sound system or dancing facilities, must obtain a premises licence.

## 2.04 Immigration Act 2016 requirements for applicants and licensees

Section 36 of and Schedule 4 to the Immigration Act 2016 made a number of amendments to the Licensing Act 2003 to introduce immigration safeguards in respect of licensing applications made in England and Wales on or after 6 April 2017. The intention of these changes is to prevent illegal working in premises licensed for the sale of alcohol or late-night refreshment.

The statutory prevention of crime and disorder licensing objective in the Licensing Act 2003 includes the prevention of immigration crime and the prevention of illegal working in licensed premises. The Council will work with the Home Office (Immigration Enforcement), as well as the Police, in respect of these matters.

Premises licenced to sell alcohol or provide late night refreshment and personal licences cannot be issued to an individual who does not have permission to be in the UK, or is not entitled to undertake work relating to the carrying on of a licensable activity.

Licences issued to those with limited permission to be in the UK will lapse when their permission to be in the UK and work in a licensable activity comes to an end.

Immigration offences, including civil penalties, are 'relevant offences' as defined by the Licensing Act 2003; the Home Secretary (in practice Home Office (Immigration Enforcement)) was added to the list of responsible authorities in the licensing regime, which requires Home Office (Immigration Enforcement) to receive premises licence applications (except regulated-entertainment-only licences) and applications to transfer premises licences, and in some limited circumstances personal licence applications, and authorises Home Office (Immigration Enforcement) to make appropriate representations and objections to the grant of a licence; and Immigration officers are permitted to enter premises which they have reason to believe are being used to sell alcohol or provide late night refreshment, to investigate whether immigration offences are being committed in connection with the licensable activity.

The licensing authority will have regard to any guidance issued by the Home Office in relation to the immigration related provisions now contained in the Licensing Act 2003. The Council will also work in partnership with the Home Office (Immigration Enforcement) and South Yorkshire Police with a view to preventing illegal working in premises licensed for the sale of alcohol and/or late night refreshment.

## 2.05 Role of the Designated Premises Supervisor

Every premises licence that authorises the sale of alcohol must specify a Designated Premises Supervisor (DPS). This will normally be the person who has been given day-to-day responsibility for running the premises by the premises licence holder. The only exception is for community premises that have successfully made an application to remove the usual mandatory condition set out in the Act, which requires a DPS to be on the licence in order for alcohol sales to take place

Where there is no DPS in respect of a premises licence, no alcohol may be supplied under that licence.

The licensing authority does not expect the DPS to be on the premises at all times when the premises is selling alcohol. However, the authority expects the DPS to be a person with day-to-day managerial control of the premises who will take reasonable steps to promote the Licensing Objectives and comply with the licence conditions.

If a DPS is going to be absent for a prolonged period, perhaps due to ill health, maternity leave or extended holiday, the licensing authority would expect the licence holder to appoint a new DPS to cover the period of absence.

If a DPS is repeatedly absent, the Police may apply for a review of the premises licence if this gives rise to concerns about the operation of the premises and its impact on the Licensing Objectives.

If a person named on the licence as the DPS stops working at the premises, no longer holds a personal licence or the personal licence is suspended, it is the authority's view that the premises no longer has a DPS. In these circumstances, the authority expects that no sales of alcohol will take place at the premises until the licence holder has submitted an application to vary the DPS. This applies regardless of whether that person remains named as the DPS on the premises licence, or whether they have asked to remove their name from it. This will apply until the licensing authority receives an application to nominate a new DPS.

## 2.06 Personal Licences

Every supply of alcohol under a premises licence must be made or authorised by a person who holds a personal licence. The Act does not require the presence of a personal licence holder at all times, but if any sales are made whilst the personal licence holder is not on site then they must have been authorised by someone who holds a personal licence.

Applicants must produce a basic DBS check certificate or the results of a subject access search of the Police National Computer (PNC) with the application form.

The Council recognises that it has no discretion regarding the granting of personal licences where:

- The applicant is 18 or over
- Possesses a licensing qualification
- Has not had a licence forfeited in the last five years, and
- Has not been convicted of a relevant or similar offence.

If the first three criteria do not apply, the application must be rejected. If there is an unspent conviction for a relevant offence as named in the Act, the Licensing Officer is required to notify South Yorkshire Police. The Police may then wish to make an objection on the grounds of crime and disorder. If an objection is lodged, the applicant is entitled to a hearing before the Council, at which consideration will be given as to whether the grant of the licence will compromise the promotion of the crime prevention objective.

## 2.07 Annual fees and suspension of licence or certificate

Under the Police Reform and Social Responsibility Act 2011, the licensing authority must suspend a premises licence or club premises certificate if the annual fee has not been paid.

Whilst the licence is suspended, no licensable activities may take place at the premises, and the suspension will only be lifted upon payment of the annual fee. Continuing to provide licensable activities whilst a licence is suspended is an offence and may leave the licence holder open to prosecution.

A letter will be issued to the licence holder reminding them that the annual fee is due, however it is always the responsibility of the licence holder to ensure that the annual fee is paid by the due date, regardless of whether a reminder has been received or not. If the due date has been reached, and payment has not been made, a warning letter will then be sent to the licence holder to remind them that the annual fee is still outstanding and that the licence will be suspended fourteen days from the date of the letter.

A further letter will be sent to the licence holder and to the premises after seven days to say that the licence has been suspended until payment of the outstanding fee has been received. If the licence holder believes there is an administrative error related to the annual fee, or the licence holder wishes to dispute the annual fee, the licence holder must contact the licensing authority on or before the due date of the annual fee. If the issue of the administrative error is not resolved during the following 21 day period, the licence will be suspended.

## 2.08 The Review Process

The Act permits responsible authorities or other persons to apply for the review of a premises licence or club certificate where problems associated with the licensing objectives are occurring.

### 2.08.1 Reviews by responsible authorities

It is expected that applications for reviews will be instigated by responsible authorities as a last resort after attempting alternative means for achieving compliance.

We consider the action planning approach (where one or more responsible authorities works with a licence holder/DPS to agree clear objectives within a timetable for improvements) an acceptable tool for demonstrating attempts at working together to achieve the licensing objectives.

Reviews submitted in connection with crime and disorder but not directly connected to licensable activities will be considered in order to promote the crime prevention objective, for example, problems with drugs at a premises, or the selling of stolen goods etc.

Following the receipt of a review application there will be a 28 day consultation period during which representations will be invited from other responsible authorities and any other person. This will allow for further representations to be made under any of the 4 licensing objectives.

### 2.08.2 Applications by 'Other Persons'

Persons other than responsible authorities can request that the Council undertakes a review of a premises licence where activities at the premises are undermining one or more of the licensing objectives.

Before a review of a licence is requested however, the Council would expect to see some evidence that the following points have been addressed:

- The management of the premises have been approached to let them know about the problem, giving them the opportunity to address the issues; or
- The licensing section has been asked to talk to those who manage the premises on your behalf; or
- The relevant “responsible authority” has been approached about the problem.

The review process is all about ensuring that the Licensing Objectives are being promoted by taking steps to deal with the problem. No offence needs to have been committed for a review hearing to take place.

There are several actions we can take at a hearing following a review application.

These are :

- Modify the conditions of licence
- Exclude a licensable activity from the licence
- Remove the DPS
- Suspend the licence
- Revoke the licence

The Council may reject a review application or any individual ground for review if it is not satisfied that it is relevant to the promotion of the Licensing Objectives

For review applications made other than by a responsible authority, the Council may reject the application on any individual ground if it considers it to be ‘repetitious’, ‘frivolous’ or ‘vexatious’.

## 2.09 Minor Variations

Small variations that will not impact adversely on the Licensing Objectives are subject to a simplified ‘minor variations’ process. The minor variations process is designed to allow licensees to make small changes to their licences more quickly and cheaply.

The test as to whether a proposed variation is ‘minor’ is whether it could impact adversely on any of the four Licensing Objectives. Government guidance is available on this issue online.

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/98157/guidance.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/98157/guidance.pdf)

[accessed 07/12/2022]

Anyone considering submitting an application for a minor variation is advised to first discuss the proposed variation with a Licensing Officer prior to submitting the application. It should be noted

that the Licensing Authority will not formally determine whether a variation is a minor variation or a full variation without the relevant application and fee being submitted.

Minor variations will generally fall into five categories:

- minor changes to the structure or layout of the premises
- small adjustments to licensing hours
- the removal of out of date, irrelevant or unenforceable conditions
- addition of volunteered conditions

The minor variation process cannot be used to:

- a) add the retail or supply of alcohol
- b) extend the licensing hours for the supply of alcohol between 11 pm and 7 am
- c) increase the amount of time on any day during which alcohol may be supplied
- d) extend the period for which the licence has effect
- e) transfer the licence
- f) substantially vary the premises layout
- g) disapply the mandatory conditions

The Act does not provide a right to a hearing to consider minor variations. The Council has delegated the power to determine a minor variation application to the Service Director of Legal Services. In making a decision, the Service Director of Legal Services will have regard to any relevant representations received from interested parties within the statutory time limit. The licensing authority will only regard representations as relevant where they relate to the likely effect of the grant of the application on one or more of the licensing objectives.

The licensing authority will only approve an application for a minor variation where in its opinion the variation sought will **not** have an adverse impact on the Licensing Objectives.

## 2.10 Temporary Event Notices (TENs)

The need for a temporary event notice (TEN) may arise in the following cases

- where no licence exists and licensable activities are to take place
- a licence is in force but the activities are taking place outside the licensing hours
- a licence is in force for part of the premises but it is proposed that activities take place in an 'unlicensed' area
- a licence is in force but it doesn't authorise the activity which is being proposed

TENs are subject to various statutory limitations. These are;

- The number of times a premises user may give a TEN in a calendar year;
- The number of times a TEN may be given for any particular premises;
- The maximum duration of an event authorised by a TEN;
- The maximum total duration of the events authorised by TENS in relation to individual premises;
- The maximum number of people attending at any one time and



- The minimum period between events authorised under separate TENs in relation to the same premises by the same premises user

Details of the above can be obtained from the Council's Licensing website (<https://www.barnsley.gov.uk/services/licensing/temporary-event-notice/>) or by contacting the licensing authority – see Appendix 3.

No permission is required from the licensing authority for these events. The premises user has to give notice (the TEN) to the licensing authority, informing it of the event taking place. In general, only the Police or the Council's Regulatory Services Pollution Control Team may intervene to object to a temporary event, or the Police can modify the arrangements for such an event. The licensing authority will only intervene itself if the limits on the number of notices that may be given is exceeded – in which case the person giving the TEN will be issued with a counternotice as prescribed by the Act.

There are two types of TEN: a standard TEN and a late TEN. A standard TEN is given no later than 10 days before the day of the event to which it relates. A late TEN is given not before nine and not less than five working days before the day of the event. Where the required notice period is not given, the TEN will be returned as void and the activities to which it relates will not be authorised.

The Act provides that the Police or the Council's Regulatory Services Team, within the prescribed period, issue an objection notice if they believe the event would undermine one or more of the licensing objectives. The objection must then be considered by the licensing authority in a hearing. If an objection is made to a late TEN, then, because there will be no time to arrange a hearing, the TEN will be invalid and the event cannot go ahead.

The Council encourages the earliest possible notice of events, especially where events are to take place in the open air or in a temporary structure.

The maximum number of people allowed to attend a temporary event is 499.

## 2.11 Planning and Licensing

The Council will ensure that the planning, building control and licensing regimes are properly separated to avoid duplication and inefficiency.

Applications for premises licenses for permanent commercial premises should normally be from businesses with planning consent for the property concerned.

Licensing applications should not be a re-run of the planning application, and the granting by the Council's Licensing Committee of any variation of a licence which involves a material alteration to a building will not relieve the applicant of the need to apply for planning permission or building control approval where appropriate.

Applicants are recommended to make enquiries of the local planning and building control departments where applicable.

It should be noted that there is no legal basis for the licensing authority to refuse a licence application simply because it does not have planning permission. Similarly, if planning permission imposes a terminal hour which is different to the licensing hours, the earlier hour must be observed to avoid breaching planning legislation or the terms of the premises licence.

## 3. Miscellaneous

### 3.01 Adult Entertainment

In April 2010 Schedule 3 of The Local Government (Miscellaneous Provisions) Act 1982 was amended by section 27 of the Policing and Crime Act 2009, enabling local authorities to regulate Sexual Entertainment Venues. The Council has resolved and adopted schedule 3 in relation to lap dancing and other sexual entertainment venues and has produced a policy which states that the number of sex establishment licences permitted in Barnsley is currently restricted to three.

Where a licensee wishes to provide activities which include striptease or any other kind of nudity (for example, topless waitresses), an application will need to be submitted for a Sexual Entertainment Venue licence under the Local Government (Miscellaneous Provisions) Act 1982 - and not a premises licence under the Licensing Act 2003.

There is an exemption under the Local Government (Miscellaneous Provisions) Act 1982 that allows licensed premises to provide sexual entertainment no more than 11 times per year and no more frequently than monthly. If a premises decides to take advantage of this exemption, but concerns about the entertainment or how the premises are being managed arise later, this could lead to a review of the premises licence under the Act if those concerns relate to the way in which the Licensing Objectives are being promoted.

The 2003 Act makes no specific provision with respect to certain activities such as “lap”, “table” and “pole” dancing. These and similar forms of sexual entertainment are not in themselves designated as licensable activities under the Act. 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 sexual entertainment), they will require a premises licence, club premises certificate or temporary event notice under the Licensing Act 2003 for those activities.

### 3.02 Cumulative Impact

Although there is no current Cumulative Impact Policy in place within the Borough, we recognise that due to the changing evening and night-time economy, the evidence needs to be continually reviewed to determine whether a Cumulative Impact Policy may be required.

The Council has always made licensing decisions based on the evidence presented to it, and that evidence must link to there being an adverse impact on the promotion of the Licensing Objectives. In addition, the licensing authority has always followed the principle of each case being decided on its own individual merits.

The licensing authority also aims to promote the responsible and professional management of premises and events by licence holders as it recognises that, more often than not, it is the effective control and supervision of premises and events that is a key factor in promoting the Licensing Objectives.

The licensing authority has set out earlier in this policy statement the measures it expects applicants and licensees to put in place, or at least consider, when it comes to promoting each of the four Licensing Objectives.

The Council has produced a Local Area Profile (LAP), identifying those areas where there may be, for example, a high number of Police call-outs to licensed premises or perhaps areas of the borough where there is a high degree of alcohol dependency.

Applicants and licensees will be asked to take any issues set out in the LAP into account, either when applying for licences or, once a licence has been granted and to make sure that the measures identified in this policy are taken into account when managing their premises, especially in any areas of high dependency or areas linked to higher levels of crime.

All applicants are then asked to prepare their risk assessment based on the measures we expect them to consider and the type and location of premises they intend to conduct licensable activities. This risk assessment will be a part of, and integral to, their operating schedule as part of their application.

The applicant's role would be to satisfy the Council that the grant of a licence would not adversely impact on the promotion of the Licensing Objectives in that area or location.

We believe that safer and more tolerant environments can be achieved more successfully by businesses working better together, along with the Police, the Council and other stakeholders to promote good practice.

National and local crime statistics, together with evidence gathered by public health teams, show that the consumption of alcohol is a significant contributory factor to levels of crime and disorder and it affects public health. Good management and practice procedures in licensed premises can and do make an important contribution to lessening that impact.

The Council wants licence holders to work together to share good practice and information to help them achieve the Licensing Objectives. Some examples of good practice include:

- Membership of schemes such as Pubwatch to be actively promoted and supported by both the licensing authority and the Police
- Best Bar None Scheme - supported by the Home Office, local councils and the drinks industry and is aimed primarily at promoting responsible management and operation of alcohol licensed premises
- Purple Flag – this is a national accreditation similar to the Blue and Green Flags awarded to beaches and parks. It honours towns and cities that provide a vibrant and diverse mix of dining, entertainment and culture while promoting the safety and wellbeing of visitors and residents

- Barnsley has been awarded a coveted Purple Flag for the third consecutive year in recognition of its outstanding evening and night-time economy
- Licence and certificate holders will also be encouraged to take into account the wide range of initiatives detailed in the various good practice guides published by trade associations and other interested bodies such as the The Portman Group's Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks as well as the Council's wider interventions to reduce alcohol harm such as the Responsible Retailer Schemes?
- Accredited Proof of Age Cards and Challenge Schemes. It is a mandatory condition for photographic proof of age evidence to be requested by licence holders and all other relevant employees, from any person who appears to be under 18 years of age and is seeking access to premises or seeking to purchase or consume alcohol on the premises.
  - Such evidence should include a photograph of the customer, and will be either a passport, photographic driving licence, MOD90 (military ID) or proof of age card carrying a "PASS" (Proof of Age Standards Scheme) hologram logo
  - The licensing authority is in favour of such schemes as Challenge 25, which are voluntary measures to challenge all persons who appear to be under 25 when seeking access to premises or seeking to purchase or consume alcohol
- The British Beer and Pub Association (BBPA) – the BBPA have consolidated good practice, including good practice on combating violence in licensed premises, into a number of guides to assist the trade with specific reference to managing safety in bars, clubs and pubs

### 3.02.1 Other methods of controlling cumulative impact

Once away from the licensed premises, a minority of consumers will behave badly or unlawfully. Other mechanisms both within and outside the licensing regime are available for addressing such issues. For example:

- 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, taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols
- powers to designate parts of the borough as places where alcohol cannot be consumed publicly
- the confiscation of alcohol from adults and children in those designated areas
- the power of the police, other responsible authorities or other persons to seek a review of a licence

### 3.03 Open Air and Large-Scale Events

The promotion and organisation of live musical and other entertainment in the open air, or temporary structures such as marquees can provide opportunities for community involvement, civic pride and can attract visitors to the borough. However, the success of such events is dependent on the quality, safety and suitability of facilities provided for people coming to enjoy the event. Also important, however, is consideration of the rights of people who live in the vicinity.

Where large scale events are planned, a premises licence should be submitted at least three months prior to the event, so that discussions can be held between the applicant and other stakeholders

such as the Police, noise pollution officers and representatives of those living and working within the vicinity. It is important that substantial notice is given so that proper precautions and preparations can be put in place to ensure the event is a success. This also applies if the event is proposed under a Temporary Event Notice (maximum 499 people).

Applicants are expected to have reference to the Event Safety Guide – A Guide to Health, Safety and Welfare at Music and Similar Events (commonly known as the “purple guide”), supported by the Health and Safety Executive: <https://www.thepurpleguide.co.uk/> [accessed 07/12/2022]

### 3.04 Pavement Licences

Premises that provide tables and chairs for customers outside of their premises on the public highway are required to obtain planning consent followed by a pavement café licence from the Council’s Highways Department.

If the area of land which the tables and chairs are to be sited is within the curtilage of the premises, there is no requirement to gain a Pavement Café Licence in this manner.

The Council will accept and consider any application submitted for a pavement licence accompanied by the relevant fee and supporting documents required by them.

Consultation will take place with the Highways Department and other agencies such as the Police and the Council’s Regulatory Services that may be necessary to consider the effects of granting a licence.

The application fee for a pavement licence is non-refundable.

<https://www.barnsley.gov.uk/services/roads-travel-and-parking/road-licences/licences-for-street-cafes/> [accessed 07/12/2022]

### 3.05 Wholesale purchases of alcohol

From 1st April 2017, it is an offence to buy alcohol for onward sale or supply from an unapproved UK wholesaler.

The Alcohol Wholesale Registration Scheme (AWRS) was introduced to help HM Revenues and Customs (HMRC) tackle alcohol fraud. Any business buying alcohol from a UK wholesaler for onward sale or supply to their customers will need to check that their wholesaler has been approved by HMRC under AWRS. Anyone purchasing alcohol from a wholesaler can check their UK wholesaler is AWRS approved by using the alcohol wholesalers register online at: [www.gov.uk/check-alcohol-wholesaler-registration](http://www.gov.uk/check-alcohol-wholesaler-registration) [accessed 07/12/2022]

Anyone purchasing alcohol from a wholesaler will need their wholesaler’s unique reference number (URN), which should be displayed on their invoice. Once they find their wholesaler on the register, anyone purchasing alcohol from a wholesaler will need to keep a record of their check by printing it off or saving the page to confirm the wholesaler are approved. HMRC may ask for details at a later date.

If anyone purchasing alcohol from a wholesaler is unable to find their wholesaler on the register, they should inform the wholesaler that they will need to contact HMRC for approval. Alcohol should not be purchased from them and HMRC should be notified by searching for Customs, Exercise and VAT fraud reporting on the GOV.UK website. Any business found buying alcohol from a non-registered UK wholesaler could have their alcohol stock seized, be fined or even prosecuted and risks having their licence reviewed.

### 3.06 Written and Spoken English

The licensing authority considers it reasonable that those who hold licences and persons involved in the sale of alcohol are able to understand the terms of the licence and their legal obligations. It is also expected that those making sales of alcohol can understand and converse in the English language and be able to read and write in English, so as to be able to complete documents such as refusals books and read training guides.

Where relevant representations are made, and a lack of understanding of basic written and/or spoken English is a factor in those representations, consideration may, if appropriate, be given to attaching conditions to premises licences or club premises certificates that require the licence holder and staff connected with the business, attend a 'Basic Skills' course. This would be at the applicant's cost.

### 3.07 Other mechanisms of control

The Council recognises that the Act is not the sole mechanism for the general control of anti-social behaviour by individuals once they are away from the vicinity of licensed premises and therefore, beyond the direct control of the individual club or business holding the licence, certificate or authorisation concerned.

In preparing this policy, the licensing authority has sought to avoid unnecessary duplication of existing legislation and regulatory regimes, particularly in relation to the following issues:

- Noise nuisance
- Health and safety
- Smoking in premises
- Anti-social behaviour
- Planning

Applicants are encouraged to familiarize themselves with existing legislation and regulatory regimes.

## 4. Enforcement

Licensed premises must be operated and maintained in accordance with the provision of the Act, the four Licensing Objectives and any conditions imposed by the Council. Failure to do so may result in enforcement action being taken by the Council and/or South Yorkshire Police.

We adopt a multi-agency approach to the detection and prosecution of offences under the Act. In the first instance, the most appropriate authority will lead on the investigation at the problem premises. Joint enforcement in this way enables the targeting of agreed problems and high-risk premises that require greater attention, while providing a lighter-touch approach to premises that are well run.

The Council will carry out its inspection and enforcement functions having regard to the principles of consistency in approach, transparency and proportionality. It will target its inspection process towards those premises that are considered high-risk and therefore requiring greater attention.

The risk-weighting of premises will be determined in accordance with all relevant factors, including location, style of operation, history, reputation and management attitudes. Any assessment of risk will be a graduated response and will include the targeting of problem premises.

The licensing authority will not routinely carry out premises inspections; instead, the frequency of inspections will be determined on risk-based criteria with high-risk operations receiving more attention than premises carrying low public safety, crime and disorder or public nuisance risks.

Fully compliant premises will be considered as lower risk. Non-compliant premises will; be considered as higher risk. The licensing authority will take appropriate enforcement action against those responsible for unlicensed premises/activity.

Any action we do take will be in accordance with the Council's enforcement policy – see Appendix 5

The Regulators Code also promotes an understanding of what licence holders, interested parties and responsible authorities can expect from the enforcement process  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/913510/14-705-regulators-code.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/913510/14-705-regulators-code.pdf)

Before deciding which course of action to take, we will consider the following matters:

- the history of the premises
- the history of the offender
- the offender's attitude
- the circumstances of the offence
- whether the offender has a statutory defence to the allegations
- the impact or potential impact of the breach on the public
- the quality of the evidence against the offender
- the likelihood of achieving success in a prosecution
- the likely punishment that will be incurred if the case goes to Court
- whether the course of action proposed is likely to act as a deterrent
- whether the course of action, if it is publicised, is likely to have a beneficial effect on the behaviour of others.

Applications for the sale of alcohol at such premises should include evidence of primary use. This is to enable us to determine the nature of the premises in light of section 176 of the Licensing Act 2003, which prohibits the sale or supply of alcohol from premises that are used **primarily** as a garage/petrol station or are part of a premises used mainly as a garage/petrol station. If there is insufficient evidence to establish primary use the licensing authority may defer determining the application until such time as primary use issues are resolved to our satisfaction.



## 5. Statement of Policy Consultation

The Council is committed to meaningful consultation with all appropriate public and private organisations and a representative cross-section of all of those with an interest in the contents of the policy.

The statutory consultation process ran from 23rd December 2022 until 3rd March 2023.

The Act sets out that the Council must specifically consult residents, licence holders and businesses (or their representatives) and public bodies. The Council consulted the following:

- the chief officer of police
- the fire authority
- all responsible authorities
- representatives of holders of existing premises licences, personal licences and club premises certificates in the borough – (Pubwatch Chairpersons)
- representatives of businesses and residents in Barnsley

In addition to the groups that it is required to consult, the Council extended the scope of the consultation to include the following:

- residents groups
- community associations
- ethnic group associations
- faith groups
- trader's associations
- neighbouring licensing authorities
- relevant Council teams
- all responsible authorities
- Barnsley Lesbian, Gay, Bisexual and Transgender Forum
- Barnsley Community Safety Partnership Board
- all Barnsley elected Members

The views of all consultees have been duly considered and given proper weight when approving this policy.

## 6. Human rights

The Human Rights Act 1998 incorporates the European Convention on Human Rights and makes it unlawful for a local authority to act in a way that is incompatible with the Convention right.

In conducting its business as the Council for the Metropolitan Borough of Barnsley, we will have particular regard to the following relevant provisions of the first protocol of the European Convention on Human Rights;

- Article 1- Every person is entitled to the peaceful enjoyment of his or her possessions, e.g. the possession of a licence
- 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 - Everyone has the right to respect for his home and private/family life.

## 7. Advice

Advice about whether or not activities require a licence may be obtained from the Council's Licensing Section:

Email: [licensing@barnsley.gov.uk](mailto:licensing@barnsley.gov.uk)

Mail: Barnsley MBC, Legal Services, Licensing Section, PO Box 634, Barnsley, S70 9GG

Telephone: (01226) 773555

Please note that advice from Council staff is normally limited to the process of applying for a licence or in relation to the requirements for attending a hearing. Council officers are not legally qualified, and therefore they are unable to give applicants, prospective applicants or licensees legal advice. In most cases, applicants, prospective applicants and licensees should seek own independent legal advice.

## Appendices

### Appendix 1 – Delegations

<b>Matter to be dealt with</b>	<b>Full Committee</b>	<b>Sub Committee</b>	<b>Officers</b>
Application for Personal Licence		If an objection made	If no objection made
Application for Personal Licence (with unspent convictions)		All cases	
Applications 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 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 an Interim Authority Notice		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 or 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	
---	--	-----------	--

## Appendix 2 – Pool of Conditions

### 1. General Considerations

This document provides the licensing authority's approach towards different types of venue. It is not exhaustive, and does not cover every type of venue, or every possible situation that applicants should consider when preparing their operating schedule. Applicants should read this document in conjunction with the Council's Statement of Licensing Policy, relating to the Licensing Objectives, risk assessments, Local Area Profile, operating schedules and cumulative impact.

Generally, conditions on a licence should be offered in consideration and promotion of the four Licensing Objectives, these being:

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

### 2. Licence Conditions

This section contains examples of conditions that may be appropriate for different kinds of premises and is intended to assist all involved in the licensing process, including:

- applicants when applying for a new premises licence or new club premises certificate or when making an application to vary an existing premises licence or club premises certificate
- any other persons and responsible authorities when making representations on applications, or when making review applications
- Licensing Panels when considering applications with relevant representations
- Magistrates when considering an appeal against the Council's decision

Any conditions that the licensing authority attaches to premises licences or club premises certificates will relate to matters on the premises or in the immediate vicinity of the premises that are within the licence holder's control. The authority's primary focus will be the direct impact of the licensed premises on members of the public who live, work or are engaged in normal activity in the area concerned.

To avoid duplication with other regulatory regimes, the licensing authority will only attach conditions to licences if they are necessary to promote one or more of the Licensing Objectives. In each case, the authority will tailor conditions to the individual style and characteristics of the premises and the events concerned.

When making relevant representations, responsible authorities and any other persons can suggest conditions that would satisfy their concerns. Applicants may also suggest additional conditions after relevant representations are received if they feel conditions can address the concerns raised.

The example conditions are not mandatory conditions, and the licensing authority will not automatically apply them to all licences. However, the authority may find it necessary to apply some or all of the conditions once it has considered the merits of the individual application.

The conditions provided in this document are not a definitive or exhaustive list of potential conditions. In some cases, the licensing authority may decide that alternative conditions tailored to individual circumstances will be necessary.

### *2.01 CCTV*

Where CCTV is required to be installed on the premises, the applicant should consider the following conditions for all premises categories:

- 1) The premises licence holder shall ensure that CCTV cameras and recorders are installed at the premises and are of a standard acceptable to and approved by the Police and Licensing Officers.
- 2) The CCTV system shall be maintained in good working order and at all times the premises is open to the public, and be fully operational, covering both internal and external areas of the premises to which the public have access.
- 3) The CCTV camera views shall not be obstructed.
- 4) At least one CCTV camera shall be placed no more than seven feet above floor level near to each point of entry and exit in order to capture clear facial images of all persons entering and leaving the premises.
- 5) The medium on which CCTV images are recorded shall be of evidential quality; be stored securely; be retained for a period of 31 days, and be available for inspection by the police or authorised officers on request.
- 6) When the premises are open for the purposes of licensable activities, a suitably trained member of staff shall be present to assist the Police or authorised officers in obtaining the CCTV footage.
- 7) Copies of any CCTV image shall be made available within 48 hours of the request to the police or local authority.
- 8) The facility to transfer the images to a compatible, removable format shall be held on the premises.
- 9) Staff working at the premises shall be trained in the use of CCTV and a log must be kept to verify this.
- 10) Signs must be displayed in the customer areas to advise that CCTV is in operation.
- 11) If the CCTV is inoperative or not installed and working to the satisfaction of the Police, the licence holder shall notify the Police within 48 hours and give an estimate of the repair timescale. The licence holder and staff shall comply with all reasonable requests from the Police.

### *2.02 Noise from deliveries and/or waste collection*

To ensure that noise associated with deliveries to and waste collections from the premises do not cause a nuisance, the applicant should consider the following conditions for all premises categories:

- 1) Deliveries to the premises shall not take place between (insert time) and (insert time)
- 2) Collections of waste from the premises shall not take place between (insert time) and (insert time)

- 3) Collections of waste from the premises which include glass shall not take place between (insert time) and (insert time)

### *2.03 Alcohol delivery services*

The licensing authority regularly receives enquiries in relation to applications for licences relating to alcohol delivery services.

These tend to fall into three main groups:

- Premium specialist product mail order-type services
- Food delivery services (both meal and grocery) that include delivery but are primarily food lead, and
- Convenience-type alcohol delivery services that are targeted at convenience for those drinking at home.

Although these types of services are not provided for in the Licensing Act 2003 in any way differently from other licensed premises, they do provide their own unique set of circumstances that need to be addressed.

In particular, the authority has concerns with the age verification at both purchase point and delivery point.

It should be expected that the following conditions would be requested by the authority to be placed on a premises licence for delivery services where it is appropriate and relevant to the individual licence application:

- 1) A standard age verification check shall be undertaken on entering the website used by the licensee for sale of alcohol.
- 2) A signature at the point of delivery must be obtained from a person above the age of 18 with appropriate age verification identification. No delivery shall be left without a signature.
- 3) Alcohol shall only be delivered to a residential or business address and may not be delivered to a public place.
- 4) Every third-party courier delivery box shall be labelled with the words "Age Restricted Product".
- 5) Any delivery driver or third-party courier will be required to have appropriate age verification training, and in particular they will be required to have undergone training in refusal of supply where age verification is not provided, or the recipient is clearly intoxicated.
- 6) A refusals log will be maintained for deliveries and available for inspection on request.
- 7) Website and all promotional material should be designed and set out in a way which is consistent with the responsible retail of alcohol.

The Authority would expect licensees and operators to have systems in place to ensure alcohol is not delivered to problematic house parties or to people who appear drunk and, in such instances, alcohol should be refused and recorded



### 3. Premises Categories

#### *3.01 Restaurants, cafes and coffee houses*

For the purposes of this document, premises are a restaurant or cafe if the sale of alcohol is only made to seated customers who are taking a meal on the premises. If alcohol is sold to any other person, the licensing authority will regard the premises as a pub or bar. Late night refreshment venues that do not sell alcohol but serve hot food and drink to standing customers or for customers to take away should refer to the section “Premises supplying hot takeaway food and drink”.

If the tables are cleared at a certain time to create the provision of an area to be used for dancing or other regulated entertainment, we will not consider the premises to be used primarily as a restaurant. Restaurants wishing to provide entertainment should consider this section in conjunction with the section relating to premises providing music and dance.

Premises used primarily as restaurants as defined in this document are not generally associated with high levels of crime, disorder, anti-social behaviour and nuisance. However, operators should take extra care where persons use external areas of the premises for dining or smoking. Furthermore, controls still need to be in place to ensure that children are not sold alcohol.

Some restaurants allow customers to bring their own alcohol to the premises to drink with a meal. Although the licence holder does not need a licence for the consumption of alcohol, the licensing authority would expect operators to consider the risk associated with allowing this activity. We also expect the applicant or licence holder to pay greater attention to the prevention of crime and disorder and prevention of public nuisance objectives, and ensure they have prepared a robust operating schedule in this respect.

These conditions are particularly relevant to restaurants:

- 1) Alcoholic beverages shall only be sold to customers seated at tables and only when taking a table meal.
- 2) Orders for food and beverages shall be taken and dispensed by waiter or waitress service only.
- 3) No alcoholic beverages or glass containers shall be taken outside the premises by customers at any time.
- 4) The use of the garden/external area shall cease after (insert time) hours on (insert days of the week).
- 5) No more than (insert number) of customers shall be permitted to smoke outside the premises at any one time.
- 6) Customers smoking on the public footway shall not be permitted to cause obstruction of the highway to passers-by.
- 7) Regular litter and glass collections shall be carried out in all areas where customers are congregating.
- 8) A physical barrier, such as a rope, will be used to mark the boundary of the area outside the premises where customers are allowed.
- 9) Notices shall be prominently displayed at each exit from the premises asking customers to be considerate to neighbours when leaving.

- 10) External lighting for the premises shall be turned off after the premises are closed to the public.

### *3.02 Premises supplying hot food and drink between 11:00pm and 05:00am (Late night refreshment venues)*

This document applies to late night refreshment venues whose activities include supplying hot food and drink between the hours of 11:00pm and 05:00am. Such premises can attract large groups of customers who have come from pubs, bars and clubs in the area and who have consumed considerable quantities of alcohol. These customers can be noisy and cause disturbance in the area long after other nearby licensed premises have closed.

Consumption of food away from the premises can also lead to increased litter, causing a public nuisance in the area.

Customers of these venues can often be intoxicated and may be difficult to control. The licensing authority strongly recommends that operators provide appropriate training for their staff, to ensure they can deal with such situations effectively and fully uphold the Licensing Objectives.

Late night refreshment venues are expected to provide an operating schedule outlining specifically how they will address the prevention of crime and disorder and public nuisance objectives.

Some late night refreshment venues may allow customers to bring their own alcohol to the premises to drink with a meal. Although the licence holder does not need a licence for the consumption of alcohol, the licensing authority would expect operators to consider the risk associated with allowing this activity. The authority also expects the applicant or licence holder to pay greater attention to the prevention of crime and disorder and prevention of public nuisance objectives, and ensure they have prepared a robust operating schedule in this respect.

The following are examples of conditions that may be relevant to late night refreshment venues:

- 1) A minimum of (insert number) SIA registered door supervisors shall be on the premises during the hours of (insert times)
- 2) Policy and procedures for door staff will be put into place detailing dispersal techniques for customers and procedures for dealing with incidents that occur near the premises
- 3) Notices shall be prominently displayed at each exit from the premises asking customers to be considerate to neighbours when leaving
- 4) Patrols of the area outside the premises shall be undertaken every (insert period) during the use of the licence and any litter attributable to the premises is cleared
- 5) At least one member of staff on duty whilst this licence is being used shall be trained in the requirements of the Licensing Act 2003 in terms of the licensing objectives, offences committed under the Act and conditions of the premises licence. Such person shall be competent to ensure offences are not committed and that the premises shall be run in accordance with the licence
- 6) A minimum of (insert number) litterbins shall be provided by the licence holder in (give details of locality) for the use of customers

- 7) Policies and procedures shall be put in place for collection of street litter generated by the premises and such policies shall be implemented by staff whenever the premises are being used under the terms of this licence
- 8) CCTV conditions – see section 2.01

### *3.03 Pubs, bars and members clubs*

This section applies to premises where the sale of alcohol is the primary licensable activity. It also applies to proprietary clubs (i.e., members clubs run for profit) and restaurants where the sale of alcohol is not restricted to seated customers who are taking table meals at the premises.

Venues that also provide music and dance or similar entertainment should read this section in conjunction with section 3.04.

Pubs and bars provide a valuable service to people living in, working in, and visiting the borough. However, they may also contribute to crime, disorder, anti-social behaviour and nuisance in an area, due to customers consuming excessive quantities of alcohol on the premises.

Pubs and bars need to address how they will avoid the sale of alcohol to children, how they will control potential nuisance from customers drinking and smoking in beer gardens and on pavements, and how they will reduce the risk of causing nuisance to their neighbours when customers leave the premises at night.

We expect premises selling alcohol to have a proof of age policy in place (such as Challenge 25), but it is important that all staff responsible for selling alcohol are trained to ask for, and recognise, acceptable means of identification, and are aware the proof of age policy exists.

Particular care should be taken where customers use pavement areas to consume alcohol or smoke. A licence may be required for tables and chairs that are used on pavement areas. Additionally, customers congregating outside licensed premises can block pavements and cause considerable public nuisance without necessarily behaving in a rowdy manner.

We advise licensees to monitor the use of such areas carefully and be aware of any situations where the Licensing Objectives are not being upheld. This can be of particular concern where pavements are narrow and can quickly become blocked by even a small congregation of drinkers.

If premises are not authorised to supply alcohol for consumption off the premises, the licensing authority expects the licence holder to ensure that customers do not take their drinks from the premises into any area that is not authorised on the premises plan. This may include the pavement immediately outside the premises.

The following are examples of conditions that may be relevant to pubs and bars:

- 1) A minimum of (insert number) door supervisors shall be on duty on the premises during the hours of (insert times) on (insert days of week).
- 2) Random searches shall be undertaken of customers entering the premises between the hours of (insert times) and prominent signage provided to this effect. At least one male and one female supervisor shall be provided for this purpose.

- 3) A minimum of (insert number) door supervisors shall be provided on (insert days of week) between the hours of (insert times).
- 4) Customers shall not be permitted to take drinks outside and prominent signage shall be provided to this effect.
- 5) The beer garden of the premises shall be closed to customers at (insert time).
- 6) Staff shall regularly supervise the pavement area outside the premises to ensure customers are not blocking pavements or causing nuisance to neighbouring premises.
- 7) The tables and chairs outside the premises shall be brought inside at (insert time).
- 8) Any alcohol sold for consumption off the premises shall be sold in a sealed container.
- 9) Notices shall be prominently displayed at each exit from the premises asking customers to be considerate to neighbours when leaving.
- 10) When the venue is open for licensable activities, the toilets are to be checked by staff at least every 30 minutes and these checks are to be documented
- 11) Any drugs, psychoactive substances or weapons confiscated from customers shall be stored in a locked and secure container and the police shall be notified as soon as reasonably practicable. Customers found in possession of drugs, psychoactive substances or weapons should be refused entry or removed from the premises and the police notified.
- 12) The premises shall operate a dispersal policy and all staff shall be trained in its implementation.
- 13) There shall be no admittance or re-admittance to the premises after (insert time).
- 14) A refusals and incident logbook shall be maintained by the premises that details incidents of note that occur in the premises. This shall include refused sales, disorder, and ejections as a minimum. The logbook shall be kept on the premises and be available for inspection at all times the premises is open, and management shall regularly check the book to ensure all staff are using it.
- 15) Customers shall be supervised when leaving the premises and shall be asked to leave quietly.
- 16) The licence holder shall actively participate in any local Pubwatch or similar scheme.
- 17) The premises shall be a member of any local radio scheme that allows them to be in contact with other venues in the local area.
- 18) A proof of age scheme such as Challenge 25 shall operate at the premises and all staff shall be trained in its implementation. Only photographic ID such as a British driving licence or a passport shall be treated as acceptable forms of identification.
- 19) CCTV conditions – see section 2.01

For premises wishing to operate as proprietary clubs:

- 1) Admission to the licensed premises shall be restricted to Members of the club and their bona fide guests.
- 2) No person shall be admitted to the premises without an interval of at least 48 hours between application for membership and admission.
- 3) No more than (insert number) guests per member shall be admitted to the club. Details of all guests shall be recorded on site and to be made available to police and a duly authorised officer of the licensing authority immediately upon request during a visit the premises.
- 4) Members and guests shall be required to “sign in” when entering the premises.
- 5) Any book used for the signing in of members and guests shall be kept on the premises at all times and made available on request to Police and a duly authorised officer of the licensing authority.

### *3.04 Premises providing music, dance and similar entertainment*

The Council recognises the cultural importance and significance of premises providing live music, dance and similar entertainment, and is keen to encourage diverse forms of entertainment throughout the borough, whilst recognising that this can, if not properly managed, give rise to public nuisance concerns that impact adversely on people who live near licensed premises.

The conditions suggested in this section apply to any premises that wish to provide recorded music, live music, dance performance, or provision of facilities for music and dancing as part of their licensable activities.

Generally, where an applicant wishes to provide these activities, the Council will expect the applicant to provide a noise management plan to show how they will avoid causing noise nuisance from such activities to people living nearby.

Where the applicant does not submit a noise management plan, they should comprehensively demonstrate in their operating schedule that they are able to operate the premises without causing public nuisance.

The following are examples of conditions that may be relevant to premises providing music, dance and similar entertainment:

- 1) A sound limiting device shall be installed and set at a level so as to avoid any noise nuisance
- 2) All audio and musical equipment used in the premises shall be played through the installed sound limiting device
- 3) Only the premises licence holder and the designated premises supervisor shall have access to the sound limiting device
- 4) The sound limiting device shall be used whenever relevant regulated entertainment is taking place
- 5) All windows and external doors shall be kept closed after (insert time), or at any time when regulated entertainment takes place, except for the immediate access and egress of persons.
- 6) The premises shall be adequately ventilated to allow doors and windows to remain closed during licensed entertainment.
- 7) An acoustic lobby shall be installed to (specified) entrance/s to minimise sound escape from the premises, ensuring that all doors open in the direction of escape in case of emergency.
- 8) The licence holder or duty manager shall make regular patrols at no less than hourly intervals around the perimeter of the premises when regulated entertainment is taking place. Noise levels shall be adjusted to ensure local residents are not disturbed by noise breakout

### *3.05 Late night music venues*

Statistics show that late night music venues and late night dance venues generally contribute to higher levels of alcohol related violence per premises than other licensed venues. As a result, the licensing authority expects late night music venues and late night dance venue operators to pay

particular regard to the prevention of crime and disorder objective when preparing their operating schedule.

It is extremely important that operators of such venues prepare a risk assessment before considering appropriate conditions for their operating schedule.

Applicants should consider the conditions outlined in this section in conjunction with the section applicable to premises providing music and dance and similar entertainment (section 3.04).

- 1) A minimum of (insert number) SIA registered door supervisors shall be on duty on the premises from (insert time) until all customers have left the premises and its vicinity
- 2) Random searches shall be undertaken of customers entering the premises between the hours of (insert times) and prominent signage provided to this effect. At least one male and one female supervisor shall be provided for this purpose
- 3) A metal detection device shall be randomly used by door supervisors to search customers for weapons
- 4) The licence holder shall ensure that an electronic 'scanning' identification system (approved by the Police) is used at the premises in order that the identity and age of all persons entering the venue can be confirmed. This will be used at all times between (insert times) and for any promoted events or when recommended by Police
- 5) Customers shall not be permitted to take drinks outside and prominent signage shall be provided to this effect
- 6) Persons wishing to leave the premises to smoke shall not be permitted to take drinks outside
- 7) Notices shall be prominently displayed at each exit from the premises asking customers to be considerate to neighbours when leaving
- 8) Appropriate devices shall be used by door staff to monitor the number of persons present on the premises at any one time
- 9) When the venue is open for licensable activities, the toilets are to be checked by staff at least every 30 minutes and these checks are to be documented on each visit
- 10) Any drugs, psychoactive substances or weapons confiscated from customers shall be stored in a locked and secure container and the Police shall be notified as soon as reasonably practicable. Customers found in possession of drugs, psychoactive substances or weapons should be refused entry or removed from the premises and the Police notified.
- 11) The premises shall operate a dispersal policy and all staff shall be trained in its implementation
- 12) There shall be no admittance or re-admittance to the premises after (insert time).
- 13) A refusals and incident log shall be kept at the premises, and made available on request to an authorised officer or the Police, which shall record the following:
  - a. all crimes reported to the venue
  - b. all ejections of patrons
  - c. any complaints received
  - d. any incidents of disorder and violence
  - e. all seizures of drugs or offensive weapons
  - f. any faults in the CCTV system or searching equipment or scanning equipment
  - g. any refusal of the sale of alcohol to include date, time, and staff member
  - h. any visit by a relevant authority or emergency service.

The incident log shall be kept on the premises and be available for inspection at all times, and management shall regularly check the book to ensure all staff are using it.

- 14) Customers shall be supervised when leaving the premises and shall be asked to leave quietly.
- 15) The premises shall operate a zero-tolerance policy to drug and psychoactive substance use and posters shall be prominently displayed to this effect.
- 16) All staff shall be trained in the implementation of the venue drugs and psychoactive substances policy.
- 17) The licensee shall undertake a risk assessment of any promotion or event and provide a copy to the Police licensing team and the licensing authority not less than 14 days before the event is due to take place.
- 18) Following submission of the risk assessment, all directions of the Police shall be complied with, including cancellation of an event if necessary.
- 19) Where an 'event' has taken place, the licensee shall complete a Debrief Risk Assessment and submit this to the Police licensing team and the licensing authority, within three days of the conclusion of the event.
- 20) All bar servers shall be trained in how to identify drunk or drug and psychoactive substance impaired customers. This training shall be repeated at least twice a year and written records of the training kept and made available to Police and authorised officers of the Council upon request.
- 21) The licence holder shall not permit the use of special effects such as lasers, smoke machines and pyrotechnics, except with the prior consent of the Council, which may be subject to additional conditions if necessary to promote the licensing objectives.
- 22) The licensee shall take all reasonable steps to ensure there is no unauthorised advertising of events to be held at the premises.
- 23) Door supervisors shall be provided with radios to enable them to contact each other and the duty manager at the premises.
- 24) The premises shall participate in any local radio scheme in operation that enables them to be in contact with other local radio scheme users.
- 25) A proof of age scheme such as Challenge 25 shall operate at the premises and all staff shall be trained in its implementation. Only photographic ID such as a British driving licence or a passport shall be treated as acceptable forms of identification.
- 26) Alcoholic and soft drinks shall be served in polycarbonate/plastic containers.
- 27) Bottled alcoholic and soft drinks shall be decanted and served in polycarbonate/plastic containers.
- 28) All incidents involving drug or psychoactive substances use, drug or psychoactive substances dealing, or assaults, shall be reported to the police within 24 hours of the incident.
- 29) A comprehensive staff training programme is in place that covers the Licensing Act 2003, fire evacuation procedures, critical incident best-practice, crime scene best practice and conflict management. This training must be clearly documented and any training for future staff must also be organised at the appropriate time. Training shall be written into a programme and will be made available for inspection by the police or other responsible authority, upon request.
- 30) All alcohol must be served in plastic or polycarbonate receptacles from 21:00 hrs until close on (insert days) when the venue remains open for licensable activities.
- 31) No persons carrying visibly open or sealed alcohol vessels shall be admitted to the premises at any time that the premises are open for any licensable activity.
- 32) No patron shall be allowed to leave the premises whilst in the possession of any drinking vessel or open glass bottle whether empty or containing any beverage after 21:00 hrs. This includes patrons using the smoking area(s)

- 33) Management will ensure that patrons utilising the external area remain within the curtilage of the venue when consuming alcohol.
- 34) A sign shall be displayed at the point of sale stating No Proof of Age – No Sale.
- 35) Regular glass collection shall be undertaken by staff.
- 36) The licence holder must ensure that the venue starts to increase lighting in the premises at least 30 minutes before the end time the venue is authorised to supply alcohol, with full lighting no later than 15 minutes before that point.
- 37) Consumption of alcohol on the premises shall cease 30 minutes after the permitted hours for the sale of alcohol.
- 38) The licence holder must ensure that the venue starts ‘softening’ the music style, in order to assist with a controlled dispersal policy at least 30 minutes before the end time the venue is permitted to supply alcohol.
- 39) A door supervisor’s register shall be updated on occasions when SIA supervisors are employed. The register is to be made available for inspection by the Police and/or authorised officers of the Council. The register must show:
  - a. full name
  - b. date of birth
  - c. SIA Registration Number
  - d. date and hours worked.
  - e. contact telephone number and email address
- 40) The licence holder shall ensure that a coloured photocopy of each door supervisor’s SIA badge is taken and retained at the premises.
- 41) Where the venue runs promoted events, or when recommended by the Police, and in any case, after (insert hours) on (insert days), every customer is to be subjected to a search of the person, wallets, bags, purses, and any other items carried on or by the customer. All searches must be conducted by SIA authorised door staff and must be carried out within an area covered by the venue’s CCTV system. Refusal to being searched will result in No Entry.
- 42) All SIA door supervisors will wear high-visibility jackets, vests, or high-visibility armbands whilst working at entry/exit points and around the exterior of the building.
- 43) (insert number) of SIA registered door supervisors must use body-worn cameras. In the event of an incident, the footage must be made available to Police upon request. The licence holder shall ensure that a suitable, expeditious playback / downloading system is in place to enable the police to obtain any evidential footage.
- 44) All SIA doorstaff on duty must remain on duty for half an hour after the close of the venue to ensure all patrons are dispersed peacefully from the area.
- 45) Door supervisors and appropriate staff shall be provided with “two-way” radios or similar systems capable of ensuring continuous communication between each other at all times the premises are open for a licensable activity.
- 46) The designated queuing area shall be enclosed within appropriate barriers to ensure that the footway is kept clear.
- 47) The smoking area must be supervised at all times by an SIA registered door supervisor who will monitor the capacity and restrict access when necessary.
- 48) The licence holder shall ensure that any queue to enter the premises which forms outside the premises, is orderly and supervised by SIA door staff to ensure that there is no public nuisance or obstruction to the public highway.
- 49) The licence holder must inform the Police if they change their security company.
- 50) An attendant for each toilet is to be employed on Friday and Saturday and any other night that the premises holds promoted events, from 20:00 hrs until the premises is closed. At



other times whilst the venue is open for licensable activities, the toilets must be checked by staff at least every 30 minutes and these checks must be documented on each visit.

51) CCTV conditions – see section 2.01.

### *3.06 Off-licences*

This part of the document applies to premises selling alcohol solely for consumption off the premises, such as supermarkets, convenience stores and traditional off-licences. Such premises can contribute to anti-social behaviour and disorder through the consumption of alcohol on the street and in open spaces by groups of drinkers, through the sale of alcohol to children, and through the sale of alcohol to street drinkers and persons who are already drunk.

The licensing authority expects off licences to show particular diligence in areas where these problems are prevalent, and to strictly monitor the way they sell alcohol where the premises are located close to schools and hostels and similar premises that may provide shelter or services to alcohol-dependent persons.

It is important that staff working at off-licences receive suitable training on the Licensing Act 2003 and can discharge their duties in full compliance with the licence conditions and the law. This includes the ability to verify customers' identification where necessary.

It is compulsory for premises selling alcohol to have a proof of age policy such as Challenge 25 in place, but it is important that all staff responsible for selling alcohol are trained to ask for and recognise acceptable means of identification and are aware the proof of age policy exists.

Examples of conditions that may be appropriate to off-licences are:

- 1) Strong beer and cider above 6% ABV shall not be sold.
- 2) No single cans or bottles of beer, cider, alcopops or mixed alcoholic drinks shall be sold.
- 3) A minimum of two members of staff to be present at all times whilst the premises remain open for the sale of alcohol.
- 4) At least one person holding a personal licence shall be on duty at the premises when alcohol is being sold.
- 5) Posters shall be displayed in prominent positions around the till advising customers of the proof of age policy in force at the premises.
- 6) A refusals book shall be kept at the premises to record details of all refusals to sell alcohol. This book shall contain the date and time of the incident, a description of the customer, the name of the staff member who refused the sale, and the reason the sale was refused. The book shall be made available to Police and authorised officers of the Council on request.
- 7) The designated premises supervisor shall regularly check the refusals book to ensure it is being consistently used by all staff.
- 8) All staff responsible for selling alcohol shall receive regular training in the Licensing Act 2003. Written records of this training shall be retained and made available to Police and authorised officers of the Council on request.
- 9) All alcohol kept in the public part of the premises shall be kept in display units. All display units for alcohol will have lockable shutters.
- 10) Shutters shall be closed and locked at the end of the permitted hours for the sale of alcohol. They shall remain locked until the start of the permitted hours on the following day.

- 11) All alcohol shall be stored and displayed behind the service counter and not in aisles or other areas accessible to the public.
- 12) All alcoholic drinks shall be clearly labelled or marked with the name of the premises, premises licence number or other unique identifier.
- 13) The premises shall operate a Challenge 25 policy.
- 14) The premises shall use cash till prompts to remind staff to ask for proof of age.
- 15) Where the supply of alcohol includes delivery to the customer, the licence holder shall ensure that a strict Challenge 25 policy is understood by anyone undertaking the delivery service and if photograph ID cannot be produced on delivery then the alcohol sale is returned to the licensee's premises.
- 16) A personal licence holder must be present at the premises at all times when it is open.
- 17) The licence holder shall ensure that alcohol is not sold in an open container, opened on the premises, or consumed on the premises.
- 18) After (insert time) daily, a minimum of 2 members of staff must be present at all times whilst the premises remain open.
- 19) CCTV conditions – see section 2.01.

### 3.06.1 Illicit Goods: Alcohol and Tobacco

The licensing authority will consider reviewing a premises licence where there is evidence that illicit alcohol has been offered for sale on the premises. Where other illicit goods, such as tobacco, have been found, the Council may consider this as evidence of poor management and have the potential to undermine the Licensing Objectives.

- Illicit alcohol means alcohol that is, counterfeit, bears counterfeit duty stamps and/or smuggled
- Illicit tobacco means, counterfeit, and/or non UK duty paid tobacco products
- Illicit goods mean articles that are counterfeit or that breach other trading standards legislation.

In particular, the licensing authority is mindful of the advice provided in the section 182 guidance issued under the Licensing Act 2003 in respect of “Reviews arising in connection with crime” and may consider the following conditions in such circumstances:

- 1) The premises licence holder shall not purchase any goods unless a valid receipt is supplied at the time of the purchase.
- 2) The premises licence holder shall ensure that receipts for all stock purchased include the following details:
  - a) Seller's name and address
  - b) Seller's company details, if applicable
  - c) Seller's VAT details if applicable
  - d) Full details of products purchased
  - e) Vehicle registration detail, if applicable
- 3) Legible copies of the documents referred to above shall be retained on the premises and made available to the Police or authorised officers of the Council on request.
- 4) The premises licence holder shall obtain and use a UV detection device to verify that duty stamps are valid.

### *3.07 Theatres, cinemas, qualifying clubs and community premises*

The Council welcomes the contribution that theatres, cinemas and community premises make in providing diverse entertainment for people of all ages.

Similarly, qualifying clubs such as working men's clubs and other affiliated social clubs have strong membership conditions that also tend to discourage alcohol-related crime, disorder, and anti-social behaviour.

However, where such premises wish to provide regulated entertainment in the form of music and dance, they should refer to section 3.04 of this document.

A club premises certificate permits only the supply of alcohol to club members and sale to their bona fide guests. Clubs cannot sell alcohol to members of the public unless they are guests of a member. Clubs who wish to let rooms out for private hire with a paid bar, or who provide entertainment facilities to members of the public such as the provision of a sound system or dancing facilities, must obtain a premises licence.

Conditions relevant to such venues may include:

- 1) Alcoholic and soft drinks shall be served in polycarbonate/plastic containers.
- 2) Written records of regular staff training shall be kept and produced to police and authorised officers of the Council upon request.
- 3) The licence (or club premises certificate) holder shall not permit the use of special effects, except with the prior consent of the Council, which may be subject to additional conditions if necessary to promote the licensing objectives. Special effects include:
  - a. dry ice machines and cryogenic fog
  - b. smoke machines and fog generators
  - c. pyrotechnics, including fireworks
  - d. real flames
  - e. motor vehicles
  - f. strobe lighting
- 4) Where rooms at the premises are let to individuals or groups for private hire, a hire agreement shall be in place that includes an outline of the conditions on the premises licence (or club premises certificate) and clearly states the responsibilities of the hirer in respect of upholding such conditions.
- 5) Where the premises are let to individuals or groups for private hire, a named person shall be responsible for ensuring adherence to the conditions of the premises licence (or club premises certificate). This person shall provide their details to the licence holder (or Secretary of the club) in writing in advance of the event and their details shall be retained for a period of at least thirty-one days after the date of the event.

### *3.08 Hotels*

Hotels often provide a range of licensable activities that may include entertainment for guests as well as providing a venue for private parties such as weddings and corporate hospitality.

Hotels wishing to provide regulated entertainment in the form of music and dance should follow the guidance in section 3.04 of this document.

Where hotels have a bar that is open (and advertised) to the public, the licensing authority shall consider this in the same manner as a pub or bar.

In all cases, we will generally expect hotels to propose the following additional conditions in their operating schedule:

- 1) Alcohol may be sold at any time to hotel residents for their own consumption on the premises.
- 2) Alcohol may be sold to residents and their bona fide guests for their own consumption on the premises between the hours of (insert times) on (insert days of the week) only if the resident is present.
- 3) Alcohol shall only be sold to non-residents between the hours of (insert times) on (insert days of the week) and to persons attending bona fide private functions at the hotel.

### *3.09 Premises providing nudity, striptease and other adult entertainment*

If the applicant proposes to provide “relevant entertainment” at the premises on a “frequent” basis, they should also apply for a sex establishment licence (see definitions below). Please be aware that the number of sex establishment licences permitted in Barnsley is currently restricted to three.

Relevant entertainment is any live performance or live display of nudity for the purpose of sexually stimulating one person and includes:

- 1) Lap dancing
- 2) Pole dancing
- 3) Table dancing
- 4) Strip shows
- 5) Peep shows
- 6) Live sex shows

Frequent means the relevant entertainment is to be provided:

- 1) more than 11 times in a 12 month period
- 2) there is less than one month between each occasion
- 3) occasions last longer than 24 hours

Where the applicant proposes to offer adult entertainment on an infrequent basis (including the showing of R18 certificate films), the licensing authority expects the applicant to complete Box N of the operating schedule and give details of the proposed entertainment. If the applicant leaves Box N blank, the authority will include a condition (consistent with the operating schedule) that no adult entertainment shall be provided on the premises.

Applicants, who propose to offer infrequent adult entertainment, should read this section in conjunction with other relevant sections 3.03 and 3.04 of this document and other sections where appropriate.

The licensing authority will generally expect venues wishing to provide this kind of entertainment on an infrequent basis to offer the following conditions in their operating schedule:

- 1) No person under the age of 18 shall be admitted to the premises at any time.
- 2) No person under the age of 18 shall be admitted to the premises when adult entertainment is taking place.
- 3) Prominent notices shall be displayed at each entrance to the premises when adult entertainment is taking place stating that there shall be no admission to the premises for persons aged under 18.
- 4) The premises shall be arranged so adult entertainment is not visible from the street.
- 5) There shall be no external advertisement at the premises for adult entertainment.
- 6) There shall be no leafleting or touting in respect of the adult entertainment hosted at the licensed premises.
- 7) Nudity shall only be permitted by performers and not by customers.
- 8) A minimum of one metre distance shall be maintained between dancers and customers during adult entertainment.
- 9) A written Code of Conduct for staff participating in the provision of striptease or nudity shall be in place and shall be kept on the premises for inspection by Police and/or a duly authorised officer of the licensing authority at all times the premises are open to the public. Management shall ensure all staff are aware of the Code of Conduct and shall take all reasonable steps to ensure it is adhered to.

### *3.10 Large temporary events*

This section relates to applications for large events that are temporary in nature, but cannot be authorised under a temporary event notice (TEN) because of the number of persons who will be present or because the event spans more days than permitted by a TEN.

Generally, the licensing authority will license these events under a time-limited premises licence lasting for the duration of the event.

Persons wishing to hold such events should contact the licensing authority for advice prior to making an application.

Prospective applicants are also advised to read “The Purple Guide to Health, Safety and Welfare at Music and Other Events”.

Usually, the licensing authority will ask applicants seeking a time-limited premises licence for a large event to attend a meeting of the Safety Advisory Group (SAG).

The SAG consists of officers from responsible authorities such as the Police, the Council’s Noise Pollution and Health and Safety departments, the fire authority, officers from other relevant departments, and agencies such as the Ambulance Service or the Council’s Highways department may also attend from time to time, where it is considered appropriate in the circumstances.

The Council will invite applicants to present their application and details of their event to the SAG. Applicants are expected to bring a draft event management plan (EMP) with them to the meeting so

the members can consider whether the event is being run safely and will cause minimum disruption to the environment, including but not limited to noise nuisance, traffic management and litter.

The SAG does not determine licence applications or impose conditions, but will advise applicants on producing an acceptable EMP for their event. An EMP is a statement of how an event organiser will run their event. It incorporates such areas as risk assessment, traffic and transport planning, first aid, stewarding, site layout, emergency planning and evacuation plans, noise management, litter disposal and communication protocols.

Applicants are strongly urged to consult the SAG and produce a draft EMP prior to submitting their licence application. Where a responsible authority considers an EMP is inadequate to promote the Licensing Objectives, it may make a representation to the licensing authority about the application.

Generally, applicants are advised to offer only the following conditions in their operating schedule:

- 1) The Licensee shall comply with the event management plan submitted to the licensing authority and no changes shall be made to the event management plan without the prior written consent of the licensing authority.
- 2) The Event shall be run in accordance with the site plan submitted to the licensing authority. No changes shall be made to the site plan without the prior written consent of the licensing authority.

Applicants are further advised to refer to the Purple Guide for guidance on producing an EMP.

## Appendix 3 – Responsible Authorities

### **Barnsley Metropolitan Borough Council – Licensing Authority**

Licensing Section

PO Box 634

Barnsley

S70 9FB

[licensing@barnsley.gov.uk](mailto:licensing@barnsley.gov.uk)

### **South Yorkshire Police**

The Chief Superintendent

South Yorkshire Police Licensing Department

Force Headquarters

Carbrook House

5 Carbrook Hall Road

Sheffield

S9 2EH

[barnsleylicensing@southyorks.pnn.police.uk](mailto:barnsleylicensing@southyorks.pnn.police.uk)

### **South Yorkshire Fire Service**

The Chief Fire Officer

South Yorkshire Fire and Rescue Services

Dearne District Fire Safety

Broadway

Barnsley

S70 6RA

[syfrlicensing@syfire.gov.uk](mailto:syfrlicensing@syfire.gov.uk)

### **Enforcement agency for health and safety at work**

Barnsley Metropolitan Borough Council

Regulatory Services

Health and Safety Section

PO Box 634

Barnsley

S70 9FB

[regulatoryservices@barnsley.gov.uk](mailto:regulatoryservices@barnsley.gov.uk)

### **The planning authority**

Barnsley Metropolitan Borough Council

Planning and Transportation

Assistant Director (Planning and Transportation)

PO Box 634

Barnsley

S70 9FE

[developmentcontrol@barnsley.gov.uk](mailto:developmentcontrol@barnsley.gov.uk)

**Pollution control**

Barnsley Metropolitan Borough Council  
Regulatory Services  
Pollution Control Section  
PO Box 634  
Barnsley  
S70 9FB  
[pollutioncontrol@barnsley.gov.uk](mailto:pollutioncontrol@barnsley.gov.uk)

**Local weights and measures authority**

Barnsley Metropolitan Borough Council  
Regulatory Services  
Trading Standards  
PO Box 634  
Barnsley  
S70 9FB  
[regulatoryservices@barnsley.gov.uk](mailto:regulatoryservices@barnsley.gov.uk)

**Barnsley Safeguarding Children Partnership**

Safeguarding Children Unit  
PO Box 634  
Barnsley  
S70 9GG

**Public Health**

Assistant Director of Public Health  
PO Box 634  
Barnsley  
S70 9GG  
[BSPublicHealth@barnsley.gov.uk](mailto:BSPublicHealth@barnsley.gov.uk)

**Home Office**

Alcohol Licensing Team  
Lunar House  
40 Wellesley Road  
Croydon  
CR9 2BY  
[alcohol@homeoffice.gsi.gov.uk](mailto:alcohol@homeoffice.gsi.gov.uk)



## Appendix 4 – Mandatory Conditions

### **1. Supply of Alcohol**

Where this Licence authorises the supply of alcohol the following conditions will apply:

No supply of alcohol may be made under the premises licence-  
at a time when there is no designated premises supervisor in respect of the premises licence, or  
at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

### **2. Door Supervision (except theatres, cinemas, bingo halls & casinos)**

1. Where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, each such individual must:

Be authorised to carry out that activity by a licence granted under the Private Security Industry Act 2001; or

Be entitled to carry out that activity by virtue of section 4 of the Act.

2. But nothing in subsection (1) requires such a condition to be imposed:

(a) in respect of premises within paragraph 8(3)(a) of Schedule 2 to the Private Security Industry Act 2001 (c12) (premises with premises licences authorising plays or films); or

(b) in respect of premises in relation to:

Any occasion mentioned in paragraph 8(3)(b) or (c) of that Schedule (premises being used exclusively by club with club premises certificate, under a temporary event notice authorising plays or films or under a gaming licence), or

Any occasion within paragraph 8(3)(d) of that Schedule (occasions prescribed by regulations under that Act.

3. For the purposes of this section:

(a) “security activity” means an activity to which paragraph 2(1)(a) of that Schedule applies, and, which is licensable conduct for the purposes of that Act, (see Section 3(2) of that Act) and

(b) paragraph 8(5) of that Schedule (interpretation of references to an occasion) applies as it applies in relation to paragraph 8 of that Schedule.

### **3. Exhibition of Films**

1. Where this licence authorises the exhibition of films, the licence includes a condition requiring the admission of children to the exhibition of any film to be restricted in accordance with this section.

2. Where the film classification body is specified in the licence, unless subsection (3)(b) applies, admission of children must be restricted in accordance with any recommendation by that body.

3. Where –

(a) The film classification body is not specified in the licence, or

(b) The relevant licensing authority has notified the holder of the licence that this subsection applies to the film in question, admission of children must be restricted in accordance with any recommendation made by that licensing authority.

4. In this section “children” means any person aged under 18; and

“Film classification body” means the person or persons designated as the authority under Section 4 of the Video Recordings Act 1984 (c39) (authority to determine suitability of video works for classification).

### **4. Irresponsible Promotions (On Licenced Premises only)**

The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises.

games or other activities which require or encourage, or are designed to require or encourage, individuals to–

drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or

drink as much alcohol as possible (whether within a time limit or otherwise);

Provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which causes a significant risk of undermining a licensing objective.

Provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective.

Selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.

**5. Dispensing of Alcohol Directly into the Mouth (On Licenced Premises only)**

The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

**6. Tap Water (On Licenced Premises only)**

The responsible person shall ensure that free potable water is provided on request to customers where it is reasonably available.

**7. Age Verification Policy**

The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol,

The Designated Premises Supervisor in relation to the premises licences must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either a holographic mark or an ultraviolet feature.

**8. Measures (On Licensed Premises only)**

The responsible person shall ensure that–

where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures –

beer or cider: ½ pint;

gin, rum, vodka or whisky: 25 ml or 35 ml; and

still wine in a glass: 125 ml; and

these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

## 9. Alcohol Pricing and Duty

A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

For the purposes of the condition set out in paragraph 1 -

- (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
- (b) "permitted price" is the price found by applying the formula –

$$P = D + (D \times V)$$

Where -

P is the permitted price,

D is the rate of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and

(iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -

the holder of the premises licence,

the designated premises supervisor (if any) in respect of such a licence, or

the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

(f) Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

(g) (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.



**BARNSLEY**  
Metropolitan Borough Council

## LEGAL SERVICES ENFORCEMENT POLICY

Signed:

A handwritten signature in black ink, appearing to read 'Sukdave S. Ghuman'.

Name: Sukdave S. Ghuman – Service Director, Law & Governance

Date: 26<sup>th</sup> January 2023

### 1. Enforcement Policy Statement

The purpose of this Policy is to set out the general principles of enforcement to be followed by officers in Legal Services, in order to ensure that enforcement decisions are consistent, appropriate, balanced, fair, targeted, accountable, transparent and proportionate.

### 2. Introduction

Legal Services is a public authority for the purposes of the Human Rights Act 1988. Officers in Legal Services will apply the principles of the European Convention on Human Rights in accordance with the Act. The Service will follow the provisions of the Regulators' Code in its regulatory activities, taking a supportive, risk-based approach to businesses. It will provide clear information and guidance on compliance and will act with fairness and transparency. Formal enforcement action will normally be a last resort, but where it is deemed appropriate, this Policy will be applied.

This policy sets out the general regulatory options available to Legal Services Officers to ensure compliance with relevant legislation. Officers will be suitably trained, qualified and experienced, as set out in their job profiles, and they will be familiar with, and follow, the provisions of this Policy.

Each case is unique and must be judged on its own merits. However, there are general principles that apply in the way each situation must be approached. This document sets out the factors to be taken into account when considering appropriate

enforcement action to be taken. Officers will follow this Policy, except in exceptional circumstances.

Where the Service becomes aware of a situation for which it is not the enforcing authority, it will contact the relevant enforcement agency. Where there is a shared role with another enforcement agency, officers shall liaise accordingly with that agency.

Legal Services enforce a wide variety of legislation and use powers that enable officers to issue verbal advice, send letters, serve formal notices, issue simple cautions, and prosecute in the courts. This list is not exhaustive and other enforcement options are available, as detailed later in this document. The officer will choose the most appropriate method of achieving compliance from the range of actions available.

The aims of the Service in taking action are:

- To protect the public and business from offenders;
- To change the behaviour of the offender;
- To eliminate any financial gain or benefit from non-compliance;
- To restore the harm caused by regulatory non-compliance in appropriate cases;

### 3. Enforcement Options

There are a number of options available when legal contraventions are found:

#### *a) No Action*

In exceptional circumstances contraventions may not warrant any action. This could be where the cost of compliance to the offender outweighs the detrimental impact of the contravention on the community, or the cost of the required enforcement action to the Council outweighs the detrimental impact of the contravention on the community. A decision of no action may also be taken where formal action is inappropriate, e.g., the offender is elderly and frail. A decision to take no action must be recorded in writing and must take account of health, safety, environmental and nuisance implications of the contravention. A decision to take no action does not preclude further investigation or review of the case at a later date, or when there is material change in the circumstances.

#### *b) Informal Action*

Informal action to secure compliance with the legislation includes offering advice, issuing warnings and requests for action. It may be appropriate to use informal action in the following circumstances:

- The act or omission is not serious enough to warrant formal action;
- From the individual's/organisations past history it can be reasonably expected that informal action will achieve compliance;
- Where the original approach is from person(s) seeking advice or assistance – although if serious breaches are found, formal action may be appropriate;

When an informal approach is used to secure compliance, this may be verbal or written. Any written documentation sent to individuals or businesses must include:

- All the information necessary to understand what action is required and why;
- The legislation being contravened and measures which will achieve compliance;
- Clear distinction between legal requirements and recommendations;

#### *c) Statutory notices, Seizing Equipment, Closing Premises*

Notice can be served to require persons to cease contravening activities, give offenders reasonable time to rectify a contravention or require people to provide information. Notices may require contravening activities to cease immediately where circumstances relating to health, safety, environmental damage, or nuisance demands. In other circumstances, the time allowed must be reasonable, but must also take account of the implications of the contravention.

Specific guidance is available on circumstances under which notices shall be served, equipment seized or premises closed, and this varies according to the legislation and type of notice.

The use of statutory notices may take place in conjunction with other enforcement options set out in this policy.

#### *d) Refusal/Revocation of Licence/Approval/Permit*

Licences, Approvals and Permits are issued under specific legislation and the circumstances that allow refusal or revocation of a licence etc. shall be taken into account in accordance with the specific legislation and relevant Codes of Practice. In order to justify such an action, the applicant/licence/approval/permit holder must meet one or more of the following criteria:

- Engage in fraudulent activity;
- Deliberately or persistently breach legal obligations;
- Deliberately or persistently ignore warnings or formal notices;
- Endanger, to a serious degree, the health, safety or wellbeing of people, animals or the environment;
- Fail to pay renewal fees.

In relation to licensing matters, cases may also be referred to the General Licensing Sub-Committee.

*e) Works in Default*

Where provided for under the legislation, work may be carried out in default. Such action will be dependent upon public risk and strategic considerations.

*f) Injunctions*

In exceptional cases, it may be considered that an injunction is the best course of action to remedy contraventions or dangerous circumstances. For example, where there is an immediate risk to public health, or where there is an extraordinary statutory nuisance.

*g) Enterprise Act Actions*

The Enterprise Act 2002 gives some officers in the Service the authority to seek civil remedies for certain breaches of legislation. Officers will consider these remedies, such as undertakings and injunctions, where they are the most appropriate course of action.

*h) Fixed Penalty Notices*

Fixed Penalty notices will be issued under certain legislation. If a fixed penalty is not paid within the prescribed period, legal proceedings shall be instituted.

*i) Simple Cautions*

In some cases, Simple Cautions may be used as an alternative to prosecution. In order to offer a Simple Caution, there must be enough evidence for the matter to proceed to Court by way of prosecution, and the offender must admit guilt.

*j) Prosecution*

Without prejudicing the right of the Council to prosecute for any offence within its jurisdiction, prosecution will be considered in the case of serious offences, matters of significant public concern, failure to comply with a statutory notice, and repeated infringements.

Particular circumstances in which prosecution will also be considered include:

- The contravention involved fraud;
- The contravention involved deliberate or persistent breach of legal responsibility;
- The contravention was through gross negligence or carelessness and caused, or was likely to cause, significant loss or prejudice to another individual;



- The contravention led to, or contributed to, the health safety or well-being of people, animals or the environment being seriously compromised, or contributed to damage to the reputation or economic well-being of the Borough;
- The contravention involved the obstruction of an authorised officer in carrying out his or her duties, or violence or aggressive behaviour towards them;
- The contravention was an absolute offence under the legislation;
- The matter relating to the offence is widespread throughout the borough.

Cases will only be submitted for prosecution when it is considered that the sufficiency of evidence and the public interest requirement fall within the guidelines as laid down by the Attorney General and Crown Prosecution Service Code of Crown Prosecutors. Before deciding whether or not to prosecute, consideration will also be given to the following:

- The calibre and reliability of witnesses;
- The probable public benefit of a prosecution and the importance of the case – e.g., the possibility of establishing legal precedent;
- The contravention is trivial;
- Whether a Simple Caution would be more appropriate or effective;
- Cost effectiveness – a need to balance likely overall cost against the ‘value’ of the likely outcome;

#### 4. References

The Code for Crown Prosecutors

[http://www.cps.gov.uk/publications/code\\_for\\_crown\\_prosecutors/](http://www.cps.gov.uk/publications/code_for_crown_prosecutors/)

Regulators Code <https://www.gov.uk/government/publications/regulators-code>

Simple Cautions <https://www.gov.uk/government/publications/simple-cautions-guidance-for-police-andprosecutors>

## Notes

Amendments may have been made to relevant parts of this document and/or its appendices to correct any grammatical or spelling errors, provide clarity where required, meet government digital accessibility standards, or for other reasons to facilitate understanding.