



# SOUTH BUCKS DISTRICT COUNCIL LICENSING POLICY

Pursuant to Section 5 of the Licensing Act 2003, as amended.

Adopted 7<sup>th</sup> DECEMBER 2004.

1<sup>st</sup> Review – 11<sup>th</sup> December 2007.

2<sup>nd</sup> Review - 14<sup>th</sup> December 2010.

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**Contents**

**Page -**

<b>Foreword - The Purpose and Scope of the Licensing Policy</b>	<b>3</b>
<b>District Profile</b>	<b>4</b>
<b>Buckinghamshire District(s) Map</b>	<b>5</b>
<b>Ward Locations South Bucks District Map</b>	<b>6</b>
<b>1. Introduction</b>	<b>7</b>
<b>2. Determinations</b>	<b>10</b>
<b>3. Conditions</b>	<b>13</b>
<b>4. Licensing Hours</b>	<b>15</b>
<b>5. Cumulative effect of licensing on the amenity of particular areas</b>	<b>16</b>
<b>6. Children</b>	<b>17</b>
<b>7. Films</b>	<b>18</b>
<b>8. Personal Licenses</b>	<b>19</b>
<b>9. Temporary Events</b>	<b>19</b>
<b>10. Licensing Of Circuses</b>	<b>20</b>
<b>11. Sexual Entertainment Venues</b>	<b>21</b>
<b>12. Garages</b>	<b>21</b>
<b>13. Consultation</b>	<b>22</b>
<b>14. Mediation &amp; Communication</b>	<b>23</b>
<b>15. Complaints against licensed premises</b>	<b>23</b>
<b>16. Enforcement Policy</b>	<b>24</b>
<b>17. Administration, Exercise and Delegation</b>	<b>24</b>
<b>18. Appeals</b>	<b>28</b>
<b>19. Early Morning Restriction Orders (EMROs)</b>	<b>30</b>
<b>20. Late Night Levy (LNL)</b>	<b>31</b>
<b>Contacts for further information</b>	<b>31</b>
<b>Appendix 1 - List of Consultees</b>	<b>32</b>
<b>Appendix 2 - Glossary of Terms</b>	<b>32</b>
<b>Appendix 3 - List of Responsible Authorities</b>	<b>36</b>

### **The purpose and scope of the Licensing Policy**

This Statement of Licensing Policy sets out the approach that South Bucks District Council intends to take in carrying out its licensing duties under the Licensing Act 2003, as amended. The Policy covers the sale of alcohol to the public, the supply of alcohol to members of a club, the provision of regulated entertainment, and the provision of late night refreshment within this District. It also identifies how the Council when carrying out its licensing duties will seek to promote the four 'licensing objectives' referred to in the Act, namely:-

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

We hope that this Policy Statement provides practical guidance to local residents, visitors and businesses - large and small - on licensing matters in the South Bucks District. The Council will continue to work in close partnership with individuals and organisations having a responsibility under the Licensing Act 2003. This includes organisations such as the Thames Valley Police and Buckinghamshire Fire Service, licensees and certificate holders, businesses, residents and their representatives so that the whole community is involved in the future of licensing in the District.

At present there are 321 businesses which have either a premises licence or a club premises certificate and about 760 individuals who hold a personal licence issued by the Council. The licensed premises include pubs, off-licences, night-clubs; sporting and social clubs; cinemas, theatres; restaurants, late night cafes and takeaways. All of these provide a wide range of leisure and cultural services providing employment and enjoyment for many thousands of people. The Council will continue to assist the retail, hospitality and leisure industry to flourish and continue to be a major asset to the local economy. At the same time, the Council is aware of the crime and disorder and noise nuisance problems that can sometimes affect residents living close to licensed premises. As such it will always try to balance the legitimate business aspirations of applicants and licensees, the leisure and cultural interests of customers and the reasonable expectation of local residents to a peaceful existence in their own homes and neighbourhoods.

It is sometimes difficult to achieve this balance and satisfy all those competing interests. However, we will continue to encourage all of those involved in the licensing process to work together in a spirit of co-operation, partnership and mutual understanding. In spite of these potential problems, the Council warmly welcomed this new licensing regime when it was introduced in 2005 and said that it would do all it could to act in a fair and equitable way. To date we consider that we have achieved that aim and will continue to strive to do so. When we took over responsibility for this area of licensing we said that we would endeavour to co-ordinate and manage an efficient and effective licensing system, which achieves and maintains the objectives of the Licensing Act 2003 for the benefit of the whole community.

To date we think that overall we have been successful in our approach. Where our attention has been drawn to problems involving any licensed premises we have reacted quickly and, sometimes in conjunction with other agencies, have generally been able to resolve issues of concern informally. In that respect we would like to thank the residents and businesses and responsible authorities for giving us the opportunity to try to resolve their problems in that manner and also the licence holders for their positive response when problems have been drawn to their attention. We hope that we will continue to see such co-operation in the future.

## **District Profile**

South Bucks District lies in the western sector of the South East region, situated between Greater London to the east and Reading and Oxford to the west. The District is bordered by a number of larger urban areas, in particular, Greater London to the east, Slough to the south, Maidenhead to the west, and High Wycombe to the north-west.

The District was established on 1 April 1974, when, as a result of the Local Government Act 1972, the former Beaconsfield Urban and Eton Rural Districts were abolished. From 1974 until 1 April 1981 the District was known as Beaconsfield District. The District has an area of 14,157 hectares and a current population of 66,900 (2011 Census).

The District is principally rural, being located wholly within the Metropolitan Green Belt around London. Some 87% of the land in the District is designated as Green Belt. The only areas not designated as Green Belt are the urban areas within the larger settlements of Beaconsfield, Burnham, Denham Green, Farnham Common, Farnham Royal, Gerrards Cross, Iver, Iver Heath, New Denham, Richings Park and Stoke Poges. The settlements are primarily residential in nature and of a very pleasant character. The District also has a number of smaller and more rural settlements situated within the Green Belt. A number of the settlements include Conservation Areas.

Large parts of the District's countryside are very attractive, crossed by rural lanes, and include extensive woodlands (including Burnham Beeches), heathland, agricultural land, private parks and estates. A small part of the District lies within the Chilterns Area of Outstanding Natural Beauty. Some 25% of the District is designated as Areas of Attractive Landscape. However, some localities in South Bucks have been subjected to gravel extraction, particularly parts of the Colne Valley Park in the east of the District.

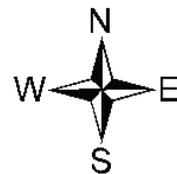
Transport links with adjoining areas are very good, with the M4, M25 and M40 motorways all crossing the District. There are also good rail links to London and Birmingham via the Chiltern line and to London and the West via the Thames line. The District's population is highly mobile, with about one out of every two households having the use of at least two cars. Heathrow Airport is situated just to the south east of the District.

South Bucks is within an area which consistently has one of the lowest unemployment rates in England. Of the resident population, 32,000 (50%) are economically active. Around 60% of those in work commute out of the District for their employment, principally to Slough and Greater London. Conversely about 60% of the jobs in the District are taken by people commuting into South Bucks.



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# Ward Locations South Bucks District



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## 1. Introduction

1.1 South Bucks District Council (hereinafter referred to as “the Council”) is responsible for the licensing of licensable activities under the Licensing Act 2003, as amended (hereinafter referred to as “the Act”) in accordance with Part 1 s.1. This document sets out the policies that the Council as Licensing Authority for the purposes of the Act will apply when making decisions upon applications for the following licensable activities:

- The sale by retail of alcohol;
- The supply of alcohol by or on behalf of a club to, or to the order of a member of the club;
- The provision of regulated entertainment; and
- The provision of late night refreshment.

Regulated entertainment requires a licence when it is performed in front of an audience and includes the following:

- a performance of a play
- a boxing or wrestling entertainment (indoors and outdoors)
- a performance of live music (not incidental music, i.e. a piano in a restaurant)
- any playing of recorded music an exhibition of a film
- an indoor sporting event
- a performance of dance

Live unamplified music taking place between 08:00 hours and 23:00 hours and live amplified music taking place between 08:00 hours and 23:00 hours before audiences of no more than 200 people on premises authorised to supply alcohol on the premises or in workplaces is not licensable entertainment by virtue of amendments made to the Licensing Act 2003 by the Live Music Act 2012.

The provision of late night refreshments means the supply of hot food and/or drink from a premise from 23.00 hours to 05.00 hours for consumption on or off the premises.

1.2 This policy shall apply to the following

- Premises Licence
- Club Premises Certificates
- Personal Licenses
- Temporary Event Notices

in respect of new consents, renewals, transfers, variations, complaints and reviews.

1.3 There is a statutory presumption that all applications will be granted unless a relevant representation is raised and Special Conditions that are consistent with the Operating Schedule and the four licensing objectives will be imposed. See further details in paragraph 2.4 below.

1.4 The Act makes provision for this policy to be the subject of consultation and the list of consultees is attached as Appendix 1. In drawing up and reviewing this Policy, regard was had to responses to the consultation and National Guidance issued under Section 182 of the Act. The Council will review this policy at least every five years and consult on any proposed revisions (except in respect of the Model Conditions - see Appendix 3).

1.5 The Act sets out four licensing objectives which the Council has a duty to promote in determining applications:

- Prevention of Crime and Disorder;
- Public Safety;
- Prevention of Public Nuisance; and
- Protection of children from harm.

Each of the objectives is considered to be of equal importance. Only matters relating to these objectives are to be taken into account in determining applications and conditions will only be attached where considered appropriate to achieve these objectives.

1.6 This Policy and the Council's functions as Licensing Authority seek to achieve control of premises, qualifying clubs and temporary events within the terms of the Act. Terms and conditions will focus on achieving the licensing objectives with reference to

- matters within the control of individual licensees
- the specific premises and the places used
- the direct impact of the activity taking place at the licensed premises, in particular on public who live, work and carry out normal activity in the area concerned.

1.7 Licensing is not the primary mechanism for the general control of anti-social behavior by individuals beyond the direct control the licensee of the premises concerned. In this respect, the Council recognizes that there are a number of other mechanisms available for addressing issues of unruly behaviour that can occur away from licensed premises including

- planning controls
- measures to create a safe and clean environment in partnership with local businesses and other departments of the Council
- powers of the Council to designate parts of the Council area as places where alcohol may not be consumed publicly
- police enforcement of the general law concerning disorder and anti-social behavior including issuing fixed penalty notices
- the prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk
- the confiscation of alcohol from adults and children in designated areas
- police powers to close down instantly for up to 24 hours any licensed premises or temporary events on grounds of disorder, the likelihood of disorder or excessive noise emanating from the premises
- the power of the police, other responsible authority or a local resident or business to seek a review of the licence or certificate in question
- the powers of trading standards to take enforcement action re underage sale of alcohol

1.8 The objective of the licensing process is to allow the carrying on of retail sales of alcohol and the provision of regulated entertainment in a way which ensures compliance with the Act, public safety and which neither is to the detriment of residents, nor gives rise to loss of amenity. It is the Council's wish to facilitate well-run and managed premises with licence holders displaying sensitivity to the impact of the premises on local residents.

1.9 The Council recognises that the licensed entertainment business sector and community licensed facilities in the District contribute to the local economy and social infrastructure. The Council

wishes to encourage licensees to provide a wide range of entertainment activities throughout their opening hours and to promote live music, dance, theatre etc. for the wider cultural benefit. These activities are a factor in maintaining thriving and sustainable towns and villages which is one of the Council's aims.

- 1.10 The District is primarily a residential area whose amenity the Council has a duty to protect. One of the Council's aims is to promote safer and stronger communities. These factors will be taken into account where applications will increase the concentration of entertainment uses and/or lengthen hours of operation in a way that would materially impact on the local area. Commercial occupiers of premises also have a legitimate expectation of an environment that is attractive and sustainable for their businesses.
- 1.11 This policy sets out the general approach the Council will take when it considers applications for licenses. It will not undermine the right of any individual to apply for a variety of permissions and to have any such application considered on its individual merits. Nor will it override the right of any person to make representations on an application or seek a review of a licence where provision has been made for them to do so in the Act. Irrelevant, frivolous and/or vexatious representations however will be disregarded by the Council.
- 1.12 The purpose of this policy document is to assist the Council in reaching a decision on a particular application, setting out those matters that will normally be taken into account. This policy also seeks to provide clarity for applicants, objectors, residents and other occupiers of property.
- 1.13 Other statutory requirements may apply to the provision of any regulated activities at a premises and the responsibility for compliance lies with the licence holder. For example if the activity involves the preparation and sale of food then it is the responsibility of the applicant to ensure necessary Food Safety requirements are met and it is not a requirement of any licence decision to address these matters.
- 1.14 The Council recognises that planning permission, building control approval and licensing are separate regimes and will ensure that these functions are properly separated to avoid duplication and inefficiency. Planning and licensing regimes involve consideration of different (albeit related) matters and the Council recognises that licensing committees are not bound by decisions made by a planning committee and vice versa.
- 1.15 All applicants for Premises Licenses and Club Premises Certificates and those intending to hold temporary events are reminded that planning permission will normally be required for such uses and such planning permissions may carry conditions with which they are expected to comply or action may be taken under the relevant planning legislation. In general, planning permissions authorise a broad type of use of a premises, whereas licenses are granted for a particular type of activity. A planning permission for an entertainment use, for example may cover a number of activities that can have a wide range of different impacts in the locality. The precise nature of the impact of the specified activities proposed by a prospective licence holder needs to be considered when an application is made for a Premises Licence. Licensing applications should not be seen as a re-run of the planning application process and there is a clear separation of the planning and licensing regimes to avoid duplication and inefficiency. The Licensing Committee will ensure however that the Planning Committee is advised of any proposals to introduce a saturation policy to assist the Planning Committee in its decision making process.
- 1.16 The Council will seek to achieve integration with relevant strategies and their aims in determining applications and will do so through relevant pre-consultation of this policy and

individual applications.

1.17 In formulating this policy, the Council has and will continue to take into account its obligations and powers under other legislation including, but not limited to, the Human Rights Act 1998, Crime and Disorder Act 1998, the Disability Discrimination Act 1996, the Equality Act 2010, the Anti-Social Behaviour Act 2003, and the Violent Crime Reduction Act 2006. It has also taken into account the following Government and national strategies and guidance:-

- Government's Alcohol Strategy 2012
- Local Better Regulation Officer Regulators' Compliance Code and Enforcement Concordat
- Code of Practice on Environmental Noise Control at Concerts 1995
- The Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks

1.18 The Council has also taken into account relevant local strategies relating to crime prevention, planning, transport, tourism, race equality and culture including the following:-

- South Bucks Corporate Plan 2010 - 2020
- South Bucks Sustainable Community Strategy 2009 - 2026
- Community Safety Strategy 2011 - 2014
- South Bucks Local Plan
- South Bucks Cultural Strategy
- Buckinghamshire Alcohol Strategy 2012 - 2015
- Enforcement Policies of South Bucks District Council, Buckinghamshire County Council and the Thames Valley Police

1.19 In making a determination on any application or notice that comes before it, the Council will have due regard to the Human Rights Act 1998 and will endeavour to reach decisions which are both justified and proportionate and secure a fair hearing for all parties.

1.20 When determining applications the Council will also have regard to National guidance issued under section 182 of the Licensing Act.

## 2. Determinations

2.1 These provisions will be applied to the determination of applications for new licenses and to applications to vary existing licenses. The provisions for determination of Club Premises Certificates will be the same as those for Premises Licenses.

2.2 Responsible authorities (see appendix 4) are notified of all new applications. Whilst all responsible authorities may make representations regarding applications for licences and club premises certificates and full variation applications, it is the responsibility of each responsible authority to determine when they have appropriate grounds to do so. Licensing authorities are also responsible authorities for the purpose of the legislation and authority to make representations in respect of applications has been delegated to the Director of Services, who in turn, delegates this responsibility to the Licensing Team. The Licensing Authority will take steps to ensure that where officers are acting in the capacity of a responsible authority, separation of responsibilities occurs to ensure procedural fairness and eliminate conflicts of interest.

2.3 Premises must be constructed or adapted in such a way that it is deemed safe and appropriate

to the nature of the activities to be licensed. Premises in the course of construction, alteration, extension, etc. can be granted a Provisional Statement pending completion to the required standard and compliance with all other requirements. Alternatively, a full licence can be applied for and granted whilst premises are still to be constructed, extended or altered where full details as required are available in advance of completion. Such a licence - if granted - would not have immediate effect but include a date upon which it would have effect on completion.

- 2.4 Applicants are encouraged to consult with the Police Licensing Officer before submitting an application, which may serve to resolve and/or prevent issues /objections arising. The Police may also wish to interview prospective DPS. Applicants are also encouraged to consult with other responsible authorities where the proposed activities may impact on licensing objectives which other responsible authorities may have an interest in.
- 2.5 If no objections are received in respect of an application, the Council must grant the application as set out in the operating schedule, subject only to Mandatory Conditions under the Licensing Act 2003 and Special Conditions consistent with the detail of the operating schedule submitted by the applicant. The Council will have no discretion to refuse the application or to alter or add to the special conditions arising from the operating schedule except in so far as wording the conditions so as to ensure they are enforceable and bringing them in line with the Council's pool of model conditions. Where, however, there are relevant representations, then this Policy is engaged and a Hearing before the Council's Licensing Sub-Committee will normally follow. At the Hearing, the Licensing Sub-Committee will have discretion to take steps, as it considers necessary to promote the four licensing objectives.
- 2.6 In considering licence applications where representations have been received, the Licensing Sub-Committee will consider the adequacy of measures proposed to deal with the potential for nuisance and/or crime and public disorder, prevention of harm to children and public safety having regard to all the circumstances of the case. The Council will expect Operating Schedules to satisfactorily address these issues from the design through to the daily operation of the business. Particular consideration will be given to:
- The steps the Applicant has taken or proposes to take to prevent public nuisance. Such steps may include the installation of sound proofing, air conditioning, acoustic lobbies, sound limitation devices, parking provision, notices at exits and in the car park.
  - Whether other measures to prevent nuisance and secure public safety have been taken, such as the use of CCTV, the employment of registered door supervisors, participation in a Pub Watch Scheme, the operation of a Safe Transport Home Scheme, staff training, means of access/exit, and types of drinking utensils used i.e. glass, plastic, no bottles.
  - The measures proposed to prevent the consumption or supply of illegal drugs including any search procedures and entry policies.
  - The likelihood of any violence, public disorder or policing problems arising if a licence were to be granted.
  - Previous history of compliance and any enforcement action arising from non-compliance.
- 2.7 In considering representations received in respect of applications reference will be made to this Policy (amongst other things) and in particular paragraphs 1.(6),13.2 and 17.4 hereof.

The weight to be attached to individual representations will be determined by the Members at any hearing and will vary on a case by case basis taking the matters referred to in the Policy and in particular paragraphs 1.(6),13.2 and 17.4 into account - representations are encouraged to be specific to the subject premises and if possible supported by written records of previous complaints/problems where these are alleged (including dates, times and to whom the complaint was made and when and what the outcome of any such complaint was if any) - equally applicants are encouraged in completing their operating schedules to detail steps proposed to address potential concerns.

- 2.8 The Legislative Reform (Minor Variations to Premises Licences and Club Premises Certificates) Order 2009 amends the Licensing Act 2003 to include a new Minor Variation procedure. This procedure has been created by the Government to speed up uncontested variation applications and to reduce costs to applicants and Councils, where the variations proposed would not have an adverse effect upon the promotion of the four licensing objectives set out in the 2003 Act (the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm).

The Minor Variation procedure requires that:

- Applications are to be made to the Council on a prescribed Minor Variations form either on paper or electronically with a current fee of £89.00
- A white A4 sized notice must be prominently displayed at or on the premises for 10 working days beginning on the day after the day of receipt of the application but the application does not need to be advertised in a local newspaper;
- The application is only served on the Council;
- Responsible authorities are only involved at the request of the Licensing Officer.
- Interested Parties i.e. local residents/businesses can make representations based on the licensing objectives.

- 2.9 Representations from Interested Parties to Minor Variations do not trigger the Council to hold a hearing, but instead mean that the Licensing Officer must take any representations into account when arriving at their decision. The Council must consult the Responsible Authorities it considers appropriate, and must take into account any relevant representations made by responsible authorities, or interested parties, received within ten working days beginning on the day after the day of receipt of the application. The deadline for determination of these applications is 15 working days.

An application may not be made and must be rejected, which:

- extends the existence of a Premises Licence,
- substantially varies the premises,
- changes the designated premises supervisor,
- adds the supply of alcohol as an activity authorised by the licence,
- authorises the supply of alcohol at any time between 11pm and 7am
- authorises increases to the amount of time on any day during which alcohol may be sold by retail or supplied, or
- allows every supply of alcohol to be made or authorised by a management committee for supply of alcohol from community premises instead of a designated premises supervisor.

- 2.10 A determination cannot be made during the 10 working day notice period, leaving the Council with the remaining 5 working days to determine the application. If the application is not determined within the 15 working days it is deemed refused and the application fee must be returned unless the Applicant agrees that the application be treated as returned and re-submitted as a new application.
- 2.11 There is no power to impose conditions; only conditions volunteered by the applicant can be added to the licence under the minor variations procedure. Effectively, the Government has passed the ability to vary Premises Licences in limited circumstances to Licensing Officers, provided the variation will not adversely effect the promotion of any of the licensing objectives. If the variation will have an adverse effect on the promotion of any of the licensing objectives, the Officer must refuse the application.
3. **Conditions.**
- 3.1 Upon grant of a licence, the Act sets out mandatory conditions which will be attached in certain circumstances and in addition to these, special conditions may be attached. Special conditions which are consistent with the applicants operating schedule will be attached to the licence and, in addition, if relevant representations are submitted, the Licensing Sub Committee may attach further special conditions intended to address concerns detailed in representations. Special conditions can be imposed only where appropriate and proportionate to promote the Licensing Objectives. Any special condition will normally be drawn from a pool of conditions compiled to meet the circumstances of the proposed activities. A copy of the pool of conditions can be obtained from the Council's website (as varied from time to time). However to avoid duplication with other statutory regimes as far as possible the Council will not attach conditions on a licence unless they are considered appropriate for the promotion of the licensing objectives. Conditions will generally be considered unnecessary if they are already adequately covered by other legislation.
- 3.2 A key concept underscoring the Act is for conditions to be attached to licences and certificates which are tailored to the individual style and characteristics of the premises and events concerned, which relate to matters within the control of the premises licence holder or designated premises supervisor and which are appropriate to meet the licensing objectives. For example conditions may be imposed to prevent unnecessary noise and disturbance to local residents by way of limited hours and/or restrictions on sound levels. Conditions may also be imposed requiring licensees to display signs at all exits of premises reminding customers to leave the premises quietly and to respect the rights of nearby residents.
- 3.3 The Council may set maximum capacity limits for premises where members of a Licensing Sub Committee determine this is appropriate for the promotion of the licensing objectives following the receipt of a relevant representation.
- 3.4 Where alcohol is to be supplied, the Act already provides for a Designated Premises Supervisor however in relation to other licensable activities there is no such requirement therefore the Council may impose licence conditions to require that a suitable individual is designated as a manager responsible for the day to day management of the premises at any time when it is open for the carrying out of other licensable activities.
- 3.5 The Legislative Reform (Supervision of Alcohol Sales in Church and Village Halls) Order 2009 allows a committee or board of individuals with responsibility for the management of community premises to apply to have an "Alternative Licence Condition" included in a premises licence in place of the normal Mandatory Conditions relating to alcohol detailed above. The

Alternative Licence Condition is that every supply of alcohol under the licence must be made or authorised by the management committee. Under this Alternative Licence Condition there is no requirement for a Designated Premises Supervisor at the venue. The Government introduced the Order to ease the administrative burden on community premises that make such an important contribution to life in our communities. The order allows community premises, such as church halls with properly constituted management committees or management structures, to apply to replace the normal Mandatory Conditions relating to alcohol with a simpler and cheaper arrangement. In such circumstances the Council will expect to be provided with a name or names and contact number(s) for those individuals who can be contacted in case of emergency or general queries relating to the licence. The determination of these applications and whether a premises is a “community premises” has been delegated to the Director of Services.

3.6 Where proposed, requested or agreed with the Fire and Rescue Authority, conditions may be attached in relation to Fire Safety. However, conditions will not be imposed on licences where such a condition would duplicate the requirements of alternative legislation. Where appropriate, such conditions may require premises to be fitted with/to have:

- fire-fighting equipment
- an appropriate means of raising the alarm in the event of a fire
- emergency lighting
- CCTV
- Flame retardancy certificates
- BS or otherwise approved electrical installations
- Regular electrical installation inspections
- BS or otherwise approved lighting trusses, ceilings and suspended equipment
- Appropriate risk assessments/management schemes

- any condition/requirement will be agreed in consultation with the Fire Authority.

Certificates must be either in the form set out in the appropriate British Standard or in a format set out by a recognised trade body such as the Electrical Contractors’ Association (ECA), the National Inspection Council for Electrical Installation Contracting (NICEIC), or NACOSS. A certificate will not be considered acceptable unless it has been signed by a competent person certifying that the system to which it relates is in a satisfactory condition.

3.7 CCTV cameras may also be required by way of condition - for example following consultation with the Police to meet the licensing objectives. Where a licensed premises is required to have CCTV as a condition of the licence then unless there are good reasons, provided to the satisfaction of the Council, then the premises must be equipped to a standard and in a manner in accordance with established Thames Valley Police guidance on installing CCTV - as amended from time to time.

3.8 Whenever any persons are employed at licensed premises to carry out any security activity (as defined by the Private Security Industry Act 2001 - as amended from time to time) all such persons must be licensed with the Security Industry Authority and this requirement will be imposed as a Mandatory Condition (Section 21 of the Act). The Council may also consider that certain premises require strict supervision for the purpose of promoting the reduction of crime and disorder. In such cases, the Council may impose a condition requiring licensed door supervisors to be present at the premises either at all times or at such times as certain licensable activities are being carried out. In some circumstances the number of door supervisors required may also be specified.

- 3.9 The Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010 sets out five mandatory conditions relating to alcohol that will apply to all licensed premises and those with a club premises certificate permitting the supply of alcohol.

As of the 6th April 2010, these conditions:

- Ban irresponsible promotions;
- Ban the dispensing of alcohol directly into the mouth; and
- Ensure that customers have access to free tap water so that they can space out their drinks and not get too intoxicated too quickly.

From 1st October 2010, these conditions also:

- Require an age verification policy to be in place to prevent underage sales;

and

- Ensure that customers have the opportunity to choose small measures of beers, ciders, spirits and wine.

- 3.10 The legislation makes clear that an irresponsible promotion is one that is “carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children”. If there is any doubt as to whether a promotion falls foul of this mandatory condition, the premises licence holder or designated premises supervisor should discuss the proposals with the Licensing Team and police before running the promotion.

#### **4. Licensing hours**

- 4.1 In making decisions that relate to the hours for which a premises is licensed or any conditions as to delivery times etc. consideration will be given to the licensing objectives of the prevention of crime and disorder and the prevention of public nuisance. Each case where relevant representations are received will be decided on its individual merits.
- 4.2 It is recognised that varied licensing hours are important to ensure that concentrations of customers leaving licensed premises simultaneously are avoided. In turn this will reduce the potential for disorder at fast food outlets, taxi ranks and other sources of transport.
- 4.3 In relation to shops and other retail outlets supplying alcohol for consumption off the premises, the general policy will be to allow sales of alcohol at all times that the premises is open for business. Any decision not to allow sales of alcohol at particular times will be based on evidence of the need to prevent crime, disorder and public nuisance.
- 4.4 In making decisions in respect of hours, consideration will be given to representations made by residents and businesses in the vicinity of the premises, their representatives, the local Town/Parish Council and the police as well as the applicant.
- 4.5 Fixed trading hours will not be set for particular geographical areas. However account will be taken of any guidelines that are adopted in respect of licensing hours. It should be stressed that

each case will be decided on its own merits based on whether the licensing objectives can be met. Stricter conditions however are likely to apply where the premises are situated in mainly residential areas to minimise disturbance to local residents.

- 4.6 The Health Act 2006 (smoke-free premises, places and vehicles) introduced legislation to prohibit smoking in enclosed public places and work places. As a result of this legislation many licensed premises have created specific smoking areas for customers to use. Where necessary controls may be required to limit the hours that such areas are used to prevent nuisance to neighbouring residents.
- 4.7 With some venues the creation of specific smoking areas for customer has not been possible and has resulted in people smoking in the streets. The Council is committed to working closely with Licence Holders of such premises in conjunction with the Thames Valley Police to ensure that nuisance and/or disorder are not caused by customers congregating in outside areas.

## 5. Cumulative effect of licensing on the amenity of particular areas

- 5.1 The Council recognises that the cumulative effect of licensed premises may result in an increase in numbers of people either walking through or congregating in streets or cause adverse effects on amenity and this in turn may have a number of undesirable consequences, for example:

- An increase in crime against both property and persons;
- An increase in noise causing disturbance to residents;
- Traffic congestion and/or parking difficulties;
- Littering and fouling.

The Cumulative effect of a significant number of licensed premises concentrated in one area on the promotion of the licensing objectives is a proper matter for a Licensing Authority to consider.

- 5.2 The Council will take into account:

- The Character of the surrounding area;
- The potential and real impact of the licence on the surrounding area, both individually and cumulatively with existing licenses;
- The nature and character of the proposed operation
- Concentrations of valid complaints relating to noise disturbance; and
- Any other relevant considerations.

The Council however will not take “need” into account when considering an application as this is a commercial decision and a matter for planning control and the market.

- 5.3 Where there is evidence that a particular area of the District is already suffering adverse effects arising from a concentration of licensed premises, or that residential areas are under stress, this will be taken into account in determining any further applications or variations to existing licenses for premises within the area identified. The onus will be on the objectors to provide evidence to support any assertion that the addition of the premises in question would produce the cumulative impact claimed.
- 5.4 The Council may consider a specific saturation policy (a “special policy”) if this proves necessary. Such a special policy will be considered where the impact of the concentration of

Licensed Premises compromises the promotion of the licensing objectives. The policy will thereafter be considered in relation to future applications on the basis of how each individual premises add to that impact.

The Council in considering whether to adopt a special policy will take the following steps:

- identify serious and chronic concern from a responsible authority or representatives or residents about nuisance and disorder;
- assess the causes;
- where it can be demonstrated that disorder and nuisance is arising or such risk is imminent as a result of customers of licensed premises, identify the area from which problems are arising and the boundaries of that area; and
- subject to consultation adopt and publish a special policy about future licence applications from that area.

## 6. Children

6.1 The Council will carry out its responsibilities so as to promote the licensing objective of protection of children from harm.

6.2 Licences will be sought from a wide variety of premises including theatres, cinemas, restaurants, concert halls, cafes, late night take-aways, pubs, bars and nightclubs. It is not possible for a licensing policy to anticipate every situation where children are at risk. The Council will not therefore impose general conditions that apply to all premises, but will consider how the licensing objectives can be best promoted in each particular case. The Council does however commend the Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks operated by the Portman Group (as amended from time to time).

6.3 The Council will not seek to limit the access of children to licensed premises beyond the limits set out in the Act unless it is necessary to protect children from physical, moral or psychological harm. The Council will judge the merits of each separate application where relevant representations are received before deciding whether to impose conditions limiting access to children. The following are examples of premises that will raise concern;

- where there have been convictions for serving alcohol to minors or with a reputation for underage drinking
- with a known association with drug taking or dealing
- where there is a strong element of gambling on the premises - but not for example the simple presence of a small number of cash prize gaming machines
- where entertainment of an adult or sexual nature is commonly provided
- where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises

6.4 Conditions will not be imposed that require the admission of children. This will remain a matter for the discretion of the licensee.

6.5 The range of options available to limit the access of children to licensed premises that may be imposed by the Council include:

- Limitations on the hours where children may be present;
- Where alcohol is sold, requirements for proof of age cards or other age identification before a

sale is made;

- Age limitations (below 18);
- Limitations or exclusions when certain activities are taking place;
- Requirements for an accompanying adult;
- In exceptional cases, exclusion of people under 18 from the premises or parts thereof when any licensable activities are taking place.

6.6 The Responsible Authority for the purposes of representing those who are responsible for or interested in matters relating to the protection of children from harm and is recognised as being competent to advise on such matters for the South Bucks District is the Area Child Protection Committee, Buckinghamshire Children’s Safeguarding Board, Bucks County Council. Where Regulations require notice to be given to the Responsible Authority, the contact details can be obtained from the Council’s website.

6.7 A mandatory condition will be imposed on all premises licenses and club premises certificates which authorise the exhibition of films, to restrict the admission of children to films that are unsuitable because of the age classification of the film that has been imposed by the British Board of Film Classification or other film classification board approved by the Licensing Authority and arrangements for securing compliance with this condition should be included in submitted Operating Schedules. Children will not be permitted to view un-certificated films.

6.8 The Council will expect that where a significant number of unaccompanied children will be present during a public entertainment event, the licensee will ensure that an adequate number of adult members of staff/supervisors/ attendants are present to control the access, egress and safety in and around the premises. The number of staff/supervisors/attendants required should be assessed by the licensee, taking into account the number of children to be present, the age of the children, the type of entertainment, the characteristics of the premises and any other relevant factor, subject to there being a minimum of one adult per 25 children or part thereof - but with a minimum of 2 adults at any one time.

6.9 The Council will expect the operating schedule of an application to detail that anyone intending to provide supervision of activities to under 18s will carry out Enhanced Criminal Record checks before appointing staff/supervisors to service such activities and staff shall only be appointed who have been subject to a check and are found suitable. Staff/supervisors will however at all times remain the responsibility of the Licensees.

6.10 The Council will specifically require the Operating Schedule to address the above issues and where appropriate and possible licences will be conditioned to this effect.

## 7. Films

7.1 No film shall be exhibited at licensed premises which is likely to lead to disorder and/or stir up hatred or incite violence towards any section of the public on grounds of colour, race or ethnic or national origin, disability, religious beliefs, sexual orientation or gender.

If a licence holder is notified by the Council that a particular film in the opinion of the Council falls into that category and may not be shown, its decision shall be final in that respect.

7.2 In connection with the film exhibition, conditions will specify that immediately before each exhibition at the premises of a film (other than a current newsreel) passed by the British Board of Film Classification, there shall be exhibited on screen for at least ten seconds in such a

manner as to be easily read by all persons in the auditorium a reproduction of a certificate of the Board, or, as regards a trailer advertising a film, of the statement approved by the Board indicating the category of the film. Conditions may also require notices to be displayed both inside and outside the premises so that persons entering can readily read them and be aware of a category attached to any film or trailer.

## **8. Personal Licences**

8.1 The Council will grant a personal licence if it appears that:

- a) The applicant is over 18
- b) The applicant possesses a relevant licensing qualification
- c) The applicant has not forfeited a personal licence in the previous five-year beginning with the day the application was made
- d) The applicant has not been convicted of any relevant offence as defined in the Act.

8.2 In order to substantiate whether or not an applicant has a conviction for an unspent relevant offence, applicants will be required to produce a current criminal record disclosure certificate with the application.

8.3 The Council will notify the Police in accordance with the requirements of the Licensing Act when an applicant discloses that they have a relevant unspent conviction.

8.4 If the police object to the application on crime prevention grounds, the applicant is entitled to a hearing before a Licensing Sub-Committee. The refusal of the application will be the normal course unless there are, in the opinion of the Council, exceptional and compelling circumstances that justify granting the application.

## **9. Temporary Events**

9.1 The Act provides a mechanism for regulated entertainment and/or the sale of alcohol at small scale events (for no more than 499 people at a time and lasting for no more than 168 hours) to take place without needing a licence. In these circumstances advance notice must be given to the police, environmental health and licensing team. The police and/or environmental health can object to a Temporary Event Notice if the event is likely to undermine the licensing objectives.

9.2 The law states that for a standard temporary event notice at least ten working days notice must be given and for a late temporary event notice at least five working days notice must be given (excluding the date on which the notice is given and excluding the date of the event) to the police, environmental health and licensing but the less time that is given will increase the likelihood of the objections being submitted. The Council recommends that at least four weeks' notice be given to allow it to help organisers plan their events safely. There are limitations as to the number of TENS that can be applied for/relied on in any 12 month period. Any notice applying to events in excess of this number will be served with a Counter Notice.

9.3 Premises users are advised to serve notice of Temporary Events to the following addresses:

Licensing Authority, South Bucks District Council, Council Offices, Capswood, Oxford Road, Denham, Buckinghamshire UB9 4LH

Chief Officer of Police, Licensing, Thames Valley Police, Headquarters (South), Kidlington, Oxfordshire, OX5 2NX

Environment Manager, South Bucks District Council, Council Offices, Capswood, Oxford Road, Denham, Buckinghamshire UB9 4LH

Premises users should note that the Council have no authority under the legislation to accept a notice served out of time. Should this happen then the notice will be returned to the premises user marked invalid.

- 9.4 The Council has established a South Bucks Safety Advisory Group (SAG). Members of the South Bucks District Safety Advisory Group include the Thames Valley Police, South Central Ambulance Service, Bucks Fire & Rescue Service, South Bucks District Council and Buckinghamshire County Council. As necessary representatives of adjacent local authorities or emergency services are invited to attend or comment on events planned in South Bucks. The objective of the group is to coordinate the risk assessment and preplanning to ensure public events are safe for exhibitors, performers and visitors and that access to and egress from the event including highways and public transport issues are included in the planning process.
- 9.5 Organisers of temporary events are strongly advised to contact the Council's Environmental Health Team for advice at the earliest opportunity when planning events and to submit the relevant documentation to the South Bucks Safety Advisory Group for assessment.

## 10. Licensing of Circuses

- 10.1 The Licensing Act 2003 Schedule 1 (2) (1) states that Regulated Entertainment includes:

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

Live unamplified music taking place between 08:00 hours and 23:00 hours and live amplified music taking place between 08:00 hours and 23:00 hours before audiences of no more than 200 people on premises authorised to supply alcohol on the premises or in workplaces is not licensable entertainment by virtue of amendments made to the Licensing Act 2003 by the Live Music Act 2012.

Circuses may fall under this provision depending upon the activities taking place and may require a licence. Circuses have three options when seeking to apply for a licence:

1. Renting Land from a Local authority that has licensed its own public land.

2. Temporary Event Notice - This option may be suitable for a Circus but will be restrictive for a Circus as they will be limited to 5 notices per year but if the applicant has a Personal licence they may apply for 50 notices per year. There is also a limit of 499 people in attendance for each event including the staff.

3. Premises Licence

10.2 The Council will expect applicants to provide a detailed plan for the field and separate detailed plan(s) of each Circus tent that is proposed to operate on that site. The plans for each Circus should show seating, fire exits etc but there could be flexibility built in to the operating schedule to allow alteration to these details subject to agreement from the Responsible Authorities prior to the event taking place (As stated above this should be submitted at least 3 months in advance). If the Circus wishes to change significantly the way it is set up they will need to submit a new plan to the Council.

## 11. Sexual Entertainment Venues

11.1 Section 27 of the Policing & Crime Act 2009 amended Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 to introduce a new category of sex establishment called "Sexual Entertainment Venue" which, if adopted by a local authority, requires premises in that area who provide "relevant entertainment", such as lap dancing to obtain a Sex Establishment Licence. There is an exemption for premises that provide relevant entertainment on an infrequent basis. The legislation is not mandatory for local authorities and therefore they will have the flexibility to decide whether and, if so, when the new provisions should come into force in their area. South Bucks District Council adopted these provisions at their meeting of Full Council on 14<sup>th</sup> December 2010.

## 12. Garages

12.1 Section 176 of the Licensing Act 2003 states: No premises licence, club premises certificate or temporary event notice has effect to authorise the sale by retail or supply of alcohol on or from excluded premises.

12.2 In this section "excluded premises" means; premises situated on land acquired or appropriated by a special road authority<sup>1</sup>, and for the time being used, for the provision of facilities to be used in connection with the use of a special road provided for the use of traffic of class I (with or without other classes); or premises used primarily as a garage or which form part of premises which are primarily so used.

12.3 The Act states that premises are used as a garage if they are used for one or more of the following:

- the retailing of petrol;
- the retailing of derv;
- the sale of motor vehicles;
- the maintenance of motor vehicles

12.4 The Council acknowledges that the retail-trading environment for both local shops and

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<sup>1</sup> Special road authority refers to either the Minister for Transport or a local highway authority acting - the context relates to motorway service centres

garages/petrol filling stations has changed dramatically over the last fifteen years and this will be taken into account in the way in which the Council will approach the task of interpreting the legislation.

- 12.5 Applicants are asked to provide supporting information, in relation to “primary use” of the garage, at the time of application. The purpose of this requirement is to assist the Council in determining the application properly, regardless of whether a sub committee is required to consider any representations.
- 12.6 Applicants will be expected to include within their operating schedule proposals to submit the following information to the licensing section when requested:
- Number of fuel sales only transactions
  - Number of non-fuel only transactions
  - Number of combined fuel and non-fuel transactions

Where the premises are new and have not previously operated the applicant will be expected to indicate in his/her operating schedule that this information will be submitted after six months of trading and then at such other intervals as may be requested.

(see the Council’s website for pool of model conditions)

### 13. Consultation

#### 13.1 Policy

This section of this Policy outlines the licensing consultation process. The aim of consultation process on the formulation and review of this Policy was to provide the opportunity for all parts of the community to be involved in framing and reviewing the licensing process.

#### 13.2 Individual Applications

Application procedures under the Act specify the nature and extent of the legal minimum advertisement requirements for each type of licence.

Types of consultation/advertisements required under the Act:-

- Requiring the display of a notice
- Advertising in local newspapers
- Notification on the Councils website
- Availability of Applications in reception for public viewing

In addition to the legal requirements for advertising applications the licensing section will, in the case of new applications or full variation applications, write to District Councillors and Parish Councils advising them of the receipt of an application. In addition, where appropriate, the licensing section will also undertake a process of neighbourhood notification, which will involve writing to residents and businesses considered to be immediate neighbours of premises which are the subject of the application. The extent of the neighbourhood notification being a matter of fact and degree in each case to be determined by the Council’s Licensing Team based upon whether an individual’s residence or business are likely to be directly affected by the premises.

13.3 The consultation provisions contained in paragraph 13.2 above will not apply to any applications for Minor Variations nor for applications for the Alternative Licence Condition when the only variation sought is for the Alternative Licence Condition in place of the Mandatory Conditions.

#### 14. Mediation and Communication

14.1 The Council may encourage communication and discussion between applicants, relevant statutory agencies and occupiers of nearby premises, local residents groups, community or interested groups where significant issues have arisen relating to a licence application. The Council, if it considers it expedient in view of the issues raised, will facilitate mediation through:

- identification of potential issues for other relevant statutory agencies particularly regarding the safety and amenity of local residents.
- negotiation of, if possible, potential conditions to reflect resolutions of mediation forums.

14.2 Mediation will not override the right of any party to decline to participate in a mediation meeting.

#### 15. Complaints against licensed premises

15.1 The Council will investigate complaints against licensed premises - provided these are not irrelevant, vexatious, frivolous or repetitious. In the first instance, complainants will be encouraged to raise the complaint directly with the licensee or business concerned - although it is suggested complaints re underage sale of alcohol/cigarettes are first referred to the relevant trading standards office who will advise on the appropriateness of approaching the alleged offender.

15.2 Where a Responsible Authority and/or another person (such as a local resident, or a resident's association) has made:

- (a) Valid representations about licensed premises or
- (b) a valid application for a licence to be reviewed

then the Council will encourage the parties to communicate and discuss and try to resolve the issues of concern. To be valid the representations must be in writing and be relevant to the promotion of the Licensing Objectives - and not vexatious, frivolous or repetitious.

15.3 The mediation process will not override the right of any interested party to ask that the Council consider their valid objections or for any licence holder to decline to participate in mediation.

15.4 The Council recognises that a premises licence or club premises certificate can be subject to the formal review process and also that the police have powers to close premises where they consider it necessary to do so in the interests of public safety or to prevent a public nuisance. In addition, the police may apply to the Council for an expedited review of a premises licence where a senior police officer is of the opinion that the premises are associated with serious crime or serious disorder, or both. However, we believe that by working in partnership with all the groups involved in the licensing process the formal

review procedures and exercise of the police powers to close premises should be instituted in general after voluntary measures have been attempted.

## **16. Enforcement policy**

- 16.1 The Council has a long-established licensing enforcement policy based around the principles of consistency, openness, helpfulness and proportionality in accordance with enforcement objectives set by the Local Better Regulation Officer Regulators' Compliance Code and Enforcement Concordat.
- 16.2 The enforcement policy (available on request) proposes that a graduated response is taken where offences against licensing legislation are found or where licence conditions have been contravened. An isolated administrative offence - such as failing to maintain certain records - may be dealt with purely by way of a written warning or formal/simple caution whilst more serious offences which have either been committed over a period of time or which jeopardise public safety - such as failing to maintain fire extinguishers properly - may result in a referral for prosecution.
- 16.3 The Council will seek to work actively with the Police, Trading Standards and other agencies in enforcing licensing legislation. It expects the police to share information about licensees and licensed premises under the Crime and Disorder Act 1998 and its common law powers and to consult closely with the Council when any enforcement action may be required. The Council has established protocols with the Police, Fire and Rescue Service and Trading Standards on the enforcement of licensing law, which provide for the efficient deployment of officers engaged in inspection of licensed premises and enforcement action, in order to ensure that resources are targeted at problem and high-risk premises.
- 16.4 The Council will continue to employ licensing enforcement officers to investigate allegations of unlicensed activities and to ensure that licence conditions are complied with. Enforcement action undertaken will be based on a risk assessed approach, targeting problem and high risk premises, providing a lighter touch for low risk premises and those that are well run.
- 16.5 The Council will carry out its responsibilities for enforcement so as to promote the 4 licensing objectives - see 1.4 - and will aim to ensure consistency, openness, helpfulness and proportionality regarding enforcement.

## **17. Administration, Exercise and Delegation**

- 17.1 The Council is involved in a wide range of licensing decisions and functions and has established a Licensing Committee to administer them. The powers under the Act also allow for delegation of powers/functions to Licensing sub- committees or to one or more officers.
- 17.2 Appreciating the need to provide a speedy, efficient and cost effective service to all parties involved in the licensing process, the Council has taken advantage of these powers and has established a Licensing sub-committee/sub-committees.
- 17.3 Many of the decisions and functions are largely administrative in nature such as the grant of non-contentious applications, including for example those licenses and certificates where no representations have been made. These have been delegated to Council officers. All such matters dealt with by officers will be reported for information to the next Licensing Committee meeting.

- 17.4 Applications where there are relevant representations will be dealt with by the Licensing Committee/sub-committee - unless such representations are considered irrelevant, frivolous or vexatious or unless the Council, the applicant and everyone who has made representations agrees that a hearing is not necessary.
- 17.5 The table below sets out the agreed delegation of decisions and functions of the Licensing Committee, sub-committees and officers. The various delegations include delegation to impose appropriate conditions.
- 17.6 This scheme of delegations is without prejudice to the right of officers to refer an application to a Licensing sub-committee or the full Licensing Committee if considered appropriate in the circumstances of any particular case.
- 17.7 Unless there are compelling reasons to the contrary, the Council will require the Licensing Committee or any of its sub-committees to meet in public - although Members can retire into private session to consider their decision.

The table of delegations will be reviewed and updated from time to time on the basis of changes to law and practice. For the up to date scheme of delegations please refer to the Licensing Team.

<b>Matter to be dealt with</b>	<b>Full Council</b>	<b>Full Licensing Committee</b>	<b>Licensing Sub-committee</b>	<b>Director of Services</b>
Review of Licensing Policy	All Cases	Recommendation to Full Council		
Saturation Policy (“Special policy”)	All Cases	Recommendation to Full Council		
Application for grant or renewal of Personal Licence inc. revocation			If a relevant representation made - Section 120(7), 121(6) and 124(4).	If no relevant representation made
Application for personal licence with unspent convictions			All cases	
Application for premises licence/club premises certificate			If a relevant representation made Section 18(3) Section 72(3)	If no relevant representation made
Application for provisional statement			If a relevant representation made Section 31(3)	If no relevant representation made
Application to vary premises licence/club premises certificate			If a relevant representation made Section 35(3) Section 85(3)	If no relevant representation made

Application to vary designated premises supervisor			If a police objection Section 39(3)	All other cases
Request to be removed as designated premises supervisor				All cases
Application for transfer of premises licence			If a police objection Section 44(5)	All other cases
Applications for Interim Authorities			If police objection Section 48(3)	All other cases
Decision on whether a complaint is irrelevant frivolous vexatious etc				All cases
Decision to object when local authority is a consultee and not the lead authority				All cases
Determination of a standard temporary event notice			If an objection received including powers to serve a counter notice. Section 105 & 106A.	All other cases including powers to serve a counter notice. Section 107.
Determination of an application to review a premises licence			Application for a review by an interested party or a responsible authority - all cases. Section 51	
Determination of an application to review a club premises certificate			Application for a review by an interested party or a responsible authority - all cases. Section 87	
Determination of a review of a premises licence following a closure order			Order made by a senior police officer or a Magistrates Court - all cases. Section 167.	
Determination of validity of all applications and administration thereof				All cases
Determination of whether the variations to a Premises Licence applied for pursuant to Section 41A of				All cases

the Act fall within the definition of “Minor Variations” taking into account the DCMS Guidance				
Determination of an Application for a minor variation to a Premises Licence Section 41A of the Act				All cases
Determination of whether the variations to a Club Premises Certificate applied for pursuant to Section 86A of the Act fall within the definition of “Minor Variations” taking into account the Act and DCMS Guidance				All cases
Determination of an Application for a Minor Variation to a Club Premises Certificate - Section 86A of the Act				All cases
Determination of whether an applicant fulfils the criteria of the statutory definition of “Management Committee” regarding applications made pursuant to Sections 25A and 41D of the Act taking into account the DCMS Guidance				All cases
Determination of whether a premises falls within the statutory definition of “Community Premises” regarding applications made pursuant to Sections 25A and 41D of the Act taking into account the DCMS Guidance				All cases
Determination of an Application for a new Premises Licence which included an application for an Alternative Licence Condition - Section 25A of the Act			If a relevant representation made Section 25A	If no relevant representation made
Determination of an Application to vary a Premises Licence to include			If a relevant representation made Section 41D	If no relevant representation made

the Alternative Licence Condition or an Application which included an application for the Alternative Licence Condition - Section 41D of the Act				
Determination of a review of a Premises Licence when held by a Management Committee which included the Alternative Licence Condition - Section 51 of the Act			Application for a review by an interested party or a responsible authority - all cases. Section 51	
Power for the Licensing Authority to Act as a responsible Authority - Section 104 of the Act				All cases
Suspension of licence where fees not paid by due date - Sections 55A and 92A of the 2003 Act				All cases
Power to impose conditions upon standard Temporary Event Notices - Section 106A of the Act				Where objections from Police or EHO received and applicant agrees to conditions and all parties agree no hearing necessary.
Determination of a late Temporary Event Notice				All cases including powers to serve counter notice. Section 104A & 107.

## 18. Appeals

### 18.1 Premises Licences

Part 1 of Schedule 5 of the Licensing Act 2003 sets out the appeals process with regards to premises licences.

- Applicants may appeal to the Magistrates' Court if the Council has rejected their application for a premises licence, for a variation of a premises licence, for a variation of a designated premises supervisor or for a transfer of a licence.

- If a licence is granted, the licence holder may appeal against the imposition of conditions on that licence, the exclusion of a licensable activity or refusal to specify an individual as the designated premises supervisor.
- Those who made relevant representations during the course of an application may appeal against the decision to grant a licence, or the licensable activities permitted, conditions imposed (or not imposed) or the identity of the designated premises supervisor.
- Applicants or any person who made a relevant representation may appeal against the decision to issue a provisional statement.
- Where the Council takes the step of modifying the conditions of the licence before granting a variation, the applicant may appeal.
- Any person who made relevant representations can appeal against the decision to vary the licence.
- The Chief Officer of Police who gave a notice may appeal against the grant of an application to specify an individual as a premises supervisor or against the decision to transfer a licence.
- Where the Council decides to cancel an interim authority notice following a notice from the Chief Officer of Police, the person who gave the interim authority notice may appeal against the decision.
- Where the Council does not cancel the interim authority notice following a notice from the police, the Chief Officer of Police may appeal.
- The decision in relation to a review of the premises licence may be brought to appeal by the applicant for the review, the premises licence holder or anyone who made relevant representations

## 18.2 Club Premises Certificates

Part 2 of Schedule 5 of the Licensing Act 2003 sets out the appeals procedures in relation to club premises certificates.

- Clubs applying for a premises certificate or applying to vary a certificate may appeal against the decision by the Council to reject the application.
- If a certificate is granted the holding club may appeal against the imposition of conditions or the exclusion of a licensable activity.
- Those who made relevant representations during the course of an application may appeal against the decision to grant a certificate, or the qualifying club activities permitted or conditions imposed (or not imposed).
- Where the Council takes the step of modifying the certificate before granting a variation, the club may appeal. Any person who made relevant representations can appeal against the decision to vary the certificate.

- The decision in relation to a review of a club premises certificate may be brought to appeal by the applicant for the review, the certificate - holding club or anyone who made relevant representations.

18.3 Standard Temporary Event Notices, Personal Licences and Closure Orders Part 3 of Schedule 5 of the Licensing Act 2003 covers appeals in relation to temporary event notices, personal licences and closure orders.

- In relation to temporary event notices, premises users may appeal against the decision by a Council to give a counter notice.
- Applicants for personal licences may appeal against the decision to reject an application for or application to renew a licence.
- Where the Police lodged an objection notice to the grant or renewal of a personal licence and the Council grants or renews the licence, the Police may appeal.
- Personal licence holders may appeal against revocation of that licence by the Council.
- Where the Police have given notice about relevant offences which come to light after the granting or renewal of a licence, and the Council decide not to revoke the licence, the Police may appeal against the decision.
- The licence holder or any person who made representations on a review of a premises licence following a closure order may appeal against the outcome of the review.

18.4 An appeal has to be commenced by the giving of a notice of appeal by the appellant to the Magistrates Court within a period of 21 days beginning with the day on which the appellant was notified by the Council of the decision appealed against but no later than 5 days before the event period begins.

18.5 For purposes of the Councils notification of determinations this is the date the decision is received in ordinary course of the post after it has been sent.

18.6 On determining an appeal, the court may

- a) Dismiss the appeal;
- b) Substitute for the decision appealed against any other decision which could have been made by the Council; or
- c) Remit the case to the Council to dispose of it in accordance with the direction of the court

The court may make such order as to costs as it thinks fit.

For further information relating to the appeal process please seek your own independent legal advice.

## 19. **Early Morning Restriction Orders (EMROs)**

19.1 The Licensing Act sets out powers conferred on licensing authorities to make early morning alcohol restriction orders. These powers are designed to help licensing authorities address specific problems caused by late night supply of alcohol in their areas allowing licensing authorities to restrict the sale of alcohol in the whole or a part of their areas between 12 midnight and 6am. Licensing Authorities may make an EMRO in relation to problem areas if

they have evidence that the order is appropriate for the promotion of the licensing objectives. At the time of writing this policy the Licensing Authority has no plans to make an EMRO in any part of the South Bucks District Council area, however, the situation will be kept under review and should evidence emerge that suggests that the sale of alcohol between 12 midnight and 6am is creating specific problems the Council will consider whether the introduction of an EMRO is appropriate. In considering the appropriateness of an EMRO the Licensing Authority will consider evidence from partners, including responsible authorities and local Community Safety Partnerships or other sources. If a proposal to implement an EMRO arises in the future the Licensing Authority will advertise and consult about its proposal in accordance with legislation and national guidance.

## **20. The Late Night Levy (LNL)**

20.1 Late night levy powers will allow licensing authorities to raise a contribution from late opening alcohol retailers (12 midnight to 6am) towards policing the late night economy. This is a power that licensing authorities can choose whether to adopt for their areas. If adopted, the powers must apply to the whole of the Licensing Authority's area. Income from the net levy is to be split between the Police and the Licensing Authority on the basis of a minimum 70% allocated to the Police and a maximum 30% allocated to the Licensing Authority. At the time of writing this policy the Licensing Authority has no plans to collect an LNL, however the situation will be kept under review and prior to making a decision to implement an LNL, the Licensing Authority would have discussions with the Police and Crime Commissioner (PCC) and local police to decide whether it is appropriate to introduce an LNL. If a proposal to implement an LNL arises in the future, the Licensing Authority will consult the PCC, the police, licence holders and others about its proposal.

### **Further information**

Further information about the Licensing Act 2003 and the Council's licensing policy can be obtained from:

Licensing Section

South Bucks District Council, Council Offices, King George V Road, Amersham, Buckinghamshire, HP6 5AQ

T: 01494 732063

E: [licensing@southbucks.gov.uk](mailto:licensing@southbucks.gov.uk)

Website - [www.southbucks.gov.uk](http://www.southbucks.gov.uk)

Information is also available from [www.gov.uk/alcohol-licensing](http://www.gov.uk/alcohol-licensing)

## **APPENDIX 1**

### **LIST OF CONSULTEES** **SECTION 5 LICENSING ACT 2003**

Responsible Authorities as listed at Appendix 4

Persons/Bodies representing local holders of premises licences

Persons/Bodies representing local holders of club premises certificates

Persons/Bodies representing local holders of personal licences

Persons/Bodies representing businesses and residents in the area

Local pubs, cafes, restaurants, hotels, leisure centres, clubs, off-licences, stores,  
Takeaways, village/church halls in the district.

All Parish Councils in the District

Other Councils, including Chiltern DC, Bucks CC and Wycombe DC

The draft Policy for review was also made available for inspection/comment on the Councils web-site.  
A hard copy of the draft Policy was also made available at the Council Offices for inspection/comment.

## **APPENDIX 2**

### **GLOSSARY OF TERMS**

**Alcohol** - spirits, wine, beer, cider or other fermented distilled or spirituous liquor of or exceeding 0.5% strength.

**Alternative Licence Condition** - The alternative licence condition removes the requirement for there to be a Designated Premises Supervisor (DPS) with a Personal Licence named on a Premises Licence issued in respect of a community premises. The "Alternative Licence Condition" specifies that every supply of alcohol under the premises licence must be made or authorised by the management committee.

**Authorised Person** - an officer of the Licensing Authority authorised for the purposes of the Licensing 2003;

- an Inspector appointed under Section 18 of the Fire Precautions Act 1971;
- an Inspector appointed under Section 19 of the Health and Safety at Work etc. Act 1974;
- an officer of the Council in whose area the premises are situated who is authorised for the purposes of exercising one or more of its statutory functions in relation to minimising or preventing the risk of pollution of the environment or of harm to human health;
- in relation to a vessel, an Inspector or a Surveyor of ships appointed under Section 256 of the Merchant Shipping Act 1995;
- a prescribed person.

Designation as an 'authorised person' confers a role in the inspection of premises in connection with their use for licensable activities.

**Circuses** - means a travelling company of performers that may include acrobats, clowns, trained animals, trapeze acts, musicians, hoopers, tightrope walkers, jugglers, unicyclists and other stunt-oriented artists Defined by the DCMS as Regulated Entertainment.

**Club Premises Certificate** - Certificate granted by the Council for premises occupied by, and habitually used for the purpose of, a club - Section 60 of the Act.

**Community Premises** - A community premises is defined by the Legislative Reform (Supervision of Alcohol Sales in Church and Village Halls &c.) Order 2009 as a church hall, chapel hall or other similar building, or a village hall, parish hall, community hall or other similar building.

**Conditions** - Restrictions on the Premises Licence designed to ensure safety and prevent nuisance e.g. by limiting hours and prohibiting noise nuisance.

**Designated Premises Supervisor** - The person named in the Premises Licence who could also be the Licence Holder being a suitable individual designated as a manager responsible for the day-to-day management of the premises at any time when it is open.

**Expedited Review** - Provisions inserted to the Licensing Act 2003 (section 53A) by the Violent Crime Reduction Act 2006 to permit a quick process for attaching interim conditions to a licence and a fast track licence review when the police consider that the premises concerned is associated with serious crime or serious disorder (or both).

**Four Licensing Objectives** - (1) Prevention of Crime and Disorder; (2) Public Safety; (3) Prevention of Public Nuisance; and (4) Protection of children from harm - Section 1 of the Act.

**Irresponsible promotion** - An 'irresponsible promotion' is an activity which encourages the sale and consumption of alcohol in a manner which carries a 'significant risk of contributing to crime and disorder, prejudice to public safety, public nuisance or harm to children' (the licensing objectives).

**Licence Holder** - The person to whom the Council has granted the Licence and in whose name it appears and who is responsible for the proper operation of the premises. The Licensee is also liable to criminal proceedings for breaches of the terms and conditions of that Licence.

**Licensable activities** - Are (a) the sale by retail of alcohol; (b) the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club; (c) the provision of regulated entertainment; and (d) the provision of late night refreshment.

**Licensing Authority for the South Bucks District** - South Bucks District Council, Council Offices, Capswood, Oxford Road, Denham, UB9 4LH.

**Licensing Committee and Licensing Sub-Committees** - Set up by the Council to administer and discharge the functions of the Licensing Authority consisting of at least ten and not more than fifteen members (Licensing Committee) and consisting of three members (sub-committees).

**Licensing Hours** - the hours stated in the Licence for which the premises is allowed to operate/open.

**Mandatory Conditions** - Conditions imposed by the Government intended to support and actively promote the licensing objectives.

**Neighbourhood** - a matter of fact in each case to be determined by the Council's Licensing Team based upon whether an individual's residence or business are likely to be directly affected by the premises.

**Operating Schedule** - A schedule, which sets out how the Licence Holder will deal with the potential for nuisance and/or public disorder and public safety from the design through to the daily operation of the business.

**Planning Permission** - Formal approval (with or without Conditions) of the Council acting in its capacity as District Planning Authority permitting a proposed development (use or operation) to commence.

**Personal Licence** - A Licence issued by the Council to an individual authorising that individual to supply or authorise the supply of alcohol in accordance with a Premises Licence.

**Premises** - means any place and includes a vehicle, vessel or moveable structure.

**Premises Licence** - Is a Licence granted by the Council, which authorises the premises to be used for one or more Licensable Activities. The Licence is only valid in respect of the premises named on the Licence.

**Provision of Late Night Refreshment** - the supply of hot food and/or drink to members of the public from a premises from 23.00 hours to 05.00 hours for consumption on or off the premises.

**Provisional Statement** - an application for premises to be or which are in the course of construction for the purpose of being used for one or more licensable activities or extended/altered for that purpose - Section 29 of the Act.

**Qualifying Club** - Is a Club, which (a) has at least 25 members, (b) is established and conducted in good faith as a club, (c) only admits members of the club, or membership candidates (following at least 2 days between nomination or application for membership and their admission), and (d) alcohol is not supplied or intended to be supplied to members on the premises otherwise than by or on behalf of the club.

**Regulated Entertainment** - is entertainment requiring a Licence when it is performed in front of an audience and includes a performance of a play, an exhibition of a film, an indoor sporting event, a boxing or wrestling entertainment (indoors and outdoors), a performance of live music (not incidental music, i.e. a piano in a restaurant), any playing of recorded music or a performance of dance. Live unamplified music taking place between 08:00 hours and 23:00 hours and live amplified music taking place between 08:00 hours and 23:00 hours before audiences of no more than 200 people on premises authorised to supply alcohol on the premises or in workplaces is not regulated entertainment by virtue of amendments made to the Licensing Act 2003 by the Live Music Act 2012.

**Relevant Representations** - are representations as defined by Section 18 of the Act made about the likely effect of the Premise Licence on the promotion of the licensing objectives and made by a Responsible Authority or other person, which have not been withdrawn and, in the case of representations made by someone who is not a responsible authority are not in the Council's opinion irrelevant, frivolous or vexatious.

**Responsible Authority** - includes - as defined by Section 13 of the Act - the Chief Officer of Police, the Fire Authority, Health and Safety Enforcing Authority, Planning Authority, Pollution Control Authority,

Child Protection Authority, Public Health Authority, Trading Standards Authority and the Licensing Authority.

**Safety Advisory Group (SAG)** - Members of the South Bucks District Safety Advisory Group include the Thames Valley Police, South Central Ambulance Service, Bucks Fire & Rescue Service, South Bucks District Council and Buckinghamshire County Council. As necessary representatives of adjacent local authorities or emergency services are invited to attend or comment on events planned in South Bucks. The objective of the group is to coordinate the risk assessment and preplanning to ensure public events are safe for exhibitors, performers and visitors and that access to and egress from the event including highways and public transport issues are included in the planning process.

**Sexual Entertainment Venue** - A sexual entertainment venue is defined as “any premises at which relevant entertainment is provided before a live audience for the financial gain of the organiser or the entertainer”.

**Temporary Events** - Regulated entertainment for no more than 499 people at a time and lasting for no more than 168 hours.

**Temporary Event Notice** - A notice given to the Council (Licensing Section and Environmental Health) and the Police of a temporary event which must be given at least 10 days in the case of a standard notice and five days in the case of a late notice prior to the event, although the Council recommends at least 4 weeks’ notice be given.

**The Act** - The Licensing Act 2003 which received Royal Assent on 10 July 2003 and which had full effect on 2 November 2005.

**The first appointed day** - 7 February 2005 being the day Licensing Authorities began processing applications for conversions to premises licenses, club premises certificates, variations and personal licenses.

**Variation** - If the Licence Holder wishes to vary any terms, conditions or restrictions of the licence, he/she will need to apply to the Council to vary the Licence.

**APPENDIX 3**

**List of Responsible Authorities**

Applications must be sent to the Licensing Authority at the following address:

Licensing Section  
The Licensing Authority  
South Bucks District Council  
Council Offices  
King George V Road  
Amersham  
Buckinghamshire  
HP6 5AW  
Email: [licensing@southbucks.gov.uk](mailto:licensing@southbucks.gov.uk)  
Telephone: 01494 732063

Duplicate copies of each application must be served upon the responsible authorities and must be sent to each of the following addresses:

The Chief Officer of Police  
Licensing  
Thames Valley Police  
Headquarters (South)  
KIDLINGTON  
Oxfordshire  
OX5 2NX  
Email: [licensing@thamesvalley.pnn.police.uk](mailto:licensing@thamesvalley.pnn.police.uk)  
Telephone: 01865 542059

The Fire Authority  
Protection Manager  
Buckinghamshire Fire and Rescue Service  
Marlow Fire Station  
Parkway  
Marlow  
Buckinghamshire  
SL7 1RA  
Email: [marlowclerksfiresafety@bucksfire.gov.uk](mailto:marlowclerksfiresafety@bucksfire.gov.uk)  
Telephone: 01628 470644

The Health and Safety Enforcing Authority  
Environment Manager  
South Bucks District Council  
Council Offices  
King George V Road  
Amersham  
Buckinghamshire  
HP6 5AW  
Email: [envhealth@chiltern.gov.uk](mailto:envhealth@chiltern.gov.uk)  
Telephone: 01494 732058

The Environmental Health Authority  
Environment Manager  
South Bucks District Council  
Council Offices  
King George V Road  
Amersham  
Buckinghamshire  
HP6 5AW  
Email: envhealth@chiltern.gov.uk  
Telephone: 01494 732058

The Local Planning Authority  
Development Management  
South Bucks District Council  
Council Offices  
Capswood  
Oxford Road  
Denham  
UB9 4LH  
Email: planning@southbucks.gov.uk  
Telephone: 01895 837342/01895 837210

The Area Child Protection Committee  
Coral McGookin (Business Manager)  
Buckinghamshire Children's Safeguarding Board  
Buckinghamshire County Council Annex B County Hall  
5-7 Walton Street  
Aylesbury  
Bucks  
HP20 1XA

Email: cmcgookin@buckscc.gov.uk  
Telephone: 01296 382537

The Weights and Measures Authority  
Trading Standards  
County Hall  
Walton Street  
Aylesbury  
Bucks  
HP19 1UP  
Email: tsd@buckscc.gov.uk

Buckinghamshire County Council  
Public Health Team  
Tracey Ironmonger  
Assistant Director of Public Health  
County Hall, Walton Street  
Aylesbury  
Buckinghamshire HP20 1UA  
Email: publichealth@buckscc.gov.uk  
Telephone: 0845 3708090