

## **LICENSING COMMITTEE**

**Venue: Town Hall, Moorgate  
Street, Rotherham**

**Date: Wednesday, 7 November 2007**

**Time: 12.00 p.m.**

### **A G E N D A**

1. To determine if the following matters are to be considered under the categories suggested, in accordance with the Local Government Act 1972.
2. To determine any item which the Chairman is of the opinion should be considered later in the agenda as a matter of urgency.
3. Licensing Act 2003 - Review of Licensing Statement of Policy (report attached)  
(Pages 1 - 42)

**ROTHERHAM BOROUGH COUNCIL – REPORT TO MEMBERS**

1.	<b>Meeting:</b>	<b>The Licensing Committee</b>
2.	<b>Date:</b>	<b>7 November 2007</b>
3.	<b>Title:</b>	<b>Licensing Statement of Policy – Licensing Act 2003</b>
4.	<b>Programme Area:</b>	<b>Neighbourhood and Adult Services</b>

**5. Summary**

This report sets out the refreshed Licensing Statement of Policy in line with the 3 yearly statutory requirement within Section 5 (1) of the Licensing Act 2003.

**6. Recommendations****THAT MEMBERS;**

- **RECEIVE AND CONSIDER THE REVISED LICENSING POLICY**

## 7. **Proposals and Details**

The Licensing Statement of Policy aims to provide guidance to all interested parties on the Councils approach to licensing within Rotherham. It sets out what considerations will be taken into account when the Council delivers its statutory licensing function.

The Policy came into force on 22<sup>nd</sup> December, 2004 following approval by full Council. Section 5 (1) of the Licensing Act 2003 requires the policy to be reviewed every three years in order that amendments or additions can be made. This report sets out:

- the process for the review of the policy
- the consultation undertaken and responses
- the process for approval of the revisions

### Process for review of the policy

The initial three year period for the policy being in place began on the 7<sup>th</sup> January 2005, this date was prescribed by the Secretary of State. When reviewing its policy the Licensing Authority must go through the same process as it did when consulting on its original policy. Section 5 (3) of the 2003 Act sets out who the Licensing Authority must consult before determining its policy and the consultation process was delivered in line with these requirements

### The consultation undertaken

The consultation process lasted 3 months in line with the Cabinet Office, Code of Practice, commencing on 1<sup>st</sup> July and ending on 30<sup>th</sup> September. Over 1000 copies of the consultation pack were distributed to:

- Premises licence holders
- Club premises certificate holders
- Personal licence holders
- Responsible authorities
- Elected members
- Parish Councils
- South Yorkshire Police
- South Yorkshire Fire and Rescue Service
- Rotherham Chamber of Commerce
- The Law Society
- LACORS – Local Authority Co-ordinators Regulatory Service
- Environment Agency
- H M Revenue and Customs
- Rotherham Ethnic Minority Alliance

As part of the consultation process the policy was also presented to the Neighbourhoods learning from customer's forum.

Fourteen responses were provided to the consultation with six of these returns making no comments other than supporting the existing policy. Relevant changes have been made to the policy where comments have been made and a table summarising these revisions to the policy is attached to this report as document 'A'. Additionally meetings have been held with South Yorkshire Police and the Primary Care Trust to ensure changes made were in line with the expectation of the key respondents. The policy refresh has also been considered by the Safer Rotherham Partnership 'Safety in the Night-time Economy' Priority Group to enable comments from group members.

In addition to the comments received through consultation research has been undertaken to ensure revisions are in line with government guidance and best practice. The following documents formed part of this process:

- Department for Culture, Media and Sport (DCMS) - guidance issued under section 182 the Licensing Act 2003
- Rotherham Town Centre Crime Study – Holden McAllister – May 2007
- Sheffield City Council – Licensing Statement of Policy and pool of standards
- Essex County Council – Licensing Enforcement Protocol
- Local Authority Co-ordinators of Regulatory Services – Best Practice Licensing Policy Framework
- Rotherham Safeguarding Children Board – Safeguarding Children – Guidance for Good Practice

### The process for approval of revisions

Responsibility for approving the revised policy lies with full Council following a recommendation of the Council's Cabinet. It is proposed to report the policy as follows:

- The Licensing Committee – 7<sup>th</sup> November
- Cabinet - 14<sup>th</sup> November
- Sustainable Communities Scrutiny Panel – 15<sup>th</sup> November
- Council 6<sup>th</sup> December

The Council is statutorily required to have completed this review process by January 2007 in line with the 3 yearly time-table for review of the policy. The revised policy will be reported to Council for approval.

### **8. Finance**

No new financial considerations arise for the Council from this report.

### **9. Risks and Uncertainties**

The Licensing Statement of Policy aims to provide guidance to all interested parties on the Councils approach to licensing within Rotherham. Failure to have in place a sufficiently robust policy limits the Councils capacity to effectively deliver its licensing function.

The policy sets out what considerations will be taken into account when the Council delivers its statutory licensing function. A policy that does not sufficiently reflect the

component key issues within an effective licensing regime weakens the Councils ability to effectively control and administer its statutory duties.

**10. Policy and Performance Agenda Implications**

An effective policy is an essential tool for the administration and enforcement of the statutory licensing function therefore it underpins delivery of the **SAFE** priority theme particularly with regard to reducing crime and the fear of crime within Rotherham.

Furthermore the policy, by way of setting out the key considerations within the licensing of premises and individuals is an essential part of a vibrant and diverse economy supportive of the **ACHIEVING** priority theme and the cross cutting themes of **FAIRNESS** and **SUSTAINABLE** development.

**11. Background Papers and Consultation**

A 3 month consultation process has been undertaken with further details of this outlined in the 'Proposals and Details' section of the report. The following background papers were considered as part of the review.

DCMS Guidance issued under s. 182 the Licensing Act 2003

Holden and McAllister - Town Centre Crime Study and Action Plan – May 2007

Essex County Council – Enforcement Protocol

Sheffield City Council – Licensing Codes of Practice

RMBC – Licensing Statement of Policy

Rotherham Safeguarding Children Board – Safeguarding Children – Guidance for Good Practice



## **LICENSING STATEMENT OF POLICY**

### **LICENSING ACT 2003**

Revised draft - October 2007

***Revisions in italic type***

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**ROTHERHAM METROPOLITAN BOROUGH COUNCIL**  
**LICENSING POLICY**

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**ROTHERHAM METROPOLITAN BOROUGH COUNCIL**

**ROTHERHAM LICENSING COMMITTEE**

1. **Preamble**

- 1.1 With a population of around 248,000 people, Rotherham Borough is made up of a diverse and vibrant mix of people, cultures and communities.
- 1.2 The majority of Rotherham (75%) is rural in nature, and the Borough benefits from a wealth of natural and built environments. One of its greatest strength's lies in its central location, with direct access to the M1, M18 and A1, the two universities in Sheffield and excellent rail access via Doncaster and Sheffield.
- 1.3 Rotherham is also home to some of the countries most highly regarded leisure and nightlife providers and is a popular destination for the provision of food, drink, cultural activities and entertainment. The Council recognises that licensed premises in the district are a major contributor to employment and in attracting visitors, making Rotherham a vibrant town and community.
- 1.4 Part of our aim is to make the town a pleasant, safe and prosperous place in which to live, work, learn and relax.
- 1.5 The Rotherham Metropolitan Borough Council has carried out a comprehensive consultation process prior to and during the writing of its Licensing Policy Document. This process will continue in accordance with the Act.
- 1.6 This document sets out Rotherham's Licensing Policy, which will guide the Licensing Committee when considering applications in connection with licences for the sale of alcohol, the supply of alcohol by or on behalf of a club to, or to the order of, a member of a club, regulated entertainment, and late night refreshment. The Licensing Act 2003 provides for a unified system of regulation of "licensable activities" as defined in the Act. The Act has wide application and will affect the following:

Premises selling alcohol

Registered Clubs

Premises providing any of the following to the public, to the members of a club or for the members of a club and their guests or for consideration and with a view to profit:

- a performance of a play
- an exhibition of a film
- an indoor sporting event

- a boxing or wrestling entertainment
- a performance of live music
- any playing of recorded music
- a performance of dance
- entertainment of a similar description to a performance of live music, any playing of recorded music or a performance of dance
- provision of facilities for making music
- provision of facilities for dancing
- provision of facilities for entertainment of a similar description to making music or dancing

Premises offering hot food or hot drink between 11 pm and 5 am

The licensing authority estimate that the Act will affect in excess of 1000 premises within the borough of Rotherham.

- 1.7 This document should be read in conjunction with the Rotherham Metropolitan Borough Council's Licensing Guidance Notes. However the Guidance Notes do not form part of this policy. Copies of these Guidance Notes available from the licensing authority on telephone number 01709 823153 or via email at [licensing@rotherham.gov.uk](mailto:licensing@rotherham.gov.uk)
- 1.8 *The policy aims to outline the key issues to be considered when administering and enforcement a licensing regime and aims to run alongside the Council's key priorities relating to the provision of safe neighbourhoods and flourishing and diverse businesses.*
- 1.9 This document sets out Rotherham's Licensing Policy, which will guide the Licensing Committee when considering applications for the sale of alcohol, regulated entertainment, late night refreshment, cinematographic and theatrical performances.
- 1.10 The aim of the policy is to promote the four licensing objectives set out in the Licensing Act 2003, namely:-
- The prevention of crime and disorder;
  - Public safety;
  - The prevention of public nuisance; and
  - The protection of children from harm
- 1.11 The licensing authority wish to promote the above whilst still encouraging a sustainable entertainment and leisure industry. The Council recognises both the needs of local residents for a safe and healthy environment in which to work and live and the importance of safe and well run entertainment and leisure facilities to the town.
- 1.12 The policy aims to provide guidance to applicants, responsible authorities and interested parties on the general approach to licensing in the town. Although

each and every application will be dealt with separately and on its own individual merits, the Council in writing this policy is offering guidance on the wider considerations that will be taken in to account.

- 1.13 The policy comes into force on 22 December, 2004, and will be reviewed at least every three years, and / or if any amendments and / or additions are required to the policy at any time within those three years.
- 1.14 The policy document and guidance contained therein which are appropriate to Rotherham are intended for the guidance of the Licensing Committee as well as to assist applicants in presenting their application.
- 1.15 The policy is not intended to limit the power or fetter the discretion of the Licensing Committee who will listen to and determine on its own individual merits any application placed before them.

## 2. SCOPE OF POLICY

- 2.1 The policy covers applications, reviews, transfers and variations of licences 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 that club
  - The provision of regulated entertainment, and
  - The provision of late night refreshment
- 2.2 Any application for a licence, certificate, variation or review, will be dealt with on its own individual merits and by reference to the four licensing objectives.

## 3. CONSULTATION

- 3.1 The local authority is committed to consulting with as wide and varied an audience as possible regarding this and any future policies or any amendments in accordance with the Licensing Act 2003.
- 3.2 Before publishing this policy statement, or any review, or amendments, the licensing authority has consulted with the following:-
  - (a) The Chief of Police for the area
  - (b) The Fire Authority
  - (c) *Such persons as the licensing authority considers to be representative of holders of the following existing licences in respect of premises situated in the authority's area:*
    - *justices' licences (off- and on- licences);*
    - *canteen licences issued under the Licensing Act 1964;*

- *licences issued under the Private Places of Entertainment (Licensing) Act 1967;*
  - *licences issued under the Theatres Act 1968;*
  - *licences issued under the Late Night Refreshment Houses Act 1969;*
  - *licences issued under Schedule 1 to the Local Government (Miscellaneous Provisions) Act 1982 (licensing of public entertainments outside Greater London);*
  - *licences issued under section 1 of the Cinemas Act 1985; and*
- (d) Such persons as the licensing authority considers to be representative of clubs registered (within the meaning of the Licensing Act 1964) in respect of any premises situated in the authority's area.
- (e) Such other persons as the licensing authority considers to be representative of businesses and residents in its area.

The period of consultation was 13 weeks.

- 3.3 The views of the above consultees who responded were given due consideration when writing this policy.
- 3.4 The licensing authority may depart from this policy if the individual circumstances of any case merit such a decision in the interests of the promotion of the licensing objectives. In the event of a departure from this policy the licensing authority will give full reasons for the decision to depart.

#### 4. **A SUMMARY OF PROCESS**

- 4.1 Each application for a licence will be considered:-
- On its own individual merits
  - In accordance with the Licensing Act 2003 together with any amendments and supporting Regulations
  - With reference to the guidance issued under section 182 of the Licensing Act 2003
  - In accordance with this policy
- 4.2 Nothing in this statement of policy will:-
- Prevent any person from applying under the 2003 Act for any of the permissions and from having that application considered on its own individual merits
  - Prevent any person or stop any person from making representations on any application or from seeking a review of a licence or certificate where the 2003 Act permits them to do so.
- 4.3 Licensing is about regulating the carrying on of licensable activities on licensed premises within the terms of the Licensing Act 2003. Conditions

attached to licences and certificates by the licensing authority will focus on matters within the control of individual licences and centre on the premises and places used for the licensable activities and their vicinity.

- 4.4 The local authority recognises that licensing law is not the primary mechanism for the general control of anti social behaviour by individuals once they are away from the premises and therefore, beyond the direct control of the individual club or business holding the licence, certificate or authorisation concerned. Nonetheless, it is a key aspect of such control and licensing law will always be part of a holistic approach to the management of the evening and night-time economy in town and city centers.

## 5. **PROMOTION OF LICENSING OBJECTIVES**

- 5.1 The Licensing Objectives are:-

- i) the prevention of crime and disorder,
- ii) public safety,
- iii) the prevention of public nuisance, and
- iv) the protection of children from harm.

- 5.2 These are the only matters that may be taken into account when the licensing authority is determining an application.

- 5.3 Each objective is of equal importance.

- 5.4 Each applicant must provide with their application full details as to how they will promote each of the four licensing objectives detailed above.

## 6. **LICENCE CONDITIONS**

- 6.1 Conditions include any limitations or restrictions attached to a licence or certificate and are essentially the steps the holder of a licence or certificate will be required to take at all times when licensable activities are taking place at the premises.

- 6.2 The licensing authority will only impose conditions on licences and certificates where necessary for the promotion of one or more of the licensing objectives and will not impose them for any other purpose. Any conditions imposed will be proportionate. If no relevant representations are received from a responsible authority or an interested party as defined in the Licensing Act 2003, the applicant's application must be granted subject only to the mandatory conditions set out in the Licensing Act 2003 and such conditions as are consistent with the applicant's operating schedule. The licensing authority has no discretion to impose any conditions other than those conditions required by the Act and those consistent with the applicant's operating schedule unless relevant representations are received from a responsible authority or interested party.

- 6.3 The Government has provided pools of example conditions which relate to the licensing objectives and which are to be treated as a potential pool of conditions which may be tailored and attached as necessary conditions for premises licences and Club Premises Certificates. Copies of these pools of conditions are attached to this policy at Annexes 'A', 'B', 'C' and 'D'. The licensing authority will not consider these as standard conditions and will not apply them universally. However, the pools of example conditions cannot cover every scenario and conditions not appearing in the pool may be attached by the licensing authority where necessary for the promotion of one or more of the licensing objectives.
- 6.4 The licensing authority will ensure that conditions attached to licences or certificates are tailored to the individual style and characteristics of the particular premises and events concerned.
- 6.5 The licensing authority will impose mandatory conditions where required by the Licensing Act 2003.
- 6.6 Conditions attached to licences and certificates by the licensing authority will focus on matters within the control of individual licences and centre on the premises and places used for the licensable activities and their vicinity. Whether or not incidents can be regarded as being "in the vicinity" of licensed premises is a question of fact and will depend on the particular circumstances of the case. In addressing this matter the licensing authority will focus primarily on the direct impact of the activities taking place at the licensed premise on members of the public living, working or engaged in normal activity in the area concerned.

## 7. **THE PREVENTION OF CRIME AND DISORDER**

- 7.1 Under the Crime & Disorder Act 1998 Rotherham Metropolitan Borough Council, as the licensing authority, must have regard to the likely effect of the exercise of its licensing function and do all it can to prevent crime and disorder within the town. In doing so the Council will have regard to the likely impact of licensing and related crime and disorder in the town when considering the location, operation and management of all proposed licence applications reviews and variations.
- 7.2 *All applicants will be expected to demonstrate to the satisfaction of the licensing authority in their Operating Schedule how they intend to promote the prevention of crime and disorder as an objective. The commitments made by applicants within the operating schedule are an integral part of any licence granted, and may, where appropriate be included as conditions on the premises license, and as such will be referred to in the event of enforcement action being required. Failure to maintain these commitments without good reason is a serious issue which could infer a failure to promote one of the four licensing objectives.*

- 7.3 It is recommended that applicants seek advice from South Yorkshire Police when addressing this issue as well as taking in to account local planning and transport policies, tourism, cultural and crime prevention strategies. The South Yorkshire Police website where information relating to crime reduction is available can be found at [www.southyorks.police.uk](http://www.southyorks.police.uk)
- 7.4 The steps to be taken to promote the prevention of crime and disorder as an objective will be a matter for each applicant to consider, depending upon the nature of the premises and the licensable activities for which a licence is sought. These steps will therefore differ from premises to premises.
- 7.5 *Examples of measures that the licensing authority may expect applicants to consider and address include:*
- *Membership of a Pub/Club watch scheme approved by South Yorkshire Police*
  - *Membership of Licence Watch*
  - *Membership of the 'responsible retailer' scheme and adoption of codes of practice*
  - *The use of toughened glass or plastic drinking glasses*
  - *Promoting responsible drinking*
  - *Provision and standard of CCTV*
  - *The use and number of door supervisors registered with the Security Industry Authority*
  - *Search procedures*
  - *Amount of seating to be provided*
  - *Training to be given to staff in crime prevention and drug awareness measures*
  - *Dispersal policies*
  - *Measures to be taken to prevent the use / supply of illegal drugs*
  - *Procedure for risk assessment and drinks policy of alcohol promotions*
- 7.6 *The above examples are neither exhaustive nor mandatory.*
- 7.7 *Membership of licence watch is considered a positive step by those with responsibility under the Licensing Act 2003 and is evidence of commitment to compliance with rules and regulations.*
- 7.8 *Membership of the 'Responsible Retailer' scheme is also viewed as evidence of a commitment to compliance and considered a positive step by those with responsibility under the Licensing Act 2003, particularly the adoption of the schemes codes of practice into business activities.*
- 7.9 *In terms of promoting responsible drinking and preventing irresponsible promotions this is covered by paragraph 15.1 and Portman Group code of practice on packaging and point of sale advertising. Furthermore enforcement agencies, responsible authorities and the Primary Care Trust will work in line with the enforcement protocol to detect, investigate and prevent irresponsible*

*drinking promotions. A responsible authority could request a review of a premises licence if sufficient evidence of a failure to promote one of the four licensing objectives arises from such promotions*

- 7.10 Full details about registration with the Security Industry Authority can be found on the Security Industry Authority website at [www.thesia.org.uk](http://www.thesia.org.uk)
- 7.11 The licensing authority support the aims of Pub and Club Watch schemes. Pub and Club Watch Schemes are designed to discourage troublemakers from pubs and clubs in the town by information sharing and are also a useful body to represent licensees. Persons responsible for the day to day management of any premises where alcohol is available for sale or supply and consumption on those premises are strongly recommended to be a member of and fully participate in a Pub & Club Watch Scheme or any similar scheme approved by the South Yorkshire Police.
- 7.12 Conditions may be attached to Premises Licences and Club Premises Certificates, in order to promote the prevention of crime and disorder as a licensing objective, and will, so far as possible, reflect local crime prevention strategies.

## 8. **PUBLIC SAFETY**

- 8.1 The licensing authority recognises that licensed premises will cover a wide range of premises and activities, each with their own particular safety risks/issues.
- 8.2 The premises must be constructed or adapted and operated to safeguard occupants against those risks/issues.
- 8.3 The licensing authority expects applicants to provide in their application an operating schedule, which satisfactorily addresses these risks/issues.
- 8.4 Applicants for a licence or certificate under this legislation are reminded that one of the four licensing objectives is Public Safety and will therefore be required to demonstrate to the satisfaction of the licensing authority in their operating schedule how they intend to deal with this issue.
- 8.5 Applicants are advised to seek guidance from the Council's Neighbourhood Services on Rotherham 01709 823161, and from South Yorkshire Fire and Rescue on 01142532825 / 01142532822 or via [amtaylor@syfire.org.uk](mailto:amtaylor@syfire.org.uk) or [cmellors@syfire.org.uk](mailto:cmellors@syfire.org.uk) or to engage their own consultant.
- 8.6 The steps to be taken to promote public safety as an objective will be a matter for each applicant to consider, depending upon the nature of the premises and the licensable activities for which a license is sought. These steps will therefore differ from premises to premises.



- 8.7 Examples of measures that the licensing authority may expect applicants to consider and address include:

- The number of door supervisors
- Use of equipment and special effects
- Provision and standard of CCTV
- The use of toughened glass and plastic drinking glasses
- Availability of free drinking water
- Evacuation procedures
- Fire training
- Occupancy figures
- Ensure the premises remain free of broken glass

- 8.8 The above examples are neither exhaustive nor mandatory.

- 8.9 In certain premises where existing legislation does not provide adequately for the safety of the public, club members or guests the licensing authority may require the provision of Electrical Safety Certificates, Gas Certificates, Fire Safety Certification, Risk Assessments, Health and Safety Policy including safe capacities appropriate for the type of premise and usage or other certificates or documents necessary to promote the public safety objective.

- 8.10 The licensing authority may attach conditions to licences to promote the Public Safety Objective and to promote general safety.

## 9. **SAFER CLUBBING**

“Safer Clubbing” concerns drugs and nightclubs. The Home Office, in conjunction with the Department of Health and the DCMS, has also produced the Safer Clubbing Guide that provides comprehensive new advice for nightclub owners, dance event promoters and existing local authority licensing departments on how to ensure the health and safety of anyone attending dance events in England. The Guide can be viewed in full on [www.drugs.gov.uk](http://www.drugs.gov.uk)

## 10. **SAFER CLUBBING IN CLUBS**

- 10.1 The Government has outlined its commitment to addressing drugs in clubs in 1998 in its strategy “Tackling Drugs to Build a Better Britain”. In 2001 the Home Office and the London Drug Policy Forum produced guidance entitled “Safer Clubbing” which, building on the earlier success of “Dance Till Dawn Safely”, was nationally welcomed and proved an extremely useful document for licensing officers, club managers and promoters. The aim of reducing the potential harm through better management of dance venues was affirmed in the 2003 “Updated Drug Strategy” which may be viewed with the “Safer Clubbing” at [www.drugs.gov.uk](http://www.drugs.gov.uk)

- 10.2 A key element of the strategy describing in “Safer Clubbing” is the use of necessary and appropriate licensing conditions to control the environment at

relevant premises. A check-list of the most important measures described in “Safer Clubbing” are produced in Annex ‘E’ (modified to refer to the provisions of the 2003 Act). This licensing authority commends this document for use by the Police, all responsible authorities and all authorised persons under the 2003 Act. Although the checklist refers to the role of club owners, managers and event promoters is to ensure that all aspects of their venue are designed and run in ways which maximise the safety of customers, performers and staff, the licensing authority commends the use of the checklist by owners, managers and event promoters at places other than clubs.

## 11. **DISABLED PEOPLE**

- 11.1 Applicants are reminded of the duties imposed by the Disability Discrimination Act 1995. Applicants are expected to obtain their own advice on these duties and may contact the Disability Rights Commission in that regard.
- 11.2 The licensing authority recognises both the importance of proper steps to ensure the safety of people with disabilities at places of entertainment and the need to avoid the imposition of conditions to a licence which would enable an operator to justify the exclusion of persons with disabilities from the premises by reference to such conditions.

## 12. **OTHER MECHANISMS**

- 12.1 It is recognised that once away from the licensed premises; a minority of consumers could behave badly and unlawfully. To enable the general public to appreciate the breadth of the policy for addressing these problems it aims to indicate other mechanisms outside the licensing regime for addressing such issues. These include the use of:
- planning controls
  - partnership initiatives to create a safe and clean town centre such as taxi marshalling, a late night integrated transports scheme and id scanning
  - the provision of CCTV surveillance
  - assessment of taxi ranks
  - a review of hackney carriage limitation policy
  - designated ‘alcohol exclusion zones’
  - Alcohol Disorder Zones and drinking banning orders
  - Violent Crime Reduction Act 2006
  - Police enforcement of general law concerning disorder and anti social behavior, including the use of issuing fixed penalties
  - the prosecution of any personal licence holder or staff member who is selling alcohol to people who are drunk
  - the power of the police and other responsible authorities and interested parties including local residents to request a review of a premises licence

- the Police power to close down instantly for up to 24 hours any licensed premises or temporary event on the grounds of disorder, the likelihood of disorder or noise emanating from the premises causing a *nuisance*

12.2 In addition to these mechanisms the licensing authority and other agencies will use other enforcement tools to address problems, including:

- *Enforcement of licence breaches*
- Enforcement of licence conditions
- Investigation of breach of licence conditions and where necessary prosecutions
- Regulation of licensable activity

### 13. **THE PREVENTION OF PUBLIC NUISANCE**

13.1 The licensing authority would remind applicants that a major concern for residents in premises close to licence outlets and a regular cause of complaint is noise nuisance.

13.2 Applicants for a licence under this legislation are reminded that one of the four licensing objectives is the prevention of public nuisance, and applicants will therefore be required to demonstrate to the satisfaction of the licensing authority in their operating schedule how they intend to address this issue. The prevention of public nuisance could include low level nuisance perhaps affecting a few people living locally as well as major disturbance affecting the whole area. It may also include in appropriate circumstances the reduction of the living and working amenity and environment of interested parties (as defined in the Licensing Act 2003) in the vicinity of licensed premises.

13.3 The steps to be taken to promote the prevention of public nuisance as an objective will be a matter for each applicant to consider, depending upon the nature of the premises and the licensable activities for which a license is sought. These steps will therefore differ from premises to premises.

13.4 *Examples of measures that the licensing authority may expect applicants to consider and address include:*

- *The proximity of premises to residential properties, places of worship and noise sensitive premises*
- *Steps to prevent noise nuisance*
- *Steps to prevent disturbance from customers in the vicinity of the premises*
- *Steps to prevent light pollution*
- *Steps to prevent litter*
- *Steps to prevent nuisance from smells*
- *Dispersal policy*
- *Availability of parking*
- *Availability of public transport*

- *Management of customers arriving and leaving the premises*
- *The provision of outside facilities for smoking and steps to prevent associated nuisance and noise disturbance*
- *Measures to prevent associated nuisance and noise disturbance stemming from the provision of any speakers or televisions within these smoking areas*

13.5 The above examples are neither exhaustive nor mandatory.

13.6 Applicants are advised to seek guidance from the Council's Neighbourhood Services on 01709 823172 and/or a suitably qualified Noise Consultant.

13.7 The licensing authority may attach conditions to licences to promote the prevention of public nuisance objective. The licensing authority may impose stricter conditions with regard to noise control in areas which have denser residential accommodation but will not limit opening hours without regard to the individual merits of the application.

#### 14. **THE PROTECTION OF CHILDREN FROM HARM**

14.1 The licensing authority judges the Rotherham Safeguarding Children Board as being the body that represents those who are responsible for, or interested in, matters relating to the protection of children from harm and recognises the Rotherham Safeguarding Children Board as being competent to advise the licensing authority on such matters. Notice of applications should therefore be forwarded to the Rotherham Safeguarding Children Board as one of the Responsible Authorities.

14.2 The wide range of premises that will fall to be licensed under this Act means that children will visit many of these either as part of a family group or on their own.

14.3 Applicants for a licence under this legislation are reminded that one of the four licensing objectives is the protection of children from harm, and that applicants, therefore, will be required to demonstrate in their operating schedule how they intend to address this issue.

14.4 Further guidance on the protection of children from harm is set out in the 'Guidance for good practice' put together by the Rotherham Safeguarding Children Board. This is available as annex E to this policy. Further copies of this document are available from the licensing authority on telephone number 01709 823153 or via email at [licensing@rotherham.gov.uk](mailto:licensing@rotherham.gov.uk)

14.5 *The licensing authority interprets "children and young people" as meaning persons aged under 18.*

14.6 The steps to be taken to promote the protection of children from harm as an objective will be a matter for each applicant to consider, depending upon the nature of the premises and the licensable activities for which a license.

14.7 Applicants can in their submission make it clear that any of the following limitations will be in place for the protection of children from harm.

Note: Age restriction re classification of films  
No access – Sex Shows  
No access – Adult Entertainment

14.8 The Licensing Committee cannot and will not impose any condition requiring children to be admitted to the premises. This will remain a matter for the individual licensee.

14.9 The Act does not prohibit the access of children to licensed premises including those selling alcohol for consumption on the premises. However, the licensing authority may limit the access of children to any premises where necessary for the prevention of physical, moral or psychological harm to them.

14.10 The licensing authority recognises the vast array of entertainment/leisure facilities targeted at family entertainment, these include cinemas, theatres, concert venues, pubs, restaurants, cafes, takeaways, fast food outlets and certain nightclubs.

14.11 The licensing authority encourages applications from licensees that make venues family friendly and safe for children. However, the licensing authority would have concerns about access to children where:-

- There have been convictions for serving alcohol to minors or where there is a reputation for underage drinking;
- There is known association with drug dealing or drug taking;
- There is a strong element of gambling on the premises (but not small numbers of cash prize machines); and
- Entertainment of an adult or sexual nature is commonly provided.

14.12 In order to accommodate children in premises where licensable activities take place the licensing authority will assess each individual case on its own merits and impose certain restrictions where these are considered necessary for the prevention of harm to children. These may include:-

- A restriction on the hours when children may be present (e.g. no children after 9:00 p.m.);
- A restriction on the age of children to be admitted to the premises (e.g. over 14 years of age only);
- A limitation or exclusion of children when certain activities are taking place (e.g. no children when entertainment of an adult or sexual nature is taking place); :

- A requirement for accompanying adults (e.g. all children must be accompanied by a person over 18 years of age); and
- A full exclusion of children when licensable activities are taking place (complete bans are likely to be rare).

14.13 The licensing authority fully support the Rotherham Tobacco Control Strategy.  
**Employing young people in premises**

14.14 When employing young people in licensed premises due regard will be given to the relevant law particularly the Children and Young Persons Act. Further advice on this issue is available from [www.businesslink.co.uk](http://www.businesslink.co.uk).

14.15 The licensing authority expects those premises that employ young people to give due regard to the advice available and ensure sufficient practices are in place to protect them.

### **Children and Cinemas**

14.13 The licensing authority will require licensees to ensure in the case of premises giving film exhibitions that children will be restricted from viewing films unless that film is classified for that age group by the British Board of Film Classification (BFC) or the local authority.

14.14 In the case of premises giving film exhibitions, the licensing authority will require applicants/licensees to include in their operating schedules to the satisfaction of the licensing authority, arrangements for ensuring that children will be restricted from viewing films unless that film is classified for that age group by the British Board of Film Classification or the licensing authority itself.

14.15 In all premises licences and club premises certificates authorising the exhibition of films for the admission of children, the licensing authority will impose a condition restricting the admission only to children who meet the required age limit set out in any certificate issued by the BFC or the licensing authority itself as required by the Licensing Act 2003.

### **Proof of Age**

14.16 *Applicants and licensees should note that the licensing authority are concerned that under 18's are allowed to purchase alcohol and tobacco are frequently involved in drink related disorder and anti social behaviour.*

14.17 *Commitment to the prevention of underage sales of alcohol can be evidenced by the introduction and delivery of effective proof of age schemes. Such measures should aim to ensure that customers will be challenged and not served with alcohol if they are unable to provide an accepted form of proof of age. Any proof accepted should be in line with those set out at paragraph 14.21 to help guarantee authenticity.*

14.18 *To prevent illegal purchases of alcohol and tobacco products the authority recommends that all licensees join a proof of age scheme such as the national proof of age scheme called the “Citizens Card”, schemes accredited with the PASS logo, and ensure that there is prominently displayed in licensed premises “under 18” warning signs. The licensing authority expect that all staff responsible for the sale of alcohol receive information and advice on the licensing laws relating to children and young persons in licensed premises.*

14.19 *The licensing authority also expects licensees have in place robust due diligence measure to prevent the illegal sale of any age restricted products. These measures should include (this list is not exhaustive and serves as a guide only):*

- *Signage - including the statutory notice for tobacco products*
- *Challenge 21 posters*
- *A refusal book*
- *Documented staff training records*
- *Till prompts*
- *Incident books recording data other than refusals*

*Further advice on the selling of age restricted products particularly alcohol and tobacco is available from the Council’s Trading Standards Service telephone number: 01709 334529 or email [trading.standards@rotherham.gov.uk](mailto:trading.standards@rotherham.gov.uk)*

14.20 *Licensees must be aware that if they are convicted of an illegal sale of any age restricted product their licence may be reviewed. Furthermore, licensees should be aware that failure to have in place the necessary due diligence measures could be considered a failure to promote the four licensing objectives.*

14.21 *Details of the forms of proof of age identification deemed as acceptable to South Yorkshire Police may be viewed on the South Yorkshire Police website at [www.southyorks.police.uk](http://www.southyorks.police.uk) The licensing authority recommends that the following types of proof of age identification also be accepted:*

- *Passport*
- *Photo driving licence*
- *Safer Rotherham Partnership “Out of the Blue” Citizens Card*
- *PASS accredited identification*

### **Staffing Levels**

14.22 Where regulated entertainment is to be provided and children will be present on the premises, the licensing authority will impose conditions requiring a sufficient ratio of adult staff to be present on the premises to control the access and egress of children and to protect them from harm. The number of attendants to assist persons entering or leaving the premises (excluding the licensee and/or the premises supervisor) must be stated in the operating

schedule and must be of a level to ensure the safety of those attending the premises.

- 14.23 The 2003 Act details a number of offences designed to protect children in licensed premises. The licensing authority will work with the Police to ensure that the law is enforced.
- 14.24 The licensing authority may attach conditions to licences to protect children from harm. These conditions will be based on the applicants operating schedule and tailored specifically for those premises in relation to this objective.
- 14.25 When employing young people in licensed premises due regard will be given to the relevant law particularly the Children and Young Persons Act. Further advice on this issue is available from [www.businesslink.co.uk](http://www.businesslink.co.uk).

15. **PORTMAN GROUP CODE OF PRACTICE**

15.1 *The Portman Group operates, on behalf of the alcohol industry, a Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks. The Code seeks to ensure that drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years old or older. Complaints about products under the Code are considered by an Independent Complaints Panel and the Panel's decisions are published on the Portman Group's website, in the trade press and in an annual report. If a product's packaging or point-of-sale advertising is found to be in breach of the Code, the Portman Group may issue a Retailer Alert Bulletin to notify retailers of the decision and ask them not to replenish stocks of any such product or to display such point-of-sale material, until the decision has been complied with. The Code is an important weapon in protecting children from harm because it addresses the naming, marketing and promotion of alcohol products sold in licensed premises in a manner which may appeal to or attract minors. This licensing authority commends this Code.*

16. **CUMULATIVE IMPACT**

- 16.1 When considering an application for a licence the licensing authority will not take "need" into account. ("Need" relates to the commercial demand for another licensed premise. It is not a matter for the licensing authority to take into account when determining applications for licences. It is a matter for planning committees and the market to decide upon.) However, the cumulative impact of licensed premises on the promotion of the Licensing Objectives may be considered by the licensing authority.
- 16.2 Although the licensing authority will not consider need it recognises that serious problems of nuisance and disorder can arise where there is a concentration of premises as a result of the increased capacity of those premises taken together and this has a resulting impact on the surrounding area.



- 16.3 Cumulative impact means the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. It is concerned with the serious problems of nuisance and disorder that can arise where there is a concentration of premises and reflects the increasing capacity of all those premises taken together and the resulting impact on the surrounding area. The cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for the licensing authority to consider.
- 16.4 Where the licensing authority receives representations from a responsible authority, or interested party, that an area has become saturated with licensed premises, making it a focal point for large groups of people to gather and circulate, creating exceptional problems of disorder and nuisance over and above the impact from any individual premises, the licensing authority may, where satisfied that the imposition of conditions may not address the issue, adopt a "Special Saturation Policy" of refusing new licences. This is because the area is already saturated with certain types of licensed premises and the granting of any further licences would undermine one of the licensing objectives.
- 16.5 However, such a policy would not be absolute and the circumstances of each application will be properly considered by the licensing authority on its own merits.
- 16.6 The licensing authority will take the following steps in considering whether to adopt a Special Saturation Policy:-
- Identification of serious and chronic concern from a responsible authority or representatives of residents about crime and disorder or nuisance
  - Assessment of the causes
  - Consideration of whether it can be demonstrated that crime and disorder and nuisance is arising and is caused by the customers of licensed premises and if so identifying the area from which problems are arising and the boundaries of that area
  - Adopting a policy about future licence applications from that area
- 16.7 The effect of adopting a Special Saturation Policy would be to create a rebuttable presumption that applications for new premises licences or club premises certificates or material variations will normally be refused, if relevant representations to that effect are received, unless it can be demonstrated that the operation of the premises involved will not add to the cumulative impact already being experienced. Applicants will, therefore, need to address the Special Saturation Policy issues in their operating schedule in order to rebut such a presumption.
- 16.8 A Special Saturation Policy would not relieve responsible authorities or interested parties of the need to make a relevant representation to the

licensing authority before the licensing authority may consider giving effect to the Special Saturation Policy.

- 16.9 The licensing authority will consider representations from responsible authorities and/or interested parties based on the impact on the promotion of the licensing objectives in the licensing authority's area generally of the grant of the particular application before them.
- 16.10 The onus would be on the party making the representation for providing evidence to back up any assertion that the addition of the premises in question would produce the cumulative impact claimed.
- 16.11 The licensing authority recognises and will take into account the diversity of licensed premises and the different impact on the local community of premises with different styles and characteristics. Accordingly the licensing authority recognises that within any such policy it may be able to approve licences that are unlikely to add significantly to the saturation and will consider each application on its own individual merits.
- 16.12 The licensing authority will review any Special Saturation Policy at least every three years to measure its effectiveness and to confirm whether it is still needed.
- 16.13 The licensing authority will not use such policies solely as grounds for removing a licence when representations are made about an existing licensed premise or refuse variations to a licence, except where those variations are directly relevant to the policy, such as an application to significantly increase the capacity.
- 16.14 The licensing authority does not consider that a particular concentration of licensed premises in a particular area is already causing a cumulative impact on one or more of the licensing objectives.
- 16.15 The absence of a Special Saturation Policy does not prevent any responsible authority or interested party making representation on a new application for the grant of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives.

17. **LICENSING HOURS**

- 17.1 The licensing authority recognises that longer licensing hours for the sale of alcohol will avoid large numbers of people leaving premises simultaneously. This should reduce friction at late night fast food outlets, taxi ranks and other sources of transport, which can lead to disorder and disturbance.
- 17.2 The licensing authority will not set fixed trading hours within designated areas. This will prevent significant numbers of people crossing boundaries to seek

premises with later opening hours, with the resulting concentration of disturbance and noise being reduced.

- 17.3 The licensing authority will deal with each application on its own individual merits. However, applicants will be expected to demonstrate in their operating schedule to the satisfaction of the licensing authority how they will promote the four licensing objectives.
- 17.4 Commitment by licence holders to prevent underage sales and irresponsible drinking is welcomed by the licensing authority and seen as key measures responsible retailers can take to protect the public. Such measures form an integral part of the licence process and as such should be reflected in the operating schedule. Furthermore these commitments, can when necessary, inform the process of determining any licensing conditions to demonstrate promotion of the four licensing objectives.
- 17.5 The licensing authority may impose stricter conditions in respect of noise control where premises are situated in mainly residential areas.

18. **SHOPS, STORES AND SUPERMARKETS**

- 18.1 The licensing authority will normally licence shops, stores and supermarkets to sell alcohol for consumption off the premises at any times the premises are open for shopping.
- 18.2 However, there may be good reason for restricting those hours, for example following Police representations made in respect of isolated shops known to be the focus of disorder and disturbance.

19. **CASINOS AND BINGO CLUBS**

- 19.1 Casinos and bingo clubs are the subject of separate legislation with regard to the licensing of gaming – the Gambling Act 2005. When granting, varying or reviewing licences authorising the sale of alcohol for consumption on such premises and/or the provision of regulated entertainment and/or late night refreshment at such premises, the licensing authority should not duplicate any conditions imposed by virtue of such legislation. Where applicants wish to carry on activities licensable under the Licensing Act 2003, they will need to prepare and submit an operating schedule, but in detailing the steps to be taken in promoting the four licensing objectives the applicant may refer to the statutory conditions in respect of the licence granted under the Gambling legislation where relevant. In addition, any conditions which are attached to premises licences should not prevent the holder from complying with the requirements of the Gambling Act and any supporting regulations.
- 19.2 When considering an application for the variation of a premises licence held by a casino or bingo club, the licensing authority will give consideration to the fact that the hours during which gaming may take place on such premises is prescribed by the Gambling Act 2005 and regulations made under it. The

hours during which alcohol may be sold should normally be restricted to lesser hours only where that is necessary for the promotion of the licensing objectives.

**20 CLUB PREMISES CERTIFICATES**

- 20.1 The licensing authority recognizes that non-profit making clubs have made an important and traditional contribution to the life of many communities that their activities take place on private premises to which the public do not generally have access and that they operate under codes of discipline applying to members and their guests.
- 20.2 The licensing authority will bear these matters in mind in determining what conditions should be included in certificates.
- 20.3 In considering any representations from responsible authorities and interested parties the licensing authority will not impose any conditions to a certificate unless it has been demonstrated that they are strictly necessary for the promotion of the Licensing Objectives.
- 20.4 The licensing authority recognises that the indirect costs of conditions attached to certificates will be borne by individual members of the Club and cannot be recovered by passing on those costs to the general public.
- 20.5 The licensing authority will not impose conditions which interfere with the arrangements for granting membership or voting within the Club.

**21 APPLICATIONS FOR TEMPORARY EVENT NOTICES**

- 21.1 Whilst the Licensing Act 2003 provides that any temporary event notice must be given to the licensing authority no later than ten working days notice before the day on which the temporary event period begins, the licensing authority requests that any temporary event notice be given to the licensing authority as early as possible and, if possible at least 28 working days before the day on which the temporary event period begins. This will allow the licensing authority to help organisers of temporary events plan the events safely.
- 21.2 However, the licensing authority recognises that it will not always be possible to give a temporary event notice at least 28 working days before the day on which the temporary event period begins. If it is not possible to give a temporary event notice to the licensing authority at least 28 working days before the day on which the temporary event period begins, the licensing authority strongly encourages temporary event notice givers to give the temporary event notice to the licensing authority at the earliest possible time. However, for the avoidance of doubt the licensing authority cannot and is not attempting to extend the ten working day notice period required by the Licensing Act 2003.

*21.3 Temporary Event Notices received outside of the required minimum 10 days notice will be rejected in order to reduce undue pressure on partners/responsible authorities to carry out their part of the process.*

21.4 In order to avoid the potential for disputes about whether a Temporary Event Notice was served and if so when, givers of Temporary Event Notices are advised to consider service by registered post.

## 22. **RESPONSIBLE AUTHORITIES**

22.1 Applicants for Premises Licences and Club Premises Certificates or variations to Premises Licences and Club Premises Certificates are required to give notice of their application to each of the Responsible Authorities.

22.2 Addresses to which notice of applications should be sent to each of the Responsible Authorities, where appropriate, are:

*Licensing Officer, South Yorkshire Police, Rotherham District HQ, Main Street, Rotherham. S60 1QY*

RMBC, Food, Health and Safety, Neighbourhood Services, Howard Building, College Lane, Rotherham. S65 1AX

RMBC, *Public Protection Unit, Housing &* Neighbourhood Services, Howard Building, College Lane, Rotherham. S65 1AX

RMBC, Planning, Bailey House, Rawmarsh Road, Rotherham. S60 1TD

Rotherham Safeguarding Children Board, c/o Operations Manager Protection and Planning, Children and Families Services, Child Protection Unit, 4<sup>th</sup> Floor, Crinoline House, Effingham Square, Rotherham. S65 1AW

*South Yorkshire Fire and Rescue, Rotherham District Community Safety, Brampton Brierlow Fire Station, Knollbeck Lane, Brampton Brierlow, Barnsley. S73 OTX*

The Health and Safety Executive, Edgar Allen House, 241 Glossop Road, Sheffield. S10 2GW

RMBC, Trading Standards, Neighbourhood Standards, Howard Building, College Lane, Rotherham. S65 1AX

In the case of vessels, the following should also be included:

Navigation Authority  
British Waterway Board  
Environment Agency

Secretary of State

*Additionally the Licensing Authority will also send copies, where necessary, to the:*

- *Relevant Parish Council*
- *Relevant Town Council*
- *Appropriate Area Assembly Partnership Manager*
- *Relevant Ward Councillors*

22.3 Applicants are reminded that the enforcing authority within the meaning given by section 18 of the Health and Safety at Work Act 1974 for any area in which the premises are situated is one of the responsible authorities and that in certain circumstances this will be the Council and in other circumstances will be the Health and Safety Executive. Applicants are advised to contact the

Council or the Health and Safety Executive in cases of doubt as to the correct responsible authority.

22.4 If any notice is sent to any responsible authority at any addresses other than those listed above the licensing authority may deem that the notice has not been given.

### 23. **APPLICATIONS**

23.1 The licensing authority requires all applications to be made in the correct form and in accordance with, and having satisfied, the requirements of the Licensing Act 2003 and the accompanying Regulations.

23.2 Any application not made in accordance with, or not having satisfied the requirements of the Licensing Act 2003 or the accompanying Regulations may be returned to the applicant for resubmission. The licensing authority will not consider that any such application has been properly made and accordingly will not consider that the time limits set out in the Licensing Act 2003 have commenced.

### 24. **INTEGRATING STRATEGIES**

24.1 The licensing authority shall secure the proper integration of this policy with local crime prevention, planning, transport, tourism and cultural strategies by:-

- Liaising and consulting with the South Yorkshire Police, Community Safety Forum and the Crime and Disorder Partnership;
- Liaising and consulting with the Planning and Regeneration authority;
- Liaising and consulting with the Highways authority;
- Liaising and consulting with the Rotherham Town Centre Management Team and the Rotherham Tourism Team;

- Having regard to any future documents issued relating to the Private Security Industry Act 2001, for example liaison or information sharing protocols;
- Liaising and consulting with the Trading Standards Team, for example with regard to test purchasing codes of practice
- Having regard to the Home Office Safer Clubbing Guide

24.2 The licensing authority in dealing with the Licensing Act 2003, will adopt a multi disciplinary approach to ensure proper integration of local and national strategies to promote the licensing objectives.

24.3 This will include working closely with other agencies to ensure proper integration of local Crime, Prevention, Planning, Transport, Tourism and Cultural Strategies.

24.4 The licensing authority will agree protocols with the Police to enable them to report to the Committee responsible for transport matters on the need for swift and safe dispersal of people to avoid concentrations that can produce disorder and disturbance.

24.5 Arrangements will be made by the licensing authority for the Licensing Committee to receive reports from time to time on the:-

- Needs of the local tourist economy
- Cultural strategy for the area
- Employment situation in the area and the need for new investment and employment where appropriate.

24.6 The licensing authority will ensure that reports are sent from the Licensing Committee to the Planning Committee advising them of the situation regarding licensed premises in the area and including the general impact of alcohol related crime and disorder to assist them in the decision making.

## 25. **DUPLICATION**

25.1 The licensing authority recognises that there should be a clear separation of the Planning and Licensing functions. Licensing applications will not be a re-run of the planning application.

25.2 The licensing authority will so far as possible avoid duplication with other regulatory regimes, for example many aspects of Fire Safety will be covered by existing and future legislation.

## 26. **ENFORCEMENT**

26.1 *Once licensed it is vital that premises are operated and maintained in accordance with the Licensing Act 2003, the four licensing objectives and any*

*conditions imposed by the licensing authority. The licensing authority will, therefore, take enforcement action where necessary to ensure this.*

- 26.2 *The licensing Authority will refresh an established enforcement protocol with all responsible authorities and enforcement agencies. This protocol aims to facilitate co-operation and co-ordination between enforcement agencies and responsible authorities in pursuance of the licensing Act 2003 and the partner's duty under Section 17 of the Crime and Disorder Act 1998 to consider crime and disorder reduction in the exercise of all their functions.*
- 26.3 *The enforcement protocol seeks to build upon the good working relationships that exist between the responsible authorities and enforcement agencies. All parties recognise the importance of effective co-operation and liaison to ensure that those with responsibilities under the Licensing Act 2003 can understand and comply with law.*
- 26.4 *Additionally the Council's Trading Standards Service and South Yorkshire Police will continue to deliver responsibilities in line with the 'Memorandum of Understanding' relating to underage sales particularly in the enforcement of provisions of the Licensing Act 2003.*
- 26.5 *The licensing authority will have particular regard to the following principles; the targeting of high risk premises or activities which require greater attention; consistency of approach; transparency and proportionality. Any enforcement undertaken will be in line with the Council's 'Enforcement Policy' which is consistent the Government's 'Enforcement Concordat'. Copies of the Council's 'Enforcement Policy' are available from the licensing authority on telephone number 01709 823153 or via email to [licensing@rotherham.gov.uk](mailto:licensing@rotherham.gov.uk)*
- 26.6 *The licensing authority will operate a light touch inspection regime for well managed and well managed premises. Well maintained and well maintained premises will be able to clearly demonstrate promotion of the four licensing objectives which will include effective measures to address:*
- underage sales*
  - Irresponsible drinking*
  - noise reduction emanating from premises*
  - measures to reduce nuisance associated with the premises*
  - step to protect children and young people from harm*

*This list is not exhaustive and further advice on measures should be sought from the licensing Authority.*

## **27. LIVE MUSIC, DANCING, THEATRE, CIRCUS AND STREET ARTS**

- 27.1 The licensing authority recognises and will take proper account of the need to encourage and promote a broad range of live entertainment, including live music, dancing, theatre, circus and street arts, recognising the wider benefits



for local communities. The potential for limited disturbance in neighbourhoods will always be balanced with these wider benefits and the licensing authority will endeavour to encourage all venues to offer entertainment as far as possible. In determining what conditions should be attached to licences as a matter of necessity for the promotion of the licensing objectives, the licensing authority will be aware of the need to avoid measures that deter live entertainment, especially where the indirect effect of conditions would be to impose costs of a disproportionate nature. Live performance is central to the development of cultural diversity and vibrant, exciting communities, particularly traditional entertainment such as circus and street arts. The licensing authority subscribes to the view expressed in the Guidance to the Act that the absence of cultural provision in any area can lead itself to a loss of community awareness and can expose young people to anti-social activities that damage local communities.

- 27.2 The licensing authority will encourage the Council to seek premises licences for public spaces in the community in its own name. This could include, for example, open spaces, town centre squares, community halls and similar public spaces. If the Council had already obtained a premises licence for such spaces, performers and entertainers would not need to obtain a premises licence or give a temporary event notice themselves in order to perform in accordance with the provisions of that premises licence. Instead they would require permission from the Council as the premises licence holder. The licensing authority expects that any charges related to this permission will be reasonable and proportionate. The licensing authority will also monitor the impact of licensing on regulated entertainment to ensure that only necessary, proportionate and reasonable licensing conditions impose restrictions on such events. Where there is evidence that licensing requirements deter such activities, the licensing authority will consider how to prevent it, and if necessary will change this policy.
- 27.3 Where part of the Council seeks a premises licence from the licensing authority, the licensing committee and the licensing authority's officers will consider the matter from an entirely neutral standpoint.

## **28 PERSONAL LICENCES**

- 28.1 The licensing authority acknowledges the Secretary of State's recommendation that where the police have issued an objection notice as a result of the applicant having an unspent conviction for a relevant or foreign offence, refusal of the application should be the norm unless there are, in the opinion of the licensing authority, exceptional and compelling circumstances which justify granting the application.

## **29. PROMOTION OF RACIAL EQUALITY**

- 29.1 The Race Relations Act 1976, as amended by the Race Relations (Amendment) Act 2000, places a legal obligation on Rotherham Metropolitan Borough Council to have due regard to the need to eliminate unlawful

discrimination; and to promote equality of opportunity and good relations between persons of different racial groups.

- 29.2 The Council has developed a Race Equality Scheme. The Race Equality Scheme makes clear how the Council will meet the Race Relations (Amendment) Act 2000. If you require a copy please contact Luisa Fletcher, Corporate Equalities Unit, Chief Executive's Office, Bailey House, Rawmarsh Road, Rotherham S60 1RU Telephone 01709 822871.

30. **ADMINISTRATION, EXERCISE AND DELEGATION OF FUNCTIONS**

- 30.1 The licensing authority has established a Licensing Committee to administer the wide range of licensing decisions and functions which the Council will be involved in.
- 30.2 The Licensing Committee has delegated certain decisions and functions and established a number of sub committees to deal with them. This will provide an efficient and cost effective service for all parties involved in the licensing function. The licensing authority will ensure that the members of the Licensing Committee are adequately trained to administer the new regime.
- 30.3 The grant of non-contentious applications has been further delegated to officers.
- 30.4 The table on the following page sets out the agreed delegation of decisions and functions to Licensing Committee, Sub-Committees and Officers.
- 30.5 Any such matters delegated in this way will be listed for comment at the next committee meeting.
- 30.6 The agreed delegation of decisions and functions is without prejudice to the ability of officers to refer an application to a sub-committee, or a sub-committee to full committee if considered appropriate in the particular circumstances.

31. **ADVICE**

- 31.1 Advice about whether or not activities require a licence may be obtained from the Senior Licensing Officer, RMBC, Licensing Section, Howard Building, College Lane, Rotherham, Telephone 01709 823163, Fax, 823154 or e mail [trading.standards@rotherham.gov.uk](mailto:trading.standards@rotherham.gov.uk)

32. **APPEALS**

- 32.1 The Licensing Act 2003 does provide for a right of appeal against decisions of the licensing authority (except against the licensing authority's decision that

representations made by an interested party are frivolous or vexatious) to the magistrates' court.

- 32.2 Other than in the case of personal licences, an appeal has to be made to the magistrates' court for the petty session's area (or any area) in which the premises concerned are situated. In the case of personal licences, the appeal must be made to the magistrates' court for the petty sessions area in which the licensing authority (or any part of it) which made the decision is situated.
- 32.3 An appeal has to be commenced by the giving of a notice of appeal to the justice's chief executive for the magistrates' court within a period of 21 days beginning with the day on which the person appealing to the magistrates' court was notified by the licensing authority of the decision to be appealed against.

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## Recommended delegation of functions

<b>Matter to be dealt with</b>	<b>Full Committee</b>	<b>Sub Committee</b>	<b>Officers</b>
Application for personal Licence		If a police objection made	If no police objection made
Application for personal Licence with unspent Convictions		All cases	
Application for premises Licence/club premises Certificate		If a relevant representation made	If no relevant representation made
Application for provisional Statement		If a relevant representation made	If no relevant representation made
Application to vary premises Licence/club premises Certificate		If a relevant representation made	If no relevant representation made
Application to vary designated personal licence holder		If a police objection made	All other cases
Request to be removed as designated personal licence holder			All cases
Application for transfer of premises licence		If a police objection made	All other cases
Applications for Interim Authorities		If a police objection made	All other cases
Application to review premises licence/club premises certificate		All cases	
Decision on whether a complaint is irrelevant, frivolous, vexatious, etc.		Where matter referred by officer	All other cases
Decision to object when local authority is a consultee and not the lead authority		All cases	
Determination of a police representation to a temporary event notice		All cases	

## Rotherham Metropolitan Borough Council - Schedule of Responses to Licensing Policy

## APPENDIX A

Response reference	Respondent	Paragraph and comments	Appraisal	Response
1A	Cllr Robin Stonebridge	3.2 Does reference need to be made to licences granted under the London Government Act 1963 and London Local Authorities Act 1990	No	Paragraph 3.2 amended
1B	“	13.4 Should policy specifically mention steps to prevent nuisance from forms of entertainment in licensed premises.	Yes	Paragraph 13.4 amended
1C	“	23.2 Area Assemblies and Parish Councils to be notified of applications in there areas	This is considered best practice and has been added to the policy	Paragraph 22.2 amended and Parish Councils Town Councils Area Assembly Partnership Managers Relevant Ward Councillors to received copies of applications
2	Cllr Jane Austen	Policy should reflect community priorities and recognise that local knowledge can inform the licensing process	The policy sets out how the Council will delivery its functions under the Licensing Act 2003. It sits alongside key strategic documents which reflect community priorities and local knowledge. Furthermore processes within the licensing regime provide mechanisms for the community and Elected Members as community leaders to raise objections to some licences under the Act.	Paragraph 1.8 amended

<b>Response reference</b>	<b>Respondent</b>	<b>Paragraph and comments</b>	<b>Appraisal</b>	<b>Response</b>
3A	Cllr Colin Barron	7.2 Licensing Authority from time to time will be checking that these objectives are carried out	Commitments made by applicants within operating schedule are an integral part of any licence granted and as such will be referred to in the event of any enforcement action. Failure to maintain these commitments without good reason is a serious issue which could infer a failure to promote one of the four licensing objectives.	Paragraph 7.2 amended.
3B	Cllr Colin Barron	8.7 Dance areas being kept free from broken glass should form part of the list of examples	This list has been revised to include to 'ensure premises remain free of broken glass'	Paragraph 8.7 amended
4A	Town Centre Crime Study – Holden and McAllister – May 2007	Full account should be taken of the models of good practice developed under Sheffield's policy statement including its codes of practice and pool of standards document	These documents were considered as part of the review process.	Learning from these documents forms part of the overall revisions to the policy. Additionally further examples of best practice have been researched and this has also formed part of the overall review.
4B	Town Centre Crime Study – Holden and McAllister – May 2007	The Evening Economy Group should play a key part in this review.	The policy refresh was reported to the Safer Rotherham Partnership 'Safety in the Night Time Economy Group' 11 <sup>th</sup> September 2007	Bodies represented at this meeting have subsequently commented on the policy as outlined in this table of responses

Response reference	Respondent	Paragraph and comments	Appraisal	Response
5A	“	26.3 it may appropriate to consider enforcement concordat	The policy should refer to the Councils ‘General Enforcement policy’ and its adoption of the Enforcement Concordat	Amendments have been made to paragraph 26 and the ‘Enforcement’ section of the policy
5B	Annex D	Changes to parts of this annex relating to ISBN numbers and revised British Standards	Annex’s should be revised to reflect any necessary changes	Annex D amended in line
6A	Rotherham Primary Care Trust	14.4 Onwards – Children should be referred to as young people	The licensing authority interprets ‘children and young people’ as meaning persons under 18	Paragraph 14. amended
6B	“	14.16 Policy should also include illegal purchase of tobacco and additions made to annex b relating to conditions for ‘Protection of Children from Harm’ regarding tobacco sales signage and penalties	Annex’s should be revised to reflect any necessary changes	Paragraphs 14.16 to 14.21 amended  Annex A amended
7	CAMRA – Campaign for Real Ale	Policy should place emphasis on: - Promotion of responsible drinking - Challenge 21	Policy should outline measures licensees should take to prevent irresponsible drinking and prevent underage sales	Paragraphs 14.16 to 14.21 and 15.1 amended
8A	Rotherham Primary Care Trust – Drug and Alcohol Co-ordinator	14.16 / 17.3 Should policy reflect that membership of proof of age schemes and licence watch are positives steps taken by licensee to comply	Yes	Paragraphs 7. 5 t o 7.1 and 14.16 to 14.21 amended

Response reference	Respondent	Paragraph and comments	Appraisal	Response
8B	“	Page 5 of Annex C ‘Conditions relating to prevention of crime and disorder’ – Drinks promotions – do we have a policy around this	Yes. The Licensing Act provides the Licensing Board with the facility to implement necessary and proportionate conditions tailored to individual premises. Such conditions can be imposed to address irresponsible promotions where necessary	No policy change
9A	South Yorkshire Police	Major pieces of legislation relating to licensing matters have not been mentioned e.g. Alcohol Exclusion Zones, Alcohol Disorder Zones Drinking Banning Orders and any other implications of the Violent Crime Reduction Act 2006	Amendments have been made to section 12 ‘other mechanisms’ and 13 ‘the prevention of public nuisance’ in line with the Department for Culture, Media and Sport guidance issued under s.182 of the Licensing Act 2003:	Sections 12 and 13 of policy amended
9B	“	Mention is made of enforcement protocols between Licensing and SYP and Licensing and SYFRS. These should be included as appendices in this document as ‘enforcement’ only receives 4 bland paragraphs	The four paragraphs referred to are in line with the Department for Culture, Media and Sport guidance issued under s.182 of the Licensing Act 2003. However paragraph 26 ‘Enforcement’ has been amended.	‘Enforcement’ amended paragraphs 26 to 26.6
9C	“	Compliance with time limits is essential e.g. TENs. Any received less than the required time limits should be rejected. If this does not occur the policy is placing undue pressure on partners/responsible authorities to carry out their part of the process	In light of these comments all TENs received outside of the required time limit will be rejected from commencement of the revised policy.	Paragraph 21.3 added



Response reference	Respondent	Paragraph and comments	Appraisal	Response
9D	“	Much of the terminology is MAY rather than WILL - a more positive message will be given by changing this type of phraseology throughout the document	Whilst the sentiment of this comment is valued it is necessary to consider the policy serves to act as a guide and therefore seeks to remain objective. The use of the word ‘may’ provides flexibility to act or to not act. The use of the word ‘will’ could be construed as pre-judgement on any case and therefore negatively impact on the success of any enforcement action, particularly the licence review process or the implementation of conditions. Additionally the original draft of the policy was in line with the Department for Culture, Media and Sport guidance issued under s.182 of the Licensing Act 2003 which clearly indicates each case has to be judged on its merits	No policy change
9E	“	A general comment could be made that states that any conditions imposed on a licence etc will be clearly and simply stated and will seek to ensure promotion of the 4 licensing Objectives. Any conditions offered under the 4 licensing objectives on the operating schedule should be transferred on to the premises licence as clearly understood conditions.	This comment is noted. It is recognised that the operating schedules demonstrate commitment to delivery of the 4 licensing objectives and such commitments are an integral part of any licence issued. Therefore failure to maintain such commitment is likely to result in substantial evidence of failure to promote one of the four licensing objectives. This provides the responsible authorities or any interested party with the opportunity to utilise the review process.	No policy change

Response reference	Respondent	Paragraph and comments	Appraisal	Response
9F	“	Licensing Hours - there could be a statement regarding how closing times of premises may be agreed to prevent crime and disorder and link with transport requirements (e.g. taxis)	<p>The Licensing Act 2003 sets out clearly the process for determining conditions for premises licences. The determination of hours as a condition can only be used when there is substantial evidence of a failure to promote one of the four licensing objectives. Therefore it is not proposed to amend the policy.</p> <p>The process of representations does provide the Police with an opportunity to raise concerns regarding hours of opening. These concerns can be discussed with the applicant prior to determination of the application in order to achieve agreement on hours of opening. Additionally in the absence of any agreement the police can relay their representations directly to the licensing committee who will consider these and any other representations when determining the application.</p>	No policy change
9G	“	Does the policy need to make any reference to such issues as Education, Training, Marketing?	The policy serves as a guide to all parties involved in activities covered by the Licensing Act 2003. Whilst there is not direct requirement to refer to 'education, training and marketing' these issues are picked up under the relevant sections in the policy.	No policy change

Response reference	Respondent	Paragraph and comments	Appraisal	Response
9H	“	Para 27.2 suggests that RMBC could approve their own activities that may impact on others e.g. events in All Saints Square without any reference to other partners esp SYP. There needs to be some agreement for prior consultation.	<p>In instances that the Councils applies for premises licences in its own name the Police, as a responsible authority will obtain a copy of this application. This provides then with an opportunity to comment.</p> <p>In instances where a licence is already in place it is recognised that it is good practice to liaise with the Police when particular events are proposed. This issue is noted and when such events are proposed it is intended to make necessary partners aware.</p>	No policy change
9I	“	Correspondence to the Licensing Officer, South Yorkshire Police, Rotherham District HQ, Main St, Rotherham S60 1QY	Changes required to ensure correct information	Policy amended