

**Rotherham Metropolitan Borough Council  
Licensing Act 2003 Statement of Licensing  
Policy**

**2020 - 2025**

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## 1. Introduction

### 1.1 Purpose

1.1.1 This Statement of Licensing Policy explains how the licensing authority will carry out its role under the Licensing Act 2003, during the next five years. During this period the licensing authority will keep the policy under review and may make revisions to the document following consultation with the bodies outlined below.

1.1.2 It will also:

- be used as a guide by members of the Licensing Authority in their decision making;
- inform applicants about how applications will be viewed and how a licensed premises is likely to be able to operate within the area of the Licensing Authority, albeit that each application will be examined and considered on an individual basis;
- inform residents and businesses about how applications will be viewed and how their needs will be addressed;
- Be used to support decisions made by the Licensing Authority when these decisions are challenged in a court of law.

1.1.3 This Policy is normally in place for five years but will be kept under review during that five year period.

### 1.2 Consultation

1.2.1 In developing this Statement, the Licensing Authority has consulted in accordance with section 5 of the Licensing Act 2003. This has included direct consultation with the following:

- South Yorkshire Police,
- South Yorkshire Fire and Rescue Service,
- The authority's Director of Public Health,
- Local responsible authorities identified under the Licensing Act 2003
- Persons/ bodies representative of local premises licence holders,
- Persons/ bodies representative of local club premise certificate holders,
- Persons/ bodies representative of local personal licence holders,
- Persons/ bodies representative of local business and residents,
- Local Town and Parish Councils,
- Local Ward Councillors,
- Local Members of Parliament,
- Members of the general public.

The views and any comments made by the above individuals / organisation have been considered and taken into account in the development of this policy.

### 1.3 Licensable Activities

#### 1.3.1 The licensable activities are:

- the sale of alcohol by retail;
- the supply of alcohol by or on behalf of a club, or to the order of, a member of the club;
- the provision of late night refreshment, limited to hot food or hot drink, between 23:00 – 05:00;
- the provision of regulated entertainment.

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

- 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;
- A performance of dance and similar types of musical or dance related entertainment.

#### 1.3.3 There are a number of exemptions listed in Schedule 2 to the Act namely:

- Film exhibitions solely for the purpose of demonstrating any product, advertising goods or services or providing information, education or instruction or forming part of an exhibit for any museum or art gallery.
- Live or recorded music which is incidental to some other activity which is not a licensable activity.
- Receipt and playing of live television programmes.
- Entertainment or entertainment facilities for the purpose of or incidental to religious meetings or services, or at a place of public religious worship.
- Entertainment or entertainment facilities at a garden fete or similar which is not promoted with a view to private gain.
- Morris dancing or similar or live unamplified music which is an integral part of such a performance.
- Entertainment or entertainment facilities on board a vehicle which is moving.
- Hot food or drinks which contain alcohol, or are supplied free of charge, or are supplied by a registered charity or person authorised by a registered charity or supplied on a moving vehicle.
- Hot drinks supplied by a vending machine.

#### 1.3.4 As a result of deregulatory changes that have amended the 2003 Act, no licence is required for the following activities:

- Plays: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500.
- Dance: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500
- Films: no licence is required for 'not-for-profit' film exhibition held in community premises between 08.00 and 23.00 on any day provided that the audience does not exceed 500 and the organiser (a) gets consent to the screening from a person who is responsible for the premises; and (b) ensures that each such screening abides by age classification ratings.
- Indoor sporting events: no licence is required for an event between 08.00 and 23.00 on any day, provided that those present do not exceed 1000.
- Boxing or wrestling entertainment: no licence is required for a contest, exhibition or display of Greco-Roman wrestling, or freestyle wrestling between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000.
- Live music: no licence permission is required for:
  - A performance of unamplified live music between 08.00 and 23.00 on any day, on any premises.
  - a performance of amplified live music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
  - A performance of amplified live music between 08.00 and 23.00 on any day, in a workplace that does not have a licence, provided that the audience does not exceed 500.
  - a performance of amplified live music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
  - a performance of amplified live music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school or (iii) the health care provider for the hospital.

- Recorded Music: no licence permission is required for:
  - any playing of recorded music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
  - any playing of recorded music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
  - any playing of recorded music between 08.00 and 23.00 on any day, at the non- residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school proprietor or (iii) the health care provider for the hospital.
- Cross activity exemptions: no licence is required between 08.00 and 23.00 on any day, with no limit on audience size for:
  - Any entertainment taking place on the premises of the local authority where the entertainment is provided by or on behalf of the local authority;
  - Any entertainment taking place on the hospital premises of the health care provider where the entertainment is provided by or on behalf of the health care provider;
  - Any entertainment taking place on the premises of the school where the entertainment is provided by or on behalf of the school proprietor; and
  - Any entertainment (excluding films and a boxing or wrestling entertainment) taking place at a travelling circus, provided that (a) it takes place within a moveable structure that accommodates the audience, and (b) that the travelling circus has not been located on the same site for more than 28 consecutive days.

1.3.5 Where de-regulated activities take place on licensed premises, any licence conditions relating to 'live' music or entertainment will be suspended but it is possible to impose new, or reinstate existing, conditions following a review of a premises licence or club premises certificate.

1.3.6 When considering whether an activity constitutes 'the provision of Regulated Entertainment', each case will be treated on its own merits.

1.3.7 There will inevitably be a degree of judgement as to whether a performance is live music or not, so organisers of events are encouraged to contact the Licensing Authority to discuss whether a licence will be required.

1.3.8 It is a criminal offence under section 136 of the 2003 Act to carry on any of the licensable activities listed above other than in accordance with a licence or other authorisation under the 2003 Act. If an unauthorised activity takes place then the Police and local authorities have powers to take action.

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## **2. Fundamental Principles**

### **2.1. Background**

- 2.1.1. This Statement of Licensing Policy is the key document relied upon when delivering the requirements of the Licensing Act 2003. However, all decisions relating to licences will be made on the merits of the individual case, having regard to this policy, including any Cumulative Impact Assessment in place, as part of the decision making process.
- 2.1.2. All applications for new premises licences or variations need to be supported by an operating schedule. The schedule must specify (amongst other things) the steps which the applicant proposes to promote each of the licensing objectives. Each of the licensing objectives is of equal importance; therefore it is important that the applicant gives each of the four objectives paramount consideration.
- 2.1.3. Where appropriate, copies of the application paperwork must be provided to the agencies identified as responsible authorities under the Licensing Act 2003. Details of these agencies can be found in Appendix E to this policy.
- 2.1.4. Any Responsible Authority, or other person, is entitled to make a representation to the Licensing Authority in relation to applications for licenses. Any representation made by these persons must be 'relevant', meaning that the representation must relate to at least one of the licensing objectives and must not be considered frivolous, vexatious or repetitive.
- 2.1.5. It is for the Licensing Authority to determine whether a representation, other than those made by a Responsible Authority, is relevant. The Authority's discretion will be engaged in making this decision as to whether the representation is intending to cause annoyance without reasonable cause or displays a lack of sincerity. Representations can be made in support of, or opposition to, an application and may be made by an individual, body or business that has grounds to do so.
- 2.1.6. Where there are relevant representations against a license being issued, then a hearing before a licensing sub-committee will follow. After the hearing, the sub-committee must, having regard to the representations, take such steps as it considers necessary to promote the licensing objectives. These may include refusing the application or adding to or modifying conditions proposed in the operating schedule.
- 2.1.7. In exercising its discretion, the licensing sub-committee will have regard to (amongst other things) this licensing policy. Therefore, in drawing up their operating schedule, applicants would be well advised to read this policy carefully. Where an operating schedule complies with this policy, it is generally less likely that an interested party or responsible authority will make representations about it. Therefore, compliance with this policy is likely

to assist the applicant to avoid delay and expense of a contested hearing, and the risk of a refusal or the addition of unwanted licence conditions.

- 2.1.8. This is not to say that an application which complies with the policy will necessarily be granted or that an application which does not comply with it will necessarily be refused. Where there have been relevant representations, the licensing authority will always consider the merits of the case, and interfere with the operating schedule only when, and to the extent, necessary to promote the licensing objectives. Nor will blanket or standard conditions be applied without regard to the merits of the individual case. For example, the licensing authority can only interfere with an operating schedule which does not comply with this policy, and where the steps proposed are not sufficient to meet the licensing objectives in the individual circumstances of the case.

## 2.2. **The Licensing Objectives and Responsible Authorities**

- 2.2.1. Where the licensing authority has discretion to deal with an application for a new licence, variation, transfer or review it will do so on the individual merits of the case and by reference to the four licensing objectives which are:

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

- 2.2.2. Where relevant representations have been made the licensing authority may have no alternative but to refuse an application or to attach further conditions unless adequate proposals for addressing these issues are included in the operating schedule. The licensing authority will, as far as possible, assist applicants on how best to adequately address these matters (if this is possible) or advise where further advice and information can be obtained. The licensing authority wishes to encourage applicants to submit fully completed applications in order to reduce unnecessary delays and costs associated with returning application forms or the attendance at hearings.

- 2.2.3. Various factors need to be considered when addressing licensing objectives and the weight attached to each objective will vary depending on the circumstances. Relevant factors will include the size, facilities, design or state of repair (where this may impact in public safety) of the proposed premises; the type and frequency of entertainment to be provided; the location of the premises and its proximity to such places as offices, schools, religious establishments and residential property; and access to public transport or off street parking (where this may be an issue), although this is not an exhaustive list. Applicants will only be expected to address issues that are in their direct control but encouraged to co-operate with official agencies

in establishing precautions for minimising any disturbance etc. caused by patrons away from licensed premises.

- 2.2.4. In most cases, where the responsible authorities and interested parties do not raise any representations about the application made to the licensing authority, the licensing authority will grant the licence or certificate subject only to conditions that are consistent with the operating schedule or club operating schedule and any mandatory conditions prescribed by the Act.
- 2.2.5. The 2003 Act does not require responsible authorities to make representations about applications for the grant of premises licences or to take any other steps in respect of different licensing processes. However, the licensing authority is able to act in its capacity as a responsible authority when it considers it appropriate to make a representation. Such circumstances may include occasions where other responsible authorities have failed to take action and the licensing authority is aware of relevant grounds to make a representation.
- 2.2.6. Each responsible authority has equal standing under the 2003 Act and may act independently without waiting for representations from any other responsible authority.
- 2.2.7. Although not specifically identified as responsible authorities under the Licensing Act 2003, the licensing authority will circulate certain applications to local Town and Parish Councils and invite their comments where appropriate. Such applications will include applications for the grant or variation of licences for premises situated within the in the Town / Parish Council area. Furthermore, a weekly update will be sent to all Town and Parish Councils within the borough listing all active applications.
- 2.2.8. The licensing authority has produced a series of guidance notes that are designed to assist applicants in relation to the licensing objectives. The guidance notes are attached to this policy as Appendix D.

### 2.3. **Balance**

- 2.3.1. The licensing authority will also seek to achieve a balance between leisure / entertainment and the needs of residents and other businesses for an acceptable environment and quality of life.
- 2.3.2. This Policy 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 or where provision has been made for them to do so in the Licensing Act 2003.

## 2.4. **Relevancy**

- 2.4.1. Licensing is about the control of premises and places being used for licensable activities and the vicinity of those premises and places. The terms and conditions attached to various permissions are focused on relevant matters that are within the control of the holders of those permissions. This means those matters occurring at, and in the immediate vicinity of, the premises, and the direct impact they have on nearby residents and businesses.
- 2.4.2. Licensing law is not a mechanism for the general control of anti-social behaviour by individuals once they are beyond the direct control of the individual, club or business holding the licence, certificate or permission concerned.

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### **3. Cumulative Impact**

- 3.1. In support of the Statement of Licensing Policy, the Council is able to identify areas within the Borough where the further granting of licences or variations to licences could impact on the Council's obligations in respect of the Licensing Objectives. This would be through a 'Cumulative Impact Policy'.
- 3.2. This policy can outline Cumulative Impact Zones, where a Cumulative Impact Assessment has taken place, and where the evidence from that assessment shows that the cumulative impact of the licensed premises is having a negative impact one or more of the licensing objectives. A Cumulative Impact Assessment can:

*"... limit the number or type of licence applications granted in areas where the number of licensed premises is causing problems. Such problems typically include crime and disorder or public nuisance caused by large numbers of drinkers being concentrated in one area."*

- 3.3. The concept of Cumulative Impact has been described in the guidance to Licensing Authorities since the commencement of the Licensing Act 2003. However, the Policing and Crime Act 2017 gave Cumulative Impact Assessments a statutory position within Section 5A of the Licensing Act 2003.
- 3.4. In some areas where the number, type or density of licensed premises is high, serious problems of nuisance and disorder may occur directly outside, or within the vicinity of those premises. These problems generally occur as a result of alcohol, with a large number of people under the influence of alcohol being concentrated in a small area.
- 3.5. A large concentration of vulnerable people may also attract criminal activities such as drug-dealing, pick pocketing and robbery. Local services cannot always meet the demand posed by the concentration of users, such as street cleaning and public transport. This can lead to issues such as littering, public nuisance, street fouling, traffic congestion and parking.
- 3.6. Although these problems are more likely to occur in town centres, they may also occur in other urban centres or suburb, for example smaller high streets with a high concentration of licensed premises.
- 3.7. There are a number of mechanisms for addressing concerns about the behaviour of those individuals within and around licensed premises which are able to work alongside the licensing policy:
  - Planning control and enforcement
  - Licence or pub watch
  - Business Improvement Districts
  - Community Protection Orders
  - The use of CCTV

- Public Space Protection Orders
- Police tasking concerning disorder and anti-social behaviour in specific areas.
- Prosecution for the offence of selling alcohol to a person who is drunk
- Late Night Levy
- Early Morning Restriction Orders
- Other licensing conditions

### **Cumulative Impact Assessments**

3.8. A Cumulative Impact Assessment may be published by a licensing authority to limit the number or type of licensed premises granted in a specific area where there is evidence to show that the density of licensed premises is having a cumulative impact and undermining the licensing objectives.

3.9. Legislation states that a formal consultation process must take place with the following groups:

- The Chief Officer of Police for the area
- The Fire and Rescue Authority for the area
- The local authority's Director of Public Health
- Representatives of local premises licence holders
- Representatives of local club premises licence holders
- Representatives of businesses and residents in its area.

3.10. When consulting on a cumulative impact assessment, the persons listed above must be provided with the following information:

- The reasons why the licensing authority is publishing a CIA;
- a general indication of the part or parts of its area which it is considering describing in the assessment;
- whether it considers that the assessment will relate to all premises licence and club premises certificate applications and variation applications, or only to those of a particular kind described.

3.11. The Council must review any Cumulative Impact Assessment every three years, as required by legislation. The Council is able to review areas more frequently if it considers this necessary.

### **Cumulative Impact Zones**

3.12. A Cumulative Impact Assessment has shown that the density of licenced premises granted in the following areas are having a cumulative impact and causing problems in the area which are undermining the licence objectives.

## **Wickersley**

- 3.13. The Council have assessed statistics from the police, ambulance service, environmental health and public health for an area designated in Wickersley, which has determined that the zone is suffering from the cumulative impact of on-licensed, and on and off licensed premises.
- 3.14. The evidence contained within the Cumulative Impact Assessment can be found within the Council's Cumulative Impact Policy, alongside a map showing the exact location of the Cumulative Impact Zone.
- 3.15. In this area, there are problems surrounding anti-social behaviour, low-level crime, public nuisance including noise and ambulance related alcohol call outs in a mainly residential area. These problems are being suffered by the people living within this area.
- 3.16. It would be inconsistent with the Council's duty to promote the licensing objectives to grant new, or variations to, applications for any premises which seeks to apply for an on-premises licence, or on and off premises licence.

## **Applications within a Cumulative Impact Zone**

- 3.17. Publishing a cumulative impact assessment sets a strong statement of intent about the approach that will be taken when considering applications for the grant and variation of premises licenses or club premises certificates in the area described. The Council will have regard to the assessment when determining or revising the Statement of Licensing Policy, as well as when making determinations alongside the Section 182 guidance.
- 3.18. Any cumulative impact assessment does not change the fundamental principles of which licensing decisions are determined and the Council reserves the right to grant an application where it is appropriate and demonstrates through the operating schedule that the applicant would not add to the cumulative impact of the area in which they are applying.
- 3.19. However, the Council would expect an applicant to consider the potential cumulative impact of their licence on local issues when setting out the steps that will be taken to promote the licensing objectives. An applicant must be able to demonstrate to the Council and other responsible authorities that granting a new or varied licence will not add to the cumulative impact already being experienced within the area.
- 3.20. This policy does not create a ban on the grant of licenses within the assessed zone and the Council can only consider cumulative impact to refuse an application if one or more relevant representations are made. Where no representation is received, the Council must grant the licence, as stated in the Licensing Act 2003.

3.21. Therefore, a cumulative impact assessment does not reduce the onus placed on responsible authorities, local residents or residents' groups in making representations where they consider this necessary in order to uphold and promote the licensing objectives. This policy gives a basis of information which can be used when making a representation; a representation can be made just on the fact that an assessment has been published. Any person making a representation must be able to demonstrate that the representation withstands the scrutiny which it will be subjected to at a Licensing Committee, or sub-committee meeting.

3.22. The obligation to demonstrate that the application is suitable for the area is placed onto the applicant. An applicant must suitably evidence that their proposal will not add to the cumulative impact within the area. To assist this process, the Council recommends early consultation with responsible authorities. This can be achieved separately with each responsible authority, or through the Council's Licensing service.

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#### **4. Licensing Hours**

- 4.1. In making decisions that relate to the hours for which a premise is licensed, consideration will be given to the licensing objectives of the prevention of crime and disorder and the prevention of public nuisance.
- 4.2. Each case will be decided on its individual merits.
- 4.3. It is recognised that longer licensing hours are important to help 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.
- 4.4. 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.
- 4.5. In making decisions in respect of licensing hours, consideration will be given to representations made by residents and businesses in the vicinity of the premises, their representatives, and the police as well as the applicant. This may lead to the imposition of stricter conditions on noise controls in areas having more sensitive residential accommodation such as residential care homes or sheltered housing schemes.
- 4.6. Fixed trading hours will not be set for particular geographical areas. It should be stressed that each case will be decided on its own merits based on whether the licensing objectives can be met.

## **5. Promotion of the Licensing Objectives**

- 5.1. The Licensing Authority is required to carry out its functions so as to promote the licensing objectives. This includes its role in:
- Granting or refusing applications for licences;
  - Reviewing licences;
  - Imposing conditions;
  - Deciding how to integrate with other strategies of the council.
- 5.2. Licence applications should be accompanied by an operating schedule that includes the steps that the licensee proposes to take to promote the licensing objectives. The Licensing Authority expects that the process of developing the operating schedule will include a thorough risk assessment with regard to the licensing objectives, which will assist in identifying those steps.
- 5.3. Applicants for licences are urged to discuss their proposals with the responsible authorities prior to submitting an application. This will enable them to seek advice on the production of their operating schedule and may avoid the need for a hearing in response to representations made by the authorities. The relevant authorities are:
- Prevention of Crime and Disorder – South Yorkshire Police, RMBC Trading Standards, Home Office Immigration Enforcement (on behalf of the Secretary of State).
  - Public Safety – South Yorkshire Police, South Yorkshire Fire and Rescue, the Council's Environmental Health Officers with responsibility for Health & Safety
  - Public Nuisance – the Council's Environmental Health Officers with responsibility for Pollution Control
  - Protection of Children from Harm – Children's Safeguarding Board, South Yorkshire Police, Trading Standards, and Public Health.
- 5.4. Further information is provided in the following sections of this policy on a variety of steps to promote the licensing objectives that the Licensing Authority will support. However, the Licensing Authority will not impose them indiscriminately. It is for the applicant to decide which of these are appropriate for inclusion in the operating schedule for the premises, based on the exact circumstances involved. The Licensing Authority will however take this policy into account when undertaking its functions under the 2003 Act.

## **6. The Prevention of Crime and Disorder**

- 6.1. The licensing authority will have regard to the likely effect of the exercise of its licensing function on, and do all it can to prevent crime and disorder throughout the borough. In so doing the licensing authority will have regard to the likely impact of licensing and related crime and disorder in the borough when considering the location, operation and management of all proposed licence applications, reviews and variations, when its discretion has been engaged.
- 6.2. An applicant will be expected to demonstrate in his Operating Schedule how he intends to promote the prevention of crime and disorder. The licensing authority will only expect applicants to take such action or precautions that are in their control, but would normally expect applicants to have taken appropriate advice from the Police before making their application. All applicants are therefore advised to seek advice and guidance from South Yorkshire Police and look to the Police as the main source of advice in relation to Crime and Disorder when addressing these issues. Applicants are also advised to take account of local planning and transport policies, tourism, neighbourhood working, cultural implications and crime prevention strategies. Details of where these policies can be viewed can be found in the Guidance to Applicants.
- 6.3. Crime prevention measures will where appropriate include suitable training of all bar staff and security personnel to prevent the use and supply of drugs and other illegal substances within the licensed premises and to ensure that incidents of crime and disorder in the premises are reduced to a minimum.
- 6.4. Applicants for personal licences will be expected to have both knowledge of the relevant licensing law and also the practical implications of how this relates to their responsibilities.
- 6.5. Applicants for premises licences will be expected to be fully aware of their legal responsibilities for ensuring adequate supervision and management of licensed activities at all times. They will also be expected to consider issues relating to 'designing out' potential problems. These may, where appropriate, include provision of appropriate lighting outside the premises, installation of CCTV cameras, non-shatter glass on windows etc.
- 6.6. All door staff working wither under contract for a security company or employed 'in-house' will be required to be registered under the Private Security Industry Act 2001 and regulated by the Security Industry Authority. Door staff are defined as those responsible for security, protection, screening the suitability of persons entering the premises or conflict management in places such as pubs, clubs and other licensed premises open to the public. Further information can be found at <http://www.the-sia.org.uk>.

- 6.7. Applicants are also expected to address the issue of how to anticipate and minimise any potential disorder that might be caused in the vicinity of their premises. Issues concerning liaison with local bus, taxi and private hire companies should be considered both as a means of preventing public nuisance and crime and disorder on departure and also as a way of promoting the safety of their own staff. The licensing authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the area concerned when addressing the prevention of crime and disorder in their application. The licensing authority acknowledges that licensing law is not the primary mechanism for general control of nuisance and anti-social behaviour by individuals once they are away from licensed premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned, although it is a key aspect of such control.
- 6.8. The licensing authority expects that under normal circumstances the person responsible for any premises where alcohol is available for sale or supply and consumption on those premises will be a member of an appropriate licence watch or similar scheme which is approved by the licensing authority and South Yorkshire Police (where such a scheme exists). A full list of current schemes can be obtained from the Licensing or Police Authority on request. Such schemes are designed to discourage troublemakers from pubs and clubs throughout the borough by information sharing and are a useful body to represent licensees.
- 6.9. The licensing authority expects applicants to state within their Operating Schedule the occasions on which they determine the need to use toughened glass or polycarbonate glasses in their premises to limit sale and supply of bottled drinks to diners at tables. Examples of where the Licensing authority may encourage these measures can be found in Appendix A - Model Conditions.
- 6.10. The licensing authority expects applicants to provide secure storage for used/discarded drinks bottles to prevent their use as offensive weapons.
- 6.11. The licensing authority expects a risk assessment to be carried out in relation to dance floors to ensure a safe environment. The risk assessment should normally consider adequate supervision of dancers, a safe location for the DJ or band and use of special effects and lighting.
- 6.12. To further assist in the promotion of the crime prevention objective, further conditions may be attached to a premises licence. Such conditions will normally arise out of the applicant's operating schedule and/or be drawn from the licensing authority's model pool of conditions as may be appropriate for the particular premises.
- 6.13. A significant part of Rotherham town centre is the subject of a Public Spaces Protection Order (PSPO). This is an area where there is a power for the

Police to request someone to refrain from drinking to address nuisance or annoyance. Failure to comply with this request is a criminal offence. To support this, the Licensing Authority considers it appropriate for Rotherham town centre premises to adopt a policy of prohibiting open containers of alcohol being taken from the premises. This approach will also prevent the use of these containers as offensive weapons.

- 6.14. The Licensing Authority will support an approach to the marketing of alcohol and the management of licensed premises that promotes the responsible consumption of alcohol. Irresponsible promotions are against the law and the Policy imposes a mandatory condition that staff must not carry out, arrange or participate in any irresponsible promotions.
- 6.15. Determining whether a drinks promotion is irresponsible or not will require a subjective judgement. The sale of alcohol to persons who are already drunk is an offence under the Act. The incidence of drunken people present at premises may provide an indication that the marketing and sale of alcohol at the premises is not being approached in a responsible way.
- 6.16. There are a wide range of other steps which may be appropriate in particular circumstances including:
- Prohibiting the sale of alcohol in bottles for consumption on the premises, to prevent their use as weapons
  - Requiring drinking vessels to be plastic or toughened glass
  - Requiring the provision of retail radio's to connect premises supervisors in town centres to the police
  - Appropriate measures to prevent overcrowding in parts of the premises
  - The provision of staff to control admission and to control customers inside the premises.
  - The adoption of an age determination policy such as Challenge 25 to prevent underage sales
- 6.17. The Council also recommend licence holders put in place measures to reduce gender-based violence, intimidation and harassment for all staff and customers. This may include 'Ask for Angela' and/or specific training for staff.

## 7. Public Safety

- 7.1. The licensing authority recognises that different types of premises will present differing issues of public safety. For example, the safety considerations of public houses, nightclubs, restaurants, hotels (with entertainment), theatres and cinemas will raise issues peculiar to them. However, there are also many common themes. The licensing authority will work with South Yorkshire Fire and Rescue and other agencies to secure consistency and a standardised method of carrying out risk assessments which may be used where appropriate.
- 7.2. However, the prime responsibility for securing the safety and wellbeing of their customers and staff is placed on those providing entertainment, refreshment or events. Operating schedules are therefore expected to identify both the risks and precautions that will need to be taken to minimise or eliminate these. Guidance notes to assist applicants can be found in the appendices to this Policy.
- 7.3. Any conditions the licensing authority may need to attach to licences to address safety issues will seek to secure the most cost effective solution without prejudicing public safety, taking account of the nature of the premises and the scale or type of entertainment to be provided.
- 7.4. The licensing authority recognises that there are five key areas to address in ensuring the environment for a dance event is safe:
- Prevention of overcrowding
  - Air conditioning and ventilation
  - Availability of drinking water
  - Further measures to combat overheating
  - Overall safety
- 7.5. Applicants who intend to promote dance events are expected to give details of how they intend to address each of the following areas:
- Prevention of overcrowding
  - Air conditioning and ventilation
  - Availability of drinking water
  - Further measures to combat overheating
  - Overall safety
- 7.6. Further information and advice on dance events can be obtained from the publication "Safer Nightlife". This guide can be viewed at:  
[http://newip.safernightlife.org/pdfs/digital\\_library/uk\\_safer\\_nightlife\\_guideline.pdf](http://newip.safernightlife.org/pdfs/digital_library/uk_safer_nightlife_guideline.pdf)

- 7.7. Applicants are also expected to address positively the need to secure reasonable access and safety for people with disabilities who wish to visit their premises. In this regard licensees are reminded of their obligations under equalities legislation.
- 7.8. Specific types of adjustments licensees should consider in order to comply with their obligations under equalities legislation, depending on the type of premises concerned include:
- Making adjustments to the premises such as improving access routes and ensuring that they are free of clutter or redecorating part of their premises to provide better to contrast to someone with a visual impairment;
  - Providing appropriate or additional training for staff who may come into contact with customers to help them provide services for people with different types of disabilities;
  - Acquiring or using modified equipment, for example a telephone with text display for use by deaf customers; and
  - Making service literature and instructions more accessible for example providing a Braille version for blind customers and ensuring service, reception and payment points are designed to facilitate ease of use by all;
  - Accessible sanitary provisions
- 7.9. Where relevant representations have been received, the licensing authority may require evidence that items in respect of the building structure included have been considered by a suitably qualified person. In order to avoid relevant representations, applicants may consider the provision of relevant safety certificates such as Electrical Safety Certificates, Gas Certificates, Fire Safety Certification, appropriate Risk Assessments and/or policy documentation including safe capacities appropriate for the type of premise and its usage.
- 7.10. The licensing authority encourages adequate numbers of appropriately trained first aid staff to be on the premises. Where first aiders are employed they must be qualified to a standard recognised by a voluntary service organisation such as St Johns Ambulance, if they are to treat members of the public. Arrangements must be in place for ongoing first aid training and adequate medical supplies to be available.
- 7.11. Where its discretion is engaged the licensing authority may attach conditions to licences to promote the Public Safety Objective. These conditions will be based on the applicant's operating schedule and/or drawn from the model pool of conditions relating to this objective.

## **8. The Prevention of Public Nuisance**

- 8.1. The licensing authority will have regard to the likely effect of the exercise of its licensing function on, and all it can do to prevent public nuisance.
- 8.2. The licensing authority accepts that different people may have differing levels of tolerance to the unavoidable ordinary activity involved in the provision of entertainment or refreshment. The licensing authority also acknowledges the role that a vibrant and varied entertainment scene can have in promoting tourism, leisure opportunities, and on the local economy.
- 8.3. The licensing authority will however, look carefully at the impact of licensed premises and events with regards to potential noise and disturbance to nearby local residents or businesses. It is also recognised that the later the entertainment takes place, the greater will be the need to take steps to ensure that activities do not cause unreasonable disturbance.
- 8.4. Applicants are therefore expected to consider such factors as noise insulation, noise attenuation measures, the positioning of amplification equipment etc. Advice on such issues can be obtained from the licensing authority's Community Protection Officers. The licensing authority considers that prevention is better than the cure and it may be possible to design measures for minimising disturbance and therefore complaints about noise pollution.
- 8.5. Applicants will also be expected to address the issue of encouraging orderly conduct of customers leaving their premises. Properly trained door and other staff can assist in this and may be required by condition of licence. Appropriate announcements or reminder notices may also be of assistance. The establishment of good working relationships with transport operators can also often assist in encouraging clientele to leave their premises in an orderly manner.
- 8.6. The licensing authority strongly recommends that operators establish good communication links with the Police to ensure that where difficult situations develop inside premises and are likely to cause disturbances outside, that preventative action can be taken before the problem arises.
- 8.7. Where its discretion is engaged the licensing authority will seek to balance the rights of local residents and others with those wishing to provide entertainment or other activities. Conditions will be attached and, where necessary, tailored to address public nuisance issues that may arise in particular premises.
- 8.8. In determining licence applications where relevant representations have been received, the licensing authority will consider the adequacy of measures proposed to deal with the potential for undue disturbance, public nuisance and / or anti-social behaviour having regard to all the circumstances of the application (including the combinations of licensable



activities). The licensing authority will particularly consider the steps taken or proposed to be taken by the applicant to prevent noise and vibration escaping both from the premises and from external sources under the control of the licensee. Such noise sources may include:

- Amplified and non-amplified levels;
- Singing and speech;
- Disposal to waste and bottle bins;
- Plant and machinery;
- Food preparation, the cleaning of premises and equipment;

8.9. Measures to combat such noise / vibration sources may include the installation / adoption of soundproofing, air conditioning, to allow windows to be kept closed, sound limitation devices, cooling down periods with reduced music levels at the end of the night and adopting hours of operation appropriate to the activities in question and the location.

8.10. The licensing authority will expect applicants and licence holders to have due regard to the following:

- The use of gardens, play areas, car parks, access roads, other open-air areas and temporary structures.
- The steps taken or proposed to be taken by the applicant to prevent disturbance by customers arriving or leaving the premises, including the consideration of the cumulative effect of this might have in areas with other licensed premises nearby. This will be of greater importance between 11 pm and 7 am than at other times of the day.
- The steps taken or proposed by the applicant to prevent queuing (either by pedestrian or vehicles). If some queuing is inevitable then they should be formed away from neighbouring premises or be otherwise managed to prevent disturbance or obstruction, for example, making provision for queuing inside the premises;
- The steps taken or proposed by the applicant to ensure staff leave the premises quietly;
- The arrangements made or proposed for parking by patrons and the effect of parking by patrons on local residents including the slamming of vehicle doors, vehicle horns, vehicle stereos, noise from engines idling, and vehicle exhaust fumes;
- The arrangements for liaising with providers of public transport during the proposed hours of opening (including taxis and private hire vehicle operators);
- Whether the licensed taxi or private hire vehicles serving patrons are likely to disturb local residents and the measures proposed by the applicant to prevent disturbance from this source;
- The installation of any special measures where licensed premises are or are proposed to be located near sensitive premises such as nursing homes, hospitals, hospices or places of worship;

- The suitability of delivery and collection areas and the times, frequency and method of operation, to the extent that these facilities are in the control of the licensee;
- The location of external lighting (including security lighting that is installed inappropriately) and the siting and operation of internal or external illuminated displays or illuminated advertising;
- Whether the premises would lead to increased refuse storage or disposal problems, including additional litter (e.g. fly posters, illegal placards, food waste and food packaging, cans, bottles, advertising 'flyers') in the vicinity of the premises and the measures proposed by the applicant to control this;
- The steps taken to prevent the release of odours passing to neighbouring premises.

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

8.12. Applicants are advised to seek guidance from a suitably competent noise consultant.

8.13. Where its discretion is engaged the licensing authority may attach conditions to licences to prevent public nuisance. These conditions will be based on the applicant's operating schedule and drawn from the model pool of conditions relating to this objective.

## **9. The Protection of Children from Harm**

### **9.1. General**

- 9.1.1. The Licensing Authority will carry out its responsibilities so as to promote the licensing objective of protection of children from harm. In doing so it will take into account representations made by the Children's Safeguarding Board on each application.
- 9.1.2. The Authority is committed to preventing and tackling all forms of Child Exploitation, including Child Sexual Exploitation (CSE) and Child Criminal Exploitation (CCE). Rotherham's Children Safeguarding Board can give support, advice and training for premise operators and staff. Operators are encouraged to engage with the Safeguarding Board to include appropriate conditions and provide the necessary training to staff, covering how to deal with child protection, or perceived problems relating to children in or around the premise.
- 9.1.3. It is recommended that licence holders are always aware of potential Child Exploitation and report this if they see something that does not look correct. This can be done through making contact with the police, or the Authority's Multi-Agency Safeguarding Hub (MASH). Further information on Child Exploitation awareness is available from both the Police and Licensing Authority's Licensing Services.
- 9.1.4. Licences will be sought from a wide variety of premises including theatres, cinemas, restaurants, concert halls, cafes, late night takeaways, pubs, bars and nightclubs. It is not possible for a licensing policy to anticipate every situation where children are at risk. The Licensing Authority 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.
- 9.1.5. The Authority have regard to the ambition for Rotherham to be a child-friendly borough, creating a great place to grow up in; where children, young people and their families have fun and enjoy living, learning and working. The licensing policy is just one tool which can be used to influence this and can ensure that all licensed activities within the borough sufficiently take the needs of young people into account.
- 9.1.6. The Licensing Authority will not seek to limit the access of children to licensed premises unless it is necessary to protect children from harm.
- 9.1.7. The following areas would give rise to particular concern in respect of children:
- Where entertainment or services of an adult or sexual nature are commonly provided;

- Where there have been convictions of members of the current staff at the premises for serving alcohol to minors or with a reputation for underage drinking.
- Where there has been an 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 or of bingo).

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

9.1.9. The range of options available to limit the access of children to licensed premises that may be imposed by the Licensing Authority include:

- Limitations on the hours where children may be present;
- Age limitations (below 18);
- Limitations or exclusions when certain activities are taking place;
- Limitations on the parts of premises to which children might be given access;
- Requirements for an accompanying adult;
- In exceptional cases, exclusion of people under the age of 18 from the premises when any licensable activities are taking place.

## 9.2. **Children and Cinemas**

9.2.1. Licensees will be expected to prevent children from viewing 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. Children will not be permitted to view un-certificated films.

## 9.3. **Children and Public Entertainment**

9.3.1. The Licensing Authority 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 staff are present to control the access, egress and safety in and around the premises. The licensee should take into account the number of children to be present, the type of entertainment, the age of the children, the characteristics of the premises and any other relevant factor.

## 9.4. **Proof of Age Cards**

9.4.1. The Licensing Authority supports the adoption of proof of age cards as a means of preventing underage drinking. It recommends that any premises licensed to sell alcohol adopts a policy of requiring proof of age from any

person where there is any doubt as to whether they are over 18. The authority would suggest as best practice, that proof of age could be in the form of a passport, photographic driving licence, or a proof of age card complying with the Proof of Age Standards Scheme (PASS) launched in January 2003 by the British Retail Consortium.

- 9.4.2. The Licensing Authority supports the 'Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks.' It will seek to ensure that premises licensed for the sale of alcohol comply with the code.

## 9.5. **Staffing Levels**

- 9.5.1. Where any regulated entertainment is taking place, when that entertainment is provided wholly or mainly for children, 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. Numbers of attendants required is stated in the Guidance as 1 per area occupied by the children + 1 per exit. In addition the licensing authority would normally expect a minimum ratio of 1 attendant to 30 children or part thereof.

- 9.5.2. The licensing authority may attach conditions to licences to protect children from harm, where its discretion has been engaged. These conditions will be based on the applicant's operating scheme and / or drawn from the model pool of conditions relating to this objective.

## 9.6. **Staff Training**

- 9.6.1. The licensing authority is particularly mindful of the prevalence of Child Sexual Exploitation and the grooming of children. There are apparent links between these activities and licensed premises.

- 9.6.2. As a result, the licensing authority would expect all staff working or present in licensed premises to be aware of the basic principles of child protection and to be able to identify and appropriately respond to any risks to children on or around licensed premises. There is an expectation that licence holders / applicants will make their staff available for appropriate training where this is required, and co-operate with any voluntary schemes promoted by the local authority to safeguard children and vulnerable adults.

## **10. Public Health Considerations**

### **10.1. National Context**

- 10.1.1. The Licensing Authority recognises harms associated with public health, particularly relating to public safety and protection of children from harm.
- 10.1.2. Harms associated with excessive alcohol consumption, obesity and poor diet can impact on individuals, families and wider society, and it is imperative to an effective Statement of Licensing Policy that public health considerations are at the core of the approach taken.
- 10.1.3. It is essential that relevant Public Health advice, data and agendas, are considered as part of licensing applications to ensure that these are informed and relevant to the local and national picture.
- 10.1.4. The Licensing Authority will have regard to the impacts of licensing decisions on Public Health and will actively use Public Health data when making licensing decisions, such as the Public Health Alcohol Toolkit.
- 10.1.5. Reducing harmful drinking is one of seven priority areas for Public Health England where improvement is being sought. Alcohol misuse is the biggest risk factor for death, ill-health and disability among 15-49 year olds in the UK, and the fifth biggest risk factor across all ages. Alcohol is considered a casual factor in more than sixty medical conditions.
- 10.1.6. Alcohol-related harm is determined by the volume of alcohol consumed and the frequency of drinking occasions. In January 2016, the Chief Medical Officer issued revised guidance on alcohol consumption which states that in order to keep a low level of risk of alcohol related harm, adults should not drink in excess of fourteen units of alcohol a week.

### **10.2. Local Context**

- 10.2.1. The following statistics show the wide-ranging impacts that problem drinking has in Rotherham:
  - 129 deaths attributed to alcohol in 2018
  - 1,687 years of life lost (based on premature deaths under 75 years old in 2018)
  - 6,827 hospital admissions related to alcohol in 2018/19
  - 30% of adults drinking over 14 unites of alcohol per week
  - 370 adults were in treatment at specialist alcohol misuse services (2017/18).
- 10.2.2. Of the eight alcohol-related indicators included in the Council's Joint Strategic Needs Assessment (JSNA), three are significantly worse than England for the latest period which are classified as 'a red risk'. These are:

- Admission episodes for alcohol-related conditions (broad)
- Admission episodes for alcoholic liver disease
- Successful completion of alcohol treatment

10.2.3. A further four indicators are broadly similar to the average across England, which are classified as 'an amber risk. These are:

- Adults drinking over 14 units of alcohol per week
- Alcohol-related mortality
- Years of life lost due to alcohol-related conditions
- Mortality from chronic liver disease

10.2.4. One indicator is significantly better than the average across England, which is 'Under 18s admissions for alcohol-specific conditions. This is 'a green rating' in the Council's JSNA.

10.2.5. When comparing Rotherham to nearest neighbouring authorities (based on CIPFA guidance), three indicators are significantly worse than average:

- Adults drinking over 14 units of alcohol per week
- Admission episodes for alcoholic liver disease
- Successful completion of alcohol treatment

10.2.6. When comparing to the borough's nearest neighbours, the other five indicators are better than average, with 'Under 18s admissions for alcohol-specific conditions' second best when compared to 15 similar local authorities.

10.2.7. Data at a ward level indicates that there is a strong link between deprivation and the measures of alcohol harm related hospital admissions. The most deprived seven wards of the borough have the highest values and are all significantly worse than the England average.

## **11. Special Events in the Open Air or in Temporary Structures**

- 11.1. The success of open air events, or those in temporary structures, depends on the quality, levels of safety, and consideration for the rights of people who live or work in the vicinity as well as the standard of facilities for those coming to enjoy the event.
- 11.2. It is essential that a comprehensive event management plan is developed well in advance of any planned event. General guidance on planning such events is available to organisers from the various agencies, and it may be appropriate for the event to be considered by the Rotherham Event Safety Advisory Group (RESAG). The licensing authority would expect the applicant / licence holder to fully engage with RESAG and take into account advice / guidance that is provided by the group.
- 11.3. In particular, the following issues should normally be addressed:
- A detailed risk assessment identifying all inherent risks concerned with the event and the precautions that will be put in place to address these.
  - A contingency plan to deal with any emergency situations that may arise during the event.
  - A central location for all safety and insurance certificates and other documents relevant to the promotion of the event and equipment used, so that they can be readily produced if required by an authorised officer.
  - Ticketing arrangements and estimation of maximum number of visitors to the event. Appropriate levels of trained stewards and security staff will also to be considered.
  - Detailed planning of sanitary conveniences, first aid provision, temporary structures, temporary road closures, parking arrangements and any banners or signs to be used.
  - At an early stage there should be liaison and discussion with local residents on how to minimise disturbance and disruption to them.
  - Positive proposals for ensuring the access, safety and comfort of people with disabilities who may wish to enjoy the event.
  - Arrangements for reuniting children who may have become separated from their guardians.
  - Properly trained security staff should be used who have been trained and registered in accordance with the Securities Industries Act.
  - Ensure first aid and or medical provision meet minimum requirements laid down in the HSE Guide to Health and Safety and welfare at music and similar events.
- 11.4. Applicants for premises licences are expected to state in their Operating Schedule the precise nature of all entertainment proposed to take place, and to have carried out risk assessments for each entertainment type.



## **12. Integrating strategies**

The Licensing Authority will seek to achieve integration with the strategies set out below and will consult with the appropriate organisations to achieve this.

### **12.1. Public Health**

- 12.1.1. The Licensing Authority recognises the key role that Public Health delivers in respect of Licensing Objectives and in particular those relating to public safety and protection of children from harm in relation to issues relating to alcohol.
- 12.1.2. Public Health has a critical role in providing advice and data in respect of Licensing Objectives, providing essential information upon which to ensure that considerations of harms are enshrined within the approach the Council takes to licensable activities.
- 12.1.3. In considering decisions and the delivery of the Statement of Licensing Policy, the Licensing Authority will consider Public Health objectives, advice and data.

### **12.2. Safer Rotherham Partnership**

- 12.2.1. The Licensing Authority recognises its responsibility to address issues relating to crime and disorder and is committed to working together, with other partners, to make Rotherham a safe and attractive borough.
- 12.2.2. In making decisions, the Licensing Authority will consider the objectives of the Safer Rotherham Partnership, especially relating to:
  - Reducing the opportunities for crime to occur
  - Tackling disorder and anti-social behaviour
  - Reducing the fear of crime
  - Combating the use of drugs

### **12.3. Planning**

- 12.3.1. Applications under the Licensing Act 2003 will be considered separately from other regimes such as planning and building control. This is in order to avoid duplication and inefficiency. Applications for premises licences for permanent commercial premises should normally be from businesses with the appropriate planning consent for the property concerned. However, applications for licences may be made to the Licensing Authority before relevant planning permission has been sought or granted by the planning authority.

12.3.2. The planning and licensing regimes involve consideration of different matters. For example, licensing takes into account the four licensing objectives:

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

12.3.3. Whereas planning considers a range of issues such as:

- Public nuisance
- Loss of privacy
- Highway safety
- Design
- Nature conservation
- Adequacy of parking
- Amenity
- Layout & Density
- Sustainability

12.3.4. Where a planning condition restricts usage of a premise to certain hours, and if these hours differ from those permitted on a premises licence, then the premise owner must comply with the more restrictive of the two sets of hours.

#### 12.4. **Culture and Tourism**

12.4.1. The Council is working to develop and promote Rotherham as a good place to live and work, which means more jobs, a vibrant cultural sector and good quality green spaces.

12.4.2. It is supporting the economic growth and the regeneration of the borough through work with partners to deliver a joined-up culture, sport and tourism offer alongside adopting both the Town Centre Masterplan and the Local Plan.

12.4.3. The International Covenant on Economic, Social and Cultural Rights (ICESCR) which was ratified by the UK in 1976 recognises the right of everyone to take part in cultural life and requires that active steps are taken to develop cultural activity and ensure that everyone can participate in the cultural life of the community.

12.4.4. The strategy in relation to culture and tourism encompasses arts, heritage, museums, parks and green spaces, neighbourhood facilities, markets, festivals and public events, media, libraries and literature, sport, play, faith and worship, tourism, restaurants and bars and creative industries.

12.4.5. This licensing policy will operate in the spirit of the Council's approach to improving the borough's culture and tourism offer and the International Covenant on Economic, Social and Cultural Rights (ICESCR). In doing so, it will seek to maintain a balance between regulation and supporting cultural activity. It will strive to maintain a balance between the need to 'manage' any detrimental impacts of an activity in a community with the many benefits cultural activity brings to communities, in developing personal aspiration and potential, building cohesive communities, providing opportunities for young people, contributing to economic growth and regeneration and the development of sustainable communities.

12.4.6. In order to maintain this balance the Licensing Authority will:

- monitor the impact of licensing on the provision of regulated cultural activities and entertainment, such as live music, theatre, dance and festivals
- create a dialogue with the cultural sector about the impact of the licensing policy and work with our partners to balance different interests
- seek to ensure that conditions attached to licences do not deter live music, festivals, theatre, sporting events etc. by imposing unnecessary restrictions
- seek to ensure that conditions attached to licences do not deter new or small scale groups/ activities in communities by imposing conditions which will lead to a cost disproportionate to the size of the event
- Seek to create an environment which minimises nuisance and anti-social behaviour connected to cultural activity and events but without undermining our commitment to increase access to cultural participation as a fundamental human right.

## 12.5. **Building Control**

12.5.1. The Building Regulation process is a separate system to the licensing regime but complementary in terms of some shared objectives.

12.5.2. Where a licence is applied for, or exists, and any Building Regulated work is carried out, either as a material alteration, change of use or new build to a licensed premises, the owner / licensee should ensure that before opening to the public, Building Regulations consent has been granted in full and that completion certificates have been issued.

12.5.3. Two separate and distinct certificates are issued on a commercial or work place premises. The first confirms compliance with Building Regulations in general and the second confirms compliance in terms of fire precautions, including means of escape in case of fire. A copy of this second certificate is sent to the Fire Service, which triggers their responsibilities under the Work Place Regulations and enforcement of risk assessments.

## 12.6. Promotion of Equality

- 12.6.1. In developing this strategy, the Licensing Authority has recognised its responsibility under the Equality Act 2010, to consider the need to eliminate unlawful discrimination, harassment and victimisation and to advance equality of opportunity between different groups and foster good relations between different groups.
- 12.6.2. The Licensing Authority also recognises that this policy should promote equality in a wider sense and has therefore assessed the potential impact on disadvantaged groups in general.
- 12.6.3. The following actions, which have been identified as being necessary to promote equality, and within the scope of the Act and supporting guidance, will be implemented by the Licensing Authority:
- The Licensing Policy and associated documents will be available on the internet, and in other formats upon request.
  - The licensing objective of protecting children from harm will be promoted.
  - Support will be offered to licence applicants, licence holders and potential objectors who are socially excluded.
  - Account will be taken of the effect of specific applications on community cohesion, including the need to balance the benefits of cultural and community activities with limited local disturbance.
  - Action will be taken to endeavour to ensure the safety of vulnerable people in licensed premises.
  - Action will be taken to ensure that all applications, particularly those for disadvantaged groups, are dealt with fairly.
- 12.6.4. The Licensing Authority is aware that there may be particular sensitivities of certain buildings, for example religious buildings, to certain licensable activities taking place in close proximity. Where this proximity has an impact on the promotion of one of the licensing objectives this is a matter for the Licensing Authority. Where the impact does not affect the promotion of the licensing objectives, there may be other control mechanisms, such as the planning system, that could be applicable.

## 12.7. Disabled Access

- 12.7.1. The guidance supporting the Act advises that conditions relating to disabled access should not be attached to licences, as this would duplicate existing statutory requirements. The Licensing Authority therefore takes this opportunity to remind operators of premises of their duties under the Equality Act 2010.

## 12.8. Transport

- 12.8.1. Rotherham's Transport Strategy is set out in the South Yorkshire Local Transport Plan (SYLTP).
- 12.8.2. The SYLTP policies seek to ensure that alternatives to the use of the private car are available; these alternatives include walking, cycling and public transport (bus, rail and taxi). They are operated in conjunction with land use policies to seek to ensure that development takes place in locations where these alternatives can be best provided; the Town Centre is naturally one of these locations, particularly with regard to public transport.
- 12.8.3. A high level of bus services is provided commercially between the hours of 7am and 7pm Monday to Saturday. Lower levels of services are provided up to 11pm and on Sundays, and the transport plan will continue to seek ways of improving the provision of bus services at these times and later at night to assist in getting people away from the Town Centre quickly, safely and efficiently.
- 12.8.4. Licensed vehicles provide a useful role in transporting people, particularly at times when bus services are not well provided. Taxi ranks are provided where demand is identified, and include both 24 hour ranks and ones which operate only at night. The Council's Transport Strategy will continue to seek to ensure that the demand for rank provision is satisfied and that their locations are amended as demand alters, subject to competing demands for use of kerbside space.

### **13. Duplication**

- 13.1. The authority will avoid duplication with other regulatory regimes (e.g. the Health and Safety at Work Act) insofar as attaching conditions to premises licences and club premises certificates.
- 13.2. Conditions will only be attached where they are necessary for the promotion of the licensing objectives. If matters are already provided for in other legislation they cannot be considered necessary in the context of licensing law.
- 13.3. As has been referred to elsewhere in this policy, licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned.
- 13.4. 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 Rotherham.

## **14. Standardised Conditions**

14.1. The Licensing Authority will only attach to premises licences, and club premises certificates, those conditions that are tailored to the individual style and characteristics of the premises and the events concerned, and where they are necessary for the achievement of one or more of the four licensing objectives.

### **14.2. Model Conditions**

14.2.1. To aid administration a pool of model conditions is attached to this statement (but not form part of it). The authority may draw appropriate and proportionate conditions from this pool to cover particular circumstances. This is not intended to be an exhaustive list and other specific conditions may be appropriate.

14.2.2. The model conditions will be informed through consultation. There are elements of the model conditions, which are indicated, that will be entirely dependent upon the findings of the consultation.

14.2.3. The pool of model conditions is attached as Appendix A to this policy.

### **14.3. Mandatory Conditions**

14.3.1. A number of conditions are mandatory and are required to be applied to licences.

14.3.2. Mandatory conditions are provided by the 2003 Act, amended by the (Mandatory Licensing Conditions) (Amendment) Order 2014 and should be included in every Licence and/or Club Premises Certificate.

14.3.3. The Mandatory Conditions are attached to this Policy at Appendix B. These need to be adhered to and complied with by the Premises Licence Holder.

14.3.4. For premises with ON sales the Mandatory Conditions will include the following requirements:

- The need for a Designated Premises Supervisor to be registered on the Licence.
- Alcohol needs to be sold or authorised by a Personal Licence Holder.

14.3.5. Mandatory Conditions also refer to:

- Permitted price of alcohol
- Age verification Policy
- Irresponsible promotions
- No drinking games (encouraging people to drink too much or within specific time limits).

- Free access to drinking water
- Measures of alcoholic drink
- Exhibition of films
- Door Supervision

14.3.6. For premises with OFF sales the Mandatory Conditions will include the following requirements:

- The need for a Designated Premises Supervisor to be registered on the Licence.
- Alcohol needs to be sold or authorised by a Personal Licence Holder.

14.3.7. Mandatory Conditions also refer to:

- Permitted price of alcohol
- Age verification Policy

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## **15. Entitlement to work in the UK**

- 15.1. Section 36 of and Schedule 4 to the Immigration Act 2016 (the 2016 Act) amended the 2003 Act and introduces immigration safeguards in respect of licensing applications made in England or Wales on or after 6 April 2017. The intention is to prevent illegal working in premises licensed for the sale of alcohol or late night refreshment.
- 15.2. The statutory prevention of crime objective in the 2003 Act includes the prevention of immigration crime and the prevention of illegal working in licensed premises. Licensing authorities should work with the Home Office (Immigration Enforcement) as well as the police, in respect of these matters.
- 15.3. The Home Secretary (in practice Home Office Immigration Enforcement) is added to the list of responsible authorities in the licensing regime, which requires Home Office (Immigration Enforcement) to receive premises licence applications (except regulated entertainment only licences), and in some limited circumstances personal licence applications, and permits Home Office (Immigration Enforcement) to make appropriate representations and objections to the grant of a licence.
- 15.4. Individuals applying for a personal licence and / or a premises licence for the sale of alcohol or late night refreshment must be entitled to work in the UK. This includes applications made by more than one individual applicant. An application made by an individual without the entitlement to work in the UK must be rejected. This applies to applications which include the sale of alcohol and the provisions of late night refreshment, but does not include applications which apply to regulated entertainment only.
- 15.5. Applicants must provide copies of Identification documents to verify their entitlement to work within the UK. The documents, which may be relied on in support of an application demonstrating an entitlement to work in the UK, are the same for the personal licence (see section 13) shown in Appendix C.
- 15.6. Individuals applying for a personal licence must be entitled to work in the UK. The Immigration Act 2016 amended the Licensing Act 2003, with effect from April 6 2017. Applications made on or after this date by someone who is not entitled to work in the UK must be rejected.
- 15.7. Licences must not be issued to people who are illegally present in the UK, who are not permitted to work, or who are permitted to work but are subject to a condition that prohibits them from doing work relating to the carrying on of a licensable activity.
- 15.8. In order to carry out this duty licensing authorities must be satisfied that an applicant has the right to work in the UK. They require applicants to submit an identification document, to show that they have permission to be in the UK and to undertake work in a licensable activity. Acceptable documents are listed in Appendix C to this policy.

## **16. Personal Licences**

- 16.1. The Licensing Authority recognises the important role that personal licence holders have to play in the promotion of the licensing objectives at premises selling alcohol. For this reason personal licence holders are required to have prescribed training and not have relevant convictions that would indicate their unsuitability.
- 16.2. The Policing and Crime Act 2017 gives licensing authorities the power to revoke or suspend personal licences, with effect from 6 April 2017.
- 16.3. When a licensing authority has granted a personal licence and becomes aware that the licence holder has been convicted of a relevant offence or foreign offence or been required to pay an immigration penalty, a licensing authority may revoke the licence or suspend it for a period of up to six months. This applies to convictions received and civil immigration penalties which a person has been required to pay at any time before or after the licence was granted, as long as the conviction was received after 6 April 2017, or the requirement to pay the civil penalty arose after 6 April 2017.
- 16.4. Every sale of alcohol at licensed premises is required to be authorised by a personal licence holder. Because of the importance of their role, the Licensing Authority considers it to be good practice for personal licence holders to have significant operational involvement in the sale of alcohol rather than to undertake a remote, periodic authorisation of other staff. In practical terms this would mean authorisation on at least a daily basis, and to be available on the premises throughout most of the day to deal with circumstances requiring their expertise and authority.
- 16.5. When applying for a personal licence, the Licensing Authority would expect applicants to produce an up to date Disclosure Barring Service certificate. All applicants would also be expected to make a clear statement as to whether or not they have been convicted outside England and Wales of a relevant offence or an equivalent foreign offence.
- 16.6. In accordance with the Secretary of State's advice the Licensing Authority will normally refuse applications where the police have issued an objection notice unless there are, in the opinion of the Licensing Authority, exceptional and compelling reasons which justify granting the application.

## **17. Temporary Event Notices (TENs)**

- 17.1. Part 5 of the Licensing Act allows licensing activities to be carried out in specified circumstances on a temporary basis, subject to a temporary event notice being served on the Licensing Authority, with a copy to the chief officer of police and Environmental Health services for the area no less than ten working days before the event. The chief officer of police or Environmental Health services may object to the event if satisfied that that any of the four licensing objectives would be undermined.
- 17.2. "Late" TENs are intended to assist premises users who are required for reasons outside their control to, for example, change the venue for an event at short notice.
- 17.3. Late TENS can be given at any time as long as the limits specified, within guidance issued under section 182 of the Licensing Act 2003, are not exceeded. Late TENs can be given up to five working days but no earlier than nine working days before the event is due to take place and, unless electronically given to the licensing authority, must also be sent by the premises user to the police and Environmental Health Services. A late TEN given less than five days before the date of the event to which it relates will be returned as void and the activities to which it relates will not be authorised.
- 17.4. The Licensing Authority considers that it is important that the police and Environmental Health services have sufficient time to properly evaluate the likely impact of a temporary event. Where insufficient notice of the event is given this may lead to objections being made that may have been unnecessary if a fuller evaluation had been possible. Equally, if notice of an event is given too far in advance it may be difficult to evaluate because of future uncertainty.
- 17.5. The Licensing Authority would therefore suggest as best practice that a temporary event notice is served between one and two months ahead of the event taking place.

## **18. Enforcement**

- 18.1. The Licensing Authority will carry out its responsibilities for enforcement so as to promote each of the four licensing objectives.
- 18.2. The Licensing Authority will develop and review enforcement protocols in agreement with the police.
- 18.3. Enforcement activities will be targeted in terms of risk and so as best to promote the licensing objectives. In addition account will be taken of the general enforcement policy of the licensing authority, which aims to ensure that enforcement is open, fair, reasonable and proportionate.
- 18.4. Enforcement activities will include operations designed to:
  - Ensure compliance with conditions attached to licences, operating schedules, requirements specified in the this Statement of Policy, and the requirements of the Licensing Act itself;
  - Protect public safety;
  - Prevent nuisance;
  - Prevent crime and disorder;
  - Protect children from harm;
  - Identify unlicensed activities;
  - Respond to complaints and representations from relevant individuals and responsible authorities;
  - Prevent the sale of alcohol to minors
  - Prevent the sale of alcohol to people who are drunk
  - Identify the keeping of smuggled goods
  - Prevent drug misuse

## **19. Live Music, Dancing, Theatre, Circuses and Street Arts**

- 19.1. The Licensing Authority will ensure that when it considers applications for licences for entertainment involving live music, dancing, theatre, circuses and street arts it will act so as to promote the licensing objective of preventing public nuisance.
- 19.2. The Licensing Authority recognises that there is a need to encourage and promote a broad range of entertainment, particularly those activities identified above, because of the wider cultural benefits to communities. The potential for limited disturbance will therefore be balanced against these wider benefits.

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## **20. Wholesale of alcohol**

- 20.1. Since 1 April 2017, businesses which sell alcohol (for example, retailers of alcohol and trade buyers) need to ensure that the UK wholesalers that they buy alcohol from have been approved by HMRC under the Alcohol Wholesaler Registration Scheme (AWRS). They will need to check their wholesalers Unique Registration Number (URN) against the HMRC online database. This is an ongoing obligation and if a business is found to have bought alcohol from an unapproved wholesaler, they may be liable to a penalty or could even face criminal prosecution and their alcohol stock may be seized. Any trader who buys alcohol from a wholesaler for onward sale to the general public (known as a 'trade buyer') does not need to register unless they sell alcohol to other businesses.
- 20.2. Examples of trade buyers would be pubs, clubs, restaurants, cafes, retailers and hotels. However, they will need to check that the wholesaler they purchase alcohol from is registered with HMRC. Further information may be found at: <https://www.gov.uk/guidance/the-alcohol-wholesalerregistration-scheme-awrs>

## **21. Delegation of Functions**

- 21.1. The following matters will be determined by either the Licensing Committee or one of its sub-committees:
- Application for a personal licence where there are relevant unspent convictions;
  - The review of a premises licence or club premises certificate;
  - Decision to object when the local authority is the consultee and not the relevant authority considering the application;
  - Determination of a police objection to a temporary event notice.
- 21.2. The following matters will be determined by either the Licensing Committee or one of its sub-committees where a relevant representation has been made:
- Application for a personal licence;
  - Application for a premises licence or club premises certificate;
  - Application for a provisional statement;
  - Application for variation to a premises licence or club premises certificate;
  - Application to vary a designated premises supervisor
  - Application for transfer of a premises licence
  - Application for interim authority
  - Determination of a temporary event notice.
- 21.3. The Licensing Manager will determine all other matters.
- 21.4. Variations to premises licences or club premises certificates that could not impact adversely on the licensing objectives are subject to a simplified 'minor variations' process. There is clear guidance as to what constitutes a "minor variation" contained on the Government's website.
- 21.5. Councillors are now considered as "interested parties" and can make representations on any application as such, even if they do not live in the vicinity, or may represent persons living or working in the vicinity of the premises in question.

## **22. Period of Validity & Review**

- 22.1. This statement of licensing policy will come into force on 1<sup>st</sup> May 2020 and be valid until 2025. The policy will then be reviewed and reissued for a period of 5 years.
- 22.2. The policy will be kept under review during the period of validity and if necessary amendments made.
- 22.3. Before a new policy is adopted or amendments made to the existing one the Licensing Authority will undertake consultation in accordance with Section 5 of the Licensing Act 2003.

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