



Public Document Pack

Boston Borough Council

Chief Executive
Rob Barlow

Municipal Buildings
Boston
Lincolnshire PE21 8QR
Tel: 01205 314200

Thursday 21 August 2025

Notice of meeting of the Licensing Sub-Committee

Dear Councillor

You are invited to attend a meeting of the Licensing Sub-Committee
on **Monday 1st September 2025 at 10.00 am**
in the Committee Room - Municipal Buildings, West Street, Boston, PE21 8QR

Rob Barlow
Chief Executive

Membership:

Panel Members: Councillors Stuart Evans, Paul Gleeson and Lina Savickiene
Substitute: Councillor James Cantwell

Members of the public are welcome to attend the committee meeting as observers except during the consideration of exempt or confidential items.

This meeting may be subject to being recorded.

Agenda

Part I - Preliminaries

A Election of Chairman

B Apologies for Absence

To receive apologies for absence.

C Declarations of Interest

To receive declarations of interests in respect of any item on the agenda.

Part II - Agenda Items

1 Moon Under Water, High Street, Boston

(Pages 1 - 64)

(A report by Christian Allen, Assistant Director - Regulatory)

Notes:

Please contact Democratic Services (demservices@boston.gov.uk) if you have any queries about the agenda and documents for this meeting.

Council Members who are not able to attend the meeting should notify Democratic Services as soon as possible.

Alternative Versions

Should you wish to have the agenda or report in an alternative format such as larger text, Braille or a specific language, please telephone 01205 314591.

The procedures for the hearing appear overleaf.

Licensing Hearing Procedure

1. The Sub-Committee deals with the Preliminaries.
2. The Applicant for review, Senior Licensing Officer and Premises Licence Holder are invited into the room.
3. The Chairman invites introductions.
4. The Legal Advisor explains the procedures.
5. The Senior Licensing Officer presents her report.
6. Members of the Sub-Committee ask any questions of the Senior Licensing Officer in respect of the information they have received.
7. The Applicant for review is invited to address the Sub-Committee to present their case and can call any witness in support of their case
8. Members of the Sub-Committee ask questions of the Applicant for review.
9. Premises licence holder can ask questions of the Applicant for review.
10. The Premises Licence Holder is invited to address the Sub-Committee to present their case and can call any witness in support of their case.
11. Members of the Sub-Committee ask questions of the Premises Licence Holder.
12. Applicant for review can ask questions of the Premises Licence Holder
13. Relevant parties (if any) are invited to address Sub-Committee to present their case and can call any witness in support of their case
14. Members of the Sub-Committee ask questions of the Relevant parties
15. Premises Licence Holder can ask questions of the Applicant for review.
16. Chair to invite closing submissions from Applicant for review, relevant parties and Premises Licence Holder – no new issues should be introduced at that stage
17. The Chairman asks the Legal Advisor whether there are any other matters to be raised or resolved before the Sub-Committee retires to begin its deliberations.
18. The Chairman advises that the Members of the Sub-Committee will consider the report in private and make their decision. The Legal Representative will remain with them, but will at no point take part in the deliberations; the Legal Representative will give legal advice if required and the decision notice will contain details of this advice.
19. The Applicant for review, the Premises Licence Holder and the Senior Licensing Officer are escorted from the room.
20. Once a decision has been made the decision and the reasons for the decision will be formally notified in writing by the Senior Licensing Officer within 5 working days.

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Agenda Item 1

| | |
|--------------------------|---|
| Report To: | Licensing Committee – Sub-Committee |
| Date: | Monday 01 st September 2025 – 10.00 hours |
| Subject: | Moon Under Water, 6 High Street, Boston |
| Purpose: | To consider an application for the variation of a premises licence where relevant representations have been received. |
| Key Decision: | No |
| Portfolio Holder: | Councillor Christopher Mountain |
| Report Of: | Senior Licensing Officer |
| Report Author: | Anna McDowell |
| Ward(s) Affected: | Not applicable |
| Exempt Report: | No |

Summary

This is a hearing to consider an application for the variation of a Premises Licence, the applicants being J D Wetherspoon PLC, following the receipt of a relevant representation.

Recommendations

It is recommended that the Sub-Committee take into account all evidence and information received from the interested parties and the applicant and determine this matter.

The Sub-Committee must, having regard to all information presented, take such steps as considered appropriate for the promotion of the licensing objectives. The steps are set out in the Licensing Act 2003 and are detailed in the main body of the report.

Reasons for Recommendations

Section 18 (3) of the Licensing Act 2003 requires that the authority must hold a hearing to consider relevant representations unless all parties agree a hearing is not necessary.

Other Options Considered

None

1. Background

- 1.1 On 04 July 2025 an application for the variation of the premises licence for the Moon Under Water, 6 High Street, Boston was received from J D Wetherspoons PLC.
- 1.2 The Local Authority requires that the applicant serves a copy of the application on the Responsible Authorities, advertises the application in a local news publication and places notice of the application details outside the premises. The Licensing Authority must also publish a notice on its website. It is confirmed that these requirements were complied with.
- 1.3 A Responsible Authority or other person may submit a representation during the statutory consultation period.
- 1.4 The Licensing Act 2003 states that relevant representations mean representations which are about the likely effect of the grant of the premises licence on the promotion of the licensing objectives. Only parts of a representation that are relevant to the application and its impact on those objectives may be considered.
- 1.5 Where relevant representations are received the Licensing Authority encourages all parties to mediate and will assist in the facilitation of mediation discussions. Where agreement cannot be reached, the Licensing Act 2003 requires that a hearing is held to consider the representations and determine the application.

2. Report

2.1 The application

- 2.1.1 An application for the variation of the premises licence currently in force for the Moon Under Water was received on 04 July 2025. The premises is located in Boston town centre in a mixed-use area consisting of commercial, recreational, and domestic properties. A location plan is attached at **appendix 1**.
- 2.1.2 The application seeks to amend the conditions set out at annex 2 of the premises licence and in summary seeks to:
 - Align the cessation of the use of the outside drinking area with the closing time of the premises. At present the use of this area must cease at 23.30 hours.
 - Allow children to remain in the premises until 21.30 hours unless they are eating in which case they will be required to leave at 22.00 hours. Access to the premises currently ceases 30 minutes earlier than the times applied for.
 - Include a condition relating to staff training relevant to duties, specifically relating to training of front of house staff in respect of responsible alcohol sales and prevention of underage sales.

- Ensuring that staffing levels are always appropriate to encourage responsible behaviour at the premises.
- Installing CCTV, storing images for a minimum of 30 days, making images available to the police upon request, and ensuring management staff are trained in the use of the system.
- Ensuring that non-alcoholic beverages are available at all times when alcohol is available for retail purchase.
- Implementation of a Challenge 21 policy.
- Provision of suitable food and non-alcoholic drink at all times during which children are allowed on the premises.

Full details of the variation and offered conditions can be viewed in sections 3 and 16 of the application form attached at **appendix 2**.

2.2 Relevant representations

- 2.2.1 On 01 August 2025 a relevant representation was received from the Chief Officer of Lincolnshire Police. The representation acknowledges that the conditions offered are well intentioned, but the police are of the opinion that they lack detail and clarity. Lincolnshire Police have proposed a more detailed set of conditions and have liaised with J D Wetherspoons. However, the parties have been unable to come to an agreement on the final conditions to be attached to the licence. A full copy of the Police representation is attached at **appendix 3**.
- 2.2.2 A party who has submitted a representation may choose to rely on their written submission or may attend the hearing to put their representation to the Sub-Committee. At the hearing the party may not add further representation to that disclosed to the applicant but may expand on the existing representation.

2.3 Options

- 2.3.1 In making their determination and having had regard to all information presented, the Sub-Committee must take such steps as considered appropriate for the promotion of the licensing objectives. These steps are set out in the Licensing Act 2003 Section 18 (4) as follows:
- To grant the licence, subject mandatory conditions and conditions in the operating schedule;
 - To grant the licence with modified conditions;
 - Exclude from the scope of the licence any of the licensable activities to which the application relates;
 - To refuse to specify a person in the licence as the premises supervisor
 - To reject the application.

2.4 Considerations

- 2.4.1 Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what would be suitable to achieve that end. This does not require a licensing authority to decide that no lesser step will

achieve the aim, but the authority should aim to consider the potential burden that the condition would impose on the Premises Licence holder as well as the potential benefit in terms of the promotion of the licensing objectives.

2.4.2 It is imperative that the Sub-Committee ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the licensing objectives and nothing outside of those parameters and determination must be based on an assessment of the evidence of both the risks and benefits either for or against making the determination.

2.4.3 Conditions on a premises licence are important in setting the parameters within which premises can lawfully operate. The use of wording such as “must”, “shall” and “will” is encouraged. If consideration is given to attaching or amending conditions, they:

- Must be appropriate for the promotion of the licensing objectives;
- Must be precise and enforceable;
- Must be unambiguous and clear in what they intend to achieve;
- Should not duplicate other statutory requirements or other duties or responsibilities placed on the licence holder by other legislation;
- Must be tailored to the individual type, location and characteristics of the premises and events concerned;
- Should not be standardised and may be unlawful when it cannot be demonstrated that they are appropriate for the promotion of the licensing objectives in an individual case;
- Should not replicate offences set out in the 2003 Act or any other legislation;
- Should be proportionate, justifiable and capable of being met;
- Cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff, but may impact on the behaviour of customers in the immediate vicinity of the premises or as they enter or leave; and
- Should be written in a prescriptive format.

2.4.4 In determining the application, the licensing authority must give appropriate weight to:

- The Licensing Authority’s Statement of Licensing Policy. Relevant extracts of which are attached at **appendix 4**.
- The statutory guidance issued under section 182 of the Licensing Act 2003. Relevant extracts of which, are attached at **appendix 5**.

2.5 Human Rights & Equalities

2.5.1 In determining the review the Sub-Committee should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Human Rights Act it is unlawful for a public authority to act in a manner which is incompatible with the European Convention on Human Rights.

2.5.2 When determining the application, the Sub-Committee should be satisfied that any decision which interferes with the rights of the licence holder, or of any other person, only does so insofar as is necessary to protect the rights of others and that no alternative decision would be more appropriate.

2.5.3 The Sub-Committee, in its decision-making, must have due regard to its public sector equality duty under section 149 of the Equality Act 2010. A copy of section 149 of the Act is attached at **appendix 6**.

2.6 Appeal

2.6.1 The applicant may appeal the decision made by the Sub-Committee to the Magistrates Court. Any appeal must be made within 21 days of the day on which the appellant is notified, in writing, by the Licensing Authority of the decision to be appealed against.

2.6.2 The determination does not take effect until the end of the period for appealing against the decision or, if the decision is appealed against, until the appeal is disposed of.

3. Conclusion

3.1 The Committee must come to its determination based on an assessment of the evidence of both the risks and benefits either for or against granting a licence.

3.2 When considering the evidence, the Sub-Committee must satisfy themselves whether or not the licensing objectives would be promoted as the application stands. The Sub-Committee must have regard to evidence, not speculation. In the case of a new application/new premises, the history and makeup of the site (and surrounding area) and the history of the applicant will be relevant, if sufficiently evidenced.

3.3 The Sub-Committee should seek to focus the hearing on the relevant parts of representations only and the steps considered appropriate to promote the particular licensing objective(s) that have given rise to the representations and avoid straying into undisputed areas. Any matter which is not about the likely effect of the grant of the licence on the promotion of one or more of the four licensing objectives is not, in accordance with the Licensing Act 2003, relevant and therefore cannot be considered.

3.4 The Sub-Committee must give full reasons for its decision.

3.5 In making its' determination, the Sub-Committee must evidence that they have had due regard for all that they have read and heard, to the Licensing Authority's Statement of Licensing Policy, the guidance issued under Section 182 of the Licensing Act 2003, and their public sector duty under Section 149 of the Equality Act 2010.

Implications

South and East Lincolnshire Councils Partnership

None

Corporate Priorities

Safe and Resilient Communities – We are working with partners and local communities to ensure the sub region is a place where people feel safe, secure and welcome.

Staffing

None

Workforce Capacity Implications

None

Constitutional and Legal Implications

There is a risk that an appeal is lodged with Lincolnshire Magistrate's Court against the decision of the Licensing Sub – Committee.

Data Protection

Certain personal details relating to the applicant have been redacted from the public agenda pack for data protection purposes.

Financial

None

Risk Management

There is a theoretical risk of civil action against the Licensing Authority if it is found not to have exercised due diligence in licensing matters.

Stakeholder / Consultation / Timescales

None

Reputation

There is a risk that the Council's reputation could be damaged if the requirements of licensing legislation are not implemented in the prescribed manner.

Contracts

None

Crime and Disorder

The Council has a duty to promote and ensure compliance with the licensing objectives of, the prevention of crime and disorder, public safety, prevention of public nuisance, and the protection of children from harm.

Equality and Diversity / Human Rights / Safeguarding

Equality Implications: Under the Human Rights Act 1998, it is unlawful for a public authority to act in a manner that is incompatible with the European Convention on Human Rights.

Human Rights: The licensing authority must have due regard to its public sector equality duty under section 149 of the Equality Act 2010.

Safeguarding Implications: None

Health and Wellbeing

None

Climate Change and Environmental Implications

None

Acronyms

None

Appendices

Appendices are listed below and attached to the back of the report:

| | |
|------------|---|
| Appendix 1 | Location plan |
| Appendix 2 | Application form |
| Appendix 3 | Representation - Lincolnshire Police |
| Appendix 4 | Extract - Statement of licensing policy |
| Appendix 5 | Extract – Section 182 Guidance |
| Appendix 6 | Section 149 – Equality Act 2010 |

Background Papers

A report on this item has not been previously considered by a Council body.

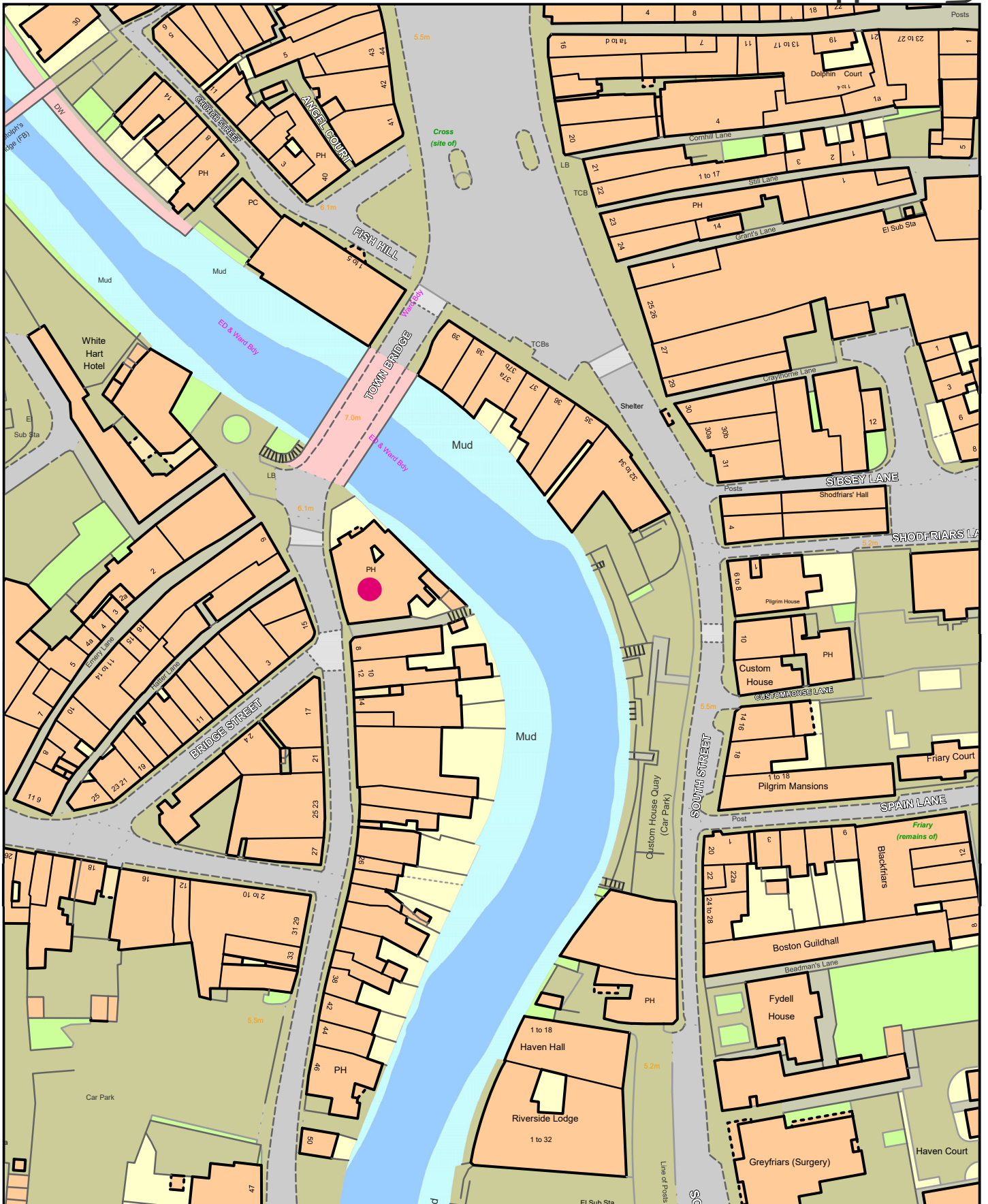
Chronological History of this Report

None

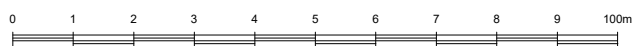
Report Approval

| | |
|---------------------------|--|
| Report author: | Anna McDowell – anna.mcdowell@boston.gov.uk |
| Signed off by: | Christian Allen – christian.allen@boston.gov.uk |
| Approved for publication: | Not applicable |

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Boston
Application to vary a premises licence
Licensing Act 2003

For help contact
licensing@boston.gov.uk
 Telephone: 01205 314235

* required information

Section 1 of 18

You can save the form at any time and resume it later. You do not need to be logged in when you resume.

| | | |
|--|-----------------------------------|--|
| System reference | Not Currently In Use | This is the unique reference for this application generated by the system. |
| Your reference | Pub 606- Moon Under Water, Boston | You can put what you want here to help you track applications if you make lots of them. It is passed to the authority. |
| Are you an agent acting on behalf of the applicant? <input type="radio"/> Yes <input checked="" type="radio"/> No | | Put "no" if you are applying on your own behalf or on behalf of a business you own or work for. |

Applicant Details

| | | |
|---|-----------------|-----------------------|
| * First name | JD | |
| * Family name | Wetherspoon plc | |
| * E-mail | b [REDACTED] | |
| Main telephone number | [REDACTED] | Include country code. |
| Other telephone number | | |
| <input type="checkbox"/> Indicate here if you would prefer not to be contacted by telephone | | |

Are you:

- ☒ Applying as a business or organisation, including as a sole trader
☐ Applying as an individual

A sole trader is a business owned by one person without any special legal structure. Applying as an individual means you are applying so you can be employed, or for some other personal reason, such as following a hobby.

Applicant Business

| | | |
|---|---|---|
| Is your business registered in the UK with Companies House? | <input checked="" type="radio"/> Yes <input type="radio"/> No | Note: completing the Applicant Business section is optional in this form. |
| Registration number | 1709784 | |
| Business name | JD Wetherspoon plc | If your business is registered, use its registered name. |
| VAT number | - 396331433 | Put "none" if you are not registered for VAT. |
| Legal status | Public Limited Company | |

Continued from previous page...

Your position in the business

Home country

The country where the headquarters of your business is located.

Registered Address

Address registered with Companies House.

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

Section 2 of 18

APPLICATION DETAILS

This application cannot be used to vary the licence so as to extend the period for which the licence has effect or to vary substantially the premises to which it relates. If you wish to make that type of change to the premises licence, you should make a new premises licence application under section 17 of the Licensing Act 2003.

I/we, as named in section 1, being the premises licence holder, apply to vary a premises licence under section 34 of the Licensing Act 2003 for the premises described in section 2 below.

* Premises Licence Number

Are you able to provide a postal address, OS map reference or description of the premises?

☒ Address ☐ OS map reference ☐ Description

Postal Address Of Premises

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

Premises Contact Details

Telephone number

Continued from previous page...

Non-domestic rateable
value of premises (£)

74,500

Section 3 of 18

VARIATION

Do you want the proposed
variation to have effect as
soon as possible?

☒

Yes

☐

No

Do you want the proposed variation to have effect in relation to the
introduction of the late night levy?

☐

Yes

☒

No

You do not have to pay a fee if the only
purpose of the variation for which you are
applying is to avoid becoming liable to the
late night levy.

If your proposed variation
would mean that 5,000 or
more people are expected to
attend the premises at any
one time, state the number
expected to attend

Describe Briefly The Nature Of The Proposed Variation

Describe the premises. For example the type of premises, its general situation and layout and any other information which could be relevant to the licensing objectives. Where your application includes off-supplies of alcohol and you intend to provide a place for consumption of these off-supplies, you must include a description of where the place will be and its proximity to the premises.

The application seeks to amend and include the following conditions in Annex 2 of the premises licence:

1. Amend condition under the "Prevention of Public Nuisance" heading to read as follows: "Any outside area which is used for the consumption of alcohol shall cease to be so used at closing time of the premises".
2. Amend the condition under the "Prevention of Children from Harm" heading to read as follows: "Children will be required to vacate the premises by 21:30 hours unless they are eating in which case they will be required to vacate the premises by 22:00 hours."

Include the following additional standard conditions:

1. The premises licence holder will ensure that all staff at the premises have been trained in accordance with established JD Wetherspoon plc training procedures. Specifically the premises licence holder will ensure that all employees who work front of house are trained in their responsibilities to prevent alcohol being served to anybody who is under the legal age limit or to anyone who appears to be drunk or to anyone who is trying to purchase alcohol on their behalf.
2. The premises licence holder will ensure that there are sufficient staffing levels including managers to encourage responsible behaviour on the premises at all times.
3. CCTV shall be installed in the premises. Images will be retained for a minimum of 30 days and will be available to the police upon request. Members of the management team will be trained in the use of the system.
4. Non-alcoholic beverages including soft drinks, water, coffee and tea shall be available at all times when the sale by retail of alcohol is carried out at the premises.

Continued from previous page...

5. The premises licence holder will operate a "Challenge 21" Policy at all times.

6. Suitable food and non-alcoholic beverages shall be available at all times children are allowed on the premises.

There are no other changes to the premises licence.

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PROVISION OF PLAYS

[See guidance on regulated entertainment](#)

Will the schedule to provide plays be subject to change if this application to vary is successful?

☐ Yes ☒ No

Section 5 of 18

PROVISION OF FILMS

[See guidance on regulated entertainment](#)

Will the schedule to provide films be subject to change if this application to vary is successful?

☐ Yes ☒ No

Section 6 of 18

PROVISION OF INDOOR SPORTING EVENTS

[See guidance on regulated entertainment](#)

Will the schedule to provide indoor sporting events be subject to change if this application to vary is successful?

☐ Yes ☒ No

Section 7 of 18

PROVISION OF BOXING OR WRESTLING ENTERTAINMENTS

[See guidance on regulated entertainment](#)

Will the schedule to provide boxing or wrestling entertainments be subject to change if this application to vary is successful?

☐ Yes ☒ No

Section 8 of 18

PROVISION OF LIVE MUSIC

[See guidance on regulated entertainment](#)

Will the schedule to provide live music be subject to change if this application to vary is successful?

☐ Yes ☒ No

Section 9 of 18

PROVISION OF RECORDED MUSIC

[See guidance on regulated entertainment](#)

Will the schedule to provide recorded music be subject to change if this application to vary is successful?

Section 10 of 18

PROVISION OF PERFORMANCES OF DANCE

[See guidance on regulated entertainment](#)

Will the schedule to provide performances of dance be subject to change if this application to vary is successful?

☐ Yes

☒ No

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PROVISION OF ANYTHING OF A SIMILAR DESCRIPTION TO LIVE MUSIC, RECORDED MUSIC OR PERFORMANCES OF DANCE

[See guidance on regulated entertainment](#)

Will the schedule to provide anything similar to live music, recorded music or performances of dance be subject to change if this application to vary is successful?

☐ Yes

☒ No

Section 12 of 18

PROVISION OF LATE NIGHT REFRESHMENT

Will the schedule to provide late night refreshment be subject to change if this application to vary is successful?

☐ Yes

☒ No

Section 13 of 18

SUPPLY OF ALCOHOL

Will the schedule to supply alcohol be subject to change if this application to vary is successful?

☐ Yes

☒ No

Section 14 of 18

ADULT ENTERTAINMENT

Highlight any adult entertainment or services, activities, or other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children.

Provide information about anything intended to occur at the premises or ancillary to the use of the premises which may give rise to concern in respect of children, regardless of whether you intend children to have access to the premises, for example (but not exclusively) nudity or semi-nudity, films for restricted age groups etc gambling machines etc.

None.

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HOURS PREMISES ARE OPEN TO THE PUBLIC

Standard Days And Timings

Continued from previous page...

MONDAY

Start

End

Start

End

Provide timings in 24 hour clock
(e.g., 16:00) and only give details for the days
of the week when you intend the premises
to be used for the activity.

TUESDAY

Start

End

Start

End

WEDNESDAY

Start

End

Start

End

THURSDAY

Start

End

Start

End

FRIDAY

Start

End

Start

End

SATURDAY

Start

End

Start

End

SUNDAY

Start

End

Start

End

State any seasonal variations.

For example (but not exclusively) where the activity will occur on additional days during the summer months.

Non standard timings. Where you intend to use the premises to be open to the members and guests at different times from those listed above, list below.

For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.

No change - as per existing non-standard timings.

Continued from previous page...

Identify those conditions currently imposed on the licence which you believe could be removed as a consequence of the proposed variation you are seeking.

Amend and include conditions.

☒ I have enclosed the premises licence

☐ I have enclosed the relevant part of the premises licence

Reasons why I have failed to enclose the premises licence or relevant part of premises licence.

Section 16 of 18

LICENSING OBJECTIVES

Describe the steps you intend to take to promote the four licensing objectives:

a) General – all four licensing objectives (b,c,d,e)

List here steps you will take to promote all four licensing objectives together.

1. The premises licence holder will ensure that all staff at the premises have been trained in accordance with established JD Wetherspoon plc training procedures. Specifically the premises licence holder will ensure that all employees who work front of house are trained in their responsibilities to prevent alcohol being served to anybody who is under the legal age limit or to anyone who appears to be drunk or to anyone who is trying to purchase alcohol on their behalf.

b) The prevention of crime and disorder

1. The premises licence holder will ensure that there are sufficient staffing levels including managers to encourage responsible behaviour on the premises at all times.

2. CCTV shall be installed in the premises. Images will be retained for a minimum of 30 days and will be available to the police upon request. Members of the management team will be trained in the use of the system.

3. Non-alcoholic beverages including soft drinks, water, coffee and tea shall be available at all times, sale by retail of alcohol carried out at the premises.

4. The premises will continually monitor the need for door staff and will liaise with the police as necessary. On any evening that door staff are on duty they will remain on duty until 30 minutes after alcohol sales cease.

c) Public safety

See conditions 1 to 3 Box B above.

d) The prevention of public nuisance

1. Any outside area which is used for the consumption of alcohol shall cease to be so used at closing time of the premises

Continued from previous page...

e) The protection of children from harm

1. Children will be required to vacate the premises by 21:30 hours unless they are eating in which case they will be required to vacate the premises by 22:00 hours.

2. The premises licence holder will operate a "Challenge 21" Policy at all times.

3. Suitable food and non-alcoholic beverages shall be available at all times children are allowed on the premises.

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NOTES ON REGULATED ENTERTAINMENT

Continued from previous page...

In terms of specific **regulated entertainments** please note that:

- Plays: 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 performances between 08.00 and 23.00 on any day, provided that the audience does 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. Combined fighting sports – defined as a contest, exhibition or display which combines boxing or wrestling with one or more martial arts – are licensable as a boxing or wrestling entertainment rather than an indoor sporting event.
- Live music: no licence permission is required for:
 - o a performance of unamplified live music between 08.00 and 23.00 on any day, on any premises.
 - o 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.
 - o a performance of amplified live music between 08.00 and 23.00 on any day, in a workplace that is not licensed to sell alcohol on those premises, provided that the audience does not exceed 500.
 - o 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.
 - o 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:
 - o 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.
 - o 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.
 - o 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.

Continued from previous page...

- Dance: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500. However, a performance which amounts to adult entertainment remains licensable.
- Cross activity exemptions: no licence is required between 08.00 and 23.00 on any day, with no limit on audience size for:
 - o any entertainment taking place on the premises of the local authority where the entertainment is provided by or on behalf of the local authority;
 - o 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;
 - o any entertainment taking place on the premises of the school where the entertainment is provided by or on behalf of the school proprietor; and
 - o 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.

Section 18 of 18

PAYMENT DETAILS

This fee must be paid to the authority. If you complete the application online, you must pay it by debit or credit card.

Variation Fees are determined by the non-domestic rateable value of the premises.

To find out a premises non domestic rateable value go to the Valuation Office Agency site at http://www.voa.gov.uk/business_rates/index.htm

Band A - No Rateable Value to £4300 the fee is £100.00

Band B - Rateable value of £4301 to £33000 the fee is £190.00

Band C - Rateable value of £33001 to £87000 the fee is £315.00

Band D - Rateable value of £87001 to £12500 the fee is £450.00*

Band E - Rateable value of £125001 and over the fee is £635.00*

*If the premises rateable value is in Bands D or E and the premises is primarily used for the consumption of alcohol on the premises then you are required to pay a higher fee

Band D - Rateable value of £87001 to £12500 the fee is £900.00

Band E - Rateable value of £125001 and over the fee is £1,905.00

If you own a large premise you are subject to additional fees based upon the number in attendance at any one time

Capacity 5000-9999 persons there is an additional fee of £1,000.00

Capacity 10000 -14999 persons there is an additional fee of £2,000.00

Capacity 15000-19999 persons there is an additional fee of £4,000.00

Capacity 20000-29999 persons there is an additional fee of £8,000.00

Capacity 30000-39000 persons there is an additional fee of £16,000.00

Capacity 40000-49999 persons there is an additional fee of £24,000.00

Capacity 50000-59999 persons there is an additional fee of £32,000.00

Capacity 60000-69999 persons there is an additional fee of £40,000.00

Capacity 70000-79999 persons there is an additional fee of £48,000.00

Capacity 80000-89999 persons there is an additional fee of £56,000.00

Capacity 90000 and over persons there is an additional fee of £64,000.00

* Fee amount (£)

315.00

DECLARATION

I/we understand it is an offence, under section 158 of the Licensing Act 2003, to make a false statement in or in connection with this application. Those who make a false statement may be liable on summary conviction to a fine of any amount.

PRIVACY NOTICE We are required by law to protect your privacy and inform you how your information may be used. The Licensing team collect your personal information to process and manage your application. Some of your information may be made available on a publicly available register as required by relevant legislation. The information provided by you

Continued from previous page...

may also be used for legitimate reasons by other departments of Boston Borough Council and other lawful agencies.

- * These reasons may include but are not limited to: prevention of crime, detection of fraud and public safety. In some cases information relating to your applications may be requested under the Freedom of Information Act, this council will review these requests to consider if it is lawful to comply. The Council takes your privacy seriously. The Council is the Data Controller for the purposes of the Data Protection Act 1998. If you want to know more about the information we have about you, or the way we use your information please contact the Council.

☒ Ticking this box indicates you have read and understood the above declaration

This section should be completed by the applicant, unless you answered "Yes" to the question "Are you an agent acting on behalf of the applicant?"

* Full name

* Capacity

* Date / /
dd mm yyyy

[Add another signatory](#)

Once you're finished you need to do the following:

1. Save this form to your computer by clicking file/save as...
2. Go back to <https://www.gov.uk/apply-for-a-licence/premises-licence/boston/change-1> to upload this file and continue with your application.

Don't forget to make sure you have all your supporting documentation to hand.

IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.

OFFICE USE ONLY

| | |
|----------------------------|--|
| Applicant reference number | <input type="text" value="Pub 606- Moon Under Water, Boston"/> |
| Fee paid | <input type="text"/> |
| Payment provider reference | <input type="text"/> |
| ELMS Payment Reference | <input type="text"/> |
| Payment status | <input type="text"/> |
| Payment authorisation code | <input type="text"/> |
| Payment authorisation date | <input type="text"/> |
| Date and time submitted | <input type="text"/> |
| Approval deadline | <input type="text"/> |
| Error message | <input type="text"/> |
| Is Digitally signed | <input type="checkbox"/> |

Licensing Act 2003

Representation by a Responsible Authority

Note: Please be aware that this form may be viewed by the Applicant or by a representative of the Applicant. It may also be read out in public at the Licensing Panel hearings.

Representations may be made at any time during a period of 28 consecutive days starting on the day after the application was given to the Licensing Authority.

Representations are only relevant to an application if they relate to at least one of the four Licensing Objectives listed below:

1. **The Prevention of Crime and Disorder**
2. **Public Safety**
3. **Prevention of Public Nuisance**
4. **The Protection of Children from Harm**

Please enter your details below:

| | |
|------------------------|---|
| Responsible Authority: | Lincolnshire Police |
| Contact Officer: | PS 288 Amy Adams |
| Address: | Lincolnshire Police Licensing, Police Headquarters Deepdale Lane Nettleham PO Box 999 |
| Telephone Number: | 101 Lincolnshire Alcohol Licensing |
| E-mail: | countylicensing@lincs.police.uk |

Please provide details of the application to which your representation refers:

| | |
|----------|---|
| Name: | JD Wetherspoons |
| Address: | Moon Under Water 6 High Street Boston PE21 8SH |

| | |
|----------------------------|----------------------------|
| Application Details: | Premises Licence Variation |
| Date Application Received: | 04/07/2025 |

Please provide details of your representation in the box below. Indicate which of the Licensing Objectives your representation refers to by ticking the relevant box(es):

- **The Prevention of Crime and Disorder** **X**
- **Public Safety** **X**
- **Prevention of Public Nuisance** **X**
- **The Protection of Children from Harm** **X**

In relation to this application, the following Guidance issued under Section 182 of the Licensing Act 2003 has been considered –

From Section 9.12....Each responsible authority will be an expert in their own field....for example the police have a key role in managing the night-time economy.....However, any responsible authority under the 2003 Act may make representations with regard to any of the licensing objectives if they have evidence to support such representations. Licensing Authorities must therefore consider all relevant representations from responsible authorities carefully, even where the reason for a particular responsible authority's interest or expertise in the promotion of a particular objective may not be immediately apparent.

This application is for a variation to the existing premises licence for Moon Under Water public house in Boston.

The applicant, JD Wetherspoons, seek to amend the following conditions in Annex 2 of the premises licence:

1. To amend the current condition under Prevention of Public Nuisance- "Any outside area which is used for the consumption of alcohol shall cease to be so used at 23.30 hours". To read as follows: "Any outside area which is used for the consumption of alcohol shall cease to be so used at closing time of the premises".
2. Amend the condition under the Protection of Children from Harm – "Children will be required to vacate the bar by 21.00 hours unless they are eating in which case they will be required to vacate the bar by 21.30 hours" to read as follows: "Children will be required to vacate the premises by 21:30 hours unless they are eating in which case they will be required to vacate the premises by 22:00 hours."

The applicant has offered the following additional conditions within the application:-

1. The premises licence holder will ensure that all staff at the premises have been trained in accordance with established JD Wetherspoon plc training procedures. Specifically the premises licence holder will ensure that all employees who work front of house are trained in their responsibilities to prevent alcohol being served to anybody

who is under the legal age limit or to anyone who appears to be drunk or to anyone who is trying to purchase alcohol on their behalf.

2. The premises licence holder will ensure that there are sufficient staffing levels including managers to encourage responsible behaviour on the premises at all times.

3. CCTV shall be installed in the premises. Images will be retained for a minimum of 30 days and will be available to the police upon request. Members of the management team will be trained in the use of the system.

4. Non-alcoholic beverages including soft drinks, water, coffee and tea shall be available at all times when the sale by retail of alcohol is carried out at the premises.

5. The premises licence holder will operate a "Challenge 21" Policy at all times.

6. Suitable food and non-alcoholic beverages shall be available at all times children are allowed on the premises.

The conditions offered are well intentioned and covers many of the points Lincolnshire Police would seek, however some lack detail and clarity. Lincolnshire Police requested an improved condition in relation to CCTV and Challenge 21. We would also like to see additional conditions in order to mitigate the increased risks in amending these conditions and reflect the current issues within Boston town centre. These include signage requesting customers to leave quietly, the provision of an incident/refusal book, a door staff risk assessments and recording and also a requirement for people not to take open drinks out into the Public Space Protection Order area (PSPO).

Lincolnshire Police have consulted with the applicant and requested the revised wording and additional conditions. Some compromise has been made however we have been unable to come to an agreement on the final list of conditions. It may be that the applicant does now agree to further conditions but unfortunately the applicant has not responded to recent emails from the Police to confirm one way or the other. It is felt that the conditions sought are specific and measurable and will assist the applicant in robustly promoting the licencing objectives. The conditions are relevant and reflect those seen on other similar premises licences in the locality.

This representation is to request that the licensing committee consider the addition of the full conditions as detailed on page 4.

If possible, please suggest alterations to the application that would resolve the problem mentioned above, again paying attention to the **Licensing Objectives**:

Below is a full list of conditions we would like to be included in order to assist the applicant to uphold the licensing objectives and mitigate any increased risk. They are a combination of those already offered by the applicant in their application and those requested by Lincolnshire Police, considering the comments and negotiations which have already taken place.

Steps Taken to Promote the Licensing Objectives

General

1. The premises licence holder will ensure that all staff at the premises have been trained in accordance with established JD Wetherspoon plc training procedures. Specifically, the premises licence holder will ensure that all employees who work front of house are trained in their responsibilities to prevent alcohol being served to anybody who is under the legal age limit or to anyone who appears to be drunk or to anyone who is trying to purchase alcohol on their behalf.

Prevention of Crime and Disorder

1. The premises licence holder will ensure that there are sufficient staffing levels including managers to encourage responsible behaviour on the premises at all times.

2. A CCTV system shall be installed, recording and maintained in working order and operated at the premises to the satisfaction of Lincolnshire Police which shall cover all areas which customers have access to.

- Recordings must be kept for a minimum of 31 days and endorsed with the accurate, correct time/date (BST/GMT adjusted).

- Police and/or Authorised Licensing Officers shall be able on attendance to view immediate playback of any incident without the necessity for download.

- Recordings of incidents at the premises must be provided to the police following lawful request.

- A member of staff shall be on the premises at all times they are open to the public who is capable of operating the CCTV system and providing recordings on request. When this is not possible recordings shall be provided within 24 hours of the original request.

- Recording equipment shall be housed in a secure room/cabinet where access and operation is strictly limited to authorised persons.

- All equipment shall have constant time/date generation, which must be checked for accuracy on a daily basis.

- In the event of a system malfunction, the Designated Premises Supervisor or the Premises Licence Holder must record details of this malfunction in the premises refusals/incident book. Arrangements for its repair must be made without delay.

3. Non-alcoholic beverages including soft drinks, water, coffee and tea shall be available at all times, sale by retail of alcohol carried out at the premises.

4. SIA registered door staff shall be employed at the premises in accordance with a risk assessment, to be carried out by the DPS. This risk assessment will be kept on the premises at all times and presented to any requesting licensing authority upon their request.

5. A door staff record book or electronic record shall be kept containing the names, addresses, dates of birth, SIA registration number and hours worked of door supervisors employed on any day. This shall be retained at the premises for at least 12 months and shall be made available for inspection and copying by the Police or other responsible authority upon request.

6. On any evening that door staff are on duty they will remain on duty until 30 minutes after alcohol sales cease.

Public Safety

1. An incident/refusals book/electronic record shall be kept at the premises, in which details of crime and/or disorder relating to the premises shall be recorded. This log shall contain the following details;

Time, date and location of incident/refusals.

Nature of the Incident/refusal.

Names, addresses and contact details of persons involved (if provided).

Each entry signed/reviewed by the DPS or other responsible person employed at the premises and so authorised by the DPS; and retained for a period of no less than 12 months and made available to Lincolnshire Police or other responsible authority for inspection upon request.

2. No alcoholic or other drink may be removed from the premises in an open container except for consumption in an outside area of the premises provided for that purpose.

The Prevention of public nuisance

1. Any outside area which is used for the consumption of alcohol shall cease to be so used at closing time of the premises

2. Customer notices to be displayed at all exits asking patrons to leave the premises quietly and respect the needs of local residents.

3. Customer notices to be displayed in the external drinking area asking patrons to keep noise levels to a minimum and respect the needs of local residents.

The Protection of children from harm

1. Children will be required to vacate the premises by 21:30 hours unless they are eating in which case they will be required to vacate the premises by 22:00 hours.

2. -The premises shall operate the "Challenge 21" Proof of Age Policy to prevent the sale or supply of alcohol to persons under 18 years of age. The policy shall require any person who appears to be under the age of 21 years to produce one of the following forms of identification:

A recognised proof of age card credited under the British Retail Consortiums Proof of Age Standards Scheme (PASS);

Photo driving licence;

Passport.

3. Notices shall be prominently displayed advising customers of the "Challenge 21" policy.

4. All point of sale staff shall undergo training in the challenge 21 proof of age scheme and all other relevant policies with a record kept of the date of training, signed by the member of staff and the trainer. Each entry shall be retained for a period of 12 months from date of completion. This record shall be made available for inspection by Lincolnshire Police Officers or other relevant authority.

5. Suitable food and non-alcoholic beverages shall be available at all times children are allowed on the premises.

Have you contacted the applicant to discuss this representation?

Yes X

No

Do you consider mediation could resolve the issue?

Yes X No

Do you propose to attend or be represented at any Licensing Panel hearing?

Yes X No

Please tick this box if you consent to any notice of any hearing being sent to you to via the e-mail address provided by you above. X

(Please note if any notice is sent to you by electronic means, you will also receive confirmation of the same in writing).

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4 Licensing Objectives

Each of the four licensing objectives is of equal importance and no one objective will take precedence over others when considering applications.

The Licensing Authority considers the effective and responsible management of premises, instruction, training and supervision of staff and the adoption of best practice to

be amongst the most essential control measures for the achievement of all the licensing objectives. For this reason these elements should be specifically considered and addressed within the applicants operating schedule.

The Licensing Authority recommends that applicants carry out their own risk assessments in relation to the four licensing objectives in order to assist them in deciding whether any steps are required to be taken in order to meet those objectives.

In accordance with the Home Office Guidance to Licensing Authorities, this Authority expects applicants to demonstrate knowledge of the area within which the licensed premises is situated. This would include, for example, proximity to residential properties, areas where children congregate and any risk posed to the local area by the applicant's proposed licensable activity.

4.1 Prevention of crime and disorder

4.1.1 The Licensing Authority will carry out its licensing functions with a view to promoting the prevention of crime and disorder and will seek to ensure that licensees/certificate holders/designated premises supervisors take measures to regulate the behaviour of persons whilst on their premises, or in the immediate vicinity of the premises.

4.1.2 In addition to the requirement for the Licensing Authority to promote this licensing objective, it also has a duty under Section 17 of the Crime and Disorder Act 1998 to exercise its functions with due regard to the likely effect on, and do all it reasonably can to prevent, crime and disorder in the Borough.

4.1.3 When addressing crime and disorder the applicant should initially identify any particular issues (having regard to their type of premises and/or activities) which are likely to adversely affect the promotion of the crime and disorder objective. Such steps as are required to deal with these identified issues should be included within the applicant's operating schedule.

The Licensing Authority encourages applicants to include in their operating schedule the steps they propose to take to reduce/deter crime and disorder. These steps will vary from premises to premises according to the type of licensable activities that are to be carried on. Examples of measures the Licensing Authority encourage applicants to consider and address include

- Physical security features e.g. use of toughened, polycarbonate or plastic drinking glasses
- Procedure for risk assessment of alcohol promotions to ensure they do not promote irresponsible drinking or potentially breach the mandatory condition on irresponsible drinks promotions
- The use and number of Security Industry Authority (SIA) registered door supervisors
- Amount of seating to be provided to reduce the risk of high volume vertical drinking
- Training given to staff in crime prevention and drug awareness measures
- Measures agreed with the Police to reduce crime and disorder
- Measures to prevent the use or supply of illegal drugs
- Search procedures
- Formalisation of a dispersal policy
- Measures to prevent customers taking glasses and bottles away from the premises

- Training given to staff to prevent the sale of alcohol to those who are under age or appear drunk
- Measures to tackle street drinking including not selling single cans or bottles of beer, lager and cider; not selling super strength (ABV above 6.5) beer, lager and cider; and attaching water proof labels with printed shop names and addresses to cans and bottles of beer, lager and cider.

CCTV remains one of the most effective measures for reducing crime and disorder. The Licensing Authority expects premises that retail alcohol for consumption on or off the premises will have an effective CCTV system installed that operates in compliance with the requirements of Lincolnshire Police

- 4.1.4 The British Beer and Pub Association (BBPA) has consolidated good practice on combating violence in licensed premises into a guide to risk assessment. This is available on the BBPA's website: www.beerandpub.com.

4.2 Public Safety

- 4.2.1 The Licensing Authority will carry out their licensing functions with a view to promoting public safety and will seek to ensure that licensees/certificate holders/designated premises supervisors take measures to protect the safety of performers and persons attending licensable activities. The risk to public safety will vary according to the type of premises and the activities carried out.

The Licensing Authority encourages applicants to include in their operating schedules the steps they propose to take to promote public safety.

- 4.2.2 Where an applicant identifies an issue in regard to public safety, which is not covered by existing legislation, the applicant should identify in their operating schedule the steps which will be taken to ensure public safety.

- 4.2.3 Depending on the individual style and characteristics of the premises and/or events the following issues may be of relevance:

- Use of equipment and effects
- Levels of door supervision
- Measures to prevent the supply and use of illegal drugs
- Physical safety features e.g. use of toughened glass, polycarbonate and plastic containers
- Fire evacuation procedures
- Provision of CCTV (see para 7.1.3)
- Occupancy figures

- 4.2.4 It will be the responsibility of licence/certificate holders/designated premises supervisors to ensure they have complied with all Health and Safety legislation.

- 4.2.5 Where a premise is on a vessel for which a current Passenger Ship Certificate is in force, the public safety objective can generally be considered to be met in respect of the layout, structure, access arrangements and operation of the vessel.

- 4.2.6 Whilst the Licensing Authority cannot require documentation regarding risk assessments to be attached to the operating schedule, it considers such risk assessments to be good practice. Risk assessments, including fire risk assessments, are a useful tool in the instruction and training of staff, as well as a sound basis for review by the licence holder,

in the event of needing to make an application for variation of a premises licence or in response to changing circumstances/conditions at the premises.

4.3 Prevention of Public Nuisance

- 4.3.1 Licensed premises have a significant potential to adversely impact on communities through public nuisances that arise from their operation. The Licensing Authority wishes to maintain and protect the amenity of residents and other businesses from the potential consequence of the operation of licensed premises whilst recognising the valuable cultural, social and business importance that such premises provide.
- 4.3.2 The Licensing Authority intends to interpret “public nuisance” in its widest sense and takes it to include such issues as noise, light, odour, litter and anti-social behaviour, where these matters impact on those living, working or otherwise engaged in normal activity in an area.
- 4.3.3 When addressing public nuisance the applicant should initially identify any particular issues (having regard to their type of premises and/or activities) which are likely to adversely affect the promotion of the objective to prevent public nuisance. Such steps as are required to deal with these identified issues should be included within the applicant’s operating schedule. For example, the Licensing Authority expects an applicant to identify how public nuisance will be controlled in outside areas, particularly in smoking areas, that are not within the boundary of the licensed area. This would include prohibiting the consumption of alcohol.
- 4.3.4 Applicants are encouraged to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to prevent public nuisance, relevant to the individual style and characteristics of their premises and events. These may include:
- The location of premises and proximity to residential and other noise sensitive premises, such as hospitals, local businesses, hospices and places of worship
 - The hours of opening, particularly between 23.00 and 07.00
 - The nature of the activities to be provided, including whether those activities are of a temporary or permanent nature and whether they are to be held inside or outside the premises
 - The design and layout of the premises and in particular the presence of noise limiting and/or monitoring features
 - The occupancy capacity of the premises (Where appropriate)
 - The availability of public transport to facilitate dispersal of customers
 - ‘wind down period’ between the end of the licensable activities and the closure of the premises
 - last admission time
 - The formulation of a dispersal policy
 - Control of nuisance from persons using outside areas and in particular smoking areas.
- 4.3.5 The following examples of control measures are given to assist applicants who may need to take account of them in their operating schedule, having regard to their particular type of premises and/or activities
- Effective and responsible management of premises
 - Appropriate instruction, training and supervision of those employed or engaged to prevent incidents of public nuisance e.g. to ensure customers leave quietly

- Control of operating hours for all or parts (e.g. garden areas) of the premises, including such matters as deliveries
- Adoption of best practice guidance (e.g. Good practice Guide on the Control of Noise from Pubs and Clubs, produced by Institute of Acoustics)
- Installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices
- Management of people, including staff and traffic (and resulting queues) arriving and leaving premises
- Liaison with public transport providers
- Siting of external lighting, including security lighting
- Management arrangements for collection and disposal of litter
- Effective ventilation systems to prevent nuisance from odour
- Undertaking noise impact assessments
- Regular assessments of the noise coming from the premises when used for regulated entertainment and steps to control the level of noise so as not to cause disturbance to local residents.
- Regular assessment of any noise coming from outside areas, including smoking areas, and steps to control the level of noise so as not to cause disturbance to local residents.
- Keeping a written record of assessments in a log book kept for that purpose including, the time and date of the checks, the person making them and the results including any remedial action.
- Identifying smoking areas in operating schedules to enable responsible authorities to appraise proposals with a view to promoting the prevention of public nuisance licensing objective.
- Keeping external doors (except for access and egress) and windows closed when regulated entertainment is being provided except in the event of an emergency.
- The disposal of empty glass bottles not being undertaken externally between 23.00 hours and opening hours on the following day on every day of the week.
- Posting at exits from the premises in a place where they can be seen and easily read by the public, notices requiring customers to leave the premises and the area quietly and in an orderly manner.
- Regularly clearing outside the premises of litter associated with the operation of the premises e.g. cigarette ends.

4.4 Protection of children from harm

- 4.4.1 The Licensing Authority recognises the great variety of premises for which licences may be sought. These will include theatres, cinemas, restaurants, pubs, nightclubs, cafes, takeaways, community halls and schools. Except as prohibited by law, access by children to all types of premises will not be limited in any way unless it is considered necessary to do so to protect them from harm. It is hoped that family friendly premises will thrive but the risk of harm to children remains a paramount consideration when determining applications.

The protection of children from harm includes protection of children from moral, psychological and physical harm.

- 4.4.2 When receiving relevant representations and deciding whether to limit access to children, other than in circumstances where the law demands their access to be limited, applicants/licence/certificate holders should consider the activities carried on at the premises. Examples which may give rise to concern in respect of children would include premises;

- 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;
- With a known association with drug taking or dealing
- Where there is a strong element of gambling on the premises (but not, for example, the simple presence of a small number of cash prize gaming machines)

- 4.4.3 Films - In the case of premises which are used for film exhibitions, conditions will be imposed restricting access only to those who meet the required age limit in line with any certificate granted by the British Board of Film Classification or, in specific cases, a certificate given to the film by the Licensing Authority itself. Applicants will be expected to explain in their operating schedule the steps they intend to take to ensure children and young persons do not gain access to films with a restricted access classification.

Where a film is to be shown locally within the authority's area and has not been classified by the British Board of Film Classification, an application can be made to the Authority for the film to be classified. Applications should be made in accordance with the guidelines set out by the British Board of Film Classification. These guidelines can be found at: www.bbfc.co.uk.

- 4.4.4 Theatres- In certain cases it may be necessary to impose a condition to restrict the admission of children to theatres, which are incorporating adult entertainment in their productions.

- 4.4.5 Where a large number of children are likely to be present on any licensed premises and representations are received; conditions may be imposed requiring the presence of an appropriate number of adult staff to ensure public safety and their protection from harm. Where the Licensing Authority considers it appropriate, following receipt of relevant representation(s) it may require the adult supervisors (being persons over the age of 18) to be subject to a criminal record check. The onus will be on the Premises Licence holder to ensure that staff members are suitable to carry out the supervision of children, which may include criminal record disclosure from the Disclosure and Barring Service (DBS).

- 4.4.6 The options available for limiting access by children would include –

- Limitations of the hours when children may be present
- Limitations or the exclusion of the presence of children under certain ages when particular specified activities are taking place;
- Limitations on the parts of premises to which children might be given access;
- Age limitations (below 18 years);
- Requirements for accompanying adults (including for example, a requirement which provide that children under a particular age must be accompanied by an adult); and
- Full exclusion of those people under 18 years of age from the premises when any licensable activities are taking place.

- 4.4.7 The Licensing Authority will not impose any condition that specifically requires access for children to be provided at any premises. Where no restriction or limitation is imposed the issue of access will remain a matter for the discretion of the individual licence holder/certificate holder or designated premises supervisor.

4.4.8 The body responsible for the interests of children is:

Lincolnshire Safeguarding Children Partnership

Lincolnshire Safeguarding Children Partnership can be contacted through Lincolnshire County Council.

The reasons the Licensing Authority has chosen the above as a Responsible Authority competent to advise it on the protection of children from harm are:

- That this body is answerable to democratically elected persons and is not answerable to a particular vested interest group;
- That this body is responsible for the area covered by this Licensing Authority and this policy;
- That this body is experienced in dealing with the protection of children.

4.4.9 In respect of premises licensed for the sale of alcohol, The Portman Group Code of Practice on The Naming, Packaging and Promotion of Alcoholic Drinks should be followed to ensure drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years or older.

4.4.10 The sale of alcohol to children and young persons under the relevant age is a criminal offence, often resulting in harm to the children and young persons concerned and disturbance and nuisance to local residents and businesses. Applicants should detail adequate control measures in their operating schedule to prevent under-age sales. The Licensing Authority recognises that Lincolnshire County Council Trading Standards Service, as part of its responsibilities and duties under the legislation controlling the sale of age restricted products, including alcohol, provides advice and guidance on the controls and systems that may be adopted to help prevent such sales. Applicants are strongly advised to contact Trading Standards for advice on this matter. The Licensing Authority also recognises that in liaison with the Police, the Trading Standards Service conducts covert test purchasing exercises to check compliance with the law.

Challenge 25 – The mandatory licence conditions (introduced in October 2014) require relevant premises to hold an age verification policy in relation to the sale or supply of alcohol. The Licensing Authority supports the adoption of the Challenge 25 Schemes (or similar scheme) for licensed premises.

A suitable proof of age policy adopted by a licence holder should require the production of a photo-driving licence or passport before sale or entry into the premises. For added security, licence holders are encouraged to consider use of the Proof of Age Standards Scheme (PASS) and accept cards showing the PASS logo.

4.4.11 Where licence holders wish to employ children they should ensure that the legislation regarding this matter is complied with and any necessary permits to work have been obtained. Further information on the requirements of this legislation is available from the Lincolnshire Safeguarding Children Board.

5 The Licensing Process

5.1 The functions of the Licensing Authority under the Act may be carried out by the Licensing Committee, by a Sub-Committee or by one or more officers acting under delegated authority in accordance with the provisions of the Act. Delegated powers are

in accordance with the table at Appendix 1. This table does not form part of the policy and may therefore be amended without consultation with statutory consultees.

- 5.2 Each application for licensing will be considered on its own merit. Nothing will undermine any person from applying for a variety of permissions under the Act.
- 5.3 Other than electronic applications applicants are reminded that documents submitted as part of an application which bear a signature, criminal record certificates, criminal conviction certificates, subject access documents and licensing qualifications must be original documents. Faxes and photocopies are not acceptable unless with the prior agreement of the Licensing Authority.
- 5.4 Applicants for any authority or permission are expected to make their application in accordance with the Act and any regulations made there under. Failure to meet this requirement may result in the application being returned. The Licensing Authority will endeavour to explain why the application is considered to be deficient and will invite the applicant to re-submit the application with all the required information. Application forms will not be returned where they contain obvious and minor factual errors that can easily be amended. It is the responsibility of the applicant to send a copy of their application and any other relevant documentation to each of the Responsible Authorities, unless the application has been properly made electronically, in which case it is the responsibility of the Licensing Authority to circulate it. Where applicants fail, after being reminded, to copy applications to Responsible Authorities, or they resubmit applications which are still deficient, the application will be rejected. Re-submission of an application following rejection will be subject to the statutory advertising requirements.
- 5.5 A main part in ensuring compliance with the Act, and in particular showing how the four licensing objectives are to be achieved, is the "operating schedule" for the licensed premises. The operating schedule forms part of the licence application. The schedule will aid any Responsible Authority or other party to assess whether the steps to be taken to promote the licensing objectives are satisfactory. The schedule will form part of the conditions of the licence or certificate, if granted. The Licensing Authority will work with the licensees and applicants by providing guidance notes on the completion of the schedules. However, the responsibility for drawing up the operating schedule rests with the applicant. The operating schedule should detail the manner in which the business will be run and the steps/controls put in place to meet the licensing objectives. Any individual preparing an operating schedule is free to volunteer any measure as a step he or she intends to take to promote the licensing objectives. The operating schedule must specify all types of entertainment which will take place at the premises
- 5.6 Applications for minor variations may be subject to consultation with the appropriate responsible authorities and will be refused if any responsible authority indicates that they would make a representation on the proposed minor variation.
- 5.7 In an effort to avoid unnecessary hearings, applicants are strongly advised to prepare risk assessments and from these formulate any steps they consider necessary to promote the licensing objectives and then to consult with the responsible authorities as defined within the Act before submitting their applications. Failure to do so may lead to representations which can only be determined by the Licensing Sub-Committee. In respect of minor variations applicants are strongly advised to contact the appropriate responsible authorities before formally submitting their application in order to avoid unnecessary expense.
- 5.8 Account will be taken of the need to encourage and promote all types of entertainment, including live music, dancing and theatre for the wider cultural benefit of the community as a whole. If representations are made concerning the potential for limited disturbance

from these activities in a particular neighbourhood, the Licensing Authority's consideration will be balanced against the wider benefits to the community.

- 5.9 The guidance issued by the Home Office indicates that representations can be made in opposition to, or in support of, an application. With this in mind the Licensing Authority would remind all parties that all representations (both for and against an application) must relate to the promotion of the licensing objectives.
- 5.10 The Licensing Authority acknowledges that the views of vocal minorities should not be allowed to predominate over the general interest of the community.

6 Premises Licences/Club Premises Certificates

- 6.1 Applicants will be required to submit their application in the form detailed in regulations made under the Act. Applicants will be required to submit, with their application for a premises licence, club premises certificate, Provisional Statement or a variation to their existing premises licence or club registration certificate, an Operating Schedule detailing:
-

- The licensable activities to be conducted on the premises;
- The times during which it is proposed that the relevant licensable activities are to take place;
- Any other times when the premises are to be open to the public or to members of a club;
- Where the licence is required only for a limited period, that period;
- Where the licensable activities include the supply of alcohol, the name, address and licence number of the individual to be specified as the designated premises supervisor;
- Where the licensable activities include the supply of alcohol, whether the alcohol will be supplied for consumption on or off the premises or both; and
- The steps which the applicant proposes to take to promote the licensing objectives.

- 6.2 Applications will be determined having regard to:

- This Policy
- The Licensing Act 2003 and subordinate legislation.
- Guidance issued by the Home Office
- Any relevant representations received (provided they are not determined to be frivolous or vexatious).

■ [REDACTED]

29 Challenge 25 Scheme

- 29.1 The Licensing Authority strongly supports campaigns to reduce the illegal sale of items to underage persons and the adoption of a Challenge 25, or similar policy, within the licensed trade. Under the scheme, premises selling alcohol should seek proof of age from anybody who appears to be under the age of 18.

N.B. The mandatory licence conditions, introduced in 2014, require relevant premises to have an age verification policy in relation to the sale or supply of alcohol.

- 29.2 The policy should create a culture of expectation that in pubs, clubs, off-licences and similar premises that proof of age should either be offered or produced on demand and that this should be the norm as far as the sale of alcohol to young persons is concerned. Asking for identification at an age limit that is higher than the legal age for the sale of the product means that licence holders are much more likely to avoid an illegal sale to someone who looks older than their true age.

| Country | Share of GDP |
|------------------------|--------------|
| United States | 10.1% |
| Germany | 10.0% |
| France | 9.8% |
| Italy | 9.7% |
| Spain | 9.6% |
| Japan | 9.5% |
| China | 9.4% |
| India | 9.3% |
| South Korea | 9.2% |
| United Kingdom | 9.1% |
| Canada | 9.0% |
| Sweden | 8.9% |
| Netherlands | 8.8% |
| Belgium | 8.7% |
| Australia | 8.6% |
| South Africa | 8.5% |
| Brazil | 8.4% |
| Argentina | 8.3% |
| Mexico | 8.2% |
| Colombia | 8.1% |
| Peru | 8.0% |
| Chile | 7.9% |
| Venezuela | 7.8% |
| Iran | 7.7% |
| Turkey | 7.6% |
| Indonesia | 7.5% |
| Malaysia | 7.4% |
| Singapore | 7.3% |
| Thailand | 7.2% |
| Philippines | 7.1% |
| Vietnam | 7.0% |
| Myanmar | 6.9% |
| Laos | 6.8% |
| Cambodia | 6.7% |
| Timor-Leste | 6.6% |
| East Timor | 6.5% |
| Brunei | 6.4% |
| Sri Lanka | 6.3% |
| Maldives | 6.2% |
| Bhutan | 6.1% |
| Nepal | 6.0% |
| Bangladesh | 5.9% |
| Pakistan | 5.8% |
| Afghanistan | 5.7% |
| Yemen | 5.6% |
| Sudan | 5.5% |
| Egypt | 5.4% |
| Libya | 5.3% |
| Tunisia | 5.2% |
| Algeria | 5.1% |
| Morocco | 5.0% |
| Marshall Islands | 4.9% |
| Norway | 4.8% |
| Denmark | 4.7% |
| Finland | 4.6% |
| Ireland | 4.5% |
| Portugal | 4.4% |
| Greece | 4.3% |
| Cyprus | 4.2% |
| Slovenia | 4.1% |
| Croatia | 4.0% |
| Slovakia | 3.9% |
| Czech Republic | 3.8% |
| Hungary | 3.7% |
| Poland | 3.6% |
| Romania | 3.5% |
| Bulgaria | 3.4% |
| Serbia | 3.3% |
| Montenegro | 3.2% |
| Albania | 3.1% |
| Bosnia and Herzegovina | 3.0% |
| Moldova | 2.9% |
| Ukraine | 2.8% |
| Belarus | 2.7% |
| Latvia | 2.6% |
| Lithuania | 2.5% |
| Estonia | 2.4% |
| Uzbekistan | 2.3% |
| Kazakhstan | 2.2% |
| Kyrgyzstan | 2.1% |
| Tajikistan | 2.0% |
| Georgia | 1.9% |
| Armenia | 1.8% |
| Azerbaijan | 1.7% |
| Israel | 1.6% |
| Jordan | 1.5% |
| Lebanon | 1.4% |
| Syria | 1.3% |
| Iran | 1.2% |
| Oman | 1.1% |
| Qatar | 1.0% |
| UAE | 0.9% |
| Saudi Arabia | 0.8% |
| Bahrain | 0.7% |
| Kuwait | 0.6% |
| Yemen | 0.5% |
| Somalia | 0.4% |
| Ethiopia | 0.3% |
| DRC | 0.2% |
| Congo | 0.1% |
| Angola | 0.0% |
| Nigeria | -0.1% |
| Ghana | -0.2% |
| Senegal | -0.3% |
| Sierra Leone | -0.4% |
| Liberia | -0.5% |
| Ivory Coast | -0.6% |
| Togo | -0.7% |
| Benin | -0.8% |
| Niger | -0.9% |
| Chad | -1.0% |
| Sudan | -1.1% |
| Egypt | -1.2% |
| Libya | -1.3% |
| Tunisia | -1.4% |
| Algeria | -1.5% |
| Morocco | -1.6% |
| Marshall Islands | -1.7% |
| Norway | -1.8% |
| Denmark | -1.9% |
| Finland | -2.0% |
| Ireland | -2.1% |
| Portugal | -2.2% |
| Greece | -2.3% |
| Cyprus | -2.4% |
| Slovenia | -2.5% |
| Croatia | -2.6% |
| Slovakia | -2.7% |
| Czech Republic | -2.8% |
| Hungary | -2.9% |
| Poland | -3.0% |
| Romania | -3.1% |
| Bulgaria | -3.2% |
| Serbia | -3.3% |
| Montenegro | -3.4% |
| Albania | -3.5% |
| Bosnia and Herzegovina | -3.6% |
| Moldova | -3.7% |
| Ukraine | -3.8% |
| Belarus | -3.9% |
| Latvia | -4.0% |
| Lithuania | -4.1% |
| Estonia | -4.2% |
| Uzbekistan | -4.3% |
| Kazakhstan | -4.4% |
| Kyrgyzstan | -4.5% |
| Tajikistan | -4.6% |
| Georgia | -4.7% |
| Armenia | -4.8% |
| Azerbaijan | -4.9% |
| Israel | -5.0% |
| Jordan | -5.1% |
| Lebanon | -5.2% |
| Syria | -5.3% |
| Iran | -5.4% |
| Oman | -5.5% |
| Qatar | -5.6% |
| UAE | -5.7% |
| Saudi Arabia | -5.8% |
| Bahrain | -5.9% |
| Kuwait | -6.0% |
| Yemen | -6.1% |
| Somalia | -6.2% |
| Ethiopia | -6.3% |
| DRC | -6.4% |
| Congo | -6.5% |
| Angola | -6.6% |
| Nigeria | -6.7% |
| Ghana | -6.8% |
| Senegal | |

[REDACTED]

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 [REDACTED]

1. Introduction

The Licensing Act 2003

- 1.1 The Licensing Act 2003 (referred to in this Guidance as the 2003 Act), its explanatory notes and any statutory instruments made under it may be viewed online at www.legislation.gov.uk. The statutory instruments include regulations setting out the content and format of application forms and notices. The Home Office has responsibility for the 2003 Act. However, the Department for Culture, Media and Sport (DCMS) is responsible for regulated entertainment, for which there is provision in Schedule 1 to the 2003 Act (see Chapter 16).

Licensing objectives and aims

- 1.2 The legislation provides a clear focus on the promotion of four statutory objectives which must be addressed when licensing functions are undertaken.
- 1.3 The licensing objectives are:
- The prevention of crime and disorder;
 - Public safety;
 - The prevention of public nuisance; and
 - The protection of children from harm.
- 1.4 Each objective is of equal importance. There are no other statutory licensing objectives, so that the promotion of the four objectives is a paramount consideration at all times.
- 1.5 However, the legislation also supports a number of other key aims and purposes. These are vitally important and should be principal aims for everyone involved in licensing work. They include:
- protecting the public and local residents from crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises;
 - giving the police and licensing authorities the powers they need to effectively manage and police the night-time economy and take action against those premises that are causing problems;
 - recognising the important role which pubs and other licensed premises play in our local communities by minimising the regulatory burden on business, encouraging innovation and supporting responsible premises;
 - providing a regulatory framework for alcohol which reflects the needs of local communities and empowers local authorities to make and enforce decisions about the most appropriate licensing strategies for their local area; and
 - encouraging greater community involvement in licensing decisions and giving local residents the opportunity to have their say regarding licensing decisions that may affect them.

The guidance

- 1.6 Section 182 of the 2003 Act provides that the Secretary of State must issue and, from time to time, may revise guidance to licensing authorities on the discharge of their functions under the 2003 Act. This revised guidance takes effect as soon as it is published. Where a licence application was made prior to the publication of the revised guidance, it should be processed in accordance with the guidance in effect at the time at which the application was made; the revised guidance does not apply retrospectively. However, all applications received by the licensing authority on or after the date the revised guidance was published should be processed in accordance with the revised guidance.

Purpose

- 1.7 This Guidance is provided to licensing authorities in relation to the carrying out of their functions under the 2003 Act. It also provides information to magistrates' courts hearing appeals against licensing decisions and has been made widely available for the benefit of those who run licensed premises, their legal advisers and the general public. It is a key medium for promoting best practice, ensuring consistent application of licensing powers across England and Wales and for promoting fairness, equal treatment and proportionality.
- 1.8 The police remain key enforcers of licensing law. This Guidance does not bind police officers who, within the parameters of their force orders and the law, remain operationally independent. However, this Guidance is provided to support and assist police officers in interpreting and implementing the 2003 Act in the promotion of the four licensing objectives.

Legal status

- 1.9 Section 4 of the 2003 Act provides that, in carrying out its functions, a licensing authority must 'have regard to' guidance issued by the Secretary of State under section 182. This Guidance is therefore binding on all licensing authorities to that extent. However, this Guidance cannot anticipate every possible scenario or set of circumstances that may arise and, as long as licensing authorities have properly understood this Guidance, they may depart from it if they have good reason to do so and can provide full reasons. Departure from this Guidance could give rise to an appeal or judicial review, and the reasons given will then be a key consideration for the courts when considering the lawfulness and merits of any decision taken.
- 1.10 Nothing in this Guidance should be taken as indicating that any requirement of licensing law or any other law may be overridden (including the obligations placed on any public authorities under human rights legislation). This Guidance does not in any way replace the statutory provisions of the 2003 Act or add to its scope and licensing authorities should note that interpretation of the 2003 Act is a matter for the courts. Licensing authorities and others using this Guidance must take their own professional and legal advice about its implementation.

Licence conditions – general principles

1.16 Conditions on a premises licence or club premises certificate are important in setting the parameters within which premises can lawfully operate. The use of wording such as “must”, “shall” and “will” is encouraged. Licence conditions:

- must be appropriate for the promotion of the licensing objectives;
- must be precise and enforceable;
- must be unambiguous and clear in what they intend to achieve;
- should not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation;
- must be tailored to the individual type, location and characteristics of the premises and events concerned;
- should not be standardised and may be unlawful when it cannot be demonstrated that they are appropriate for the promotion of the licensing objectives in an individual case;
- should not replicate offences set out in the 2003 Act or other legislation;
- should be proportionate, justifiable and be capable of being met;
- cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff, but may impact on the behaviour of customers in the immediate vicinity of the premises or as they enter or leave; and
- should be written in a prescriptive format.

Each application on its own merits

1.17 Each application must be considered on its own merits and in accordance with the licensing authority’s statement of licensing policy; for example, if the application falls within the scope of a cumulative impact policy. Conditions attached to licences and certificates must be tailored to the individual type, location and characteristics of the premises and events concerned. This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises where there is no need for such conditions. Standardised conditions should be avoided and indeed may be unlawful where they cannot be shown to be appropriate for the promotion of the licensing objectives in an individual case.

Additional guidance

1.18 From time to time, the Home Office may issue additional supporting guidance to licensing authorities and other persons on the Gov.uk website. This supporting guidance is good practice guidance and should be viewed as indicative and subject to change. Such supporting guidance will broadly reflect but will not be part of the statutory guidance issued by the Secretary of State under section 182 of the 2003 Act. Licensing authorities may wish to refer to, but are under no statutory duty to have regard to such supporting guidance issued by the Home Office.

2. The licensing objectives

Crime and disorder

- 2.1 Licensing authorities should look to the police as the main source of advice on crime and disorder. They should also seek to involve the local Community Safety Partnership (CSP).
- 2.2 In the exercise of their functions, licensing authorities should seek to co-operate with the Security Industry Authority (“SIA”) as far as possible and consider adding relevant conditions to licences where appropriate. The SIA also plays an important role in preventing crime and disorder by ensuring that door supervisors are properly licensed and, in partnership with police and other agencies, that security companies are not being used as fronts for serious and organised criminal activity. This may include making specific enquiries or visiting premises through intelligence led operations in conjunction with the police, local authorities and other partner agencies. Similarly, the provision of requirements for door supervision may be appropriate to ensure that people who are drunk, drug dealers or people carrying firearms do not enter the premises and ensuring that the police are kept informed.
- 2.3 Conditions should be targeted on deterrence and preventing crime and disorder including the prevention of illegal working in licensed premises (see paragraph 10.10). For example, where there is good reason to suppose that disorder may take place, the presence of closed-circuit television (CCTV) cameras both inside and immediately outside the premises can actively deter disorder, nuisance, anti-social behaviour and crime generally. Some licence holders may wish to have cameras on their premises for the prevention of crime directed against the business itself, its staff, or its customers. But any condition may require a broader approach, and it may be appropriate to ensure that the precise location of cameras is set out on plans to ensure that certain areas are properly covered and there is no subsequent dispute over the terms of the condition.
- 2.4 The inclusion of radio links and ring-round phone systems should be considered an appropriate condition for public houses, bars and nightclubs operating in city and town centre leisure areas with a high density of licensed premises. These systems allow managers of licensed premises to communicate instantly with the police and facilitate a rapid response to any disorder which may be endangering the customers and staff on the premises.
- 2.5 Conditions relating to the management competency of designated premises supervisors should not normally be attached to premises licences. It will normally be the responsibility of the premises licence holder as an employer, and not the licensing authority, to ensure that the managers appointed at the premises are competent and appropriately trained. The designated premises supervisor is the key person who will usually be responsible for the day to day management of the premises by the premises licence holder, including the prevention of disorder. A condition of this kind may only be justified as appropriate in rare circumstances where it can be demonstrated that, in the circumstances associated with particular premises, poor management competency could give rise to issues of crime and disorder and public safety.

- 2.6 The prevention of crime includes the prevention of immigration crime including the prevention of illegal working in licensed premises. Licensing authorities should work with Home Office Immigration Enforcement, as well as the police, in respect of these matters. Licence conditions that are considered appropriate for the prevention of illegal working in licensed premises might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that evidence of a right to work check, either physical or digital (e.g. a copy of any document checked as part of a right to work check or a clear copy of the online right to work check) are retained at the licensed premises.
- 2.7 The objective to crime under the Licensing Act 2003 would include taking measures to prevent incidents of spiking which would usually be prosecuted under section 23 and 24 of the Offences Against the Person Act 1861, and section 61 of the Sexual Offences Act 2003. The following examples are within the range of behaviours that would be considered spiking. This list is not exhaustive:
- Putting alcohol into someone's drink without their knowledge or permission
 - Putting prescription or illegal drugs into an alcoholic or non-alcoholic drink without their knowledge or permission
 - Injecting another person with prescription or illegal drugs without their knowledge or permission
 - Putting prescription or illegal drugs into another person's food without their knowledge or permission
 - Putting prescription or illegal drugs into another person's cigarette or vape without their knowledge or permission

Public safety

- 2.8 Licence holders have a responsibility to ensure the safety of those using their premises, as a part of their duties under the 2003 Act. This concerns the safety of people using the relevant premises rather than public health which is addressed in other legislation. Physical safety includes the prevention of accidents and injuries and other immediate harms that can result from alcohol consumption such as unconsciousness or alcohol poisoning. Conditions relating to public safety may also promote the crime and disorder objective as noted above. There will of course be occasions when a public safety condition could incidentally benefit a person's health more generally, but it should not be the purpose of the condition as this would be outside the licensing authority's powers (be ultra vires) under the 2003 Act. Conditions should not be imposed on a premises licence or club premises certificate which relate to cleanliness or hygiene.
- 2.9 A number of matters should be considered in relation to public safety. These may include:
- Fire safety;
 - Ensuring appropriate access for emergency services such as ambulances;
 - Good communication with local authorities and emergency services, for example communications networks with the police and signing up for local incident alerts (see paragraph 2.4 above);

- Ensuring the presence of trained first aiders on the premises and appropriate first aid kits;
- Ensuring the safety of people when leaving the premises (for example, through the provision of information on late-night transportation);
- Ensuring appropriate and frequent waste disposal, particularly of glass bottles;
- Ensuring appropriate limits on the maximum capacity of the premises (see paragraphs 2.12-2.13, and Chapter 10; and
- Considering the use of CCTV in and around the premises (as noted in paragraph 2.3 above, this may also assist with promoting the crime and disorder objective).

2.10 The measures that are appropriate to promote public safety will vary between premises and the matters listed above may not apply in all cases. As set out in Chapter 8 (8.38-8.46), applicants should consider when making their application which steps it is appropriate to take to promote the public safety objective and demonstrate how they achieve that.

2.11 Counter terrorism and public safety

2.12 Licensing committees may wish to give due consideration to appropriate counter-terrorism measures and advice when considering licence applications, for example at high profile or large premises or events or where there are factors which may increase attractiveness to attacks, and in particular when in receipt of relevant advice from police counter terrorist staff.

2.13 It is particularly relevant to consider conditions around health care provision in this regard. Any additional licensing conditions should be appropriate and proportionate to the venue as noted in para 1.16. We recommend that all licensing authorities pay particular attention to terrorist threats when making specific licence conditions in relation to security or health care provision at appropriate premises and events applying for a licence.

2.14 As noted in para 2.8 licensing authorities can recommend conditions where appropriate to do so, such as ensuring appropriate access for emergency services and vehicles such as ambulances; good communication with local authorities and emergency services, for example communications networks with the police and signing up for local incident alerts (see paragraph 2.4); and ensuring the presence of sufficient trained first aiders on the premises and appropriate first aid kits.

2.15 However, in some instances, licensing authorities may wish to tailor their approach, depending on the particular nature of the application, and go further when addressing concerns around possible terrorist or other such risks. We have provided an Annex to help inform and support licensing authorities in their decision making with regards to additional licence conditions for premises and events, that may benefit from further security planning and health care provision in the aftermath of a particular type of incident.

Ensuring safe departure of those using the premises

2.16 Licence holders should make provision to ensure that premises users safely leave their premises. Measures that may assist include:

- Providing information on the premises of local taxi companies who can provide safe transportation home; and
- Ensuring adequate lighting outside the premises, particularly on paths leading to and from the premises and in car parks.

Maintenance and repair

- 2.17 Where there is a requirement in other legislation for premises open to the public or for employers to possess certificates attesting to the safety or satisfactory nature of certain equipment or fixtures on the premises, it would be inappropriate for a licensing condition to require possession of such a certificate. However, it would be permissible to require as a condition of a licence or certificate, if appropriate, checks on this equipment to be conducted at specified intervals and for evidence of these checks to be retained by the premises licence holder or club provided this does not duplicate or gold-plate a requirement in other legislation. Similarly, it would be permissible for licensing authorities, if they receive relevant representations from responsible authorities or any other persons, to attach conditions which require equipment of particular standards to be maintained on the premises. Responsible authorities – such as health and safety authorities – should therefore make their expectations clear in this respect to enable prospective licence holders or clubs to prepare effective operating schedules and club operating schedules.

Safe capacities

- 2.18 “Safe capacities” should only be imposed where appropriate for the promotion of public safety or the prevention of disorder on the relevant premises. For example, if a capacity has been imposed through other legislation, it would be inappropriate to reproduce it in a premises licence. Indeed, it would also be wrong to lay down conditions which conflict with other legal requirements. However, if no safe capacity has been imposed through other legislation, a responsible authority may consider it appropriate for a new capacity to be attached to the premises which would apply at any material time when the licensable activities are taking place and make representations to that effect. For example, in certain circumstances, capacity limits may be appropriate in preventing disorder, as overcrowded venues can increase the risks of crowds becoming frustrated and hostile.
- 2.19 The permitted capacity is a limit on the number of persons who may be on the premises at any time, following a recommendation by the relevant fire and rescue authority under the Regulatory Reform (Fire Safety) Order 2005. For any application for a premises licence or club premises certificate for premises without an existing permitted capacity where the applicant wishes to take advantage of the special provisions set out in section 177 of the 2003 Act¹, the applicant should conduct their own risk assessment as to the appropriate capacity of the premises. They should send their recommendation to the fire and rescue authority which will consider it and decide what the “permitted capacity” of those premises should be.
- 2.20 Public safety may include the safety of performers appearing at any premises, but does not extend to the prevention of injury from participation in a boxing or wrestling

¹ S 177 of the 2003 Act now only applies to performances of dance.

entertainment.

Public nuisance

- 2.21 The 2003 Act enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.
- 2.22 Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It may include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.
- 2.23 Conditions relating to noise nuisance will usually concern steps appropriate to control the levels of noise emanating from premises. This might be achieved by a simple measure such as ensuring that doors and windows are kept closed after a particular time, or persons are not permitted in garden areas of the premises after a certain time. More sophisticated measures like the installation of acoustic curtains or rubber speaker mounts to mitigate sound escape from the premises may be appropriate. However, conditions in relation to live or recorded music may not be enforceable in circumstances where the entertainment activity itself is not licensable (see chapter 16). Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of the specific premises and its licensable activities. Licensing authorities should avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are expensive to purchase and install and are likely to be a considerable burden for smaller venues.
- 2.24 As with all conditions, those relating to noise nuisance may not be appropriate in certain circumstances where provisions in other legislation adequately protect those living in the area of the premises. But as stated earlier in this Guidance, the approach of licensing authorities and responsible authorities should be one of prevention and when their powers are engaged, licensing authorities should be aware of the fact that other legislation may not adequately cover concerns raised in relevant representations and additional conditions may be appropriate.
- 2.25 Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, the most sensitive period for people being disturbed by unreasonably loud music is at night and into the early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. This is why there is still a need for a licence for performances of live music between 11 pm and 8 am. In certain circumstances, conditions relating to noise

emanating from the premises may also be appropriate to address any disturbance anticipated as customers enter and leave.

- 2.26 Measures to control light pollution will also require careful thought. Bright lighting outside premises which is considered appropriate to prevent crime and disorder may itself give rise to light pollution for some neighbours. Applicants, licensing authorities and responsible authorities will need to balance these issues.
- 2.27 Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area, or that, if they wish to smoke, to do so at designated places on the premises instead of outside, and to respect the rights of people living nearby to a peaceful night.

Protection of children from harm

- 2.28 The protection of children from harm includes the protection of children from moral, psychological and physical harm. This includes not only protecting children from the harms associated directly with alcohol consumption but also wider harms such as exposure to strong language and sexual expletives (for example, in the context of exposure to certain films or adult entertainment). Licensing authorities must also consider the need to protect children from sexual exploitation when undertaking licensing functions.
- 2.29 The Government believes that it is completely unacceptable to sell alcohol to children. Conditions relating to the access of children where alcohol is sold and which are appropriate to protect them from harm should be carefully considered. Moreover, conditions restricting the access of children to premises should be strongly considered in circumstances where:
- adult entertainment is provided;
 - a member or members of the current management have been convicted for serving alcohol to minors or with a reputation for allowing underage drinking (other than in the context of the exemption in the 2003 Act relating to 16 and 17 year olds consuming beer, wine and cider when accompanied by an adult during a table meal);
 - it is known that unaccompanied children have been allowed access;
 - there is a known association with drug taking or dealing; or
 - in some cases, the premises are used exclusively or primarily for the sale of alcohol for consumption on the premises.
- 2.30 It is also possible that activities, such as adult entertainment, may take place at certain times on premises but not at other times. For example, premises may operate as a café bar during the day providing meals for families but also provide entertainment with a sexual content after 8.00pm. It is not possible to give an exhaustive list of what amounts to entertainment or services of an adult or sexual nature. Applicants, responsible authorities and licensing authorities will need to consider this point carefully. This would broadly include topless bar staff, striptease, lap-, table- or pole-dancing, performances involving feigned violence or horrific incidents, feigned or actual sexual acts or fetishism,

or entertainment involving strong and offensive language.

- 2.31 Applicants must be clear in their operating schedules about the activities and times at which the events would take place to help determine when it is not appropriate for children to enter the premises. Consideration should also be given to the proximity of premises to schools and youth clubs so that applicants take appropriate steps to ensure that advertising relating to their premises, or relating to events at their premises, is not displayed at a time when children are likely to be near the premises.
- 2.32 Licensing authorities and responsible authorities should expect applicants, when preparing an operating schedule or club operating schedule, to set out the steps to be taken to protect children from harm when on the premises.
- 2.33 Conditions, where they are appropriate, should reflect the licensable activities taking place on the premises. In addition to the mandatory condition regarding age verification, other conditions relating to the protection of children from harm can include:
- restrictions on the hours when children may be present;
 - restrictions or exclusions on the presence of children under certain ages when particular specified activities are taking place;
 - restrictions on the parts of the premises to which children may have access;
 - age restrictions (below 18);
 - restrictions or exclusions when certain activities are taking place;
 - requirements for an accompanying adult (including for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult); and
 - full exclusion of people under 18 from the premises when any licensable activities are taking place.
- 2.34 Please see also Chapter 10 for details about the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010.
- 2.35 Licensing authorities should give considerable weight to representations about child protection matters. In addition to the responsible authority whose functions relate directly to child protection, the Director of Public Health may also have access to relevant evidence to inform such representations. These representations may include, amongst other things, the use of health data about the harms that alcohol can cause to underage drinkers. Where a responsible authority, or other person, presents evidence to the licensing authority linking specific premises with harms to children (such as ambulance data or emergency department attendances by persons under 18 years old with alcohol-related illnesses or injuries) this evidence should be considered, and the licensing authority should also consider what action is appropriate to ensure this licensing objective is effectively enforced. In relation to applications for the grant of a licence in areas where evidence is presented on high levels of alcohol-related harms in persons aged under 18, it is recommended that the licensing authority considers what conditions may be appropriate to ensure that this objective is promoted effectively.
- 2.36 The 2003 Act provides that, where a premises licence or club premises certificate authorises the exhibition of a film, it must include a condition requiring the admission of children to films to be restricted in accordance with recommendations given either by a body designated under section 4 of the Video Recordings Act 1984 specified in the

licence (the British Board of Film Classification is currently the only body which has been so designated) or by the licensing authority itself. Further details are given in Chapter 10.

- 2.37 Theatres may present a range of diverse activities and entertainment including, for example, variety shows incorporating adult entertainment. It is appropriate in these cases for a licensing authority to consider restricting the admission of children in such circumstances. Entertainments may also be presented at theatres specifically for children. It will be appropriate to consider whether a condition should be attached to a premises licence or club premises certificate which requires the presence of a sufficient number of adult staff on the premises to ensure the wellbeing of the children during any emergency.

Offences relating to the sale and supply of alcohol to children

- 2.38 Licensing authorities are expected to maintain close contact with the police, young offenders' teams and trading standards officers (who can carry out test purchases under section 154 of the 2003 Act) about the extent of unlawful sales and consumption of alcohol by minors and to be involved in the development of any strategies to control or prevent these unlawful activities and to pursue prosecutions. Licensing authorities, alongside the police, are prosecuting authorities for the purposes of these offences, except for the offences under section 147A (persistently selling alcohol to children). Where, as a matter of policy, warnings are given to retailers prior to any decision to prosecute in respect of an offence, it is important that each of the enforcement arms should be aware of the warnings each of them has given.

Licensing conditions

a) Imposed conditions

- 8.69 Licensing authorities cannot impose their own conditions on the licence through the minor variations process. If the licensing officer considers that the proposed variation would impact adversely on the licensing objectives unless conditions are imposed, they should refuse it.

b) Volunteered conditions

- 8.70 Applicants may volunteer conditions as part of the minor variation process. These conditions may arise from their own risk assessment of the variation, or from informal discussions with responsible authorities or the licensing authority.
- 8.71 For instance, there may be circumstances when the licence holder and a responsible authority such as the police or environmental health authority, agree that a new condition should be added to the licence (for example, that a nightclub adds the provision of door staff to its licence). Such a change would not normally impact adversely on the licensing objectives and could be expected to promote them by preventing crime and disorder or public nuisance. In these circumstances, the minor variation process may provide a less costly and onerous means of amending the licence than a review, with no risk to the licensing objectives. However, this route should only be used where the agreed variations are minor and the licence holder and the responsible authority have come to a genuine agreement. The licensing authority should be alive to any attempts to pressure licence or certificate holders into agreeing to new conditions where there is no evidence of a problem at the premises and, if there is any doubt, should discuss this with the relevant parties.

c) Amending or removing existing conditions

- 8.72 However, there may be some circumstances when the minor variation process is appropriate. Premises may change over time and the circumstances that originally led to the condition being attached or volunteered may no longer apply. For example, there may be no need for door supervision if a bar has been converted into a restaurant. Equally some embedded conditions may no longer apply.
- 8.73 Changes in legislation may invalidate certain conditions. Although the conditions do not have to be removed from the licence, licence holders and licensing authorities may agree that this is desirable to clarify the licence holder's legal obligations. There may also be cases where it is appropriate to revise the wording of a condition that is unclear or unenforceable. This would be acceptable as a minor variation as long as the purpose of the condition and its intended effect remain unchanged. Such a change could be expected to promote the licensing objectives by making it easier for the licence holder to understand and comply with the condition and easier for the licensing authority to enforce it.

Full variations process

- 8.74 Any other changes to the licence or certificate require an application to vary under sections 34 or 84 of the 2003 Act.
- 8.75 Licensing authorities may wish to consider whether there is any likely impact on the promotion of the licensing objectives in deciding whether there is a need for an

9. Determining applications

General

- 9.1 When a licensing authority receives an application for a new premises licence or an application to vary an existing premises licence, it must determine whether the application has been made in accordance with section 17 of the 2003 Act, and in accordance with regulations made under sections 17(3) to (6), 34, 42, 54 and 55 of the 2003 Act. It must similarly determine applications for the grant of club premises certificates made in accordance with section 71 of the 2003 Act, and in accordance with regulations made under sections 71(4) to (7), 84, 91 and 92 of the 2003 Act. This means that the licensing authority must consider among other things whether the application has been properly advertised in accordance with those regulations.

Where no representations are made

- 9.2 A hearing is not required where an application has been properly made and no responsible authority or other person has made a relevant representation or where representations are made and subsequently withdrawn. In these cases, the licensing authority must grant the application in the terms sought, subject only to conditions which are consistent with the operating schedule and relevant mandatory conditions under the 2003 Act. This should be undertaken as a simple administrative process by the licensing authority's officials who may replicate some of the proposals contained in the operating schedule to promote the licensing objectives in the form of clear and enforceable licence conditions. Licensing authorities should not hold hearings for uncontested applications, for example in situations where representations have been made and conditions have subsequently been agreed.

Where representations are made

- 9.3 Where a representation concerning the licensing objectives is made by a responsible authority about a proposed operating schedule and it is relevant (see paragraphs 9.4 to 9.10 below), the licensing authority's discretion will be engaged. It will also be engaged if another person makes relevant representations to the licensing authority, which are also not frivolous or vexatious (see paragraphs 9.4 to 9.10 below). Relevant representations can be made in opposition to, or in support of, an application and can be made by any individual, body or business that has grounds to do so.

Relevant, vexatious and frivolous representations

- 9.4 A representation is "relevant" if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives. For example, a representation from a local businessperson about the commercial damage caused by competition from new licensed premises would not be relevant. On the other hand, a representation by a businessperson that nuisance caused by new premises would deter customers from entering the local area, and the steps proposed by the applicant to prevent that nuisance were inadequate, would be relevant. In other words, representations should relate to the impact of licensable activities carried on from premises on the objectives. For representations in relation to variations to be relevant, they should be confined to

9.12 Each responsible authority will be an expert in their respective field, and in some cases it is likely that a particular responsible authority will be the licensing authority's main source of advice in relation to a particular licensing objective. For example, the police have a key role in managing the night-time economy and should have good working relationships with those operating in their local area⁵. The police should usually therefore be the licensing authority's main source of advice on matters relating to the promotion of the crime and disorder licensing objective. However, any responsible authority under the 2003 Act may make representations with regard to any of the licensing objectives if they have evidence to support such representations. Licensing authorities must therefore consider all relevant representations from responsible authorities carefully, even where the reason for a particular responsible authority's interest or expertise in the promotion of a particular objective may not be immediately apparent. However, it remains incumbent on all responsible authorities to ensure that their representations can withstand the scrutiny to which they would be subject at a hearing.

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⁵ Police and Crime Commissioners are expected to have a central role working in partnership with local authorities, enforcement bodies and other local partners to decide on what action is needed to tackle alcohol-related crime and disorder in their areas. However, the Chief Officer of Police remains the named responsible authority under the 2003 Act.

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Hearings

9.31 The Licensing Act 2003 (Hearings) Regulations 2005 governing hearings may be found on the www.legislation.gov.uk website. If the licensing authority decides that representations are relevant, it must hold a hearing to consider them. The need for a hearing can only be avoided with the agreement of the licensing authority, where the applicant and all of the persons who made relevant representations have given notice to the authority that they consider a hearing to be unnecessary. Where this is the case and the authority agrees that a hearing is unnecessary, it must forthwith give notice to the parties that the hearing has been dispensed with. Notwithstanding those regulatory provisions, in cases where the licensing authority believes that a hearing is still necessary, it is recommended that the authority should, as soon as possible, provide the parties with reasons in writing for the need to hold the hearing. In cases where only 'positive' representations are received, without qualifications, the licensing authority should consider whether a hearing is required. To this end, it may wish to notify the persons who made representations and give them the opportunity to withdraw those representations. This would need to be done in sufficient time before the hearing to ensure that parties were not put to unnecessary inconvenience.

- 9.32 Responsible authorities should try to conclude any discussions with the applicant in good time before the hearing. The 2005 Hearings Regulations permit licensing authorities to extend a time limit provided for by those Regulations for a specified period where it considers this to be necessary in the public interest. For example, if the application is amended at the last moment, the licensing committee should consider giving other persons time to address the revised application before the hearing commences. Where the authority has extended a time limit it must forthwith give a notice to the parties involved stating the period of the extension and the reasons for it.
- 9.33 The 2005 Hearings Regulations require that representations must be withdrawn 24 hours before the first day of any hearing. If they are withdrawn after this time, the hearing must proceed and the representations may be withdrawn orally at that hearing. However, where discussions between an applicant and those making representations are taking place and it is likely that all parties are on the point of reaching agreement, the licensing authority may wish to use the power given within the hearings regulations to extend time limits, if it considers this to be in the public interest.
- 9.34 Applicants should be encouraged to contact responsible authorities and others, such as local residents, who may be affected by the application before formulating their applications so that the mediation process may begin before the statutory time limits come into effect after submission of an application. The hearing process must meet the requirements of regulations made under the 2003 Act. Where matters arise which are not covered by the regulations, licensing authorities may make arrangements as they see fit as long as they are lawful.
- 9.35 There is no requirement in the 2003 Act for responsible authorities that have made representations to attend, but it is generally good practice and assists committees in reaching more informed decisions. Where several responsible authorities within a local authority have made representations on an application, a single local authority officer may represent them at the hearing if the responsible authorities and the licensing authority agree. This local authority officer representing other responsible authorities may be a licensing officer, but only if this licensing officer is acting as a responsible authority on behalf of the licensing authority and has had no role in the licensing determination process. This is to ensure that the responsible authorities are represented by an independent officer separate from the licensing determination process.
- 9.36 As noted in paragraphs 9.13 to 9.19 above, where the licensing officer is acting as a responsible authority the relevant steps should be followed to ensure that this individual has no role in the decision making process regarding the licensing determination.
- 9.37 As a matter of practice, licensing authorities should seek to focus the hearing on the steps considered appropriate to promote the particular licensing objective or objectives that have given rise to the specific representation and avoid straying into undisputed areas. A responsible authority or other person may choose to rely on their written representation. They may not add further representations to those disclosed to the applicant prior to the hearing, but they may expand on their existing representation and should be allowed sufficient time to do so, within reasonable and practicable limits.
- 9.38 In determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the licensing authority must give appropriate weight to:

- the steps that are appropriate to promote the licensing objectives;
- the representations (including supporting information) presented by all the parties;
- this Guidance;
- its own statement of licensing policy.

- 9.39 The licensing authority should give its decision within five working days of the conclusion of the hearing (or immediately in certain specified cases) and provide reasons to support it. This will be important if there is an appeal by any of the parties. Notification of a decision must be accompanied by information on the right of the party to appeal. After considering all the relevant issues, the licensing authority may grant the application subject to the relevant mandatory conditions and any conditions that are consistent with the operating schedule. Any additional conditions imposed must be appropriate for the promotion of the licensing objectives; there is no power for the licensing authority to attach a condition that is merely aspirational. For example, conditions may not be attached which relate solely to the health of customers rather than their direct physical safety. Any conditions added to the licence must be those imposed at the hearing or those agreed when a hearing has not been necessary.
- 9.40 Alternatively, the licensing authority may refuse the application on the grounds that this is appropriate for the promotion of the licensing objectives. It may also refuse to specify a designated premises supervisor and/or only allow certain requested licensable activities. In the interests of transparency, the licensing authority should publish hearings procedures in full on its website to ensure that those involved have the most current information.
- 9.41 In the context of variations or minor variations, which may involve structural alteration to or change of use of a building, the decision of the licensing authority will not exempt an applicant from the need to apply for building control approval, planning permission or both of these where appropriate.

Determining actions that are appropriate for the promotion of the licensing objectives

- 9.42 Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case-by-case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be.
- 9.43 The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.
- 9.44 Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. While this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that any condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is

imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters. As with the consideration of licence variations, the licensing authority should consider wider issues such as other conditions already in place to mitigate potential negative impact on the promotion of the licensing objectives and the track record of the business. Further advice on determining what is appropriate when imposing conditions on a licence or certificate is provided in Chapter 10. The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination.

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10. Conditions attached to premises licences and club premises certificates

General

- 10.1 This chapter provides further guidance in relation to conditions attached to premises licences and club premises certificates. General principles on licence conditions are set out in Chapter 1 (see paragraph 1.16).
- 10.2 Conditions include any limitations or restrictions attached to a licence or certificate and essentially are the steps or actions that the holder of the premises licence or the club premises certificate will be required to take or refrain from taking in relation to the carrying on of licensable activities at the premises in question. Failure to comply with any condition attached to a licence or certificate is a criminal offence, which on conviction is punishable by an unlimited fine or up to six months' imprisonment. The courts have made clear that it is particularly important that conditions which are imprecise or difficult for a licence holder to observe should be avoided.
- 10.3 There are three types of condition that may be attached to a licence or certificate: proposed, imposed and mandatory. Each of these categories is described in more detail below.

Proposed conditions

- 10.4 The conditions that are appropriate for the promotion of the licensing objectives should emerge initially from the risk assessment carried out by a prospective licence or certificate holder, which they should carry out before making their application for a premises licence or club premises certificate. This would be translated into the steps recorded in the operating schedule or club operating schedule, which must also set out the proposed hours during which licensable activities will be conducted and any other hours during which the premises will be open to the public.
- 10.5 It is not acceptable for licensing authorities to simply replicate the wording from an applicant's operating schedule. A condition should be interpreted in accordance with the applicant's intention and be appropriate and proportionate for the promotion of the licensing objectives.

Consistency with steps described in operating schedule

- 10.6 The 2003 Act provides that where an operating schedule or club operating schedule has been submitted with an application and there have been no relevant representations made by responsible authorities or any other person, the licence or certificate must be granted subject only to such conditions as are consistent with the schedule accompanying the application and any mandatory conditions required under the 2003 Act.
- 10.7 Consistency means that the effect of the condition should be substantially the same as that intended by the terms of the operating schedule. If conditions are broken, this may lead to a criminal prosecution or an application for a review and it is extremely important therefore that they should be expressed on the licence or certificate in unequivocal and unambiguous terms. The duty imposed by conditions on the licence holder or club must

be clear to the licence holder, club, enforcement officers and the courts.

Imposed conditions

- 10.8 The licensing authority may not impose any conditions unless its discretion has been exercised following receipt of relevant representations and it is satisfied as a result of a hearing (unless all parties agree a hearing is not necessary) that it is appropriate to impose conditions to promote one or more of the four licensing objectives. In order to promote the crime prevention licensing objective conditions may be included that are aimed at preventing illegal working in licensed premises. This provision also applies to minor variations.
- 10.9 It is possible that in some cases no additional conditions will be appropriate to promote the licensing objectives.

Proportionality

- 10.10 The 2003 Act requires that licensing conditions should be tailored to the size, type, location and characteristics and activities taking place at the premises concerned. Conditions should be determined on a case-by-case basis and standardised conditions which ignore these individual aspects should be avoided. For example, conditions should not be used to implement a general policy in a given area such as the use of CCTV, polycarbonate drinking vessels or identity scanners where they would not be appropriate to the specific premises. Conditions that are considered appropriate for the prevention of illegal working in premises licensed to sell alcohol or late night refreshment might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that evidence of a right to work check, either physical or digital (e.g. copy of any document checked or a clear copy of the online right to work check) is retained at the licensed premises. Licensing authorities may also wish to consider placing additional conditions on licences to safeguard patrons against spiking, if deemed appropriate and proportionate for a specific venue where there is evidence to justify such action (a definition of spiking can be found in para 2.7). Licensing authorities and other responsible authorities should be alive to the indirect costs that can arise because of conditions. These could be a deterrent to holding events that are valuable to the community or for the funding of good and important causes. Licensing authorities should therefore ensure that any conditions they impose are only those which are appropriate for the promotion of the licensing objectives.

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Age verification

- 10.46 The premises licence holder or club premises certificate holder must ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol. This must as a minimum require individuals who appear to the responsible person (see paragraph 10.39) to be under the age of 18 years of age to produce on request, before being served alcohol, identification bearing their photograph, date of birth, and either a holographic mark or ultraviolet feature. The Home Office encourages licensed premises to accept cards bearing the Proof of Age Standards Scheme (PASS) hologram as their preferred proof of age, while acknowledging that many other forms of identification meet the requirements of the mandatory condition.
- 10.47 The premises licence holder or club premises certificate holder must ensure that staff (in particular, staff who are involved in the supply of alcohol) are made aware of the existence and content of the age verification policy which applies to the premises.
- 10.48 The designated premises supervisor (where there is one) must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy. This means that the DPS has personal responsibility for ensuring that staff are not only aware of, but are also applying, the age verification policy.
- 10.49 It is acceptable, and indeed encouraged, for premises to have an age verification policy which requires individuals who appear to the responsible person to be under an age greater than 18 to produce such identification on request. For example, if premises have a policy that requires any individual that appears to be under the age of 21 to produce identification that meets the criteria listed above, this is perfectly acceptable under the mandatory code.
- 10.50 Licence holders should consider carefully what steps they are required to take to comply with the age verification requirements under the 2003 Act in relation to sales of alcohol made remotely. These include sales made online, by telephone and mail order sales, and alcohol delivery services. Each of these sales must comply with the requirements of the 2003 Act. The mandatory condition requires that age verification takes place before a person is served alcohol. Where alcohol is sold remotely (for example, online) or through a telephone transaction, the sale is made at this point but the alcohol is not actually served until it is delivered to the customer. Age verification measures (for example, online age verification) should be used to ensure that alcohol is not sold to any person under the age of 18. However, licence holders should also consider carefully what steps are appropriate to ensure that age verification takes place before the alcohol is served (i.e. physically delivered) to the customer to be satisfied that the customer is aged 18 or over. It is, therefore, the responsibility of the person serving or delivering the alcohol to ensure that age verification has taken place and that photo ID has been checked if the person appears to be less than 18 years of age.



Door supervision

- 10.61 Under section 21 of the 2003 Act, when a condition is included in a premises licence that at specified times an individual must be present at the premises to carry out a security activity (as defined in section 21(3)(a) by reference to the Private Security Industry Act 2001 (“the 2001 Act”)), the licence must include a condition requiring that individual to be licensed by the Security Industry Authority (“the SIA”) under the 2001 Act, or be entitled to carry out that activity by virtue of section 4 of the 2001 Act.
- 10.62 A premises licence need not require a person to hold a licence granted by the SIA if that person benefits from an exemption under section 4 of the 2001 Act. For example, certain employees benefit from an exemption when carrying out conduct in connection with a certified sports ground (section 4(6) to (12)). Furthermore, in certain circumstances persons benefit from an exemption where they operate under the SIA’s Approved Contractor Scheme (section 15).
- 10.63 Conditions under section 21 of the 2003 Act should only relate to individuals carrying out security activities defined by section 21(3)(a) of the 2003 Act. Therefore, they should only relate to an activity to which paragraph 2(1)(a) of Schedule 2 to the 2001 Act applies (certain manned guarding activities) and which is licensable conduct within the meaning of section 3(2) of that Act. The requirement does not relate to individuals performing non-security related activities, and section 21 should not be used in relation to any such activities.
- 10.64 Section 21 of the 2003 Act continues to ensure that a premises licence need not impose such a requirement in relation to those licensed premises which the 2001 Act treats as unlicensed premises. Those are:
- premises in respect of which there is in force a premises licence authorising a performance of a play or an exhibition of a film;
 - casinos or bingo halls licensed under the Gambling Act 2005;
 - premises where a club certificate is in force when activities are being carried on under the authority of that certificate.

See paragraph 8(3) of Schedule 2 to the 2001 Act for full details.

- 10.65 It should be noted, however, that the 2001 Act will require contractors and a small number of employees (those managing/supervising and those supplied under contract) to be licensed as manned guards (rather than door supervisors) when undertaking licensable conduct on premises to which paragraph 8(3) of Schedule 2 to the 2001 Act applies.
- 10.66 It is therefore important that if a licensing authority intends that individuals must be present to carry out security activities (as defined by section 21(3)(a) of the 2003 Act) this should be explicit, as should the mandatory condition for those individuals to hold an SIA licence or be entitled to carry out that activity by virtue of section 4 of the 2001 Act. On the other hand, where a licensing authority intends that individuals must be present to carry out other activities (for example, activities related to safety or steward activities to organise, advise and direct members of the public), no mandatory condition

should be imposed under section 21 of the 2003 Act. In all cases it is important when determining whether or not a condition is to be imposed under section 21 of the 2003 Act to consider whether the activities of any individual working in licensed premises fall within the definition of security activities in section 21(3)(a) of the 2003 Act. (Regardless of whether a condition is imposed under section 21 of the 2003 Act, under the 2001 Act the appropriate SIA licence must be held by any individual performing an activity for which they are licensable under that Act.)



Equality Act 2010

2010 CHAPTER 15

PART 11

ADVANCEMENT OF EQUALITY

CHAPTER 1

PUBLIC SECTOR EQUALITY DUTY

149 Public sector equality duty

- (1) A public authority must, in the exercise of its functions, have due regard to the need to—
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- (2) A person who is not a public authority but who exercises public functions must, in the exercise of those functions, have due regard to the matters mentioned in subsection (1).
- (3) Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—
 - (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
 - (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
 - (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

Status: This is the original version (as it was originally enacted).

- (4) The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.
- (5) Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—
 - (a) tackle prejudice, and
 - (b) promote understanding.
- (6) Compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.
- (7) The relevant protected characteristics are—
 - age;
 - disability;
 - gender reassignment;
 - pregnancy and maternity;
 - race;
 - religion or belief;
 - sex;
 - sexual orientation.
- (8) A reference to conduct that is prohibited by or under this Act includes a reference to—
 - (a) a breach of an equality clause or rule;
 - (b) a breach of a non-discrimination rule.
- (9) Schedule 18 (exceptions) has effect.

150 Public authorities and public functions

- (1) A public authority is a person who is specified in Schedule 19.
- (2) In that Schedule—
 - Part 1 specifies public authorities generally;
 - Part 2 specifies relevant Welsh authorities;
 - Part 3 specifies relevant Scottish authorities.
- (3) A public authority specified in Schedule 19 is subject to the duty imposed by section 149(1) in relation to the exercise of all of its functions unless subsection (4) applies.
- (4) A public authority specified in that Schedule in respect of certain specified functions is subject to that duty only in respect of the exercise of those functions.
- (5) A public function is a function that is a function of a public nature for the purposes of the Human Rights Act 1998.

151 Power to specify public authorities

- (1) A Minister of the Crown may by order amend Part 1, 2 or 3 of Schedule 19.