

To: All Members of the LICENSING SUB-COMMITTEE C
(Other Members for Information)

When calling please ask for:

Maureen Brown

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Policy and Governance

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Calls may be recorded for training or monitoring

Date: 12 September 2014

Membership of the Licensing Sub-Committee C

Cllr Jenny Else
Cllr Peter Isherwood

Cllr Nick Williams

Dear Councillors

A meeting of the LICENSING SUB-COMMITTEE C will be held as follows:

DATE: MONDAY, 22 SEPTEMBER 2014

TIME: **12.00 PM** (Please note time of meeting)

PLACE: COUNCIL CHAMBER, COUNCIL OFFICES, THE BURYS,
GODALMING

The Agenda for the meeting is set out below.

Yours sincerely

ROBIN TAYLOR

Head of Policy and Governance

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NOTE FOR MEMBERS

Members are reminded that contact officers are shown at the end of each report and members are welcome to raise questions etc in advance of the meeting with the appropriate officer.

AGENDA

1 ELECTION OF CHAIRMAN

To elect a Chairman for the Sub-Committee C meeting.

2 DISCLOSURE OF INTERESTS

To receive from members declarations of interest in relation to any items included on the agenda for this meeting, in accordance with the Waverley Code of Local Government Conduct.

3 LICENSING ACT 2003 - APPLICATION FOR A NEW PREMISES LICENCE - GIRAFFE AND HOBBIT, 28 WEY ROAD, GODALMING, SURREY, GU7 1ND (Pages 5 - 68)

The purpose of the report at Appendix A is to enable the Sub-Committee to consider an application from Giraffe and Hobbit Limited for a new premises licence for the Giraffe and Hobbit, 28 Wey Road, Godalming Surrey GU7 1ND, where two valid representations have been received.

Recommendation

The Sub-Committee is requested to consider the application for the grant of a premises licence on its merits.

Having regard to the representations made, the Sub-Committee must take such of the steps outlined below (if any) as it considers appropriate for the promotion of the Licensing Objectives. Those steps are:

- **To grant the licence subject to such conditions as are consistent with the operating schedule, modified to such extent as the Sub-Committee considers appropriate for the promotion of the licensing objectives, and any mandatory conditions;**
- **To exclude from the scope of the licence any of the licensable activities to which the application relates;**
- **To refuse to specify a person as the premises supervisor;**
- **To reject the application.**

4 EXCLUSION OF PRESS AND PUBLIC

To consider the following recommendation on the motion of the Chairman:-

Recommendation

That pursuant to Procedure Rule 20 and in accordance with Section 100A(4) of

the Local Government Act 1972, the press and public be excluded from the meeting during consideration of the following items on the grounds that it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the public were present during the items, there would be disclosure to them of exempt information (as defined by Section 100I of the Act) of the description specified in paragraph 3 or the appropriate paragraph(s) of the revised Part 1 of Schedule 12A to the Act as follows:-

Information relating to the financial or business affairs of any particular person (including the authority holding that information) (paragraph 3)

5 LEGAL ADVICE

To consider any legal advice relating to any applications in the agenda.

[Note: Reports relating to confidential or exempt information may be excluded from those copies of the agenda provided for inspection by members of the public if they relate to matters during which the meeting is likely not to be open to the public].

**For further information or assistance, please telephone
Maureen Brown, Democratic Services Officer, on 01483 523225 or by
email at maureen.brown@waverley.gov.uk**

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WAVERLEY BOROUGH COUNCIL
LICENSING SUB-COMMITTEE C
22 SEPTEMBER 2014

LICENSING ACT 2003 - APPLICATION FOR A NEW PREMISES LICENCE –
GIRAFFE AND HOBBIT, 28 WEY ROAD, GODALMING, SURREY. GU7 1ND

[Wards Affected: Godalming Wards]

Summary and Purpose

1. The purpose of this report is to enable the Sub-Committee to consider an application from Giraffe and Hobbit Limited for a new premises licence for the Giraffe and Hobbit, 28 Wey Road, Godalming Surrey GU7 1ND, where two valid representations have been received.

Background

2. An application has been received for a new premises licence for this three bedroomed split-level maisonette in a residential area to sell alcohol for consumption off the premises only.

Activities Sought under this Licence Application

3. The applicant seeks to license the premises as shown below. An extract of the relevant pages from the application form is attached at Annexe 1. Also attached to this document at Annexe 2 is a plan showing the area of the premises and surrounding properties. In brief summary, the applicant seeks the following activities in the new licence, if granted. The application form refers to the activities in full.

- Sale of Alcohol for consumption off the premises only:

0800 to 2200 Monday to Sunday

- Opening hours: (operation only - not open to the public)
As per the sale of alcohol

Licensing Objectives

4. The four licensing objectives of the Licensing Act 2003 are set out below. Any representations for consideration must relate to one or more of these objectives, and representations must be from the responsible authorities under this legislation and/or any other persons.

1. the prevention of crime and disorder
2. public safety
3. The prevention of public nuisance
4. The protection of children from harm

Representations received

Responsible Authorities

5. There have been no representations from any of the Responsible Authorities.

Other Persons

6. Other than Responsible Authorities, “other persons” may make representations. There have been two valid representations from “other persons”. The representations are attached at Annexe 3.
7. Having received copies of the objections, the applicant has responded with an email, a copy of which is attached at Annexe 4.

What the Sub-Committee may do

8. The Sub-Committee, after hearing from the applicant and those making representations, must, having regard to the representations, take one or more of the steps listed below (if any) as it considers appropriate for the promotion of the licensing objectives. Reasons must be given by the Sub-Committee for any decision made, since there is an opportunity for any applicant or any objector to appeal to the Magistrates’ Court against the Licensing Sub-Committee’s decision. The steps are:
 - Grant the application subject to such conditions as are consistent with the operating schedule, modified to such extent as the Sub-Committee considers appropriate for the promotion of the licensing objectives, and any mandatory conditions;
 - Exclude from the scope of the licence any of the licensable activities to which the application relates;
 - Refuse to specify a person as the premises supervisor;
 - Reject the application
9. Extracts from the Government Guidance to local authorities under Section 182 of the Licensing Act 2003 are attached in relation to:
 - Hearings - paragraphs 9.27 to 9.40 - Annexe 5.
 - Conditions - paragraphs 10.1 to 10.65, 1.16-1.17- and 15.20-15.37 - Annexe 6.
 - The Licensing Objectives – paragraphs 2.1–2.35 – Annexe 7.

Recommendation

The Sub-Committee is requested to consider the application for the grant of a premises licence on its merits.

Having regard to the representations made, the Sub-Committee must take such of the steps outlined below (if any) as it considers appropriate for the promotion of the Licensing Objectives. Those steps are:

- To grant the licence subject to such conditions as are consistent with the operating schedule, modified to such extent as the Sub-Committee considers appropriate for the promotion of the licensing objectives, and any mandatory conditions;

- To exclude from the scope of the licence any of the licensable activities to which the application relates;
- To refuse to specify a person as the premises supervisor;
- To reject the application.

Background Papers

Application and representations referred to above.

CONTACT OFFICER:

Name: Paul Hughes

Telephone: 01483 523189

E-mail: paul.hughes@waverley.gov.uk

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07 AUG 2014

WVC/201404192
4/9/14



WAVERLEY BOROUGH COUNCIL

Licensing Team, Chief Executive's Dept, Waverley Borough Council, The Burys, Godalming, Surrey GU7 1HR

Application for a premises licence to be granted under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure your answers are inside the boxes and written in black ink. Use additional sheets if necessary. You may wish to keep a copy of the completed form for your records.

I/we GRAFFE AND HOBBIT LTD (insert name(s) of applicant) apply for a premises licence under section 17 of the Licensing Act 2003 for the premises described in Part 1 below (the premises) and I/we are making this application to you as the relevant licensing authority in accordance with section 12 of the Licensing Act 2003

Part 1 – Premises Details

Postal address of premises or, if none, ordnance survey map reference or description <u>GRAFFE AND HOBBIT 28 WEY ROAD GODALMING SURREY</u>	
Post town <u>GODALMING</u>	Post code <u>GU7 1ND</u>

Telephone number at premises (if any) 01483 527187

Non domestic rateable value of premises £ 100

Part 2 – Applicant Details

Please state whether you are applying for a Premises Licence as:

- Please tick ✓
- a) an individual or individuals* please complete section (A)
 - b) a person other than an individual*
 - i. as a limited company please complete section (B)
 - ii. as a partnership please complete section (B)
 - iii. as an unincorporated association or please complete section (B)
 - iv. other (for example a statutory corporation) please complete section (B)

- c) a recognised club please complete section (B)
- d) a charity please complete section (B)
- e) The proprietor of an educational establishment please complete section (B)
- f) A health service body please complete section (B)
- g) A person who is registered under Part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital in Wales please complete section (B)
- ga) a person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 (within the meaning of that Part) in an independent hospital in England please complete section (B)
- h) The chief officer of police of a police force in England and Wales please complete section (B)

Please tick ✓

*If you are applying as a person described in (a) or (b) please confirm:

- I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities; or
- I am making the application pursuant to a
 - Statutory function; or
 - A function discharged by virtue of Her Majesty's prerogative

(A) INDIVIDUAL APPLICANTS (fill in as applicable)

Mr Mrs Miss Ms Other title (for example, Rev)

Surname First names

Please tick ✓

I am 18 years old or over

Current postal address if different from premises address

Post Town Postcode

Daytime contact telephone number

Email address (optional)

SECOND INDIVIDUAL APPLICANT (if applicable)

Mr Mrs Miss Ms Other title (for example, Rev)

Surname First names

I am 18 years old or over Please tick ✓

Current postal address if different from premises address

Post Town Postcode

Daytime contact telephone number

Email address (optional)

(B) OTHER APPLICANTS

Please provide name and registered address of applicant in full. Where appropriate please give any registered number. In case of a partnership or other joint venture (other than a body corporate), please give the name and address of each party concerned.

Name	GIRAFFE AND HOBBIT LTD.
Address	28 WEY ROAD GODALMING SURREY GU7 1ND.
Registered number (where applicable)	905748
Description of applicant (for example, partnership, company, unincorporated association etc.)	LTD. COMPANY.
Telephone number (if any)	01483 527187
E-mail address (optional)	SANDE@GIRAFFEANDHOBBIT.CO.UK.

Part 3 Operating Schedule

When do you want the premises licence to start?

Day		Month		Year			

If you wish the licence to be valid only for a limited period, when do you want it to end?

Day		Month		Year			

Please give a general description of the premises (please read guidance note 1)

THE PREMISES WILL BE THE LIVING ROOM AND ONE SPARE ROOM OF A 3 BEDROOM SPLIT LEVEL MAISONETTE (ALL SITUATED ON THE FIRST FLOOR).

THE APPLICATION IS TO SUPPLY OFF SALES OF FINE WINE BY DELIVERY RAISED FROM INTERNET AND TELEPHONE SALES.

THE PREMISES ITSELF WILL NOT BE OPEN TO THE PUBLIC FOR THE PURPOSE OF RETAIL OF ALCOHOL, NOR FOR ANY OTHER LICENSABLE ACTIVITIES.

THE ADDRESS IS ALSO THE RESIDENTIAL RESIDENCE OF THE D.P.S. AND COMPANY DIRECTORS.

If 5000 or more people are expected to attend the premises at any one time, please state the number expected to attend

--

What licensable activities do you intend to carry on from the premises?

(Please see sections 1 and 14 of the Licensing Act 2003 and Schedule 1 and 2 to the Licensing Act 2003)

Provision of regulated entertainment

Please tick ✓

- a) plays (if ticking yes, fill in box A)
- b) films (if ticking yes, fill in box B)
- c) indoor sporting events (if ticking yes, fill in box C)
- d) boxing or wrestling entertainment (if ticking yes, fill in box D)
- e) live music (if ticking yes, fill in box E)
- f) recorded music (if ticking yes, fill in box F)
- g) performance of dance (if ticking yes, fill in box G)
- h) anything of a similar description to that falling within (e), (f) or (g) (if ticking yes, fill in box H)

<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

Provision of late night refreshment (if ticking yes, fill in box I)

Sale by retail of alcohol (if ticking yes, fill in box J)

In all cases complete boxes K, L and M

Late night refreshment Standard days and timings (please read guidance note 6)			Will the provision of late night refreshment take place indoors or outdoors or both – please tick (✓) (please read guidance note 2)	Indoors	
Day	Start	Finish		Outdoors	
Mon			Please give further details here (please read guidance note 3)	Both	
Tue					
Wed			State any seasonal variations for the provision of late night refreshment (please read guidance note 4)		
Thur					
Fri			Non standard timings. Where you intend to use the premises for the provision of late night refreshment at different times to those listed in the column on the left, please list. (please read guidance note 5)		
Sat					
Sun					

J

Sale of alcohol Standard days and timings (please read guidance note 6)			Will the sale of alcohol be for consumption on or off the premises or both – please tick (✓) (please read guidance note 7)	On the premises	
Day	Start	Finish		Off the premises	✓
Mon	0800	2200	State any seasonal variations for the sale of alcohol (please read guidance note 4)	Both	
	0800	2200			
Tue	0800	2200			
	0800	2200			
Wed	0800	2200			
	0800	2200			
Thur	0800	2200	Non standard timings. Where you intend to use the premises for the sale of alcohol at different times to those listed in the column on the left, please list. (please read guidance note 5)		
	0800	2200			
Fri	0800	2200			
Sat	0800	2200			
	0800	2200			
Sun	0800	2200			
	0800	2200			

State the name and details of the individual whom you wish to specify on the licence as premises supervisor

Name MR STUART DAVID WHITTAKER

Address 28 WEY ROAD
COPHAMING

Postcode GU7 1ND

Personal licence number (if known)

LN/000004657

Issuing licensing authority (if known)

WARRLETT

Personal licence expiry date (if known)

21st JULY 2024

K

Please highlight any adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children (please read guidance note 8)

NONE.

L

Hours premises are open to the public Standard days and timings (please read guidance note 6)			State any seasonal variations (please read guidance note 4)	
Day	Start	Finish		
Mon	0800	2200	<p>PREMISES WILL NOT BE OPEN TO THE PUBLIC.</p> <p>RETAIL WILL BE SOLLY VIA INTERNET/TELEPHONE.</p>	
	0800	2200		
Tue	0800	2200		
	0800	2200		
Wed	0800	2200		
	0800	2200		
Thur	0800	2200		Non standard timings. Where you intend the premises to be open to the public at different times from those listed in the column on the left, please list. (please read guidance note 5)
	0800	2200		
Fri	0800	2200		
	0800	2200		
Sat	0800	2200		
	0800	2200		
Sun	0800	2200		
	0800	2200		

M

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

a) General - all four licensing objectives (b, c, d, e) (please read guidance note 9)

TERMS AND CONDITIONS ON THE WEBSITE WILL CLEARLY SHOW THE LAWS REGARDING ALCOHOL & AGE RESTRICTIONS. THE PREMISES WILL BE KEPT SECURE, THE PREMISES WILL NOT BE USED AS A WALK IN RETAIL PREMISES. PRECAUTIONARY MEASURES AGAINST FIRE WILL BE TAKEN. DELIVERY DRIVERS WILL BE TRAINED IN AGE VERIFICATION AS WILL COMPANY MEMBERS. COMPANY ACTIVITIES WILL NOT CREATE EXCESSIVE NOISE, ANY FINE NOISE WILL BE WITHIN TRADING HOURS.

b) The prevention of crime and disorder

NO SALE OF ALCOHOL WILL INVOLVE THE PREMISES BEING OPEN TO THE PUBLIC. PREMISES WILL REMAIN SECURE. WEBSITE WILL MAKE CLEAR THAT ALCOHOL PURCHASED MUST BE MADE BY AN ADULT OVER 18. THE WINE BEING SOLD IS FINE WINE AND NOT USUALLY BOUGHT AFTER BY DRUNK AND DISORDERLY PEOPLE, NOR UNDERAGE DRINKERS. DELIVERY WILL BE MADE BY AGE VERIFICATION TRAINED INDIVIDUALS.

c) Public safety

MEMBERS OF THE PUBLIC WILL NOT BE ABLE TO ENTER THE PREMISES FOR THE PURPOSE OF BUYING ANY OF OUR PRODUCTS, EVEN BY APPOINTMENT. IN ADDITION TO THIS PREMISES IS EQUIPPED WITH SMOKE ALARMS AND WILL HAVE A FIRE EXTINGUISHER. THESE ARE MARKED ON THE LAYOUT. THE FRONT DOOR IS ACCESSIBLE ONLY BY THOSE WITH KEYS, OR DOMESTIC CLIENTS.

d) The prevention of public nuisance

THERE WILL BE NO ADVERTISING OF OUR BUSINESS VIA BILLBOARD OR SIGNAGE IN CLOSE PROXIMITY TO THE PREMISES WITH THE EXCEPTION OF THE NOTICE WHICH MUST BE MADE IN ACCORDANCE WITH THIS APPLICATION. DELIVERIES WILL NOT TAKE PLACE OUTSIDE OF THE STATES TRADING HOURS, FOR EITHER DISPATCH OR RECEIPT. DELIVERIES WILL NOT CREATE UNACCEPTABLE NOISE AT EITHER END.

e) The protection of children from harm

WEBSITE WILL MAKE IT CLEAR THAT PURCHASES OF ALCOHOL MUST BE MADE BY OVER 18 YEARS OLDS. THE PRODUCTS WE ARE SELLING IS HIGH END WINE AND HEAVY UNATTRACTIVE TO MINORS. LOCAL DELIVERIES WILL BE MADE BY CURRIERS ON DELIVERY IF ANY DOUBT DELIVERIES EXCEEDING 10 MILES FROM OUR WAREHOUSE WILL BE MADE USING A COURIER COMPANY WHO SPECIALISE IN AGE VERIFICATION AND TRANSFER OF ALCOHOL. WINE WILL NOT BE LEFT IN OUR TRANSPORT OUT OF DELIVERIES NOR WILL IT BE LEFT UNATTENDED IN AN UNLOCKED VEHICLE. DELIVERY WILL BE REFUSED IF THE RECIPIENT AT THE DELIVERY ADDRESS APPEARS 13 TO BE UNDERAGED AND CANNOT PROVE IT WHEN CHALLENGED.

- I have made or enclosed payment of the fee
- I have enclosed a plan of the premises
- I have sent copies of this application and the plan to responsible authorities and others where applicable
- I have enclosed the consent form completed by the individual I wish to be premises supervisor, if applicable
- I understand that I must now advertise my application
- I understand that if I do not comply with the above requirements my application will be rejected

Please tick ✓

<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 4 – Signatures (please read guidance note 10)

Signature of applicant or applicant’s solicitor or other duly authorised agent. (See guidance note 11). **If signing on behalf of the applicant please state in what capacity.**

Signature: [Signature]

Date 6.09.2014

Capacity COMPANY DIRECTOR

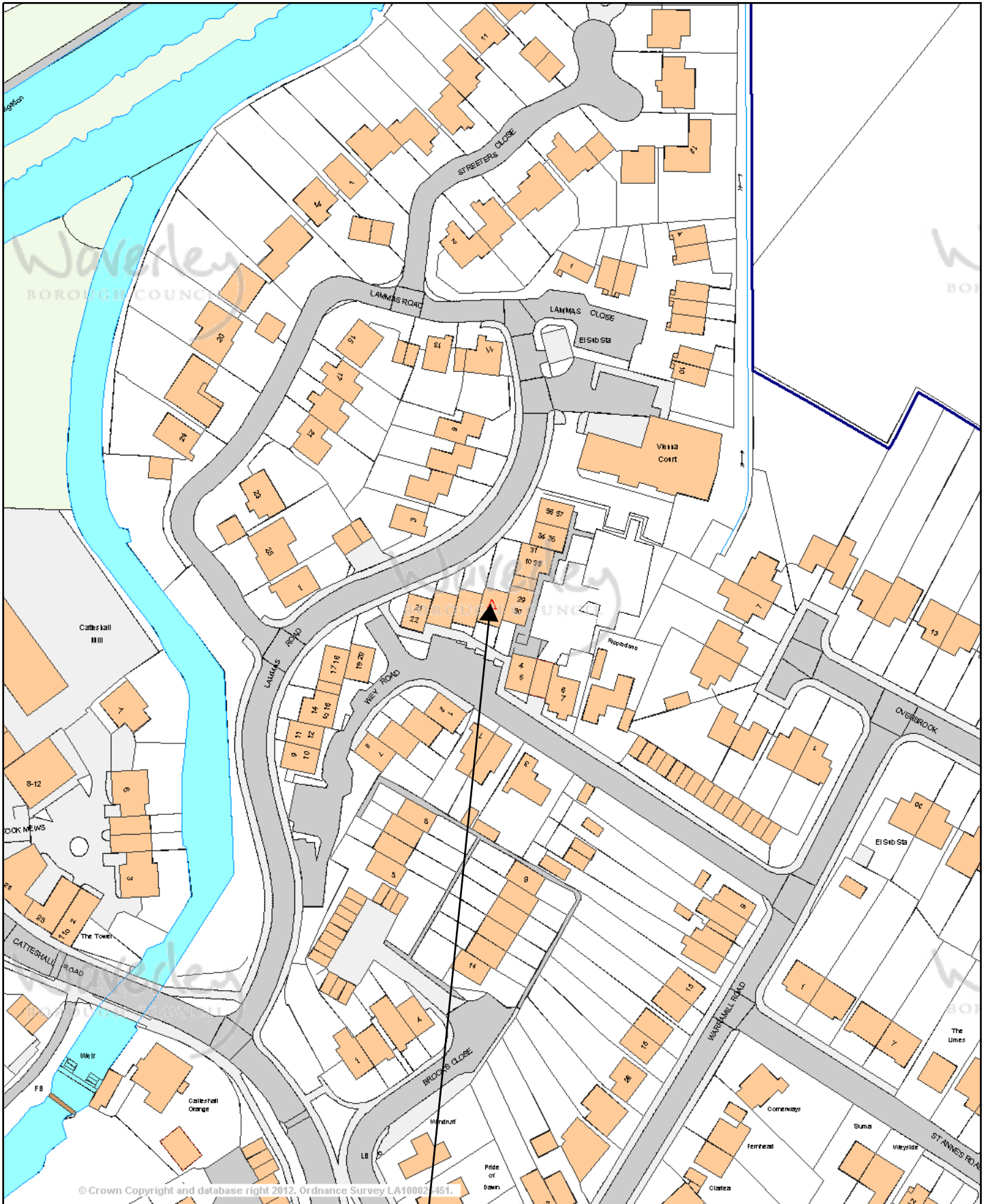
For joint applications signature of 2nd applicant or 2nd applicant’s solicitor or other authorised agent. (please read guidance note 12). **If signing on behalf of the applicant please state in what capacity.**

Signature:

Date

Capacity

Contact Name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 13) <u>STUART D. WHITTAKER</u> <u>28 WYK ROAD</u> <u>CODRINGTON</u>	
Post town <u>CODRINGTON</u>	Post code <u>GU7 1ND</u>
Telephone number (if any) <u>07808 350504</u>	
If you would prefer us to correspond with you by e-mail, your e-mail address (optional) <u>ONE MASSIVE @ GMAIL.COM</u>	



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Waverley Borough Council
 The Bury, Godalming, Surrey
 GU7 1HR
 Telephone: 01483 523333
 Fax No: 01483 523118



28 Wey Road, Godalming

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Kate Halsall

From:
Sent: Sunday 31 August 2014 15:26
To: Licensing Policy
Subject: Licence Application Objection

①

Licence Registers Details

- Licence for Giraffe and Hobbit, 28 Wey Road, Godalming, Surrey, GU7 1ND
- Applicant Giraffe And Hobbit Ltd
- Licence Type Premise licence
- Application Date 7th August 2014
- Representations By 4th September 2014
- Status New Application In Progress
-

To whom it may concern,

I wish to register my objection to the above application for a premises licence.

This is based on the fact that the premises for the planned business will operate from a residential property, in a small residential road with limited parking.

The proposed hours of operation Monday - Sunday, 8.00am - 10.00pm will have a significant impact on the other residents.

The noise of deliveries and parking issues give cause for concern, as the parking bays for the Wey Road properties are already fully in use by residents, leaving only the narrow no through road available for business vehicles to offload their goods.

The proposed hours would also have a significant impact on the residents of Warramill Road, especially at weekends and evenings.

Kate Ha

From:
Sent: Tuesday 02 September 2014 17:41
To: Licensing Policy
Subject: Licensing Objection

Licence Registers Details

Licence for Giraffe and Hobbit, 28 Wey Road, Godalming, GU7 1ND
Applicant Giraffe and Hobbit LTD
Licence Type Premise Licence
Application Date 7th August 2014
Representations by 4th September 2014

4

To whom it may concern,

I am writing to register my objections to the above premises licence. The proposed business will be situated in a small residential road, that has limited parking.

I feel that the suggested working hours (Monday-Sunday, 8:00-22:00), will have a significant effect on the other residents. The noise from the deliveries and the limited parking will be a big concern. The spaces currently available in Wey Road are already in use by the residents, which only leaves a small no through road for the couriers to load/unload the goods.

I was also under the impression that the lease of the flats of Wey Road, prohibited the running of a business within the property?

Kate Halsall

From: Stuart/Elise <[redacted]>
Sent: Friday 05 September 2014 14:42
To: Licensing Policy
Subject: f.a.o Robin Taylor and Paul Hughes -Giraffe and Hobbit Licensing application

Regarding the objections to the Premises License we requested, I felt I would respond immediately.

Firstly this application will in no way affect parking and number of cars. I will be making deliveries solely from my van, which is already in it's allocated parking space. There will be no more noise than I would normally make going to the shops or work, not even would noise or space be taken up in similarity to the local supermarket delivery vehicles that frequent our cul - de - sac, this is an extremely small beginnings.

Our customs clearance agent has agreed to deliver in the daytime on a weekday, when most of the parking spaces are free and there is no traffic in Wey road, or Warramill (everyone is at work).

We are not sure how business will go so we have one delivery from our suppliers this year with no more booked. If the business ever got to a stage where recieved deliveries were frequent we would obtain storage space elsewhere.

At the moment costs of storage space are not worth looking into for a small shipment of wine. We have a 3 bedroom property not a warehouse, as our objectors seem to assume.

The road is still quiet and we as residents love living here and would not want to change that, even for our own business gain, in fact if it became noisy I could detract from the monetary value which is attributed to my share of the property, so I have a vested interest in maintaining the status quo on noise in the road.

The other objections relating to wine sales, appear to be misinformed. It states clearly in our application no customers will come to our premises- we would expect our license to be removed, if we broke the premise of our own application.

Finally I have no knowledge who has made these objections, but the second letter referring to nasty notes on cars, makes us wonder if it is malicious, and maybe all three letters are connected, if their timing of sending is close:

I have written polite notices on cars parked in our leasehold space by residents and guests of no. 1 in the past. Always these letters have been to the effect of:

"Hi, you parked in my space, parking for visitors is round the corner so if you could park there in future that would be great."

I always signed with my name and house number, in case anyone wanted to talk about it. If I had written anything nasty they'd have had a reason to keep it in writing.

I have no way of knowing if number 1 objected as no details have been forwarded to me. They are the only neighbours I know of who have themselves and guests, repeatedly parked in my space. I would also point out number 1 is up for sale and freehold, so have on-street parking only, not a designated space(even in the visitors area), as I do, and if they are selling and made an objection,I would assert that their concerns are only to do with selling price or maliciousness.

I would be grateful if these objections would therefore be discounted as unreasonable for the above reasons. I will be attending the hearing on the 22nd in person, to address any concerns at all in the hope of our license being granted. I firmly believe this business will promote the licensing objectives in their entirety.

Many thanks and best regards

Stuart Whittaker

HEARINGS

- 9.27** Regulations 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, the applicant and all of the persons who made relevant representations. 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.
- 9.28** Responsible authorities should try to conclude any discussions with the applicant in good time before the hearing. 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.
- 9.29** Regulations made under the 2003 Act 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.
- 9.30** Applicants should be encouraged to contact responsible authorities 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.
- 9.31** 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.

9.32 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.

9.33 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.

9.34 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.

9.35 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 such conditions that are consistent with the operating schedule. Any 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.

9.36 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.

9.37 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

- 9.38** 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.
- 9.39** 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.
- 9.40** 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. Whilst 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 the 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 a fine of up to £20,000 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.

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 engaged 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.
- 10.9 It is possible that, in certain cases, where there are other legislative provisions which are relevant and must be observed by the applicant, no additional conditions are 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. 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.

Hours of trading

- 10.11 The Government acknowledges that different licensing strategies may be appropriate for the promotion of the licensing objectives in different areas. The 2003 Act gives the licensing authority power to make decisions regarding licensed opening hours as part of the implementation of its licensing policy statement and licensing authorities are best placed to make decisions about appropriate opening hours in their areas based on their local knowledge and in consultation with responsible authorities. However, licensing authorities must always consider each application and must not impose predetermined licensed opening hours, without giving individual consideration to the merits of each application.
- 10.12 Where there are objections to an application to extend the hours during which licensable activities are to be carried on and the licensing authority determines that this would undermine the licensing objectives, it may reject the application or grant it with appropriate conditions and/or different hours from those requested.
- 10.13 Shops, stores and supermarkets should normally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are good reasons, based on the licensing objectives, for restricting those hours.

The performance of plays

- 10.14 The 2003 Act provides that other than for the purposes of public safety, conditions must not be attached to premises licences or club premises certificates authorising the performance of a play which attempt to censor or modify the content of plays in any way. Any such condition would be ultra vires the 2003 Act.

Censorship

- 10.15 In general, other than in the context of film classification for film exhibitions, licensing authorities should not use their powers under the 2003 Act to seek to impose conditions which censor the content of any form of regulated entertainment. This is not a proper function of licensing law and cannot be properly related to the licensing objectives. The content of regulated entertainment is a matter which is addressed by existing laws governing indecency and obscenity. Where the concern is about protecting children, their

access should be restricted where appropriate. But no other limitation should normally be imposed.

Major art and pop festivals, carnivals, fairs and circuses

- 10.16 Licensing authorities should publicise the need for the organisers of major festivals and carnivals to approach them at the earliest opportunity to discuss arrangements for licensing activities falling under the 2003 Act. For some events, the organisers may seek a single premises licence to cover a wide range of activities at varied locations within the premises. This would involve the preparation of a substantial operating schedule, and licensing authorities should offer advice and assistance about its preparation.
- 10.17 For other events, applications for many connected premises licences may be made which in combination will represent a single festival. It is important that licensing authorities should publicise the need for proper co-ordination of such arrangements and will need to ensure that responsible authorities are aware of the connected nature of the individual applications.
- 10.18 In the case of circuses and fairgrounds, much will depend on the content of any entertainment presented. For example, at fairgrounds, a good deal of the musical entertainment may be incidental to the main attractions and rides at the fair that are not themselves regulated entertainment.
- 10.19 In addition, in the context of festivals and carnivals, local authorities should bear in mind their ability to seek premises licences from the licensing authority for land or buildings under public ownership within the community in their own name. This could include, for example, village greens, market squares, promenades, community halls, local authority owned art centres and similar public areas where festivals and carnivals might take place. Performers and entertainers would then have no need to obtain a licence or give a temporary event notice themselves to enable them to give performances in these places, although they would need the permission of the local authority to put on the event.

Fixed prices

- 10.20 Licensing authorities should not attach standardised blanket conditions promoting fixed prices for alcoholic drinks to premises licences or club licences or club premises

certificates in an area. This may be unlawful under current law. However, it is important to note that the mandatory conditions made under sections 19A and 73B of the 2003 Act prohibit a number of types of drinks promotions where they give rise to a significant risk to any one of the four licensing objectives; the mandatory conditions also prohibit the sales of alcohol below the permitted price, as defined in paragraph 10.55.

10.21 Where licensing authorities are asked by the police, other responsible authorities or other persons to impose restrictions on promotions in addition to those restricted by the mandatory conditions, they should consider each application on its individual merits, tailoring any conditions carefully to cover only irresponsible promotions in the particular and individual circumstances of any premises where these are appropriate for the promotion of the licensing objectives. In addition, when considering any relevant representations which demonstrate a clear causal link between sales promotions or price discounting and levels of crime and disorder on or near the premises, it would be appropriate for the licensing authority to consider the imposition of a new condition prohibiting irresponsible sales promotions or the discounting of prices of alcoholic beverages at those premises. However, before pursuing any form of restrictions at all, licensing authorities should take their own legal advice.

Large capacity venues used exclusively or primarily for the “vertical” consumption of alcohol (HVVDs)

10.22 Large capacity “vertical drinking” premises, sometimes called High Volume Vertical Drinking establishments (HVVDs), are premises with exceptionally high capacities, which are used primarily or exclusively for the sale and consumption of alcohol, and have little or no seating for patrons. Previous research has demonstrated that the environment within such establishments can have a significant bearing on the likelihood of crime and disorder.

10.23 Where appropriate, conditions can be attached to premises licences for the promotion of the prevention of crime and disorder at such premises that require the premises to observe:

- a prescribed capacity;
- an appropriate ratio of tables and chairs to customers based on the capacity; and
- a requirement that security staff holding the appropriate SIA licence or exemption are

present to control entry for the purpose of compliance with the capacity limit and to deny entry to individuals who appear drunk or disorderly or both.

Mandatory conditions in relation to the supply of alcohol

10.24 The 2003 Act provides for the following mandatory conditions to be included in every licence and/or club premises certificate in the circumstances specified.

Designated Premises Supervisor

10.25 The 2003 Act provides that, where a premises licence authorises the supply of alcohol, it must include a condition that no supply of alcohol may be made at a time when no designated premises supervisor has been specified in the licence or at a time when the designated premises supervisor does not hold a personal licence or the personal licence has been suspended.

10.26 The main purpose of the 'designated premises supervisor' as defined in the 2003 Act is to ensure that there is always one specified individual among these personal licence holders who can be readily identified for the premises where a premises licence is in force. That person will normally have been given day to day responsibility for running the premises by the premises licence holder. The requirements set out in relation to the designated premises supervisor and authorisation of alcohol sales by a personal licence holder do not apply to community premises in respect of which a successful application has been made to disapply the usual mandatory conditions in sections 19(2) and 19(3) of the 2003 Act (see Chapter 4 of this Guidance).

10.27 The 2003 Act does not require a designated premises supervisor or any other personal licence holder to be present on the premises at all times when alcohol is sold. However, the designated premises supervisor and the premises licence holder remain responsible for the premises at all times including compliance with the terms of the 2003 Act and conditions attached to the premises licence to promote the licensing objectives.

Authorisation by personal licence holders

10.28 In addition, every premises licence that authorises the sale of alcohol must require that every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence. This in most instances will be the designated premises supervisor who must hold a valid personal licence. Any premises at which alcohol is sold or supplied may employ one or more personal licence holders. This does

not mean that the condition should require the presence of the designated premises supervisor or any other personal licence holder on the premises at all times.

- 10.29 Similarly, the fact that every supply of alcohol must be made under the authority of a personal licence holder does not mean that only personal licence holders can make sales or that they must be personally present at every transaction. A personal licence holder may authorise members of staff to make sales of alcohol but may be absent at times from the premises when a transaction takes place. However, the responsible personal licence holder may not be able to escape responsibility for the actions of anyone authorised to make sales.
- 10.30 "Authorisation" does not imply direct supervision by a personal licence holder of each sale of alcohol. The question arises as to how sales can be authorised. Ultimately, whether an authorisation has been given is a question of fact that would have to be decided by the courts on the evidence before it in the course of a criminal prosecution.
- 10.31 The following factors should be relevant in considering whether or not an authorisation has been given:
- the person(s) authorised to sell alcohol at any particular premises should be clearly identified;
 - the authorisation should have specified the acts which may be carried out by the person who is authorised to supply alcohol;
 - there should be an overt act of authorisation, for example, a specific written statement given to the individual who is authorised to supply alcohol; and
 - there should be in place sensible arrangements for the personal licence holder to monitor the activity that they have authorised on a reasonably regular basis.
- 10.32 It is strongly recommended that personal licence holders give specific written authorisations to individuals whom they are authorising to retail alcohol. A single written authorisation would be sufficient to cover multiple sales over an unlimited period. This would assist personal licence holders in demonstrating due diligence should issues arise with enforcement authorities; and would protect employees if they themselves are challenged in respect of their authority to sell alcohol.
- 10.33 Written authorisation is not a requirement of the 2003 Act and its absence alone could not

give rise to enforcement action.

- 10.34 It must be remembered that whilst the designated premises supervisor or a personal licence holder may authorise other individuals to sell alcohol in their absence, they are responsible for any sales that may be made. Similarly, the premises licence holder remains responsible for ensuring that licensing law and licence conditions are observed at the premises.

Arrangements for the mandatory licence conditions

- 10.35 The mandatory conditions made under sections 19A and 73B of the 2003 Act (the conditions governing irresponsible promotions, dispensing alcohol directly into the mouth, provision of free tap water, age verification, small measures and the prohibition on sales of alcohol below the permitted price) do not have to be physically included in the licence or certificate but nonetheless will apply to every licence and certificate authorising the sale and supply of alcohol for consumption on the premises. The mandatory conditions set out in section 19 of the 2003 Act (the requirement for a DPS and for all sales to be made or authorised by a personal licence holder) do, however, have to be physically included in the licence. The mandatory aspirational licence conditions do not apply to activities (including the supply of alcohol) authorised by a temporary event notice.
- 10.36 Whereas the initial mandatory conditions in section 19 of the 2003 Act are set out in Annex A of the licence, the additional mandatory conditions made under section 19A of the 2003 Act are treated as if they were included in existing licences and certificates on the date that those conditions came into force.
- 10.37 Following their commencement, the mandatory conditions overrode any pre-existing conditions already included in a licence or certificate insofar as the mandatory conditions were identical to, or inconsistent with or more onerous than, any pre-existing conditions. It is not necessary to record on the face of existing licences and certificates the impact that the introduction of the mandatory conditions has had on pre-existing conditions.

Irresponsible promotions

- 10.38 Under this condition, the “responsible person” (defined in the 2003 Act as the holder of a premises licence, designated premises supervisor, a person aged 18 or over who is

authorised to allow the sale or supply of alcohol by an under 18 or a member or officer of a club present on the club premises who can oversee the supply of alcohol) should be able to demonstrate that they have taken all reasonable steps to ensure that staff do not carry out, arrange or participate in any irresponsible promotions. An irresponsible promotion is one that fits one of the descriptions below (or is substantially similar), is carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises and carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance or harm to children. The aim of the condition is to prohibit or restrict promotions which encourage people to drink more than they might ordinarily do and in a manner which does not promote the licensing objectives.

Drinking games

10.39 Irresponsible promotions can include activities, whether drinking games or not, which may require or encourage individuals to drink a quantity of alcohol within a time limit, or drink as much alcohol as possible within a time limit or otherwise. For example, this may include organised 'drink downing' competitions. This would not prevent the responsible person from requiring all drinks to be consumed or abandoned at, or before, the closing time of the premises. Nor does it necessarily prohibit 'happy hours' as long as these are not designed to encourage individuals to drink excessively or rapidly.

Large quantities of alcohol for free or a fixed price

10.40 Irresponsible promotions can include the provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted price. This includes alcohol provided to the public or to a group defined by a particular characteristic, for example, a promotion which offers women free drinks before a certain time or "all you can drink for £10". This condition does not apply to a promotion or discount on alcohol for consumption with a table meal. Promotions can be designed with a particular group in mind (for example, over 65s). A common sense approach is encouraged, which may include specifying the quantity of alcohol included in it or not targeting a group which could become more vulnerable or present a greater risk of crime and disorder as a result of excessive alcohol consumption.

Prizes and rewards

10.41 The sale, supply or provision of free or discounted alcohol or any other item as a prize to encourage or reward the purchase and consumption of alcohol can be within the definition of an irresponsible promotion. This may include promotions under which free or discounted alcohol is offered as a part of the sale of alcohol, for example, "Buy one and get two free" and "Buy one cocktail and get a second cocktail for 25p". This includes promotions which involve the provision of free or discounted alcohol within the same 24 hour period.

Sporting events

10.42 Irresponsible promotions can include the provision of alcohol for free or for a discounted price in relation to a sporting event shown on the premises, where the sale, supply or provision of alcohol depends on the outcome of a race, match or other event. For example, this may include offering unlimited drinks based on the outcome of a sporting competition. It also applies to events which are unpredictable, such as offering free double shots for every foul committed in a football match, or heavily reduced drinks for five minutes after a try is scored in a rugby match.

Posters and flyers

10.43 Irresponsible promotions can also include the sale or supply of alcohol in association with promotional materials on display in or around the premises, which can either be reasonably considered to condone, encourage or glamorise anti social behaviour or refer to the effects of drunkenness in any favourable manner.

Dispensing alcohol directly into the mouth

10.44 The responsible person (see paragraph 10.38) must ensure that no alcohol is dispensed directly by one person into the mouth of another person. For example, this may include drinking games such as the 'dentist's chair' where a drink is poured continuously into the mouth of another individual and may also prevent a premises from allowing another body to promote its products by employing someone to dispense alcohol directly into customers' mouths. An exception to this condition would be when an individual is unable to drink

without assistance due to a disability.

Free tap water

- 10.45 The responsible person (see paragraph 10.38) must ensure that free potable tap water is provided on request to customers where it is reasonably available on the premises. What is meant by reasonably available is a question of fact; for example, it would not be reasonable to expect free tap water to be available in premises for which the water supply had temporarily been lost because of a broken mains water supply.

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 10.38) 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 a holographic mark.
- 10.47 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.
- 10.48 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.

10.49 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 applied by the premises.

Smaller measures

10.50 The responsible person (see paragraph 10.38) shall ensure that the following drinks, if sold or supplied on the premises, are available in the following measures:

- Beer or cider: ½ pint
- Gin, rum, vodka or whisky: 25ml or 35ml
- Still wine in a glass: 125ml

10.51 As well as making the drinks available in the above measures, the responsible person must also make customers aware of the availability of these measures – for example, by making their availability clear on menus and price lists, and ensuring that these are displayed in a prominent, conspicuous place in the relevant premises (for example, at the bar).

10.52 This condition does not apply if the drinks in question are sold or supplied having been made up in advance ready for sale or supply in a securely closed container. For example, if beer is only available in pre-sealed bottles the requirement to make it available in 1/2 pints does not apply.

10.53 The premises licence holder or club premises certificate holder must ensure that staff are made aware of the application of this condition.

Ban on sales of alcohol below the permitted price

10.54 The relevant person (the holder of the premises licence, the designated premises supervisor (if any) in respect of such a licence, the personal licence holder who makes or

authorises a supply of alcohol under such a licence, or any member or officer of a club present on the premises in a capacity which enables the member or officer to prevent the supply in question) shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

- 10.55 The permitted price is defined as the aggregate of the duty chargeable in relation to the alcohol on the date of its sale or supply and the amount of that duty multiplied by a percentage which represents the rate of VAT chargeable in relation to the alcohol on the date of its sale or supply. Detailed guidance on how to make this calculation and a calculator to determine permitted prices for each product are available on the Home Office website.
- 10.56 Where there is a change to the rate of duty or VAT applying to alcohol (for instance, following a Budget), the relevant person should ensure that the permitted price reflects the new rates within fourteen days of the introduction of the new rate.
- 10.57 It is still permitted to sell alcohol using promotions (as long as they are compatible with any other licensing condition that may be in force), and the relevant person should ensure that the price of the alcohol is not less than the permitted price. Detailed guidance on the use of promotions is given in the guidance document available on the Home Office website.

Exhibition of films

- 10.58 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 (currently only the British Board of Film Classification – BBFC) or by the licensing authority itself.
- 10.59 The effect of paragraph 5 of Schedule 1 to the 2003 Act is to exempt adverts from the definition of regulated entertainment, but not exempt them from the definition of exhibition of a film. Since the above mandatory condition applies to ‘any film’, it is therefore applicable to the exhibition of adverts.

Door supervision

- 10.60 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.
- 10.61 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).
- 10.62 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.
- 10.63 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.

- 10.64 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.
- 10.65 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.)

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, (for example, whilst beer glasses may be available in toughened glass, wine glasses may not);
- 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.

Licence conditions and reviews

15.20 The amendments made to the 2003 Act by the Live Music Act 2012 affect conditions relating to live music in licensed premises. Any existing licence conditions on relevant licensed premises (or conditions added on a determination of an application for a premises licence or club premises certificate) which relate to live music remain in place, but are suspended between the hours of 08:00 and 23:00 on the same day where the following conditions are met:

- at the time of the live music, the premises are open for the purposes of being used for the sale or supply of alcohol for consumption on the premises;
- if the live music is amplified, the performance takes place before an audience of no more than 200 people; and
- the live music takes place between 08.00 and 23.00 on the same day.

15.21 The effect of conditions relating to other activities that are deregulated between 08:00-23:00 is explained in paragraphs 15.29 to 15.33.

Live music and conditions

15.22 In some instances, it will be obvious that a condition relates to live music and will be suspended, for example “during performances of live music all doors and windows must remain closed”. In other instances, it might not be so obvious: for example, a condition stating “during performances of Regulated Entertainment all doors and windows must remain closed” would not apply if the only entertainment provided was live music between 08:00 and 23:00 on the same day to an audience of up to 200, but the condition would continue to apply if there was a disco in an adjoining room.

15.23 However, even where the 2003 Act (as amended by the 2012 Act) has deregulated aspects of the performance of live music, it remains possible to apply for a review of a premises licence or club premises certificate if there are appropriate grounds to do so. On a review of a premises licence or club premises certificate, section 177A(3) of the 2003 Act permits a licensing authority to lift the suspension and give renewed effect to an existing condition relating to live music. Similarly, under section 177A(4), a licensing authority may add a condition relating to live music as if live music were regulated entertainment, and as if that premises licence or club premises certificate licensed the live music.

15.24 An application for a review in relation to relevant premises can be made by a licensing authority, any responsible authority or any other person. Applications for review must still be relevant to one or more of the licensing objectives and meet a number of further requirements (see Chapter 11 of this Guidance for more information about reviews under the 2003 Act).

15.25 More general licence conditions (e.g. those relating to overall management of potential noise nuisance) that are not specifically related to the provision of

entertainment (e.g. signage asking patrons to leave quietly) will continue to have effect.

Live music: conditions relating to beer gardens

- 15.26** Beer gardens are often included as part of a premises licence or club premises certificate. Live amplified music that takes place in a beer garden is exempt from licensing requirements, provided the beer garden is included in the licence or certificate applying to the relevant licensed premises, and the performance takes place between 08:00 and 23:00 on the same day before an audience of 200 people or fewer.
- 15.27** Where a beer garden does not form part of the relevant licensed premises and so is not included in plans attached to a premises licence or club premises certificate, it is nevertheless very likely that it will be a workplace. Paragraph 12B of Schedule 1 to the 2003 Act says that a performance of live music in a workplace that does not have a licence (except to provide late night refreshment) is not regulated entertainment if it takes place between 08:00 and 23:00 on the same day in front of an audience of no more than 200 people.
- 15.28** However, a licensing authority may, in appropriate circumstances, impose a licence condition that relates to the performance of live music in an unlicensed beer garden using any associated premises licence or club premises certificate. Provided such a condition is lawfully imposed, it takes effect in accordance with its terms.

Conditions relating to plays, dance and indoor sport

- 15.29** As a result of the 2013 Order, a performance of a play or dance, or an indoor sporting event, will no longer require a licence to the extent that certain qualifying conditions (see paragraph 15.10) are satisfied. Similarly, to the extent that those qualifying conditions are satisfied, any current licence condition that relates to an activity for which a licence is no longer required will (except in the circumstances described in the next paragraph) have no effect.
- 15.30** Where, however, non-licensable activities take place at the same time as other activities for which a licence is required (e.g. the sale or supply of alcohol for consumption on the premises), conditions included in a licence may nevertheless apply to the non-licensable activities in the circumstances set out in paragraphs 15.36 and 15.37 below (conditions relating to other non-licensable activities).
- 15.31** A licence holder who wishes to remove conditions relating to activities that are no longer licensable may apply to the licensing authority for a licence variation. In the course of considering such applications, licensing authorities are encouraged to remove such conditions unless there are sufficiently serious specific concerns about the hosting of deregulated entertainment activities in relation to the remaining licensable activities taking place in the premises in question.

15.32 Performances of dance which are “relevant entertainment” within the meaning of the Local Government (Miscellaneous Provisions) Act 1982 (“the 1982 Act”) are not affected by the 2013 Order, regardless of the size of the audience or the time of day. “Relevant entertainment” is defined in the 1982 Act as a live performance or live display of nudity that, ignoring financial gain, can be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience.

15.33 In almost all cases where a performance of dance is potentially licensable as both the provision of relevant entertainment (under the 1982 Act) and regulated entertainment (under the 2003 Act), the 1982 Act disapplies the entertainment licensing regime in the 2003 Act in favour of its stricter regime for the control of sex establishments. However, an authorisation under the 2003 Act will be required where:

- the premises are not licensed as a sex entertainment venue under the 1982 Act, and
- relevant entertainment has been provided at those premises on no more than 11 occasions in any 12 month period, with none of those occasions lasting longer than 24 hours or taking place within a month of any other such occasion.

Conditions relating to combined fighting sports

15.34 The 2013 Order amended the existing descriptions of regulated entertainment to make clear that both an indoor boxing or wrestling entertainment cannot also be an indoor sporting event, and that any contest, exhibition or display combining boxing or wrestling with one or more martial arts (‘combined fighting sports’) is – whether indoors or not – a boxing or wrestling entertainment.

15.35 To the extent that a premises licence or club premises certificate purports to authorise a boxing or wrestling entertainment or combined fighting sports as an ‘indoor sporting event’, the 2013 Order provides that the authorisation will be treated as having authorised those activities as a boxing or wrestling entertainment. Those activities will continue to be subject to any relevant conditions attached to that authorisation.

Conditions relating to other non-licensable activities

15.36 If appropriate for the promotion of the licensing objectives, and if there is a link to remaining licensable activities, conditions that relate to non-licensable activities can be added to or altered on that premises licence or club premises certificate at review following problems occurring at the premises. This has been a feature of licence conditions since the 2003 Act came into force. A relevant example could be the use of conditions relating to large screen broadcasts of certain sporting events which, combined with alcohol consumption, create a genuine risk to the promotion of the licensing objectives. It is also not uncommon for licence conditions relating to the

sale of alcohol to restrict access to outside areas, such as unlicensed beer gardens, after a certain time.

15.37 Similarly, while karaoke no longer needs licensing as the provision of entertainment facilities (and will generally be classed as a performance of live music – see paragraph 15.16 above) it might, for example, be possible on review to limit the use or volume of a microphone made available for customers, if a problem had occurred because of customers purchasing alcohol for consumption on the premises becoming louder and less aware of causing noise nuisance later in the evening. Another example might be a condition restricting access to a dance floor, where the presence of customers who had been consuming alcohol on the premises had led to serious disorder.

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. 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 In the context of crime and disorder and public safety, the preservation of order on

premises may give rise to genuine concerns about the ability of the management team with responsibility for the maintenance of order. This may occur, for example, on premises where there are very large numbers of people and alcohol is supplied for consumption, or in premises where there are public order problems.

- 2.6 Conditions relating to the management competency of designated premises supervisors should not normally be attached to premises licences. 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.
- 2.7 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. However, licensing authorities must ensure that they do not stray outside their powers and duties under the 2003 Act. This is important to ensure the portability of the personal licence and the offences set out in the 2003 Act and to ensure, for example, that the prevention of disorder is in sharp focus for all managers, licence holders and clubs.

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 2.13-2.15, 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 (8.34-8.42), 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.

Ensuring safe departure of those using the premises

2.11 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

- 2.12 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

- 2.13 “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.
- 2.14 It should also be noted in this context that it remains an offence under the 2003 Act to sell or supply alcohol to a person who is drunk. This is particularly important because of the nuisance and anti-social behaviour which can be provoked after leaving licensed premises.
- 2.15 Where an authorisation is required under the 2003 Act for a performance of dance (see

paragraphs 15.10 and 15.15 below), section 177 of that Act provides that any licence condition which relates to a performance of dance has no effect if certain conditions are met. In particular, the suspension of licence conditions can only occur if the permitted capacity of premises is not more than 200 persons. 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 Act, 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.

- 2.16 Whilst the Cinematograph (Safety) Regulations 1955 (S.I. 1955/1129) – which contained a significant number of regulations in respect of fire safety provision at cinemas – no longer apply, authorisations granted under Schedule 8 to the 2003 Act will have been subject to conditions which re-state those regulations in their new premises licence or club premises certificate. Any holders of a converted licence seeking to remove these conditions and reduce the regulatory burden on them (to the extent to which that can be done while still promoting the licensing objectives), would need to apply to vary their converted licences or certificates. When considering applications for variations, minor variations, and the grant of new licences, licensing authorities and responsible authorities should recognise the need for steps to be taken to assure public safety at these premises in the absence of the 1955 Regulations.
- 2.17 Public safety includes the safety of performers appearing at any premises.

Public nuisance

- 2.18 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.

- 2.19 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 is important to remember that the prevention of public nuisance could therefore include low-level nuisance, perhaps affecting a few people living locally, as well as major disturbance affecting the whole community. It may also 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.
- 2.20 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 more sophisticated measures like the installation of acoustic curtains or rubber speaker mounts. Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of the specific premises. Licensing authorities should be aware of the need to avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are very expensive to purchase and install and are likely to be a considerable burden for smaller venues.
- 2.21 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.
- 2.22 Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, music noise from premises usually occurs from mid-evening until either late-evening or early-morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. In certain circumstances, conditions relating to noise immediately surrounding the premises may

also prove appropriate to address any disturbance anticipated as customers enter and leave.

- 2.23 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.
- 2.24 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

- 2.25 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 with alcohol 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).
- 2.26 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.

2.27 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.

2.28 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.

2.29 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.

2.30 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.

- 2.31 Please see also Chapter 10 for details about the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010.
- 2.32 Licensing authorities should give considerable weight to representations about child protection matters.
- 2.33 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.
- 2.34 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

- 2.35 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. For example, 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.

Table of relevant offences under the 2003 Act

Section	Offence
Section 145	Unaccompanied children prohibited from certain premises
Section 146	Sale of alcohol to children
Section 147	Allowing the sale of alcohol to children
Section 147A	Persistently selling alcohol to children
Section 148 ¹	Sale of liqueur confectionery to children under 16
Section 149	Purchase of alcohol by or on behalf of children
Section 150	Consumption of alcohol by children
Section 151	Delivering alcohol to children
Section 152	Sending a child to obtain alcohol
Section 153	Prohibition of unsupervised sales by children

¹ Note: The Government is planning to remove this offence through the Deregulation Bill

LICENSING ACT 2003 SUB COMMITTEES

RULES OF PROCEDURE

ADOPTED BY THE COUNCIL ON 19TH APRIL 2005

1. General

- 1.1 These rules of procedure are subject to the provisions of the Licensing Act 2003 (Hearings) Regulations 2005 (the 'regulations'). Where appropriate the provisions of the regulations have been incorporated into these rules.
- 1.2 Where in these procedure rules notice is required to be given to the Sub-Committee it may be given to Robin Pellow, Head of Democratic & Legal Services (01483 523222) in accordance with regulation 34.

2. Composition of Sub-Committees

- 2.1 Each Sub-Committee shall comprise 3 members appointed by the Licensing and Regulatory Committee, in accordance with section 9 of the Licensing Act 2003 (the 'Act'). The quorum shall be three. One member of each of the Sub-Committees shall act as Chairman.

3. Notice of hearing

- 3.1 The licensing authority shall give to the parties a notice stating the date and time and place at which the hearing is to be held (the 'notice of hearing') in accordance with the provisions of the regulations.
- 3.2 The notice of hearing shall be accompanied by information regarding the following: -
 - (a) the rights of a party provided for in paragraphs 4.1 & 8.5;
 - (b) the consequences if a party does not attend or is not represented at the hearing;
 - (c) the procedure to be followed at the hearing;
 - (d) any particular points on which the licensing authority considers that it will want clarification at the hearing from a party.

4. Right of attendance, assistance and representation

- 4.1 Subject to paragraphs 6.2 & 6.4, a party may attend the hearing and may be assisted or represented by any person whether or not that person is legally qualified.

4.2 Upon receipt of the notice of hearing and within the period of time prescribed by the regulations*, each party shall give to the licensing authority a notice stating:-

- (a) whether he/ she intends to attend or be represented at the hearing;
- (b) whether he/ she considers a hearing to be unnecessary.

*the notice of hearing given by the licensing authority to the parties shall specify the relevant period of time within which each party must give the notice described in this paragraph

4.3 In a case where a party wishes any other person (other than the person he/ she intends to represent him/ her at the hearing) to appear at the hearing, the notice referred to in paragraph 4.2 above shall contain a request for permission for such other person to attend at the hearing accompanied by details of the name of that person and a brief description of the point or points on which that person may be able to assist the authority in relation to the application, representations or notice of the party making the request.

4.4 A party who wishes to withdraw any representations they have made may do so:

- by giving notice to Robin Pellow, Head of Democratic and Legal Services (01483 523222), no later than 24 hours before the day or first day on which the hearing is to be held; or
- orally at the hearing.

5. Right to dispense with hearing if all parties agree

5.1 The licensing authority may dispense with holding a hearing if all persons required by the Act to agree that such a hearing is unnecessary, other than the licensing authority itself, have done so by giving notice to the authority that they consider a hearing to be unnecessary.

5.2 Where all the persons required by the Act to agree that a hearing is unnecessary have done so in accordance with paragraph 5.1, the licensing authority, if it agrees that a hearing is unnecessary, shall forthwith give notice to the parties that the hearing has been dispensed with.

6. Hearing to be in public

6.1 Subject to paragraph 6.2 below, the hearing shall take place in public.

6.2 The Sub-Committee may exclude the public from all or part of a hearing where it considers that the public interest in doing so outweighs the public interest in the hearing, or that part of the hearing, taking place in public.

6.3 For the purposes of paragraph 6.2, a party and any person assisting or representing a party may be treated as a member of the public.

6.4 The Sub-Committee may require any person attending the hearing who is in their opinion behaving in a disruptive manner to leave the hearing and may –

(a) refuse to permit that person to return, or

(b) permit him/ her to return only on such conditions as the Sub-Committee may specify,

but such a person may, before the end of the hearing, submit to the Sub-Committee in writing any information which they would have been entitled to give orally had they not been required to leave.

7. Report

7.1 A report will be put before the Sub-Committee, prepared by the Licensing Officer.

7.2 The Licensing Officer shall send a copy of the report to the parties in advance of the hearing.

8. Procedure at hearing

8.1 The order of business shall be at the discretion of the Chairman, but will normally proceed in accordance with the following paragraphs.

8.2 The Chairman shall at the beginning of the hearing introduce the members of the Sub-Committee, invite the parties to identify themselves and then explain to the parties the procedure that the Sub-Committee intends to follow.

8.3 The Sub-Committee shall then proceed to consider any request made by a party under paragraph 4.3 (request for permission for another person to appear at the hearing). Permission shall not be unreasonably withheld.

8.4 The Chairman may ask the Licensing Officer to introduce the report, and outline the matter before the Sub-Committee. Alternatively, the Chairman may proceed directly to paragraph 8.5 below.

8.5 All parties shall be entitled to: -

- in response to a point upon which the licensing authority has given notice that it will want clarification under paragraph 3.2(d), give further information in support of their application, representations or notice (as applicable)

- if given permission by the Sub-Committee, question any other party. Cross examination shall not be permitted unless the Sub-Committee considers that cross examination is required for it to consider the representations, application or notice as the case may require.
- address the Sub-Committee.
- questioning that is, in the opinion of the Chairman, unnecessarily protracted, repetitious, oppressive, irrelevant or unfair, shall be discontinued at the request of the Chairman.

8.6 The parties will normally be invited to address the Sub-Committee in the following order: -

- Applicant
- Responsible Authorities
- Interested Parties

8.7 Members of the Sub-Committee may ask any question of any party or other person appearing at the hearing.

8.8 Where there is more than one representation raising the same or similar matters or addressing the same or similar issues, the Sub-Committee will request that only one party address them on behalf of the parties who have made the representations in question.

8.9 In considering any representations or notice made by a party the Sub-Committee may take into account documentary or other information produced by a party in support of their application, representations or notice (as applicable) either before the hearing or, with the consent of all the other parties, at the hearing. [Note also the provisions of paragraph 12.1]

8.10 The Sub-Committee shall disregard any information given or evidence produced by a party (or any person to whom permission is given to appear at the hearing) which is not relevant to:

- (a) their application, representations or notice (as applicable) or in the case of another person, the application, representations or notice of the party requesting their appearance, and
- (b) the promotion of the licensing objectives or, in relation to a hearing to consider a notice given by a chief officer of police, the crime prevention objective.

- 8.11 The parties shall be entitled to make closing submissions in addition to their address. The closing submissions of any applicant shall follow the closing submissions of any interested party or responsible authority.
- 8.12 The Sub-Committee may place a time limit on the exercise of the rights set out in paragraphs 8.5 & 8.11 above. All parties shall be allowed an equal maximum period of time.
- 8.13 The Sub-Committee may, after hearing the representations of the parties, withdraw from the room to make their deliberations. The Committee Secretary will accompany the Sub-Committee when they retire to make their deliberations. Alternatively, the Sub-Committee may ask all parties and the public to leave the room.

9. Role of Legal Adviser

- 9.1 The Sub-Committee may seek advice or clarification of any procedural or legal matter from the legal adviser at any time during the course of the hearing. The Sub-Committee may seek advice from the Licensing Officer on any technical matter during the course of the hearing, where necessary, in the opinion of the Licensing Officer. The Licensing Officer may procure the services or advice of a technical specialist(s) to advise the Sub-Committee as an expert.
- 9.2 The legal adviser shall not remain with members of the Sub-Committee when they retire to make their deliberations.
- 9.3 The legal adviser may join members during the course of their deliberations either when asked to do so or if he/ she realises there is a point of law on which they may need assistance but on which he/ she omitted to advise them in open session.
- 9.4 If the Sub-Committee require advice on a legal matter during their deliberations the Committee Secretary will so inform the legal adviser on behalf of the Sub-Committee and the legal adviser will join the Sub-Committee to give such advice as he/she considers necessary on the point raised or any other legal matter relevant in his/her opinion.
- 9.5 Any advice given by the legal adviser to members of the Sub-Committee shall be provisional until the substance of that advice has been repeated in open session and the parties have had an opportunity to comment on it. The legal adviser will then state in open session whether the advice is confirmed or varied (and if it is varied, in what way) before members act upon it.

10. Determination of applications

- 10.1 The Sub-Committee shall make its determination at the conclusion of the hearing or otherwise as prescribed by the regulations.

10.2 Where a determination has to be made at the conclusion of the meeting it shall be announced by the Chairman in public before the closure of the meeting.

11. Failure of parties to attend the hearing

11.1 If a party has informed the licensing authority that he/she does not intend to attend or be represented at the hearing, the hearing may proceed in his/her absence.

11.2 If a party who has not so indicated fails to attend or be represented at a hearing the Sub-Committee may:

- where it considers it to be necessary in the public interest, adjourn the hearing to a specified date, or
- hold the hearing in the party's absence

11.3 Where the Sub-Committee holds the hearing in the absence of a party, the Sub-Committee shall consider at the hearing the application, representations or notice made by that party.

12. Adjournments

12.1 Subject to the provisions of the regulations, the Sub-Committee may

- (a) adjourn the hearing to a specified date
- (b) arrange for a hearing to be held on specified additional dates

where it considers it necessary for its consideration of any representations or notice made by a party.

12.2 Where the Sub-Committee adjourns the hearing to a specified date it shall forthwith notify the parties of the date, time and place to which the hearing has been adjourned.

12.3 Similarly, when the Sub-Committee arranges for the hearing to be held on a specified additional date it shall forthwith notify the parties of the additional date on which, and the time and place at which, the continued hearing is to be held.

13. Record of proceedings

13.1 A record of the hearing shall be kept for 6 years from the date of determination or, where an appeal is brought against the determination, the disposal of the appeal.

14. Waiver of rules

Except where prescribed by the regulations, the Sub-Committee may in any particular case dispense with or modify these rules at its own discretion.

14.1 In particular, the licensing authority may extend a time limit provided for in the regulations for a specified period where it considers this to be necessary in the public interest.

14.2 Where the licensing authority has extended a time limit it shall forthwith give a notice to the parties stating the period of time of the extension and the reasons for it.

NOTES

Human Rights

The Human Rights Act 1998 obliges the Council to comply with the provisions and protections of the European Convention on Human Rights. It is unlawful for a local authority to act in a way which interferes disproportionately with a convention right. The Sub-Committee will have regard to the rights protected by the European Convention on Human Rights when exercising its licensing functions.

<http://emperor2/sites/democratic/Licensing/Sub-Committees/30 August 2012/Appendix RulesOfProcedure.doc>

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