



The Licensing Act 2003

Statement of Licensing Policy

2020 - 2023

www.milton-keynes.gov.uk/licensing

Publication number: M17138

Version Control

Version	Date	Adopted	Reason for adoption / review
1.0	2005 - 2008	2005	Statutory requirement
2.0	2008 - 2011	2008	Statutory requirement
3.0	2011 - 2014	2011	Statutory requirement
4.0	2013 - 2018	2013	Legislative change in 2012
5.0	2018 - 2023	June 2018	Statutory Requirement
5.1	2020 - 2023	June 2020	Updated name to the Body that the licensing authority recognises relating to the protection of children from harm

Contents

	PAGE
Statement of Policy	4
Licensing Objectives	4
Purpose and scope of this Policy	4
Consultation	6
Exclusions:	6
Commercial demand	6
Zoning and Licensing Hours	6
Early Morning Alcohol Restriction Orders / Late Night Levy	8
Key Aims	8
Integrating Strategic Links	9
Strategic Influences	9
Crime and Disorder	10
Regulatory Arrangements	11
Planning Guidance	11
Building Control	11
Health and Safety & Fire Safety	11
Public Transport	11
Trading Standards and Environmental Health	12
Public Health	13
Anti-Social Behaviour Act 2003	14
Equality Act	14
Human Rights Act	14
Cumulative Impact Assessment	15
Mechanisms for controlling cumulative	16
Applications for New Premises	17
Enforcement	18
Policy Communication	19
Tourism and Culture	19
Children and Young Person's	20

Children and Films (including Cinemas/Theatres)	22
Prevention of Crime and Disorder	22
Drugs in Premises	23
Door Supervisors/Stewards	24
Licence Conditions	24
General and Related Issues	24
Prohibition of Certain Types of Entertainment	25
Occupancy Limits	26
Safety Inspections	26
The Prevention of Public Nuisance	26
Glass Drinking Containers and Glass Bottles	27
Complaints Regarding Licensed Premises	28
Inspection of Licensed Premises	28
The Licensing Process:	29
Applications for Premises Licences/Club Premises Certificates	30
Permitted Temporary Activities (Temporary Event Notices)	31
Applications for Personal Licences	31
Designated Premises Supervisor	32
Licence Reviews	33
Delegation and Decision Making	34
Table 1 Delegations	36
Guidance from the Licensing authority -	40
Appendix 1 - Legal Issues and Information	
Appendix 2 - The Licensing Committee	
Appendix 3 - Useful Contacts	

1. Statement of Licensing Policy made under Section 5 of the Licensing Act 2003

- 1.1 This statement was prepared having regard to the Guidance issued under Section 182 of the Licensing Act 2003; as required of the Licensing Authority under the Act and; taking into account any Cumulative Impact Policy in place. This statement was adopted following consultation between November 2017 and February 2018 in accordance with Section 5 of the Licensing Act 2003.
- 1.2 The statement of licensing policy will be kept under review throughout its period of validity and amended as considered necessary. Any amendments will be subject to consultation.
- 1.3 The Licensing Act covers the licensing and authorisation requirements relating to sale by retail of alcohol; supply of alcohol by or on behalf of a club; the provision of regulated entertainment and the supply of late night refreshment.

2. Licensing Objectives

- 2.1 Milton Keynes Council (MKC) will carry out its statutory duties under the Licensing Act 2003 as the licensing authority and have due regard to the licensing objectives. Licensing concerns the regulation of licensable activities at licensed premises, qualifying club premises and at temporary events as well as the system of personal licences to retail alcohol.
- 2.2 It is important to note that all objectives have equal importance in the implementation of this policy.
- 2.3 The Licensing Objectives are:
 - The prevention of crime and disorder
 - Public safety
 - The prevention of public nuisance
 - The protection of children from harm

3. Purpose and Scope of this Policy

- 3.1 This statement sets out the policy of the licensing authority with respect to carrying out its licensing functions under the Licensing Act. This includes policy formulation, administration, monitoring, and enforcement activities. The latter will include working with and sharing permitted data with other regulatory and enforcement agencies.

3.2 The following will also be relevant:-

- Each application will be determined on its own merits having regard to the licensing objectives; relevant guidance including that issued under Section 182 of the Licensing Act 2003, and local criteria. Where it is appropriate for MKC to depart substantially from its Policy, clear reasons will be given for doing so.
- The council's legal officer will ensure that procedural matters are adhered to and decision making is proportionate and fair.
- The right of any individual or body to apply for a variety of permissions is not undermined.
- The statutory right of any responsible authority or other person to make appropriate representations to an application or to seek a review in respect of a granted authorisation where appropriate is accepted.
- The impact of the activities taking or proposed to take place at a licensed premises or businesses or individuals who are likely to be affected by it.
- The licensing authority, on behalf of MKC may notify parties they consider appropriate such as residents, councillors, town and parish councils and community councils etc. of relevant applications.
- There is no presumption of grant under the Licensing Act 2003.
- The policy does not override legal requirements detailed in primary and secondary legislation.

3.3 The Milton Keynes population is circa 260,000 (delete 250,000) with a planned growth to 350,000 in 2031. The unemployment rate is generally low and it is one of the fastest growing urban environments in the UK. It is unique in the UK as it was the last of the 'new towns' and was designed to join up new communities with those of constituent towns built in the 1870's at the time when the canals and railway were being built through North Buckinghamshire. The northern half of the borough is still predominantly rural with villages dating back to medieval times. New development has taken place over the last forty years in the southern half. As a consequence, the leisure and hospitality sector varies from thatched roof pubs to modern purpose built venues.

3.4 Milton Keynes's urban area has been developed with a grid road network which provides a fast moving road transport network that has created localities with differing land use. Recently there has been a change to achieve greater mixed use and higher density developments. This has caused some issues when new residential development is situated in the area of licensed premises that applicants should consider.

- 3.5 Mixed area development with licensed premises close to residential accommodation can result in complaints from residents. Whilst Local Planning Authorities do have to consider noise impact on new residential development from existing businesses, applicants will similarly need to exercise caution when planning speculative developments or major refurbishments so that noise control figures in the development brief and proactive control measures are put in place from the outset.

4. Consultation

- 4.1 In reviewing this statement the licensing authority consulted widely with all necessary bodies and relevant stakeholders. A list of those consulted is available from the licensing authority on request. Responses received were listed on a matrix document and each point made given due consideration.

5. Exclusions

- 5.1 The policy will be relevant to all licensed premises unless there is a specific stated exclusion clause referred to.

5.2 Commercial Demand

- 5.2.1 The commercial demand for additional licensed premises as distinct from the issue of cumulative impact will not be a matter for the Licensing Authority.

5.3 Zoning and Licensing Hours

- 5.3.1 Unless necessary to do so (and subject to the statutory guidance), the licensing authority will not establish zones in particular areas where premises will be either required, or coerced into having fixed or predetermined closing times. Further, the licensing authority will not require a licensee to make use of the licensed hours granted.
- 5.3.2 Any restriction on trading hours will be considered only where it is necessary to meet the licensing objectives.
- 5.3.3 The licensing authority is likely to impose stricter conditions regarding noise control for those premises that are situated close to residential areas if relevant representations are received. In these situations the licensing authority will expect the applicant to have scoped the potential for public

nuisance including noise and/or vibration nuisance, and to have factored in suitable control measures within their operating schedule.

- 5.3.4 The licensing authority may set an earlier closing time where after representations having been made, it considers this is appropriate having regard to the nature of the licensable activities and the impact on the licensing objectives.
- 5.3.5 Shops, stores and supermarkets will normally be permitted to sell alcohol for consumption off the premises during their trading hours. However, in the case of an individual shop known to be the focus of crime, disorder, disturbance or anti-social behaviour, or other matters relevant to the licensing objectives then subject to relevant representations being made a limit may be imposed on the licensed hours by the licensing authority.
- 5.3.6 Premises used primarily as a 'garage' i.e. selling fuels and/or vehicles and undertaking the maintenance of same, cannot sell alcohol. However, if there are other services on site (for example a shop within the curtilage) that provide local services and these show the primary use is not a garage then the licensing authority may grant a premises licence for the sale of alcohol if it has been satisfied the legal test is met.
- 5.3.7 The licensing authority expects applicants to submit evidence acceptable to the authority of primary usage both with their application and also thereafter as required if a licence is granted. Relevant information is likely to include footfall figures to demonstrate the number of customers who buy fuel only, fuel and other products; and other products only.
- 5.3.8 The licensing authority may impose a condition on any granted licence requiring satisfactory information to be provided by a premises licence holder to show that the premises concerned is not an excluded premises and that such information is provided at set intervals.
- 5.3.9 All persons including businesses, groups and individuals who are likely to be affected by any application have equal rights to make observations both for or against an application for a premises licence / club premises certificate, as do members of the licensing authority and other organisations that fulfil the definition. However, the licensing authority will disregard irrelevant, frivolous and vexatious representations.
- 5.3.10 The relaxation of opening hours for national and international occasions can be dealt with by way of a licensing hours order made by the Secretary of State. In respect of 'local' situations the licensing authority could make an application to the Secretary of State however, this process has a lead in period of at least six months. As a result most applicants are encouraged to

factor such matters into their application or consider the Temporary Event Notice system (see Section 22).

5.3.11 The consumption of alcohol is not a licensable activity and therefore can take place within the 'opening hours' of the premises whereas the sale or supply of alcohol can take place only during the 'licensed hours' stated on the premises licence, certificate, or temporary event notice. The consumption of previously purchased alcohol can take place outside of these licensed hours. However, the licensing authority would expect that if this mode of operation were to occur then there would be no adverse impact on the licensing objectives. If this mode of operation is anticipated then the licensing authority will expect to see a reference to the issue in the operating schedule.

5.3.12 The Authority expects opening hours stated on a licence to mean patrons will leave a licensed venue no later than the closing time stated for that day.

5.4 Early Morning Alcohol Restriction Orders / Late Night Levy

5.4.1 Following the introduction of the Police Reform and Social Responsibility Act 2011 if the licensing authority considers it appropriate for the promotion of the licensing objectives they can make an early morning alcohol restriction order. An order would mean that any premises licence, club premises certificate or temporary event notice that authorises the sale of alcohol during the period specified in the order would not have effect. The period specified must begin no earlier than midnight and end no later than 6am.

5.4.2 Following the introduction of the Police Reform and Social Responsibility Act 2011 the licensing authority may introduce a late night levy. The levy would relate to a late night supply period which begins at or after midnight and ends at or before 6am. Any premises which are not subject to an exemption who supply alcohol or late night refreshment during the supply period on any night of the year would be required to pay the late night levy, the level of which is based on rateable value. The late night levy will not be introduced without the required consultation as detailed in the legislation and accompanying guidance.

6. Key Aims

6.1 The key aims of this statement of licensing policy are for MKC as the licensing authority to:

- Promote and give precedence to the licensing objectives.

- Recognise the need to assist in building a fair, vibrant, and prosperous society in Milton Keynes that properly balances the rights of residential communities, the business sector and other relevant parties.
- Secure the safety and amenity of residential communities whilst facilitating a sustainable, multi-cultural, entertainment and hospitality sector in Milton Keynes.
- Integrate its aims and objectives with other initiatives that will:-
 - i. Reduce local crime, disorder and anti-social behaviour,
 - ii. Reduce alcohol dependence,
 - iii. Reduce the supply and use of illegal drugs in licensed premises,
 - iv. Encourage the self- sufficiency of local communities.
 - v. Reduce the burden of unnecessary regulation on businesses and promote self-help.
 - vi. Reduce the health impacts of alcohol misuse and dependence and reduce the demand of alcohol related A&E services.
 - vii. Continue its commitment to working in partnership with other agencies and organisations through both formal and informal arrangements towards the promotion and achievement of the objectives set out in this policy.
 - viii. Endeavour to reflect the diversity of Milton Keynes through its blend of urban and rural settlements.
 - ix. Give direction to applicants, so that they can make informed decisions in respect of their own venture.
 - x. Recognising that localities that have the highest densities of licensed premises are likely to have the greatest impact on the range of services that are available to all the other citizens of Milton Keynes. It may therefore be necessary for the licensing authority to manage, control, or restrict licensable activities and/or hours of opening through the licensing process based on reliable evidence supplied by for example partner agencies.

7. Integrating Strategic Links

7.1 Strategic Influences

- 7.1.1 There are ranges of strategic influences and statutory controls that affect the licensing system in terms of policy formulation, administration and enforcement activities.

7.1.2 This policy will interface with a number of MKC priorities as appropriate.

7.2 Crime and Disorder

7.2.1 Under Section 17 of the Crime and Disorder Act 1998, local authorities must have regard to the likely effect of carrying out of their functions on crime, disorder and anti-social behaviour; doing all they reasonably can to prevent these matters occurring.

7.2.2 Notwithstanding non-licensing powers available to deal with certain matters (such as Abatement notices and fixed penalty notices) the licensing authority will have particular regard to the likely impact on matters detailed in 7.2.1 when considering the location, operation and management of premises subject to applications, variations and notifications.

7.2.3 The licensing authority already has a well-established partnership with the police in Milton Keynes, through their licensing, operational support and neighbourhood teams.

7.2.4 In localities where there is concern that the licensing objectives are not being met by licensees in operating their premises, targeted and proportionate proactive intelligence gathering may be undertaken by the licensing authority or other relevant agency who will then share that information, as considered appropriate, with a view to taking formal action.

7.2.5 The licensing authority firmly believes that the licensing framework must be balanced by the high standards of house management by licensees and their staff. If this does not occur and there are no reasonable mitigating factors then the licensing authority can take firm enforcement action, in line with the MKC enforcement policy, to ensure that the licensing objectives are met.

7.2.6 The licensing authority will work in partnership with the Milton Keynes Barwatch schemes and other relevant agencies.

7.2.7 In order to meet the licensing objectives, the licensing authority expects licensees whose operating schedule indicate that they will be providing alcohol and regulated entertainment to the general public; to be fully participating members of their local Milton Keynes Barwatch scheme.

8. Regulatory Arrangements

8.1 Care will be taken to ensure that there is no overlap between the licensing regime and other statutory regulatory arrangements such as the Health and Safety at Work Act 1974; the Regulatory Reform (Fire Safety) Order 2005 and the planning regime, so that duplication is avoided and the necessary controls are exercised through the most appropriate process.

8.2 Planning Guidance

8.2.1 The MKC Planning Service will advise the Licensing Team as appropriate, so that the following main drivers for local planning policy decision making are taken into account: -

- MKC Local Plan or any fully developed or emerging Neighbourhood Plan
- Government guidance in the form of Planning Policy Guidance (PPG) and Planning Policy Statements (PPS)

8.2.2 Premises referred to in an application for a licence or certificate will also require the correct planning permission granted for that use (either before or after a licensing application is considered) and be compliant with, or have arrangements in place to be compliant with any conditions attached to a planning permission. It is however recognised that licensing applications should not be a re-run of a planning application and the two regimes unless legislation or guidance changes are entirely separated albeit covering related issues. Licensing committees are not therefore bound by decisions made by a planning committee or visa versa but may consider them relevant in certain circumstances in relation to the licensing objectives.

8.2.3 The licensing team will liaise with the relevant planning authority as appropriate.

8.3 Building Control

8.3.1 The licensing team will liaise with Building Control as appropriate.

8.4 Health and Safety and Fire Safety

8.4.1 In certain circumstances specific public safety issues arise from licensable activities involving persons who are not engaged in a work activity. As a consequence controls may need to be exercised by the use of licensing conditions as suggested by the responsible authority dealing with the health

and safety issues.

- 8.4.2 The licensing team will liaise with other appropriate members of Regulatory Services, Buckinghamshire Fire and Rescue Service and the Health and Safety Executive as appropriate.

8.5 Public Transport

- 8.5.1 There are rail services that operate during the evening and night time, linking Milton Keynes to Bletchley, Wolverton and London, Bedford and Birmingham.
- 8.5.2 The hackney carriage (taxi) and private hire operators are key to assisting the entertainment and hospitality sectors of the night time economy to function by providing an essential service to those wishing to get home from licensed premises.
- 8.5.3 There are numerous bus services within the borough but generally they do not run late into the evening meaning buses cannot be relied upon as a transport system for the late night economy.

8.6 Trading Standards and Environmental Health

- 8.6.1 The priority is to ensure that sales of alcohol are made lawfully and responsibly. The service will provide advice and support to ensure that the systems in place are robust and effective. To establish whether retailers will in fact sell alcohol to young people under the legally permitted age, test purchasing programmes and directed surveillance may be undertaken. The team liaises closely with the Licensing Team and police in carrying out this work.
- 8.6.2 The Licensing Act 2003 permits the use of children under the age of 18 years to undertake test purchases. It is expected that action in this area will be carried out in compliance with any code of practice or guidance regarding the use of child volunteers issued by LGR (Local Government Regulation), Trading Standards Institute, Home Office, Better Regulation Delivery or other relevant body.
- 8.6.3 Any enforcement action will be taken in the context of the MKC Enforcement Policy. This has regard to the key elements of the Regulator's Compliance Code and the Code for Crown Prosecutors.
- 8.6.4 The licensing authority supports the Proof of Age Standards Scheme (PASS) which is an accreditation service for proof-of-age card schemes. By enabling young people to provide retailers with a reliable proof-of-age, such schemes assist in preventing underage access to unsuitable premises and the unlawful

purchasing of alcohol. The PASS service was introduced by the British Retail Consortium and is audited by the Trading Standards Institute. It uses a hologram mark to identify reliable and secure proof-of-age schemes in order that retailers can easily distinguish between accredited cards and forgeries or cards issued under unreliable schemes. Other ways to verify a person's age accurately include reference to a:-

- Passport
- Photo-card driving licence
- Official identity card issued by HM forces

- 8.6.5 Licensees will be expected (and in the case of alcohol supply are required) to have adequate age verification systems in place. The licensing authority supports and may condition an appropriate age policy in licensed premises. Licensees will need to demonstrate that their staff receive regular and adequate training on the law and practice relating to age restricted sales (including challenging purchasers, and checking identification). The training provided should be properly documented so that there is an adequate audit trail and records are available for inspection.
- 8.6.6 Registers of refused sales should be maintained and made available for inspection upon request.
- 8.6.7 The Trading Standards function also has a role in ensuring that licensees comply with the law from a fair trading perspective regarding the composition, designation, labelling and declared measurement of both alcoholic and non-alcoholic drinks. Alcohol particularly can be adulterated through dishonest trading practices.
- 8.6.8 The MKC Environmental Health function has a role in ensuring that the licensing authority is made aware of relevant issues that may impact relevant licensing objectives such as prevention of public nuisance and ensuring public safety. Staffs who have dealt with the investigation of nuisance or health and safety matters under separate legislation will provide a written representation to the licensing authority when considered appropriate. They may enter into dialogue with the applicant or their agent to seek a resolution to the matters of concern by mutual agreement. In the event that a satisfactory outcome cannot be reached then they will present their evidence before the licensing sub-committee.

8.7 Public Health

- 8.7.1 The inclusion in 2012 of Public Health as a responsible authority under the Licensing Act enables them to have a say in alcohol licensing. The Licensing Team work Clinical Commissioning Group the Director of Public Health within MKC to ensure the health impacts of alcohol licensing are considered. Health

bodies may make representations which would most likely relate to public safety including the prevention of accidents and injuries and other immediate harms that can result from alcohol consumption such as unconsciousness or alcohol poisoning. Anonymised information can be collected about incidents relating to specific premises or areas when representations are made.

- 8.7.2 Health bodies hold valuable information which may not be recorded by other agencies, including analysis of data on attendance at emergency departments and the use of ambulance services following alcohol related violent incidents. Sometimes it may be possible to link ambulance callouts and attendance to irresponsible practices at specific premises.
- 8.7.3 The Director of Public Health is responsible for making representations and observations on applications.

8.8 Anti-Social Behaviour Act 2003

- 8.8.1 This legislation permits an authorised officer acting on behalf of the MKC chief executive, to require the immediate closure, for a period of up to 24 hours of any licensed premises if it is considered that noise emanating from within its curtilage is causing a public noise nuisance. The 'test' is a lesser one than required to determine a statutory noise nuisance and the statutory defence of 'best practicable means' is not available.
- 8.8.2 It should be noted that the Licensing Act 2003 also empowers a senior police officer of, or above the rank of, inspector to close licensed premises in a number of circumstances e.g. when disorder is taking place, or is likely to take place imminently or a nuisance is being caused by noise emanating from the premises.

8.9 Equality Act 2010

- 8.9.1 The licensing authority, through this policy and the Equality Act is aware of the relevant gender, disability, racial equality, and employment obligations on employers and will endeavour to eliminate unlawful discrimination, harassment and victimisation in respect of persons with different protected characteristics. This will be achieved by the use of both informal arrangements and the use of licence conditions to meet the licensing objectives if relevant representations are made, substantiated with evidence, and considered appropriate by the licensing sub-committee.

8.10 Human Rights Act 1998

- 8.10.1 The licensing authority will have regard to the European Convention on Human Rights particularly:-

- Article 6 - entitlement to a fair and public hearing within a reasonable time by an independent and impartial tribunal and
- Article 8 - the right to respect for home and private life; and
- Article 1 of the First Protocol - that every person is entitled to the peaceful enjoyment of their possessions, as they may interface with the licensing objectives.

9. Cumulative Impact Assessment (CIA)

- 9.1 MKC does not have any Cumulative Impact Assessments but this policy document will be reviewed if one is introduced (Delete: although not referred to specifically in the Licensing Act 2003, the Section 182 guidance uses the term 'cumulative impact' to refer to the impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area).
- 9.2 The locality within which licensed premises are, or may be located is a major consideration in determining whether a licence should be granted and what conditions should be attached to it. Primary consideration will be given to the direct impact of the licensed activity on those living, working or enjoying the local environment.
- 9.3 Licensing law is not a mechanism for the general control of any anti-social behaviour being displayed by patrons once they have left the curtilage of the licensed premises. Other more specific legislation should be used. However when issues can be linked to customers from particular premises or area then the licensing authority may consider it relevant to the licensing framework licensing law will always be part of a holistic approach to managing such issues.
- 9.4 In some areas there may be concentrated numbers of licensed premises that can lead to problems with the licensing objectives in the area itself or even some distance away. In such circumstances the impact of those premises when taken as a whole can be far greater than that arising from individual premises. It may not be possible to distinguish individual premises as being the sole cause, or even a major contributory factor to, a particular problem; it is the cumulative impact of all the premises that causes problems for a wider area.
- 9.5 The term 'cumulative impact' should not be confused with the term 'need' which relates to the commercial demand for licensed premises. 'Need' is not a

matter to be taken into account when determining licensing applications but is a matter for the market and the planning process to consider.

- 9.6 A CIA will not normally seek to limit the number of licensed premises that will be permitted on the grounds that the licensing authority considers that there are already enough licensed premises to satisfy demand. The principle of cumulative impact will not be used to impose artificial restrictions.
- 9.7 All applications will be considered on their own merits, and no quotas are imposed by this policy.
- 9.8 However the licensing authority may receive representations from a responsible authority or other persons that the cumulative impact of the existing licensed premises or the granting of new licences will lead to an area becoming 'saturated' to the detriment of the locality because of impact on the licensing objectives over and above the impact of the individual premises. In these circumstances the licensing authority may consider that it needs to have a special policy in place.
- 9.9 Prior to introducing such a special policy it will arrange an 'open' meeting so that relevant stakeholders in that locality can consider the issues and evidence that is available. The licensing authority will bring the submitted evidence to the attention of all responsible authorities as consultees. The matter will then be considered by the licensing committee who may recommend a change to policy resulting in the licensing authority refusing to grant new or variations to premises licences or certificates due to cumulative impact in a specified area of a locality depending on the hours and activities sort and having considered guidance under Section 182 of the Licensing Act.
- 9.10 **Other Mechanisms for Controlling Cumulative Effect**
- 9.10.1 The licensing authority is aware that as well as the licensing framework there are a number of other mechanisms available to deal with the problem of unruly behaviour that occurs away from licensed premises.

These include:-

- Planning controls.
- Provision of CCTV
- On-going measures to provide a safer and cleaner environment in partnership with local businesses and others.
- The establishment of Public Spaces Protection Orders (PSPO's) to counteract the negative impact of alcohol consumption. These were previously known as "Drinking Control Areas" where alcoholic drinks in

open or closed containers may be confiscated by a police officer in certain circumstances.

- Police enforcement of the laws with regard to disorder and anti-social behaviour.
- Prosecution of the offence of selling alcohol to a person who is drunk or allowing such a sale
- Police powers to close down instantly, for up to 48hrs, any licensed premises or premises with a Temporary Event Notice on the grounds of disorder, the likelihood of disorder or noise emanating from the premises causing a nuisance.
- The process of seeking a review of a licence or certificate.
- A closure order from the Magistrates Court for premises not complying with an authorisation under the Licensing Act

10. Applications for New Premises

10.1 New premises licences will be granted except where valid representations are received opposed to the application and the grant of the licence will undermine the licensing objectives.

10.2 When considering contested applications the licensing sub-committee must have regard to the licensing objectives. This could include reference to the following information:

- The occupancy figure for the proposed premises
- Whether the proposed premises will act as a replacement for others in the area that no longer have a licence
- The proposed methods of management outlined in the applicants operating schedule
- The proposed hours of operation including opening hours
- The proposed licensable activities
- The impact on the emergency services
- The views of police, including crime and disorder statistics along with the seriousness and nature of previous incidents occurring at similar premises in the locality
- Compliance history of the applicant.

11. Enforcement

- 11.1 Where necessary, risk based enforcement action will be taken in accordance with the MKC Enforcement Policy. This will take into account the principles of consistency, targeting, transparency, and proportionality set out in the Regulators' Compliance Code. The Policy also takes into account the Attorney General's guidelines to Crown Prosecutors for bringing prosecutions. It is published on the MKC website.
- 11.2 The licensing authority will continue to work with other enforcement agencies, such as Thames Valley Police and Buckinghamshire & Milton Keynes Fire & Rescue Service on enforcement issues to provide for the efficient deployment of enforcement personnel with a particular focus on targeting agreed problematic and high-risk premises that require greater attention, while providing a 'lighter touch' in respect of low risk premises that are well run. This will entail a joint enforcement protocol/memorandum of understanding.
- 11.3 The licensing authority will liaise with the police and the Security Industry Authority (or its successor) as necessary regarding the performance of door supervisors undertaking security related duties at licensed premises.
- 11.4 The licensing authority will seek to work actively with the police in enforcing licensing legislation. It expects the police (subject to public interest immunity) to share relevant information about licensees and licensed premises under the Crime and Disorder Act 1998, its common law powers, and to consult closely with the licensing authority when any enforcement action may be required. A joint enforcement protocol is in place with the police and other statutory agencies.
- 11.5 MKC aims to employ officers to investigate allegations of unlicensed activities and to ensure compliance with licence conditions in licensed premises throughout the borough. Such officers will undertake the necessary enforcement actions including initiating reviews, serving closure notices and any required Court action
- 11.6 If considered beneficial, the licensing authority will consider establishing a Milton Keynes licensing forum or alternative arrangements for the representatives of relevant organisations to meet on a regular basis to discuss licensing matters related to the four licensing objectives.
- 11.7 The licensing authority recognises that balancing the interests of owners, employees, customers and neighbours of pubs, clubs and off-licences will not always be straightforward, but it will always have regard to the licensing objectives.

- 11.8 The licensing authority will promote 'good practice' in relation to the operation of licensed premises. It will work closely with stakeholders so as to achieve on-going improvements in standards over reasonable periods of time, in the belief that this is in the long term interests of owners, operators, employees, customers and neighbours alike.
- 11.9 Under the Licensing Act 2003 as amended by the Police Reform and Social Responsibility Act 2011 the licensing authority must suspend a premises licence or club premises certificate if the holder has failed to pay the authority the annual fee by the due date. This does not apply if the failure to pay the fee when it was due was because of administrative error or the holder informed the authority in writing at or before the fee was due that they were disputing liability.

12. Policy Communication

- 12.1 In accordance with statutory procedures, a review of this statement of licensing policy will take place at least every five years unless legislation is amended otherwise. The review will take into account relevant information collated over the previous period of time, coupled with the outcomes of related initiatives relating to alcohol and regulated entertainments etc. at both central and local government level.
- 12.2 In the preparation and publication of this policy, the licensing authority has had regard to the formal guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003 and advice from Local Government Regulation.
- 12.3 Nothing in this policy should be regarded or interpreted as an indication that any requirement of licensing or other law may be overridden.

13. Tourism and Culture

- 13.1 The licensing authority welcomes the opportunity to encourage the development of the cultural, artistic, leisure and hospitality sectors in Milton Keynes. It will assist all applicants in endeavouring to meet their aspirations within the law.
- 13.2 The licensing authority recognises that the diverse range of licensed premises throughout Milton Keynes makes a major contribution to attracting both initial and repeat visitors to both the historic localities, and 'cutting edge' venues.

- 13.3 The licensing authority supports the role of the Milton Keynes Safety Advisory Group (MKSAG) within MKC and will expect applicants for large and or one off public events to engage with the MKSAG on their proposed event in order to promote the licensing objectives. See also paragraph 22.3 as relevant
- 13.4 The licensing authority acknowledges the impact that the leisure and hospitality sectors have on business investment and employment opportunities in Milton Keynes. If it becomes apparent that this policy was considered to be having an adverse effect on those objectives then the licensing committee would be advised accordingly.

14. Children and Young Persons

- 14.1 For the purposes of this policy the licensing authority considers anyone less than 18 years of age to be a child or young person unless otherwise agreed or defined in the Licensing Act.
- 14.2 The Licensing Act 2003 contains a restriction on unaccompanied children under 16 entering certain premises at certain times but the Licensing Authority has discretion to impose further restrictions where considered necessary. When deciding whether to limit the access of children to premises, the licensing authority will judge each application on its own merits.
- 14.3 The licensee has a wide discretion to ensure that the licensing objectives can be met, but through this policy, children accessing licensed premises must not suffer any physical, moral or psychological harm
- 14.4 The licensing authority will have particular regard to representations received concerning premises where there is evidence that any of the following matters may be relevant:
- The premises licence holder / staff have been convicted of serving alcohol to minors
 - The designated premises supervisor or other responsible person has knowingly permitted underage drinking, or the dealing and taking of illegal drugs.
 - There is a 'substantial' element of permitted gambling taking place in the premises.(a small number of amusements with prizes machines would not be deemed to be 'substantial')
 - Entertainment of an adult or sexual nature takes place.
 - Where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.
 - There is a history of crime and disorder.

- The premises are in a high risk area e.g. close to school; in an area with a history of underage sales; in an area with anti social and criminal behaviour linked to persons under 18

In such circumstances then restrictions as licence conditions may be imposed to promote the licensing objective of the protection of children from harm.

- 14.5 The licensing authority will not seek to limit the access of children to any premises unless it is necessary for the prevention of physical, moral or psychological harm.
- 14.6 Where concerns have been identified in respect of individual premises, and it is felt that the access of children should be restricted, the options available would include;
- Limiting the hours when children may be present.
 - Age limitations for persons under 18 years.
 - Limiting or prohibiting access when certain activities are taking place.
 - Full exclusion of persons under 18 years when certain licensable activities are taking place.
 - Limitations on access to certain parts of the premises for persons under 18 years
 - Permitting access only when accompanied by an adult.
 - Such other condition or restriction as may be necessary to achieve the relevant licensing objective.
- 14.7 A complete ban on children entering family orientated licensed premises is rarely likely to be necessary. Nothing in this policy makes it a requirement that children must be admitted to any licensed premises nor will any condition be attached to a licence/certificate requiring them to be admitted. However any restrictions volunteered by the applicant through the operating schedule may become conditions.
- 14.8 The licensing authority regards MK-Together (as fulfilling the previous role of Milton Keynes Safeguarding Board) as the body that represents those who are responsible for, or interested in, matters relating to the protection of children from harm and is recognised by the licensing authority as competent to advise it on matters pursuant to Sections 13 and 69 of the Licensing Act 2003. Accordingly this body is a “responsible authority”.
- 14.9 The Portman Group operates on behalf of the alcohol industry a code of practice on the naming, packaging, and promotion of alcoholic drinks. The code seeks to ensure that alcoholic drinks are only marketed to those 18

years and older. The licensing authority recommends the adoption of this code or relevant others by all relevant parties. Further, it also endorses the information contained within the Retail Alert Bulletins issued by the Association of Licensed Multiple Retailers

- 14.10 In most cases the licensing authority expects persons supplying or retailing alcohol to be 18 or over

15. Children and Films (including Cinemas/Theatres)

- 15.1 The licensing authority will expect licensees or clubs to include in their operating schedules their arrangements for restricting children from viewing age restricted films according to the recommendations of the British Board of Film Classification (BBFC) or the licensing authority itself. In the event that the licensing authority is asked to stipulate an age category for a film, video etc. that has not been dealt with by the BBFC, the licensing sub-committee or its delegated officers may view the film etc. and use the BBFC published guidelines on categorisation as a 'bench mark' in reaching their decision, which will then become a condition.
- 15.2 In considering any application, the licensing authority will take into account any evidence that age restrictions for film showings are not being properly observed.
- 15.3 Where performances are for unaccompanied children in theatres and cinemas and relevant representations are received in response to an application/review, the licensing authority may impose conditions requiring an adequate ratio of adult attendants (over 18 years and with a relevant criminal record check) to children. As a guide the ratio of 1:50 should be considered the minimum, but a risk assessment should be undertaken, as a lower ratio may be required in respect of specific circumstances.

16. Prevention of Crime and Disorder

- 16.1 MKC acting as the licensing authority has a duty to act singularly or with its partners to reduce crime and disorder throughout Milton Keynes, consistent with its statutory duty under section 17 of the Crime and Disorder Act 1998.
- 16.2 Thames Valley Police has provided data to the licensing authority that the licensing authority may consider the following, as examples of the issues that may be referred to as key components in the relationship between the crime

and disorder licensing objective and any relevant representations received in respect of an individual premises:

- The employee's knowledge of crime prevention measures appropriate to the premises.
- The internal design and capacity of those premises used for the sale and consumption of alcohol
 The competency of the premises management team and the level of co-operation from the licensee and the security arrangements in place.
- The willingness to have flexible trading hours so as to avoid patrons competing for limited public transport late at night.
- The willingness to limit the sales of alcohol in glass bottles for immediate consumption outside the premises.
- The use of responsible alcoholic drink pricing and promotions.
- End of evening music 'wind-down' policies.
- The measures employed to prevent the consumption or supply of illegal drugs, including any search procedures, amnesty boxes and door entry policies.
- The procedures in place to conduct age verification checks.
- The arrangements in place to relay 'early warning' information on to the police and other venues using a text pager or radio communications system or smart device.
- The willingness to voluntarily use polycarbonate or toughened/ shatterproof glass drinking containers in those premises considered to be a higher risk due to any of the following factors in the premises risk assessment :- the operating hours, mode of operation, customer profile and type of entertainment.
- The location of the premises
- Compliance history

16.3 Drugs in Premises

- 16.3.1 The licensing authority recognises that the supply and use of illegal drugs by individuals is not relevant to all licensed premises but it is recognised that conditions may need to be attached to the premises licences for certain venues if representations are received. The aim will be to endeavour to reduce the availability, sale, and consumption of illegal drugs and to create a safer environment for those who may have taken them. Any conditions may take into account the relevant guidance and advice from appropriate bodies.

16.3.2 The licensing authority would expect licensees to permit access for drugs analysis equipment and drugs dogs so that random drug tests can be carried out on the skin of persons wishing to have access to the licensed premises, in addition to the staff and contractors employed at the premises. Failure to co-operated without good reason would not be promoting the prevention of crime and disorder objective

16.4 Door Supervisors/Stewards

16.4.1 Any person engaged at licensed premises to carry out security activities including the prevention of access to or the physical ejection of a person from the same premises on behalf of the licensee must hold and display a valid current licence issued by the Security Industry Authority (SIA) or any successor system.

16.4.2 The licensing authority will consider representations that indicate that specific premises require door supervision for the purpose of meeting the crime and disorder licensing or public safety objectives. In such cases, the licensing authority may impose a condition that an agreed number or ratio of licensed door supervisors must be employed at the premises either at all times, or at such times as certain licensable activities are taking place.

16.4.3 In certain circumstances it may be appropriate to use trained stewards to provide a satisfactory level of customer care and general safety awareness. These individuals must not carry out security activities, and would not be required to hold a SIA licence. If they were employed to undertake duties involving children then the applicant should consider whether a relevant criminal record check is appropriate.

16.4.4 The applicant may find it beneficial in developing the operating schedule for a premises licence or certificate to have undertaken a security risk assessment in order to determine the resources necessary to meet the licensing objectives.

17. Licence Conditions

17.1 General and related issues

17.1.1 Licence conditions will not be imposed for any other purpose than meeting the licensing objectives. The licensing authority will not impose blanket standard conditions. Conditions that are applied will be focused on matters which are within the control of licence holders at or within the vicinity of premises and shall take into account guidance under Section 182 of the Licensing Act. Duplication of other statutory regimes shall be avoided.

- 17.1.2 The licensing authority will attach conditions to licences or certificates only to ensure that they will:-
- refer to matters as stated in the operating schedule
 - refer to one or more of the licensing objectives, and
 - deal with any relevant representations received from a responsible authority or other persons that are considered by officers or the licensing sub committee to be appropriate.
- 17.1.3 Conditions will not be drafted which could have a direct or indirect discriminatory impact on particular ethnic groups contrary to MKC equality policy.
- 17.1.4 The licensing authority will normally stipulate the relevant mandatory conditions under the Licensing Act 2003 on all licences or certificates.
- 17.1.5 Conditions will accurately reflect the individual style, location and characteristics of the particular premises, and be clear, unambiguous, and proportionate.
- 17.1.6 Licensing authority is aware of the need to avoid measures that might deter regulated entertainment by imposing indirect costs of a disproportionate or substantial nature through the imposition of unreasonable licence conditions.
- 17.1.7 With the exception of the film classification for film exhibitions, the licensing authority will not use their powers to attach conditions that may be regarded as an act of censorship in respect of the content of regulated entertainment particularly theatrical performances, unless there are over-riding reasons connected to the licensing objectives.
- 17.1.8 Following relevant representation the licensing authority may attach a condition to the granted licence or certificate to confirm that the licensed plan forms part of the authorisation/operating schedule and thus must be updated through an appropriate application with MKC if it changes.
- 17.1.9 The Licensing Authority may choose to place informative information on a granted licence / certificate where it clarifies the meaning and interpretation of specific restrictions and also the disapplication of matters following deregulation

17.2 Prohibition of Certain Types of Entertainment

- 17.2.1 The licensing authority may consider attaching prohibitive licence conditions to a premises licence or club premises certificate following the receipt of relevant

representations in respect of any form of regulated entertainments which are likely to lead to disorder, create hatred, or incite violence towards any section of the public on the grounds of colour, race, ethnic or national origin, disability, religious beliefs, sexual orientation or gender.

17.3 Occupancy Limits

17.3.1 The licensing authority may set an occupant capacity following representations received in order to meet the licensing objectives, for example from the Fire Authority or another responsible authority under the Act.

17.4 Safety Inspections

17.4.1 The licensee will be expected to ensure that all relevant and current safety certification required in accordance with a licensing condition is available for inspection upon request by an authorised officer. Certificates may cover services installations including electrics, safety precautions, emergency standby arrangements, special effects and pyrotechnics etc.

17.5 The Prevention of Public Nuisance

17.5.1 The licensing authority wishes to protect the amenity of residents and businesses in the vicinity of licensed premises and for these purposes 'in the vicinity' is taken to mean the immediate area around licensed premises without any stated distance criteria. Matters of concern will be dealt with on an individual basis

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

17.5.3 In considering licence applications, the licensing authority will consider any information from the responsible authorities concerning legislative compliance relevant to this licensing objective.

17.5.4 The licensing authority will also consider representations made by relevant persons or responsible authorities on the adequacy of measures proposed to deal with the potential for nuisance and/or anti-social behaviour having regard to all the circumstances of the application. These could include the steps taken or proposed to be taken by the applicant regarding the following issues:-

- Excessive noise and vibration escaping from the premises, including music, noise from mechanical ventilation equipment and human voices.

- Disturbance by customers, staff, delivery vehicles or contractors arriving at or leaving the premises. This will be of greater importance between 11p.m. and 7a.m.
 - Queuing either by pedestrian or vehicular traffic on land under the applicant's control.
 - Arrangements made or proposed for parking by patrons, and the effect of parking by patrons on local residents
 - Use of gardens and other open-air areas within the curtilage of the premises.
 - Siting of external lighting.
 - Increase in refuse storage or additional littering in the vicinity of the premises.
 - Previous history of nuisance complaints.
 - Potential for odour nuisance.
 - Confidence in the management to deliver the control measures proposed.
- 17.5.5 The licensing authority will accept applications that cover the continental pavement café bar mode of operation that may include the sale of alcohol in the open air with tables and chairs on land controlled by the licensee providing the licensing objectives can be met. The applicant may also require a pavement licence from MKC.
- 17.5.6 The Authority believes opening hours form part of an authorisation under the Licensing Act and so closing time is interpreted to mean the time that patrons will be off the premises.
- 17.6 Glass Drinking Containers and Glass Bottles**
- 17.6.1 Standard annealed glass bottles and drinking containers used in the leisure and hospitality sectors to supply alcoholic and non-alcoholic drinks may be used as weapons inflicting serious harm during incidents of disorder.
- 17.6.2 As a result it is expected that prior to submitting an application for a new premises licence (or club premises certificate) or the variation of either, a detailed risk assessment is undertaken and the outcomes are incorporated into the operating schedule accompanying the application covering such matters as current good practice, venue location and the potential or actual audience profile.
- 17.6.3 Notwithstanding the above the licensing authority will normally consider attaching a condition(s) to a licence / certificate if a relevant representation is

received to require either the use of flexible/crushable plastic or toughened/shatterproof glass drinking containers instead of standard annealed containers / bottles.

- 17.6.4 Evidence is available that confirms that alcoholic and non-alcoholic drinks can be purchased in non-glass containers from manufactures/wholesalers.

18. Complaints Regarding Licensed Premises.

- 18.1 The licensing authority will investigate or refer to other relevant agencies/ MKC services complaints received against licensed premises where appropriate, normally providing that the complainant's personal details and the nature of the issue(s) must be provided from the outset. For certain matters the complainant may be encouraged to raise the issue of concern directly with the licensee.
- 18.2 In exceptional circumstances the personal details referred to above may not be required, whilst the facts of the complaint are referred onto the appropriate responsible authority for investigation.
- 18.3 The licensing authority will have regard to the MKC complaint procedure when carrying out investigations.

19. Inspection of Licensed Premises

- 19.1 The licensing authority aim to inspect premises on a risk based approach to secure compliance with the Licensing Act and to promote the licensing objectives. This will include inspections due to matters arising (such as complaints, or received intelligence) or proactive routine inspections
- 19.2 Authorised officers will have the discretion as to which premises require a 'during performance' inspection and the frequency when they are undertaken.
- 19.3 Licensed premises will be risk-rated by the licensing authority so as to develop a proportionate and targeted inspection programme. Premises may be more likely to be non-compliant with licence requirements if they are never inspected. The risk rated inspection table overleaf is for guidance only

Type of premises	Frequency of planned inspections *	Frequency of unannounced inspections
High risk e.g. nightclubs, late night alcohol supply, large outdoor events, public houses with regulated entertainment for more than 200 persons.	18 months	Activity dependent /complaint history
Medium risk e.g. theatres, public houses without regulated entertainment,	30 months	As above
Low risk e.g. licensed premises where there is an absence of intelligence indicating matters of concern e.g. compliant off licences	48 months	As above
Temporary event notices which last for a maximum of 168 hours	Where considered high risk	As above

- * This column only gives an indication of the frequency of inspections, depending on factors such as the Licensing Authority's confidence in the management of the premises; intelligence/complaints received; trading hours, licensable activity, resourcing levels and any other relevant factor.

20. The Licensing Process

- 20.1 The determination powers of the licensing authority will be carried out by the licensing committee / sub-committee or by one or more officers acting under delegated authority. It is considered that many of the functions will be largely administrative with no perceived areas of contention. In the interests of efficiency and effectiveness these will, for the most part, be carried out by officers. See Table 1 for scheme of delegation.
- 20.2 The licensing authority accepts that representations can be either positive or negative towards an application and providing they are relevant to the licensing objectives, they will be given "due weight".
- 20.3 Where relevant representations are made regarding an application or on a review of the premises licence/certificate, officers will endeavour to resolve the matter informally. However, the matter may be referred directly to a hearing of the licensing sub-committee and in the case of a review application will always be so.

- 20.4 The licensing authority will not allow vocal minorities to predominate over the general interests of the wider community when considering applications.
- 20.5 An optional charging mechanism for giving advice and assistance to applicants and licensees may be introduced but where it does so it will remain separate from any application or enforcement processes so as not to compromise the role of MKC as the Licensing authority

21. Applications for Premises Licenses / Club Premises Certificates.

- 21.1 The licensing authority will expect individual applicants to address the licensing objectives in their operating schedule having regard to the location and type of premises, the licensable activities to be provided, and the operational procedures.
- 21.2 Applicants should make themselves aware of the MKC statement of licensing policy, in particular the issues that will need to be addressed in formulating the operating schedule.
- 21.3 Applicants will be encouraged to make themselves aware of any relevant planning policies, tourism, cultural or local crime prevention, alcohol reduction strategies; and to have taken them into account, where appropriate, when formulating their operating schedule.
- 21.4 When determining applications the Licensing Authority will have regard to the Section 182 and other relevant guidance issued
- 21.5 If representations are made concerning the potential for limited disturbance in a particular neighbourhood, the licensing authority's consideration will be balanced against the wider benefits to the community e.g. single or multiple day events at outdoor event arenas in Milton Keynes
- 21.6 Prospective holders of new premises licences and those seeking variations to existing premises licences are advised to consult with the MKC licensing team and the various responsible authorities early in the planning stages in order to reduce the risk of confusion and disputes arising.
- 21.7 The licensing authority will endeavour to work in full co-operation with licensees and applicants to minimise the number of disputes that may otherwise arise in this area.

22. Temporary Event Notices (TEN's)

- 22.1 The Licensing Act 2003 provides for certain occasions when small-scale licensable events (where no more than 499 people at a time attend and last for up to 168 hours) do not need a licence if advance notice is given and no relevant objections are received. There are legal limits on how many events premises can have and how many notices a person can give in a year including two types of TEN called standard and late TENs.
- 22.2 The licensing authority recommends that at least one month's notice be given to hold these events to allow it to help organisers plan their events safely. Any significantly longer period than this may mean that organisers do not have all the details available at the time of submitting the notice. Any lesser time means that planning may be rushed and haphazard. The minimum legal timescale is less than this period.
- 22.3 MKC has established a Milton Keynes Safety Advisory Group (MKSAG) led by its Regulatory Service. This includes relevant MKC officers, representatives of the emergency services and the voluntary first aid sector. MKSAG's aim is to advise on safety at public events held throughout Milton Keynes, regardless of whether or not a premises licence or a temporary event notice is required. There is good liaison between the MKSAG and the MKC licensing team. Event organisers are encouraged to make contact for advice at the earliest opportunity when planning their community events.

23. Applications for Personal Licences

- 23.1 The Police have the right to object to a person applying for a personal licence if that person has a relevant unspent conviction (at the time of application) or if they obtain a relevant conviction during the application period of their licence. In addition the licensing Authority can revoke or suspend a licence in relation to convictions obtained after April 2017.
- 23.2 An individual may seek a personal licence whether or not they have current employment or business interests associated with the use of a licence. Applications cannot be made in the name of a corporate body.
- 23.3 The licensing authority must grant a personal licence if the applicant:
- Is aged 18 years or over
 - Is in possession of a relevant licensing qualification or is a person of a prescribed description
 - Has not forfeited a personal licence in the previous five years, beginning

with the day the application was made

- Has not been convicted of any relevant offence under Schedule 4 of the Act, or a foreign offence
 - Has paid the appropriate fee to the licensing authority
- 23.4 Applicants with unspent criminal convictions for the relevant offences set out in the Licensing Act 2003 are encouraged to first discuss their intended application with the police and licensing authority before making an application.
- 23.5 In order to substantiate whether or not an applicant has a conviction for an unspent relevant offence, applicants will be required to produce a relevant criminal record office - basic disclosure certificate, with the application form together with a signed disclosure form by them.
- 23.6 The licensing authority and police may arrange a joint interview with a prospective personal licence holder(s) to discuss the circumstances surrounding their conviction(s). Ultimately, the Police may be minded to object to the grant of the personal licence. In these circumstances, the applicant is entitled to a hearing before the licensing sub-committee. The refusal of the application will be usual unless there are, in the opinion of the licensing sub-committee, exceptional and compelling circumstances that justify granting the application.
- 23.7 Milton Keynes licensing authority will be the 'relevant licensing authority' for any person resident in Milton Keynes when they first applied irrespective if they subsequently move. It will maintain all notified changes of address on its database.

24. Designated Premises Supervisor

- 24.1 The designated premises supervisor need not be physically on the premises at all times when there is a supply or sale of alcohol but the licensing authority expects that there will be an appropriate authorisation system in place in line with the Section 182 (or other) guidance regarding the sale of alcohol at the licensed premises. MKC Policy is for the authorisation to be a written one.
- 24.2 Where a designated premises supervisor is to be newly specified, the premises licence holder will apply to the licensing authority (including an application for immediate effect) and show that the individual concerned, consents to taking on this responsible role, and notify the police of the application.
- 24.3 The police are able to object to the designation of a new premises supervisor where in exceptional circumstances, they believe the appointment would undermine the crime prevention objective. This can occur where a designated

premises supervisor is first appointed or transfers to a particular premises, and this combination gives rise to exceptional concerns; such as where a personal licence holder who has been allowed by the courts to retain their licence, despite convictions for selling alcohol to minors transfers to premises which has a degree of notoriety for underage drinking.

- 24.4 The Act provides that the applicant may apply for the individual to take up his post of designated premises supervisor immediately, and in such cases the issue would be whether the individual should be removed. The licensing sub-committee considering the matter must confine their consideration to the issue of crime and disorder. They will give comprehensive reasons for their decision and either party would be entitled to appeal if their argument is rejected.

25. Licence Reviews

- 25.1 The Act sets out the arrangements to enable a review of a premises licence or club certificate where it is alleged that the licensing objectives are not being promoted. This arrangement will follow an application from a responsible authority or an interested party. The Section 182 guidance will be used to ensure that all matters for review are considered appropriately. The process shall not be subject to abuse by disaffected parties. Matters for consideration must be relevant, and not vexatious, frivolous or repetitious.

However, matters involving the following may be considered as serious shortcomings by the licensing sub-committee at their hearings: -

- Use of licensed premises for the sale and distribution of Class A drugs and/or the laundering of the proceeds of drug crimes.
- Use of licensed premises for the sale and/or distribution of firearms.
- Evasion of copyright in respect of “pirated” films and music
- Underage purchase and/or consumption of alcohol
- Use of licensed premises for prostitution or the sale of unlawful pornography
- Use of licensed premises for unlawful gaming
- Use of licensed premises as a base for organised criminal activity
- The closure of the premises by a senior police officer, or an environmental health officer due to noise nuisance.
- Use of licensed premises for the organisation of racist, homophobic or sexual abuse or attacks
- Use of licensed premises for the sale of illicit tobacco or goods or where duties / tax has not been paid on goods

- The use of licensed premises for the sale of stolen goods
- Where the police are frequently called to attend to incidents of disorder
- Prolonged and/or repeated instances of public nuisance
- Where serious risks to public safety have been identified, and the management is unable or unwilling to correct those
- Where serious risks to children have been identified e.g. repeat underage sales.
- Significant or repetitive breaches of licence conditions/licensing law
- Failure to act on previous warnings / advice / uncooperative attitude towards authorised officers.
- The location of a premises and the risk this poses to the licensing objectives
- Premises found to be involved in immigration offences

25.2 Where the licensing authority determines on review that the licensing objective of the prevention of crime and disorder is being undermined through the premises being used to further crimes, the licensing authority will seriously consider revocation of the licence or certificate, even in the first instance.

26. Delegation and Decision Making

- 26.1 One of the major principles underlying the Licensing Act 2003 is that the licensing functions contained within the Act should be delegated to an appropriate level so as to ensure efficient and cost effective service delivery. The licensing authority is committed to this principle and its scheme of delegation is outlined in Table 1 that is based on the guidance issued under Section 182 of the Act.
- 26.2 The Act itself requires that applications / notifications be granted / approved unless a representation or objection is raised. Where a function is delegated to an officer they will be responsible for liaising with the applicant, 'other persons' and the responsible authorities to ensure that any licence granted is subject to proportionate and necessary conditions. Where objections/representations are made, the officer will liaise to see if a settlement is possible to overcome the representations without the need for the matter to go before the licensing sub-committee. Only where issues are raised which cannot be agreed will matters be referred through to the licensing sub-committee for determination.
- 26.3 Whilst contested licensing applications are quasi-judicial in nature, the licensing sub-committee will try to keep the proceedings as informal as possible.

However, some degree of formality is needed to ensure that all parties receive a fair hearing. The procedure will be designed to ensure that all parties are able to express their views openly and fairly. The procedure is inquisitorial rather than adversarial and, whilst applicants, individuals and businesses who may be affected, and responsible authorities are entitled to bring legal representation with them if they wish, this is not a requirement.

- 26.4 Whilst the licensing sub-committee usually meets in public, it does have power to hear certain applications in private and to receive legal advice similarly. A decision is made publicly when the matter has been determined.
- 26.5 The licensing sub-committee will determine each case on its individual merits whilst taking into consideration the terms of this policy document. Where the licensing sub-committee determines that it is appropriate to attach conditions to a licence or certificate it will ensure that those conditions are focused on the direct impact of the activities taking place at the premises concerned. Such conditions will be proportionate to the activity to be controlled and will only be imposed in the interests of the licensing objectives.
- 26.6 The licensing authority will expect the applicant to have had due regard to the contents of this policy and the attached appendices that provide guidance only.
- 26.7 A decision of the licensing authority can be the subject of an appeal to the Milton Keynes Magistrates' Court. As a consequence the licensing authority will record full reasons for any decision(s) made. The refusal of an application does not prevent a further application being made, but the licensing authority would expect the applicant to carefully consider the issues of concern before doing so.
- 26.8 Whilst not undermining a person or bodies right to a fair hearing or to make an application under the Licensing Act, where applications are resubmitted following a refusal they are likely to be refused again unless the reasons for the previous refusal have been satisfactorily addressed or successfully challenged.

Table 1

Delegation of Functions

Matter to be dealt with	Council	Licensing Committee	Licensing sub-committee	Officers
Review of Licensing Policy	All Cases	Recommendation to Council		
Dealing with Policy Issues	All cases	Recommendation to Council		
Matters of Cumulative Impact	When referred by Licensing Committee	All cases except when referred to Council		
Application for personal Licence (where police have right of objection)			All other cases	If no objection made or objection made and withdrawn with agreement to no hearing
Personal licence with relevant unspent convictions or relevant convictions arising during tenure of licence			Decision to revoke or suspend if referred	All cases unless referred for revocation or suspension
Application for premises licence/club premises certificate			All other cases	If no relevant representation made or representations all withdrawn and agreement to no hearing
Application for Provisional Statement			All other cases	If no relevant representation made or representation withdrawn and agreement to no hearing

Application for full variation premises licence/club premises certificate			All other cases	If no relevant representation made or representation withdrawn and agreement to no hearing
Application for minor variation premises licence/club premises certificate including consultee selection				All cases
Application to vary designated premises supervisor			If a police objection and not withdrawn with agreement to no hearing	All other cases
Request to be removed as designated premises supervisor				All cases
Application for transfer of premises licence			If a police objection and not withdrawn with agreement to no hearing	All other cases
Applications for interim authorities			If a police objection and not withdrawn with agreement to no hearing	All other cases
Application to review premises licence/club premises certificate			All cases	
Decision on whether a complaint is irrelevant, frivolous, or vexatious			If referred	All cases unless referred to sub committee

Decision to object when local authority is a responsible authority but not the relevant authority considering the application.			All cases	
Acknowledgement of Temporary Event Notice where no valid objections received or permitted limits exceeded Determination to a standard temporary event notice where a valid objection received and then withdrawn and/or parties agree no hearing required			If referred	All cases All cases unless referred including application of relevant licence conditions
Determination of a temporary event notice to which an objection notice was made and not withdrawn			Standard TEN	Late TEN
Service of Counter Notice where permitted limits are exceeded				All cases
Issue and service of counter notice where objection considered by sub-committee				All cases
Stipulation of age category on unclassified film			If referred	All cases unless referred to sub-committee
Determination of application to vary premises licence at a community premises to include alternative			If police objection and not withdrawn with agreement to no hearing	All other cases

licence condition				
Rejection of incomplete applications or for failing to comply with other process related statutory requirements			If referred	All cases unless referred

GUIDANCE FROM THE LICENSING AUTHORITY

APPENDIX 1

1.1 Legal Issues and Information

1.1.1 A premises licence authorises the use of any premises including any place or part of a premises, for licensable activities described in Section 1(1) and Schedules 1 and 2 etc. of the 2003 Act unless certain prescribed situations apply.

1.1.2 The licensable activities are: -

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

1.2. Regulated Entertainment

1.2.1 Regulated entertainment is subject to the qualifying conditions as detailed in schedule 1 of the Licensing Act and deregulation matters from 2012 when exemptions were included that related to audience size, times when any entertainment took place and on what premises it took place within.

1.2.2 Entertainment can still (subject to the above) include:-

- a. The performance of a play,
- b. A film exhibition,
- c. An indoor sporting event,
- d. Boxing or wrestling entertainment,
- e. The performance of live music, - subject to certain criteria being met
- f. The playing of recorded music (except incidental music),
- g. A performance of dance,
- h. Entertainment of a similar description to that falling within paragraphs (e)-(g),

Where the entertainment takes place in the presence of an audience and is provided for the purpose of entertaining that audience, including spectators.

GUIDANCE FROM THE LICENSING AUTHORITY

1.2.3. The following do not constitute regulated entertainments for example:-

- Educational lessons
- Acts of religious worship
- Product demonstrations in retail premises
- Private rehearsals
- Music that is only incidental to the main performance e.g. a comedian
- Pub games played without a formal audience
- Private 'not for profit' events
- Genuinely spontaneous music, singing and dancing

1.3. Late Night Refreshment

1.3.1 Late night refreshment, subject to a range of exemptions, is regarded as the supply on or off any premises (including stationary vehicles) between the hours of 11pm and 5am of hot food or drink for consumption on or off the premises by a member of the public.

1.4. Premises Licence

1.4.1 An application can be made by any person aged 18 years or over; including a business or partnership to the licensing authority for any place, or part of a place used for licensable activities or recognised club activities within its area and the application in the prescribed format must be accompanied by:

- The required fee
- An operating schedule
- A plan of the premises to which the application relates; and
- If it is intended to sell alcohol, a form of consent given by the person the applicant wishes to have specified in the premises licence as the 'designated premises supervisor'

1.4.2 The operating schedule must include a statement of:

- The relevant licensable activities;

GUIDANCE FROM THE LICENSING AUTHORITY

- The times during which the applicant proposes that the relevant licensable activities are to take place;
 - Any other times during which the applicant proposes that the premises are to be open to the public;
 - Where the applicant wishes the licence to have effect for a limited period;
 - Where the relevant licensable activities include the retail sale of alcohol, the name and address of the individual whom the applicant wishes to have specified as the designated premises supervisor their personal licence number and the issuing authority.
 - Where the relevant licensable activities include retail sale of alcohol, whether such sales are proposed to be for consumption on the premises or off the premises, or both;
 - Applicants should also consider areas to be used for consumption of alcohol in terms of the licensing objectives and are advised that in certain circumstances an outside area can be classed as licensable
 - The steps which the applicant proposes to take to promote the licensing objectives; and
 - Any other prescribed matters
- 1.4.3 If a premises licence authorises the supply of alcohol for consumption on the premises and the provision of dancing, the premises are being used primarily for the supply of alcohol for consumption on the premises and have a permitted capacity of no more than 200 persons at any time when the premises are open for the purposes of being used for the supply of alcohol for consumption on the premises; and being used for the provision of dancing, any licensing authority imposed condition of the premises licence which relates to the provision of the entertainment does not have effect.
- 1.4.4 After the introduction of the Live Music Act 2012 no licence is required for live music where the live music take place on premises authorised for the supply of alcohol for consumption on the premises by a premises licence or club premises certificate if:
- At the time of the music, the premises are open for the purposes of being used for the supply of alcohol for consumption on the premises,
 - Either the live music is unamplified or the live music is amplified and takes place in the presence of an audience of no more than 200 persons and;
 - The live music takes place between 8am and 11pm on the same day

GUIDANCE FROM THE LICENSING AUTHORITY

- 1.4.5 In considering the steps to be taken to promote the licensing objectives, the applicant will be expected to undertake a thorough risk assessment with regard to the licensing objectives when preparing their applications.
- 1.4.6 The licensing authority will consider longer licensing hours in the interests of avoiding a concentration of disturbance while ensuring that nuisance is minimised to local residents. Shops and public houses will generally be permitted to sell off sales of alcohol during the hours they intend to open but (in the case of on sale premises) there may need to be an allowance for drinking up time. This means on sales will need to cease before the closing time specified on the licence. It will be a matter for individual applicants to address the licensing objectives in their operational plan within the context of the nature of the location, type of premises, entertainment to be provided, operational procedures and the needs of the local community.
- 1.4.7 The decisions taken by the licensing authority will be focused on matters within the control of individual licensees and others granted relevant permissions. Accordingly, these matters will centre on the premises being used for licensable activities and the neighbourhood 'in the vicinity' of those premises.
- 1.4.8 There is no definition of 'vicinity' but in addressing this matter, the licensing authority will primarily focus on the direct impact of the activities taking place at the licensed premises on the community, working or engaged in normal activities in the area concerned. In taking its decisions, the licensing authority will take into account the fact that licensing law is not a mechanism for the general control of anti-social behaviour by individuals once they are beyond the direct control of the individual, club or business holding the licence, certificate or permission concerned although if patrons are causing issues outside of a venue or on their way home this may be a relevant consideration on what licence restrictions should be in place because the licensing objectives may be compromised by the presence of the premises rather than its operational standards.

1.5 Relevant Representations

- 1.5.1 If relevant representations are made about an application, the licensing authority will hold a hearing to consider them unless the licensing authority, the applicant and everyone who has made representations agree that a hearing is unnecessary. If no relevant representations are made then the authority will issue (or grant) the application on the terms sought.

GUIDANCE FROM THE LICENSING AUTHORITY

- 1.5.2 'Relevant representations' means representations which:
- are about the likely effect of the premises licence on the promotion of the licensing objectives;
 - are made by a responsible authority, or other person and have not been withdrawn, and, in the case of representations made by an authorised person they are not in the licensing authority's opinion frivolous or vexatious
- 1.5.3 'Other persons' includes any of the following:
- A person who may be affected by the proposed application;
 - A person or body representing persons who may be affected by the proposed application;
 - A person involved in a business who may be affected by the proposed application;
 - A body representing persons who may be affected by the proposed application;
 - A member of the licensing authority
 - Any other definition prescribed by legislation/relevant guidance.
- 1.5.4 'Responsible authority' includes any of the following:
- The Chief Officer of Police for any area in which premises are situated (Currently Thames Valley)
 - The Chief Officer of Buckinghamshire & Milton Keynes Fire and Rescue Service,
 - The Environment Agency/Maritime Agency (in certain circumstances),
 - The relevant enforcement authority under the Health and Safety at Work, etc. Act 1974;
 - The Local Planning Authority – either MKC or Milton Keynes Development Partnership (Delete: Partnership Committee)
 - MKC - fulfilling roles of Environmental Health and Trading Standards.
 - MK Together (previously Milton Keynes Safeguarding Board)
 - NHS – Clinical Commissioning Group/Director of Public Health
 - Licensing Authority itself

GUIDANCE FROM THE LICENSING AUTHORITY

- The Immigration service
- Other bodies as may be prescribed by legislation

1.6 Club Premises Certificates

1.6.1 The licensing authority may issue a club premises certificate to a qualifying club. The certificate will specify that the premises may be used for one or more of the qualifying club activities.

1.6.2 Qualifying club activities are:

- The purchase of alcohol for the club,
- The retail supply of alcohol to a member or guest of a member,
- The provision of regulated entertainment for club members and their guests.

Other occasions when alcohol was supplied or entertainment provided would require a different authorisation under the licensing Act

1.6.3 The club is a qualifying club in respect of the club activities provided that, under the club rules;

- A person may not be admitted to membership, or admitted as candidates for membership, to any of the privileges of membership without an interval of at least two days between their nomination or application for membership and their admission,
- Under the rules of the club persons becoming members without nomination or prior application may not be admitted to the privileges of membership without an interval of two days between them becoming members and their admission.
- The club must be established and conducted in good faith as a club
- Have a minimum of 25 members,
- No alcohol can be supplied to members on the premises other than by or on behalf of the club

1.6.4 A club can apply for a club premises certificate in respect of premises, which are occupied by, and habitually used for the purposes of the club. The application must be accompanied by:

GUIDANCE FROM THE LICENSING AUTHORITY

- The required fee;
 - The club operating schedule;
 - A plan of the premises;
 - A copy of the club rules;
 - Evidence that the club is a qualifying club in relation to each of the qualifying club activities to which the application relates.
- 1.6.5 The club operating schedule must contain the following:
- The details of the qualifying club activities to which the application relates;
 - The times during which it is proposed that the relevant qualifying club activities are to take place;
 - Any other times during which it is proposed the premises are open to members and their guests;
 - Where there is the supply of alcohol, whether the consumption is to be on the premises or both on and off the premises;
 - The steps which it is proposed to take to promote the licensing objectives; and
 - Any other prescribed matters.
- 1.6.6 Club premises certificates will be dealt with in a similar manner as applications for premises licences.

2. Permitted Temporary Activities (TENs) and Other Applications

2.1 Temporary Events Notices – Standard and Late

- 2.1.1 Where it is intended to use premises for one or more licensable activities during a period of not more than 168 hours (seven days) an individual may use the temporary event notice procedure giving the licensing authority and others, as detailed in legislation, adequate notice as may be prescribed. A temporary event notice given no later than ten working days before the day on which the event period begins is a standard temporary event notice. A temporary event notice given no later than five working days but no earlier than nine working days before an event is a late temporary event notice.

GUIDANCE FROM THE LICENSING AUTHORITY

- 2.1.2 The notice must contain details of:
- The relevant licensable activities;
 - The ‘event period’;
 - The numbers attending (not more than 499 people are permitted at any one time);
 - If alcohol is to be supplied, whether the consumption will be on the premises, off the premises, or both.
- Unless giving the notice by the on line system copies of the notice must be sent to each relevant person (police and environmental health) by the notice giver (the premises user)
- 2.1.3 There must be a break of at least 24 hours between consecutive event periods and there are limits prescribed in respect of the number of temporary event notices that can be applied for by the relevant premises user. However, there is nothing to prevent the simultaneous notification of multiple events at a single time so long as the first event meets notification deadline. For example, an individual personal licence holder wishing to exhibit and sell beer at a series of farmers markets within Milton Keynes may wish to give several notices simultaneously. This would be subject to the normal TEN restrictions.
- 2.1.4 In any other circumstances, a temporary event at which licensable activities are to take place would require a premises licence or club certificate if the premises at which the event is to take place were currently unlicensed for the activity or activities involved.
- 2.1.5 The most important aspects of the system of temporary event notices are that no permission is required for these events from the licensing authority.
- 2.1.6 The licensing authority will only intervene if the statutory limits on the number of notices that may be given in various circumstances would be exceeded, or if a valid objection notice is received.
- 2.1.7 Many premises users giving temporary event notices will not have a commercial background or ready access to legal advice. They will include, for example, club premises allowing public events or private hires; volunteers acting on behalf of charities, community, voluntary groups, schools, churches and hospitals all of which may stage fund raising public events where licensable activities will take place.

GUIDANCE FROM THE LICENSING AUTHORITY

- 2.1.8 The licensing authority will ensure that local guidance about temporary permitted activities is clear and understandable, and will strive to keep the arrangements manageable and user-friendly for these groups.
- 2.1.9 The licensing authority will provide advice about proper respect for the concerns of local residents and of other legislative requirements regarding health and safety, noise pollution, temporary structures or other necessary permissions, e.g. road closures or the need to prevent anti-social behaviour by those attending.
- 2.1.10 The purpose of the notification requirement is to enable the licensing authority to check that the limitations set down in the Act are being observed and to intervene if they are not. Where the application exceeds the limitations the licensing authority will issue a counter notice to the premises user. However, where the notice is in order, the prescribed fee paid, the event falls within the limitations in the Act and there has been no relevant objection, then the licensing authority will record the notice in its register and send an acknowledgement to the premises user. If an acceptable objection is received then a hearing will be convened.
- 2.1.11 Relevant persons have the opportunity to consider whether they should prevent the event taking place for reasons relating to the licensing objectives.
- 2.1.12 The Act provides that relevant persons may issue objection notices subject to legal timeframes because they believe the event would undermine the licensing objectives. This can be withdrawn if satisfactory negotiations take place. The issuing of such an objection notice relating to a standard TEN requires the consideration of the objection by the licensing sub committee at a hearing. Consideration by the licensing authority is confined to the licensing objectives. At the hearing, the relevant person and the premises user may put arguments to the licensing sub- committee, following which a counter notice may be issued by the licensing authority as an outcome of the hearing. Should an objection be received in relation to an application for a late TEN due to timescales the licensing authority will issue a counter notice no later than 24hrs before the beginning of the scheduled event as no hearing is permitted.
- 2.1.13 A hearing would not be necessary if the objection notice was withdrawn and / or all relevant parties agreed a hearing was not required. If the police or Environmental Health do not intervene, they will still be able to use their powers of closure should disorder or disturbance occur.

GUIDANCE FROM THE LICENSING AUTHORITY

- 2.1.14 The possibility of intervention by a relevant person is one of the reasons why event organisers are encouraged by the licensing authority not to rely on giving the minimum amount of notice; and to contact any relevant persons at the earliest possible opportunity about their proposals.
- 2.1.15 The licensing authority, on receiving temporary event notices will check that other requirements of the act are met. For example, a temporary event notice would be void unless there is a minimum of 24 hours between events notified by the premises user in respect of the same premises. This is to prevent evasion of the 168 hour limit on such events and emphasises the need to obtain a full premises licence for major events. In addition, for these purposes, a notice is treated as being from the same premises user if an associate e.g. family member, employee, or agent, provides it.

2.2 Provisional Statements

- 2.2.1 Where premises are being constructed for the purposes of being used for one or more licensable activities or are being extended or otherwise altered for that purpose a person may apply for a provisional statement if they have an interest in the premises and are over 18.
- 2.2.2 An application for a provisional statement must be accompanied by;
- A schedule of works that includes details of the licensable activities for which the premises will be used;
 - A plan of the premises;
 - Such other information as may be prescribed.
- 2.2.3 Applications for provisional statements will be dealt with in a similar manner as applications for a premises licence.
- 2.2.4 If a provisional statement has been issued and the person subsequently applies for a premises licence in respect of the premises, or premises which are substantially the same as the relevant premises; and the application is in the same form as the licence described in the provisional statement; and the work described in the schedule of works has been satisfactorily completed; then any representations made by a person shall not be taken into account if:
- Given the information in the application for a provisional statement the person objecting could have made the same, or substantially the same, representations about the application but had failed to do so without

GUIDANCE FROM THE LICENSING AUTHORITY

reasonable excuse and,

- There has been no material change in circumstances relating either to the relevant premises or to the area in the vicinity of those premises.

2.2.5 The benefit of this procedure is that it allows investment to be committed to a project at an early stage in the knowledge that a premises licence will be granted subsequently by the licensing authority, if all the matters in the statement are met.

2.3 Variations of Licences

2.3.1 Applications to vary (or change) a premises licence can be dealt with in two separate ways. Either by what is called a minor variation or a by a full (or major) variation. Full variations will be dealt with in a similar manner to applications for a new premises licence. If relevant representations are not received the application for variation will be granted. The Licensing Act and its accompanying guidance detail the process for both types of application.

2.3.2 For full variations if relevant representations are made and not withdrawn the licensing authority will hold a hearing and at that hearing the licensing authority may:

- Modify the conditions of the application; or
- Reject the whole or part of the application.

2.3.3 The licence cannot be varied so as to:

- Extend the period for which the licence has effect; or
- To vary substantially the premises to which it relates.
The Licensing Act does not define the word 'substantial' but MKC believes any increase to a licensed area of 30% or more would constitute a substantial change. A substantial reduction to a licensed area (in effect delicensing an area) may however fall under the minor variation procedure.

2.3.4 The licensing authority may vary a premises licence so that it has effect subject to different conditions in respect of:

- Different parts of the premises concerned; and
- Different licensable activities.

GUIDANCE FROM THE LICENSING AUTHORITY

2.3.5 A separate process can be used when the variation is deemed 'minor' and the licensing authority agrees that the proposed changes are unlikely to affect the licensing objectives. In such cases there is not a need for a hearing if relevant representations are received because the application must be rejected and a full variation submitted.

2.4 Transfer of Premises Licences

2.4.1 The following people may apply for the transfer to them of a premises licence:

- A person who carries on, or proposes to carry on, a business, which involves the use of a premises for the licensable activities, authorised by the premises licence;
- Any person who makes the application in pursuance of one or more of its statutory functions, which relate to those licensable activities;
- A charity;
- An educational institution;
- A hospital; or
- A person of such other description as may be prescribed.

Notice of the application must be given to the police.

2.4.2 If the police consider the granting of the application would undermine the crime prevention objective, the licensing authority will consider their reasons for that decision and will refuse the application if the licensing authority considers it necessary for the promotion of the crime prevention objective.

2.4.3 An application for a transfer of a licence can contain a request that the transfer has immediate effect. Such a request can only be made with the consent of the holder of the premises licence unless the applicant has taken all reasonable steps to obtain that consent and would be in a position to use the premises while the application is pending for the licensable activities authorised by the premises licence.

2.4.4 In the event of a death, incapacity or insolvency of a licence holder and where no interim authority notice has been given, provided that an application is made within a statutory time frame after the licence lapsed, a person can make an application for the transfer of the licence to him and the licence shall

GUIDANCE FROM THE LICENSING AUTHORITY

be reinstated from the time the application is received by the licensing authority.

2.5 Interim Authorities

- 2.5.1 Generally a licence will remain in force for as long as the licensee continues to operate the business unless it is revoked or it is specified it has effect for a limited period and that period has expired. However, if the holder of a premises licence dies, becomes mentally incapable, or becomes insolvent, then the licence will lapse.
- 2.5.2 If, within a statutory period of such circumstances, a person who had an interest in the premises concerned or is connected to the person who held the premises licence immediately before it lapsed gives the licensing authority an 'interim authority notice', the licence will be reinstated for up to three months. At the end of the three months it will lapse unless a successful application for a transfer of the licence is made.
- 2.5.3 A person is connected to the former holder of a premises licence only if:
- The person is the personal representative in the event of the holder's death
 - In respect of someone who has become mentally incapable, the person is acting under section 6 of the Enduring Powers of Attorney Act 1985;
 - In the event of insolvency, the person is acting as an insolvency practitioner.
- 2.5.4 Interim authority notices must also be served on the police. If the police consider that the failure to cancel the interim authority notice would undermine the prevention of crime objective the police may give notice to that effect to the licensing authority. In such circumstances the licensing authority would arrange a hearing to consider the matter.

2.6 Reviews

- 2.6.1 The ability of a range of stakeholders to require a review of a defined premises licence or club premises certificate represents a key protection for the community where problems associated with the licensing objectives occur. If relevant representations are made about a current authorisation the licensing

GUIDANCE FROM THE LICENSING AUTHORITY

authority will hold a hearing to consider them.

- 2.6.2 A review of a licence must follow action by the police where a closure order has been instigated.
- 2.6.3 The licensing authority has a range of powers available to it on the determination of the review, including the ability to modify conditions, exclude a licensable activity, remove the designated premises supervisor, suspend, or revoke the licence.

3. Appeals

- 3.1 Entitlements to appeal for parties aggrieved by decisions of the licensing authority are set out in Schedule 5 of the Licensing Act 2003.
- 3.2 An appeal has to be made to Milton Keynes Magistrates' Court, except for premises licences when the appeal must be made to the Magistrates' Court for the area in which the Licensing Authority or any part of it is situated.
- 3.3 An appeal has to be commenced by the giving of a notice of appeal by the appellant to the Magistrates' Court within a period of 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision appealed against.
- 3.4 The licensing authority will always be a respondent to the appeal, but in cases where a favourable decision has been made for an applicant against the representations of a responsible authority or an interested party, the holder of the premises licence or club premises certificate, or the person who gave an interim authority notice, will also be entitled to act as a respondent.
- 3.5 On determining an appeal, the court may:
- Dismiss the appeal;
 - Substitute for the decision appealed against any other decision which could have been made by the licensing authority; or
 - Remit the case to the licensing authority to dispose of it in accordance with the direction of the court.
- 3.6 The court may make such order as to costs as it thinks fit.
- 3.7 An appeal may review the merits of the decision on the facts and consider

GUIDANCE FROM THE LICENSING AUTHORITY

points of law or both.

3.8 Giving reasons for decisions

- 3.8.1 In anticipation of such appeals, it is important that the licensing authority gives comprehensive reasons for its decisions. On making findings of fact in its reasons, the licensing authority will also ensure that it addresses the standard of proof and the burden of proof that it has adopted.
- 3.8.2 The licensing authority will also address the extent to which the decision has been made with regard to its statement of licensing policy and the guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003.
- 3.8.3 The licensing authority will provide to the applicant forthwith the reason(s) for the decision(s) made, this will normally be at the time of a hearing, or later in a written format sent in a timely manner.

3.9 Implementing the determination of the Magistrates' Courts

- 3.9.1 As soon as the determination of the Magistrates' Court has been promulgated, the licensing authority will not delay its implementation. Any necessary action will be taken forthwith unless ordered by a higher court to suspend such action for example, as a result of an on-going judicial review. The act provides for no further appeal against the determination of the Magistrates' Court.

GUIDANCE FROM THE LICENSING AUTHORITY

APPENDIX 2

The Licensing Committee

1. The licensing committee will consist of 10-15 councillors and will sit when appropriate. A minimum number of members will need to be present for a meeting to be quorate. The Committee will review this policy with appropriate consultation as required and/or as specified in legislation.
2. Only those duly appointed to the committee may sit on the committee and thus substitution by committee members to non-members of the committee cannot take place
3. A licensing sub-committee of a minimum of three councillors of the licensing committee will determine the relevant applications set out in Table 1 (pages 41-43)
4. The relevant licensing authority officers will deal with all other licence applications where either no representations have been received or where representations have been received and it is agreed by the parties that a hearing is not necessary.
5. Ward councillors cannot sit on a committee determining an application within their ward.
6. Where a councillor who is a member of the licensing sub-committee has had a direct or indirect involvement in the affairs of an application before them, then in the interests of good governance they should disqualify themselves from any involvement in the decision making process affecting the premises licence in question.
7. Every determination of a licensing application by the licensing sub-committee shall be accompanied with clear, cogent reasons for the decision. This shall be given to the applicant in writing. A summary of the decision shall be posted on the MKC website as soon as possible after the decision has been confirmed, where it will form part of the statutory licensing register required to be kept by the licensing authority.
8. An objective assessment will be made by a licensing officer to ensure that representations that are considered to be irrelevant, frivolous or vexatious are disregarded. Similarly, licensing officers will make decisions on whether representations or applications should be referred to the licensing sub-committee. Where representations are rejected, the person making that representation will be given a written reason as to why that is the case.

GUIDANCE FROM THE LICENSING AUTHORITY

9. MKC will ensure that members and officers are appropriately trained to carry out their duties under the Licensing Act.
10. A decision of the licensing sub-committee cannot be “called in” through the good governance arrangements at MKC.
11. If a matter that is not entirely a licensing function, is referred to the licensing committee for determination, then the ‘home’ committee for the other function (or Cabinet) must be consulted. Similarly if the licensing committee refers a matter to another committee (or Cabinet) for a decision on both matters, then it must do so with a written report referring to the salient points from a licensing perspective.

GUIDANCE FROM THE LICENSING AUTHORITY

APPENDIX 3

Useful Contacts

Administrative, Technical and Policy Related issues

Application Packs, Guidance Notes, and Details of Licensing Records (subject to the Data Protection Act and subsequent legislation) and the lodging of complaints:

Licensing and Business Team
Regulatory Services Milton Keynes Council
Civic Offices
1 Saxon Gate East
Milton Keynes MK9 3EJ
Tel: 01908 252800
E-mail: licensing@milton-keynes.gov.uk

RESPONSIBLE AUTHORITIES

Please contact the licensing authority for an up to date list of responsible authorities before relying on the following information

POLICE

Licensing
Thames Valley Police
Headquarters (South)
Kidlington
Oxfordshire OX5 2NX
Tel: 01865 542059.
Email: Licensing@thamesvalley.pnn.police.uk

PLANNING AUTHORITY

Development Control Manager,
Milton Keynes Council
Civic Offices
1 Saxon Gate East
Milton Keynes MK9 3EJ
Tel 01908 252537
E-mail planning.enquiries@milton.keynes.gov.uk

GUIDANCE FROM THE LICENSING AUTHORITY

PROTECTION OF CHILDREN

MK Together
Milton Keynes Council
Civic
1 Saxon Gate East
Milton Keynes MK9 3EJ
Tel: 01908 253169

ENVIRONMENTAL HEALTH (as pollution control and health and safety body)

Regulatory Services
Milton Keynes Council
Civic
1 Saxon Gate East
Milton Keynes MK9 3EJ
Telephone 01908 252398
Email: ehnorth@milton-keynes.gov.uk

Nb for certain premises the health and safety authority may be the Health and Safety Executive.

FIRE SAFETY

Fire Safety Department
Buckinghamshire & Milton Keynes Fire Authority
Broughton Fire Station
Broughton
Milton Keynes MK10 9AP
Tel 01908 236413
E-mail: miltonkeynesfiresafety@bucksfire.gov.uk

DIRECTOR OF PUBLIC HEALTH

Director of Public Health
Milton Keynes Council
Civic Offices
1 Saxon Gate East
Milton Keynes MK9 3EJ

GUIDANCE FROM THE LICENSING AUTHORITY

LICENSING AUTHORITY

Licensing & Business Team
Regulatory Services
Milton Keynes Council
Civic Offices
1 Saxon Gate East
Milton Keynes MK9 3EJ
Telephone 01908 252800
Email: licensing@milton-keynes.gov.uk

TRADING STANDARDS

Trading Standards
Milton Keynes Council
Civic Offices
1 Saxon Gate East
Milton Keynes MK9 3EJ
Tel: 01908 252504
Email: Trading Standards Dept. @milton-keynes.gov.uk

HOME OFFICE IMMIGRATION ENFORCEMENT

Lunar House,
40 Wellesley Road,
Croydon,
CR9 2BY
Email: Alcohol@homeoffice.gsi.gov.uk