Alcohol Licensing

The Process and the Legislation
Licensing Act 2003

Licensable activities

• Sale of alcohol
• Late night refreshment
• Regulated entertainment
Licensing Objectives

• Prevention of public nuisance
• Prevention of crime and disorder
• Protection of children from harm
• Public safety
The importance of the objectives

• A licensing authority must carry out its functions with a view to promoting the licensing objectives.

• If it acts for any other purposes, it acts unlawfully.

• Representations made to the authority on any other grounds will be disregarded.

• Therefore, a decision which is made not for the purpose of promoting the licensing objectives, but for political or party political reasons, is unlawful.
Licensing authority

• The licensing authority is the local authority
• The full Council sets the policy of the authority
• All other functions are dealt with by the:
  – Licensing Committee (Committee of 10-15 councillors)
  – Licensing Sub-Committees (who handle most of the contentious hearings)
  – Officers (who deal with administrative and non-contentious matters)
Licensable activities

- Sale/supply of alcohol
- Regulated entertainment (e.g. music, dance, films, plays, indoor sports)
- Late night refreshment (hot food/drink after 11p.m.)
Types of Authorisation

• Premises licence – the main form of licence under the Act. (Pubs, nightclubs, cinemas, theatres, indoor sporting arenas, restaurants, takeaways, off-licences etc)

• Club premises certificate (for members’ clubs)

• Temporary event notices (for temporary events or extensions to existing authorisations)
A democratic process

• The system is driven by representations by:
  — Responsible authorities (statutory agencies)
  — Other persons (local politicians, residents and businesses)

• Without their involvement the system is a rubber stamp.
Importance of conditions

- Conditions play a crucial role in setting management standards and operational limits for premises, so as to promote the licensing objectives.

- They can come onto licences in 3 ways:
  - Because they are offered in the operating schedule.
  - Because they are imposed by the authority following receipt of relevant representations.
  - Because they are mandatory conditions.

- It is important that authorities structure the system to improve the chance that appropriate conditions come to be imposed.
Licensing arrangements in Northamptonshire

• Borough and District Councils are Licensing Authorities responsible for determining applications and enforcement.

• Licensing Committees and Sub-Committees made up of Local Authority Elected Members

• Central Licensing Administration Unit hosted by East Northamptonshire Council receive applications and carry out processing for Corby, Daventry, East Northants, Kettering and Wellingborough Councils

• Northampton and South Northants Councils deal with all processing in house
Premises licensing: brief summary

1. Application with operating schedule
2. If no objections, grant on the terms in operating schedule
3. Objections (relevant representations) can be made by responsible authorities or other persons (those from other persons can be discarded if vexatious or repetitious
4. Notice of hearing
5. Hearing
6. The authority must grant the application except to the extent appropriate to promote licensing objectives
Guidance and Policies

• National Guidance is published by the Secretary of State under s 182 Licensing Act 2003.

• Licensing policies are published by the licensing authority under s 5 Licensing Act 2003. They show how the objectives are to be achieved locally, they can depart from national guidance for good reason, but must not undermine licensing objectives.

• Licensing authorities must have regard to National Guidance and local policy in making their decisions.
Statement of Licensing Policy

Councillors can play a strong role in formulation of licensing policy.

- What is the vision for the town centre?
- What approach is taken to hours?
- What management standards are required?
- Is a restraint policy appropriate (location, hours, stress)?
Application process

- Application form – details
- Notice of application
- If no relevant representations: grant application subject to conditions consistent with operating schedule and mandatory conditions
Relevant representations

A relevant representation is one which is:

1. Made by
   • Responsible authorities
   • Other persons
2. Made in time.
3. About the likely effect of the licence on the licensing objectives.
4. In case of “other person”, not frivolous, vexatious or repetitious.
Responsible authorities

- Police
- Fire and rescue
- Health and safety authority
- Licensing authority
- Public health
- Planning authority
- Environmental health authority
- Child protection authority
- Trading standards
Hearings

• Triggered by relevant representations
• Timing
• Procedure
• Evidence
• Exercise of powers
Outcome of Hearings

• Add to conditions proposed in operating schedule
• Amend such conditions
• Exclude a licensable activity
• Refuse to specify a person as DPS (where police have objected to DPS)
• Reject the application
• Notification of decision & Right of Appeal
Mandatory Conditions

1. No sale where no DPS or where DPS does not hold personal licence.
2. Every sale of alcohol must be made or authorised by a personal licensee.
3. Admission to be filmed in accordance with age classification of BBFC or licensing authority.
4. Where licence requires door supervision, supervisors to be SIA-licensed.
5. Compliance with mandatory code
Review

• Any person or a responsible authority may bring application for review

• **Summary review** – brought by Police in case of serious crime and/or disorder.

• Timescale

• Responsible authorities and other persons may participate

• **Review following closure** – Power of Police / local authority to serve notice closing premises immediately in the case of disorder or nuisance
Decision making under the Licensing Act 2003

• Appropriateness
• Graded approach
• Risk
• Licensing is administrative decision making, not a court process
• This involves taking account of any material which it is rational to take into account and to give it the weight it deserves
• Facts – balance of probabilities not beyond reasonable doubt
• Value judgement
Role of Elected Members

• Statement of licensing policy
• Applications
• Review