

LICENSING ACT 2003 SUB COMMITTEE

Friday, 18th October, 2019
10.00 am





LICENSING ACT 2003 SUB COMMITTEE

Friday, 18th October, 2019 at 10.00 am

Members are reminded that if they have detailed questions on individual reports, they are advised to contact the report authors in advance of the meeting.

AGENDA

1) *Appointment of Chair*

To consider the appointment of Chair for the meeting

2) *Apologies for Absence*

To receive any apologies for absence

3) *Minutes of the last Meeting*

To approve as a correct record the Minutes of the last Licensing Act 2003 Sub Committee meeting held on 29th January 2019.

4) *Additional Items of Business*

To determine whether there are any additional items of business which, by reason of special circumstances, the Chair decides should be considered at the meeting as a matter of urgency

5) *Declaration of Interest*

In accordance with the Regulations, Members are required to declare any personal or personal and prejudicial interests they may have and the nature of those interests in respect of items on this agenda and/or indicate if S106 of the Local Government Finance Act 1992 applies to them.

6) *Exclusion of the Public*

To determine during which items, if any, the public are to be excluded from the meeting

7) *Determination of an application for a Review of a Premises Licence - Raglan Road Off Licence* 5 - 10

To determine an application for a Review of a Premises Licence under the Licensing Act 2003 relating to Raglan Road Off Licence in Burnley.

a) *Appx A-Review Application by LCC Trading Standards* 11 - 18

b) *Appx B- Premises Licence* 19 - 22

8) *Conduct of Hearing-Licensing Act 2003*

23 - 30

MEMBERSHIP OF COMMITTEE

Councillor Frank Cant
Councillor Ivor Emo

Councillor Lorraine Mehanna (4th
Member)
Councillor Jeff Sumner

PUBLISHED

Thursday, 10th October 2019

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REPORT TO LICENSING SUB-COMMITTEE



DATE	18 th October 2019
PORTFOLIO	Governance, Law & Regulation
REPORT AUTHOR	John Clucas
TEL NO	0114 3999061
EMAIL	jclucas@burnley.gov.uk

Licensing Act 2003 Determination of an application for a review of a premises licence

PURPOSE

1. To advise members of the requirement to determine an application for review under Section 52 of the Licensing Act 2003.
2. The premises are A to Z Off Licence, 91 Raglan Road, Burnley BB11 4LB

RECOMMENDATION

3. Members are recommended to make a determination at the conclusion of the hearing as required by Regulation 26(1) of the Licensing Act (Hearings) Regulations 2005.

Having considered all relevant facts, the Committee is empowered to take any of the following steps which are necessary to promote the licensing objectives:

- a. to modify the conditions of the licence;
- b. to exclude a licensable activity from the scope of the licence;
- c. to remove the designated premises supervisor;
- d. to suspend the licence for a period not exceeding three months; or
- e. to revoke the licence.

REASONS FOR RECOMMENDATION

4. Members of the Licensing Committee are responsible for determining such applications.

SUMMARY OF KEY POINTS

5. The Licensing Objectives are:
- Prevention of Crime and Disorder
 - Public Safety
 - Prevention of Public Nuisance
 - Protection of Children from Harm

The premises currently hold a licence which authorises the supply of alcohol for consumption OFF the premises Monday to Saturday from 8.00 am to 11.00pm and on Sundays between 10 am and 10.30 pm

The holder of the premises licence and Designated Premises Supervisor is Kamran Arshad and he holds a Personal Licence which was issued by Burnley Council in August 2007.

Conditions attached to the licence:

ANNEX 1 - MANDATORY CONDITIONS

No supply of alcohol may be made under the premises licence -

- (a) At a time when there is no designated premises supervisor in respect of the premises, or
- (b) At a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

ANNEX 2 - Conditions consistent with the Operating Schedule

Alcohol shall not be sold or supplied except during permitted hours.

In this condition, permitted hours means:

- a. On weekdays, other than Christmas Day, 8 a.m. to 11 p.m.
- b. On Sundays, other than Christmas Day, 10 a.m. to 10.30 p.m.
- c. On Christmas Day, 12 noon to 3 p.m. and 7 p.m. to 10.30 p.m.
- d. On Good Friday, 8 a.m. to 10.30 p.m.

The above restrictions do not prohibit:

- (a) during the first twenty minutes after the above hours, the taking of the alcohol from the premises, unless the alcohol is supplied or taken in an open vessel;

- (b) the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;
- (c) the sale of alcohol to a trader or club for the purposes of the trade or club;
- (d) the sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of Her Majesty's naval, military or air forces;

Alcohol shall not be sold in an open container or be consumed in the licensed premises.

ANNEX 3 - Conditions attached after a hearing by the licensing authority

None

The full existing premises licence is appended at Appendix 'A'.

- 6 On the 30th August 2019, the Licensing Authority received an application from Lancashire County Council Trading Standards Service to review the Premises Licence of A to Z Off Licence 91 Raglan Road, Burnley. The grounds for the application being that the licensing objectives relating to the prevention of crime and disorder are not being observed at the premises.

Trading Standards say that a lengthy history of illegal activity at the premises represents a flagrant and systematic disregard for the relevant licensing objectives.

From February 2017 the Service has received a number of complaints in relation to the supply of illicit tobacco products from this shop. Despite Trading Standards enforcement action, the sale of illicit tobacco products has continued, with a number of purchases of illicit tobacco carried out at the premises. Therefore, the Licensing Committee is encouraged to consider revocation of the relevant premises licence for A-Z Off Licence 91 Raglan Road Burnley.

The review application submitted by Trading Standards is appended at Appendix 'B'.

The Licensing Authority has received no other representations from other agencies with regards to the application submitted by Trading Standards.

FINANCIAL IMPLICATIONS AND BUDGET PROVISION

7. None

POLICY IMPLICATIONS

8. The following paragraphs from Burnley Borough Council's Statement of Licensing Policy are relevant to this application:

1.3 We desire to create an environment where local people and visitors to our areas will have better opportunities to enjoy their leisure time in safety without fear of violence, intimidation or disorder whilst on or in the vicinity of licensed premises.

1.10 We will endeavor to carry out our licensing functions in a way that:

- ensures public safety
- supports well managed premises where licence holders seek to actively promote the licensing objectives and display sensitivity to the potential impact of licensable activities on local residents and other businesses
- protects residents' quality of life.

3.28 This Licensing Authority is committed to protecting children from harm and supports the programme of underage test purchases arranged by the Lancashire Trading Standards Service, the Licensing Team and Police. Where underage sales are found, the Licensing Authority supports the appropriate and proportionate use of warnings, responsible retail training, fixed penalty notices, reviews and prosecution as a means of promoting the licensing objectives and enforcing the Licensing Act proportionately.

3.7 Under the Crime and Disorder Act 1998, the authority must exercise its functions, having regard to the likely effect on crime and disorder in its area, and must do all it can to prevent crime and disorder. Where its discretion is engaged, the authority will seek to promote the licensing objective of preventing crime and disorder in a manner which supports the Lancashire County Council Community Safety Action Plan and any local community safety priorities or emerging threats identified Burnley Community Safety Delivery Group (MATAC)

14.1 Where an application for a review of a premises licence is made, we will inform the public of the application for review in accordance with the regulations made under the Act thereby allowing any other responsible authority, authorised person or interested party to also make application at that time.

Members are reminded of the consideration they should give to the Human Rights Act 1998 in particular those rights afforded by Article 6 (right to a fair hearing), Article 1 of the First Protocol (protection of property) and Article 8 (right to respect for private and family life).

DETAILS OF CONSULTATION

9. The statutory consultation has taken place. No representations have been received within this statutory period.

BACKGROUND PAPERS

10. Burnley Borough Council Statement of Licensing Policy.
Licensing Act 2003.

Home Office Guidance issued under Section 182 of the Licensing Act 2003

FURTHER INFORMATION

PLEASE CONTACT:

**John Clucas ext 249061
Karen Davies ext 249058**

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Agenda Item 7a

Application for the review of a premises licence or club premises certificate under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

I Sam McConnell,

(Insert name of applicant)

apply for the review of a premises licence under section 51 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description 91 Raglan Road	
Post town Burnley	Post code (if known) BB11 4LB

Name of premises licence holder or club holding club premises certificate (if known) Kamran Arshad
--

Number of premises licence or club premises certificate (if known)

Part 2 - Applicant details

I am

Please tick yes

- 1) an interested party (please complete (A) or (B) below)
 - a) a person living in the vicinity of the premises
 - b) a body representing persons living in the vicinity of the premises
 - c) a person involved in business in the vicinity of the premises
 - d) a body representing persons involved in business in the vicinity of the premises
- 2) a responsible authority (please complete (C) below)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address	
Sam McConnell Lancashire County Council Trading Standards Service 4 th Floor, Lancashire Point County Hall Pitt Street Preston Lancashire PR1 0LD	
Telephone number (if any)	01772 532228
E-mail address (optional)	Sam.McConnell@lancashire.gov.uk

This application to review relates to the following licensing objective(s)

Please tick one or more boxes

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

Please state the ground(s) for review (please read guidance note 1)

The application for review is submitted by Lancashire County Council Trading Standards Service on the grounds that the licensing objective relating to the prevention of crime and disorder is not being observed at A-Z Off Licence, 91 Raglan Road, Burnley BB11 4LB.

The Trading Standards Service understands that the current premises licence was issued on 7th August 2013. From February 2017 the Trading Standards Service has received a number of complaints in relation to the supply of illicit tobacco products from this shop.

Despite Trading Standards enforcement action, the sale of illicit tobacco products has continued, with a number of purchases of illicit tobacco carried out at the premises.

Therefore, the Licensing Committee is encouraged to consider revocation of the relevant premises licence for A-Z Off Licence 91 Raglan Road Burnley.

Please provide as much information as possible to support the application
(please read guidance note 2)

PREVENTION OF CRIME AND DISORDER

- On the 1st February 2017 during an inspection, it was noted that the tobacco gantry was open, advice was given by Trading Standards Officers that the cabinet must be kept closed and tobacco should not to be on open display. No illicit tobacco was found on that day.
- On the 3rd August 2017 Qaiser Mohammed was reported as a result of a number of failed test purchases relating to illicit tobacco. On the 17th July 2019 at Burnley Magistrates Court he was found guilty of 6 tobacco offences, including one e-cig labelling offence.
- On the 3rd October 2017 a test purchase was carried out at 91 Raglan Road a packet of Golden Virginia tobacco was sold with foreign health warnings.
- On the 5th October 2017 on inspection by Trading Standards Officers at 91 Raglan Road, it was noted that the tobacco gantry was not closed and 225 e-liquid bottles were seized as improperly labelled.
- On the 15th May 2018 a test purchase was carried out at 91 Raglan Road, a packet of counterfeit Richmond cigarettes was sold at a cost of £4.
- On the 5th June 2018 a test purchase was carried out at 91 Raglan Road, a packet of counterfeit Richmond cigarettes was sold at a cost of £4. An inspection was also conducted but no further illicit tobacco products were found.
- On the 23rd July 2018 Trading Standards received a complaint that A-Z Off-Licence 91 Raglan Road was selling counterfeit tobacco.
- On the 20th October 2018 a test purchase was carried out at 91 Raglan Road, a packet of counterfeit Richmond cigarettes was sold at a cost of £4.
- On the 24th January 2019 Trading Standards received a complaint that A-Z Off-Licence 91 Raglan Road was selling counterfeit tobacco.
- On the 12th March 2019 a test purchase for illicit tobacco was conducted at 91 Raglan Road no sale was made.

- On the 24th July 2019, 7 days after the convictions at Burnley Magistrates previously referred to, a test purchase was carried out at 91 Raglan Road, a packet of counterfeit Richmond cigarettes was sold at a cost of £4.

RELEVANT INFORMATION – PREVENTION OF CRIME AND DISORDER

- Supplying (including possessing for supply) tobacco products that do not display compliant health warnings is an offence, contrary to the Tobacco and Related Products Regulations 2016;
- Supplying (including possessing for supply) tobacco products bearing trademarks without the consent of the proprietor of the mark (counterfeit) is an offence contrary to the Trade Marks Act 1994.
- Supplying (including possessing for supply) tobacco products which are not in plain packaging is an offence, contrary to the Standardised Packaging of Tobacco Products Regulations 2015.
- The sale of smuggled tobacco products (non-duty paid) is an offence contrary to the Tobacco Products Duty Act 1979.
- Improperly marked tobacco products deny consumers valuable information about the dangers of smoking. Counterfeit tobacco is normally sold much cheaper than its genuine counterparts – typically half the price – which undermines price-based strategies to prevent smoking by making it more accessible to adults and children. Cut price tobacco presents unfair competition to legitimate retailers in the area and typically deprives the taxman of £6.17 for cigarettes and £11.30 for hand rolling tobacco, in terms of lost duty and VAT. In the case of counterfeit products, there is a further risk in that unlike their genuine counterparts, there are no controls over what goes into making them or on the levels of harmful substances they might contain. These products have also been found not to comply with requirements to self-extinguish if left unattended.

Paragraphs 11.27 & 11.28 of 'The Revised Guidance issued under Section 182 of The Licensing Act 2003' (Home Office April 2018) states that:

'There is certain criminal activity that may arise in connection with licensed premises that should be treated particularly seriously. These are the use of the licensed premises

...for the sale or storage of smuggled alcohol and tobacco.

It is envisaged that licensing authorities, the police, the Home Office (Immigration Enforcement) and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.

The following options are available to the committee:-

- 1) Do nothing – However the seriousness of the offences causes grave concern for no action.
- 2) Modify the conditions of the licence; LCC cannot suggest any modification of conditions that would further promote the licensing objective of preventing crime and disorder or that would prevent future offences of this nature from occurring. Modified

or imposed conditions should not duplicate other statutory requirements or other duties or responsibilities placed on the business by other legislation and the business has already shown a blatant disregard for the law through the continued reoffending.

- 3) Remove the Designated Premises Supervisor;
- 4) Suspend the licence for a period not exceeding three months;
- 5) Revoke the premises licence so that no alcohol can be sold at all.

In the opinion of Lancashire County Council Trading Standards Service, the information presented in the application is clear evidence that the Prevention of Crime and Disorder Licensing Objective has been disregarded at these premises.

Lancashire County Council Trading Standards respectfully requests that the committee considers whether revocation of the premises licence would be an appropriate finding in the circumstances.

Please tick yes

Have you made an application for review relating to this premises before

If yes please state the date of that application

Day Month Year

--	--	--	--	--	--	--	--

If you have made representations before relating to this premises please state what they were and when you made them

Please tick yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

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

Part 3 – Signatures (please read guidance note 3)

Signature of applicant or applicant’s solicitor or other duly authorised agent (See guidance note 4). **If signing on behalf of the applicant please state in what capacity.**

Signature:

S. McConnell.....

Date:30th August 2019

Capacity: Principal Officer, Lancashire Trading Standards Service

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 5)

Lancashire County Council Trading Standards Service
4th Floor, Lancashire Point
County Hall
Pitt Street

Post town

Preston

Postcode

PR1 0LD

Telephone number (if any)

01772 532228

If you would prefer us to correspond with you using an e-mail address, your e-mail address (optional)

Sam.McConnell@lancashire.gov.uk

Notes for Guidance

1. The ground(s) for review must be based on one of the licensing objectives.
2. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
3. The application form must be signed.
4. An applicant’s agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
5. This is the address which we shall use to correspond with you about this application.



Licensing Unit
Parker Lane
Burnley
Lancashire
BB11 2DT

Tel: 01282 425011
Web: www.burnley.gov.uk

Licensing Act 2003

Premises Licence

PLA0166

Part 1 - Premises Details

POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDNANCE SURVEY MAP REFERENCE OR DESCRIPTION

A-Z Off Licence

91 Raglan Road, Burnley, Lancashire, BB11 4LB.

Telephone 01282 441389

WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- the supply of alcohol

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES

Activity (and Area if applicable)	Description	Time From	Time To
J. Supply of alcohol for consumption OFF the premises only	Monday to Saturday	8:00am	11:00pm
	Sunday	10:00am	10:30pm

THE OPENING HOURS OF THE PREMISES

Description	Time From	Time To
Monday to Saturday	8:00am	11:00pm
Sunday	10:00am	10:30pm

WHERE THE LICENCE AUTHORISES SUPPLIES OF ALCOHOL WHETHER THESE ARE ON AND / OR OFF SUPPLIES

- J. Supply of alcohol for consumption OFF the premises only

Part 2

NAME, (REGISTERED) ADDRESS, TELEPHONE NUMBER AND EMAIL (WHERE RELEVANT) OF HOLDER OF PREMISES LICENCE

Kamran Arshad

, Burnley, Lancashire,
Telephone

REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)

NAME, ADDRESS AND TELEPHONE NUMBER OF DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOL

Kamran ARSHAD

, Burnley, Lancashire,
Telephone

Licensing Act 2003

Premises Licence

PLA0166

PERSONAL LICENCE NUMBER AND ISSUING AUTHORITY OF PERSONAL LICENCE HELD BY DESIGNATED PREMISES SUPERVISOR
WHERE THE PREMISES LICENCE AUTHORISES FOR THE SUPPLY OF ALCOHOL

Licence No. PA0493

Issued by

ANNEXES

ANNEX 1 - MANDATORY CONDITIONS

No supply of alcohol may be made under the premises licence -

- (a) At a time when there is no designated premises supervisor in respect of the premises, or
- (b) At a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

ANNEX 2 - Conditions consistent with the Operating Schedule

Alcohol shall not be sold or supplied except during permitted hours.

In this condition, permitted hours means:

- a. On weekdays, other than Christmas Day, 8 a.m. to 11 p.m.
- b. On Sundays, other than Christmas Day, 10 a.m. to 10.30 p.m.
- c. On Christmas Day, 12 noon to 3 p.m. and 7 p.m. to 10.30 p.m.
- d. On Good Friday, 8 a.m. to 10.30 p.m.

The above restrictions do not prohibit:

- (a) during the first twenty minutes after the above hours, the taking of the alcohol from the premises, unless the alcohol is supplied or taken in an open vessel;
- (b) the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;
- (c) the sale of alcohol to a trader or club for the purposes of the trade or club;
- (d) the sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of Her Majesty's naval, military or air forces;

Alcohol shall not be sold in an open container or be consumed in the licensed premises.

ANNEX 3 - Conditions attached after a hearing by the licensing authority

None



Licensing Unit
Parker Lane
Burnley
Lancashire
BB11 2DT

Tel: 01282 425011
Web: www.burnley.gov.uk

Licensing Act 2003

Premises Licence

PLA0166

ANNEXES continued ...

ANNEX 4 - Plan of Premises

The official plan of the premises is attached and endorsed



Licensing Unit
Parker Lane
Burnley
Lancashire
BB11 2DT

Tel: 01282 425011
Web: www.burnley.gov.uk

Licensing Act 2003
Premises Licence Summary **PLA0166**

Premises Details

POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDNANCE SURVEY MAP REFERENCE OR DESCRIPTION
A-Z Off Licence
91 Raglan Road, Burnley, Lancashire, BB11 4LB. Telephone 01282 441389

WHERE THE LICENCE IS TIME LIMITED THE DATES
Not applicable

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE
- the supply of alcohol

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES

Activity (and Area if applicable)	Description	Time From	Time To
J. Supply of alcohol for consumption OFF the premises only	Monday to Saturday	8:00am	11:00pm
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THE OPENING HOURS OF THE PREMISES

Description	Time From	Time To
Monday to Saturday	8:00am	11:00pm
Sunday	10:00am	10:30pm

WHERE THE LICENCE AUTHORISES SUPPLIES OF ALCOHOL WHETHER THESE ARE ON AND / OR OFF SUPPLIES
- J. Supply of alcohol for consumption OFF the premises only

NAME, (REGISTERED) ADDRESS OF HOLDER OF PREMISES LICENCE
Kamran Arshad , Burnley, Lancashire

REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)

NAME OF DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOL
Kamran ARSHAD

STATE WHETHER ACCESS TO THE PREMISES BY CHILDREN IS RESTRICTED OR PROHIBITED
Restricted by Section 145 of The Licensing Act 2003



BURNLEY BOROUGH COUNCIL

LICENSING ACT 2003

THE CONDUCT OF HEARINGS

1. Application

- 1.1 All hearings subject to the Licensing Act 2003 (Hearings Regulations) 2005 will be held in accordance with this procedure. Schedule 1 details the hearing which are subject to this procedure.

2. Time of Hearing

- 2.1 Hearings will commence within the times illustrated in Column 2 of Schedule 1, and where the hearing is scheduled to take place on more than one day, it will take place on consecutive working days.
- 2.2 Hearings will normally take place from 2-5pm or 6-9pm on the day of the hearing, but hearings may take place at the discretion of the Committee or Sub-Committee appointed to hear the matter in exceptional circumstances.

3. Members of the Committee or Sub-Committee

- 3.1 Where the full Licensing Committee sit to hear an application, the full Committee will sit, excluding a member who:
- a) has sat on a Development Control hearing in respect of the premises subject to, or concerned in the Licensing Act 2003 application and/or
 - b) is affected by the application e.g. to be assessed on a case by case basis when a Member is a Member for the Ward or a nearby Ward in which the premises are situated

- c) has become an interested party by representing the applicant or any interested party prior to the hearing.

3.2 Where a Sub-Committee sit to hear an application, it will consist of 3 members of the full Committee and will exclude a member who:

- a) has sat on a Development Control hearing in respect of the premises subject to, or concerned in the Licensing Act 2003 application and/or
- b) is affected by the application e.g. to be assessed on a case by case basis when a Member is a Member for the Ward or a nearby Ward in which the premises are situated
- c) has become an interested party by representing the applicant or any interested party prior to the hearing.

3.3 Members will act in accordance with the Licensing Act 2003, be aware of the Local Authority Co-ordinators of Regulatory Services Guidance on the Role of Elected Members in Relation to Licensing Committee Hearings under the Licensing Act 2003 and the requirements of the Standards Board for England and Wales.

4. Opening of a Hearing and Identifying Parties to the Hearing

4.1 The Chair of the Committee or Sub-Committee will introduce the members of the Committee or Sub-Committee.

4.2 The Licensing Manager or Legal Advisor will advise the Committee or Sub-Committee but will not make recommendations or be part of the determination process. They will not retire with the Committee or Sub-Committee members for the purposes of a determination but the Legal Advisor may be asked by the Committee or Sub-Committee to give advice.

4.3 At the commencement of proceedings the Legal Advisor will identify in turn, each party to the hearing who is present, and in relation to that party, whether they are represented, and if so, by whom.

4.4 The Legal Advisor will identify in turn each party to the hearing who is not present at the hearing and in relation to that party will clarify;

- a) whether there is evidence that they were given Notice of the Hearing

- b) whether that party has given notice that they intend to attend or be represented
 - c) whether that party has given notice that they consider a hearing to be unnecessary
 - d) whether that party has given notice that they wish to withdraw their representation
- 4.5 Where a party has given notice that they do not intend to attend or be represented, the Committee or Sub-Committee will state whether they intend to proceed in the absence of that party.
- 4.6 Where a party has not given such notice and has failed to attend or be represented, the Committee or Sub-Committee will then decide whether it is necessary in the public interest to adjourn the hearing to a specified date or hold the hearing in the party's absence. The Committee or Sub-Committee may invite representations from the other parties present on this issue before making their decision.
- 4.7 The Committee or Sub-Committee, should it decide to proceed must subsequently consider the application, representation or notice made by a party who does not attend, attaching the appropriate weight of evidence to it.

5. Hearings to be held in public

- 5.1 Unless the Committee determine otherwise following consideration of representations, if any, from the parties present, the hearing shall take place in public. A member of the public, unless a party to the hearing or a person granted permission to address the hearing by the Committee or Sub-Committee at the request of one of the parties, shall not be entitled to address the hearing.
- 5.2 Where representations are made under 5.1 above, such parts or the hearing as the Committee or Sub-Committee in their absolute discretion determine shall be held in private.
- 5.3 The decision at paragraph 5.2 and the reasons for it will be given in public, and the Committee or Sub-Committee will also state whether any party or any persons assisting or representing a party are to be treated as a member of the public for this purpose.

6. Commencement of the Hearing

- 6.1 The Legal Advisor will explain the procedures that the Committee or Sub-Committee will follow at the hearing. In particular the Legal Advisor will clarify that;:
- a) the hearing will take the form of a discussion led by the Committee or Sub-Committee and cross-examination will not be permitted unless the Committee or Sub-Committee considers that cross examination is required for it to consider the representations, application or notice as the case may require.
 - b) Members of the Committee or Sub-Committee may ask a question of any party or other person appearing at the hearing.
 - c) Members of the Committee or Sub-Committee may take into account documentary or other information produced to the authority before the hearing in support of their application, representation or notice. These will have been provided to the Committee or Sub-Committee members by the Licensing Manager prior to the meeting and the substantive content of the documents need not be repeated verbally at the hearing.
 - d) Members of the Committee or Sub-Committee may take into account any new documentary or other information produced to the authority on the day of the hearing with the content of all other parties (if any) and the substantive content of any such documents need not be repeated verbally at the hearing.
 - e) Parties will be allowed a maximum equal period to exercise their rights, such period to be determined by the Committee or Sub-Committee.
 - f) Parties will be allowed to clarify points upon which they wish to support their application.
 - g) Parties may seek permission to question any other party subject to Paragraph a) above.
 - h) Parties may seek permission to address the Committee or Sub-Committee.

7. Procedure

- 7.1 The Licensing Manager or other appointed officer of the Licensing Authority are not a party to the hearing. The Manager will outline the facts of the application and relevant representations received from parties.

- 7.2 The Licensing Manager will then outline the legislation under which a determination is required.
- 7.3 The Licensing Manager will outline;
- a) Relevant parts of the Act
 - b) Relevant subordinate legislation
 - c) Relevant sections from the statutory guidance made under Section 182 of the Act
 - d) Relevant paragraphs of the Statement of Licensing Policy made under Section 5 of the Act.
 - e) The time limit which the Committee or Sub-Committee must make a determination under the law.
- 7.4 Each party to the hearing present will then in turn provide information supporting or clarifying of their representations – commencing with the Responsible Authorities, followed by any interested party and then the applicant.
- 7.5 The Committee or Sub-Committee may advise all the parties of details of representations they have received from parties not present.
- 7.6 Thereafter each party, commencing with the Responsible Authorities, followed by any interested party and finally the Applicant, will be given an opportunity to summarise their representations. No new evidence will be allowed to be introduced by any party during the course of any such summation.
- 7.7 The Committee or Sub-Committee will disregard any information given by a party or any other person to whom permission to appear at the hearing has been given which is no relevant to;
- a) Their application, representation or notice or in the case of another person, the application, representation or notice of the party requesting their appearance, and
 - b) the promotion of the Licensing Objectives or in the case of a hearing to consider a notice given by a chief officer of the police, the crime prevention objective only.
- 7.8 The Committee or Sub-Committee will satisfy themselves that they have heard all the relevant information and retire to make their decision in private.

8. Persons behaving in a disruptive manner

- 8.1 The Committee or Sub-Committee may require any person attending the, hearing who in their opinion are behaving in a disruptive manner to leave the hearing and may;

- a) refuse to permit that person to return, or
- b) permit them to return only on such conditions as the Committee or Sub-Committee may specify

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

9. Adjournment of Hearing

- 9.1 The Committee or Sub-Committee may adjourn a hearing to a specified date or arrange for the hearing to be held on specified additional dates where it considers this necessary to consider any representations or notice made by a party.
- 9.2 It will not adjourn a hearing in such a way to create an effect on the requirements of granting or rejecting an application under Schedule 8 of the Act or a review under Section 167 of the Act.

10. Determinations

- 10.1 The Committee or Sub-Committee will make its determination at the conclusion of the hearing but in certain circumstances may make a determination within a period of 5 working days of the last day of the hearing.

11. Notice of Determination

- 11.1 The Licensing Manager will issue a notice of determination forthwith to all parties. Such notice will include the reasons for the determination and details of the right of any party to appeal against the decision.

12. Record of Proceedings

- 12.1 The Democracy Team Officer will provide for a record of the hearing to be taken in a permanent and intelligible form and kept for 6 years from the date of determination.

SCHEDULE 1

Column 1		Column 2
Provision under which hearing is held.		Period of time which hearing must be commenced.
1.	Section 18(3)(a) (determination of application for premises license)	20 working days beginning with the day after the end of the period during which representations may be made as prescribed under section 17(5)(c)
2.	Section 31(3)(a) (determination of application for a provisional statement).	20 working days beginning with the day after the end of the period during which representations may be made as prescribed under section 17(5)(c) by virtue of section 30.
3.	Section 39(3)(a) (determination of application to vary premises license).	20 working days beginning with the day after the end of the period during which representations may be made as prescribed under section 17(5)(c) by virtue of section 34(5).
4.	Section 39(3)(a) (determination of application to vary premises license to specify individual as premises supervisor).	20 working days beginning with the day after the end of the period within which a chief officer of police may give notice under section 37(5)
5.	Section 44(5)(a) (determination of application for transfer of premises license).	20 working days beginning with the day after the end of the period within which a chief officer of police may give notice under section 42(6)
6.	Section 48(3)(a) (cancellation of interim authority notice following police objection).	5 working days beginning with the day after the end of the period within which a chief officer of police may give notice under section 48(2)
7.	Section 52(2) (determination of application for review of premises licence).	20 working days beginning with the day after the end of the period during which representations may be made as prescribed under section 51(3)(c).
8.	Section 72(3)(a) (determination of application for club premises certificate).	20 working days beginning with the day after the end of the period during which representations may be made as prescribed under section 71(6)(c)
9.	Section 85(3) (determination of application to vary club premises certificate)	20 working days beginning with the day after the end of the period during which representations may be made as prescribed under section 71(6)(c) by virtue of section 84(4)
10.	Section 88(2) (determination of an application for review of club premises certificate)	20 working days beginning with the day after the end of the period during which representations may be made as prescribed under section 87(3)(c)

11.	Section 105(2)(a) (counter notice following police objection to temporary event notice)	7 working days beginning with the day after the end of the period within which a chief officer of police may give a notice under section 104(2)
12.	Section 120(7)(a) (determination of application for grant of personal licence)	20 working days beginning with the day after the end of the period during within which the chief officer of police may give a notice under section 120(5)
13.	Section 121(6)(a) (determination of application for the renewal of personal licence)	20 working days beginning with the day after the end of the period during within which the chief officer of police may give a notice under section 121(3)
14.	Section 124(4)(a) (convictions coming to light after grant or renewal of personal licence)	20 working days beginning with the day after the end of the period during within which the chief officer of police may give a notice under section 124(3)
15.	Section 167(5)(a) (review of premises licence following closure order)	10 working days beginning with the day after the day the relevant licensing authority received the notice given under section 165(4)
16.	Paragraph 4(3)(a) of Schedule 8 (determination of application for conversion of existing licence)	10 working days beginning with the day after the end of the period within which a chief officer of police may give a notice under paragraph 3(2) or (3) of Schedule 8
17.	Paragraph 16(3)(a) of Schedule 8 (determination of application for conversion of existing club certificate)	10 working days beginning with the day after the end of the period within which a chief officer of police may give a notice under paragraph 15(2) or (3) of Schedule 8
18.	Paragraph 26(3)(a) of Schedule 8 (determination of application by holder of a justices' licence for grant of personal licence)	10 working days beginning with the day after the end of the period within which a chief officer of police may give a notice under paragraph 25(2) of Schedule 8