

A Licensing & Regulatory Panel will be held remotely on Tuesday 18 August at **10.00am**, and available for the public to watch via the Warwick District Council [YouTube channel](#).

Membership: Councillors Heath, Leigh-Hunt and Murphy

### Agenda

1. **Appointment of Chairman**

To appoint the Chairman of the meeting.

2. **Declarations of Interest**

Members to declare the existence and nature of interests in items on the agenda in accordance with the adopted Code of Conduct.

Declarations should be disclosed during this item. However, the existence and nature of any interest that subsequently becomes apparent during the course of the meeting must be disclosed immediately. If the interest is not registered, Members must notify the Monitoring Officer of the interest within 28 days.

Members are also reminded of the need to declare predetermination on any matter.

If Members are unsure about whether or not they have an interest, or about its nature, they are strongly advised to seek advice from officers prior to the meeting.

3. **Application for Temporary Event Notices for Fizzy Moon, 35 Regent Street, Royal Leamington Spa**

To consider a report from Health and Community Protection **(Pages 1 to 60)**

Published Monday, 10 August 2020


General Enquiries: Please contact Warwick District Council, Riverside House, Milverton Hill, Royal Leamington Spa, Warwickshire, CV32 5HZ.

Telephone: 01926 456114

E-Mail: [committee@warwickdc.gov.uk](mailto:committee@warwickdc.gov.uk)

Enquiries about specific reports: Please contact the officer named in the report. Details of all the Council's committees, councillors and agenda papers are available via our website [www.warwickdc.gov.uk/committees](http://www.warwickdc.gov.uk/committees)

The agenda is available in large print on request, prior to the meeting, by telephoning (01926) 456114

	<b>Licensing &amp; Regulatory Panel</b> <b>18 August 2020</b>	<b>Agenda Item No.</b> <b>3</b>
<b>Title</b>	Application for Temporary Event Notices for Fizzy Moon, 35 Regent Street, Leamington Spa, Warwickshire, CV32 5EE.	
<b>For further information about this report please contact</b>	Rachael Russell, Licensing Enforcement Officer 01926 456705 Rachael.russell@warwickdc.gov.uk	
<b>District Ward the Application is in</b>	Leamington Clarendon	
<b>Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006?</b>	No	
<b>Date and meeting when issue was last considered and relevant minute number</b>	N/A	
<b>Background Papers</b>	Licensing Act 2003 The Licensing Act 2003 (Hearings) Regulations 2005	

<b>Officer/Councillor Approval</b>		
<b>Officer Approval</b>	<b>Date</b>	<b>Name</b>
Democratic Services Manager & Deputy Monitoring Officer		Graham Leach
Head of Service	07/08/2020	Marianne Rolfe
<b>Consultation &amp; Community Engagement</b>		
The application was duly submitted and processed as required by the regulations.		

## 1. Summary

- 1.1 Warwick District Council, as the Licensing Authority, has received six valid Temporary Event Notice (TEN) applications for Mr Moe Kandola, Fizzy Moon, 35 Regent Street, Leamington Spa, CV32 5EE.
- 1.2 Representations have been received in relation to these Temporary Event Notice applications for the consideration of the panel in the determination of the applications.

## 2. Options Available to the Panel

- 2.1 Members are asked to consider the information contained in this report and decide whether the applications for Mr Moe Kandola, Fizzy Moon, 35 Regent Street, Leamington Spa, Warwickshire, CV32 5EE should be granted and, if so, whether the Temporary Event Notice's should be subject to any additional conditions.

The following options are available to Members:

**Option 1** - Grant the TEN's as requested;

**Option 2** - Grant the TEN's with amended hours and/or added conditions, or;

**Option 3** - Refuse the TEN's.

**3. Details for Consideration**

3.1 When considering the application's the panel must also give appropriate weight to:-

- a) The representations received.
- b) Statutory guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003.
- c) The Council's Licensing Policy Statement (attached as appendix 3)
- d) The Licensing Objectives, which are:-
  - i) The Prevention of Crime and Disorder.
  - ii) Public Safety.
  - iii) The Prevention of Public Nuisance.
  - iv) The Protection of Children from Harm.

However, it must only consider those licensing objectives which have been referred to in the representations received.

3.2 The Council's Licensing Policy Statement provides that the authority will take an objective view on all applications and will seek to attach appropriate and proportionate conditions to licences where necessary in order to ensure the promotion of the four licensing objectives. Each application will be judged on its own merits.

3.3 Details of the procedure adopted by the Licensing Committee for Panel Hearings have been supplied to the applicant and those making representations. The procedure will be explained more fully by one of the Council's Legal Team at the commencement of the hearing.

3.4 Mr Moe Kandola applied for six Temporary Event Notice's for Fizzy Moon, 35 Regent Street, Leamington Spa, CV32 5EE, Warwickshire on 3<sup>rd</sup> August 2020.

3.5 The temporary event notice's were submitted to enable the use of the outside terraced area for Fizzy Moon for an additional hour between 23:00 to 24:00 on the dates below;

- Friday 21<sup>st</sup> August 2020
- Friday 28<sup>th</sup> and Saturday 29<sup>th</sup> August 2020
- Friday 4<sup>th</sup> and Saturday 5<sup>th</sup> September 2020
- Friday 11<sup>th</sup> and Saturday 12<sup>th</sup> September 2020
- Friday 18<sup>th</sup> and Saturday 19<sup>th</sup> September 2020
- Friday 25<sup>th</sup> and Saturday 26<sup>th</sup> September 2020

The premises currently has a premises licence (WDCPREM00201) that enables them to use the outside area until 23:00. A copy of the current premises licence and conditions is attached as appendix 1.

3.6 The Licensing Department have received objections from the following responsible authorities:

- Environmental Health

This objection is attached as appendix 2.

- 3.7 In accordance with section 105 of the Licensing Act 2003, the licensing authority must hold a hearing to consider the objection notice unless Environmental Health, the premises user and Licensing Authority agree that a hearing is unnecessary. The hearing must be concluded, and notice of the decision given to the premises user and the Police, no later than 24 hours before the temporary event is due to commence.
- 3.8 The panel can only consider those licensing objectives detailed in the objection received from Environmental Health.

#### 4. **Policy Framework**

##### 4.1 **Fit for the Future (FFF)**

The Council's FFF Strategy is designed to deliver the Vision for the District of making it a Great Place to Live, Work and Visit. To that end amongst other things the FFF Strategy contains several Key projects.

The FFF Strategy has 3 strands – People, Services and Money and each has an external and internal element to it. The table below illustrates the impact of this proposal if any in relation to the Council's FFF Strategy.

<b>FFF Strands</b>		
<b>People</b>	<b>Services</b>	<b>Money</b>
<b>External</b>		
<b>Health, Homes, Communities</b>	<b>Green, Clean, Safe</b>	<b>Infrastructure, Enterprise, Employment</b>
<u>Intended outcomes:</u> Improved health for all Housing needs for all met Impressive cultural and sports activities Cohesive and active communities	<u>Intended outcomes:</u> Becoming a net-zero carbon organisation by 2025 Total carbon emissions within Warwick District Council are as close to zero as possible by 2030 Area has well looked after public spaces All communities have access to decent open space Improved air quality Low levels of crime and ASB	<u>Intended outcomes:</u> Dynamic and diverse local economy Vibrant town centres Improved performance/ productivity of local economy Increased employment and income levels
<b>Impacts of Proposal</b>		
The licensing policy recognises that residents within, and visitors to	None	The licensing policy relates to current legislation, and, where possible, to local

the District, need a safe and healthy environment to live, work and visit; and that safe and well run entertainment premises are important to the local economy and vibrancy of the District.		factors, allowing flexibility and the potential to expand and augment the local economy and promote cultural issues.
<b>Internal</b>		
<b>Effective Staff</b>	<b>Maintain or Improve Services</b>	<b>Firm Financial Footing over the Longer Term</b>
<u>Intended outcomes:</u> All staff are properly trained All staff have the appropriate tools All staff are engaged, empowered and supported The right people are in the right job with the right skills and right behaviours	<u>Intended outcomes:</u> Focusing on our customers' needs Continuously improve our processes Increase the digital provision of services	<u>Intended outcomes:</u> Better return/use of our assets Full Cost accounting Continued cost management Maximise income earning opportunities Seek best value for money
<b>Impacts of Proposal</b>		
None	None	None

**Health and Community Protection  
Marianne Rolfe – Head of Service**

Warwick District Council, Riverside House  
Milverton Hill, Royal Leamington Spa, CV32 5HZ

**M & M Kandola  
Partnership,  
35 Regent Street,  
Leamington Spa,  
Warwickshire,  
CV32 5EE.**

**direct line:** 01926 456705  
**email:** [licensing@warwickdc.gov.uk](mailto:licensing@warwickdc.gov.uk)  
**web:** [www.warwickdc.gov.uk](http://www.warwickdc.gov.uk)

*our ref: WDCPREM00201  
your ref:*

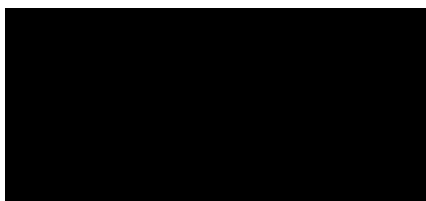
08 December 2018

Dear Sir,

Your premises licence is enclosed. You **must** display the second part at your premises where it may reasonably be viewed.

You **must** have the first part, or a certified copy, at the premises to be produced to an authorised officer.

Yours faithfully,



**Lorna Hudson**  
Regulatory Manager

## Premises Licence

(To be kept at the premises)

Fizzy Moon,  
35 Regent Street,  
Leamington Spa,  
Warwickshire,  
CV32 5EE.

*Premises Licence number*    **WDCPREM00201**    *The times the licence authorises the carrying out of permitted licensable activities*

### **Sale of Alcohol for Consumption On the Premises**

**Sunday to Thursday from 10:00 to 00:00**

**Friday to Saturday from 10:00 to 02:00**

### **Sale of Alcohol for Consumption Off the Premises**

**Monday to Sunday from 10:00 to 23:00**

**A further additional hour into the morning following every Friday, Saturday and Sunday for each May Bank Holiday, Spring/Whitsun Bank Holiday and every August Bank Holiday Weekend.**

**A further additional hour in the morning following every Thursday, Friday, Saturday and Monday for Easter Bank Holiday Weekend.**

**A further additional hour every Christmas Eve and Boxing Day.**

**From start of permitted hours on New Year's Eve to the close of permitted hours New Year's Day.**

**The above restrictions do not prohibit:**

**(a) during the first thirty minutes after the above hours the consumption of the alcohol on the premises;**

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

**(c) during the first thirty minutes after the above hours the consumption of alcohol on the premises by persons taking meals there if the alcohol was supplied for the consumption as ancillary to the meals;**

**(d) consumption of alcohol on the premises or the taking of sale or supply of alcohol to any person residing in the licensed premises;**

**(e) the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;**

**(f) the sale of alcohol to a trader or club for the purposes of the trade or club;**

**(g) 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;**

**(h) the taking of alcohol from the premises by a person residing there; or**

(i) the supply of alcohol for consumption on the premises to any private friends of a person residing there who are bona fide entertained by him at his own expense, or the consumption of alcohol by persons so supplied; or

(j) the supply of alcohol for consumption on the premises to persons employed there for the purposes of the business carried on by the holder of the licence, or the consumption of liquor so supplied, if the liquor is supplied at the expense of their employer or of the person carrying on or in charge of the business on the premises.

**Live Music (Limited to two performers) (Indoors)**

**Monday to Sunday from 10:00 to 00:00**

**NOTE: Between the hours of 08:00 and 23:00, when amplified live music is taking place to an audience of less than 500 people and the premises is licensed for the sale of alcohol for consumption on the premises; or when unamplified live music is taking place to any number people on any premises, all licensing conditions applicable to the control of live music on this licence are deemed not to be in operation.**

**A further additional hour into the morning following every Friday, Saturday and Sunday for each May Bank Holiday, Spring/Whitsun Bank Holiday and every August Bank Holiday Weekend.**

**A further additional hour in the morning following every Thursday, Friday, Saturday and Sunday for Easter Bank Holiday Weekend.**

**A further additional hour every Christmas Eve and Boxing Day.**

**On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day.**

**Recorded Music (Indoors)**

**Monday to Thursday from 10:00 to 00:00**

**Friday and Saturday from 10:00 to 02:00**

**Sunday from 10:00 to 01:00**

**NOTE: Between the hours of 08:00 and 23:00, when recorded music is taking place to an audience of less than 500 people and the premises is licensed for the sale of alcohol for consumption on the premises, all licensing conditions applicable to the control of recorded music on this licence are deemed not to be in operation.**

**A further additional hour into the morning following every Friday, Saturday and Monday for each May Bank Holiday, Spring/Whitsun Bank Holiday and every August Bank Holiday Weekend.**

**A further additional hour in the morning following every Thursday, Friday, Saturday and Monday for Easter Bank Holiday Weekend.**

**A further additional hour every Christmas Eve and Boxing Day.**

**From the start of permitted hours on New Year's Eve to the close of permitted hours New Year's Day.**

**The opening hours of the premises**




Sunday to Thursday from 10:00 to 00:30  
Friday and Saturday from 10:00 to 02:30

A further additional hour into the morning following every Friday, Saturday and Monday for each May Bank Holiday, Spring/Whitsun Bank Holiday and every August Bank Holiday Weekend; and in the morning following every Thursday, Friday, Saturday and Monday for Easter Bank Holiday Weekend; and every Christmas Eve and every Boxing Day. On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day.

*Premises Licence Holder* **M & M Kandola Partnership,  
35 Regent Street,  
Leamington Spa,  
Warwickshire,  
CV32 5EE.**

*Registered number of holder* **Not Applicable**

*Designated Premises Supervisor* **Ms Abigail Storr,**  


*Personal licence number:* 

## Mandatory conditions

1. No supply of alcohol may be made under this licence:
  - A) At a time when there is no designated premises supervisor in respect of it, or
  - B) At a time when the designated premise supervisor does not hold a personal licence or his personal licence is suspended.
2. Every retail sale or supply of alcohol made under this licence must be made or authorised by a person who holds a personal licence.
3. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
  - (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—
    - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to—
      - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
      - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
    - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
    - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
    - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
    - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).
4. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
5. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
  - (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
  - (3) 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 either—
    - (a) a holographic mark, or
    - (b) an ultraviolet feature.

6. The responsible person must ensure that—

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—

(i) beer or cider: ½ pint;

(ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and

(iii) still wine in a glass: 125 ml;

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

7. Any individual carrying out security activities at the premises must be licensed by the Security Industry Authority

10. 1) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

2) For the purposes of the condition set out in paragraph 1—

(a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

(b) “permitted price” is the price found by applying the formula— .

$$P = D + (D \times V)$$

where—

(i) P is the permitted price,

(ii) D is the rate of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and

(iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence—

(i) the holder of the premises licence,

(ii) the designated premises supervisor (if any) in respect of such a licence, or

(iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994.

3) Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

4) (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

### **Conditions consistent with the Operating Schedule**

#### *Public Safety*

Door Staff must be employed every Friday and Saturday night, irrespective of closing times.

Door Staff must be used on any occasion when open after 01:00.

Doorstaff must start no later than 9pm on evenings when required.

CCTV must be used and conform to British Standard and offer continuous recording on each camera and cover all public areas on the premises including the corridor leading to the toilets and the fire exit onto Windsor Street and the two fire exits.

No entry/re-entry is permitted one hour before closing time.

No open vessels are permitted be removed from the premises for either on or off licence sales.

All open vessels must be removed from external areas to within the building by 23:00.

Membership of Pubwatch must be maintained and the premises must conform to its requirements and radio licence procedure.

#### *The Prevention of Public Nuisance*

The external areas must be cleared by 23:00 and not used after this time.

The collection of bottles to take away from the premises must be no earlier than 9am.

All windows and doors must be closed when regulated entertainment takes place.

All windows and doors must be kept closed after 23:00.

#### *The Protection of Children from Harm*

No persons under the age of 18 years in the bar area at any time after 21:00.

## Plans

See attached sheet.



### **Lorna Hudson**

Regulatory Manager

Health & Community Protection,  
Warwick District Council,  
Riverside House,  
Milverton Hill,  
Royal Leamington Spa,  
Warwickshire,  
CV32 5HZ.

Telephone (01926) 456705

Email: [licensing@warwickdc.gov.uk](mailto:licensing@warwickdc.gov.uk)

Web Site: [www.warwickdc.gov.uk](http://www.warwickdc.gov.uk)

Date issued: Friday, 07 August 2020

## Appendix 2

Dear Licensing,

Environmental Health Objection to TEMPORARY EVENT NOTICE in respect of Fizzy Moon for 21st and 22<sup>nd</sup> August 2020, Your reference 037396

In response to your consultation of Environmental Health with regard to potential for nuisance.

Environmental Health object on the grounds that the proposed opening of the outside seating area until midnight is likely to give rise to noise nuisance to local residents arising from :

Sound of customers on the terrace ,

Open doors between the inside bar and terrace allowing customer noise to escape from inside the building

Noise of music escaping from the building through open doors to the terrace.

We note that the existing premises licence WDC PREM 00201 ,contains a condition that “The use of external areas not be permitted and be vacated by 23.00” . This was imposed after a hearing by the licensing panel . We are concerned that the stated purpose of this Temporary event Notice is to avoid that existing condition in the interests of maximizing occupancy of the pub rather than to allow an additional activity not covered by the existing licence. This is contrary to the Licensing Objectives.

The unintended? consequence of allowing the terrace to be open to midnight would be to undermine two other existing conditions of the existing premises licence namely “all doors and windows to be closed after 23.00” and “all open vessels to be removed from external areas to within the building by 11pm”. The former is clearly intended to contain noise inside. The purpose of the later is to encourage people with unfinished drinks to move inside rather than consume them on the street.

We are aware of further 5 identical Temporary Event Notices having been submitted by the applicant for further 5 successive weekends .Reference Numbers 037397, 037398, 037399, 037400 , 037401

We hereby make the same objection to those and would ask if the six TENS could be disposed of by a single hearing before the Licensing Panel rather than six separate hearings. Not only is this more efficient but it allows the panel to consider the likely cumulative effects of six successive weekends on the amenity of local residents.

We assume that the LATE TEN on 14 / 15 August ,subject of our previous objection to Licensing will not now run. Being a LATE TEN it is not subject to a hearing.

Kind Regards

Peter Lawson

Senior Environmental Health Officer



# STATEMENT OF LICENSING POLICY

(Required by section 5 of the Licensing Act 2003)

2018 - 2021

## IMPORTANT NOTE

In producing this Statement Of Licensing Policy the Licensing Authority is aware that the Government may amend the Licensing Act 2003, subordinate legislation and statutory guidance.

Any such amendments made in the future may not be incorporated into this policy document and readers of this document are advised to check the Home Office/Gov.uk website to ensure they have the latest information.

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## STATEMENT OF LICENSING POLICY

### 1 INTRODUCTION

1.1 Warwick District Council ('the Council') has a duty under the terms of the Licensing Act 2003 ('the Act') to carry out its functions as the Licensing Authority with a view to promoting the following licensing objectives:

- **The prevention of crime and disorder**
- **Public safety**
- **The prevention of public nuisance**
- **The protection of children from harm**

1.2 The promotion of these objectives is the paramount consideration when determining an application and any conditions attached to an authorisation.

1.3 Warwick District Council (WDC) is situated in the south of Warwickshire in the centre of England. Appropriately for England's heartland, Warwick District Council's boundaries are roughly heart-shaped, embracing an area of some 28,253 hectares with a population exceeding 138,400 people. The District covers four towns, Royal Leamington Spa, Warwick, Kenilworth and Whitnash as well as a large rural area with 18 Parish Councils. It is acknowledged that the town centres have a large proportion of residential premises.

1.4 This statement of licensing policy relates to all those licensing activities identified as falling within the provisions of the act, namely:

- **The sale by retail of alcohol**
- **The supply of alcohol by clubs**
- **The provision of regulated entertainment**
- **The provision of late night refreshment**

For the purposes of this document any reference to an 'authorisation' means a Premises Licence, Club Premises Certificate, Temporary Event Notice (TEN) and where appropriate to the context a Personal Licence.

1.5 The Licensing Authority recognises that the licensing function is only one means of promoting delivery of the above objectives and should not therefore be seen as a means for solving all problems within the community. The Licensing Authority will therefore continue to work with the Responsible Authorities, the South Warwickshire Community Safety Partnership, local businesses and local people to promote the common objectives as outlined. In addition the Licensing Authority recognises its duty under s.17 of the Crime and Disorder Act 1998 with regard to the prevention of crime and disorder.

- 1.6 This policy statement has been prepared in accordance with the provisions of the Act and the guidance issued under s.182 of the Act. The policy statement is valid until 5<sup>th</sup> January 2021. This policy statement will be subject to review and further consultation prior to any substantial changes.
- 1.7 A list of contact details for the Responsible Authorities authorised under the act is attached to this policy statement as Appendix 2.
- 1.8 The Licensing Authority has recognised Warwickshire County Council as the local body competent to advise it on the protection of children from harm and has designated it as a responsible authority for the purposes of s.13 of the Act.
- 1.9 The Licensing Authority will, when acting as a responsible authority, act in accordance with the guidance issued under s.182 of the Act wherever possible. In particular, it will not normally intervene in applications where the issues are within the remit of another responsible authority and will ensure an appropriate separation of responsibilities between the officer administering an application and an officer acting as a responsible authority.

### **Public Health as a Responsible Authority**

- 1.10 There is not a specific licensing objective related directly to health within the current legislation. When making a representation, the Director of Public Health will be required to relate such representations and available data to the other licensing objectives. This may include underage drinking, prevention of accidents, injuries and other immediate harms that can result from alcohol consumption.
- 1.11 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 incidents. Sometimes it may be possible to link ambulance callouts and attendance to irresponsible practices at specific premises. Anonymised data can be collated about incidents relating to specific premises and presented to Licensing Sub-Committees when representations are made.

## **2 CONSULTATION**

- 2.1 Before publishing this policy statement the Licensing Authority has consulted and given proper consideration to the views of the following in line with the statutory guidance.
- The Responsible Authorities
  - Representatives of current licence and certificate holders
  - Representatives of local businesses
  - Representatives of local residents

### **3 FUNDAMENTAL RIGHTS**

- 3.1 Under the terms of the Act any person may apply for a variety of authorisations and have each application considered on its individual merits. Equally, any person has a right to make relevant representations on an application or to seek a review of a licence or certificate where provision has been made for them to do so in the Act.
- 3.2 Applicants and those making relevant representations in respect of applications to the Licensing Authority have a right of appeal to Warwickshire Magistrates' Court against the decisions of the Licensing Authority.

### **4 LICENSING CONDITIONS**

- 4.1 Licensing is about regulating the carrying on of licensable activities on licensed premises, by qualifying clubs and at temporary events within the terms of the Act. 'Premises' includes open spaces. Conditions attached to various authorisations will be focused on matters that are within the control of the individual licensees and others in possession of relevant authorisations. Accordingly, these matters will centre on the premises being used for licensable activities and the vicinity of those premises. If there is an incident or other dispute, the Licensing Authority will primarily focus on the direct impact of the activities taking place at licensed premises on members of the public living, working or engaged in other normal activities in the area concerned.
- 4.2 The Licensing Authority can impose conditions if it has received a relevant representation or if such conditions are consistent with the operating schedule.
- 4.3 When considering any conditions, the Licensing Authority acknowledges that licensing law should not be seen as the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from licensed premises and therefore beyond the direct control of the individual club or business holding the licence, certificate or authorisation concerned. Nonetheless, it is a key aspect of general control and licensing law will always be part of a holistic approach to the management of the evening and night time economy. For example, applicants should note that stricter conditions to control noise are likely to be imposed in the case of premises situated in largely residential areas.
- 4.4 The Licensing Authority will not impose standard licensing conditions on licences or other relevant types of authorisation across the board. Therefore, the Licensing Authority will attach conditions to relevant authorisations which are tailored to the individual style and characteristics of the premises and events concerned and that are appropriate to promote the licensing objectives in the light of any representations received.
- 4.5 The Licensing Authority has produced a set of model conditions, which is aimed at assisting and supporting applicants through the application process. The model conditions would also assist the Licensing Authority and Responsible Authorities in deciding which conditions would be appropriate to add to a licence. The model conditions may be found at the end of this policy as Appendix 1.

## **5 OPERATING HOURS**

- 5.1 The Licensing Authority welcomes the opportunities afforded to the local economy by the Act and will strive to balance this with the rights of local residents and others who might be adversely affected by licensable activities based on the principles laid down in this document.
- 5.2 When dealing with licensing hours, each application will be dealt with on its individual merits. The Licensing Authority recognises that longer licensing hours with regard to the sale of alcohol can assist to avoid concentrations of customers leaving premises simultaneously thereby reducing the friction at late night fast food outlets, taxi ranks and other forms of transport which can lead to disorder and disturbance. The Licensing Authority does not wish to unduly inhibit the development of thriving and safe evening and night time local economies which are important for investment and employment locally and in the main welcomed by residents and visitors to the District.
- 5.3 The Licensing Authority will not set fixed trading hours within designated areas. However, an earlier terminal hour and stricter conditions with regard to noise control than those contained within an application, may be appropriate in residential areas where relevant representations are received and such measures are deemed appropriate to uphold the licensing objectives.
- 5.4 Shops, stores and supermarkets will generally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping, unless there are relevant representations giving good reasons based on the licensing objectives for restricting those hours.

## **6 LATE NIGHT LEVY AND EARLY MORNING RESTRICTION ORDERS**

- 6.1 The Licensing Authority, having not been presented with any evidence to the contrary, does not consider that the application of a Late Night Levy or Early Morning Restriction Order are appropriate for the Licensing Authority's area at the present time. The Licensing Authority will keep these matters under review and accordingly reserves the right, should the need arise, to introduce these measures during the life of this statement of licensing policy.

## **7 CUMULATIVE IMPACT ASSESSMENT**

- 7.1 For the purposes of this document 'cumulative impact' means the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. Cumulative impact is a proper matter for the Licensing Authority to consider in developing its licensing policy. This should not be confused with 'need' which concerns the commercial demand for another particular type of premises. The Government's guidance states that 'need' is not a matter for the Licensing Authority but is a matter for the Planning Authority and the free market.
- 7.2 The Licensing Authority adopted a special policy regarding cumulative impact in November 2005 at the commencement of the Licensing Act 2003 where it considered that a significant concentration of licensed premises would have an impact on the

licensing objectives and granting of further licences in that area would add to this impact.

- 7.3 In line with government guidance the cumulative impact zone is being reviewed in relation to crime and disorder, anti-social behaviour and noise complaints linked to licensed premises within Leamington Spa. The Licensing Authority also considers activities which take place within the town centre which could have an impact on public safety and the protection of children from harm as part of the review. A plan of the current zone may be found at the end of this policy as Appendix 2.
- 7.4 It is considered that the cumulative impact of further new licences within this zone may lead to the area becoming further saturated with premises of a certain type, including pubs, clubs, takeaways and off licences, making the area a focal point for large groups of people, thereby creating exceptional problems of disorder and nuisance over and above the impact from the individual premises themselves.
- 7.5 The special policy regarding cumulative impact will not be used to try to revoke an existing licence or certificate when representations are made about the way the premises are being operated. However, the special policy may be a justification to refuse an application or to vary a licence or certificate.
- 7.6 The Licensing Authority will not operate a quota of any description including the special policy that would predetermine an application. Each application will be considered on its individual merits. Proper regard will be given to the contrasting styles and individual characteristics of the premises concerned, and the differing impact they will have on the local community.
- 7.7 If an application for a premises licence within the cumulative impact zone is made, the Licensing Authority will expect the applicant to demonstrate in their operating schedule that there will be no disproportionate impact on any of the licensing objectives. **The onus of proof will be on the applicant to show that the application will not impact on the four licensing objectives.**
- 7.8 The Licensing Authority will consider the individual merits of all applications and where it feels to grant the application would be unlikely to add significantly to the cumulative impact in light of the licensing objectives, the Licensing Authority may grant the application.
- 7.9 In line with current guidance the policy will be subject to review every 3 years.

## **8 PROMOTION OF THE LICENSING OBJECTIVES**

### **Prevention of Crime and Disorder**

- 8.1 Licensed premises, especially those offering late night/early morning entertainment or alcohol and refreshment can sometimes be associated with elevated levels of crime and disorder.

- 8.2 The Licensing Authority expects individual licence/certificate holders, new applicants and temporary event organisers, to regularly review their arrangements in addressing crime and disorder issues pertinent to their particular licensable activities, location and/or premises. Information and advice can be obtained from the Police, business network groups and other sources. The Licensing Authority also encourages local residents and other businesses, where appropriate, to discuss issues of concern directly with individual businesses, or, to contact the Police or the Licensing Authority.
- 8.3 The Licensing Authority will, through its Community Safety Partnership devise and help deliver strategies to tackle the misuse of alcohol, which has been identified as being a precursor to crime and anti-social behaviour. The Licensing Authority expects existing licence/certificate holders, new applicants and the organisers of temporary events, to be able to demonstrate the measures they use, or propose to adopt, to prevent and actively discourage the sale/supply of alcohol to children and to individuals who are already drunk.
- 8.4 The risk assessment approach remains fundamental in the operation of all licensed premises. Licence/certificate holders and applicants are strongly recommended to work closely with the Police in particular, in bringing into effect appropriate control measures to overcome established and potential problems. A combination of short and longer term strategies may need to be deployed by holders of authorisations to sustain and promote the prevention of crime and disorder.
- 8.5 The Licensing Authority will expect new applicants, existing licence/certificate holders and organisers of temporary events to adopt recognised good practice in whatever area of operations they are engaged. The Licensing Authority will regard each responsible authority as the expert in their respective field and in some cases as the primary source of advice in relation to a particular licensing objective.
- 8.6 Queues at late night take-aways can be a source of disorder and applicants for premises licences for this type of premises are expected to address this in their operating schedule.
- 8.7 The Licensing Authority has specific duties under s.17 of the Crime and Disorder Act 1998 that underpins any control strategy that is employed. The Licensing Authority will continue to work in partnership with the Police in addressing crime and disorder issues.
- 8.8 The Licensing Authority is of the view that generally, in order to promote the licensing objectives, all licensed premises within the District are encouraged to be members of the relevant local Pubwatch Scheme, or any similar scheme, where one exists.
- 8.9 The Licensing Authority and Police have a zero tolerance of drug use in licensed premises but recognise that drug use is not something that is relevant to all licensed premises. However, it is recognised that special conditions may need to be imposed for certain venues to reduce the likelihood of drugs being sold and consumed and to create a safer environment for those who may have taken them.

- 8.10 Once away from licensed premises a minority of consumers may behave badly and unlawfully. There are other mechanisms both within and outside the licensing regime that are available for addressing such issues. The Licensing Authority will address a number of these issues through the Community Safety Partnership in line with the strategic objectives for crime and disorder reduction and drug and alcohol misuse within the District.
- 8.11 In relation to premises seeking or holding a premises licence and where alcohol will be sold under the terms of that licence, the Licensing Authority expects that (a) any Designated Premises Supervisor (DPS) will have been given sufficient management authority and be able to exercise effective day-to-day control of the premises and (b) authority to make alcohol sales when given by the DPS or any other Personal Licence holder should be clearly evidenced in writing. This is to ensure that premises selling alcohol are properly managed in accordance with the Act and that premises operate in a way that promotes the prevention of crime and disorder. This will also benefit operators themselves through being able to demonstrate a commitment to the proper management of premises, particularly if enforcement action becomes necessary.

#### **Promotion of Public Safety**

- 8.12 Public safety is not defined within the act, but the Government guidance advises that it is concerned with the physical safety of people using the premises and not with public health, which is covered by other legislation.
- 8.13 Applicants and event organisers will be expected to assess not only the physical environment of the premises or site but also operational practices, in order to protect the safety of members of the public visiting the premises or site, those who are employed in the business, those who are engaged in running an event or anyone else that could be affected by site activities. This assessment would normally take place within a risk assessment framework.
- 8.14 Holders of premises licences and club certificates, or those organising temporary events, should interpret 'public safety' widely to include freedom from danger or harm.
- 8.15 For licensed or certificated premises and for temporary events, public safety must be kept under review and where changes to operational practices/events occur, or the customer profile changes, a review of risk assessments must be undertaken.
- 8.16 Fire safety is governed by the Regulatory Reform (Fire Safety) Order 2005 and is not something with which the Licensing Authority will normally become involved.

Where a Responsible Authority has recommended a safe capacity limit on all or part of a premises the Licensing Authority will normally expect an applicant/authorisation holder to follow such a recommendation unless there are good reasons for not doing so.

## **Prevention of Public Nuisance**

- 8.17 The Licensing Authority remains sensitive to the expectations and needs of different parts of the community in respect of leisure and cultural pursuits, and will view applications accordingly. The impact of those activities on people who have to live, work and sleep within the local vicinity of a licensed premises or event will also be considered. If the impact of licensed activities is disproportionate and unreasonable or markedly reduces the amenity value of the area to local people, then the Licensing Authority will take account of this when exercising its functions.
- 8.18 The Licensing Authority considers that the potential for public nuisance can be prevented or much reduced by good design and planning during new or ancillary construction works, by the provision of good facilities and effective management. This will require appropriate advice at the planning and development stages of new projects. Applicants should consider carefully the suitability of the premises for the type of activity to be undertaken, particularly in terms of ventilation, noise breakout and noise/vibration transmission to adjoining premises.
- 8.19 Licence holders already in receipt of complaints should seek an early remedy to any confirmed problem. The organisers of temporary events should seek to pre-empt potential nuisance, especially if complaints have previously arisen at the same venue.
- 8.20 The Licensing Authority expects holders of authorisations to use their risk assessment and operating schedules to review and, if need be, to make necessary improvements to the premises or to operational practices, in order to prevent public or statutory nuisance.
- 8.21 Where the provisions of existing legislation prove inadequate or inappropriate for control purposes, the Licensing Authority will consider imposing licence conditions. Any condition deemed appropriate and imposed by the Licensing Authority to promote the prevention of public nuisance will focus on measures within the direct control of the licence holder or designated premises supervisor.
- 8.22 Any such conditions imposed will be tailored to the style and characteristics of the premises and the type of activities expected to take place. Any conditions added will be precise and enforceable and will be unambiguous and clear in what they intend to achieve.

## **Protection of Children from Harm**

- 8.23 The Act details a number of legal requirements designed to protect children in licensed premises. The Licensing Authority is concerned to ensure that holders of authorisations, including organisers of temporary events, create safe environments (in terms of physical, moral and psychological welfare) for children who may be on the premises. Children should be unable to access alcohol or drugs and be subject to an appropriate level of care and supervision at all times.



- 8.24 The Act prohibits children under the age of 16 years old and unaccompanied by an adult, to be present in licensed premises (including premises operating under a TEN) being used primarily or exclusively for consumption of alcohol.
- 8.25 The admission of children to any premises will otherwise normally be left to the discretion of the individual licensee/event organiser, as the Act does not prohibit children from accessing licensed premises. Where children are accompanied and supervised by a responsible adult, additional measures, should not normally be necessary. The Licensing Authority supports the view that children should enjoy access to a range of licensed premises, but cannot impose conditions requiring the admission of children to any premises.

The Licensing Authority will judge the merits of each application before deciding whether or not to impose conditions restricting access by children. Conditions which may be relevant in this respect are outlined in the Government Guidance.

- 8.26 In premises where alcohol is sold or supplied it is a mandatory condition that premises licence holders will operate a recognised Age Verification Scheme. The Licensing Authority supports the Challenge 25 scheme and where this is not proposed within the operating schedule, alternative and similarly rigorous controls should be detailed. The Licensing Authority recommends that the premise licence holder operates a method for recording when a sale is refused as part of any age challenge scheme (also known as a refusals book).
- 8.27 The Licensing Authority expects that customers should be confronted by clear and visible signs on the premises that underage drinking constitutes an offence in law and that they may well be required to produce proof of their age to a member of staff. Organisers of temporary events should apply similar safeguards in their undertakings.
- 8.28 Venue operators seeking premises licences and club premises certificates can volunteer prohibitions and restrictions in their operating schedules because their own risk assessments have determined that the presence of children is undesirable or inappropriate. These will become conditions attached to the licence or certificate where no relevant representations are received by the Licensing Authority.
- 8.29 The Licensing Authority regards Warwickshire County Council as being the primary source of advice and information on children's welfare and would normally expect any advice/recommendations from the County Council to be followed unless there are good reasons for not doing so. The Licensing Authority will attach appropriate conditions where these appear necessary to protect children from moral, psychological or physical harm. It is also reasonable for the licensing authority to expect the responsible authorities to intervene where the basis for the intervention falls within the remit of that other authority. For example, the police should take appropriate steps where the basis for the review is concerned about crime and disorder or the sexual exploitation of children.
- 8.30 The Licensing Authority will consider the need to protect children from sexual exploitation when undertaking licensing functions.

- 8.31 In order to prevent children from seeing films incompatible with their age, licence holders who exhibit films will be expected to impose and enforce viewing restrictions in accordance with the recommendations of the British Board of Film Classification. In exceptional cases e.g. where the BBFC has not classified a film then the Licensing Authority may specify viewing restrictions which an authorisation holder will be expected to comply with.
- 8.32 It is expected that authorisation holders will ensure that, whenever children are in the vicinity of a film or exhibition that is being shown/staged in a multi- purpose premises, sufficient ushers/stewards (minimum 18 years old) will be in attendance at the entrance the viewing rooms at all times to ensure children cannot enter or view the film or exhibition.
- 8.33 Children have access to a range of regulated public entertainment venues and may be present as members of a viewing audience or as performers in their own right. The Licensing Authority expects authorisation holders including those organising temporary events, to make proper provision for child safety and welfare during such events. Notwithstanding public safety issues, supervisory arrangements must be reflected within operating schedules. Suitable monitoring strategies should also be in place to ensure that supervisory levels are appropriate.
- 8.34 Where a large number of children are likely to be present on any licensed premises, for example, a children's show or pantomime, the Licensing Authority may require that there is an adequate number of adult staff at places of entertainment to control access and egress of children and to protect them from harm. Children present at events as entertainers will be expected to have a nominated adult responsible for each child performer.

## **9 MANDATORY LICENSING CONDITIONS**

- 9.1 The Government has introduced a range of mandatory conditions aimed at establishing minimum standards for the way certain licensable activities are conducted. The conditions apply to all appropriate premises.

## **10 OTHER CONSIDERATIONS**

### **Relationship with Planning**

- 10.1 The planning and licensing regimes involve consideration of different (albeit related) matters. The Council's Licensing and Regulatory Committee and Sub – Committees are not bound by decisions made by the Council's Planning Committee and vice versa.
- 10.2 The grant of any application or variation of a licence which involves a material alteration to a building would not relieve the applicant of the need to apply for planning permission or building control approval where appropriate.
- 10.3 There are also circumstances when as a condition of planning permission; operating hours are set for the use of the premises for commercial purposes. Where these hours are shorter than the licensing hours, the applicant must observe the planning

restrictions. Premises operating in breach of their planning consent would be liable to enforcement action under planning law.

- 10.4 The Local Planning Authority may also make representations against a licensing application in its capacity as a Responsible Authority, where such representations relate to one or more of the licensing objectives.

### **Applications**

- 10.5 An applicant may apply under the terms of the Act for a variety of authorisations and any such application will be considered on its individual merits. Any person may make representations on an application or seek a review of a licence or certificate where provision has been made for them to do so in the Act.
- 10.6 The Licensing Authority expects each and every applicant for a premises licence, club premises certificate or variation to address how they intend to promote the licensing objectives.
- 10.7 In determining a licence application the Licensing Authority will take each application on its merits. Licence conditions will only be imposed following a hearing or in order to promote the licensing objectives and will only relate to matters within the control of the applicant. Licence conditions will not normally be imposed where other regulatory provisions are in force (e.g. planning, health and safety at work, fire safety and building control legislation) so as to avoid confusion and duplication, except where they can be exceptionally justified to promote the licensing objectives.
- 10.8 The Licensing Authority will impose only such conditions as are proportionate towards promoting the licensing objectives and which do not impose unnecessary burdens and which are appropriate to the individual size, style and characteristics of the premises and events concerned.
- 10.9 In considering applications, the Licensing Authority will primarily focus on the direct impact of activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the area concerned. The Licensing Authority recognises that licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and, therefore beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned.
- 10.10 Conditions include any limitations or restrictions attached to a licence, certificate or other authorisation and essentially are the steps or actions the holder of the authorisation will be required to take or refrain from taking at all times when licensable activities are taking place at the premises in question.

### **Deregulated Public Entertainment**

- 10.11 As a result of the Live Music Act 2012 and The Legislative Reform (Entertainment Licensing) Order 2014 most public entertainment taking place between 08:00 and 23:00 hrs has, subject to certain conditions, been deregulated and removed from the scope of Licensing Authority control. No authorisation is required where public

entertainment is being provided under these statutory exemptions. However, if exempt public entertainment is or will be taking place as well as licensable activities (e.g. selling alcohol) then an authorisation covering the licensable activities will still be required. Operators of 'on-licensed' premises should also note that it is possible to re-introduce full licensing controls over public entertainment where a premises licence or a club premises certificate has been reviewed and a Licensing and Regulatory Sub-Committee determines that it is appropriate for such controls to be re-introduced.

### **Public Spaces Protection Order**

- 10.12 The Designated Public Place Order (DPPO) has been replaced by the Public Spaces Protection Order (PSPO) in the Anti-social Behaviour Crime and Policing Act 2014. PSPOs can be used to restrict the drinking of alcohol in a public space where this has or is likely to have a detrimental effect on the quality of life on those in the locality, be persistent or continuing in nature, and unreasonable. Where a local authority occupies or manages premises, or where premises are managed on its behalf, and it licenses that place for alcohol sales, the PSPO will not apply when the licence is being used for alcohol sales (or 30 minutes after), but the place will be subject to the PSPO at all other times. This allows local authorities to promote community events while still using a PSPO to tackle the problems of anti-social drinking.

## **11 BEST PRACTICE SCHEMES**

- 11.1 The Licensing Authority supports best practice schemes for licensed premises. Premises in an area covered by a scheme are encouraged to become members of the scheme.

## **12 INTEGRATING STRATEGIES AND THE AVOIDANCE OF DUPLICATION**

- 12.1 By consulting widely prior to this policy statement, the Licensing Authority has taken full account of local policies covering crime prevention, anti-social behaviour, culture, transport, planning and tourism as part of an integrated strategy for the Licensing Authority, Police and other agencies. Many of these strategies may not be directly related to the promotion of the licensing objectives, but indirectly impact upon them.
- 12.2 There are a number of wider issues which may need to be given due consideration when dealing with applications. The Council's Licensing and Regulatory Committee can request reports, where it thinks it is appropriate on the following areas:-
- The needs of the local tourist economy, to ensure that these are reflected in their considerations;
  - The employment situation and the need for new investment and employment where appropriate; and
  - The general impact of alcohol related crime and disorder.

- The general impact of alcohol related harms to health.

### **Crime Prevention Strategies**

- 12.3 Crime prevention and drug and alcohol misuse policies and the input of the South Warwickshire Community Safety Partnership (SWCSP) will be reflected in licence conditions as far as possible.
- 12.4 The SWCSP is committed to making South Warwickshire a safe place in which to live work and visit. It is the role of the SWCSP to strategically plan, commission and oversee services that tackle crime and disorder and address drug and alcohol misuse.

### **Duplication**

- 12.5 When considering any application the Licensing Authority will avoid duplication with other regulatory regimes as far as possible. Therefore the Licensing Authority will not attach conditions to a licence in relation to a matter covered by another regulatory regime unless going beyond such a regime is considered appropriate for the promotion of the licensing objectives in the particular circumstances.

### **Promotion of Equality**

- 12.5 The Licensing Authority in carrying out its functions under the Act is obliged to have 'due regard' to the need to eliminate unlawful discrimination, harassment and victimisation, to advance equality of opportunity and to foster good relations between persons with different protected characteristics. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Government guidance advises that conditions should not be attached to authorisations which would duplicate existing statutory requirements. The Licensing Authority therefore takes this opportunity to remind operators of premises of their duties towards disabled persons (including performers) on their premises under the Building Regulations and the Equalities Act 2010. This includes a duty that any person who provides a service to the public must make reasonable adjustments to any physical feature that makes it impossible or unreasonably difficult for a disabled person to access a service, or to provide the services by a reasonable alternative means.

## **13 ENFORCEMENT**

- 13.1 The Licensing Authority has an established working relationship with the Police and other responsible authorities on enforcement issues through the Multi Agency Licensing Enforcement Meeting. This provides a more efficient deployment of resources targeting high risk premises and activities.
- 13.2 This enforcement regime follows the Government's Regulators' Code in that it follows the basic principles of openness, helpfulness, proportionality and consistency. The Licensing Authority has a separate enforcement policy in respect of licensing.

- 13.3 Licensed premises are visited by the Responsible Authorities and the Licensing Authority to carry out targeted inspections to check that the premises licence or certificate is being complied with, to check compliance with other legislation and/or deal with complaints that have been received.
- 13.4 On some occasions a multi-agency group (representing a number of Responsible Authorities) will visit premises. The officers will check the premises/activities relevant to their particular role.
- 13.5 There are several enforcement options that will be used as appropriate and in line with the Licensing Authority's licensing enforcement policy. These options include:
- Verbal advice – this covers minor complaints/infringements where advice is seen as the most appropriate way to deal with the issue.
  - Written warning – this is a step-up from verbal advice and holders of authorisations are given a letter recording the warning given and containing the details of any necessary remedial action.
  - Action planning – this plan will be written down and given to the holder of the authorisation and designated premises supervisor. It explains what actions are required, within a timescale, for compliance with the licensing objectives, specific legislation or conditions. It will be regularly reviewed and if compliance has been achieved it will be terminated. If areas of non-compliance remain a more formal enforcement option further up the scale may be selected in order to achieve compliance.
  - Review – any person may call for a review of a licensed premises where there is evidence that the licensing objectives are not being promoted. The holder of the authorisation will have to attend a review hearing in front of the Licensing Sub Committee who may decide, based on the evidence submitted to them, to take no action, to remove the DPS, to revoke, suspend, or amend the licence or apply additional conditions.
  - Prosecution – Under the Licensing Act 2003 certain offences can be prosecuted by the Licensing Authority/Director Of public Prosecutions/Weights and Measures Authority (Trading Standards). In addition, Responsible Authorities have a wide range of powers to institute prosecution under other specific legislation.
  - Closure – several of the Responsible Authorities have the power to close licensed premises if they deem it necessary. The Licensing Authority also has powers to request closure through the Magistrates court for continuing unauthorised alcohol sales.

## 14 ADMINISTRATION, EXERCISE AND DELEGATION OF FUNCTIONS

### Licensing and Regulatory Committee

14.1 The majority of powers given to the Licensing Authority by the Act have been delegated by the Council to the Licensing and Regulatory Committee and Officers. The Licensing and Regulatory Committee has in turn established Sub-Committees to determine some matters under the Act.

14.2 The Council's Constitution defines those responsibilities and is available for inspection on the Council's website, but a summary of responsibility is set out in Table 1 below.

14.3 Table 1:

Matters to be dealt with	Full Committee	Sub Committee	Officers
Application for personal licence		If a police objection	If no objection made
Application for premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application for provisional statement		If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor		If a police objection	All other cases
Request to be removed as designated premises supervisor			All cases
Application to transfer of premises licence		If a police objection	All other cases
Application for interim authorities		If a police objection	All other cases
Application to review premises licence/club premises certificate	All cases		
Decision on whether a complaint is irrelevant frivolous vexatious etc.			All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application	All cases		
Determination of a police/EHO objection to a temporary event notice		All cases	
Determination of a Minor Variation application			All cases
Removal of the requirement for a designated premises supervisor at community premises		If a police objection	All other cases

14.4 However Council has retained the power to set the Council's Licensing Policy Statement, but it will seek the views of the Licensing & regulatory Committee before determining any amendments.

## **Application forms And Process**

- 14.5 All application forms will be in the prescribed format. The operating schedule will form part of the completed application form for a premises licence and a club premises certificate. The applicant will have to detail the steps that will be taken to promote the licensing objectives. Applicants should carry out a risk assessment before they apply for a licence.
- 14.6 Applicants are encouraged to fully consult the police and other statutory services well in advance of carrying out their risk assessments and submitting their applications. Application forms and guidance leaflets will be available from the Licensing Authority, including contact names for each of the responsible authorities. Most applications will require additional documentation and a fee to be included with the form. Incomplete applications will not be considered and will be returned to the applicant.
- 14.7 Where national guidance permits, on line applications will be accepted providing the necessary documentary attachments are uploaded into the application and the appropriate fee paid.
- 14.8 Applicants are encouraged to make themselves aware of any relevant planning and transportation policies, tourism and cultural strategies and local crime, alcohol, drug and disorder strategies in order to take these into account, where appropriate, when formulating their operating schedule.

## **15 COMMENTS ON THIS POLICY**

- 15.1 The statement of licensing policy will be reviewed on a regular basis. Individuals and organisations that wish to comment on the policy are invited to send their comments in writing to:

Warwick District Council, Licensing Team, Riverside House, Milverton Hill, Royal Leamington Spa, CV32 5HZ

Email: [licensing@warwickdc.gov.uk](mailto:licensing@warwickdc.gov.uk)



## APPENDIX 1 – Set of Model Conditions

Warwick District Council has produced this document to assist and support applicants and existing licence holders through the application process. It has also been designed for the consideration of responsible authorities and the Council's Licensing and Regulatory Committee.

When deciding to grant or vary a premises licence under the Licensing Act 2003, the licensing authority may do so subject to conditions which it considers are appropriate for the promotion of one or more of the licensing objectives.

Those applying for a premises licence, club certificate, variation of a premises licence or variation of a club certificate may also wish to consider those conditions which would promote the licensing objectives when completing the operating schedule.

In determining what conditions are appropriate, it will be necessary to consider the individual circumstances of the premises, including:-

- The nature and style of the venue,
- The activities being conducted there,
- The location, and,
- Anticipated clientele

### **Guidance for operating schedule**

Conditions on a premises licence or club premises certificate are important in setting the parameters within which premises can lawfully operate.

Licensing authorities should be satisfied that it is appropriate to impose conditions to promote one or more of the four licensing objectives. Conditions should be tailored to the particular circumstance of an individual licensed premises and determined on a case-by-case basis.

**Under no circumstances should licensing authorities regard pools of conditions as standard conditions to be automatically imposed in all cases.**

## **Prevention of Crime and Disorder**

1. There shall be no sales of alcohol for consumption off the premises after (time).
2. No single cans or bottles of beer or cider or spirit mixtures shall be sold at the premises.
3. No miniature bottles of spirits of 20 cl or below shall be sold from the premises.
4. No beer, lager, cider, ale or spirit mixers with an alcohol by volume content above (insert percentage) will be sold or offered for sale.
5. Each self-serve pump must be covered, in full, by the CCTV system.
6. Only craft beer or ale is permitted to be dispensed from the self-service pumps and will only be available in measures of (measure).
7. Only wine is permitted to be dispensed from the self-service wine dispenser and will only be available in a maximum measure of (measure).
8. When a self-service dispenser is in use a notification system must be in place to alert a member of bar staff.
9. Regular meetings will take place between the Designated Premises Supervisor, Warwickshire Police and Licensing authority. The meetings will take place every (number) months.
10. All door supervisors, and other persons engaged at the premises, for the purpose of supervising or controlling queues or customers, must wear (high visibility jackets or vests or armbands).
11. Door supervision must be provided on (specify days). Door supervisors must be on duty from (insert hours) and must remain on duty until the premises are closed and all the customers have left.
12. Door supervisors must be provided with radios to enable them to contact each other and the duty manager at the premises.
13. On/at (specify days/hours) at least (insert number) of SIA registered door supervisors must be on duty at the premises (may specify location at the premises or as shown on the plan).
14. Where SIA registered door supervisors are used at the premises, a record must be kept of their SIA registration number and the dates and times when they are on duty. That register shall be available for inspection on reasonable request Authorised Officer of the Council, the Security Industry Authority or a Police Constable and shall contain the following details:-
  - the door supervisor's name, date of birth and home address;
  - his / her Security Industry Authority licence number;
  - the time and date he / she starts and finishes duty;
  - each entry shall be signed by the door supervisor.

15. Any door staff register shall be available for inspection on demand by an Authorized Officer of the Council, the Security Industry Authority or a Police Constable and will be retained on the premises for a period of 12 months from the date of the last entry.
16. The Premises Licence holder / Designated Premises Supervisor will operate to a written dispersal policy which ensures the safe and gradual dispersal of customers from the premises. The Premises Licence holder / Designated Premises Supervisor will ensure that staff receive training on the policy.
17. CCTV to be installed and the premises licence holder must ensure that :-
  - a. CCTV cameras are located within the premises to cover all public areas.
  - b. The system records clear images permitting the identification of individuals.
  - c. The CCTV system is able to capture a minimum of 12 frames per second and all recorded footage must be securely retained for a minimum of 28 days.
  - d. The CCTV system operates at all times while the premises are open for licensable activities'. All equipment must have a constant and accurate time and date generation.
  - e. The CCTV system is fitted with security functions to prevent recordings being tampered with, i.e. password protected.
  - f. Downloads will be provided to the Police upon reasonable request in line with the DPA.
  - g. Signed off by Warwickshire Police Architectural Liaison officer
18. The Premises Licence holder / Designated Premises Supervisor is to provide the Police with the contact details of at least two members of staff (or other person(s)) who are trained and familiar with the operation of the equipment so that, at the expense of the Premises Licence holder, they are able to check that the equipment is operating properly and that they are able to provide copies of recorded data upon request and within no more than 12 hours from the time of the request.
19. The Premises Licence holder / Designated Premises Supervisor must notify the Licensing Office or the Police in the event of CCTV breakdown or malfunction as soon as is reasonably practicable and in any event within 24hrs.
20. No open vessels to leave the premises at any time.
21. No open vessels to be taken outside the curtilage of the premises at any time.
22. Empty bottles must be placed into locked bins so as to prevent them from being used as weapons.
23. Only plastic glasses / plastic bottles / toughened glass to be used in the outside areas of the premises.
24. Plastic or toughened polycarbonate (or similar) glasses / bottles will be used when requested by Warwickshire Police.
25. Drinks must only be served in polycarbonate/plastic containers.
26. No customers carrying glassware shall be admitted to the premises at any time that the premises are open to the public.
27. SIA door staff will be required to remove all alcohol from customers who are queuing to

enter the premise or entry to be refused. This alcohol must then be disposed of immediately in a bin provided at the premises.

28. A Personal Licence holder must be on the premises at all times when open to the public.
29. A Personal Licence holder must be on the premises on (state days) (time) between (time) hours and close of business.
30. The designated premises supervisor will ensure that he/she gives written authorisation to individuals whom they are authorising to sell alcohol in their absence. This should be maintained and made available for viewing by Authorised Officers.
31. Details of the names, addresses and up-to-date contact details for the Designated Premises Supervisor and all Personal Licence holders shall be maintained and kept on the premises.
32. Premises will participate in any Police or responsible authority awareness campaign or training that is relevant to the sale of alcohol, use of drugs or entertainment.
33. The Premises Licence holder shall have a written policy in relation to drugs which will include search, seizure and disposal of drugs and weapons. Staff will be provided with training on the policy, including drugs awareness.
34. A suitable receptacle for the safe retention of illegal substances will be provided and arrangements made for the safe disposal of its contents as agreed with Warwickshire Police.
35. There shall be displayed on the premises, information regarding drugs awareness. / Zero tolerance policy.
36. As soon as possible, and in any event within 1 month from the grant of this licence, the premises shall join the local Pubwatch or other local crime reduction scheme approved by the police, and local radio scheme if available.
37. The premises will be a member of the locally approved radio scheme and abide by its policies and procedures.
38. The premises is to maintain an incident book to record details of the following:-
  - Any violence or disorder on or immediately outside the premises,
  - Any incident involving controlled drugs (supply / possession or influence on the premises,
  - Any other crime or criminal activity on the premises,
  - Any call for police assistance to the premises,
  - Any ejection from the premises,
  - Any first aid/other care given to a customer.
39. An incident book to made available for inspection by a responsible authority on reasonable request.
40. In the event that a serious assault is committed on the premises (or appears to have been committed) the management will immediately ensure that:

- (a) The police (and, where appropriate, the Ambulance Service) are called without delay;
  - (b) All measures that are reasonably practicable are taken to apprehend any suspects pending the arrival of the police;
  - (c) The crime scene is preserved so as to enable a full forensic investigation to be carried out by the police; and
  - (d) Such other measures are taken (as appropriate) to fully protect the safety of all persons present on the premises.
41. Any staff employed at the premises will be provided with training on first appointment and on a regular basis thereafter. Training will include (delete where applicable) ;-
- Drunk awareness
  - Drugs awareness
  - Age verification training
  - Conflict management training
  - First aid
42. A written record will be kept of all training carried out. This record must be kept on the premises and made available for inspection by a responsible authority on reasonable request.
43. No entry / re-entry 1 hour before permitted hours.
44. No entry / re-entry after (time) (days).
45. Any queue (in a designated queuing area) to enter the premises must be supervised at all times by door supervisors.
46. Any (designated) queuing area must be within suitable barriers.
47. Any outside areas to be demarked by physical barriers or similar with clear signs displayed to instruct patrons that vessels must not be taken outside said area.
48. The premises must only operate as a restaurant:
- in which customers are seated at a table
  - which provide food in the form of substantial table meals that are prepared on the premises and are served and consumed at the table using non-disposable crockery
  - which do not provide any take away service of food or drink for immediate consumption, and
  - where alcohol must not be sold, supplied, or consumed on the premises otherwise than to persons who are taking substantial table meals and provided always that the consumption of alcohol by such persons is ancillary to taking such meals
49. The supply of alcohol to customers must be by waiter or waitress service only.
50. Alcohol consumed outside the premises building shall only be consumed by patrons seated at tables.

## **Prevention of Public Nuisance**

1. Prominent, clear and legible notices must be displayed at all exits requesting that customers respect the needs of local residents and to leave the premises and area quietly.
2. The licence holder or his representative shall conduct regular assessments of the noise coming from the premises on every occasion the premises are used for regulated entertainment and shall take steps to reduce the level of noise where it is likely to cause disturbance to local residents. A written record shall be made of these assessments in a log book. This record must be kept on the premises and made available for inspection by a responsible authority on reasonable request.
3. All external doors and windows shall be kept closed when regulated entertainment is being provided, except for access and egress and in the event of an emergency.
4. The beer garden / outside area is not to be used/occupied after (x) hours daily.
5. There will be no external loud speakers.
6. The Premises Licence holder / Designated Premises Supervisor will adopt a “cooling down” period where music volume is reduced (insert minutes) before the closing time of the premises.
7. At an appropriate time before closing time, announcements shall be made reminding customers to leave quietly.
8. Where the premises provide food to the public for consumption off the premises, there shall be provided at or near the exits, (insert number) waste bins to enable the disposal of waste food, food containers, wrappings etc.
9. Where the premises provide food for consumption off the premises, the public area immediately surrounding the premises shall be cleared of waste food, food containers, wrapping etc. at the end of trading on each day. Such refuse shall be placed in a container designed for the storage and disposal of refuse and waste foods.
10. The Premises Licence holder / Designated Premises Supervisor will ensure that litter arising from people using the premises is cleared away daily and that promotional materials such as flyers do not create litter.
11. Outside areas and activity must cease and be cleared at (time).
12. The beer garden / outside area(s) is not to be used/occupied after (time) hours daily.
13. With the exception of smokers, the outside area shall not be used by customers after (time).
14. Drinks shall not be permitted to be consumed in the outside area after (time).
15. In relation to the (specified function room) there shall be no admission after (midnight) other than to (1) residents of the hotel and their bona fide guests, or (2) persons attending a pre-booked function.

16. Licensable activities at events in the (specified function room) shall only be provided at pre-booked ticketed events.
17. Customers shall not enter or leave the premises from / by (insert specific entrances or exits), except in the event of an emergency.
18. The licence holder (or his/her nominees) shall ensure that exits are manned at closing time to ensure that patrons leave the area quickly and as quietly as possible.
19. The licence holder (or his/her nominees) shall ensure that any queue to enter the premises which forms outside the premises is orderly and supervised by door staff so as to ensure that there is no public nuisance or obstruction to the public highway.
20. There shall be no admittance or re-admittance to the premises after (time) except for patrons permitted to temporarily leave the premises to smoke.
21. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall be limited to (number) persons at any one time.
22. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall not be permitted to take drinks or glass containers with them.
23. Patrons permitted to temporarily leave and then re-enter the premises to smoke shall be restricted to a designated smoking area defined as (specify location).
24. Clear and legible notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.
25. All outside tables and chairs shall be prohibited from use after (time) each day.
26. All tables and chairs shall be removed from the outside area by (time) each day.
27. No external seating shall be provided at the premises.
28. All external doors and windows shall be kept closed after (time) hours, or at any time when regulated entertainment is being provided, except for the immediate access and egress of persons or in the event of an emergency.
29. Staff shall check prior to the commencement of regulated entertainment, and periodically during regulated entertainment that all windows and doors are shut.
30. Loudspeakers shall not be located in the entrance lobby or outside the premises building.
31. No speakers for amplification of music shall be placed on the outside of the premises or on the outside of any building forming a part of the premises.
32. A noise limiter must be fitted to the musical amplification system set at a level determined by and to the satisfaction of an authorised officer of the local authority's Environmental Health Service, so as to ensure that no noise nuisance is caused to local residents or businesses. The operational panel of the noise limiter shall then be secured by key or password to the satisfaction of officers from the Environmental Health Service and access shall only be by persons authorised by the Premises Licence holder. The limiter shall not be altered without prior agreement with the

Environmental Health Service. No alteration or modification to any existing sound system(s) should be effected without prior knowledge of an authorised officer of the Environmental Health Service. No additional sound generating equipment for the purposes of providing regulated entertainment shall be used on the premises without being routed through the sound limiter device.

33. A sound limiting device shall be fitted to any musical amplification system and set at a level determined by and to the satisfaction of an authorised officer of Warwick District Council's Environmental Health service to ensure that no noise nuisance is caused to local residents. The limiter shall not be altered without prior agreement with the Environmental Health Service.
34. No regulated entertainment shall take place in the outdoor areas at any time.
35. The provision of live music shall be limited to no more than two performers.
36. All outdoor entertainment shall be unamplified.
37. Suitable means of ventilation shall be provided and maintained at the premises to enable doors and windows to be closed whilst regulated entertainment is being provided.
38. Where the premises provide food to the public for consumption off the premises, there shall be provided at or near the exits, (insert number) waste bins to enable the disposal of waste food, food containers, wrappings etc.
39. The Premises Licence holder (or his/her nominees) will ensure that litter arising from people using the premises is cleared away daily and that promotional materials such as flyers do not create litter.
40. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between (time) hours and (time) hours on the following day.
41. During the hours of operation of the premises, the licence holder (or his/her nominees) shall ensure sufficient measures are in place to remove and prevent litter or waste arising or accumulating from customers in the area immediately outside the premises, and that this area shall be swept and or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements by close of business.
42. No collections of waste or recycling materials (including bottles) from the premises shall take place between (time) and (time) on the following day.
43. No deliveries to the premises shall take place between (time) and (time) on the following day.



## Public Safety

1. A designated room, space or location to be provided within the premises to create a safe environment which is monitored by a trained and DBS checked member of staff or volunteer.
2. All doors/gates through which persons may have to pass whilst making their way from the premises shall be readily and easily openable from within without the use of a key, code, card etc.
3. Once a licence has been granted a Fire Risk Assessment is to be kept on the premises and be available for inspection by an authorised officer.
4. The premises should be provided with a means for raising the alarm in the event of fire.
5. Staff should be aware of the siting of extinguishers, of their correct method of operation and know which equipment is appropriate for a particular fire. The equipment should be so placed as to be readily available for use. At least one appliance should be placed at or near to the exit from a floor and, where extinguishers are provided for special risks, as far as practical be sited close to the risk for immediate use.
6. There shall be maintained on the premises at all times an adequate and appropriate supply of first aid equipment and materials.
7. At all times when the public are present, at least one person who holds a current recognised first aid certificate or award shall be present on the premises. Where more than one such person is present, their duties shall be clearly defined.
8. The premises licence holder shall develop and operate a procedure for dealing with unwell members of the public including those who appear to be affected by alcohol and drugs. Staff will be appropriately trained in such procedures.
9. The maximum number of persons allowed in the premises shall be (insert numbers, areas and occasions).
10. A person who is responsible for the management of the premises shall at all times be aware of the number of persons on the premises and shall if required to do so, give that information to an authorised person.
11. At all times door supervisors on duty, numbers or persons inside the venue shall be recorded by way of a clicker system or similar, and shall if required to do so, give that information to an authorised person.
12. All emergency doors shall be maintained effectively self closing and not held open other than by an approved device.
13. The Premises Licence holder / Designated Premises Supervision must develop and operate a policy which ensures the safe evacuation of disabled people in the event of an emergency. All staff shall be made aware of these arrangements.
14. Staff or attendants shall be readily identifiable to members of the public.

## **Protection of Children from Harm**

1. Signage to be displayed around the premises in prominent places informing both staff and customers of the 'Challenge 25' policy.
2. A notice(s) shall be displayed in and at the entrance to the premises where they can be clearly seen, indicating that there is a "Challenge 25" policy in place at the premises.
3. A prompt or reminder to staff, at the point of sale, to consider whether a sale or challenge is to be made.
4. All deliveries of alcohol must be made by a person over the age of 18 years.
5. Delivery: ID checks by courier at the point of delivery in line with Challenge 25 age verification policy.
6. No person under the age of 18 shall be permitted access to the premises when entertainment of an adult nature is taking place.
7. No person under the age of (insert age) shall be permitted to remain on the premises after (insert hours).
8. Under 18's events will not take place without prior consultation with the Police and Licensing Authority.
9. Under 18's events will not take place at the premises.
10. No persons under the age of 18 years will be allowed on the premises after (time) unless accompanied by a responsible adult of 18 years or above and with the express permission and knowledge of the DPS or someone acting under their authority.
11. The premises will operate a "Challenge 25" proof of age policy.
12. The premises is to maintain a refusals book/record to record the details of incidents where a member of staff has refused to sell alcohol to a person suspected of being under the age of 18. The Premises Licence holder / Designated Premises Supervisor or nominated representative shall regularly monitor the book make a record of these checks. The book must be made available to a Police Constable/Authorised Officers of the Licensing Authority on request.
13. Any person who is authorised to sell alcohol at the premises will be provided with training on first appointment and on a regular basis thereafter. Training will include information on how to prevent underage sales and any other relevant matters. A written record will be kept of all training provided and this record will be kept on the premises for inspection by any Responsible Authority.
14. No persons under the age of 18 years to operate the self-serve pumps at any time.

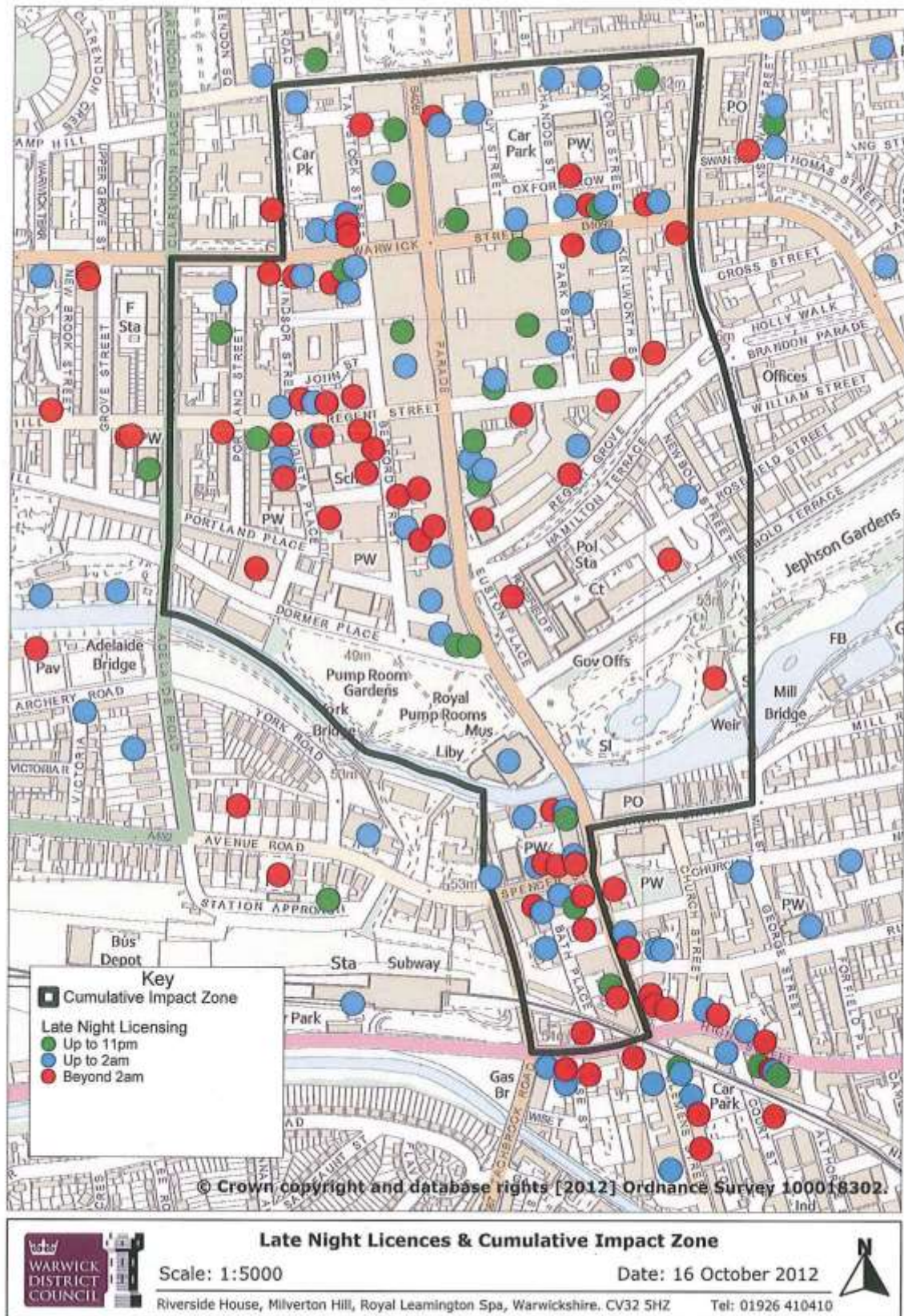
The above are generic conditions that applicants may wish to include within their application to speed up any discussions with the relevant responsible authorities. The use of these conditions does not guarantee the granting of a premises licence. Each application will be assessed on its own merits and in the context of its location and potential to impact on the licensing objectives. Additional conditions, or amendments to these model conditions, may be necessary in order to uphold the four licensing objectives. These model conditions are

not exhaustive and do not prevent you from volunteering any alternative measures that you believe are more appropriate for your particular premises.

Applicants will also need to consider whether their premises falls with any designated cumulative impact zones (CIZ) as higher standards will be applied.

For premises licences relating to outdoor music events, festivals, etc. applicants are encouraged to read the guidance provided by Warwick District Council's Safety Advisory Group (SAG) for information on planning their events. This can be found at: [www.warwickdc.gov.uk/safetyadvisorygroup](http://www.warwickdc.gov.uk/safetyadvisorygroup)

## APPENDIX 2 – Cumulative Impact Zone



## APPENDIX 3 - LIST OF RESPONSIBLE AUTHORITIES

### **POLICE:** Chief Officer of Police

Warwickshire Police Licensing Team  
Warwickshire Justice Centre Leamington Spa  
Newbold Terrace  
Leamington Spa  
Warwickshire  
CV32 4EL

Tel: 01926 484226

Email: southwarksliquorlicensing@warwickshire.pnn.police.uk

### **FIRE AUTHORITY:** County Fire Officer

Warwickshire Fire & Rescue Service  
Warwick Street  
Leamington Spa  
CV32 5LH

Tel: 01926 423231

Email: firesafety@warwickshire.gov.uk

### **ENFORCEMENT AGENCIES FOR HEALTH AND SAFETY:**

Regulatory Manager  
Health and Community Protection  
Warwick District Council  
Riverside House  
Milverton Hill  
Royal Leamington Spa  
CV32 5HZ

Tel: 01926 456707

Email: ehsafety@warwickdc.gov.uk

### **Health and Safety Executive – Birmingham Office**

19 Ridgeway  
9 Quinton Business Park  
Quinton  
Birmingham  
B32 1AL

### **AUTHORITY RESPONSIBLE FOR ENVIRONMENTAL HEALTH:**

Safer Communities Manager  
Health and Community Protection  
Warwick District Council  
Riverside House  
Milverton Hill  
Royal Leamington Spa  
CV32 5HZ

Tel: 01926 456714

Email: ehpollution@warwickdc.gov.uk

**THE LICENSING AUTHORITY:**

Licensing Team  
Health and Community Protection  
Warwick District Council  
Riverside House  
Milverton Hill  
Royal Leamington Spa  
CV32 5HZ

Tel: 01926 456705

Email: [Licensing@warwickdc.gov.uk](mailto:Licensing@warwickdc.gov.uk)

**AUTHORITY RESPONSIBLE FOR PLANNING:**

Manager, Development Services  
Warwick District Council  
Riverside House  
Milverton Hill  
Royal Leamington Spa  
CV32 5HZ

Tel: 01926 456541

Email: [gary.fisher@warwickdc.gov.uk](mailto:gary.fisher@warwickdc.gov.uk)

**BODY RESPONSIBLE FOR THE PROTECTION OF CHILDREN FROM HARM:**

Strategic Commissioning People Group  
Building 2, Saltisford Office Park  
Ansell Way  
Warwick  
CV34 4UL

Tel: 01926 410410

E-mail: [licenseapplications@warwickshire.gov.uk](mailto:licenseapplications@warwickshire.gov.uk)

**WARWICKSHIRE COUNTY COUNCIL (WEIGHTS & MEASURES):**

Divisional Trading Standards Officer  
Warwickshire Trading Standards  
Old Budbrooke Road  
Warwick  
CV35 7DP

Tel: 01926 414040

Email: [tradingstandards@warwickshire.gov.uk](mailto:tradingstandards@warwickshire.gov.uk)

**NATIONAL HEALTH SERVICE/PUBLIC HEALTH:**

Public Health Department (Licensing)  
NHS Warwickshire/Warwickshire County Council  
PO Box 43 – Shire Hall  
Warwick  
CV34 4SX

Email: [phadmin@warwickshire.gov.uk](mailto:phadmin@warwickshire.gov.uk)

## **Additional Appendix for L&R Panel 18<sup>th</sup> August 2020**

Dear Peter

Further to your email and our telephone discussion earlier this week

I would like to thank you for giving us the opportunity to address your concerns of noise nuisance & open vessels and the conditions of our current licence

Why we are doing this?

Due to COVID-19 after reopening after lockdown our current licence is to 2am due to the reduced capacity indoors down to 30% of our normal trade we decided our closing time to be midnight

We are aware of our conditions of our current licence relating to the terrace which we have adhered to throughout our time.

It is not just a condition just for us this applies to all licenses with outdoor areas throughout WDC area.

Due to the 11pm terrace closing we are finding it difficult to address the problem were we have to ask customers who have purchased drinks prior to 11pm to finish up quickly or leave them behind which does encourage some customers trying to hide drinks when leaving the terrace or getting verbally angry and abusive to our staff, on one occasion in particular a group of girls threw a drink at a member of our security.

Under normal circumstances we do not have an issue such as this as normally we can encourage people to move indoors to finish their drinks because of our reduced capacity inside we are no longer able to offer this

To this address this issue we consulted the local licensing department and applied for a temporary event notice for weekend of 31<sup>st</sup> July & 1<sup>st</sup> August which was granted. We wanted to trial this as we had the same concerns as you to see if this was a benefit for us and the customer and the outcome was incredibly positive. The customers were more relaxed and finished leisurely both indoors and outdoors leaving the security and management to close in more than enough time, hassle free.

We contacted both the licensing and the local police to share the success and management of the weekend in trial. Subsequently because of the success we then submitted temporary licensing until the end of September whilst the weather should be fair, and a high percentage of enquiries and customers request to sit OUTSIDE.

We totally understand this is as a temporary measure and we only request this due to the current unprecedented pandemic with no idea of the long-term restrictions.

You suggested why don't we close inside & outdoors at 11pm instead of the extension this would result in last orders at 10.30pm and is not feasible to sustain this with already current reductions in numbers/ capacity and takings in the hospitality industry. We have already reduced opening hours from 2am to midnight.



Also you mentioned If you allow Fizzy Moon this extension it would open the flood gates and I feel this is unlikely as there are no other places in the town centre with a terrace outdoor area far more importantly than this it is temporary and understand it is not permanent and each application should be judged and decided upon their own merit.

We are happy to address your concerns by adhering to our current license by closing all windows and doors by 11pm and NO music by 11pm along with no new orders serving from 11pm.

To stop open vessels been carried out we will continue to manage this with our security and management team as usual.

Any further questions or concerns I am available please feel free to visit Fizzy Moon or call me on my mobile 07768 098098 at your convenience

One final thing I would like to mention we all work towards the health and safety of our neighbours since opening of Fizzy moon and have had very minimal issues regarding noise even at full capacity and live music.

Finally, after carrying out a risk assessment by putting measures in place which we have already mentioned we feel we have met all the objectives regarding the licence which are as follows

- Lead to crime and disorder – no objections from the police
- Cause a public nuisance – risk assessment carried out and successful trial run.
- Be a threat to public safety
- Put Children at risk of harm

Taking everything into consideration we feel the application should be granted and would kindly ask for you to reconsider.

Regards

Moe Kandola

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Good afternoon Mr Kandola ,

Thank you for your email of this morning, following our telephone conversation last week ,expanding on your reasons giving the series of TENS.

I would repeat three points from our telephone conversation last week:-

Firstly lack of objection to the TEN for the first event. now run ,should not be interpreted as approval by Environmental Health. As I said if our system had picked that up earlier we would have lodged an earlier objection. In our view the potential for noise nuisance after 11pm has not changed. Lack of complaint about a single event does not mean nobody was disturbed. The more you do it the more likely we will get complaints.



Secondly ,You expressed difficulty reconciling two licensing objectives -namely prevention of public noise nuisance from the terrace versus your ability to avoid disorderly behaviour by persons displaced by closing the terrace at 11pm. This potential conflict would have been considered by the panel when they imposed that condition in the existing premises licence. If you wish to make an argument to the panel about your difficulty in meeting existing conditions under the changed circumstances of the restrictions to control COVID 19 that is your right. It is their role to balance such conflicts in the interests of the Licensing objectives.

Thirdly , your case for extending opening the terrace to midnight (as opposed to closing both inside and outside areas at 11pm to avoid conflict) is about business viability which is outside the scope of Environmental Health consideration.

Under all the circumstances this matter is best decided by the Licensing Panel.

Kind Regards

**Peter Lawson** Bsc(Hons) MSc CMCIEH

Chartered Environmental Health Practitioner

Senior Environmental Health Officer

Warwick District Council

Tel: 01926 456715

Email: [peter.lawson@warwickdc.gov.uk](mailto:peter.lawson@warwickdc.gov.uk)

**Additional Appendix– L&R Panel Tuesday 18<sup>th</sup> August 2020**

Good Afternoon Peter

Further to your reply, with due respect a couple of points you have raised which we do not agree with and would like to share this.

Firstly, in your response to the lack of objection to the TEN first event should not be interpreted as approval by the environment health, I'm afraid from our point of view it was approved as it clearly states if no one objects you can go ahead with your event therefore we did.

Also, the trial run was over 2 evenings not 1.

Secondly, we do agree with you as it is difficult to reconcile disorderly behaviour and public noise nuisance, due to our current difficult situation with a reduced capacity indoors which has been forced upon us due to the pandemic, we are just trying to come up with a suitable temporary comprise.

I do not agree that this potential conflict would not have been considered by the panel when they imposed this condition in the existing premises licence as the situation did not ever exist.

Finally, we totally agree it is definitely best for the panel to decide our application in these unprecedented circumstances.

Regards

Moe Kandola

Dear Neighbour

We have applied for a temporary extension to close our terrace at midnight Friday & Saturdays instead of 11pm

Please let us know if you have any concerns

~~No~~ / I Do Not object to your temporary extension application

Name

~~J. F. N. N. N.~~

Address

40 WINDSOR STREET  
LEAMINGTON SPA

Signature

~~[Signature]~~

FizzyMoon Limited, 35 Regent street, Leamington Spa, CV32 5EE

Dear Neighbour

We have applied for a temporary extension to close our terrace at midnight Friday & Saturdays instead of 11pm

Please let us know if you have any concerns

~~I Do~~ / I Do Not object to your temporary extension application

Name

~~XXXXXXXXXX~~ ~~XXXXXXXXXX~~

Address

33 REGENT STREET  
LEAMINGTON SPA  
WARWICKSHIRE CV32 5ET

Signature

~~XXXXXXXXXX~~

FizzyMoon Limited, 35 Regent street, Leamington Spa, CV32 5EE



Dear Neighbour

We have applied for a temporary extension to close our terrace at midnight Friday & Saturdays instead of 11pm

Please let us know if you have any concerns

I ~~do~~ / I Do Not object to your temporary extension application

Name

[Redacted]

Address

40 WINDSOR ST.

Signature

[Redacted Signature]

FizzyMoon Limited, 35 Regent street, Leamington Spa, CV32 5EE





Dear Neighbour

We have applied for a temporary extension to close our terrace at midnight Friday & Saturdays instead of 11pm

Please let us know if you have any concerns

~~Do~~ / I Do Not object to your temporary extension application

Name

  ( )

Address

33, Regent Street  
Leamington Spa

Signature



FizzyMoon Limited, 35 Regent street, Leamington Spa, CV32 5EE



From: ~~Archie Fizzymoon~~  
Subject: Fw: Temporary licence extension  
Date: 14 August 2020 at 12:48  
To: ~~Sylvester Kuller~~



Sent from [Mail](#) for Windows 10

From: ~~Chris Pearce~~  
Sent: 11 August 2020 10:46  
To: [INFO@fizzymoonbrewhouse.com](mailto:INFO@fizzymoonbrewhouse.com)  
Subject: Temporary licence extension

Dear Sir, Madam

Thank you for your letter regarding the extension of the licence to allow customers to finish their drinks after 11pm.

As a resident of the Chapel Court development that covers Windsor St and Portland St, I do not have an issue with this. Generally I don't consider there to be too much noise coming from the beer garden in any case.

On the understanding the extension will only be for customers to finish drinks and no new drinks will be served, I do not object to the new timings proposed.

Kind regards

~~Archie Fizzymoon~~

16 Chapel Court  
Portland Street  
Leamington Spa  
CV32 5EW

## Risk assessment implementation template for COVID-19.

This template has been developed to help businesses implement the government “COVID- secure guidelines”. It is aimed at smaller, lower risk businesses, enforced for health and safety by Local Authorities and who don’t have dedicated health and safety advice. Currently the guidance consists of 5 key points contained within <https://www.gov.uk/government/news/new-guidance-launched-to-help-get-brits-safely-back-to-work> these are printed below, and 8 workplace guides at <https://www.gov.uk/guidance/working-safely-during-coronavirus-covid-19>

Nothing in this document should add or take away from the guidance, and you don't have to use this template to complete your risk assessment. We have created this to help businesses go through the risk assessment process and document their findings. It can be freely copied and used but it is best completed on the computer as the boxes expand. We take no responsibility for your risk assessment, but we hope this is helpful in getting back to work safely.

Next steps;

- Think about your procedure for dealing with actual cases of COVID-19 sickness.
- Complete the 5 boxes- the basic risk assessment.
- Additional steps from guidance- what specific measures apply to your workplace type.
- Implement all the measures and check they work.
- Save or upload risk assessment to website, print out notice, sign and display.

Business name and address: Fizzy Moon Limited, 35 Regent Street Leamington Spa CV32 5EE		
Person carrying out risk assessment: Szilveszter Kalocsai (General Manager)		
Signed and dated (when [redacted])	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]



## First, be clear on your procedure on COVID-19 sickness

What arrangements for sending people home if an employee or customer is displaying symptoms of COVID-19?  
Send employee home immediately and have them self-isolate for 14 days. Hand over track and trace records to the track and trace team.  
Any further cleaning or other actions that you would take to if this happens?  
Hire company to gas the building against COVID-19.  
What will you do if an employee informs you that members of his/her household are displaying symptoms of COVID-19?  
Tell employee to self-isolate for 14 days.

## Second, complete the 5 boxes

### 1. Work from home, if you can

*“All reasonable steps should be taken by employers to help people work from home. But for those who cannot work from home and whose workplace has not been told to close, our message is clear: you should go to work. Staff should speak to their employer about when their workplace will open”.*

Which employees can work from home?  
N/A  
If your workplace has not been told to close, when do you plan to open?  
  
How have you communicated with staff about this?

### 2. Carry out a COVID-19 risk assessment, in consultation with workers or trade unions

*“This guidance operates within current health and safety employment and equalities legislation and employers will need to carry out COVID-19 risk assessments in consultation with their workers or trade unions, to establish what guidelines to put in place. If possible, employers should publish the results of their risk assessments on their website and we expect all businesses with over 50 employees to do so”.*

What consultation with workers or trade unions will you do?  
Regular team and management meetings were we discuss and changes or further actions needs to be taken to comply all government guidelines.  
  
Will you publish the results of your risk assessment on your website?

We don't publish results on our website.

### 3. Maintain 2 metres social distancing, wherever possible

*"Employers should re-design workspaces to maintain 2 metre distances between people by staggering start times, creating one-way walk-throughs, opening more entrances and exits, or changing seating layouts in break rooms".*

This business will maintain 2 metre distances between people by;

- One way walk system implemented
- Floor markings
- No customers allowed to the bar
- Stay seated at all times policy

### 4. Where people cannot be 2 metres apart, manage transmission risk

*"Employers should look into putting barriers in shared spaces, creating workplace shift patterns or fixed teams minimising the number of people in contact with one another, or ensuring colleagues are facing away from each other".*

This business will manage transmission risk where people cannot be 2 metres apart by;

- Back to back seats with 1 metre apart
- 1 way system implemented

### 5. Reinforcing cleaning processes

*"Workplaces should be cleaned more frequently, paying close attention to high-contact objects like door handles and keyboards. Employers should provide handwashing facilities or hand sanitisers at entry and exit points".*

This business will reinforce cleaning processes by;

- Installed automatic hand sanitisers at entry and exit
  - Use anti bac sprays on tables and seats after each use
  - Door handles cleaned more often
- Toilets are cleaned and checked every 15 mins

### **Third decide which guides are relevant, put the steps into the table below, and implement**

These 8 guides cover a range of different types of work. Many businesses operate more than one type of workplace, such as an office, factory and fleet of vehicles. You may need to use more than one of these guides as you consider what you need to do to keep people safe.

Decide which guides are relevant to your business, put the relevant measures in the table below. There is a lot of information in the guides and it is important to remember that their aim is to help implement the 5 points, and the “steps that are usually needed” are key to this. Some associations are also providing helpful additional guidance to businesses as to the most appropriate steps to take in their work area.

The relevant workplace guides for this business are;  
Restaurants, pubs, bars and takeaway services.

The workplace guides have been examined and measures applied in the table below.

**Currently there are 8 guides- Construction and other work, factories, plants and warehouses, labs and research facilities, offices and contact centres, homes, restaurants offering takeaway or delivery, shops and branches, vehicles.**

<https://www.gov.uk/guidance/working-safely-during-coronavirus-covid-19/construction-and-other-outdoor-work>

<https://www.gov.uk/guidance/working-safely-during-coronavirus-covid-19/factories-plants-and-warehouses>

<https://www.gov.uk/guidance/working-safely-during-coronavirus-covid-19/labs-and-research-facilities>

<https://www.gov.uk/guidance/working-safely-during-coronavirus-covid-19/offices-and-contact-centres>

<https://www.gov.uk/guidance/working-safely-during-coronavirus-covid-19/homes>

<https://www.gov.uk/guidance/working-safely-during-coronavirus-covid-19/restaurants-offering-takeaway-or-delivery>

<https://www.gov.uk/guidance/working-safely-during-coronavirus-covid-19/shops-and-branches>

<https://www.gov.uk/guidance/working-safely-during-coronavirus-covid-19/vehicles>

**Further guides are likely to be published shortly, check government websites.**

Steps that are needed from workplace guidance.	How implemented, any consultation?	Documentation (e.g. written instructions, notices for customers)	Management walk-around are the measures working, being complied with by staff and customers?	Further measures following management check.
<u>Hazard tape on floor marking 2 m distance from checkouts for queuing customers</u>	<u>Discuss with employees and put down tape.</u>	<u>This risk assessment and verbal instructions.</u>	<u>No, some customers still too close.</u>	<u>Staff told to remind customers to socially distance. Laminated signs telling customers to stay behind the line.</u>
Order at table only	Made our own order app	Explained at entrance to all customers	Yes, all customers use it.	Not needed.
Social distancing when seated.	Tables rearranged and table visors installed where needed.	This risk assessment.	Yes, complies by all customers and staff.	Staff told to remind people to stay in their seats unless they use toilets.
Restricting number of customers in toilets.	Signs and explained when enter the building. ONLY 2 AT A TIME.	This risk assessment.	No, some customers still go in.	Staff told to remind customers and toilet staff employed for the busy periods.
Employee breaks.	Staff to take break separately.	This risk assessment and Deputy employee check in/out system.	Yes, complies by all staff.	Not needed.
Staff Questionnaire and Temperature check on arrival.	Thermometer is provided and COVID-19 questions asked when	All data is saved on Deputy and manager on shift being notified too.	Yes, Complies by all staff.	Not needed.

	check in on Deputy system.			
Maximum of 6 people from different households	Checked when customer book a table or sign in at entrance.	Track and Trace sign sheet and this risk assessment.	Yes, Complies by all customers and staff.	Staff told to remind customers to stay in their seats.

After the risk assessment has been completed, what further regular monitoring will be carried out?

N/A

How will any further needed changes be put in place?

**Finally save and upload your risk assessment onto your website as appropriate and print out and display the notice.**

A downloadable notice is included in the downloads section of the 8 workplace guides, “staying COVID-19 secure in 2020” which employers should display in their workplaces to show their employees, customers and other visitors to their workplace that they have followed this guidance.