



BROMSGROVE DISTRICT COUNCIL

MEETING OF THE LICENSING COMMITTEE

MONDAY 7TH AUGUST 2023

AT 6.00 P.M.

PARKSIDE SUITE, PARKSIDE, MARKET STREET, BROMSGROVE,
WORCESTERSHIRE, B61 8DA

MEMBERS: Councillors A. M. Dale, J. Elledge, S. M. Evans,
D. J. A. Forsythe, D. Hopkins, C.A. Hotham, B. Kumar,
B. McEldowney, S. R. Peters, S. A. Robinson and
H. D. N. Rone-Clarke

AGENDA

1. Election of Chairman
2. Election of Vice-Chairman
3. To receive apologies for absence and notification of substitutes
4. Declarations of Interest

To invite Councillors to declare any Disclosable Pecuniary Interests or Other Disclosable Interests they may have in items on the agenda, and to confirm the nature of those interests.
5. To confirm the accuracy of the minutes of the meeting of the Licensing Committee held on 27th March 2023 (Pages 5 - 12)
6. LICENSING ACT 2003 - REVIEW OF STATEMENT OF LICENSING POLICY (Pages 13 - 68)

7. TERRORISM (PROTECTION OF PREMISES) DRAFT BILL - "MARTYN'S LAW" - INFORMATION REPORT (Pages 69 - 132)
8. LICENSING COMMITTEE WORK PROGRAMME (Pages 133 - 134)
9. To consider any other business, details of which have been notified to the Head of Legal, Equalities and Democratic Services prior to the commencement of the meeting and which the Chairman, by reason of special circumstances, considers to be of so urgent a nature that it cannot wait until the next meeting.

K. DICKS
Chief Executive

Parkside
Market Street
BROMSGROVE
Worcestershire
B61 8DA

27th July 2023

**If you have any queries on this Agenda please contact
Pauline Ross
Democratic Services Officer**

**Parkside, Market Street, Bromsgrove, B61 8DA
Tel: 01527 881406
Email: p.ross@bromsgroveandredditch.gov.uk**

**If you have any questions regarding the agenda or attached papers,
please do not hesitate to contact the officer named above.**

Notes:

**Although this is a public meeting, there are circumstances when the
Committee might have to move into closed session to consider exempt
or confidential information. For agenda items that are exempt, the
public are excluded.**



INFORMATION FOR THE PUBLIC

Access to Information

The Local Government (Access to Information) Act 1985 widened the rights of press and public to attend Local Authority meetings and to see certain documents. Recently the Freedom of Information Act 2000 has further broadened these rights, and limited exemptions under the 1985 Act.

- You can inspect agenda and public reports at least five days before the date of the meeting.
- You can inspect minutes of the Council, Cabinet and its Committees/Boards for up to six years following a meeting.
- You can have access, upon request, to the background papers on which reports are based for a period of up to six years from the date of the meeting. These are listed at the end of each report.
- An electronic register stating the names and addresses and electoral areas of all Councillors with details of the membership of all Committees etc. is available on our website.
- A reasonable number of copies of agendas and reports relating to items to be considered in public will be made available to the public attending meetings of the Council, Cabinet and its Committees/Boards.
- You have access to a list specifying those powers which the Council has delegated to its Officers indicating also the titles of the Officers concerned, as detailed in the Council's Constitution, Scheme of Delegation.

You can access the following documents:

- Meeting Agendas
- Meeting Minutes
- The Council's Constitution

at www.bromsgrove.gov.uk

BROMSGROVE DISTRICT COUNCIL

MEETING OF THE LICENSING COMMITTEE

MONDAY, 27TH MARCH 2023, AT 6.00 P.M.

PRESENT: Councillors R. J. Deeming (Chairman), P. J. Whittaker (Vice-Chairman), S. P. Douglas, A. B. L. English, C.A. Hotham, A. D. Kriss, S. A. Robinson, C. J. Spencer and M. Thompson

Officers: Mrs. V. Brown, Mr. D. Etheridge and Mrs. P. Ross

16/22 **TO RECEIVE APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTES**

Apologies for absence were received from Councillors H. D. N. Rone-Clarke and M. A. Sherrey.

17/22 **DECLARATIONS OF INTEREST**

There were no declarations of interest.

18/22 **MINUTES**

The minutes of the Licensing Committee meeting held on 29th September 2022 were submitted.

RESOLVED that the minutes of the Licensing Committee meeting held 29th September 2022, be approved as a correct record.

19/22 **HACKNEY CARRIAGE & PRIVATE HIRE AGE LIMITS AND TESTING ARRANGEMENTS - CONSULTATION RESPONSES**

Following on from the Licensing Committee meeting held on 19th September 2022, whereby Members approved for the purpose of consultation, the proposals to amend parts of the Council's Hackney Carriage and Private Hire Vehicle Licensing Policy; with regard to vehicle age limits and testing arrangements for licensed vehicles.

Members were asked to consider the responses received to the consultation, as detailed at Appendix 2 to the report; the suggested Vehicle Age Limits, as detailed at Appendix 1 to the report; and the draft, revised Hackney Carriage and Private Hire Licensing Policy, as detailed at Appendix 3 to the report.

The Principal Officer (Licensing), Worcestershire Regulatory Services (WRS), informed the Committee that as detailed in the report; at the

Agenda Item 5

Licensing Committee
27th March 2023

Licensing Committee meeting held on 14th March 2022, the Committee approved the adoption of a new Hackney Carriage and Private Hire Licensing Policy which took effect on 1st September 2022.

Towards the end of that meeting, Members also discussed the Work Programme for 2021/22 and requested that reports be presented to future meetings of the Committee as follows: -

- Revisiting the Council's vehicle licensing policies with regard to standards and age criteria for electric vehicles;
- Looking at incentives for drivers to purchase less polluting vehicles; and
- The number of Wheelchair Accessible Vehicles (WAVs) licensed by the Council, ways to incentivise drivers to purchase WAVs and an estimate of the number of WAVs the district needed.

As detailed in the preamble above, at the meeting held on 19th September 2022, Members of the Licensing Committee considered a report as presented by officers to try and address those requests and to set out the details of some of the dialogue that had taken place between officers and representatives of hackney carriage and private hire drivers licensed by the Council in respect of the current vehicle age policies.

Members' attention was drawn to paragraph 3.6 in the report and pages 18 and 19 of the report, which highlighted the Council's current policy on the licensing of vehicles to be used as a hackney carriage or private hire vehicle and the requirements in respect of the age of the vehicle.

Currently licensed vehicles that were less than 7 years of age were required to be examined at the Council's Depot once per year, just before a licence for the vehicle was granted or renewed. Vehicles that were over the age of 7 years were also required to have a further examination 6 months after the licence for the vehicle had taken effect.

Following consideration of the officer's report, Members had requested that officers carried out a consultation on amending the vehicle age limits to those detailed at Appendix 1 to the report. Members further requested that officers carried out a consultation on amending the vehicle testing arrangements as follows: -

Vehicles under 7 years of age	Examined once per year (just before a licence is granted or renewed)
Vehicles over 7 years of age and under 10 years of age	Examined twice per year (just before a licence is granted or renewed and 6 months after the licence takes effect)

Agenda Item 5

Licensing Committee
27th March 2023

Vehicles over 10 years of age	Examined three times per year (just before a licence is granted or renewed, 4 months after the licence takes effect and 8 months after the licence takes effect)
-------------------------------	---

A consultation exercise was undertaken between 4th January 2023 and 3rd March 2023. An online consultation survey was also used in order to enable people to give their views on the proposed amendments. A link to the consultation survey was also provided via the Council's website and advertised via social media channels. Paragraph 3.17 in the report detailed who the consultation was sent to.

The responses received to the questions that were asked in the consultation survey was detailed at Appendix 2 to the report. The majority of those who had responded to the consultation were supportive of amendments being made to parts of Council's Hackney Carriage and Private Hire Vehicle Licensing Policy in respect of vehicle age limits, as proposed. Opinion was however more divided on whether or not the Council should amend the vehicle testing amendments to require an additional inspection for vehicles over 10 years of age.

Notwithstanding the mixed opinions expressed on this proposal, officers still believed that requiring extra examinations of these older vehicles provided an additional safeguard for the public, which would help to counterbalance any potential risk that might be posed by relaxing vehicle age limits for hackney carriage and private hire vehicles.

The Principal Officer (Licensing), WRS, highlighted that Members were now being asked to consider the responses received during the consultation exercise.

Appendix 3 to the report was the draft revised version of the Council's Hackney Carriage and Private Hire Licensing Policy, which incorporated the amendments, as proposed, during the consultation exercise. The parts of the policy that had been amended were highlighted for ease of reference.

The Principal Officer (Licensing), WRS responded to questions from the Committee with regard to MOT's and vehicles being examined at the Council's Depot, and in doing so stated that, not all local authorities had this facility 'in house'. There had been some recent issues with capacity at the depot during January / February 2023, with some drivers struggling to get MOT tests and retest appointments at the depot. As suggested in the consultation responses and should Members be minded to; officers could carry out a further consultation with regard to drivers being able to use other MOT test centres and not just the Council's depot.

Agenda Item 5

Licensing Committee
27th March 2023

Some Members commented that they had read the questions asked and the responses received to the consultation in some detail, more specifically, the complaint raised with regard to additional testing and had found their argument quite persuasive. As were the comments received about being able to use other MOT test centres, since some drivers had had to wait for an MOT test appointment at the Council's depot.

Some Members further commented that they were reluctant to allow tests at other MOT test stations for vehicles licensed in the District. Plus, they could see no reason why a vehicle over 12 years of age should require further testing, as suggested in the officer's report; since modern vehicles were built to last longer. Members further highlighted that the majority of age criteria vehicles currently presented at Sub-Committee (taxi) Hearings had been in a good condition and that Members had granted the majority of age criteria applications.

Following on from this discussion an Alternative Recommendation was proposed by Councillor A. D. Kriss and seconded by Councillor P. J. Whittaker.

The Alternative Recommendation was with regard to vehicle age requirements as follows: -

Vehicles under 7 years of age	Examined once per year (just before a licence is granted or renewed)
Vehicles over 7 years of age	Examined twice per year (just before a licence is granted or renewed and 6 months after the licence takes effect)

It was further agreed that in order to reflect the amended recommendation, that the draft revised Hackney Carriage and Private Hire Licensing Policy, be amended as follows: -

Page 73 of the main agenda report -

Paragraph 3.15.3 be amended to read: -

"Where a vehicle is more than seven years of age on the date the licence was issued, it must also be presented for further inspection within a four-week period beginning on the date six months after the licence issue date".

Paragraph 3.15.4 to be removed.

Agenda Item 5

Licensing Committee
27th March 2023

“Where a vehicle is more than ten years of age on the date the licence was issued, it must also be presented for an inspection within a four-week period beginning on the date four months after the licence issue date and again within a four-week period beginning on the date eight months after the licence issue date”.

Page 97 of the main agenda report -

Paragraph C.19 be amended to read: -

“Where a vehicle is more than seven years of age on the date the licence was issued, it must also be presented for further inspection within a four-week period beginning on the date six months after the licence issue date. The age of the vehicle will be calculated based on the date of first registration shown on the vehicle registration certificate (VC5)”.

Paragraph C.20 be removed.

“Where a vehicle is more than ten years of age on the date the licence was issued, it must also be presented for an inspection within a four-week period beginning on the date four months after the licence issue date and again within a four-week period beginning on the date eight months after the licence issue date. The age of the vehicle will be calculated based on the date of first registration shown on the vehicle registration certificate (VC5)”.

Page 101 of the main agenda report -

Paragraph D.19 to read: -

“Where a vehicle is more than seven years of age on the date the licence was issued, it must also be presented for further inspection within a four-week period beginning on the date six months after the licence issue date. The age of the vehicle will be calculated based on the date of first registration shown on the vehicle registration certificate (VC5)”.

Paragraph D.20 to be removed.

“Where a vehicle is more than ten years of age on the date the licence was issued, it must also be presented for an inspection within a four-week period beginning on the date four months after the licence issue date and again within a four-week period beginning on the date eight months after the licence issue date. The age of the vehicle will be calculated based on the date of first registration shown on the vehicle registration certificate (VC5)”.

RESOLVED that subject to the amendments, as detailed in the preamble above, the draft revised Hackney Carriage and Private Hire

Licensing Policy, as detailed at Appendix 3 to the report, be approved with effect from 1st April 2023.

20/22

REVIEW OF REVISED SEX ESTABLISHMENT POLICY - CONSULTATION RESPONSES

Following on from the Licensing Committee meeting held on 11th July 2022, whereby Members approved for the purpose of consultation, the draft revised Sex Establishment Licensing Policy.

Members were asked to consider the responses received to the consultation for the purposes of adopting the revised Sex Establishment Licensing Policy, as detailed at Appendix 2 to the report.

The Local Government (Miscellaneous Provisions) Act 1982 (“the Act”) as amended, allowed local authorities to adopt provisions concerning the regulation of sex establishments. Under the Act there was no legal requirement for the Council to adopt a policy on how it proposed to licence sex establishments under the Act. However, it was considered best practice for a Council to adopt such a policy to encourage consistency and transparency in the way that its licensing functions were carried out.

Members were further informed that there were no such establishments in the District and that there had been none for the last 10/12 years, and no enquiries about opening such an establishment had ever been made. However, as detailed in the preamble above, it was considered good practice to adopt such a policy.

The Principal Officer (Licensing), WRS, drew Members attention to section 3.21 in the report, which detailed the list of those consulted with. The consultation exercise was carried out between 7th October to 7th December 2022. The consultation exercise was also hosted on the Council’s website and also publicised via social media channels.

The only response received was sent on behalf of The Director of Public Health for Worcestershire, which had requested that The Director of Public Health be added to the list of consultees and were notified of applications received, as detailed at Appendix 1 to the report.

Officers were in agreement that this was an appropriate amendment and therefore the revised policy was updated.

In response to questions from Members with regard to the “display of nudity” means -, as detailed on page 143 of the main agenda report; officers explained that the definition was taken directly from the Act.

RESOLVED that the revised, draft Sex Establishment Licensing Policy, as detailed at Appendix 2 to the report, be approved with effect from 1st April 2023.

Agenda Item 5

Licensing Committee
27th March 2023

21/22

LICENSING COMMITTEE WORK PROGRAMME 2022/2023

The Committee noted the Work Programme for 2022/2023. Officers briefly explained that the Work Programme would be updated for the new municipal year 2023/2024.

RESOLVED that the Licensing Committee Work Programme for 2022/2023, be noted.

The meeting closed at 6.35 p.m.

Chairman

This page is intentionally left blank

LICENSING ACT 2003

REVIEW OF STATEMENT OF LICENSING POLICY

Relevant Portfolio Holder	Councillor C B Taylor
Portfolio Holder Consulted	No
Relevant Head of Service	Simon Wilkes – Head of Worcestershire Regulatory Services
Wards Affected	All Wards
Ward Councillor Consulted	N/A
Non-Key Decision	

1. SUMMARY OF PROPOSALS

- 1.1 The Council’s current Statement of Licensing Policy under the Licensing Act 2003 took effect on the 1st April 2019.
- 1.2 In accordance with the provisions of the Act, the Council is required to determine and publish a Statement of Licensing Policy at least every five years. A new Statement of Principles must therefore be published by 1st April 2024.
- 1.3 The Licensing Committee are now asked to approve a draft revised Statement of Licensing Policy for the purpose of consultation with relevant parties.

2. RECOMMENDATIONS

- 2.1 **That the Licensing Committee RESOLVE to approve the revised draft Statement of Licensing Policy shown at Appendix 1 for the purpose of consultation with relevant parties.**

3. KEY ISSUES

Financial Implications

- 3.1 The costs of carrying out the consultation exercise will be met from existing budgets held by Worcestershire Regulatory Services.

Legal Implications

- 3.2 The Council has a statutory duty to have a Statement of Licensing Policy. It is important that the Statement of Licensing Policy provides an open and transparent policy regarding the Council's functions under the Licensing Act 2003. The Statement of Licensing Policy forms an essential part of the decision making process for licensing applications.
- 3.3 The Act also requires that the Statement of Licensing Policy should be kept under review and must be re-published at least every five years.
- 3.4 When revising its Statement of Licensing Policy, the Council is required to consult with:-
- the chief officer of police for the authority's area;
 - the fire and rescue authority for that area;
 - each local authority in England whose public health functions within the meaning of the National Health Service Act 2006 are exercisable in respect of an area any part of which is in the licensing authority's area;
 - such persons as the licensing authority considers to be representative of holders of premises licences issued by that authority;
 - such persons as the licensing authority considers to be representative of holders of club premises certificates issued by that authority;
 - such persons as the licensing authority considers to be representative of holders of personal licences issued by that authority; and
 - such other persons as the licensing authority considers to be representative of businesses and residents in its area.

Service / Operational Implications

- 3.5 Bromsgrove District Council's existing Statement of Licensing Policy was published with effect from 1st April 2019.
- 3.6 Section 5 of the Licensing Act 2003 requires licensing authorities to review Statements of Licensing Policy every five years, and therefore a reviewed Statement of Licensing Policy must be approved by Council and published before 1st April 2024.
- 3.7 A draft revised Statement of Licensing Policy can be seen at **Appendix 1**.

LICENSING COMMITTEE

7th August 2023

- 3.8 The draft revised policy is based on the same template as the existing policy, which all of the Statements of Licensing Policy across Worcestershire are now based upon.
- 3.9 The revised policy contains a number of amendments and additional sections that have been made to the document to reflect changes to legislation and guidance that have taken effect since the last Statement of Licensing Policy took effect on 1st April 2019.
- 3.10 The changes that have been made are shown by way of “track changes” within the document at **Appendix 1** and the changes are also summarised in a table shown at **Appendix 2**.
- 3.11 Consultation on the revised draft Statement of Principles will take place with all relevant parties including:
- The Chief Officer of West Mercia Police
 - Hereford and Worcester Fire and Rescue Services
 - Worcestershire County Council (Public Health)
 - All other responsible authorities identified under the Act
 - Relevant Trade Associations
 - Parish Councils
 - The general public
- 3.12 The consultation will also be made available for comment via the Council’s website, publicised via social media and also through the local press. Given the number of changes being proposed to the Council’s existing Statement of Licensing Policy, it is proposed that consultation take place over a period of around 8 weeks.
- 3.13 Any responses received during the consultation exercise will be reported back to the Licensing Committee later this year.

4. RISK MANAGEMENT

- 4.1 Failing to prepare and publish a new Statement of Licensing Policy before 1st April 2019 would leave the Council in a position where it was failing to comply with its duties as a licensing authority under the provisions of the Licensing Act 2003.

5. APPENDICES

Appendix 1 - Draft Revised Statement of Licensing Policy

Appendix 2 - Summary of proposed amendments

AUTHOR OF REPORT

Name: Dave Etheridge – Principal Officer (Licensing)
Worcestershire Regulatory Services

E Mail: dave.etheridge@worcsregservices.gov.uk

Tel: (01905) 822799



Bromsgrove
District Council

www.bromsgrove.gov.uk

DRAFT

STATEMENT OF LICENSING POLICY

~~2019 – 2024~~

2024 - 2029

Bromsgrove District Council

Parkside
Market Street
Bromsgrove
Worcestershire
B61 8DA

www.bromsgrove.gov.uk

Revised for the five year period from 1st April ~~2019~~ 2024

Table of Contents

1. Introduction	4
2. Licensing Objectives and Aims	5
3. Scope of the Licensing Authority's Functions	6
4. Purpose of the Statement of Licensing Policy	7
5. General Principles	8
6. Applications for Premises Licences and Club Premises Certificates	9
7. Representations	17
8. Licensing Hours	21
9. Conditions on Licences and Certificates	22
10. Martyn's Law	23
11. Reviews	24
12. Minor Variations	26
13. Cumulative Impact	27
14. Personal Licences – New Applications	28
15. Personal Licences – Suspension and Revocation	30
16. Immigration Act 2016 – Entitlement to Work	32

17. Enforcement and Complaints	33
18. Integrating Strategies and Partnership Working	34
19. Equal Opportunities Equalities	35
20. Administration, Exercise and Delegation of Functions	36
21. Relationship with Planning	37
22. Temporary Event Notices	38
23. Live Music Act 2012 and other Entertainment Licensing Deregulation	39
24. Sexual Entertainment Venues	41
25. Early Morning Alcohol Restriction Orders (EMROs)	42
26. Late Night Levy	43
27. Late Night Refreshment – Local Powers to Deregulate	44
28. Suspension of Licences and Certificates for Non-Payment of Annual Fees	45
Appendix A – Table of Delegated Functions	46

1.0 Introduction

- 1.1 Bromsgrove District Council (the Council) is a licensing authority under the Licensing Act 2003 and therefore has responsibilities for the administration and enforcement of the Act within the District.
- 1.2 These include, among other duties, the granting of premises licences, club premises certificates, temporary events notices and personal licences in the District in respect of the sale and/or supply of alcohol, the provision of regulated entertainment and late night refreshment.
- 1.3 Bromsgrove District is one of three Local Authorities in the north of Worcestershire and has a population of approximately ~~95,750~~ 99,200 and is mainly rural in character (90% of the area is classed as green belt), and has a total area of 83.9 square miles.
- 1.4 The principal town in the district is Bromsgrove with three other significant towns, namely Rubery, Wythall and Hagley, which are then surrounded by numerous villages, each with their own individual character.
- 1.5 Due to its central location in the UK, the district has excellent transport links by road and rail and has a thriving local economy in which premises licensed for sale of alcohol play a prominent part.
- 1.6 Bromsgrove District Council's overall vision is to ~~"work together to build a district where people are proud to live and work through community leadership and excellent services."~~ "enrich the lives and aspirations of all our residents, businesses and visitors through the provision of high-quality services, ensuring that all in need receive appropriate help and support." This policy statement accords with our vision and the Council's strategic purposes as described in the Council Plan.

2.0 Licensing Objectives and Aims

2.1 The Licensing Act 2003 provides a clear focus on the promotion of four key licensing objectives. As a licensing authority Bromsgrove District Council will always seek to carry out its licensing functions with a view to promoting these four objectives.

The licensing objectives are:

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

2.2 Each objective is of equal importance. There are no other statutory licensing objectives, so the promotion of the four objectives is the paramount consideration at all times.

2.3 However, the licensing authority recognises that the legislation also supports a number of other key aims and purposes. It is recognised that these are also vitally important and should be aims for everyone involved in licensing work.

They include:

- Protecting the public and local residents from crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises;
- Giving the police and licensing authorities the powers they need to effectively manage and police the night-time economy and take action against those premises that are causing problems;
- Recognising the important role which pubs and other licensed premises play in our local communities by minimising the regulatory burden on business, encouraging innovation and supporting responsible premises;
- Providing a regulatory framework for alcohol which reflects the needs of local communities and empowers local authorities to make and enforce decisions about the most appropriate licensing strategies for their local area; and
- Encouraging greater community involvement in licensing decisions and giving local residents the opportunity to have their say regarding licensing decisions that may impact upon them.

3.0 Scope of the Licensing Authority's Functions

3.1 As a licensing authority the Council is responsible for the authorisation of 'licensable activities'. The licensable activities that are required to be authorised under the Act are as follows:

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

3.2 The licensing authority is responsible for four different types of authorisation or permission, as follows:

- Premises licence – to use premises for licensable activities.
- Club premises certificate – to allow a qualifying club to use premises for qualifying club activities.
- Temporary event notice – to carry out licensable activities on a temporary basis for an event.
- Personal licence – to allow a person to sell or authorise the sale of alcohol from premises in respect of which there is a premises licence.

4.0 Purpose of the Statement of Licensing Policy

- 4.1 This statement of policy has been prepared and updated in accordance with the latest amended provisions of the 2003 Act and the latest revised guidance issued under section 182 of the Act. The statement sets out the principles the licensing authority will generally apply to promote the licensing objectives when making decisions on applications made under the Act.
- 4.2 The main purpose of this policy is to provide clarity to applicants, responsible authorities and other persons on how the licensing authority will determine applications for the supply of alcohol, the provision of regulated entertainment and the provision of late night refreshment and also to provide a basis for all licensing decisions taken by the licensing authority. It will also inform elected Members of the parameters within which licensing decisions can be made.
- 4.3 This policy sets out the process the licensing authority will adopt in dealing with licence applications with particular regard to the various types of premises and permissions and the various conditions that can be attached to licences if relevant representations are made. It also highlights the Council's undertaking to avoid duplication with other statutory provisions and its commitment to work in partnership with other enforcement agencies.
- 4.4 When carrying out its licensing functions the Council will always have regard to this statement of policy and the Guidance issued by the Secretary of State under section 182 of the Licensing Act 2003.
- 4.5 The licensing authority may depart from this policy or the Guidance if the individual circumstances of any case merit such a decision in the interests of promoting the four licensing objectives. Whenever the licensing authority takes a decision to depart from this policy or the Guidance, clear reasons will be given.
- 4.6 The Licensing Authority has a duty under Section 17 of the Crime and Disorder Act 1998 to do all it can to prevent Crime and Disorder in the District.
- 4.7 The statement of policy took effect on 1st April ~~2019~~ 2024 and will be kept under review. A revised statement of policy will be published before 1st April ~~2024~~ 2029.

5.0 General Principles

- 5.1 Every application received by the licensing authority will be considered on its own individual merits.
- 5.2 If an application for a premises licence or club premises certificate has been made lawfully and there have been no representations from responsible authorities or other persons, the licensing authority must grant the application, subject only to conditions that are consistent with the operating schedule and any relevant mandatory conditions.
- 5.3 The licensing authority will aim to carry out its licensing functions in a way that promotes tourism, increases leisure and culture provision and encourages economic development within the District.
- 5.4 However the licensing authority will also always try and balance the needs of the wider community, local community and commercial premises, against the needs of those whose quality of life may be adversely affected by the carrying on of licensable activities, particularly within residential areas.
- 5.5 In particular the licensing authority will attempt to control any potential negative impacts from the carrying on of licensable activities, such as increased crime and disorder, anti-social behaviour, noise, nuisance, risks to public safety and harm to children.
- 5.6 The licensing authority's aim is to facilitate well run and managed premises with licence holders displaying sensitivity to the impact of the premises on local residents.
- 5.7 The licensing authority acknowledges that licensing law is not the primary mechanism for the general control of anti-social behaviour by individuals once they are beyond the direct control of the individual, club or business holding the authorisation concerned. As a matter of policy, however, the licensing authority expects every holder of an authorisation to take all reasonable steps to minimise the impact of their activities and anti-social behaviour by their patrons within the immediate surroundings of their premises.
- 5.8 "Need" concerns the commercial demand for another pub, restaurant or hotel and is a matter for the planning authority and for the market. Need is not a matter that the licensing authority can consider in carrying out its licensing functions.

6.0 Applications for Premises Licences and Club Premises Certificates

6.1 The relevant application forms and associated documents can be obtained from the licensing authority's website or from licensing officers during normal office hours.

6.2 Along with the application form, applicants must also submit an operating schedule and plans of the premises to which the application relates. The licensing authority would like any plans submitted to be drawn to a recognised scale, i.e. 1:50 or 1:100, or 1:150, or 1:200. The plans should also be clear and legible in all material respects, i.e. they must be accessible and provides sufficient detail for the licensing authority to be able to determine the application, including the relative size of any features relevant to the application. This should include details of any passive or active fire safety measures including location of smoke detectors, call points, other fire alarm equipment, fire extinguishers, emergency lights and fire exits. The licensing authority does not require plans to be professionally drawn as long as they clearly show all the prescribed information.

6.3 Through their operating schedule, applicants will be expected to demonstrate the positive steps that they will take to promote the four licensing objectives.

Operating Schedules

6.4 The operating schedule is a key document and, if prepared comprehensively, will form the basis on which premises can be licensed without the need for additional extensive conditions. All applicants for the grant or variation of a premises licence or club premises certificate are required to provide an operating schedule as part of their application. The licensing authority expects an operating schedule to indicate the positive steps that the applicant proposes to take to promote the licensing objectives.

6.5 In completing an operating schedule, applicants are expected to have regard to this statement of licensing policy and to demonstrate suitable knowledge of their local area when describing the steps that they propose to take in order to promote the licensing objectives.

6.6 The licensing authority will provide general advice on the drafting of operating schedules and applicants are strongly recommended to discuss their operating schedules with the licensing authority and other responsible authorities prior to submitting them.

6.7 The complexity and detail required in the operating schedule will depend upon the nature and use of the premises concerned. For premises such as a public house where regulated entertainment is not provided, only a relatively simple document may be required. However for an operating schedule accompanying an application for a major entertainment venue or event, it will be expected that issues such as public safety and the prevention of crime and disorder will be addressed in detail.

6.8 The operating schedule must be set out on the prescribed form and include a statement of the following:-

- Full details of the licensable activities to be carried on at and the intended use of the premises;

- The times during which the licensable activities will take place;
- Any other times when the premises are to be open to the public;
- Where the licence is only required for a limited period, that period;
- Where the licensable activities include the supply of alcohol, the name and address of the individual to be specified as the designated premises supervisor;
- Whether alcohol will be supplied for consumption on or off the premises or both;
- The steps which the applicant proposes to promote the licensing objectives.

6.9 For some premises, it is possible that no measures will be appropriate to promote one or more of the licensing objectives, for example, because they are adequately covered by other existing legislation. It is however important that all operating schedules should be precise and clear about the measures that are proposed to promote each of the licensing objectives.

Guidance on Completing an Operating Schedule

6.10 The following guidance is intended to assist applicants by setting out considerations that they should have in mind when drawing up their operating schedules. The guidance is designed to alert applicants to any matters that responsible authorities are likely to consider when deciding whether to make representations on an application or whether to call for a review.

(a) Prevention of Crime and Disorder

6.11 Licensed premises, especially those offering late night/early morning entertainment, alcohol and refreshment for large numbers of people, can sometimes be a source of crime and disorder problems.

6.12 The licensing authority will expect operating schedules, where appropriate, to satisfactorily address these issues from the design of the premises through to the daily operation of the business.

6.13 The licensing authority will normally look to the police as the main source of advice on crime and disorder and therefore applicants are recommended to seek advice from West Mercia Police in relation to what steps they can take to promote the prevention of crime and disorder.

6.14 In addition when planning and preparing operating schedules applicants are advised to take into account local planning and transport policies, tourism and cultural policies, as well as crime and disorder reduction strategies as appropriate.

6.15 In addition to the requirements for the licensing authority to promote the licensing objectives, it also has a duty under Section 17 of the Crime and Disorder Act 1988 to do all it can to prevent crime and disorder in the District.

- 6.16 When considering all licence applications the licensing authority will take into account the measures proposed to deal with the potential for, and the prevention of, crime and disorder having regard to all circumstances of the application. Applicants should include information on these issues within the operating schedule for the premises.
- 6.17 In particular, the licensing authority will consider the actions, which are appropriate for the premises that the applicant has taken, or is proposing to take with regard to the following:
- i) the ability of the person in charge of the premises to monitor the premises at all times that it is open; although this does not mean that the designated premises supervisor has to be present at all times.
 - ii) the training given to staff regarding crime prevention measures for the premises;
 - iii) physical security features installed in the premises (e.g. position of cash registers, CCTV, toughened drinking glasses etc.);
 - iv) management attitudes (e.g. responsible pricing promotions, willingness to stagger trading, willingness to limit sales of bottles or canned alcohol for immediate consumption and preventing the sale of alcohol to people who are drunk);
 - v) any other measure as may be appropriate (e.g. participation in local Pubwatch and/or Shopwatch schemes or 'Behave or be Banned' schemes (BOBS), restrictions on 'happy hours', music wind-down policies);
 - vi) the measures employed to prevent the consumption or supply of illegal drugs, including any search procedures and entry policies;
 - vii) where the premises are subject to age restrictions, the procedures in place to conduct age verification checks;
 - viii) the likelihood of any violence, public order or policing problems if the licence is granted.
 - ix) the employment of door safety staff licensed by the Security Industries Association (SIA)
- 6.18 Applicants for late night entertainment and alcohol premises should show that they can comply with the Home Office Guidance 'Safer Clubbing' in relation to the control of illegal drugs on their premises. They should agree a protocol with the licensing authority and West Mercia Police on the handling of illegal drugs found on their premises.
- 6.19 The licensing authority in setting its policies and practices considering applications for licensed premises will have due regard to the current Crime and Disorder Strategy for the Area. Regard will be had to the relatively low crime levels in the area and any disproportionate effects likely to be perceived by residents and members of the public due to nuisance, anti-social behaviour and disorder arising or likely to arise as the result of granting a licence.
- 6.20 The licensing authority expects those that operate licensed premises to do all that they can to ensure women and girls to feel safe on a night out. Therefore, we would encourage licence holders to implement schemes such as "Ask for Angela" and to promote such schemes to both staff and customers. We would also encourage licence holders to ensure staff receive awareness training in relation to drink-spiking and that other measures to tackle drink-spiking are taken where appropriate.

- 6.21 Whilst knife crime in licensed premises is thankfully very rare, the consequences of a stab wound can be potentially catastrophic, even fatal. A bleed control kit contains equipment such as tourniquets, bandages and gels which could prevent people from bleeding to death while waiting for paramedics to arrive. The licensing authority would strongly encourage every licence holder to acquire a bleed control kit that is kept on their premises and that staff are provided training on how to use the kit.
- 6.22 The licensing authority would also encourage licence holders to conduct a risk assessment to consider the need for the provision and use of hand-held metal detectors, sometimes referred to as “knife wands” to deter and prevent people from carrying knives and other weapons into their premises.

(b) Public Safety

- 6.23 The Licensing Act 2003 covers a wide range of premises that require licensing including cinemas, nightclubs, public houses, village and community halls, schools, cafes, restaurants and fast food outlets/takeaways. Each of these types of premises present a mixture of risks, some of which may be common to most premises whilst others will be unique to specific operations. Risk assessments must reflect the local nature of risks applying to each event and or venue. The licensing authority will expect operating schedules, where appropriate, to satisfactorily address these public safety issues. Applicants are encouraged to seek advice from licensing authority officers and the Fire Safety Section of Hereford and Worcester Fire and Rescue Service.
- 6.24 Where an inspection is required for premises the licensing authority will try where possible to reduce inconvenience, confusion and inconsistency by co-ordinating inspections and visits with the fire authority, police, building control and environmental health officers, as appropriate.
- 6.25 The identification of a safe capacity limit for premises ensures that persons can be evacuated safely from premises in cases of emergency and may be one means of promoting the Act’s public safety objective. The design and layout of premises are important factors when determining a safe occupant capacity. Other factors that may influence safe occupancy limits and may need to be considered when assessing the appropriate capacity for premises or events include:
- the nature of the premises or event
 - the nature of the licensable activities being provided
 - the provision or removal of such items as temporary structures, such as a stage, or furniture
 - the number of staff available to supervise customers both ordinarily and in the event of an emergency
 - the age spectrum of the customers
 - the attendance by customers with disabilities, or whose first language is not English
 - availability of suitable and sufficient sanitary facilities
 - nature and provision of facilities for ventilation
- 6.26 The licensing authority encourages applicants for premises licences to seek advice regarding safe occupancy levels from the Fire Safety Section of Hereford and Worcester Fire and Rescue Service. Where the licensing authority’s discretion has been engaged following receipt of a relevant representation and it believes it

is appropriate for reasons of public safety to impose a condition identifying an occupancy limit, the licensing authority will not normally seek to impose an occupancy limit different to that identified by the Fire Authority if this differs from the figure set in the applicant's Fire Risk Assessment.

(c) Prevention of Public Nuisance

- 6.27 Licensed premises, especially those operating late at night and in the early hours of the morning, can sometimes cause a range of nuisances impacting on people living, working or sleeping in the area surrounding the premises.
- 6.28 The licensing authority is keen to protect the amenity of residents and businesses within the area surrounding a licensed premise that are affected by the carrying on of licensable activities at that premise.
- 6.29 In addition, the licensing authority is aware of the importance of the licensed trade to the local economy and its culture and leisure aspirations. The licensing authority will, therefore, try and work together with all affected parties, statutory agencies and licensed businesses to ensure a mutual co-existence.
- 6.30 When considering all licence applications, the licensing authority will take into account the adequacy of measures proposed to deal with the potential for nuisance and/or anti-social behaviour having regard to all the circumstances of the application.
- 6.31 In particular the licensing authority will consider the action that is appropriate for the premises that the applicant has taken or is proposing with regard to the following:
- i) prevention of noise and vibration escaping from the premises, including music, noise from ventilation equipment, and human voices. Such measures may include the installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices;
 - ii) The structural suitability of the premises to provide the licensable activities sought including for example matters such as whether the premises benefits from double glazing and lobbied doors.
 - iii) preventing disturbance by customers arriving at or leaving the premises, particularly between 11.00 pm and 7.00 am;
 - iv) preventing queuing by pedestrians or vehicular traffic, or if some queuing is inevitable then ensuring the queues are diverted away from neighbouring premises, or are otherwise managed, to prevent disturbance or obstruction;
 - v) ensuring staff leave the premises quietly;
 - vi) arrangements for parking by patrons and staff, and the effect of the parking on local residents;
 - vii) provision for public transport (including taxis and private hire vehicles) for patrons;
 - viii) whether licensed taxis or private hire vehicles are likely to disturb local residents;
 - ix) whether routes to and from the premises on foot, by car or other services pass residential premises;
 - x) the installation of any special measures where licensed premises are, or are proposed to be, located near sensitive premises such as nursing homes, hospitals, hospices or places of worship;

- xi) the use of gardens and other open-air areas;
- xii) the location of external lighting, including security lighting that is installed;
- xiii) other appropriate measures to prevent nuisance, such as the employment of registered door supervisors or the use of CCTV;
- xiv) preventing the consumption or supply of illegal drugs, including search procedures;
- xv) whether the premises would lead to increased refuse storage or disposal problems, or additional litter (including fly posters and illegal placards) in the vicinity of the premises;
- xvi) the history of previous nuisance complaints proved *to have taken place* at the premises, particularly where statutory notices have been served on the present licensees.

6.32 The Music Venue Trust is a UK Registered Charity which acts to protect, secure and improve UK Grassroots Music Venues for the benefit of venues, communities and upcoming artists. The Music Venue Trust can offer advice to venues that offer musical entertainment and their website is <http://musicvenuetrust.com/>

6.33 The licensing authority is keen to stress, however, that as well as the licensing function there are other mechanisms for addressing issues of unruly behaviour that occur away from licensed premises. These include:

- planning controls;
- powers to designate parts of the District as places where alcohol may not be consumed publicly and the confiscation of alcohol in these areas;
- police powers to close some premises for up to 24 hours in extreme cases of disorder or excessive noise;
- police enforcement of the law with regard to disorder and anti-social behaviour;
- the power of responsible authorities or interested parties to request a review of the licence;
- enforcement action against those selling alcohol to people who are already drunk.

(d) Protection of Children from Harm

6.34 The licensing authority recognises that there are a range of activities for which licences may be sought meaning that children can be expected to visit many of these premises, often on their own, for food and /or other entertainment.

6.35 The Licensing Act 2003 does not prevent children having free access to any licensed premises. The licensing authority recognises that limitations may have to be considered where it is deemed necessary to protect children from harm. The following are examples of premises that may raise concerns:

- where there have been convictions for serving alcohol to minors, or with a reputation for under-age drinking;
- with a known association with drug taking or dealing;
- where there is a strong element of gambling on the premises;
- where entertainment of an adult or sexual nature is provided;

- where there is a presumption that children under 18 should not be allowed (e.g. to nightclubs, except when under 18 discos are being held).
- 6.36 The licensing authority expects personal licence holders to *seek* to ensure alcohol is not served to children under the age of 18, except in limited conditions allowed for by law. The licensing authority recommends that the only way to verify a person's proof of age is with reference to the following:-
- passport
 - a photocard driving licence issued in a European Union country;
 - a Proof of Age Standards Scheme card;
 - a Citizen Card, supported by the Home Office (details from www.citizencard.net);
 - an official identity card issued by HM Forces or by a European Union country bearing the photograph and date of birth of the bearer.
- 6.37 In recent years there has been an increase in the number of licensed premises offering alcohol delivery services. The licensing authority expects those licence holders who provide such a service to have in place robust age-verification procedures at both the point of sale and the point of delivery to ensure that alcohol is not purchased by, or delivered to, children. These procedures should include the provision of training for delivery staff on requesting and verifying acceptable proof of age documentation at the point of delivery.
- 6.38 When deciding whether to limit the access of children to premises the licensing authority will judge each application on its own merits and a range of conditions may be imposed depending on the circumstances. To assist with this the licensing authority will consult with West Mercia Police and the Worcestershire Safeguarding Children Board if practical or other agencies as the licensing authority consider appropriate.
- 6.39 Where concerns have been identified in respect of individual premises and it is felt that access to the premises by children should be restricted the options available include:
- limitations on the hours when children may be present;
 - age limitations for persons under 18;
 - limitations or exclusion when certain activities are taking place;
 - full exclusion of person under 18 when certain licensable activities are taking place;
 - limitation of access to certain parts of the premises for under 18s;
 - a requirement for an accompanying adult to be present.
- 6.40 However these options are not exhaustive and other options may be considered as the Council considers appropriate. The licensing authority also commends the adoption of the Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks by prospective licensees where the licence applies to the sale of alcohol.
- 6.41 The Licensing Act details a number of offences that are designed to protect children in licensed premises and the licensing authority will work closely with the Police and Trading Standards Services to ensure appropriate and effective enforcement is undertaken, especially in relation to the sale and supply of alcohol to children.

- 6.42 The Licensing Authority will not impose any conditions that specifically require the access of children to the premises.
- 6.43 Where no conditions or restrictions are imposed, the issue of access for children remains a matter of discretion for individual licensees or clubs subject to any relevant provisions in law.
- 6.44 Films cover a vast range of subjects, some of which deal with adult themes and/or contain, for example scenes of horror or violence that may be considered unsuitable for children with certain age ranges. Where a premise is used for film exhibitions, the licensing authority will normally impose conditions restricting access only to persons who meet the required age limit in line with any certificate granted by the British Board of Film Classification or the licensing authority itself.
- 6.45 The Licensing Authority will expect licensees to ensure that age restrictions for film exhibitions are properly complied with.
- 6.46 In considering applications, the licensing authority will take into account any evidence that age restrictions for film exhibitions are not being properly observed.
- 6.47 Many children attend or take part in an entertainment arranged especially for them, for example children's shows, dance and drama or school productions. Specific additional arrangements may need to be operated to ensure their safety. For example:
- an adult member of staff to be stationed at each and every exit from any level and to the outside and subject to there being a minimum of one member of staff to fifty children or part thereof.
 - No child is to be permitted in the front row of any balcony unless they are supervised by an adult.

7.0 Representations

- 7.1 When an application is made for the grant, variation or review of a premises licence or club premises certificate, representations about the application can be made by responsible authorities or other persons.
- 7.2 Representations must be made to the licensing authority within the statutory period of 28 days beginning on the day after the relevant application is received by the licensing authority. Representations must be made in writing
- 7.3 Representations can be made either be in support of an application or to express objections to an application being granted. However the licensing authority can only accept “relevant representations.” A representation is “relevant” if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives.
- 7.4 An example of a representation that would not be relevant would be a representation from a local businessperson about the commercial damage that competition from a new licensed premise would do to their own business. On the other hand, a representation by a businessperson that nuisance caused by new premises would deter customers from entering the local area, and the steps proposed by the applicant to prevent that nuisance were inadequate, would be a relevant representation.
- 7.5 In other words, representations should relate to the impact of licensable activities carried on from premises on the licensing objectives.
- 7.6 For representations in relation to variations to be relevant, they should be confined to the subject matter of the variation.
- 7.7 Whilst the licensing authority expects representations to be evidence based, there is no requirement for a responsible authority or other person to produce a recorded history of problems at premises to support their representations, and it is recognised that in fact this would not be possible for new premises.

(a) Representations from Responsible Authorities

- 7.8 Responsible authorities are a group of public bodies that must be fully notified of applications and that are entitled to make representations to the licensing authority in relation to the application for the grant, variation or review of a premises licence or club premises certificate. A full list of contact details for the responsible authorities is provided on the licensing authority’s website.
- 7.9 Whilst all responsible authorities may make representations regarding applications for licences and club premises certificates and full variation applications, it is the responsibility of each responsible authority to determine when they have appropriate grounds to do so.
- 7.10 The licensing authority recognises that every responsible authority can make representations relating to any of the four licensing objectives. However the licensing authority would normally expect representations about the promotion of individual licensing objectives to come from the most relevant responsible authority with expertise in that particular area. For example the licensing authority would expect representations about the prevention of crime and disorder to come

primarily from the police and representations about the prevention of public nuisance to come primarily from environmental health.

- 7.11 The licensing authority recognises that the police should be its main source of advice on matters relating to the promotion of the crime and disorder licensing objective, but also may be able to make relevant representations with regards to the other licensing objectives if they have evidence to support such representations.
- 7.12 The licensing authority will accept all reasonable and proportionate representations made by the police unless it has evidence that do so would not be appropriate for the promotion of the licensing objectives. However the licensing authority will still expect any police representations to be evidence based and able to withstand scrutiny at a hearing.
- 7.13 The licensing authority recognises Worcestershire Safeguarding Children Board as being the body that is competent to advise it on the licensing objective of the protection of children from harm.
- 7.14 The licensing authority recognises that, although public health is not a licensing objective, health bodies may hold information which other responsible authorities do not, but which would assist the licensing authority in exercising its functions.
- 7.15 For example, drunkenness can lead to accidents and injuries from violence, resulting in attendances at emergency departments and the use of ambulance services. Some of these incidents will be reported to the police, but many will not. Such information might be relevant to the public safety objective and in some cases the crime and disorder objective.
- 7.16 As a result of the Police Reform and Social Responsibility Act 2011, the licensing authority is also now a responsible authority and can therefore make representations if it deems it appropriate to do so.
- 7.17 However the licensing authority will not normally act as a responsible authority on behalf of other parties (for example, local residents, local councillors or community groups) although there are occasions where the authority may decide to do so.
- 7.18 Such parties can make relevant representations to the licensing authority in their own right, and the licensing authority expects them to make representations themselves where they are reasonably able to do so.
- 7.19 The licensing authority also expects that other responsible authorities should intervene where the basis for the intervention falls within the remit of that other responsible authority. Each responsible authority has equal standing under the 2003 Act and may act independently without waiting for representations from any other responsible authority.
- 7.20 In cases where a licensing authority is also acting as responsible authority in relation to the same process, the licensing authority will seek to achieve a separation of responsibilities within the authority to ensure procedural fairness and eliminate conflicts of interest. This will be achieved by allocating the different responsibilities to different licensing officers or other officers within the local authority to ensure a proper separation of responsibilities.

- 7.21 The Director of Public Health has been prescribed as a responsible authority since April 2013.
- 7.22 There is not a specific licensing objective related directly to health within the current legislation. When making a representation, the Director of Public Health is most likely to relate such representations to the objectives on public safety and protecting children from harm. This is likely to include the prevention of accidents, injuries and other immediate harms that can result from alcohol consumption, such as unconsciousness or alcohol poisoning.
- 7.23 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.

(b) Representations from Other Persons

- 7.24 Relevant representations about applications can also be made by any other person, regardless of their geographical position in relation to the relevant premises. However the licensing authority will usually give greater weight to representations that are made by people who can demonstrate that they would be directly affected by the carrying on of licensable activities at the premises concerned.
- 7.25 The licensing authority will also reject as invalid, any representations from other persons that are deemed to be frivolous or vexatious. A representation might be considered to be vexatious if it appears to be intended to cause aggravation or annoyance, whether to a competitor or other person, without reasonable cause. Frivolous representations are essentially categorised by a lack of seriousness. Frivolous representations would concern issues which, at most, are minor and in relation to which no remedial steps would be warranted or proportionate.
- 7.26 Decisions as to the validity of representations will normally be made by officers of the licensing authority. In borderline cases, the benefit of the doubt about any aspect of a representation will be given to the person making that representation. The subsequent hearing would then provide an opportunity for the person or body making the representation to amplify and clarify it.
- 7.27 Any person who is aggrieved by a rejection of their representations on either of these grounds may lodge a complaint through the authority's corporate complaints procedure. A person may also challenge such a decision by way of judicial review.
- 7.28 Where a notice of a hearing is given to an applicant, the licensing authority is required to provide the applicant with copies of the relevant representations that have been made.
- 7.29 The licensing authority will normally provide copies of the relevant representations to the applicant in full and without redaction. However in exceptional circumstances, where a person satisfies the licensing authority that they have genuine reasons to fear intimidation or violence if their personal details, such as name and address, are divulged to the applicant, the copies of the representations may be redacted accordingly.

- 7.30 In such circumstances the licensing authority will still provide some details to the applicant (such as street name or general location within a street), so that the applicant can fully prepare their response to any particular representation.
- 7.31 Alternatively persons may wish to contact the relevant responsible authority or their local Councillor with details of how they consider that the licensing objectives are being undermined so that the responsible authority can make representations on their behalf if appropriate and justified.
- 7.32 Further guidance on making representations is provided on the licensing authority's website.

DRAFT

8.0 Licensing Hours

- 8.1 The licensing authority recognises the variety of premises for which licences will be sought and that fixed and artificially early closing times in certain areas can lead to peaks of disorder and disturbance on the streets when people tend to leave licensed premises at the same time.
- 8.2 When determining what licensing hours are appropriate for a premises the licensing authority will always consider each application on its own merits and will not impose predetermined licensed opening hours, without giving individual consideration to the merits of each application. The licensing authority will take into account requests for licensable hours in the light of:
- environmental quality;
 - residential amenity;
 - the character or function of a particular area; and
 - the nature of the proposed activities to be provided at the premises.
- 8.3 Consideration may be given to imposing stricter restrictions on licensing hours when it is appropriate to control noise and disturbance from particular licensed premises, such as those in mainly residential areas.
- 8.4 In accordance with established practice, the licensing authority encourages applicants, to include measures of good practice in their operating schedules such as a policy of prohibiting new persons from being admitted to their premises after 11.00 pm in order to reduce the risk of disorder and disturbance to members of the public late at night, where this is appropriate to the premises concerned.
- 8.5 Generally the licensing authority will consider licensing shops, stores and supermarkets to sell alcohol for consumption off the premises during the normal hours they intend to open for shopping purposes. There may, however, be instances where it is considered that there are good reasons for restricting those hours, for example, where police representations are made in respect of isolated shops known to be the focus of disorder and public nuisance.

9.0 Conditions on Licences and Certificates

9.1 Conditions on a premises licence or club premises certificate are important in setting the parameters within which premises can lawfully operate. The licensing authority will ensure any conditions that are imposed on a premises licence or club premises certificate:

- Are appropriate for the promotion of the licensing objectives;
- Are precise and enforceable;
- Are unambiguous and clear in what they intend to achieve;
- Do not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation;
- Are tailored to the individual type, location and characteristics of the premises and events concerned;
- Are not be standardised and may be unlawful when it cannot be demonstrated that they are appropriate for the promotion of the licensing objectives in an individual case;
- Do not replicate offences set out in the 2003 Act or other legislation;
- Are proportionate, justifiable and be capable of being met, (for example, whilst beer glasses may be available in toughened glass, wine glasses may not);
- Do not seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff, but may impact on the behaviour of customers in the immediate vicinity of the premises or as they enter or leave; and
- Are written in a prescriptive format.

9.2 Although the licensing authority may use standardised forms of wording in conditions to cover commonly arising situations and circumstances, “blanket conditions” will not be applied to licences and specific conditions may be drawn up and applied to meet local need and circumstances.

10.0 Martyn's Law

- 10.1 The Government has committed to introducing legislation with a view to ensuring stronger protections against terrorism in public places. This legislation is often referred to as "Martyn's Law" in tribute to Martyn Hett who was killed alongside 21 others in the Manchester Arena terrorist attack in 2017.
- 10.2 Martyn's Law will aim to keep people safe, enhance our national security and reduce the risk to the public from terrorism by the protection of public venues.
- 10.3 It will place a requirement on those responsible for certain locations to consider the threat from terrorism and implement appropriate and proportionate mitigation measures.
- 10.4 The legislation will ensure parties are prepared, ready to respond and know what to do in the event of an attack. Better protection will be delivered through enhanced security systems, staff training, and clearer processes.
- 10.5 Whilst this legislation is still under development and not yet in force, the licensing authority would encourage all premises to undertake basic, low-cost activities to improve their preparedness, including terrorism protection training for staff and evaluating the best procedures to put in place to minimise the impact of any attack.
- 10.6 Further information and guidance is provided at www.protectuk.police.uk

11.0 Reviews

- 11.1 At any stage, following the grant of a premises licence or club premises certificate, a responsible authority or any other person, may apply to the licensing authority for a review of the licence or certificate because of a problem arising at the premises in connection with any of the four licensing objectives.
- 11.2 In every case the application for review must relate to particular premises for which a licence or certificate is in force and must be relevant to the promotion of the licensing objectives.
- 11.3 Any responsible authority under the 2003 Act may apply for a review of a premises licence or club premises certificate. Therefore, the relevant licensing authority may apply for a review if it is concerned about licensed activities at premises and wants to intervene early without waiting for representations from other persons.
- 11.4 However, the licensing authority will not normally act as a responsible authority in applying for reviews on behalf of other persons, such as local residents or community groups. These individuals or groups are entitled to apply for a review for a licence or certificate in their own right if they have grounds to do so.
- 11.5 The licensing authority also expects other 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 concern about crime and disorder. Likewise, where there are concerns about noise nuisance, it is expected that environmental health will make the application for review.
- 11.6 Where responsible authorities have concerns about problems identified at premises, the licensing authority considers it good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns.
- 11.7 A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. The licensing authority believes that co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this co-operation.
- 11.8 If the application for a review has been made by a person other than a responsible authority (for example, a local resident, residents' association, local business or trade association), before taking action the licensing authority will first consider whether the complaint being made is relevant, frivolous, vexatious or repetitive.
- 11.9 A review application might be considered to be vexatious if it appears to be intended to cause aggravation or annoyance, whether to a competitor or other person, without reasonable cause. Frivolous applications are essentially categorised by a lack of seriousness. Frivolous applications would concern issues which, at most, are minor and in relation to which no remedial steps would be warranted or proportionate.

- 11.10 The licensing authority considers a repetitious ground for review to be one that is identical or substantially similar to:
- a ground for review specified in an earlier application for review made in relation to the same premises licence or certificate which has already been determined; or
 - representations considered by the licensing authority when the premises licence or certificate was granted; or
 - representations which would have been made when the application for the premises licence was first made and which were excluded then by reason of the prior issue of a provisional statement; and, in addition to the above grounds, a reasonable interval has not elapsed since that earlier review or grant.
- 11.11 The licensing authorities is aware of the need to prevent attempts to review licences merely as a further means of challenging the grant of the licence following the failure of representations to persuade the licensing authority on an earlier occasion.
- 11.12 The licensing authority believes that more than one review originating from a person other than a responsible authority in relation to a particular premises should not normally be permitted within a 12 month period on similar grounds save in compelling circumstances or where it arises following a closure order.
- 11.13 The exclusion of a complaint on the grounds that it is repetitious does not apply to responsible authorities which may make more than one application for a review of a licence or certificate within a 12 month period.
- 11.14 Guidance on applying for a review of a licence or certificate, along with the necessary forms, can be found on the licensing authority's website.

12.0 Minor Variations

- 12.1 Variations to premises licences or club premises certificates that could not impact adversely on the licensing objectives are subject to a simplified 'minor variations' process. Under this process, the applicant is not required to advertise the variation in a newspaper or circular, or copy it to responsible authorities. However, they must display it on a white notice (to distinguish it from the blue notice used for full variations and new applications).
- 12.2 Minor variations will generally fall into four categories: minor changes to the structure or layout of premises; small adjustments to licensing hours; the removal of out of date, irrelevant or unenforceable conditions or addition of volunteered conditions; and the addition of certain licensable activities. In all cases the overall test is whether the proposed variation could impact adversely on any of the four licensing objectives.
- 12.3 On receipt of an application for a minor variation, the licensing authority will consider whether the variation could impact adversely on the licensing objectives. Decisions on minor variations will normally be delegated to licensing officers who will look at each application on its own individual merits.
- 12.4 In considering the application, the officer will consult relevant responsible authorities if there is any doubt about the impact of the variation on the licensing objectives and they need specialist advice, and take their views into account in reaching a decision.
- 12.5 The officer will also carefully consider any relevant representations received from other persons that are received within a period of ten working days from the 'initial day', that is to say, the day after the application is received by the licensing authority.
- 12.6 The officer will then determine the application and will contact the applicant within 15 working days, beginning on the first working day after the authority received the application, with effect either that the minor variation is granted or the application is refused.

13.0 Cumulative Impact

- 13.1 Cumulative impact is the potential impact on the promotion of the licensing objectives of a number of licensed premises concentrated in one area.
- 13.2 In some areas where the number, type or density of licensed premises, such as those selling alcohol or providing late night refreshment, is high or exceptional, serious problems of nuisance and disorder may arise outside or some distance from those premises. Such problems generally occur as a result of large numbers of drinkers being concentrated in an area, for example when leaving premises at peak times or when queuing at fast food outlets or for public transport.
- 13.3 Queuing in itself may lead to conflict, disorder and anti-social behaviour. Moreover, large concentrations of people may also attract criminal activities such as drug dealing, pick pocketing and street robbery. Local services such as public transport, public lavatory provision and street cleaning may not be able to meet the demand posed by such concentrations of drinkers leading to issues such as street fouling, littering, traffic and public nuisance caused by concentrations of people who cannot be effectively dispersed quickly.
- 13.4 Variable licensing hours may facilitate a more gradual dispersal of customers from premises. However, in some cases, the impact on surrounding areas of the behaviour of the customers of all premises taken together will be greater than the impact of customers of individual premises. These conditions are more likely to arise in town and city centres, but may also arise in other urban centres and the suburbs, for example on smaller high streets with high concentrations of licensed premises.
- 13.5 With effect from 6 April 2018, the Policing and Crime Act 2017 introduced the concept of cumulative impact assessments into the Licensing Act 2003 by inserting into the Act a new section 5A.
- 13.6 A cumulative impact assessment (CIA) may be published by a licensing authority to help it to limit the number or types of licence applications granted in areas where there is evidence to show that the number or density of licensed premises in the area is having a cumulative impact and leading to problems which are undermining the licensing objectives. CIAs relate to applications for new premises licences and club premises certificates and applications to vary existing premises licences and club premises certificates in a specified area.
- 13.7 At the current time the licensing authority has not published a CIA as there is not currently an evidential basis on which to base such a decision.
- 13.8 If the licensing authority were to consider the publication of a CIA in the future, it would do so in accordance with the requirements of section 5A of the Licensing Act 2003 and with regard to the guidance issued by the Secretary of State under section 182 of the Licensing Act 2003.

14.0 Personal Licences – New Applications

- 14.1 A personal licence is a licence issued to an individual authorising them to make or authorise the sale of alcohol in accordance with a premises licence. Every premises licence that authorises the sale of alcohol must specify an individual who acts as the designated premises supervisor (DPS). The DPS must hold a personal licence.
- 14.2 Applications for personal licences should be made to the licensing authority for the area where the applicant is ordinarily resident at the time they make their application.
- 14.3
- (a) The applicant is aged 18 or over
 - (b) The applicant is entitled to work in the United Kingdom
 - (c) The applicant possesses a licensing qualification or is a person of a prescribed description
 - (d) The applicant has not forfeited a personal licence in the five year period prior to their application being made
 - (e) The applicant has not been convicted of any relevant offence or any foreign offence or required to pay an immigration penalty
- 14.4 The licensing authority must reject an application if the applicant fails to meet one or more of the requirements set out in (a) to (d) above.
- 14.5 Where the applicant meets the requirements in (a) to (d) but does not meet the requirements of (e), the licensing authority must give the chief officer of police for its area a notice to this effect. Having received such a notice, if the chief officer of police is satisfied that the granting of the application would undermine the crime prevention objective, he must within 14 days, give the licensing authority a notice to that effect.
- 14.6 Where the applicant fails to meet the requirements of (e) as a result of a conviction for an immigration offence or because they have been required to pay an immigration penalty, the licensing authority must give a notice to the Secretary of State for the Home Department to that effect. The Home Office may object to an application on grounds that granting the personal licence would be prejudicial to the prevention of illegal working in licensed premises.
- 14.7 Where an objection to the grant of a personal licence is received from either the chief officer of police or the Home Office, the applicant is entitled to a hearing before the licensing authority. If no objections are received, the licensing authority must grant the application.
- 14.8 At a hearing to determine a personal licence application to which the chief officer of police or Home Office have objected, the licensing authority will have regard to all of the circumstances including the following:
- The need to assess each case on its merits
 - The duty to promote the crime prevention objective
 - The objection notice given by the Police or Home Office
 - The guidance issued by the Secretary of State under section 182 of the Licensing Act 2003
 - The seriousness of the relevant offence
 - The sentence or penalty imposed on the applicant for the relevant offence

- Any representations made by the applicant
- Any other evidence as to the previous character of the applicant

- 14.9 If, having considered all of the circumstances, the licensing authority considers that it is appropriate for either the promotion of the crime prevention objective or for the prevention of illegal working in licensed premises to reject the application, it must do so. In all other cases the application must be granted.
- 14.10 If an application is refused, the applicant will be entitled to appeal against the decision they make. Similarly, if the application is granted despite a police objection notice or an objection from the Home Office, the chief officer of police or Home Office are entitled to appeal against the licensing authority's determination. The licensing authority will therefore record in full the reasons for any decision that it makes.

DRAFT

15.0 Personal Licences – Suspension and Revocation

- 15.1 Section 138 of the Policing and Crime Act 2017 amended the Licensing Act 2003 and gave the power to a licensing authority to suspend or revoke personal licences that it has issued with effect from 6 April 2017.
- 15.2 When a licensing authority has granted a personal licence and becomes aware that the licence holder has been convicted of a relevant offence or foreign offence or been required to pay an immigration penalty, a licensing authority may revoke the licence or suspend it for a period of up to six months. This applies to convictions received and civil immigration penalties which a person has been required to pay at any time before or after the licence was granted, as long as the conviction was received after 6 April 2017, or the requirement to pay the civil penalty arose after 6 April 2017. Only magistrates' courts can order the forfeiture or suspension of a personal licence for convictions received prior to 6 April 2017.
- 15.3 The process which must be undertaken by the licensing authority to suspend or revoke a personal licence is set out at section 132A of the 2003 Act. The decision to revoke or suspend a personal licence must be made by the licensing committee or sub-committee, but the actions required before making a final decision may be made by a licensing officer.
- 15.4 The licensing authority may not take action if the licence holder has appealed against the conviction or the sentence imposed in relation to the offence, until the appeal is disposed of. Where an appeal is not lodged, the licensing authority may not take action until the time limit for making an appeal has expired.
- 15.5 If a licensing authority is considering revoking or suspending a personal licence, the authority must give notice to the licence holder. This notice must invite the holder to make representations about the conviction, any decision of a court in relation to the licence, or any decision by an appellate court if the licence holder has appealed such a decision. The licence holder may also decide to include any other information, for example, about their personal circumstances.
- 15.6 The licence holder must be given 28 days to make their representation, beginning on the day the notice was issued. The licensing authority does not need to hold a hearing to consider the representations. Before deciding whether to revoke or suspend the licence the licensing authority must consider any representations made by the licence holder, any decisions made by the court or appellate court in respect of the personal licence of which the licensing authority is aware, and any other information which the licensing authority considers relevant.
- 15.7 The licensing authority may not be aware of whether the court considered whether to revoke or suspend the licence, and there is no obligation on the licensing authority to find this out before making a decision themselves. Where the court has considered the personal licence and decided not to take action, this does not prevent the licensing authority from deciding to take action itself. Licensing authorities have different aims to courts in that they must fulfil their statutory duty to promote the licensing objectives, and therefore it is appropriate for the licensing authority to come to its own decision about the licence.
- 15.8 If the licensing authority, having considered a suspension and revocation and subsequently considered all the information made available to it, proposes not to revoke the licence it must give notice to the chief officer of police in the licensing

authority's area, and invite the chief officer to make representations about whether the licence should be suspended or revoked, having regard to the prevention of crime. The chief officer may make representations within the period of 14 days from the day they receive the notice from the licensing authority.

- 15.9 Any representations made by the chief officer of police must be taken into account by the licensing authority in deciding whether to suspend or revoke the licence.
- 15.10 Convictions may come to light via police in another area, for example if the personal licence holder no longer lives in the area of the licensing authority which issued the licence, or if the offence took place in another police force area. In this instance it would be good practice for the police providing the information to notify the police force in the licensing authority area, because it is the local chief officer who must provide representations if the licensing authority proposes not to revoke the licence.
- 15.11 Where the licence holder is convicted of immigration offences or has been required to pay a civil penalty for immigration matters, the licensing authority should notify Home Office Immigration Enforcement and allow representations to be made in the same way.
- 15.12 In deciding whether to suspend or revoke a personal licence, the licensing authority will have regard to all of the circumstances including the following:
- The need to assess each case on its merits
 - The duty to promote the licensing objectives
 - The guidance issued by the Secretary of State under section 182 of the Licensing Act 2003
 - The seriousness of the relevant offence
 - The sentence or penalty imposed on the licence holder for the relevant offence
 - Any representations made by the Police or Home Office Immigration Enforcement
 - Any representations made by the holder of the licence
 - Any evidence as to the previous character of the holder of the licence
- 15.13 The licensing authority must notify the licence holder and the chief officer of police of the decision made (even if the police did not make representations). The licence holder may appeal the licensing authority's decision to revoke or suspend their personal licence. A decision to revoke or suspend the licence does not take effect until the end of the period allowed for appealing the decision (21 days); or if the decision is appealed against, until the appeal is disposed of.
- 15.14 If the personal licence holder is a DPS, the licensing authority may notify the premises licence holder once the decision to revoke or suspend the licence has been made if it becomes necessary to do so in order for the licensing authority to be able to carry out their functions.
- 15.15 The licensing authority may also notify any person who has declared an interest in the premises under section 178 of the 2003 Act if it becomes necessary to do so in order for the licensing authority to be able to carry out their functions.

16.0 Immigration Act 2016 – Entitlement to Work

- 16.1 Section 36 of and Schedule 4 to the Immigration Act 2016 made a number of amendments to the Licensing Act 2003 to introduce immigration safeguards in respect of licensing applications made in England and Wales on or after 6 April 2017. The intention of these changes is to prevent illegal working in premises licensed for the sale of alcohol or late night refreshment.
- 16.2 The statutory prevention of crime and disorder licensing objective in the Licensing Act 2003 includes the prevention of immigration crime and the prevention of illegal working in licensed premises. The Council will work with the Home Office (Immigration Enforcement) as well as the police, in respect of these matters.
- 16.3 Section 36 of and Schedule 4 to the Immigration Act 2016 (the 2016 Act) amended the 2003 Act to provide that in England and Wales:
- Premises licences to sell alcohol or provide late night refreshment and personal licences cannot be issued to an individual who does not have permission to be in the UK, or is not entitled to undertake work relating to the carrying on of a licensable activity;
 - Licences issued to those with limited permission to be in the UK will lapse when their permission to be in the UK and work in a licensable activity comes to an end;
 - Immigration offences, including civil penalties, are ‘relevant offences’ as defined by the 2003 Act;
 - The Home Secretary (in practice Home Office (Immigration Enforcement)) was added to the list of responsible authorities in the licensing regime, which requires Home Office (Immigration Enforcement) to receive premises licence applications (except regulated entertainment only licences) and applications to transfer premises licences, and in some limited circumstances personal licence applications, and permits Home Office (Immigration Enforcement) to make appropriate representations and objections to the grant of a licence; and
 - Immigration officers are permitted to enter premises which they have reason to believe are being used to sell alcohol or provide late night refreshment, to investigate whether immigration offences are being committed in connection with the licensable activity.
- 16.4 The licensing authority will have regard to any guidance issued by the Home Office in relation to the immigration related provisions now contained in the Licensing Act 2003.
- 16.5 The licensing authority will also work in partnership with the Home Office (Immigration Enforcement) and West Mercia Police with a view to preventing illegal working in premises licensed for the sale of alcohol or late night refreshment.

17.0 Enforcement and Complaints

- 17.1 Once licensed, it is essential that premises are maintained and operated so as to ensure the continued promotion of the licensing objectives and compliance with the specific requirements of the Licensing Act 2003. The licensing authority will monitor premises and take any appropriate enforcement action to ensure compliance. Only complaints linked to a licensing objective will be investigated.
- 17.2 The licensing authority's general approach to enforcement will be to target problem and high-risk premises which require greater attention, while providing a lighter touch for low risk premises or those that are well run. Principles of risk assessment and targeted inspections (in line with the recommendations of the Hampton review) will prevail and inspections will not be undertaken routinely but when and if they are judged necessary. This should ensure that resources are used efficiently and are more effectively concentrated on problem premises.
- 17.3 In most cases a graduated form of response will be taken to resolve issues of non-compliance, although it is recognised that in serious cases a prosecution or application for review are the appropriate means of disposal.
- 17.4 All decisions and enforcement actions taken by the licensing authority will be in accordance with the Council's Corporate Enforcement Policy and the principles of consistency, transparency and proportionality set out in the Regulator's Compliance Code.
- 17.5 The licensing authority will continue to employ officers to investigate allegations of unlicensed activities and to ensure that licence conditions are complied with, and will seek to work actively with West Mercia Police and other relevant partners in enforcing licensing legislation.
- 17.6 The licensing authority is happy to investigate complaints against licensed premises of any description. In the first instance, complainants will be encouraged to raise the complaint directly with the licensee or business concerned.
- 17.7 Where a person has made a complaint then the licensing authority may initially arrange a mediation meeting to try and address, clarify and resolve the issues of concern. This process will not override the right of any person to ask the licensing authority to review a licence or certificate or for any licence/certificate holder to decline to participate in a mediation meeting.

18.0 Integrating Strategies and Partnership Working

18.1 The Council regards licensing as the most appropriate tool in ensuring that the licensing objectives are promoted and will avoid as far as is possible any duplication with other regulatory regimes and legislation.

18.2 Licensing Committee, when appropriate, will be informed of relevant county and local strategies. The report may include information relating to:

- Local crime prevention strategies;
- Needs of the local tourist economy;
- Any cultural strategy for the area;
- Employment issues in the area;
- Any relevant planning matters so as to ensure the clear distinction
- between licensing and planning functions, and
- Local relevant partnerships and their objectives.

DRAFT

19.0 Equal Opportunities **Equalities**

- 19.1 ~~The Equality Act 2010 places a legal obligation on the licensing authority 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.~~
- 19.2 ~~The licensing authority will look to discharge this duty by making arrangements where appropriate to provide information in a format that meet the requirements of those with special needs such as large type, audio information and information in foreign languages. Specific needs will be dealt with on an individual basis.~~
- 19.1 Under the Equality Act 2010 it is against the law to discriminate against anyone because of age, gender reassignment, being married or in a civil partnership, being pregnant or on maternity leave, disability, race including colour, nationality, ethnic or national origin, religion or belief, sex, or sexual orientation.
- 19.2 The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities.
- 19.3 The licensing authority will look to discharge this duty by making arrangements where appropriate to provide information in a format that meet the requirements of those with special needs such as large type, audio information and information in foreign languages. Specific needs will be dealt with on an individual basis.
- 19.4 The licensing authority has had regard to this duty when publishing this statement of policy and will have regard to the duty when determining applications for relevant authorisations under the Licensing Act 2003.
- 19.5 In the design and layout of premises, applicants and licence holders are encouraged to consider access and facilities for customers with protected characteristics.
- 19.6 Any person who is concerned that a premises is failing to comply with the Equality Act should make their complaint to the premises in the first instance. Advice can also be sought from the Equality Advisory Support Service (EASS) - www.equalityadvisoryservice.com

20.0 Administration, Exercise and Delegation of Functions

- 20.1 One of the major principles underlying the Licensing Act 2003 is that the licensing functions contained within the Act should be delegated to an appropriate level so as to ensure speedy, efficient and cost effective service delivery.
- 20.2 The licensing authority will be involved in a wide range of licensing decisions and functions and has established a Licensing Committee to administer them. Appreciating the need to provide an efficient service to all parties involved in the licensing process, the Committee has delegated certain decisions and functions and has established a number of Sub-Committees to deal with those matters.
- 20.3 In addition, it is expected that many of the decisions and functions will be largely administrative with no perceived areas of contention and, in the interests of efficiency and effectiveness these are delegated to officers. Attached at Appendix A to this licensing policy is a table of delegated functions setting out the agreed delegation of decisions and functions to the Council's Licensing Committee, Sub-Committees and officers.
- 20.4 These delegations are without prejudice to officers referring an application to a Sub-Committee or the Licensing Committee if considered appropriate in the circumstances of the case.

21.0 Relationship with Planning

- 21.1 Planning permission, building control approval and licensing regimes will be properly separated to avoid duplication and inefficiency. The planning and licensing regimes involve consideration of different (albeit related) matters. Licensing committees are not bound by decisions made by a planning committee, and vice versa.
- 21.2 There is no legal basis for the licensing authority to refuse a licence application because the relevant premise does not have planning permission, or where there are conditions on the relevant planning permission.
- 21.3 There are circumstances when as a condition of planning permission, a terminal hour has been set for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law.
- 21.4 Where there is an application for planning permission, the National Planning Policy Framework expects new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs).
- 21.5 Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established.
- 21.6 Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required by the local planning authority to provide suitable mitigation before the development has been completed.

22.0 Temporary Event Notices

- 22.1 The Licensing Act 2003 provides for certain occasions when small scale events (for no more than 499 people at a time and lasting for no more than 168 hours) do not need a licence providing that advance notice is given to the licensing authority, police and environmental health. The police and environmental health can only object to a Temporary Event Notice if the event is likely to undermine the licensing objectives.
- 22.2 The law states that for a standard temporary event notice, at least ten working day's notice must be given but the licensing authority recommends that, wherever possible, at least two month's notice be given to hold these events, to allow it to help organisers plan their events safely. Any longer period than this may mean that organisers do not have all the details available at the time of submitting the notice, and any lesser time means that planning may be rushed and haphazard.
- 22.3 Organisers of temporary events are strongly advised to contact the licensing authority for advice at the earliest opportunity when planning events. Where necessary discussions will be held with the police to avoid any unnecessary objections being made that may arise from misunderstandings or confusion as to what is being proposed.
- 22.4 Since 25 April 2012 it has been possible for individuals to serve a very limited number of "late" temporary event notices each year, providing that these are served on all relevant parties at least five working days before the day on which the event is due to begin.
- 22.5 Of the 50 temporary event notices a personal licence holder can serve in a calendar year, no more than 10 may be "late" temporary event notices. Of the 5 temporary event notices an individual who does not hold a personal licence can serve in a calendar year, no more than 2 can be "late" temporary event notices.
- 22.6 However event organisers should be aware that a late temporary event notice can be prevented by a single objection from the police or environmental health and there is no right to a hearing in such circumstances.
- 22.7 Therefore late temporary event notices should normally only be served in exceptional circumstances, such as when an event has to be postponed and rearranged at short notice due to adverse weather conditions. The licensing authority does not expect late temporary event notices to be served simply on the basis that the event organiser has been disorganised in addressing the licensing arrangements for their event.

23.0 Live Music Act 2012 and other Entertainment Licensing Deregulation

23.1 The Live Music Act 2012 came into force on 1st October 2012 and is designed to encourage more performances of 'live' music. The Act (as amended) removes the licensing requirements for:

- amplified 'live' music between 8am and 11pm before audiences of no more than 500 people on premises authorised to sell alcohol for consumption on the premises
- amplified 'live' music between 8am and 11pm before audiences of no more than 500 people in workplaces not otherwise licensed under the 2003 Act (or licensed only for the provision of late night refreshment)
- unamplified 'live' music between 8am and 11pm in all venues
- the provision of entertainment facilities

23.2 Where licensable activities continue to take place on premises any licence conditions relating to 'live' music will be suspended, but it will be possible to impose new, or reinstate existing conditions following a review.

23.3 There was a further deregulation of entertainment licensing in June 2013 when the Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013) came into force on 27 June 2013. The effect of the order is that no authorisation is required for the following activities to the extent that they take place between 08:00-23:00 on any day:

- a performance of a play in the presence of any audience of no more than 500 people
- an indoor sporting event in the presence of any audience of no more than 1000 people
- a performances of dance in the presence of any audience of no more than 500 people

23.4 Entertainment licensing requirements were further deregulated as a result of the Legislative Reform (Entertainment Licensing) Order 2014, which came into force on 6 April 2015.

23.5 The 2014 Order deregulated entertainment licensing in the following ways:

- The provision of regulated entertainment by or on behalf of local authorities, health care providers, or schools on their own defined premises became exempt from entertainment licensing between 08.00-23.00 on the same day, with no audience limit.
- The audience limit for a performance of live amplified music in relevant alcohol licensed premises or in a workplace between 08.00-23.00 on the same day was raised from 200 to 500.
- Local authorities, health care providers and schools are now exempt from entertainment licensing when making their own defined premises available to third parties for live and recorded music activities between 08:00-23:00 on the same day for audiences of up to 500.

- Community premises not licensed to supply alcohol are now exempt from entertainment licensing requirements for live and recorded music between 08:00-23:00 on the same day for audiences of up to 500.
- Travelling circuses are now exempt from entertainment licensing in respect of all descriptions of entertainment, except an exhibition of a film or a boxing or wrestling entertainment, where the entertainment or sport takes place between 08:00-23:00 on the same day, with no audience limit.
- Greco-Roman and freestyle wrestling are now deregulated between 08:00-23:00 for audiences of up to 1000 people.
- An exhibition of film that is incidental to another activity (where that other activity is not itself a description of entertainment set out in paragraph 2 of Schedule 1 to the 2003 Act) is exempt now from licensing.

23.6 The exhibition of films in community premises has also been deregulated as a result of section 76 of the Deregulation Act 2015.

23.7 No licence is required for an exhibition of film on community premises between 08:00 and 23:00 on any day provided that:

- the film entertainment is not provided with a view to profit;
- the film entertainment is in the presence of an audience of no more than 500 people;
- the admission of children is subject to such restrictions as are necessary to comply with the recommendation issued by the BBFC or relevant licensing authority regarding the admission of children; and
- a person concerned in the organisation or management of the exhibition of the film has obtained the prior written consent of the management committee of the premises, or if there is no management committee, a person who has control of the premises in connection with the carrying on by that person of a trade, business or other undertaking, or failing that a person with a relevant property interest in the premises.

24.0 Sexual Entertainment Venues

- 24.1 The Council may adopt a policy in relation to sex establishments, including sexual entertainment venues under the Local Government (Miscellaneous Provisions) Act 1982, as amended by the Policing and Crime Act 2009. This policy may include standard conditions attached to such licences. Where there are similar conditions attached to licences under both regulatory regimes, the more onerous will apply.
- 24.2 There is an exemption under the Local Government (Miscellaneous Provisions) Act 1982 that allows premises to provide sexual entertainment no more than 11 times per year and no more frequently than monthly. Any concerns related to the provision of occasional sexual entertainment may still lead to a review of the relevant premises licence or club premises certificate and the imposition of conditions.
- 24.3 Any premise that wants to provide sexual entertainment under the exemption must still be authorised under the Licensing Act 2003 for the performance of dance and the playing or recorded music.

DRAFT

25.0 Early Morning Alcohol Restriction Orders (EMROs)

- 25.1 The power to introduce an EMRO enables a licensing authority to prohibit the sale of alcohol for a specified time period between the hours of 12am and 6am in the whole or part of its area, if it is satisfied that this would be appropriate for the promotion of the licensing objectives.
- 25.2 EMROs are designed to address recurring problems such as high levels of alcohol-related crime and disorder in specific areas at specific times; serious public nuisance; and other instances of alcohol-related anti-social behaviour which is not directly attributable to specific premises.
- 25.3 Before introducing an EMRO the licensing authority must be satisfied that it has sufficient evidence to demonstrate that its decision is appropriate for the promotion of the licensing objectives. This requirement will be considered in the same manner as other licensing decisions, such as the determination of applications for the grant of premises licences. The licensing authority will consider evidence from partners, including responsible authorities and local Community Safety Partnerships, alongside its own evidence, to determine whether an EMRO would be appropriate for the promotion of the licensing objectives.
- 25.4 The licensing authority will normally only consider the use of EMROs as a last resort in dealing with recurring problems and will always consider the potential burden that would be imposed on premises licence holders as well as the potential benefits in terms of promoting the licensing objectives.
- 25.5 It is recognised that there are other measures that could be taken instead of making an EMRO which include:
- introducing a special policy on cumulative impact;
 - reviewing licences of specific problem premises;
 - encouraging the creation of business-led best practice schemes in the area; and
 - using other mechanisms set out in the Secretary of State's Guidance to Licensing Authorities under Section 182 of the Licensing Act 2003.
- 25.6 The licensing authority is not currently satisfied that it is appropriate to make any EMROs.

26.0 Late Night Levy

- 26.1 The late night levy is a power, conferred on licensing authorities by provision in Chapter 2 of Part 2 of the Police Reform and Social Responsibility Act 2011. This enables licensing authorities to charge a levy to persons who are licensed to sell alcohol late at night in the authority's area, as a means of raising a contribution towards the costs of policing the late-night economy.
- 26.2 The levy is a power and the Government has recognised that some licensing authorities will not consider that it is appropriate to exercise it.
- 26.3 At the present time this licensing authority does not have a large number of premises which are licensed to sell alcohol during the late night supply period. Therefore at this stage the licensing authority does not believe that the levy will generate enough revenue to make it an appropriate option in its area.
- 26.4 The decision to introduce the levy is for the licensing authority to make. However the licensing authority will keep the need for a levy under review in consultation with the chief officer of police and police and crime commissioner ("PCC") for the police area.
- 26.5 When considering whether to introduce a levy the licensing authorities notes that any financial risk (for example lower than expected revenue) rests at a local level and this will be fully considered prior to making any decision about local implementation.
- 26.6 The licensing authority will decide whether or not it believes it has a viable proposal to introduce the levy before incurring the costs of the formal consultation process.
- 26.7 If the licensing authority decides to give further consideration to the introduction of a levy in the future, it will do so in accordance with the relevant regulations and with reference to any relevant guidance issued by the Home Office.
- 26.8 Any decision to introduce, vary or end the requirement for the levy will be made by the full Council. Other decisions in relation to the introduction and administration of the levy would be delegated to the Licensing Committee.

27.0 Late Night Refreshment – Local Powers to Deregulate

- 27.1 Section 71 of the Deregulation Act 2015 inserted paragraph 2A into Schedule 2 of the Licensing Act 2003 in relation to the provision of late night refreshment.
- 27.2 This amendment created a discretionary power to licensing authorities to exempt premises in certain circumstances, from the requirement to have a licence to provide late night refreshment.
- 27.3 The powers allow a relevant licensing authority to exempt the supply of late night refreshment if it takes place:
- on or from premises which are wholly situated in a designated area;
 - on or from premises which are of a designated description; or
 - during a designated period (beginning no earlier than 23.00 and ending no later than 05.00).
- 27.4 The licensing authority does not currently consider it appropriate to exercise the discretionary powers within paragraph 2A of Schedule 2 to the Licensing Act 2003.
- 27.5 If the licensing authority was going to consider exercising the powers in the future, it would only do so having carefully considered the risks to the promotion of the licensing objectives and having carried out a comprehensive consultation exercise with relevant stakeholders.

28.0 Suspension of Licences and Certificates for Non-Payment of Annual Fees

- 28.1 As a result of powers introduced under the Police Reform and Social Responsibility Act 2011, the licensing authority must suspend premises licences and club premises certificates if the holder of the relevant authorisation fails to pay their annual fee.
- 28.2 However, this does not apply immediately if the payment was not made before or at the time of the due date because of an administrative error, or because the holder disputed liability for the fee before or at the time of the due date. In either of these cases, there is a grace period of 21 days. This period will be used by the licensing authority to contact the licence or certificate holder in attempt to resolve the dispute or error. If the dispute or error is not resolved during this 21-day period, the licence or certificate will be suspended.
- 28.3 When suspending a licence or certificate a notice of suspension will be given in writing to the licence or certificate holder. The police and any other relevant responsible authorities will also be notified of the suspension at the same time.
- 28.4 A premises licence or certificate that has been suspended does not have effect to authorise licensable activities. However, it can for example be subject to a hearing or, in the case of a premises licence, an application for transfer. The licence will nevertheless only be reinstated when the outstanding fee has been paid. Formally, the debt is owed by the holder who held the licence at the time it was suspended. However, it may be more likely in practice that the new holder will actually make the payment.
- 28.5 Once payment has been received a written acknowledgement will be given to the licence/certificate holder and the suspension will be lifted. The police and any other relevant responsible authorities will be notified that the suspension has been lifted at the same time.

Appendix A - Table of Delegated Functions

Matter to be dealt with	Full Committee	Sub Committee	Officers
Application for personal licence		If the police or Home Office give an objection notice	If no objection notice is given by the police or Home Office.
Decision whether to suspend or revoke a personal licence		All cases	
Application for premises licence/club premises certificate		If relevant representations are made	If no relevant representations are made or all representations made are withdrawn
Application for provisional statement		If relevant representations are made	If no relevant representations are made or all representations made are withdrawn
Application to vary premises licence/club premises certificate		If relevant representations are made	If no relevant representations are made or all representations made are withdrawn
Application to vary designated personal licence holder		If the police or Home Office give an objection notice	If no objection notice is given by the police or Home Office.
Application for the mandatory alcohol condition under the Licensing Act 2003 requiring a Designated Premises Supervisor in respect of a premises licence to be disappled		If a police representation is made	All other cases
Decision whether to consult other responsible authorities on minor variation application			All cases
Determination of minor variation application			All cases

Agenda Item 6

APPENDIX 1

Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If the police or Home Office give an objection notice	If no objection notice is given by the police or Home Office.
Application for interim authority		If the police or Home Office give an objection notice	If no objection notice is given by the police or Home Office.
Application to review premises licence/club premises certificate		All cases	
Decision on whether a complaint or objection is irrelevant, frivolous, vexatious etc			All cases
Decision for licensing authority to act in their capacity as a responsible authority			All cases
Acknowledgement of receipt of a temporary events notice			All cases
Determination of a police or environmental health objection to a temporary event notice		All cases	
Decision to suspend a licence or certificate for non-payment of the annual fee.			All cases

This page is intentionally left blank

Summary of Amendments Made in Draft Revised Statement of Licensing Policy

Section Heading	Paragraph	Description of amendment	Reason for amendment
Table of contents and throughout document	Various	Changes to section, paragraph and page numbers	Required as a result of additional paragraphs and sections being added to the draft revised Statement of Licensing Policy
Introduction	1.3	Population estimate revised	To reflect latest data from 2021 census
Introduction	1.6	Amended wording relating to Council's vision	To reflect the vision set out in the current Council Plan
Front Cover and Purpose of the Statement of Licensing Policy	4.7	Dates changed	To reflect when the revised Statement of Licensing Policy will take effect and when it will need to be revised next.
Applications for Premises Licences and Club Premises Certificates	6.20	Insertion of paragraph making reference to the safety of women and girls, including encouragement to implement schemes such as "Ask for Angela"	To prevent crime and disorder and promote public safety by encouraging operators of licensed premises to do all that they can to ensure women and girls feel safe on a night out.
Applications for Premises Licences and Club Premises Certificates	6.21	Insertion of paragraph making reference to provision of bleed control kits in licensed premises	To promote public safety by encouraging operators of licensed premises to acquire a bleed control kit that is kept on their premises and that staff are provided training on how to use the kit.

Section Heading	Paragraph	Description of amendment	Reason for amendment
Applications for Premises Licences and Club Premises Certificates	6.22	Insertion of paragraph making reference to the conduct of risk assessments to consider the need for the provision of hand-held metal detectors (knife wands)	To prevent crime and disorder and promote public safety by encouraging operators of licensed premises to conduct a risk assessment to consider the need for the provision and use of hand-held metal detectors, sometimes referred to as “knife wands” to deter and prevent people from carrying knives and other weapons into their premises.
Applications for Premises Licences and Club Premises Certificates	6.37	Insertion of reference to alcohol delivery services and age-verification procedures	To protect children from harm by making clear that the licensing authority expects those that offer alcohol delivery services to have in place robust age-verification procedures at both the point of sale and the point of delivery to ensure that alcohol is not purchased by, or delivered to, children.
Martyn’s Law	10.1 – 10.6	Insertion of section to provide information regarding upcoming legislation commonly referred to as “Martyn’s Law”	To provide information to licence holders on upcoming legislation that aims to keep people safe, enhance national security and reduce the risk to the public from terrorism by the protection of public venues.
Equalities	19.1 – 19.6	Section rewritten and expanded to include reference to the public sector equality duty and confirm that the licensing authority will have regard to this when determining individual applications for authorisations. Also now encourages applicants and licence holders to consider access and facilities for customers with protected characteristics in the design and layout of their premises. Also now signposts the website of the Equality Advisory Support Service (EASS)	In order to provide information to applicants, licence holders and the general public on how the Council will seek to fulfil their duties under the Equality Act 2010 and in order to try and help others to fulfil their own such duties.

Section Heading	Paragraph	Description of amendment	Reason for amendment
Relationship with Planning	21.4 – 21.6	Additional paragraphs inserted making reference to the “agent of change” principle. This is the expectation in the National Planning Policy Framework that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs).	To provide information regarding this principle to applicants, licence holders and the general public.

This page is intentionally left blank

TERRORISM (PROTECTION OF PREMISES) DRAFT BILL
“MARTYN’S LAW”
INFORMATION REPORT

Relevant Portfolio Holder	Councillor C B Taylor
Portfolio Holder Consulted	No
Relevant Head of Service	Simon Wilkes – Head of Worcestershire Regulatory Services
Wards Affected	All Wards
Ward Councillor Consulted	N/A
Non-Key Decision	

1. SUMMARY OF PROPOSALS

The Terrorism (Protection of Premises) Bill has been published in draft form by the Government to allow for pre-legislative scrutiny of the legislation by the Home Affairs Select Committee.

This report has been prepared to provide Members with information on the provisions contained in the draft bill and how these may impact and interact with the Council’s role as a licensing authority under the Licensing Act 2003.

2. RECOMMENDATIONS

2.1 That Members note the contents of the report.

3. KEY ISSUES

Financial Implications

3.1 There are no direct financial implications arising from this report.

Legal Implications

3.2 The legal implications of the draft legislation will become clearer as development of the legislation progresses.

Service / Operational Implications

- 3.3 Currently the UK's approach to protective security is essentially entirely voluntary. This means those responsible for publicly accessible locations are not currently under any legal obligation to consider the risk of terrorism and put in place security measures, where required, in order to protect the public.
- 3.4 On 22nd May 2017, twenty-two people were killed in a terror attack at the end of a concert taking place at the Manchester Arena. In addition to those who lost their lives, hundreds of others were injured.
- 3.5 In October 2019 the Home Secretary established the Manchester Arena Inquiry, a statutory public inquiry set up to investigate the deaths of the victims of the attack. The inquiry was chaired by the Hon Sir John Saunders.
- 3.6 As well as establishing the public inquiry, in its 2019 manifesto the Government made a commitment to improve the safety and security of public venues. Further to that manifesto commitment, the Government launched a public consultation in February 2021 on proposals to bring in legislation to implement a "Protect Duty" to ensure that those responsible for publicly accessible locations are ready and prepared to take appropriate action, were a terrorist attack to happen.
- 3.7 The "Protect Duty" has also become widely known as "Martyn's Law" in tribute to Martyn Hett who lost his life in the Manchester Arena attack. Martyn's mother Figen Murray has campaigned tirelessly, alongside other representatives of the Survivors Against Terror Campaign Team, for legislation to ensure a specific legislative requirement is developed.
- 3.8 The report produced following the Manchester Arena Inquiry was published in three volumes. Volume 1 of the inquiry report was published in June 2021 and focussed on security arrangements in place at the arena and made a number of recommendations. One of these recommendations was that a "Protect Duty" should be enacted into law by primary legislation.
- 3.9 The Government published its response document to the Protect Duty public consultation in May 2023 in which Damian Hinds MP, Minister for Security and Borders, reaffirmed the Government's commitment to taking forward legislation to introduce "Martyn's Law."

- 3.10 Alongside its consultation response document, the Government published a draft version of the Terrorism (Protection of Premises) Bill. At the same time, the Government also wrote to the Home Affairs Select Committee to invite the Committee to conduct pre-legislative scrutiny of the draft legislation. A copy of the draft bill can be seen at **Appendix 1**.
- 3.11 Under the draft legislation, a person responsible for qualifying public premises or a qualifying public event will be subject to the terrorism protection requirements set out in the Bill. A person is responsible for a qualifying public premises if the person has control of the premises or event, both of which must be accessible to the public as described in the Bill. Premises are included by reference to their use and both events and premises must have the minimum capacities specified.
- 3.12 Qualifying public premises may be located within other premises, such as a retail store within a shopping centre. The requirements will not apply to premises (or parts thereof) that are used as private dwellings or offices.
- 3.13 Qualifying public premises may be either standard duty premises or enhanced duty premises. Enhanced duty premises are those with a public capacity of 800 individuals or more. Standard duty premises are those with a capacity of 100 to 799 individuals. The Bill allows for provision to be made for some premises to be treated as standard duty premises when they would otherwise be enhanced duty premises, and vice versa.
- 3.14 The requirements which will apply to enhanced duty premises will also apply to qualifying public events. These are public events held at premises that are not qualifying public premises with a capacity of 800 or over, where express permission is required to enter for the purpose of attending the event (with or without payment).
- 3.15 The public capacity of premises and events will be determined in accordance with regulations made by the Secretary of State. Such regulations might require some types of premises to determine their capacity differently from others.
- 3.16 Persons responsible for standard duty premises will be required to undertake what are intended to be low-cost activities which seek to improve protective security and preparedness. They will be required to ensure that relevant workers are given appropriate terrorism protection training.
- 3.17 It is expected that they will be able to utilise free terrorism protection training materials to educate relevant personnel on the threat posed by terrorism, and the actions personnel should undertake in response.

- 3.18 Persons responsible for standard duty premises will also be required to undertake a standard terrorism evaluation in which they consider how best to respond in the event of a terrorist event, e.g. procedures to evacuate their premises.
- 3.19 Persons responsible for enhanced duty premises or qualifying public events will also be required to ensure that terrorism protection training is provided to relevant workers at their premises. In addition, they must appoint an individual as the designated senior officer for the premises or event and must complete and regularly review their terrorism risk assessment.
- 3.20 In completing this assessment, they will consider the types of terrorist act most likely to occur at or around their premises or event and the 'reasonably practicable' measures that might be expected to reduce the risk of such an act occurring, or the risk of physical harm to individuals as a result of such an act.
- 3.21 Persons responsible for enhanced duty premises or a qualifying public event must implement reasonably practicable security measures to reduce the risk of, and harm caused by, terrorist acts occurring at or near the premises or event. Measure must include, for example, those relating to monitoring the premises and vicinity and procedures to be followed in the event of an attack.
- 3.22 Persons responsible for enhanced duty premises or a qualifying public event must keep and maintain a security plan, which must also be provided to the regulator. The security plan documents, amongst other things, information about the premises or event, the persons responsible for the premises or event, and information arising out of compliance with the other requirements.
- 3.23 Other persons who to some extent have control over premises – whether qualifying public premises or those at which a qualifying public event is to be held - will be under a duty to co-operate with the person responsible for the premises or event under the Bill insofar as it relates to a matter within that other person's control.
- 3.24 For example, the person responsible for a store within a shopping centre must comply with the operator of the shopping centre as necessary for the operator to fulfil their duties under the Bill.
- 3.25 Persons responsible for both standard and enhanced duty premises will also be responsible for ensuring premises are registered with the regulator. Persons responsible for qualifying public events will be required to give notice of the event to the regulator.

- 3.26 The Government envisage that the majority of people will want to comply with the Bill, and to that end foresee the regulator primarily providing a guidance function for businesses. However, in the event of non-compliance, the regulator will have a range of sanctions to swiftly address non-compliance and impose penalties where appropriate.
- 3.27 The Bill will provide the regulator with the ability to impose a range of civil sanctions which will be utilised to address non-compliance, reducing potential harm and placing a lower burden on the criminal justice system in providing an alternative to criminal sanctions. Due to the seriousness of some contraventions and in line with other regulatory regimes, the Bill will nonetheless also provide for certain criminal offences.
- 3.28 The regulator will be able to issue a contravention notice to a person they consider to have contravened, or be contravening, a relevant requirement under the Bill. A notice will require the person to remedy the contravention by taking specified steps or providing evidence as to their compliance.
- 3.29 In rare cases, a restriction notice may be issued to a person in relation to enhanced duty premises or a qualifying public event. These notices are to be issued where:
- a person is contravening, or has contravened, a relevant requirement (whether or not that person is the recipient of the notice);
 - that requirement relates to enhanced duty premises or qualifying public event; and
 - giving the notice is necessary to protect the public, or a section of the public, from the risk of harm arising from acts of terrorism at, or in the immediate vicinity of, the premises or event.
- 3.30 The regulator will be able to issue civil monetary penalties. In many cases, it is expected that these will be issued following a failure to comply with a contravention or restriction notice.
- 3.31 For standard duty premises, the regulator will have the power to issue a fixed penalty up to a maximum of £10,000. And for enhanced duty premises and qualifying public events, the regulator will be able to issue a maximum fixed penalty of the higher of £18m or 5% of worldwide revenue.
- 3.32 It will be possible for the regulator to require payment of daily penalties until a contravention ceases (up to a specified maximum amount), where non-compliance with a requirement persists after the period for payment of the fixed penalty expires.

- 3.33 It will be a criminal offence to fail to comply with a contravention notice (unless it relates to standard duty premises) or restriction notice and to provide false or misleading information in compliance, or purported compliance, with a requirement of the Bill.
- 3.34 Clause 1 of the draft Bill provides for a regulator which will have the powers of inspection and enforcement set out in the Bill and, unless specified in regulations by the Secretary of State, will be the Secretary of State. A regulator specified in regulations must be a public authority.
- 3.35 It is unclear at this stage who the Secretary of State intends to specify as the regulator under the draft legislation. This could be existing public bodies such as local authorities or the Health and Safety Executive. Alternatively, an entirely new public body could be created to act as the regulator.
- 3.36 Whether or not local authorities are ultimately specified as the regulator, there will be implications for the Council when the legislation is brought into force. This is because many of the publicly accessible locations that will be subject to the requirements set out in the draft legislation, will have been issued a premises licence by the Council under the Licensing Act 2003 in its role as the licensing authority under that legislation.
- 3.37 Likewise, many qualifying public events that will be subject to the requirements set out in the draft legislation, will also require authorisation under the Licensing Act 2003 if those events involve the carrying on of licensable activities.
- 3.38 Therefore, the future progress of the draft legislation will need to be followed closely by officers to ensure that the Council can publicise and signpost relevant guidance and information to those who will be affected by the duties that the draft legislation will eventually impose.
- 3.39 The Council may also need to revise its Statement of Licensing Policy published under the Licensing Act 2003 in light of the implementation of the legislation.
- 3.40 Further reports will be presented to the Licensing Committee in due course as the process for enacting the draft legislation progresses.

4. RISK MANAGEMENT

4.1 None

5. APPENDICES

Appendix 1 – Terrorism (Protection of Premises) Draft Bill

AUTHOR OF REPORT

Name: Dave Etheridge – Principal Officer (Licensing)
Worcestershire Regulatory Services

E Mail: dave.etheridge@worcsregservices.gov.uk

Tel: (01905) 822799

This page is intentionally left blank



Home Office

Terrorism (Protection of Premises) Draft Bill

May 2023

CP 840



Terrorism (Protection of Premises) Draft Bill

Presented to Parliament
by the Secretary of State for the Home Department
by Command of His Majesty

May 2023



© Crown copyright 2023

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit nationalarchives.gov.uk/doc/open-government-licence/version/3.

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This publication is available at www.gov.uk/official-documents.

Any enquiries regarding this publication should be sent to us at public.enquiries@homeoffice.gov.uk.

ISBN 978-1-5286-4082-4

E02903755 05/23

Printed on paper containing 40% recycled fibre content minimum

Printed in the UK by HH Associates Ltd on behalf of the Controller of His Majesty's Stationery Office

Terrorism (Protection of Premises) Bill

[DRAFT BILL]

CONTENTS

The regulator

- 1 The regulator

Qualifying public premises and events etc

- 2 Qualifying public premises
- 3 Standard duty premises and enhanced duty premises
- 4 Qualifying public events
- 5 Persons responsible for qualifying public premises or events
- 6 Capacity of premises
- 7 Parts of premises to be disregarded
- 8 Powers to amend or modify application of Act

Registration of premises and notification of events

- 9 Registration of qualifying public premises
- 10 Notification of qualifying public events

Evaluation and assessment of terrorism risk

- 11 Standard terrorism evaluation
- 12 Enhanced terrorism risk assessment

Provision of terrorism protection training

- 13 Duty to provide terrorism protection training
- 14 Content of terrorism protection training

Enhanced duty to take security measures

- 15 Security measures

Coordinating and recording compliance with enhanced duties

- 16 Designated senior officers
- 17 Security plans

Cooperation and dispute resolution

- 18 Cooperation of other persons with control of premises
- 19 Cooperation with persons responsible for fire safety
- 20 Determinations by the tribunal

Investigatory powers

- 21 Investigatory powers

Enforcement

- 22 Contravention notices
- 23 Restriction notices
- 24 Duration of restriction notices
- 25 Appeals in relation to contravention notices and restriction notices

Monetary penalties

- 26 Penalty notices
- 27 Daily penalties
- 28 Determining the amount of a penalty
- 29 Maximum amounts of fixed penalty
- 30 Penalty notices: procedure
- 31 Appeals against penalties
- 32 Recovery of penalties
- 33 Double jeopardy

Offences

- 34 Offences
- 35 Offences by directors, partners etc

Guidance

- 36 Guidance about requirements
- 37 Guidance about the exercise of the regulator's functions

Licensing of premises at heightened terrorism risk

- 38 Licensing of premises at heightened terrorism risk

General

- 39 Data protection
- 40 Means of giving notices
- 41 Further provision about notices
- 42 Civil liability
- 43 Interpretation
- 44 Regulations
- 45 Extent
- 46 Commencement and transitional provision
- 47 Short title

-
- Schedule 1 – Specified uses of premises
 - Schedule 2 – Investigatory powers
 - Schedule 3 – Licensing of premises at heightened terrorism risk

[DRAFT BILL]

A

B I L L

TO

Make provision about the assessment and mitigation of risks of terrorist activity at, or in the immediate vicinity of, certain publicly accessible premises or events; to amend the Licensing Act 2003 in relation to premises at heightened risk of being a target of terrorist activity; and for connected purposes.

BE IT ENACTED by the King’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the regulator of the same, as follows:—

The regulator

1 The regulator

- (1) In this Act, “the regulator” means—
 - (a) a public authority prescribed as the regulator in regulations made by the Secretary of State, or
 - (b) if no public authority is prescribed, the Secretary of State.
- (2) Regulations under subsection (1)(a) may make provision about how costs incurred by the prescribed public authority in acting as the regulator are to be met.
- (3) In this section “public authority” means any person certain of whose functions are functions of a public nature.

Qualifying public premises and events etc

2 Qualifying public premises

- (1) In this Act, “qualifying public premises” means premises in respect of which the following conditions are met—
 - (a) the premises are primarily used for a use or uses specified in Schedule 1;
 - (b) the public, or a section of the public, has access to the premises or a part of the premises;
 - (c) the premises have a public capacity of 100 or more individuals (see section 6).

- (2) For the purposes of subsection (1)(b) –
 - (a) where the premises primarily comprise land in the open air, access to the premises by a member of the public must be by express permission only (whether or not on payment);
 - (b) in any other case, access to the premises by a member of the public may be by express or implied permission (whether or not on payment).
- (3) Qualifying public premises may be contained within other premises, including other qualifying public premises (for example, in a shopping centre).
- (4) Where one or more qualifying public premises are contained within other qualifying public premises, this Act applies in relation to each of the premises.

3 Standard duty premises and enhanced duty premises

- (1) In this Act –
 - (a) “enhanced duty premises” are qualifying public premises with a public capacity of 800 or more individuals (see section 6);
 - (b) “standard duty premises” are qualifying public premises which are not enhanced duty premises.
- (2) This section is subject to any provision of Schedule 1 which provides for qualifying public premises to be treated as standard duty premises or enhanced duty premises in certain cases.

4 Qualifying public events

- (1) In this Act, “qualifying public event” means an event in respect of which the following conditions are met –
 - (a) the event is to be held at premises which are not qualifying public premises;
 - (b) the public or a section of the public will have access to the premises, or a part of the premises, for the purpose of attending the event;
 - (c) the premises have a public capacity of 800 or more individuals (see section 6).
- (2) For the purposes of subsection (1)(b), access to the premises by a member of the public for the purpose of attending the event must be by express permission only (whether or not on payment).

5 Persons responsible for qualifying public premises or events

- (1) For the purposes of this Act –
 - (a) the person responsible for qualifying public premises is the person who has control of the premises in connection with their relevant Schedule 1 use;
 - (b) the person responsible for a qualifying public event is the person who has control of the premises at which the event is to be held in connection with their use for the event.

- (2) If more than one person is responsible for qualifying public premises or a qualifying public event—
 - (a) references in this Act to the person responsible for the premises or the event (as the case may be) are to each such person, and
 - (b) two or more such persons may act jointly in pursuance of a requirement imposed on them by or under this Act.
- (3) This section is subject to any provision of Schedule 1 which specifies the person responsible for qualifying public premises in certain cases.
- (4) In this Act, “relevant Schedule 1 use”, in relation to qualifying public premises, means—
 - (a) in a case where the premises are used for only one use specified in Schedule 1, that use;
 - (b) in a case where the premises are used for more than one use specified in that Schedule, whichever is the predominant of those uses;
 - (c) in a case within paragraph (b) where none of the uses specified in Schedule 1 is the predominant of those uses, the use determined by regulations made by the Secretary of State.

6 Capacity of premises

- (1) For the purposes of this Act, the “public capacity” of premises is to be determined in accordance with regulations made by the Secretary of State.
- (2) Regulations under subsection (1) may (among other things)—
 - (a) make different provision in relation to premises, or parts of premises, of different descriptions;
 - (b) make provision by reference to a document issued by the Secretary of State, or another person, as revised or replaced from time to time;
 - (c) confer functions on the regulator (including functions involving the exercise of a discretion).

7 Parts of premises to be disregarded

- (1) For the purposes of any requirement imposed by or under this Act in respect of qualifying public premises or a qualifying public event, disregard any part of the qualifying public premises or the premises at which the event is to be held—
 - (a) which is used as a private dwelling;
 - (b) which is used as an office or for office purposes;
 - (c) in relation to which a transport security regime applies;
 - (d) which is of such other description as the Secretary of State may prescribe in regulations.
- (2) A transport security regime applies in relation to premises if—
 - (a) an aerodrome security plan under section 24AE of the Aviation Security Act 1982 is in force in relation to the premises,

- (b) the premises are a relevant asset for the purposes of section 119 of the Railways Act 1993 in relation to which an instruction under that section is in force,
 - (c) a direction under the Channel Tunnel Security (Order) 1994 (S.I. 1994/570) is in force in relation to the premises, or
 - (d) a port security plan is in force in relation to the premises.
- (3) In subsection (2)(d), “port security plan” means—
- (a) a port facility security plan under the Ship and Port Facility (Security) Regulations 2004 (S.I. 2004/1495), or
 - (b) a port security plan under the Port Security Regulations 2009 (S.I. 2009/2048).

8 Powers to amend or modify application of Act

- (1) The Secretary of State may by regulations—
- (a) amend section 2(1)(c), 3(1)(a) or 4(1)(c) so as to substitute a different figure for the figure for the time being specified;
 - (b) amend Schedule 1 so as to—
 - (i) specify a further use of premises,
 - (ii) specify qualifying public premises to be treated as standard duty premises or enhanced duty premises (regardless of how they would otherwise be treated),
 - (iii) specify the person responsible for qualifying public premises for the purposes of this Act, or
 - (iv) remove or modify a provision of that Schedule;
 - (c) otherwise provide for this Act, or a prescribed provision of this Act—
 - (i) to apply (where it otherwise would not),
 - (ii) not to apply (where it otherwise would), or
 - (iii) to apply with prescribed modifications,
 to premises or events of a prescribed description.
- (2) But regulations under this section must not provide—
- (a) for any provision of this Act to apply (with or without modifications) in relation to premises with a public capacity of fewer than 100 individuals, or
 - (b) for any of section 12, 15 or 16 to apply (with or without modifications) in relation to premises with a public capacity of fewer than 500 individuals.
- (3) In subsection (1), “prescribed” means prescribed in the regulations.

Registration of premises and notification of events

9 Registration of qualifying public premises

- (1) The person responsible for qualifying public premises must ensure that the premises are registered in accordance with this section.

- (2) On an application by the person responsible for qualifying public premises, made in accordance with this section and regulations under this section, the regulator must register the premises.
- (3) The regulator must remove premises from the register if it appears to the regulator that the premises are not qualifying public premises.
- (4) The Secretary of State may by regulations make provision about applications for registration, including in particular provision about—
 - (a) the form and content of an application;
 - (b) the information that must accompany an application;
 - (c) the way in which an application is to be made and anything that is to accompany an application is to be provided;
 - (d) the circumstances in which an application may be withdrawn or treated as withdrawn;
 - (e) the way in which an application may be withdrawn.
- (5) The Secretary of State may by regulations make provision about the register, including in particular provision about—
 - (a) the information to be contained in the register;
 - (b) the updating or other revision of information in the register;
 - (c) the procedure for removing premises from the register.
- (6) Regulations under subsection (5)(b) may, in particular, require the person responsible for qualifying public premises to notify the regulator of prescribed matters in prescribed circumstances.
- (7) In subsection (6), “prescribed” means prescribed in the regulations.

10 Notification of qualifying public events

- (1) The person responsible for a qualifying public event must ensure that the regulator is notified of the event in accordance with this section and regulations under this section.
- (2) Notification must be given—
 - (a) before, or as soon as is reasonably practicable after, details of the event are first made available to the public or a section of the public, and
 - (b) before the event begins.
- (3) The Secretary of State may by regulations make provision about notifications under this section, including in particular provision about—
 - (a) the form and content of a notification;
 - (b) the information that must accompany a notification;
 - (c) the way in which notification is to be made and anything that is to accompany a notification is to be provided;
 - (d) the updating or other revision of a notification;
 - (e) the circumstances in which a notification may be withdrawn or treated as withdrawn;
 - (f) the way in which a notification may be withdrawn.

- (4) Regulations under subsection (3)(d) may, in particular, require the person responsible for a qualifying public event to notify the regulator of prescribed matters in prescribed circumstances.
- (5) In subsection (4), “prescribed” means prescribed in the regulations.

Evaluation and assessment of terrorism risk

11 Standard terrorism evaluation

- (1) The person responsible for standard duty premises must—
 - (a) ensure that a standard terrorism evaluation of the premises has been completed,
 - (b) ensure that the evaluation is reviewed in accordance with subsection (2),
 - (c) from time to time revise the evaluation to keep it up to date,
 - (d) ensure that a copy of the current evaluation is made available to each individual who uses the premises as a place of work, and
 - (e) if requested to do so by the regulator, provide the regulator with a copy of the current evaluation within such reasonable period as the regulator may specify in the request.
- (2) A standard terrorism evaluation of premises must be reviewed—
 - (a) each time a material change is made to the premises or to the use of the premises, and
 - (b) before the end of the period of 12 months, beginning with the day on which the evaluation or most recent review (as the case may be) was completed.
- (3) For the purposes of subsection (2)(a), a change to premises or to the use of premises is “material” if it is reasonable to assume that the change would materially effect the standard terrorism evaluation of the premises.
- (4) A “standard terrorism evaluation” of premises is a document, in such form as may be specified in a notice issued from time to time by the Secretary of State, which provides information about the following matters—
 - (a) the types of acts of terrorism most likely to occur at, or in the immediate vicinity of, the premises if acts of terrorism were to occur;
 - (b) the measures in place in relation to the premises that might be expected to reduce the risk of acts of terrorism of those types occurring at, or in the immediate vicinity of, the premises;
 - (c) the measures in place in relation to the premises that might be expected to reduce the risk of physical harm to individuals if acts of terrorism of those types were to occur at, or in the immediate vicinity of, the premises;
 - (d) the procedures to be followed if acts of terrorism were to occur at, or in the immediate vicinity of, the premises;
 - (e) the ways in which individuals who use the premises as a place of work will be made aware of the standard terrorism evaluation of the premises, or relevant information in the evaluation;

- (f) such other matters as the Secretary of State may prescribe in regulations.
- (5) The Secretary of State may specify different forms of standard terrorism evaluation for premises of different descriptions.
- (6) For the purposes of subsection (4)(e), information is “relevant” to an individual who uses premises as a place of work if it is relevant to the individual’s responsibilities in relation to the premises.

12 Enhanced terrorism risk assessment

- (1) The person responsible for enhanced duty premises or a qualifying public event must—
 - (a) ensure that a terrorism risk assessment of the premises or event (as the case may be) has been completed, and
 - (b) from time to time revise the assessment to keep it up to date.
- (2) A terrorism risk assessment of enhanced duty premises must be reviewed—
 - (a) each time a material change is made to the premises or to the use of the premises, and
 - (b) before the end of the period of 12 months, beginning with the day on which the assessment or the most recent review (as the case may be) was completed.
- (3) For the purposes of subsection (2)(a), a change to premises or to the use of premises is “material” if it is reasonable to assume that the change would materially effect the terrorism risk assessment of the premises.
- (4) A terrorism risk assessment of a qualifying public event must be completed—
 - (a) at least three months before the date on which the event is to begin, or
 - (b) where details of the event are first made available to the public, or a section of the public, less than three months before the date on which the event is to begin—
 - (i) as soon as reasonably practicable after the details are first made available, and
 - (ii) before the event begins.
- (5) A “terrorism risk assessment” of enhanced duty premises or a qualifying public event is an assessment of—
 - (a) the types of acts of terrorism most likely to occur at, or in the immediate vicinity of, the premises or event (if acts of terrorism were to occur);
 - (b) the reasonably practicable measures that might be expected to reduce the risk of acts of terrorism of those types occurring at, or in the immediate vicinity of, the premises or event;
 - (c) the reasonably practicable measures that might be expected to reduce the risk of physical harm to individuals if acts of terrorism of those types were to occur at, or in the immediate vicinity of, the premises or event;

- (d) such other matters as the Secretary of State may prescribe in regulations.
- (6) In carrying out or reviewing a terrorism risk assessment, regard must be had to—
 - (a) the size and other characteristics of the enhanced duty premises or the premises at which the qualifying public event is to be held;
 - (b) existing measures in place in relation to the premises or event of a kind mentioned in subsection (5)(b) and (c);
 - (c) in the case of enhanced duty premises, the current use of the premises and any likely future uses;
 - (d) in the case of a qualifying public event, the nature of the event.

Provision of terrorism protection training

13 Duty to provide terrorism protection training

- (1) The person responsible for qualifying public premises or a qualifying public event must ensure that terrorism protection training in relation to the premises or event (as the case may be) is provided to each relevant worker in accordance with this section.
- (2) “Relevant worker” means an individual who—
 - (a) works at, or in connection with, the premises or event, and
 - (b) has responsibilities that make it appropriate for them to receive terrorism protection training.
- (3) In determining whether an individual is a relevant worker for the purposes of this section, it is irrelevant whether or not—
 - (a) the individual is an employee;
 - (b) the individual works full-time at, or in connection with, the premises or event;
 - (c) the individual is remunerated for their work at, or in connection with, the premises or event.

(But these matters may be relevant to what training is appropriate).

- (4) Terrorism protection training in relation to qualifying public premises must be provided—
 - (a) before, or as soon as is reasonably practicable after, the relevant worker first assumes the responsibilities mentioned in subsection (2)(b),
 - (b) in the case of enhanced duty premises, as soon as is reasonably practicable after the completion or any material revision of a terrorism risk assessment of the premises (see section 12), and
 - (c) in any case, before the end of the period of 12 months, beginning with the day on which the relevant worker last completed training provided in accordance with this section in relation to the premises.
- (5) For the purposes of subsection (4)(b), a revision of a terrorism risk assessment is “material” if it is reasonable to assume that it would materially effect the training provided in accordance with this section.

- (6) Terrorism protection training in relation to a qualifying public event must be provided before the event begins.

14 Content of terrorism protection training

- (1) “Terrorism protection training”, in relation to qualifying public premises or a qualifying public event, means training in relation to—
 - (a) the types of acts of terrorism most likely to occur at, or in the immediate vicinity of, the premises or event (if acts of terrorism were to occur);
 - (b) the indications that an act of terrorism may be occurring at, or in the immediate vicinity of, the premises or event;
 - (c) the procedures to be followed if acts of terrorism were to occur at, or in the immediate vicinity of, the premises or event;
 - (d) such other matters as the Secretary of State may prescribe in regulations.
- (2) The terrorism protection training provided to a relevant worker in accordance with section 13 must be appropriate to—
 - (a) the size and other characteristics of the qualifying public premises or the premises at which the qualifying public event is to be held;
 - (b) in relation to qualifying public premises, the use of the premises (including any use of the premises not specified in Schedule 1);
 - (c) in relation to a qualifying public event, the nature of the event;
 - (d) the responsibilities of the relevant worker in relation to the premises or event.

Enhanced duty to take security measures

15 Security measures

- (1) The person responsible for enhanced duty premises or a qualifying public event must ensure that all such reasonably practicable measures are in place in relation to the premises or event as might (taken together) be expected to—
 - (a) reduce the risk of acts of terrorism occurring at, or in the immediate vicinity of, the premises or event, and
 - (b) reduce the risk of physical harm to individuals if acts of terrorism were to occur at, or in the immediate vicinity of, the premises or event.
- (2) Where a risk assessment has been completed and kept up to date in accordance with section 12, references in this section to acts of terrorism are to acts of the types identified in the assessment.
- (3) The measures mentioned in subsection (1) must, in particular, include—
 - (a) measures in relation to monitoring the premises or event and the immediate vicinity of the premises or event;
 - (b) measures in relation to the movement of individuals into, out of and within the premises or event;

- (c) procedures to be followed if acts of terrorism were to occur at, or in the immediate vicinity of, the premises or event;
 - (d) measures in relation to the security of sensitive information;
 - (e) measures in relation to such other matters as the Secretary of State may prescribe in regulations.
- (4) In subsection (3)(d), “sensitive information” means information which it is reasonable to consider might assist in the planning, preparation or execution of acts of terrorism at, or in the immediate vicinity of, the premises or event.
- (5) Procedures under subsection (3)(c) in relation to enhanced duty premises or a qualifying public event must, in particular, include—
- (a) procedures for alerting the emergency services;
 - (b) procedures for alerting persons at, or in the immediate vicinity of, the premises or event;
 - (c) procedures for the evacuation of persons from the premises or event, where it is safe and appropriate to do so;
 - (d) procedures for bringing persons in the immediate vicinity of the premises or event into the premises or event, where it is safe and appropriate to do so;
 - (e) procedures for securing the premises or event, where it is safe and appropriate to do so.
- (6) Nothing in this section requires a person to take any step which—
- (a) is not within the person’s power to take, or
 - (b) would place a disproportionate burden on the person (having regard to the person’s resources and the premises or event to which the step relates).

Coordinating and recording compliance with enhanced duties

16 Designated senior officers

- (1) The person responsible for enhanced duty premises or a qualifying public event must ensure that—
- (a) an individual is appointed to act as the designated senior officer for the premises or event,
 - (b) the regulator is notified of the individual’s name and contact details, and
 - (c) if there is any change in the identity or contact details of the individual appointed, the regulator is notified of the change as soon as is reasonably practicable.
- (2) Where the person responsible for the premises or event is an individual, the designated senior officer may be either—
- (a) that individual, or
 - (b) another individual who has management responsibilities in relation to the premises or event (as the case may be).

- (3) Where the person responsible for the premises or event is a body corporate, the designated senior officer for the premises or event must be a director, manager, secretary or other similar officer of the body.
- (4) Where the person responsible for enhanced duty premises or a qualifying public event (“R”) is not the designated senior officer for the premises or event, R must ensure that the designated senior officer has responsibilities which comprise or include the following –
 - (a) coordinating the risk assessment of the premises or event in accordance with section 12;
 - (b) coordinating the preparation and maintenance of the security plan in relation to the premises or event (see section 17);
 - (c) coordinating the response to any notice or other communication from the regulator to R in relation to the premises or event.
- (5) A notice under this Act to the person responsible for enhanced duty premises or a qualifying public event may be given to the designated senior officer for the premises or event.

17 Security plans

- (1) The person responsible for enhanced duty premises or a qualifying public event must ensure that a security plan in relation to the premises or event is prepared and maintained.
- (2) The person must provide a copy of the current plan to the regulator –
 - (a) as soon as is reasonably practicable after the completion or revision of the terrorism risk assessment of the premises or event, and
 - (b) if requested to do so by the regulator, within such reasonable period as the regulator may specify in the request.
- (3) A security plan is a document setting out –
 - (a) prescribed information about the premises or event;
 - (b) prescribed information about the person responsible for the premises or event;
 - (c) the identity and contact details of the designated senior officer for the premises or event;
 - (d) prescribed information about the terrorism risk assessment of the premises or event;
 - (e) prescribed details of the measures in place in relation to the premises or event in pursuance of the duty in section 15;
 - (f) prescribed details of any proposals for putting in place measures in pursuance of that duty (that are not already in place);
 - (g) prescribed details of terrorism protection training provided in accordance with section 13;
 - (h) such other matters as may be prescribed.
- (4) In subsection (3), “prescribed” means prescribed in regulations made by the Secretary of State.

- (5) A security plan must be prepared in such form as may be specified in a notice issued from time to time by the Secretary of State.

Cooperation and dispute resolution

18 Cooperation of other persons with control of premises

- (1) A person (“R”) who is the person responsible for qualifying public premises or a qualifying public event may give another person (“P”) a cooperation notice if—
- (a) P has, to any extent, control of the qualifying public premises or the premises at which the event is to be held (as the case may be),
 - (b) a requirement imposed on R by or under this Act relates to a matter that is within P’s control, and
 - (c) in order to comply with the requirement, R reasonably requires the cooperation of P.
- (2) A “cooperation notice” is a notice which specifies—
- (a) the premises mentioned in subsection (1)(a);
 - (b) R’s reasons for believing that the conditions in subsection (1) are met;
 - (c) the steps that R reasonably requires P to take in relation to the premises by way of cooperation with R;
 - (d) a reasonable period for P to take those steps (and different periods may be specified in relation to different steps);
 - (e) such other matters as the Secretary of State may prescribe in regulations.
- (3) If R gives P a cooperation notice, R must send a copy of the notice to the regulator.
- (4) If P is given a cooperation notice in accordance with this section, P must take the steps specified in the notice within the period specified in the notice for the taking of those steps.
- (5) Nothing in this section requires P to take any step which—
- (a) is not within P’s power to take, or
 - (b) would place a disproportionate burden on P (having regard to P’s resources and the premises to which the step relates).

19 Cooperation with persons responsible for fire safety

- (1) This section applies where—
- (a) a person (“R”) is the person responsible for qualifying public premises or a qualifying public event, and
 - (b) one or more other persons are responsible persons, within the meaning of article 3 of the Regulatory Reform (Fire Safety) Order 2005 (S.I. 2005/1541), in relation to the qualifying public premises or the premises at which the qualifying public event is to be held (“the relevant premises”) or a part of the relevant premises (“a relevant part”).

- (2) R must cooperate with each such other person in the performance of that person’s duties under that Order in relation to the relevant premises or a relevant part of the relevant premises.

20 Determinations by the tribunal

- (1) An interested person may apply to the tribunal for a determination of any of the following matters—
 - (a) whether premises are qualifying public premises (and, if so, the relevant Schedule 1 use of the premises);
 - (b) whether qualifying public premises are enhanced duty premises;
 - (c) whether an event is a qualifying public event;
 - (d) the person responsible for qualifying public premises or a qualifying public event.
- (2) The tribunal may, on the application of an interested person, give directions to a person who is responsible for complying with a duty under this Act as to how the duty is to be discharged.
- (3) In this section, “interested person” means—
 - (a) the regulator, or
 - (b) any person who has, to any extent, control of the premises or event to which the application relates or the premises at which the event is to be held.

Investigatory powers

21 Investigatory powers

Schedule 2 makes provision about investigatory powers.

Enforcement

22 Contravention notices

- (1) If the regulator has reasonable grounds to believe that a person is contravening or has contravened a relevant requirement, the regulator may give the person a contravention notice.
- (2) A contravention notice is a notice under this section requiring the person to whom it is given to comply with a specified relevant requirement within a specified period.
- (3) A contravention notice given to a person must—
 - (a) specify the relevant requirement and the contravention in respect of which the notice is given;
 - (b) explain the action the regulator may take if the person does not comply with the notice;
 - (c) explain the rights of appeal under section 25.

- (4) A contravention notice given to a person may –
 - (a) require the person to take any specified steps, within a specified period, in order to comply with the notice;
 - (b) require the person, within a specified period, to provide evidence to the satisfaction of the regulator that the person has complied with, or is complying with, the notice.
- (5) Before giving a contravention notice to a person, the regulator must –
 - (a) notify the person that the regulator intends to give a contravention notice to the person, and
 - (b) give the person an opportunity to make representations about the giving of the notice.
- (6) A contravention notice may not be given to a person more than once in respect of the same contravention.
- (7) The regulator may vary or withdraw a contravention notice.
- (8) But the regulator may not vary a contravention notice to make it more onerous.
- (9) In this section –
 - “relevant requirement” means a requirement imposed by or under any of sections 9 to 19;
 - “specified” means specified in the contravention notice.

23 Restriction notices

- (1) The regulator may give a restriction notice to a person mentioned in subsection (3) if the regulator has reasonable grounds to believe that –
 - (a) a person (whether or not the person to whom the notice is given) is contravening or has contravened a relevant requirement,
 - (b) the requirement relates to enhanced duty premises or a qualifying public event, and
 - (c) giving the notice to the person is necessary to protect the public, or a section of the public, from the risk of harm arising from acts of terrorism at, or in the immediate vicinity of, the premises or event.
- (2) A restriction notice is a notice under this section requiring the person to whom it is given to take steps to ensure that the use of specified premises is restricted in specified ways.
- (3) A restriction notice may be given to –
 - (a) the person responsible for the enhanced duty premises or qualifying public event to which the notice relates;
 - (b) any other person who, to any extent, has control of the specified premises.
- (4) A restriction notice given to a person must –
 - (a) identify the premises to which the notice relates;
 - (b) set out the regulator’s reasons for giving the notice;

- (c) set out the period for which the notice has effect;
 - (d) explain that the period may be extended in accordance with section 24;
 - (e) explain what may happen if the person does not comply with the notice;
 - (f) explain the rights of appeal under section 25;
 - (g) require the person, within a specified period, to provide evidence to the satisfaction of the regulator that the person is complying or has complied with the notice.
- (5) The ways in which the use of premises may be restricted under a restriction notice include (but are not limited to) –
- (a) specifying the purposes for which the premises may be used or must not be used;
 - (b) specifying the times at which the premises may be used or must not be used;
 - (c) specifying a description, or maximum number, of members of the public who may be permitted access to the premises, or permitted access at specified times;
 - (d) specifying conditions which must be complied with if the premises are used, or are used for specified purposes or at specified times.
- (6) A restriction notice may relate to part only of premises (and references in this section and section 24 to “premises” are to be read accordingly).
- (7) Before giving a restriction notice to a person, the regulator must –
- (a) notify the person that the regulator intends to give a restriction notice to the person, and
 - (b) give the person an opportunity to make representations about the giving of the notice.
- (8) Subsection (7) does not apply if the regulator considers that there is an urgent need to give a restriction notice to the person.
- (9) The regulator may vary or withdraw a restriction notice.
- (10) But the regulator may not vary a restriction notice to make it more onerous.
- (11) In this section –
- “relevant requirement” means a requirement imposed by or under any of sections 9 to 19;
 - “specified” means specified in the restriction notice.

24 Duration of restriction notices

- (1) A restriction notice may not have effect for a period of more than six months, unless that period is extended under this section.
- (2) Before a restriction notice is due to expire, the regulator may by further notice extend the period for which it has effect if satisfied that the grounds in section 23(1) continue to apply in relation to the premises or event to which the notice relates.

- (3) Before extending the period for which a restriction notice has effect, the regulator must—
 - (a) notify each person to whom the notice was given, and
 - (b) give each such person an opportunity to make representations.
- (4) An extension under this section may not be for a period of more than three months.
- (5) A restriction notice may be extended under this section more than once.

25 Appeals in relation to contravention notices and restriction notices

- (1) A person who is given a contravention notice or restriction notice may appeal to the tribunal against the following decisions of the regulator (“relevant decisions”)—
 - (a) the decision to give the person the notice;
 - (b) the decision to include particular provision in the notice;
 - (c) a decision to vary the notice;
 - (d) a decision to extend the period for which a restriction notice has effect.
- (2) An appeal under this section is to be brought before the end of the period of 28 days beginning with—
 - (a) in the case of an appeal under subsection (1)(a) or (b), the day on which the notice was given;
 - (b) in the case of an appeal under subsection (1)(c), the day on which the notice was varied;
 - (c) in the case of an appeal under subsection (1)(d), the first day of the extended period.
- (3) On an appeal under this section, if the tribunal is satisfied that any of the grounds in subsection (5) applies it may—
 - (a) cancel the notice or any provision of it,
 - (b) otherwise vary the notice, or
 - (c) if the appeal concerns a restriction notice, reduce the period for which the notice has effect.
- (4) If the tribunal is not satisfied as mentioned in subsection (3), it must dismiss the appeal.
- (5) The grounds referred to in subsection (3) are—
 - (a) that the relevant decision was based, wholly or partly, on an error of fact;
 - (b) that the relevant decision was wrong in law;
 - (c) that the relevant decision was unfair or unreasonable for any other reason.
- (6) If the tribunal cancels a notice (in whole or in part), it may refer the matter back to the regulator with a direction to reconsider and make a new decision in accordance with its ruling.

- (7) But the tribunal may not direct the regulator to take any action which the regulator would not otherwise have the power to take.
- (8) In determining an appeal under this section, the tribunal may—
 - (a) review any determination of fact on which the relevant decision was based;
 - (b) take into account evidence which was not available to the regulator at the time the relevant decision was made.
- (9) Unless the tribunal orders otherwise, on an appeal under this section in respect of a relevant decision—
 - (a) if the decision concerns a contravention notice, the decision is of no effect until the appeal is determined or withdrawn;
 - (b) if the decision concerns a restriction notice, the decision continues to have effect until the appeal is determined or withdrawn (unless the notice expires before the appeal is determined or withdrawn).

Monetary penalties

26 Penalty notices

- (1) If the regulator is satisfied, on the balance of probabilities, that a person is contravening or has contravened a relevant requirement, the regulator may give a penalty notice to the person.
- (2) A penalty notice is a notice under this section requiring the person to pay a penalty of a specified amount (the “fixed penalty”) to the regulator within a specified period.
- (3) A person may not be given more than one penalty notice in respect of a single contravention.
- (4) A penalty notice may not require a person to pay a fixed penalty in respect of a single contravention of an amount greater than the maximum determined in accordance with section 29.
- (5) A penalty notice may not specify a period for paying a fixed penalty that is less than 28 days, beginning with the day on which the notice is given.
- (6) A penalty notice may be given to a person in respect of a contravention whether or not the person has been given a contravention notice or restriction notice in respect of the contravention.
- (7) The regulator may vary or withdraw a penalty notice.
- (8) But the regulator may not vary a penalty notice so as to—
 - (a) increase the amount of the penalty,
 - (b) shorten the period within which the penalty must be paid, or
 - (c) require the payment of daily penalties (see section 27).
- (9) In this section—

“relevant requirement” means a requirement imposed by or under any of sections 9 to 19, 22 or 23;

“specified” means specified in the penalty notice.

27 Daily penalties

- (1) This section applies if a penalty notice is given to a person in respect of a contravention of a relevant requirement.
- (2) The notice may, in addition to requiring the person to pay a fixed penalty, require the person to pay daily penalties to the regulator.
- (3) A “daily penalty” is a specified amount that must be paid, within a specified period, for each day on which the contravention continues after the end of the period specified for payment of the fixed penalty.
- (4) The amount of each daily penalty must not exceed –
 - (a) if the fixed penalty relates to standard duty premises, £500;
 - (b) if the fixed penalty relates to enhanced duty premises or a qualifying public event, 1% of the amount of the fixed penalty.
- (5) The total amount of the daily penalties to which the person may be liable in respect of the contravention must not exceed the amount of the fixed penalty.
- (6) In this section –
 - “relevant requirement” means a requirement imposed by or under any of sections 9 to 19, 22 or 23;
 - “specified” means specified in the penalty notice.

28 Determining the amount of a penalty

- (1) A penalty imposed on a person by a penalty notice must be of an amount that the regulator considers to be –
 - (a) appropriate, and
 - (b) proportionate to the contravention in respect of which it is imposed.
- (2) In determining the amount of a penalty to be imposed on a person by a penalty notice, the regulator must take into account the following matters (among others) –
 - (a) the effects of the contravention in respect of which the penalty is imposed;
 - (b) any action taken by the person to remedy the contravention or mitigate its effects;
 - (c) any statement issued by the Secretary of State for the purposes of this section.

29 Maximum amounts of fixed penalty

- (1) This section applies for the purpose of determining the maximum amount of a fixed penalty imposed on a person by a penalty notice.
- (2) If the fixed penalty relates to standard duty premises, the maximum amount is £10,000.

- (3) If the fixed penalty relates to enhanced duty premises or a qualifying public event, the maximum amount is whichever is the greater of—
 - (a) £18 million, and
 - (b) 5% of the person’s qualifying worldwide revenue.
- (4) For the purposes of subsection (3)(b), a person’s qualifying worldwide revenue is to be determined in accordance with regulations made by the Secretary of State.
- (5) Regulations under subsection (4) may, in particular, make provision as to—
 - (a) the amounts which are, or which are not, to be treated as comprising a person’s qualifying worldwide revenue;
 - (b) the period by reference to which a person’s qualifying worldwide revenue is to be determined;
 - (c) the circumstances in which a person’s qualifying worldwide revenue may be determined by reference to estimated amounts (including amounts estimated by the regulator);
 - (d) the determination of a person’s qualifying worldwide revenue (in whole or in part) by reference to accounting rules prescribed, or of a description prescribed, in the regulations.
- (6) The Secretary of State may by regulations amend—
 - (a) subsection (2), or
 - (b) subsection (3)(a),
 so as to substitute a different figure for the figure for the time being specified.

30 Penalty notices: procedure

- (1) Before giving a penalty notice to a person, the regulator must—
 - (a) notify the person of the regulator’s intention to give a penalty notice to the person, and
 - (b) give the person an opportunity to make representations about the giving of the notice.
- (2) The regulator may not give a penalty notice to the person before the end of the period of 28 days, beginning with the day on which notification under subsection (1)(a) is given.
- (3) A penalty notice must contain the following information—
 - (a) the reasons for giving the penalty notice;
 - (b) the amount of the fixed penalty;
 - (c) the amount of any daily penalty;
 - (d) how payments may be made;
 - (e) the period within which payments must be made;
 - (f) the rights of appeal under section 31;
 - (g) the consequences of failing to pay the penalty.

31 Appeals against penalties

- (1) A person who is given a penalty notice may appeal to the tribunal against—
 - (a) the giving of the notice;
 - (b) a penalty imposed by the notice or the amount of such a penalty;
 - (c) the period within which such a penalty must be paid;
 - (d) a variation of the notice.

- (2) An appeal under this section is to be brought before the end of the period of 28 days, beginning with—
 - (a) the day on which the penalty notice was given, or
 - (b) if the appeal concerns a variation of the notice, the day on which the notice was varied.

- (3) On an appeal under this section—
 - (a) if the tribunal is satisfied that any of the grounds in subsection (4) applies, it may—
 - (i) cancel the penalty notice or a penalty imposed by the penalty notice,
 - (ii) vary the amount of a penalty imposed by the penalty notice, or
 - (iii) vary the period within which such a penalty must be paid;
 - (b) if the tribunal is not so satisfied, it must confirm the penalty notice.

- (4) The grounds referred to in subsection (3)(a) are—
 - (a) that the decision appealed against was based, wholly or partly, on an error of fact;
 - (b) that the decision appealed against was wrong in law;
 - (c) that the decision appealed against was unfair or unreasonable for any other reason.

- (5) If the tribunal cancels a penalty notice or a penalty imposed by a penalty notice, it may refer the matter back to the regulator with a direction to reconsider and make a new decision in accordance with its ruling.

- (6) But the tribunal may not direct the regulator to take any action which the regulator would not otherwise have the power to take.

- (7) In determining an appeal under this section, the tribunal may—
 - (a) review any determination of fact on which the decision appealed against was based;
 - (b) take into account evidence which was not available to the regulator.

- (8) Where an appeal is made under this section in respect of a penalty notice, or the variation of a notice, the notice or variation is of no effect until the appeal is determined or withdrawn, unless the tribunal orders otherwise.

32 Recovery of penalties

- (1) In England and Wales, a penalty is recoverable as if it were payable under an order of the High Court.

- (2) In Scotland, a penalty may be enforced in the same manner as an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.
- (3) In Northern Ireland, a penalty is recoverable as if it were payable under an order of the High Court.
- (4) Where action is taken under this section for the recovery of a penalty, the penalty—
 - (a) in relation to England and Wales, is to be treated for the purposes of section 98 of the Courts Act 2003 (register of judgments and orders etc) as if it were a judgment entered in the High Court;
 - (b) in relation to Northern Ireland, is to be treated for the purposes of Article 116 of the Judgments Enforcement (Northern Ireland) Order 1981 (S.I. 1981/226 (N.I. 6)) (register of judgments) as if it were a judgment in respect of which an application has been accepted under Article 22 or 23(1) of that Order.
- (5) Any sums received by the regulator by way of a penalty or interest on a penalty are to be paid into the Consolidated Fund.
- (6) In this section “penalty” means a penalty imposed by a penalty notice.

33 Double jeopardy

A person is not liable to a monetary penalty under this Act in respect of anything in respect of which the person has been convicted of an offence under this Act.

Offences

34 Offences

- (1) A person who is given a contravention notice commits an offence if—
 - (a) the notice relates to enhanced duty premises or a qualifying public event, and
 - (b) the person fails to comply with the notice.
- (2) A person who is given a restriction notice commits an offence if the person fails to comply with the notice.
- (3) It is a defence for a person (“P”) charged with an offence under subsection (1) or (2) to show that P took all reasonable steps to comply with the notice.
- (4) P is to be taken to have shown the fact mentioned in subsection (3) if—
 - (a) sufficient evidence of the fact is adduced to raise an issue with respect to it, and
 - (b) the contrary is not proved beyond reasonable doubt.
- (5) P may not rely on a defence under subsection (3) which involves a third party allegation unless P has—

- (a) given a notice to the prosecutor in accordance with subsections (7) to (10), or
 - (b) obtained the permission of the court.
- (6) In subsection (5) “third party allegation” means an allegation that the failure was due to—
- (a) the act or omission of another person, or
 - (b) P’s reliance on information provided by another person.
- (7) The notice under subsection (5)(a) must give any information in P’s possession which identifies, or may assist in identifying, the person mentioned in subsection (6).
- (8) In the case of proceedings in England and Wales or Northern Ireland, the notice under subsection (5)(a) must be given to the prosecutor no later than 7 clear days before the hearing of the proceedings.
- (9) In the case of summary proceedings in Scotland, the notice under subsection (5)(a) must be given to the prosecutor—
- (a) where an intermediate diet is to be held, at or before that diet;
 - (b) where such a diet is not to be held, no later than 10 clear days before the trial diet.
- (10) In the case of solemn proceedings in Scotland, the notice under subsection (5)(a) must be given to the prosecutor—
- (a) where the proceedings are in the sheriff court, at or before the first diet;
 - (b) where the proceedings are in the High Court, at or before the preliminary hearing.
- (11) A person commits an offence if—
- (a) the person provides false or misleading information to the regulator in compliance, or purported compliance, with a requirement imposed by or under this Act, and
 - (b) the person knows that, or is reckless as to whether, the information is false or misleading.
- (12) A person who commits an offence under this section is liable—
- (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding the general limit in a magistrates’ court or a fine (or both);
 - (b) on summary conviction in Scotland, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both);
 - (c) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum (or both);
 - (d) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both).

35 Offences by directors, partners etc

- (1) Where an offence under this Act has been committed by a body corporate and it is proved that the offence—
 - (a) has been committed with the consent or connivance of a person listed in subsection (2), or
 - (b) is attributable to any neglect on the part of such a person, that person (as well as the body corporate) is guilty of that offence and liable to be proceeded against and punished accordingly.
- (2) The persons referred to in subsection (1)(a) are—
 - (a) a director, manager, secretary or other similar officer of the body;
 - (b) any person who was purporting to act in such a capacity.
- (3) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member, in connection with that management, as if the member were a director of the body corporate.
- (4) Where an offence under this Act has been committed by a Scottish partnership and it is proved that the offence—
 - (a) has been committed with the consent or connivance of a partner in the partnership or a person purporting to act as such a partner, or
 - (b) is attributable to any neglect on the part of such a person, that person (as well as the partnership) is guilty of that offence and liable to be proceeded against and punished accordingly.

Guidance

36 Guidance about requirements

- (1) The Secretary of State—
 - (a) must issue guidance about the discharge of requirements imposed on persons by or under this Act;
 - (b) may from time to time revise and reissue the guidance.
- (2) The guidance—
 - (a) may be in such form as the Secretary of State considers appropriate (and in particular, may include online training materials);
 - (b) may make provision by reference to a document issued by the Secretary of State, or another person, as revised or replaced from time to time.
- (3) Subsection (4) applies where—
 - (a) in any proceedings, it is alleged that a person is contravening or has contravened a requirement imposed on the person by or under this Act, and
 - (b) guidance has been issued under this section in relation to the discharge of the requirement (“relevant guidance”).
- (4) Proof of compliance with the relevant guidance may be relied on as tending to establish that there was no such contravention.

37 Guidance about the exercise of the regulator’s functions

- (1) The regulator must issue guidance about how the regulator proposes to exercise functions under this Act.
- (2) The regulator –
 - (a) must keep the guidance under review, and
 - (b) may from time to time revise and reissue the guidance.
- (3) The regulator must not issue guidance, or revised guidance, under this section unless –
 - (a) where the regulator is not the Secretary of State, a draft of the guidance or revised guidance has been sent to, and approved by, the Secretary of State, and
 - (b) the Secretary of State has laid a copy of the guidance, or revised guidance, before Parliament.

Licensing of premises at heightened terrorism risk

38 Licensing of premises at heightened terrorism risk

Schedule 3 amends the Licensing Act 2003 to make provision about the disclosure of plans of premises considered to be at heightened risk of being a target of terrorist activity.

General

39 Data protection

- (1) A disclosure of information under this Act, or regulations made under this Act, does not breach –
 - (a) any obligation of confidence owed by the person making the disclosure, or
 - (b) any other restriction on the disclosure of information (however imposed).
- (2) Nothing in this Act requires or authorises a disclosure of information if the disclosure would contravene the data protection legislation (but in determining whether a disclosure would do so, take into account the duties imposed, and powers conferred, by and under this Act).
- (3) In this section “the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act).

40 Means of giving notices

- (1) A notice under this Act may be given to a person by –
 - (a) handing it to the person,
 - (b) leaving it at the person’s proper address,
 - (c) sending it by post to the person at that address, or

- (d) subject to subsection (7), sending it to the person by electronic means.
- (2) A notice to a body corporate may be given to the secretary or clerk of that body.
- (3) A notice to a partnership may be given to a partner or a person who has the control or management of the partnership business.
- (4) For the purposes of this section and of section 7 of the Interpretation Act 1978 (service of documents by post) in its application to this section, the proper address of a person is—
 - (a) in the case of a body corporate or its secretary or clerk, the address of the body’s registered or principal office;
 - (b) in the case of a partnership, a partner or a person having the control or management of the partnership business, the address of the principal office of the partnership;
 - (c) in any other case, the person’s last known address.
- (5) For the purposes of subsection (4) the principal office of a company registered outside the United Kingdom, or of a partnership carrying on business outside the United Kingdom, is its principal office within the United Kingdom.
- (6) If a person has specified an address in the United Kingdom, other than the person’s proper address within the meaning of subsection (4), as the one at which the person or someone on the person’s behalf will accept notices of the same description as a notice under this Act, that address is also treated for the purposes of this section and section 7 of the Interpretation Act 1978 as the person’s proper address.
- (7) A notice may be sent to a person by electronic means only if—
 - (a) the person has indicated that notices of the same description as a notice under this Act may be given to the person by being sent to an electronic address and in an electronic form specified for that purpose, and
 - (b) the notice is sent to that address in that form.
- (8) A notice sent to a person by electronic means is, unless the contrary is proved, to be treated as having been given at 9am on the working day immediately following the day on which it was sent.
- (9) In this section—
 - “electronic address” means any number or address used for the purposes of sending or receiving information by electronic means;
 - “working day” means a day other than a Saturday, a Sunday, Christmas Day, Good Friday or a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom.

41 Further provision about notices

- (1) The Secretary of State may by regulations make further provision about notices under this Act.
- (2) The regulations may in particular make provision about—

- (a) the form and content of notices;
- (b) the variation or withdrawal of notices.

42 Civil liability

- (1) Except so far as this Act or regulations under this Act provide, nothing in this Act confers a right of action in any civil proceedings in respect of any contravention or a requirement imposed on any person by or under this Act.
- (2) Subsection (1) is without prejudice to any right of action which exists apart from the provisions of this Act.

43 Interpretation

- (1) In this Act—
 - “authorised inspector” has the meaning given by paragraph 2(2) of Schedule 2;
 - “contravention” includes a failure to comply;
 - “contravention notice” means a notice under section 22;
 - “document” includes information recorded in any form;
 - “enhanced duty premises” has the meaning given by section 3;
 - “information” includes documents, and any reference to providing information includes a reference to producing a document;
 - “penalty notice”, “fixed penalty” and “daily penalty” have the meanings given by sections 26 and 27;
 - “relevant Schedule 1 use” has the meaning given by section 5;
 - “relevant worker” has the meaning given by section 13;
 - “restriction notice” means a notice under section 23;
 - “standard duty premises” has the meaning given by section 3;
 - “terrorism” has the same meaning as in the Terrorism Act 2000 (see section 1 of that Act);
 - “the tribunal” means the First-Tier Tribunal or, where determined by or under Tribunal Procedure Rules, the Upper Tribunal.
- (2) References in this Act to acts of terrorism (however expressed) include the use or threat of action which it is reasonable to suspect may be being carried out in the course of, or in the planning or preparation of, an act of terrorism.
- (3) For the purposes of this Act, “premises” means—
 - (a) a building, including land occupied with the building;
 - (b) any other land which has a readily identifiable physical boundary (whether permanent or not).
- (4) In subsection (3)(a), “building” includes part of a building or a group of buildings (and the reference to land occupied with the building is to be read accordingly).
- (5) Any reference in this Act to a person having control of premises is a reference to the person having control as occupier or otherwise.

- (6) References in this Act to “measures” in place in relation to premises include measures of any sort (whether physical or otherwise) put in place for any purpose, and it is irrelevant whether a measure—
 - (a) is permanent or temporary;
 - (b) is put in place by the person for the time being responsible for the premises or another person;
 - (c) is put in place before or after the passing of this Act.

44 Regulations

- (1) This section applies to regulations under any provision of this Act except section 46 (commencement and transitional provision).
- (2) A power to make regulations includes power to make—
 - (a) consequential, supplementary, incidental, transitional or saving provision;
 - (b) different provision for different purposes or for different areas.
- (3) Regulations are to be made by statutory instrument.
- (4) A statutory instrument containing any of the regulations specified in subsection (5) (with or without other provision) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (5) The regulations are—
 - (a) regulations under section 1;
 - (b) regulations under section 8;
 - (c) regulations under section 29(6) which increase or decrease the maximum amount of a penalty by more than is necessary to reflect changes in the value of money.
- (6) Any other statutory instrument containing regulations is subject to annulment in pursuance of a resolution of either House of Parliament.

45 Extent

- (1) Subject to subsection (2), this Act extends to England and Wales, Scotland and Northern Ireland.
- (2) Section 38 and Schedule 3 extend to England and Wales only.

46 Commencement and transitional provision

- (1) The following provisions come into force on the day on which this Act is passed—
 - (a) sections 39 to 45;
 - (b) this section;
 - (c) section 47.

- (2) The other provisions of this Act come into force on such day as the Secretary of State may by regulations appoint, and different days may be appointed for different purposes or different areas.
- (3) The Secretary of State may by regulations make transitional or saving provision in connection with the coming into force of any provision of this Act.
- (4) The power to make regulations under subsection (3) includes power to make different provision for different purposes or for different areas.
- (5) Regulations under this section are to be made by statutory instrument.

47 Short title

This Act may be cited as the Terrorism (Protection of Premises) Act 2023.

SCHEDULES

SCHEDULE 1

Section 2

SPECIFIED USES OF PREMISES

Shops etc

- 1 Use for—
- (a) the retail sale of goods,
 - (b) the display of goods for sale, or
 - (c) the provision of a service,
- where the sale, display or service is principally to visiting members of the public.

Food and drink

- 2 Use for the sale of food or drink, where the food or drink is principally for consumption on the premises by visiting members of the public.

Nightclubs etc

- 3 Use as a nightclub, social club or dance hall.

Entertainment activities

- 4 (1) Use for the provision of entertainment of a description mentioned in sub-paragraph (2) where the condition in sub-paragraph (3) is met.
- (2) The descriptions of entertainment are—
- (a) a performance of a play,
 - (b) a performance of comedy,
 - (c) an exhibition of a film,
 - (d) an indoor sporting event,
 - (e) a boxing or wrestling entertainment,
 - (f) a performance of live music,
 - (g) any playing of recorded music,
 - (h) a performance of dance or acrobatics, or
 - (i) entertainment of a similar description to that falling within any of paragraphs (a) to (h).
- (3) The condition in this sub-paragraph is that the entertainment—
- (a) takes place in the presence of an audience, and
 - (b) is provided for the purpose, or for purposes which include the purpose, of entertaining that audience.

Sports grounds

- 5 (1) Use as a sports ground.
- (2) In this paragraph, “sports ground” –
- (a) in relation to England and Wales and Scotland, has the meaning given by section 17(1) of the Safety of Sports Grounds Act 1975;
 - (b) in relation to Northern Ireland, has the meaning given by Article 2(2) of the Safety of Sports Grounds (Northern Ireland) Order 2006 (S.I. 2006/313 (N.I. 2)).

Recreation, exercise or leisure

- 6 Use for recreation, exercise or leisure by visiting members of the public.

Libraries, museums and galleries etc

- 7 (1) Use as a library, museum or gallery.
- (2) In this paragraph, “museum or gallery” includes –
- (a) an archive, and
 - (b) a site where a collection of objects or works (or a single object or work) considered to be of scientific, historic, artistic or cultural interest is exhibited outdoors or partly outdoors.

Exhibition halls etc

- 8 Use as –
- (a) an exhibition hall,
 - (b) a conference centre, or
 - (c) a venue for hire for events or activities.

Visitor attractions

- 9 Use as a visitor attraction of cultural, historic, touristic or educational value.

Hotels etc

- 10 Use as –
- (a) a hotel,
 - (b) a hostel,
 - (c) a boarding house,
 - (d) a guest house, or
 - (e) a holiday park.

Places of worship

- 11 (1) Use for –
- (a) communal worship, or
 - (b) other communal religious practice,

in accordance with the tenets of a particular religion or religious denomination.

- (2) In a case where the relevant Schedule 1 use of qualifying public premises is the use mentioned in sub-paragraph (1), the premises are to be treated for the purposes of this Act as standard duty premises (and not enhanced duty premises, even if they meet the definition of that expression in section 3).
- (3) But sub-paragraph (2) does not apply if persons visiting the premises otherwise than in connection with their relevant Schedule 1 use are charged a fee for admission.

Health care

- 12 (1) Use as a hospital or for the provision of health care.
- (2) In a case where the relevant Schedule 1 use of qualifying public premises is use as a hospital, the person responsible for the premises for the purposes of this Act is—
 - (a) where the hospital is operated by an NHS trust or NHS foundation trust, that trust;
 - (b) in any other case, the governing body of the hospital.
- (3) In this paragraph—
 - “health care” means all forms of health care provided to individuals, whether relating to physical or mental health, and including ancillary care;
 - “hospital” —
 - (a) in relation to England and Wales, has the meaning given by section 275 of the National Health Service Act 2006;
 - (b) in relation to Scotland, has the meaning given by section 108(1) of the National Health Service (Scotland) Act 1978;
 - (c) in relation to Northern Ireland, has the meaning given by Article 2(2) of the Health and Personal Social Services (Northern Ireland) Order 1972 (S.I. 1972/1265 (N.I. 14));
 - “NHS trust” and “NHS foundation trust” have the same meanings as in the National Health Service Act 2006.

Bus stations, railway stations etc

- 13 Use as—
 - (a) a station within the meaning given by section 83 of the Railways Act 1993,
 - (b) a bus or coach station,
 - (c) a tramway station, or
 - (d) any other station forming part of a transport system which uses a mode of guided transport and is not a trolley vehicle system.

Aerodromes

- 14 Use for affording facilities for the landing and departure of aircraft (including those capable of descending or climbing vertically), other than use exclusively for military purposes.

Childcare

- 15 (1) Use for the provision of—
- (a) in England—
 - (i) early years provision in respect of which a person is required to be registered under section 34 of the Childcare Act 2006,
 - (ii) later years provision in respect of which a person is required to be registered under section 53 that Act, or
 - (iii) education or childcare in a maintained nursery school within the meaning of section 22 of the School Standards and Framework Act 1998;
 - (b) in Wales—
 - (i) day care for children within the meaning of Part 2 of the Children and Families (Wales) Measure 2010 (nawm 1), or
 - (ii) childcare in a school in Wales within the meaning of the Education Act 1996 as it applies in relation to Wales (see section 4 of that Act);
 - (c) in Scotland—
 - (i) early learning and childcare within the meaning of Part 6 of the Children and Young People (Scotland) Act 2014 (asp 8) (see section 46 of that Act), or
 - (ii) the day care of children within the meaning of Part 5 of the Public Services Reform (Scotland) Act 2010 (asp 8) (see paragraph 13 of Schedule 12 to that Act);
 - (d) in Northern Ireland—
 - (i) day care for children within the meanings given by Article 2(2) of the Children (Northern Ireland) Order 2005 (S.I. 1995/755 (N.I. 2)),
 - (ii) pre-school education, within the meaning given by Article 17(8) of the Education (Northern Ireland) Order 1998 (S.I. 1998/594 (N.I. 13)), or
 - (iii) education in a nursery school, within the meaning given by Article 2(2) of the Education and Libraries (Northern Ireland) Order 1986 (S.I. 1986/594 (N.I. 3)).
- (2) In sub-paragraph (1)(a), “childcare”, “early years provision” and “later years provision” have the same meanings as in Part 3 of the Childcare Act 2006 Act (see section 98 of that Act).
- (3) In a case where the relevant Schedule 1 use of qualifying public premises is a use mentioned in sub-paragraph (1), the premises are to be treated for the purposes of this Act as standard duty premises (and not enhanced duty premises, even if they meet the definition of that expression in section 3).

Primary and secondary education

- 16 (1) Use for the purposes of a primary or secondary education institution.
- (2) In this paragraph, “primary or secondary education institution” means –
- (a) an institution in England or Wales which is –
 - (i) a school that has been approved under section 342 of the Education Act 1996,
 - (ii) a maintained school within the meaning given by section 20(7) of the School Standards and Framework Act 1998,
 - (iii) an independent school registered under section 158 of the Education Act 2002,
 - (iv) an independent educational institution registered under section 95(1) of the Education and Skills Act 2008,
 - (v) an Academy school within the meaning given by section 1A of the Academies Act 2010,
 - (vi) an alternative provision Academy within the meaning given by section 1C of that Act, or
 - (vii) a pupil referral unit or other institution at which education is provided in pursuance of arrangements made under section 19 or 19A of the Education Act 1996;
 - (b) in Scotland, a grant-aided school, independent school or public school within the meanings given by section 135 of the Education (Scotland) Act 1980;
 - (c) in Northern Ireland, a school within the meaning given by Article 2(2) of the Education and Libraries (Northern Ireland) Order 1986 (S.I. 1986/594 (N.I. 3)) at which full-time education is provided for pupils of compulsory school age (whether or not full-time or part-time education is also provided for pupils under or over that age).
- (3) In a case where the relevant Schedule 1 use of qualifying public premises is use for the purposes of a primary or secondary education institution –
- (a) the person responsible for the premises for the purposes of this Act is –
 - (i) in a case where the institution is a pupil referral unit, the local authority by which it is maintained, and
 - (ii) in any other case, the governing body or, where there is no governing body, proprietor of the institution, and
 - (b) the premises are to be treated for the purposes of this Act as standard duty premises (and not enhanced duty premises, even if they meet the definition of that expression in section 3).

Further education

- 17 (1) Use for the provision of –

- (a) further education in an institution in England within the further education sector (within the meaning of section 91(3) of the Further and Higher Education Act 1992),
 - (b) education in a 16 to 19 Academy in England,
 - (c) education in England by an independent training provider,
 - (d) further education for persons under 19 by a local authority in England,
 - (e) further education in an institution in Wales within the further education sector (within the meaning of section 91(3) of the Further and Higher Education Act 1992),
 - (f) any other post-16 education or training in Wales, the facilities for which are secured under section 31(1)(a) or (b) or 32(1)(a) or (b) of the Learning and Skills Act 2000, that is funded by the Welsh Ministers or a local authority in Wales, but that is not provided by—
 - (i) an institution in Wales within the higher education sector (within the meaning of section 91(5) of the Further and Higher Education Act 1992), or
 - (ii) a person who is a provider of such post-16 education or training only by reason of providing such education or training to the person’s employees,
 - (g) further education in Scotland by a body listed under the heading “Institutions formerly eligible for funding by the Scottish Further Education Funding Council” or “Other institutions” in Schedule 2 to the Further and Higher Education (Scotland) Act 2005 (asp 6),
 - (h) further education in Scotland by a college of further education which is assigned to a regional strategic body by an order made under section 7C of that Act, or
 - (i) further education at an institution recognised under Article 8 of the Further Education (Northern Ireland) Order 1997 (S.I. 1997/1772 (N.I. 15)).
- (2) In a case where the relevant Schedule 1 use of qualifying public premises is a use mentioned in sub-paragraph (1)–
- (a) the person responsible for the premises for the purposes of this Act is—
 - (i) in a case within paragraph (a), (e), (h) or (i) of that sub-paragraph, the governing body of the institution, college or institute concerned;
 - (ii) in a case within paragraph (b), the proprietor of the 16 to 19 Academy concerned;
 - (iii) in a case within paragraph (c) of that sub-paragraph, the independent training provider concerned;
 - (iv) in a case within paragraph (d) of that sub-paragraph, the local authority in England concerned;
 - (v) in a case within paragraph (f) of that sub-paragraph, the person providing the education concerned;

- (vi) in a case within paragraph (g) of that sub-paragraph, the listed body concerned, and
 - (b) the premises are to be treated for the purposes of this Act as standard duty premises (and not enhanced duty premises, even if they meet the definition of that expression in section 3).
- (3) In this paragraph—
- “16 to 19 Academy” has the meaning given by section 1B of the Academies Act 2010;
 - “further education”—
 - (a) in relation to provision in England or Wales, has the same meaning as in the Education Act 1996 (see section 2 of that Act);
 - (b) in relation to provision in Scotland, has the same meaning as in Part 1 of the Further and Higher Education (Scotland) Act 1992 (see sections 1(3) and 6 of that Act);
 - (c) in relation to provision in Northern Ireland, has the meaning given by Article 3 of the Further Education (Northern Ireland) Order 1997 (S.I. 1997/1772 (N.I. 15)).
 - “independent training provider” means a provider—
 - (a) that is a provider of post-16 education or training in England—
 - (i) to which Chapter 3 of Part 8 of the Education and Inspections Act 2006 (inspection of further education and training etc) applies, and
 - (ii) which is funded, wholly or partly, by the Secretary of State, a local authority in England or a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009, and
 - (b) that is not—
 - (i) an employer who only provides such education or training to its employees,
 - (ii) a 16 to 19 Academy,
 - (iii) a school (within the meaning of section 4(1) of the Education Act 1996),
 - (iv) a local authority in England,
 - (v) an institution within the further education sector (within the meaning given by section 91(3) of the Further and Higher Education Act 1992), or
 - (vi) a higher education provider (within the meaning given by section 83(1) of the Higher Education and Research Act 2017);
 - “local authority in England” has the same meaning as in the Education Act 1996 (see sections 579(1) and 581 of that Act);
 - “local authority in Wales” has the same meaning as in the Education Act 1996 (see section 579(1) of that Act).

Higher education

- 18 (1) Use for the purposes of a higher education institution.
- (2) In a case where the relevant Schedule 1 use of qualifying public premises is use for the purposes of a higher education institution the person responsible for the premises for the purposes of this Act is the governing body of the institution.
- (3) In this paragraph—
- “higher education institution” means—
- (a) an institution in England or Wales which is—
 - (i) a qualifying institution within the meaning of section 11 of the Higher Education Act 2004, or
 - (ii) an institution principally concerned with the provision of education by means of courses of a description mentioned in Schedule 6 to the Education Reform Act 1988 (higher education courses);
 - (b) an institution in Scotland which is listed under the heading “Institutions formerly eligible for funding by the Scottish Higher Education Funding Council” or “Other institutions” in Schedule 2 to the Further and Higher Education (Scotland) 2005 Act (asp 6);
 - (c) an institution in Northern Ireland which provides higher education within the meaning given by Article 2(2) of the Further Education (Northern Ireland) Order 1997 (S.I. 1997/1772 (N.I. 15));
- “institution”, in relation to England, includes—
- (a) a training provider who would not otherwise be regarded as an institution;
 - (b) a provider of higher education designated under section 84 of the Higher Education and Research Act 2017;
- “governing body”—
- (a) in relation to a higher education institution in England or Wales, has the meaning given by section 85 of the Higher Education and Research Act 2017;
 - (b) in relation to a higher education institution in Scotland, has the meaning given by section 35(2) of the Further and Higher Education (Scotland) Act 2005;
 - (c) in relation to an institution in Northern Ireland, has the meaning given by Article 30(3) of the Education and Libraries (Northern Ireland) Order 1993 (S.I. 1993/2810 (N.I. 12));
- “training provider” means a person who provides training in England or Wales for members of the school workforce within the meaning of Part 3 of the Education Act 2005 (see section 100 of that Act).

Public authorities

- 19 (1) Use (other than use mentioned elsewhere in this Schedule) for the purposes of a public authority.
- (2) In a case where the relevant Schedule 1 use of qualifying public premises is the use mentioned in sub-paragraph (1), the person responsible for the premises is the public authority.
- (3) In this paragraph, “public authority” means a person exercising functions of a public nature.

SCHEDULE 2

Section 21

INVESTIGATORY POWERS

Terrorism protection investigations

- 1 In this Schedule, a “terrorism protection investigation” means an investigation by the regulator to determine whether a person—
 - (a) is contravening or has contravened a requirement under this Act, or
 - (b) is committing, or has committed, an offence under this Act.

Authorised inspectors

- 2 (1) The regulator may authorise persons to—
 - (a) exercise information gathering powers under paragraph 3;
 - (b) exercise powers of entry and inspection under paragraph 4;
 - (c) apply for a warrant to be issued under paragraph 5, and execute such a warrant.
- (2) In this Act, “authorised inspector” means—
 - (a) in paragraph 3, a person authorised under sub-paragraph (1)(a);
 - (b) in paragraph 4, a person authorised under sub-paragraph (1)(b);
 - (c) in paragraphs 5 to 7, a person authorised under sub-paragraph (1)(c).
- (3) A person may be authorised to exercise a power under this Schedule only if the person appears to the regulator to be suitably qualified to exercise the power.
- (4) An authorisation under this paragraph—
 - (a) must be in writing;
 - (b) may be varied or revoked by an instrument in writing.
- (5) When exercising or seeking to exercise a power under this Schedule, an authorised inspector must, if asked, produce the authorisation (including any instrument varying it) or a duly authenticated copy.

Information gathering powers

- 3 (1) An authorised inspector may by notice require a person—
 - (a) to provide specified information or information of specified descriptions, by a specified date, or
 - (b) to attend at a specified time and place and provide information by answering questions.
- (2) If a notice under sub-paragraph (1)(a) requires a person to provide information which is kept in electronic form, the notice may require it to be provided in a form in which it is legible.
- (3) An authorised inspector may give a person a notice under sub-paragraph (1)(a) only if the inspector reasonably believes that—
 - (a) the information specified, or of the descriptions specified, in the notice are required by the regulator for the purposes of a terrorism protection investigation, and
 - (b) the person is able to provide the information specified, or information of the descriptions specified, in the notice.
- (4) An authorised inspector may give a person a notice under sub-paragraph (1)(b) only if the inspector reasonably believes that the person is able to provide information required by the regulator for the purposes of a terrorism protection investigation.
- (5) But a person is not required under this paragraph to provide any information which might incriminate the person (and see paragraph 10).
- (6) A notice under this paragraph must—
 - (a) specify that it is a notice containing a requirement under this paragraph;
 - (b) explain the grounds for the inspector believing the matters in sub-paragraph (3) or (4) (as the case may be);
 - (c) explain the consequences of failing to comply with the requirement;
 - (d) attach evidence of the inspector’s authority to exercise the powers under this paragraph.
- (7) An authorised inspector may withdraw a notice under this paragraph by giving notice of withdrawal to the person to whom the notice was given.
- (8) Information provided by a person under this paragraph is not admissible in evidence against that person in criminal proceedings except—
 - (a) in proceedings for a false statement offence, or
 - (b) if in the proceedings—
 - (i) in giving evidence the person makes a statement inconsistent with the information, and
 - (ii) evidence as to the information that was provided is adduced, or a question relating to it is asked, by or on behalf of the person.
- (9) In this paragraph—

“false statement offence” means an offence under—

- (a) section 2 or 5 of the Perjury Act 1911 (false statements made on oath otherwise than in judicial proceedings or made otherwise than on oath),
- (b) section 44(1) or (2) of the Criminal Law (Consolidation) (Scotland) Act 1995 (false statements made on oath or otherwise than on oath), or
- (c) Article 10 of the Perjury (Northern Ireland) Order 1979 (S.I. 1979/1714 (N.I. 19)) (false statutory declarations and other false unsworn statements);

“specified” means specified in the notice.

Powers to enter premises without a warrant

- 4 (1) An authorised inspector may enter premises and do any of the following things –
- (a) inspect the premises;
 - (b) observe the carrying on of activities at the premises;
 - (c) view any document at, or capable of being viewed using equipment at, the premises;
 - (d) inspect any equipment or other item at the premises;
 - (e) require any person on the premises to provide an explanation of any document or to state where it can be found;
 - (f) take copies of any document found or produced;
 - (g) take measurements and photographs, and make recordings.
- (2) The powers under this paragraph may be exercised in relation to premises only if an authorised inspector reasonably believes that –
- (a) the premises are qualifying public premises or premises at which a qualifying public event is to be held, and
 - (b) the exercise of the powers is necessary for the purposes of a terrorism protection investigation.
- (3) Before exercising a power under this paragraph in relation to premises, an authorised inspector must give the occupier of the premises at least 72 hours’ notice in writing of the proposal to exercise the power.
- (4) When exercising a power under this paragraph in relation to premises, an authorised inspector must, if requested to do so by a person at the premises –
- (a) produce evidence of the inspector’s identity, and
 - (b) explain the purpose for which the power is to be exercised.
- (5) The powers conferred by this paragraph must be exercised at a reasonable hour (having regard to the way in which the premises are used).
- (6) The inspector may be accompanied by any person, and bring anything, required for any purpose for which the inspector is exercising the power of entry.

Conditions for issue of warrant to enter premises

- 5 (1) A justice may issue a warrant in respect of premises only if satisfied on an application made by an authorised inspector that—
- (a) the premises are in the United Kingdom,
 - (b) the premises are not used wholly or mainly as a private dwelling,
 - (c) it is necessary for an authorised inspector to enter the premises for the purposes of a terrorism protection investigation, and
 - (d) any of the conditions in sub-paragraph (2) are met in relation to the premises.
- (2) The conditions are that—
- (a) the premises are not qualifying public premises or premises at which a qualifying public event is to be held;
 - (b) the premises are qualifying public premises or premises at which a qualifying public event is to be held, and an inspection without a warrant has been frustrated;
 - (c) giving notice to enter the premises would defeat the object of entry;
 - (d) the regulator requires access to the premises urgently.
- (3) For the purposes of sub-paragraph (2)(b), an inspection of premises without a warrant has been frustrated if—
- (a) an authorised inspector has given notice to enter the premises, as required under paragraph 4, and
 - (b) access has been denied or an authorised inspector has been prevented from doing any other thing mentioned in paragraph 4(1).
- (4) In this paragraph, “justice” means—
- (a) in England and Wales, a justice of the peace;
 - (b) in Scotland, a justice of the peace or a sheriff;
 - (c) in Northern Ireland, a lay magistrate.

Powers exercisable by warrant

- 6 (1) A warrant issued under paragraph 5 in respect of premises—
- (a) authorises any authorised inspector to enter the premises and do any other thing mentioned in paragraph 4(1), and
 - (b) confers such additional powers as may be specified in the warrant.
- (2) A power of entry under a warrant issued under paragraph 5 may be exercised—
- (a) at the times specified in the warrant, or
 - (b) if no times are specified in the warrant, at any time.
- (3) “Additional powers” means—
- (a) the power to enter by force (if necessary);
 - (b) the power to seize documents, equipment or other items.
- (4) The inspector may only seize a document, equipment or other item if it appears to the inspector that—

- (a) the document, equipment or other item is evidence of an offence under this Act, and
 - (b) the seizure is necessary to prevent that evidence being concealed, lost, altered or destroyed.
- (5) The inspector may be accompanied by any person, and bring anything, required for any purpose for which the inspector is exercising the power of entry.

Evidence of authority

- 7 (1) Before exercising power under a warrant issued under paragraph 5 in respect of premises, an authorised inspector must—
- (a) produce a copy of the warrant;
 - (b) supply the occupier (if present), or any other person appearing to the inspector to be in charge of the premises, with a copy of the warrant.
- (2) If requested to do so by a person at the premises, the inspector must also—
- (a) produce evidence of the inspector’s identity;
 - (b) explain the purpose for which the power is exercised.
- (3) If neither the occupier nor any other person appearing to the inspector to be in charge of the premises is present, the authorised inspector must leave a copy of the warrant in a prominent place on the premises.

Retention of evidence etc

- 8 (1) A document, equipment or another item obtained under this Schedule in connection with a terrorism protection investigation may be retained by the regulator for so long as is necessary for the purposes of the investigation.
- (2) But no document, equipment or other item may be retained by the regulator if a copy, photograph or other recording of the document, equipment or item would be sufficient for the purposes of the investigation.

Offences in relation to investigations

- 9 (1) A person who is given a notice under paragraph 3 commits an offence if the person fails to comply with it.
- (2) It is a defence for a person charged with an offence under sub-paragraph (1) to show that the person took all reasonable steps to comply with the notice, and subsections (4) to (10) of section 34 apply in relation to a defence under this sub-paragraph.
- (3) A person commits an offence if the person—
- (a) intentionally obstructs an authorised inspector in the performance of a power conferred by this Schedule;
 - (b) with intent to deceive, falsely pretends to be an authorised inspector.
- (4) A person who commits an offence under sub-paragraph (1) is liable—
- (a) on summary conviction in England and Wales, to a fine;

- (b) on summary conviction in Scotland, to a fine not exceeding level 5 on the standard scale;
 - (c) on summary conviction in Northern Ireland, to a fine not exceeding level 5 on the standard scale.
- (5) A person who commits an offence under sub-paragraph (3) is liable –
- (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding the general limit in a magistrates’ court or a fine (or both);
 - (b) on summary conviction in Scotland, to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both);
 - (c) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum (or both);
 - (d) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine (or both).

Saving for material subject to legal professional privilege

- 10 Nothing in this Schedule confers power to –
- (a) require any person to provide information, or
 - (b) seize anything,
- in respect of which a claim to legal professional privilege (or in Scotland to confidentiality of communications) could be maintained in legal proceedings.

SCHEDULE 3

Section 38

LICENSING OF PREMISES AT HEIGHTENED TERRORISM RISK

- 1 The Licensing Act 2003 is amended as follows.
- 2 In section 8 (requirement to keep a register), after subsection (4) insert –
- “(4A) Subsections (3) and (4) are subject to section 8A.”
- 3 After section 8 insert –
- “8A Terrorism protection statements**
- (1) This section applies where –
 - (a) a relevant record in a register kept by a licensing authority under section 8 contains a plan of premises, and
 - (b) a relevant person has given the authority a terrorism protection statement in relation to the premises (and the statement has not been withdrawn).
 - (2) The licensing authority must not –

- (a) make the plan of the premises available for inspection under section 8(3), or
 - (b) supply any person with a copy of the plan of the premises under section 8(4).
- (3) A “terrorism protection statement”, in relation to premises, is a statement that, in the opinion of an appropriate security adviser, the premises are at heightened risk of being a target of terrorist activity.
- (4) A terrorism protection statement must be –
- (a) in the prescribed form, and
 - (b) certified by an appropriate security adviser in the prescribed manner.
- (5) Before certifying a terrorism protection statement, an appropriate security adviser must have regard to any statement issued by the Secretary of State for the purposes of this section.
- (6) Where a person is appointed pursuant to arrangements under section 8(6) –
- (a) this section applies in relation to a central register kept by the person as it applies in relation to a register kept by a licensing authority, and
 - (b) subsection (2) applies to the appointed person as it applies to a licensing authority.
- (7) Nothing in this section prevents a licensing authority from making a plan of premises available –
- (a) to a responsible authority in relation to the premises, for the purposes of any function of the responsible authority,
 - (b) for the purposes of, or in connection with, legal proceedings (including prospective legal proceedings),
 - (c) for the purposes of obtaining legal advice, or
 - (d) otherwise for the purposes of establishing, exercising or defending legal rights.
- (8) Where the plan of premises mentioned in subsection (1)(a) was received by the licensing authority before 26 March 2013, subsection (2) applies as if for “must not” there were substituted “is not required to”.
- (9) In this section –
- “appropriate security adviser” means a person of a description prescribed as such for the purposes of this Act;
 - “relevant person” means –
 - (a) the applicant, in relation to an application for a premises licence or club premises certificate, or
 - (b) (if different) the person who is for the time being the holder of the license or certificate;

“relevant record”, in relation to a register kept by a licensing authority under section 8, means a record contained in the register of –

- (a) an application made to the authority for a premises licence or club premises certificate (whether or not a licence or certificate is issued),
- (b) an application made to the authority to vary a premises licence or club premises certificate (whether or not the licence or certificate is varied), or
- (c) a premises licence or club premises certificate issued by the authority;

“responsible authority”, in relation to premises, has the meaning given by section 13.”

- 4 (1) Section 17 (application for premises licence), is amended as follows.
 - (2) In subsection (3), omit the “and” at the end of paragraph (b) and insert –
 - “(ba) if, in the opinion of an appropriate security adviser, the premises are at heightened risk of being a target of terrorist activity, by a statement under section 8A (terrorism protection statements), and”.
 - (3) After subsection (6) insert –
 - “(7) In subsection (3)(ba), “appropriate security adviser” has the same meaning as in section 8A.”
- 5 (1) Section 71 (application for club premises certificate) is amended as follows.
 - (2) In subsection (4), omit the “and” at the end of paragraph (b) and insert –
 - “(ba) if, in the opinion of an appropriate security adviser, the premises are at heightened risk of being a target of terrorist activity, by a statement under section 8A (terrorism protection statements), and”.
 - (3) After subsection (7) insert –
 - “(8) In subsection (4)(ba), “appropriate security adviser” has the same meaning as in section 8A.”
- 6 After section 33 insert –

“33A Withdrawal of terrorism protection statement

- (1) This section applies where –
 - (a) a premises licence has been issued by a licensing authority,
 - (b) the authority has been given a statement under section 8A (terrorism protection statement) in relation to the premises to which the licence relates,
 - (c) the statement has not been withdrawn, and,
 - (d) the holder of the licence becomes aware that, in the opinion of an appropriate security adviser, the premises are not (or

are no longer) at heightened risk of being a target of terrorist activity.

- (2) The holder of the licence must, as soon as is reasonably practicable, notify the licensing authority that the statement is withdrawn.
- (3) Notification under subsection (2) must be—
 - (a) in the prescribed form, and
 - (b) certified by an appropriate security adviser in the prescribed manner.
- (4) Before certifying a notification under subsection (2), an appropriate security adviser must have regard to any statement issued by the Secretary of State for the purposes of this section.
- (5) In this section, “appropriate security adviser” has the same meaning as in section 8A.”

7 After section 83 insert—

“83A Withdrawal of terrorism protection statement

- (1) This section applies where—
 - (a) a club premises certificate has been issued by a licensing authority,
 - (b) the authority has been given a statement under section 8A (terrorism protection statements) in relation to the premises to which the certificate relates,
 - (c) the statement has not been withdrawn, and
 - (d) the holder of the certificate becomes aware that, in the opinion of an appropriate security adviser, the premises are not (or are no longer) at heightened risk of being a target of terrorist activity.
- (2) The holder of the certificate must, as soon as is reasonably practicable, notify the licensing authority that the statement is withdrawn.
- (3) Notification under subsection (2) must be—
 - (a) in the prescribed form, and
 - (b) certified by an appropriate security adviser in the prescribed manner.
- (4) Before certifying a notification under subsection (2), an appropriate security adviser must have regard to any statement issued by the Secretary of State for the purposes of this section.
- (5) In this section, “appropriate security adviser” has the same meaning as in section 8A.”

8 In section 193 (other definitions), in subsection (1), at the appropriate place insert—

““terrorism” has the same meaning as in the Terrorism Act 2000;”.

Agenda Item 7

E02903755
978-1-5286-4082-4

LICENSING COMMITTEE

7th August 2023

LICENSING COMMITTEE WORK PROGRAMME 2023/24

7th August 2023

Licensing Act 2003 – Review of Statement of Licensing Policy

Terrorism (Protection of Premises) Draft Bill – “Martyn’s Law”
Information Report

18th September 2023

Hackney Carriage Table of Fares – Annual Review

13th November 2023

Licensing Act 2003 – Review of Statement of Licensing Policy
Consideration of responses to consultation

CCTV in licensed hackney carriage and private hire vehicles

25th March 2024

Gambling Act 2005 – Review of Statement of Principles

This page is intentionally left blank