

Appendix C - SOLP Review 2021 – Amended Matrix, notes & paragraphs

Amended Matrix

3.3.2 A “matrix” approach to licensing decisions has been adopted and is set out below. It provides a framework of what the licensing authority would like to see within its area and gives an indication of the likelihood of success or otherwise to investor and businesses making applications.

Matrix approach for licensing decisions in a Statement of Licensing Policy (times relates to licensable activities)

	Cumulative Impact Area	Special Stress Area	Other Areas
Restaurant	Yes (midnight)	Yes (midnight)	Yes (midnight)
Cafe	Yes (10.00pm)	Yes (midnight) 10pm	Yes (midnight) 10pm
Late Night Takeaways	No	Yes (midnight)	Yes (midnight)
Night Club	No	No	No
Pub	No	Yes (11pm)	Yes (midnight)
Non-alcohol lead (eg Theatre)	Yes (favourable)	Yes (favourable)	Yes (favourable)
Off-licence	No	No	Yes (Up to 11pm but if in densely residential area may be earlier – see note 7 below)
Members Club (club premises certificate)	Yes (<100 capacity) (11pm)	Yes (<100 capacity) (11pm)	Yes

Notes on matrix

Subject to the following notes, the policy, as represented in the matrix, will be strictly adhered to:

- 1) Each application will be considered on individual merit
- 2) Applications within the CIZ are subject to the special policy on cumulative impact at para 3.1, and those within the special stress area to the special stress policy considerations at para 3.2.
- 3) Departure from the matrix policy is expected only in exceptional circumstances
- 4) Exceptional circumstances will not include quality of management or size of venue except where explicitly stated in policy matrix.
- 5) Exceptional circumstances may include: consultation with and meeting requirements of responsible authorities, an appropriate corporate social responsibility policy, community contribution to offset impact (such as financial contribution to infrastructure), community support, alcohol sale ancillary to business activity (demonstrable to responsible authorities and licensing

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authority, for instance by licence condition allowing authorised officers access to sales accounts).

- 6) The following licensing activities are encouraged and valued by the licensing authority: outdoor regulated entertainment, community based street parties, members clubs, traditional pubs outside the city centre and non-alcohol led licensable activities, particularly within city centre.
- 7) Other Areas; consideration will be given to the nature of the area and location in relation to any application. In a residential area for example the concerns of local residents will be relevant when considering applications for off-licences, pubs or cafes, especially if there is evidence of anti-social behaviour, street drinking or underage drinking. Earlier closing times may be appropriate. Regard will be had to the Public Health Framework for assessing alcohol licensing and the Street Community and Drug Activity Profile. These documents are available on the following page of our website www.brighton-hove.gov.uk/licensingact.
- 8) In an area where there are already several existing off-licences **or where the premises is situated within a parade with another off licence** and where representations are received about negative cumulative impact on the licensing objectives of a further premises, the application may be refused on these grounds **or restrictions placed on the terminal hour to reflect opening hours of other shops**.
- 9) Outdoor events will be supported where arranged through the council's event planning process. Generally, regulated entertainment in the open air including tents and marquees should have a maximum closure hour of 2300. Earlier hours may be imposed in sensitive open spaces or near residential areas. The licensing authority will have regard to Noise Council guidance.
- 10) **Non-alcohol led category does not include "alcohol in shared workplaces". These type of premises are considered unique. It is recommended that sale of alcohol in shared workspaces should have a terminal hour of no later than 10pm. For further advice and guidance on "alcohol in shared workplaces" please see paragraph 3.3.5-3.3.7.**

3.3.3 Cafes - the licensing authority may be prepared to look favourably upon an application for the grant of a licence, subject to the following conditions that will prevent the premises becoming a public house.

- The sale of intoxicating liquor and other beverages shall be waiter/waitress service for consumption by persons seated at tables.
- Substantial food shall be available at all times. **The licensing authority shall judge each case on its own merits but as a general rule, a bowl of crisps, nuts, or olives does not constitute substantial food.**

3.3.5 Alcohol in shared workplaces - for the purpose of this Policy, a shared workplace or shared workspace can be defined by being a building that has been converted into office space, which is operated overall by one company that rents workspace to many different entrepreneurs and small businesses. Its general offering is of hot-desk working, meeting spaces, single or team desk hire and/or private office space, etc.

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3.3.6 Licensing Guidance, issued under Section 182 of the Licensing Act 2003, states that each application must be considered on its own merits. While the council's Statement of Licensing Policy (SoLP) does provide some guidance within its matrix approach on terminal times for licensable activities in pubs, cafes and restaurants, etc., it does not provide specific guidance for premises that could be defined as shared workplaces. The SoLP does refer to non-alcohol led premises in its Matrix Approach table; however, this definition refers to premises where the primary activity involves regulated entertainment rather than a shared workplaces.

3.3.7 It is recognised that there is a demand for flexible workspace across the UK, particularly in Brighton & Hove, where there is a high proportion of start-ups and one of the UK's largest homeworker population. Where alcohol is supplied to "members" a premises licence is likely to be required. Whilst there is no evidence to suggest that Local Authorities have encountered issues with these licences, it's important to acknowledge the potential negative impact alcohol can have on the workplace and to individuals. It will be important to restrict public access to such premises and to ensure that the licensed area on the premises is clearly defined in order to prevent consumption of alcohol throughout a large office premises. Therefore, in order to promote the licensing objectives, the Licensing Authority or applicant may consider the conditions set out in Appendix A for shared workspaces.

Suggested conditions – Annex A of revised Policy

Shared Workspace

The Licensing Authority and the Police are aware that each set up and office block will be different and so support the approach of each case on its own merits. We would of course look at location, timings of licensable activity as well as the types of licensable activity being applied for upon receipt of any application. This would be taken into consideration as part of the decision making process and appropriate and proportional conditions agreed with the applicant if suitable. The conditions below are a selection of what have been offered/suggested/agreed in recent applications for shared office spaces.

- Access to the premises will be restricted to members only who are in possession of a key fob or similar access device and their invited guests. All guests attending functions at the premises where alcohol will be served must sign in and a record kept.
- ON sales only
- There will be no overt advertising of the licence facilities outside of the premises.

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- No children under the age of 18 will be allowed on the premises unless accompanied by and under the control of an adult.
- There shall be no consumption of alcohol in the other non-licensed areas of the building and appropriate signage shall be displayed throughout the building to reinforce this.
- The sale of intoxicating liquor on the ground floor shall only be for consumption by persons seated at tables within the café bar area and on the [NAMED/NUMBERED] floor only by persons seated. There will be no vertical drinking in the licensed areas and substantial food shall be available at all times.
- From [X TIME] for pre-arranged events held inside the premises, for educational, networking or other similar events linked with the use of the premises to promote business vertical drinking will be permitted. A record of such of events will be kept on the premises and available for inspection by the Licensing Authority or the police.
- Whenever the premises is conducting the sale of alcohol for events for 100 persons or more, then either the designated premises supervisor, another personal licence holder or suitable Licensing act 2003 trained manager shall be present within the licensed premises.
- SIA registered door supervisors shall be employed when a requirement is identified by the Licence Holders risk assessment. The written risk assessment will be reviewed at least once every calendar year. The written risk assessment will take into account information of guidance offered by the Police and also taking into account busy periods such as Bank Holidays, seasonal variations and other city centre events e.g. Pride. The written risk assessment will be available on the premises for inspection of the Police and Authorised Officers of the Licensing Authority.

Alcohol Delivery Service

Conditions for consideration by any potential applicant may include (but are not exhaustive):

- Alcohol will only be delivered to residential and business addresses. The recipient will be required to show the requisite ID to ensure that they are clearly a resident or employed at the named delivery address. Alcohol will not be delivered to customers at a park, in an open space, the beach, a bus stop etc.

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- Delivery riders must be instructed to abort delivery where that sale is believed to be a “street sale” or to an open space. All such instances will be recorded in the refusals/incidents log.
- The alcohol delivery service will be ancillary to the provision of takeaway food. All alcohol deliveries must be accompanied by an order for food, the food contingent of the delivery being a minimum of [£X].
- All orders received with an alcohol element will be for delivery only, there will be no collection facilities available from the premises.
- All forms of advertising and promotional literature dealing with the delivery service (including internet sites and flyers/leaflets) will clearly and prominently state that alcohol will only be delivered together with an order for food, the food contingent of the total delivery being a minimum of [£X]. It will also advise of the premises ‘Challenge 25’ policy, which forms of approved ID will be accepted and that failure to show the required form of ID will result in non-delivery of the alcohol. This will be reiterated at the point of sale e.g. through an online ordering website/platform.
- All employees and agents of the premises or agents delivering orders will receive full advance training in selling alcohol, approved forms of ID and Challenge 25 policy as per condition [x] on the premises licence. All staff and agents will be fully trained and understand the company’s policy of non-delivery where approved ID is not available during final interaction with the customer.
- All such training undertaken by staff members shall be fully documented and recorded. All training records shall be made available to Sussex Police, officers of the local authority and officers from the Trading Standards team upon request.
- A record of sales and deliveries will be kept and made available for inspection by the Police, Licensing Authority or officers from the Trading Standards team for 6 months from the date of delivery or refusal of alcohol.
- Where an order is taken for delivery by an employee of the premises to a customer, all customers will sign a delivery note which will contain:
 - a) A list of individual items delivered;
 - b) The delivery address;
 - c) The method of payment;
 - d) The name of the person ordering and receiving alcohol;
 - e) The date and time of delivery;

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- f) If proof of age was asked for, confirmation of the type of proof of age document presented and accepted;
 - g) The name of the employee or representative of the premises who made the delivery.
- For deliveries where the alcohol is delivered personally by the Designated Premises Supervisor, or their employees or agents (including Deliveroo couriers) where the DPS has direct supervision over them and in the event that the person ordering and paying for the alcohol nominates another person (the third party) as the recipient of the alcohol (as a gift etc) and the alcohol is to be delivered directly to the third party and not the person ordering and paying for the alcohol, then the person ordering and paying for the alcohol will be required to state as part of their order that the third party/recipient is aged over 18.

3.10 Shadow Premises Licences

3.10.1 A “shadow licence” is a simple way of describing a licence which has been obtained by one party in respect of premises to which another licence has already been granted to someone else. The usual reason for this would be to protect the landlord in case the tenant surrenders the licence without giving the landlord any notice or if review proceedings are brought against the licence and the licence is revoked and the landlord has no knowledge of this. In such a scenario there is a primary or live licence operated usually by a tenant and the ‘shadow licence’ is an additional licence often by the landlord which sits behind the primary licence.

3.10.2 The word Shadow Licence is used in practice, but has no legal definition. It is simply another licence on exactly the same terms as the first licence, normally granted to a landlord, whose sole purpose is to provide the landlord with the comfort and protection of having a licence in its own name. If the original operating licence then lapses or is surrendered, the landlord is able to use the Shadow Licence to replace it and market the premises as having the benefit of a licence of the same quality.

3.10.3 The Authority recognises that there is no restriction in the Licensing Act 2003 for there to be more than one licence to be in effect at any one time at the same premises. The Licensing Authority has concerns however that the holding of additional licences has the potential to undermine the decisions made as a result of determining applications to review a premises licence whereby if one licence was modified, suspended or revoked the premises could effectively continue to operate under the second licence.

3.10.4 Similarly Responsible Authorities, including the Police, Trading Standards and the Licensing Team, have expressed concerns regarding the enforcement of the terms and conditions of the premises licences if it is unclear under the authorisation of which premises licence the licensable activities are taking place and who is the relevant premises licence holder and DPS.

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3.10.5 In order to promote the licensing objectives and provide clarity as to which premises licence is being used to provide licensable activities conditions can be added to the an additional premises licence application, these may include:

- The Licensing Authority and Police are informed at least 14 days prior to the provision of licensable activities under this licence.
- When this licence is used to provide licensable activities and the licence summary is displayed on the premises, the licence summary of any other premises licence will not be displayed at the same time.
- The premises licence holder will not trade/operate the premises for a period of 3 months after the revocation of the existing trading premises licence. This condition will not apply if the aforementioned licence is surrendered or lapses due to insolvency or death.
- The conditions will remain in exactly the same terms as licence number [LICENCE NUMBER]

3.10.6 To promote the licensing objectives this Authority will take a holistic view of the licensing circumstances at the premises. The Licensing Authority will encourage Responsible Authorities and other persons when submitting an application to review a premises licence, to also consider whether it is appropriate to review all the licences in effect at the premises in order to promote the licensing objectives.

