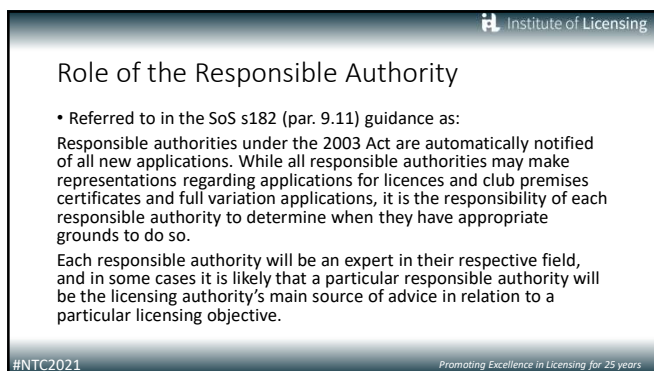


Role of Responsible Authorities
James Rankin, FTB & John Garforth JP, Oldham MBC

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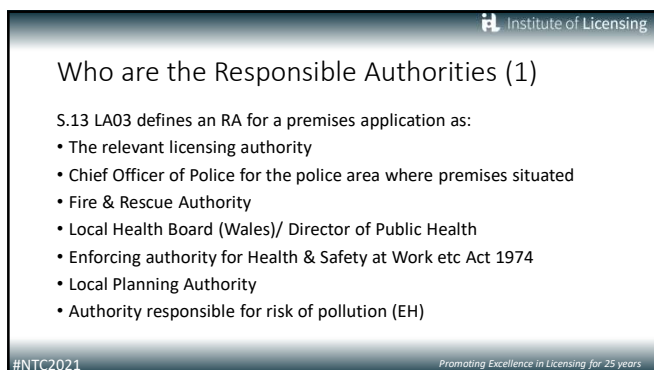
#NTC2021



Role of the Responsible Authority

- Referred to in the SoS s182 (par. 9.11) guidance as:
Responsible authorities under the 2003 Act are automatically notified of all new applications. While 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.
- Each responsible authority will be an expert in their respective field, and in some cases it is likely that a particular responsible authority will be the licensing authority's main source of advice in relation to a particular licensing objective.

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Who are the Responsible Authorities (1)

S.13 LA03 defines an RA for a premises application as:

- The relevant licensing authority
- Chief Officer of Police for the police area where premises situated
- Fire & Rescue Authority
- Local Health Board (Wales)/ Director of Public Health
- Enforcing authority for Health & Safety at Work etc Act 1974
- Local Planning Authority
- Authority responsible for risk of pollution (EH)


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Who are the Responsible Authorities (2)

- Body representing those responsible for or interested in matters relating to the protection of children from harm, and is recognised by the LA for that area as being competent to advise it on such
- In relation to a vessel – a navigation authority, Environment Agency, Canal & River Trust
- Where the premises, not being a vessel, The Secretary of State (inserted by Immigration Act 2016)


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Personal Licences

- The Police can object to a personal licence if the applicant has an unspent conviction for a Schedule 4 relevant offence
- The Home Office (Immigration Enforcement) may object to the grant of a personal licence on the prevention of illegal working where the applicant has an unspent conviction (including civil penalties for a relevant immigration penalty)


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Temporary Event Notices

- Only the Police and Environmental Health can object to a TEN
- If it is a late TEN and an objection is received then its automatically rejected


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What is the duty of the RA?

- To consider the impact of the licensing objectives on the application given their area of expertise
- To work with other RA's to consider the likely impact on the licensing objectives
- To make a relevant representation should the need arise with a view to either seeking refusal or offering a change to the operating schedule i.e. hours/activities/conditions
- To attend any subsequent hearing to put forward their representation


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Public Health as a RA

- We acknowledge there is no public health licensing objective unlike Scotland
- A lot more discussion happening on how PH can impact on the licensing objectives and applications
- What local data is held?
- How can they contribute?
- Does PH feature in the Statement of licensing policy?
- Para. 9.20 of the s182 guidance refers

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Role of Immigration

- A responsible authority under the Immigration Act 2016

The Immigration Act 2016 made the Secretary of State a responsible authority in respect of premises licensed to sell alcohol or late night refreshment with effect from 6 April 2017. In effect this conveys the role of responsible authority to Home Office Immigration Enforcement who exercises the powers on the Secretary of State's behalf. When Immigration Enforcement exercises its powers as a responsible authority it will do so in respect of the prevention of crime and disorder licensing objective because it is concerned with the prevention of illegal working or immigration offences more broadly.


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Appeals

- A responsible authority, just like an interested party can appeal the decision of the Licensing Authority within 21 days of notification of the decision


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In Practice....The Police


- Primary partner and generally the most proactive of the responsible authorities in liaising with applicants and licence-holders, making representations about licences and seeking reviews of licences.
- In April 2017, a mandatory requirement was introduced for police forces in England and Wales to begin systematically recording alcohol related crime. They are required to apply a 'flag' to their recorded crime data, for crimes where alcohol is perceived as an aggravating factor. Data informs future licensing and policy decisions at a local and national level, provided it is of sufficient quality. The police have a key role in managing the night time economy and should usually be the main source of advice on matters relating to the promotion of the crime and disorder licensing objective.

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- A licensing committee must actually consider all relevant representations carefully, including crime numbers and other evidence presented by the police, as this may well include examples that do not relate to the licensable activity: several licensing decisions have been overturned on appeal as a consequence of this.
- The partnership with police extends outside of the licensing process and related enforcement. The police are often key players in partnership schemes such as Pub Watch and Best Bar None, and can also have an interest in exploring the possibility of a late night levy.

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- It is important to ensure that a licensing authority's engagement is not limited to the local police licensing officer and includes some discussion with the PCC about the licensed economy and how it is managed.
- Many authorities have regular briefings from their local police, at ward level or through community safety partnership arrangements.

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Public Health


- Public health representations must be assessed in the same way as evidence from any other responsible authority. It can be more challenging for them to make representations as there is no specific health objective, but is entirely possible and a number of public health teams have made successful representations – either in their own right or in support of other responsible authorities.
- Successful reps have included evidence of an overburdened A&E on Fri/Sat nights with drink and drunk related patients presenting from an identifiable nightclub (hand stamps/ambulance pick ups etc)

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- Public health teams have a particularly important role in shaping SLPs, and in building the evidence base for CIAs or other special policies being considered.
- PHE have supported a number of councils to develop practical ways to use health data in licensing work. These have informed PHE's web based resource which brings together nationally available data and materials with local information to support councils to access a range of databases and tools. PHE's resource allows local teams to input their own data to create interactive maps and reports to help them in their role as a responsible authority. [Alcohol licensing: a guide for public health teams - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/alcohol-licensing-a-guide-for-public-health-teams)


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Environmental Health

- EH plays a significant role in addressing potential nuisance and safety issues associated with licensed premises: music noise, dispersal noise from patrons, intrusive odours and general safety.
- EHOs will frequently discuss conditions with applicants such as proposed sound control or mitigation measures.
- EHOs can consider 'public nuisance' as well as 'statutory nuisance'.
- DCMS guidance warns against using the Licensing Act when other more specific legislative powers are available. The Health and Safety at Work Act 1974 and food hygiene regulations would be used by EHOs to secure workplace and food safety rather than licensing conditions.
- EHOs can object to temporary event notices (as well as police) which other RAs are unable to do.


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Trading Standards

- TS have a specific duty under the Act to enforce the under-age alcohol sales provisions. They have a specific power to conduct test purchase operations and will often organise age-related product sales training and awareness for businesses.
- TS may issue fixed penalty notices following an under-age sale, and issue a notice preventing alcohol sales from taking place for up to seven days following two or more failed test purchases within three months
- TS jurisdiction extends to counterfeit alcohol as well as smuggled alcohol and tobacco, and frequently initiate reviews


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Fire Service

- FS very seldom make representations, their representations on public safety grounds means licensing sub-committees have to effectively either reject the application or reject the representation.
- The Regulatory Reform (Fire Safety) Order 2005 does not allow fire-safety related conditions to be applied to a licence.
- Numbers conditions
- Applicants can be reminded of their duties under the Fire Safety Order, ie that they need to carry out a fire risk assessment and implement findings. This can be included in any guidance the council offers to support the application process as well as setting this out as an expectation in the SLP. Applicants can be signposted to the government's guidance on completing fire risk assessments


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Home Office and Immigration Enforcement

- HOIE are the most recent addition to the list of responsible authorities following changes brought in by the Immigration Act 2016.
- All licence holders required to have the right to live and work in the UK. HOIE can make representations about the grant, full variation, transfer and review of premises licences for the sale of alcohol and/or late night refreshment, and can apply for licence reviews in their own right.
- Can also make representations for personal licence applications. HOIE have a central contact point for anything relating to their role as responsible authority for personal and premises licence applications (alcohol@homeoffice.gsi.gov.uk)


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The Licensing Authority

- LA administers and enforces the Act, but they can also make representations about applications or call for reviews.
- *'Nemo Juxta in Sua Causa' R v Howard and the Farnham Justices [1902] 2KB 363.*
- DCMS guidance suggests that there should be a separation between the licensing authority officers processing an application and those acting in its role as a responsible authority intending to make representations. Not always possible within smaller authorities. Councillors should ensure sufficient resources are in place so the licensing authority can exercise its role to administer and enforce the Act, (including appropriately trained and qualified officers) and to act as a responsible authority.

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