

Licensing Act 2003

Dartford Borough Council

Statement of Licensing Policy

7 January 2008 - 6 January 2011

**DARTFORD BOROUGH COUNCIL
STATEMENT OF LICENSING POLICY**

CONTENTS

SECTION	HEADING	PAGE
1.0	INTRODUCTION	2
2.0	LICENSING OBJECTIVES	6
3.0	PREVENTION OF CRIME & DISORDER	6
4.0	PUBLIC SAFETY	7
5.0	PREVENTION OF PUBLIC NUISANCE	8
6.0	PROTECTION OF CHILDREN FROM HARM	9
7.0	ADMINISTRATION, EXERCISE AND DELEGATION	10
7.10	DELEGATION OF FUNCTIONS	11
APPENDIX A	DEFINITIONS	12
APPENDIX B	FURTHER INFORMATION & CONTACTS	15
APPENDIX C	ENFORCEMENT POLICY	16
 ANNEX FROM GUIDANCE:		
ANNEX A	REGULATED ENTERTAINMENT	18
ANNEX B	LATE NIGHT REFRESHMENT	21
ANNEX C	RELEVANT OFFENCES	23
ANNEX D	CONDITIONS RELATING TO CRIME & DISORDER	25
ANNEX E	CONDITIONS RELATING TO PUBLIC SAFETY	29
ANNEX F	THEATRES, CINEMAS, CONCERT HALLS & SIMILAR PLACES	33
ANNEX G	CONDITIONS RELATING TO PREVENTION OF PUBLIC NUISANCE	36
ANNEX H	CONDITIONS RELATING TO PROTECTION OF CHILDREN	37
ANNEX I	STATUTORY QUALIFYING CONDITIONS FOR CLUBS	40
ANNEX J	SAFER CLUBBING CHECKLIST FOR CLUBS & EVENTS	43

DARTFORD BOROUGH COUNCIL STATEMENT OF LICENSING POLICY

1.0 INTRODUCTION

- 1.1 Dartford Borough Council is the Licensing Authority under the Licensing Act 2003 and is responsible for granting premises licences, club premises certificates, temporary events notices and personal licences in the Borough in respect of the sale and/or supply of alcohol. The Licensing Authority also licences the provision of regulated entertainment and late night refreshment.
- 1.2 The 2003 Act requires the Licensing Authority to carry out its various licensing functions so as to promote the following four licensing objectives each of which is considered to be of equal importance:
- **the prevention of crime and disorder**
 - **public safety**
 - **the prevention of public nuisance**
 - **the protection of children from harm**
- 1.3 The 2003 Act further requires that the Licensing Authority publish a 'Statement of Licensing Policy' that sets out the policies they will generally apply to promote the licensing objectives when making decisions on applications made under the Act.
- 1.4 The aims of this Statement of licensing policy are in line with the four licensing objectives and:
- a) help build and maintain a fair and prosperous society that properly balances the rights of individuals and their communities
 - b) integrate its aims and objectives with other initiatives, policies plus strategies that will:
 - encourage people, especially young people, to participate in leisure and cultural activities.
 - reduce crime and disorder
 - encourage visitors to the borough
 - continue to develop the daytime economy and encourage an early evening and night time economy which is viable and sustainable
 - reduce alcohol misuse, especially under-age drinking
 - encourage employment
 - encourage the self sufficiency of local communities
 - reduce the burden of unnecessary regulation on business
 - continue to value live music in licensed premises
- 1.5 This 'Statement of Licensing Policy' has been prepared in accordance with the provisions of the 2003 Act and having regard to the Guidance issued under Section 182 of the Act. Where it is necessary to depart from the guidance, either in this policy or at any other time, The Licensing Authority will give clear and cogent reasons for doing so. The Licensing Authority shall endeavour to work with other local authorities (particularly where licensing authorities' boundaries meet) to ensure that a consistent approach is taken in licensing matters whilst respecting the differing needs of individual communities.
- 1.6 When considering applications, the Licensing Authority will have regard to this Policy, the Licensing Act 2003, particularly the Licensing Objectives and Guidance issued under Section 182 of the Act, and any supporting regulations that may from time to time be made. It will also seek proper integration with local crime prevention, planning, transport, employment and cultural strategies. To this end, the Licensing Committee will provide reports to the Developmental Control Board (Planning Committee) on the situation regarding licensed premises in the area. The Licensing Authority will monitor the impact of licensing on the provision of regulated entertainment particularly live music and dancing.
- 1.7 The Policy does not undermine the rights of any person to apply under the 2003 Act for a variety of permissions and have the application considered on its individual merits, as well as against the relevant policy and statutory framework. It does not override the right of any person to make representations on any application or seek a review of a licence or certificate where they are permitted to do so under the 2003 Act. In formulating this policy the Licensing Authority has had regard to the provisions of the Human Rights Act 1998. This Act places a duty on public authorities to protect the rights of individuals in a variety of circumstances, and to balance those rights against the rights of persons trading in licensable activities and to achieve proportionality. The Licensing Authority has also had regard to the Race Relations Act 1976 as amended by The Race Relations (Amendment) Act 2000, and to the Disability Discrimination Act 1995.
- 1.8 Applicants and those making representation in respect of applications to the Licensing Authority have a right of appeal to the Magistrates' Court against the decisions of the Licensing Authority.
- 1.9 The Licensing Authority recognises the aspirations of the legislation that longer licensing hours with regard to the sale of alcohol are important to ensure that the concentration of customers leaving premises simultaneously are

avoided. However, there is no general presumption in favour of lengthening licensing hours and the four licensing objectives will be paramount considerations at all times. Where there are objections to an application and the Licensing Authority believes that changing the licensing hours would undermine the licensing objectives, they may reject the application or grant it with appropriate conditions and/or different hours from those requested.

1.10 The Licensing Authority may not impose any conditions unless its discretion has been engaged following receipt of relevant representations and it has been satisfied at a hearing of the necessity to impose conditions. It may then only impose conditions that are necessary to promote one or more of the four licensing objectives. A hearing is not required where an application has been lawfully made and no responsible authority or interested party has made a representation. In these cases, the Licensing Authority must grant the application in the terms sought, subject only to conditions which are consistent with the operating schedule and relevant mandatory conditions in the Act.

The object of licensing is to maintain appropriate control of licensed premises, qualifying clubs, temporary events and the people who manage them or hold personal licences within the terms of the 2003 Act. Where any party makes relevant representations, the Licensing Authority will seek to make objective judgements as to whether conditions may need to be attached to a licence or certificate to secure achievement of the licensing objectives. Any such conditions will primarily focus on the direct impact of the activities taking place at licensed premises on those attending the premises and members of the public living, working or otherwise engaged in normal activity in the vicinity and will cover issues that are reasonably within the control of individual licensees.

1.11 When considering any conditions, the Licensing Authority acknowledges that the licensing function is not the only mechanism for the general control of the anti-social behaviour of individuals once they are outside the vicinity of licensed premises and beyond the control of the licensee of any premises concerned. Therefore, other mechanisms may be utilised, where appropriate, to tackle unruly or unlawful behaviour of patrons when beyond the control of premises. These include:

- Partnership working with the Kent Police (and other agencies as appropriate) to promote enforcement of the law concerning disorder and antisocial behaviour, including the issuing of fixed penalty notices.
- Powers to designate parts of the area as places where alcohol may not be consumed publicly (does not include beer gardens or premise frontages).
- Partnership working with businesses, transport operators and other parts of the Council to create a safe and clean environment.

As part of its overall policy the Licensing Authority expects every holder of a licence or Temporary Event Notice to be responsible for minimising the impact of their activities and anti-social behaviour by their patrons within the immediate vicinity of their premises.

A key aim of the licensing policy is to maintain a safe and family friendly environment in the Local Authority Area. It may be that conditions that would be relevant in the town centres may not be appropriate in rural areas – but each application will be considered on its merits.

Further, when the Licensing Authority is considering any application as a result of representations, it will avoid duplication with other regulatory regimes, (e.g. health and safety at work, environmental protection, disability discrimination, the Regulatory Reform (Fire Safety) Order so far as possible. The licensing regime is not intended to be used to achieve outcomes that can be achieved by other legislation. In particular, its licensing functions will be discharged separately from its functions as the Local Planning Authority.

Licences and planning permission

1.12 The use of any licensed premises or places may be subject to planning controls. There are several key differences between licensing and planning control.

Licensing is concerned with the fitness of the operator and detailed issues concerning the operation and management of the premises that are not addressed by the planning process which relates to the use of the premises.

It will be expected in general that the grant or variation of planning permission would be resolved before a licence application is made. The licensing committee may refuse to grant a licence following representations from the local planning authority if the:

- 1) activity sought to be licensed would amount to an unlawful use of the premises;
- 2) hours being sought exceed those authorised by any planning permission.

It will be for the applicant to demonstrate any special circumstances to justify a departure from this policy in the face of representations from the local planning authority.

1.13 With the exception of the approval and review of its Licensing Policy, decisions on licensing matters will be taken in

accordance with a published and approved scheme of delegation aimed at underlining the principles of timely, efficient and effective decision-making.

Cumulative impact of a concentration of licensed premises

- 1.14** “Cumulative impact” is not mentioned specifically in the 2003 Act but means the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. For example, the potential impact on crime and disorder or public nuisances on a town centre of a large concentration of licensed premises in that part of the local authority area. The cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for the local authority to consider in its policy.
- 1.15** Where, after considering the available evidence and consulting the Statutory Authorities listed in section 5(3) of the 2003 Act and any others, the Licensing Authority is satisfied that it is appropriate and necessary to include an approach to cumulative impact in the licensing policy statement, it will indicate in the policy that it is adopting a special provision of refusing new licences whenever it receives relevant representations about the cumulative impact on the licensing objectives from responsible authorities and interested parties which it concludes after hearing those representations should lead to refusal.
- 1.16** There will be an evidential basis for the decision to include special provisions relating to cumulative impact within the policy. For example, the Community Safety Partnership (or CDRP) will often have collated information that demonstrates cumulative impact as part of their general role on anti-social behaviour; and crime prevent strategies may have already identified cumulative impact as a local problem. Similarly, environmental health officers may be able to demonstrate concentrations of valid complaints relating to noise disturbance.
- 1.17** In summary, the steps to be followed in considering whether to adopt special provisions within the policy are:
- identification of concern about crime and disorder or public nuisance;
 - consideration of whether it can be demonstrated that crime and disorder and nuisance are arising and are caused by the customers of licensed premises, and if so identifying the area from which problems are arising and the boundaries of that area; or that the risk factors are such that the area is reaching a point where a cumulative impact is imminent;
 - consultation with those specified by section 5(3) of the 2003 Act as part of the general consultation required in respect of the whole policy;
 - subject to that consultation, inclusion of special provisions about future premises licence or club premises certificate applications from that area within the terms of the licensing policy;
 - publication of the special provisions as part of the policy required by the 2003 Act.
- 1.18** The effect of adopting special provisions of this kind is to create a rebuttable presumption that applications for new premises licences or club premises certificates or material variations will normally be refused, if relevant representations to that effect are received, unless it can be demonstrated that the operation of the premises involved will not add to the cumulative impact already being experienced. Applicants would need to address the special provisions issues in their operating schedules in order to rebut such a presumption. However, special provisions must stress that this presumption does not relieve responsible authorities or interested parties of the need to make a relevant representation before the local authority may lawfully consider giving effect to its special provisions. If no representation is received, it would remain the case that any application must be granted in terms that are consistent with the operating schedule submitted. However, responsible authorities, such as the police, or interested parties, can make a written representation maintaining that it is necessary to refuse the application for the promotion of the prevention of crime and disorder and referring to information that had been before the local authority when it developed its policy.
- 1.19** If adopted, special provisions will be reviewed regularly to assess whether they are needed any longer or need expanding. While special provisions are in existence, applicants will need to demonstrate why the operation of the premises would not add to the cumulative impact being experienced.
- 1.20** The absence of special provisions does not prevent any responsible authority or interested party making representations on a new application for the grant of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives.
- 1.21** The Licensing Authority recognises that the diversity of premises selling alcohol, serving food and providing entertainment covers a wide range of contrasting styles and characteristics and will have full regard to those differences and the differing impact these will have on the local community. The Licensing Authority will not consider representations for a saturation policy based purely on the numbers of a specific type of business located in a defined area.
- 1.22** It therefore recognises that, within this policy, it may be able to approve licences that are unlikely to add significantly to the problems arising from saturation, and will consider the circumstances of each individual application.

Advice and Guidance

- 1.23** The Licensing Authority recognises the valuable cultural, social and business importance that premises and events requiring a licence under the Licensing Act provide and welcomes the diversity of activities that are provided by licence holders. For this reason, pre-application discussions will be encouraged to assist applicants to develop their operating schedule to the standards the Licensing Authority will normally expect. The Council, Kent Police and/or Kent Fire and Rescue Service will offer as much advice and guidance to applicants, as resources permit.
- 1.24** The Licensing Authority will also seek to liaise with applicants and/or mediate between applicants and others who may make representations, to achieve a satisfactory outcome for all involved wherever possible and where resources permit. Where an applicant considers that representations may be likely or probable, it is recommended that the applicant discuss the proposal with the Licensing Authority and those from whom they think representations are likely prior to submitting their application. Once an application has been lodged, there are statutory timescales imposed upon the application and determination process, which restrict the opportunity for such discussions, liaison and mediation.

Consultation

- 1.25** There are a number of groups who have a stake in the leisure industry, including businesses, customers, residents and regulators, all of whom have views and concerns that require consideration as part of the licensing function and promotion of the licensing objectives.
- 1.26** In developing this Policy Statement, the Licensing Authority consulted widely. Along with the statutory consultees (the Chief Police Officer for the District and the Kent & Medway Towns Fire and Rescue Authority) and the Dartford and Gravesham Crime and Disorder Reduction Partnership, the views of existing licence holders, businesses, voluntary groups and residents were also taken into account. Due consideration was given to the views of all those who responded to that consultation process.
- 1.27** This Policy Statement takes effect on 7th January 2008 and will remain in force for a period of 3 years until 6th January 2011. It will be subject to regular review by the Council's Licensing Committee. This may lead to Interim Provisions within the three year period which would then be published in a revised policy statement. There will be further consultation prior to the tri-annual renewal of the policy.

1.28 Reviews of Premises Licences

Where possible and appropriate the Licensing Authority, Kent Police and/or Kent Fire & Rescue Service will give early warning to licence holders of any concerns about problems identified at premises and of the need for improvement.

No more than one review will normally be permitted within any 12 month period on substantially similar grounds except in exceptional and compelling circumstances or where it arises following a closure order.

Responsible authorities and/or residents living in the vicinity can trigger a review of a premises licence but an evidentiary basis would be required to be presented to the Licensing Authority. They will disregard any representations which are irrelevant, frivolous and/or vexatious.

1.29 Enforcement

The Council delivers a wide range of enforcement services aimed at safeguarding the environment and the community and at providing a 'level playing field' on which businesses can fairly trade. The administration and enforcement of the licensing regime is one of these services. The Council has adopted the principals of the Regulators' Compliance Code designed to ensure effective and efficient public protection services. Specifically, the Council is committed to accord with the principles of good enforcement practice by carrying out its' regulatory functions in a fair, open and consistent manner.

- 1.30** The Regulators' Compliance Code is based on the principles that businesses should:
- receive clear explanations from enforcers of what they need to do and by when;
 - have opportunities to resolve differences before enforcement action is taken – unless immediate action is needed;
 - receive an explanation of their rights of appeal

- 1.31** The Licensing Authority recognises the interests of both individual citizens and the requirements of businesses and will work closely with partners to assist licence holders to comply with the law and the four licensing objectives it seeks to promote. However, proportionate but firm action will be taken against those who commit serious offences or persistently break the law. The Council has set clear standards of service and performance that the public and businesses can expect. In particular, a licensing enforcement policy has been created that explains how the Council will undertake its role as Licensing Authority and how the principles of effective enforcement will be achieved. This policy is freely available from the Corporate Complaints Officer as are details of the Council's corporate complaints procedures. These documents can also be viewed on the Council's website: www.dartford.gov.uk

1.32 The Council has established protocols with Kent Police, Kent & Medway Towns Fire and Rescue Authority and Kent County Council Trading Standards on enforcement issues. These protocols provide for the targeting of resources towards high-risk premises and activities that require greater attention, while providing a lighter touch in respect of low risk premises that are well operated.

1.33 The principle of using a scoring scheme based on risk factors will normally prevail and proactive inspections will usually be undertaken in accordance with a priority inspection scheme. This should ensure that resources are more effectively allocated to higher risk or 'problem premises'. Monitoring visits will also take place in around premises. (See Appendix C)

2.0 LICENSING OBJECTIVES

2.1 The following sections set out the Licensing Authority's Policy relating specifically to the four licensing objectives:

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

*The responsible authority for the protection of children from harm is:
North Kent Social Services, St Lawrence House, 48a West Hill, Dartford, Kent DA1 2HG

The Licensing Authority may attach relevant Conditions to licences where representations are received or volunteered by the applicant and they are considered necessary and proportionate for the promotion of the licensing objectives. They will be tailored to the individual style and characteristics of the particular premises and events concerned. These Conditions will be drawn from the relevant Model Pools of Conditions set out in Appendices D-H of the Guidance issued under S182 of the Licensing Act 2003. It may be necessary to impose Conditions not in the Model Pool when appropriate. Each case will be considered on its merits.

2.2 Each section relating to the objectives lists the factors that would influence the achievement of that objective but, because of the wide variety of premises and activities to which this policy applies, the lists provided are not exhaustive. Applicants know their premises best and will be encouraged to address all aspects relevant to the individual style and characteristics of their premises and events.

2.3 Further, in each section, a list of possible control measures is provided, to be of assistance to applicants, but again is not intended to be an exhaustive list. Many control measures achieve more than one objective but have not necessarily been listed under each objective. Applicants should only consider any control measures deemed necessary in their operating schedule.

2.4 The Licensing Authority recommends the selection of control measures, referred to in 2.3 above, to be based upon a risk assessment of the premises, events, activities and the customers expected to attend (e.g. their age, number, etc.). Whilst the Licensing Authority may not require such risk assessments to be documented, (other than where required by other legislation), it considers such documentation to be good practice and a useful tool in the instruction and training of staff. It is also a sound basis for review by the licence holder, in the event of an application for variation or a response to changing circumstances/conditions at the premises being required.

2.5 The Licensing Authority considers the effective and responsible management of the premises, instruction, training and supervision of staff and the adoption of best practice to be amongst the most essential control measures for the achievement of all the licensing objectives.

3.0 PREVENTION OF CRIME AND DISORDER

3.1 Dartford Borough Council is committed to further improving the quality of life for the people of the Borough by continuing to reduce crime and the fear of crime. The Licensing Authority will also consult and involve the Dartford and Gravesham Crime and Disorder Reduction Partnership in decision making in order to maximise the effectiveness of reducing crime, misuse of drugs and the fear of crime.

3.2 Section 17 of the Crime and Disorder Act 1998 introduced a wide range of measures for preventing crime and disorder and imposed a duty on Dartford Borough Council, Kent Police, Kent County Council and others to consider crime and disorder reduction in the exercise of all their duties. The Licensing Act 2003 reinforces this duty for local authorities.

3.3 The promotion of the licensing objective, to prevent crime and disorder, places a responsibility on licence holders to become key partners in achieving this objective. Applicants will be encouraged to demonstrate in their operating schedule, when necessary, that suitable and sufficient measures have been identified and will be implemented and maintained to reduce or prevent crime and disorder on and in the vicinity of their premises, relevant to the individual style and characteristics of their premises and events.

- 3.4** When addressing the issue of crime and disorder, the applicant may consider the following factors that impact on crime and disorder. These might include:
- Underage drinking
 - Drunkenness on premises
 - Public drunkenness
 - Drugs
 - Violent behaviour
 - Anti-social behaviour
- 3.5** The following examples of control measures are given to assist applicants when preparing their operating schedule, having regard to their particular type of premises and/or activities:
- Effective and responsible management of premises
 - Training and supervision of staff
 - Adoption of best practice guidance (e.g. Safer Clubbing, the National Alcohol Harm Reduction Strategy Toolkit and other voluntary codes of practice, including those relating to drinks promotions e.g. The Point of Sale Promotions published by BBPA)
 - Acceptance of accredited 'proof of age' cards for example "PASS Card" promoted by Kent Trading Standards and Kent Police and/or 'new type' driving licences with photographs, passports, an official identity card issued by H M Forces
 - Provision of effective CCTV in and around premises
 - Employment of Security Industry Authority licensed Door Supervisors.
 - Provision of toughened or plastic glasses
 - Provision of secure deposit boxes for confiscated items ('sin bins')
 - Provision of litterbins and other security measures, such as lighting, outside premises
 - Membership of the Dartford Town Against Crime (D-TAC) Partnership.
- 3.6** Within the operating schedule for premises from which alcohol will be sold, a Designated Premises Supervisor (DPS) must be identified and named. The Licensing Authority will normally expect the DPS to have been given day-to-day responsibility for running the premises by the premises licence holder. In exceptional circumstances, the police may object to the designation of a new premises supervisor where they believe that such appointment would undermine the crime prevention objective.
- 3.7** Certain temporary events are not required to be licensed but must be notified to the Licensing Authority and Police using the Temporary Event Notice procedure. However, depending on the nature and location of such events, these can have serious crime and disorder implications. Organisers of these events are encouraged to submit their notification as soon as reasonably practicable and at least 10 working days before the event to enable the police and the Licensing Authority to work with them to identify and reduce the risk of crime and disorder. Organisers may find the following documents helpful:
- The Event Safety Guide – A guide to health, safety and welfare at music and similar events (HSE 1999) ("The Purple Book") ISBN 0 7176 2453 6.
 - Managing Crowds Safely (HSE 2000) ISBN 0 7176 1834 X.
 - Steps to Risk Assessment: Case Studies (HSE 1998) ISBN 0 7176 1580 4.
 - The Guide to Safety at Sports Grounds (The Stationary Office 1997) ("The Green Guide") ISBN 0 11 300095 2.
 - Safety Guidance for Street Arts, Carnivals, Processions and Large Scale Performances, published by the independent Street Arts Network, copies of which may be obtained through: www.streetartnetwork.org/pages/publications
- 3.8** Where the Licensing Authority has given notice in writing to the holder of the premises licence prohibiting the exhibition of a film on the grounds that it contains matter, which, if exhibited, would be likely to:
- Encourage or incite crime or lead to disorder, or
 - Stir up hatred or incite violence towards any section of the public on grounds of colour, race or ethnic or racial origin, disability, religious beliefs, sexual orientation or gender

The Licensing Authority will expect that the film shall not be exhibited in the premises except with the consent in writing of the Authority and in accordance with any conditions attached to such consent.

The Licensing Authority will require all films to comply with the British Board of Film Classification (BBFC) guidelines.

4.0 PUBLIC SAFETY

4.1 The Licensing Authority is committed to ensuring that the safety of any person visiting or working in licensed premises is not compromised. To this end, applicants will be encouraged to demonstrate in their operating schedule, when necessary, that suitable and sufficient measures have been identified and will be implemented and maintained to ensure public safety, relevant to the individual style and characteristics of their premises and events.

4.2 When addressing the issue of public safety, the applicant may consider the following factors that impact on the

standards of public safety. These may include:

- The occupancy capacity of the premises
- The age, design and layout of the premises, including means of escape in the event of fire
- The nature of the licensable activities to be provided, in particular the sale or supply of alcohol, and including whether those activities are of a temporary or permanent nature
- The hours of operation noting the difference between opening hours and the hours of licensable activities (“drinking up time”).
- Customer profile (e.g. age, disability)
- The use of special effects such as lasers, pyrotechnics, smoke machines, foam machines, strobe lighting etc.

4.3 The following examples of control measures are given to assist applicants when preparing their operating schedule, having regard to their particular type of premises and/or activities:

- Suitable and sufficient risk assessments
- Effective and responsible management of premises
- Provision of a sufficient number of people employed or engaged to secure the safety of the premises and patrons
- Appropriate instruction, training and supervision of those employed or engaged to secure the safety of the premises and patrons
- Adoption of best practice guidance
- Provision of effective CCTV in and around premises
- Provision of toughened or plastic glasses
- Implementation of crowd management measures
- Regular testing (and certification where appropriate) of procedures, appliances, systems etc. pertinent to safety

5.0 PREVENTION OF PUBLIC NUISANCE

5.1 Licensed premises have a significant potential to adversely impact on communities through public nuisances that arise from their operation. The Licensing Authority wishes to proactively maintain and protect the amenity of residents and other businesses from the potential consequence of the operation of licensed premises whilst recognising the valuable cultural, social and business importance that such premises provide.

5.2 The Licensing Authority intends to interpret ‘public nuisance’ in its widest sense, and takes it to include such issues as noise, light, odour, litter and anti-social behaviour, where these matters impact on those living, working or otherwise engaged in normal activity in an area. Licensees and Certificate holders should take reasonable steps to prevent the occurrence of crime and disorder and public nuisance immediately outside their premises, for example on the pavement, in a beer garden or in a smoking shelter, where and to the extent that these matters are within their control.

5.3 Applicants need to clearly understand that when representations are received the Licensing Authority will pay particular attention whether or not to impose stricter conditions, including controls on licensing hours, where licensed premises are in residential areas with a view to protecting the quality of life of residential occupiers.

5.4 In the case of shops, stores, supermarkets and garages selling alcohol, they should normally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are good reasons, based on the licensing objectives, for restricting those hours. For example, a limitation may be appropriate following Police representations in the case of some shops known to be a focus of disorder and disturbance because youths gather there.

5.5 Applicants will be encouraged to demonstrate in their operating schedule, when necessary, that suitable and sufficient measures have been identified and will be implemented and maintained to prevent public nuisance, relevant to the individual style and characteristics of their premises and events.

5.6 When addressing the issue of prevention of public nuisance, the applicant may consider the following factors that impact on the likelihood of public nuisance. These may include:

- The location of premises and proximity to residential and other noise sensitive premises, such as hospitals, hospices, schools, nurseries and places of worship
- The hours of operation, particularly if between 23.00 and 07.00
- The nature of activities to be provided, including whether those activities are of a temporary or permanent nature and whether they are to be held inside or outside premises
- The design and layout of premises and in particular the presence of noise limiting features
- The occupancy capacity of the premises
- The availability of public transport
- Last admission time
- The steps the applicant has taken or proposes to take to ensure that staff leave the premises quietly
- The steps the applicant has taken or proposes to take to prevent disturbance by patrons arriving or leaving the premises
- Whether routes to and from the premises, on foot or by car or service or delivery vehicles, pass residential premises.

- Whether other measures have been taken or are proposed such as the use of CCTV or the employment of SIA registered Door Supervisors.
- The arrangements made or proposed for parking by patrons, and the effect of this parking on local residents.
- The likelihood of any violence, disorder or policing problems arising if a licence were granted.
- Whether taxis and private hire vehicles serving the premises are likely to disturb local residents.
- The siting of external lighting, including security lighting that is installed inappropriately.
- Whether the premises would result in increased refuse storage or disposal problems or additional litter in the vicinity of the premise and any measures or proposed measures to deal with this.
- The history of previous nuisance complaints proved against the premises, particularly where statutory notices have been served on the present licensees.

5.7 The following examples of control measures are given to assist applicants when preparing their operating schedule, having regard to their particular type of premises and/or activities:

- Effective and responsible management of premises
- Appropriate instruction, training and supervision of those employed or engaged to prevent incidents of public nuisance
- Control of operating hours for all or parts (e.g. garden areas) of premises, including such matters as deliveries
- Adoption of best practice guidance (e.g. Good Practice Guide on the Control of Noise from Pubs and Clubs, produced by Institute of Acoustics or “Licensed Property: Noise Control” available from www.beerandpub.com).
- Installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices
- Management of people, including staff, and traffic (and resulting queues) arriving and leaving premises
- Liaison with public transport providers
- Siting of external lighting, including security lighting
- Management arrangements for collection and disposal of litter
- Effective ventilation systems to prevent nuisance from odour

6.0 PROTECTION OF CHILDREN FROM HARM

6.1 Applicants will be encouraged to demonstrate in their operating schedule, when necessary, that suitable and sufficient measures have been identified and will be implemented and maintained to protect children from harm, relevant to the individual style and characteristics of their premises and events. The Local Authority commends the Portman Group Code of Practice on the naming and packaging of alcoholic drinks.

6.2 The protection of children from harm is an important issue. It is hoped that family friendly premises will thrive, but the risk of harm to children remains a paramount consideration when determining applications. The Licensing Authority will work actively with the Police and other bodies in enforcing licensing legislation where there are concerns regarding under-age sales and/or drinking.

6.3 The relaxation in the Licensing Act giving accompanied children greater access to licensed premises is seen as a positive step, which may bring about a social change in family friendly leisure. Clearly, this relaxation places additional responsibilities upon licence holders. However, it is recognised that parents and others accompanying children also have responsibilities.

6.4 The protection of children from harm includes the protection of children from moral, psychological and physical harm and, in relation to the exhibition of films, or the transmission of programmes by video or DVD. This includes the protection of children from exposure to strong language, sexual imagery and sexual expletives. In certain circumstances children are more vulnerable and their needs will require special consideration. This vulnerability includes their susceptibility to suggestion, peer group influences, inappropriate example, the unpredictability of their age and the lack of understanding of danger.

6.5 Whilst children may be adequately protected from harm by the action taken to protect adults, they may also need special consideration and no policy can anticipate every situation. When addressing the issue of protecting children from harm, the applicant may consider the following factors that impact on harm to children. These may include the potential for children to:

- Purchase, acquire or consume alcohol
- Be exposed to drugs, drug taking or drug dealing
- Be exposed to gambling
- Be exposed to activities of an adult or sexual nature
- Be exposed to incidents of violence or disorder
- Be exposed to environmental pollution such as noise or smoke
- Be exposed to special hazards such as falls from a height

6.6 The following examples of control measures are given to assist applicants when preparing their operating schedule, having regard to their particular type of premises and/or activities:

- Effective and responsible management of premises

- Provision of a sufficient number of people employed or engaged to secure the protection of children from harm
- Appropriate instruction, training and supervision of those employed or engaged to secure the protection of children from harm
- Limitations on the hours when children may be present, in all or parts of the premises
- Limitations or exclusions by age when certain activities are taking place
- Imposition of requirements for children to be accompanied by an adult
- Acceptance of accredited 'proof of age' cards for example "PASS Card" promoted by Kent Trading Standards and Kent Police and/or 'new type' driving licences with photographs, passport, an official identity card issued by HM Forces or by a EU country bearing the photograph and date of birth of bearer
- The placing of machines to comply with the codes of practice under the Gambling Act 2005 so that they can be properly supervised.

6.7 In the case of film exhibitions, the Licensing Authority will expect licensees to implement measures that restrict children from viewing age-restricted films classified according to the recommendations of the BBFC or the Authority. In the case of a film exhibition that has not been classified, the Licensing Authority will expect the licensee to certify to the Authority that an assessment of the suitability of the film for exhibition to children in accordance with the BBFC Guidelines has been carried out and that this has been confirmed by the Authority in writing prior to public viewing.

6.8 Where regulated entertainment is provided the Licensing Authority will require the presence of an adequate number of adult staff to control the access and egress of children and to protect them from harm whilst on the premises (see Annex 'H' of Guidance). Where children are present as performers, the Authority will normally require an adequate number of adult staff to be responsible for the child performers.

6.9 The Licensing Authority will rarely impose complete bans on access to children. In exceptional circumstances conditions restricting access or excluding children completely may be considered necessary. Those conditions may restrict children from entering all or part of licensed premises:

- 1) at certain times of the day or
- 2) when certain licensable activities are taking place or
- 3) to which children aged under 16 years should have access only when supervised by an adult or
- 4) to which unsupervised children under 16 will be permitted access

6.10 Examples of premises where these conditions may be considered include where:

- 1) there have been convictions for serving alcohol to minors or where there is some evidence of under-age drinking
- 2) there is a known association with drug taking or dealing
- 3) there is a strong element of gambling on the premises
- 4) entertainment of an adult or sexual nature is commonly provided
- 5) there is a presumption that children under 18 should not be allowed (e.g. to nightclubs, except where under 18 discos are being held)
- 6) licensable activities are taking place during times when children under 16 may be expected to be attending compulsory full-time education.

7.0 ADMINISTRATION, EXERCISE & DELEGATION

7.1 The Licensing Authority is involved in a wide range of licensing decisions and functions and has established a Licensing Committee to administer them. The powers under the Act also allow for delegation of powers/functions to Licensing Sub-Committees or to one or more officers.

7.2 Appreciating the need to provide a speedy, efficient and cost effective service to all parties involved in the licensing process, the Council has taken advantage of these powers and has established a Licensing Sub-Committee(s).

7.3 Many of the decisions and functions are largely administrative in nature such as the grant of non-contentious applications, including for example those licences and certificates where no representations have been made. These will be delegated to Council officers. All such matters dealt with by officers will be reported for information to the next Licensing Committee meeting.

7.4 Applications where there are relevant representations will be dealt with by the Licensing Committee/Sub-Committee - unless such representations are considered irrelevant, frivolous or vexatious, or unless the Authority, the applicant and everyone who has made representations agrees that a hearing is not necessary (usually after successful mediation).

7.5 The table given at 7.10 sets out the agreed delegation of decisions and functions of the Licensing Committee, Sub-Committees and officers. The various delegations include delegation to impose appropriate conditions.

7.6 This scheme of delegations is without prejudice to the right of interested parties to refer an application to a Licensing Sub-Committee or the full Licensing Committee if considered appropriate in the circumstances of any particular case.

- 7.7** Unless there are compelling reasons to the contrary, the Licensing Authority will require the Licensing Committee or any of its Sub-Committees to meet in public – although Members can retire into private session to consider their decision.
- 7.8** ‘Relevant representations’ are representations as defined by Section 18 of the Act:
- about the likely effect of the Premises Licence on the promotion of the licensing objectives.
 - made by an interested party or a responsible Authority, have not been withdrawn and, in the case of representations made by an interested party they are not in the Licensing Authority’s opinion irrelevant, frivolous or vexatious.
- 7.9** ‘An Interested Party’ means any of the following as defined by Section 13 of the Act:
- A person living in the vicinity of the premises;
 - A body representing persons who live in that vicinity;
 - A person involved in a business in that vicinity; or
 - A body representing persons involved in such business.

7.10 Delegation of Functions:

Matter to be dealt with	Full Licensing Committee	Licensing Sub-committee	Officers
Approval of Policy & Delegation of Authority	Full Committee		
Application for Personal Licence		If a Police objection	If no objection made
Application for Personal Licence with unspent convictions		All cases	
Application for Premises Licence/ Club Premises Certificate		If a relevant representation made	If no relevant representation made
Application for Provisional Statement		If a relevant representation made	If no relevant representation made
Application to vary Premises Licence/Club Premises Certificate		If a relevant representation made	If no relevant representation made
Application to vary Designated Premises Supervisor		If a Police objection	All other cases
Request to be removed as Designated Premises Supervisor			All cases
Application for Transfer of Premises Licence		If a Police objection	All other cases
Application for Interim authorities’		If a Police objection	All other cases
Application to review Premises Licence/Club Premises Certificate		All cases	
Decision on whether a complaint is relevant, frivolous, vexatious, etc			All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application		All cases	
Determination of a Police objection to a Temporary Event Notice		All cases	

Appendix A: Definitions

In this Policy, the following definitions are included to provide an explanation of certain terms included in the Act and therefore in the Policy. In some cases they are an abbreviation of what is stated in the Licensing Act 2003 or an interpretation of those terms. For a full definition of the terms used, the reader must refer to the Licensing Act 2003.

'Appeals'

Appeals against decisions of the licensing authority are to the magistrates' court for the area in which the premises are situated. The appeal must be lodged within 21 days of being notified of the Authority's decision. On appeal a magistrates' court may, dismiss the appeal; substitute its own decision; remit the case to the licensing authority with directions; and make an order for costs.

'Authorised Persons'

'Authorised Persons' are specified people who have statutory duties in relation to the inspection of premises, e.g. licensing officers, police, fire, health & safety and environmental health.

'Interested Parties'

'Interested Parties' are persons living in the vicinity of the premises; a body representing such persons; a person involved in business in the vicinity; or a body representing businesses in the vicinity.

'Responsible Authorities'

'Responsible Authorities' include the police, fire, enforcing authority for health and safety, planning authority, environmental health, bodies responsible for child protection, trading standards and other specified authorities. Only these groups can make representations about an application for a premises licence.

'Closure Order'

New powers for the police and courts to close premises. The 2003 Act significantly extends the existing powers of the police to seek court orders in a geographical area that is experiencing or likely to experience disorder or to close down instantly individual premises that are disorderly, likely to become disorderly or are causing noise nuisance.

'Club Premises Certificate'

A certificate which licences a qualifying club for the sale/supply of alcohol. It can be granted to member's clubs which comply with specific conditions, e.g. membership rules, run by club committees, profits go to members not an owner etc. Club premises certificates replace registration under the Licensing Act 1964. The law for member's clubs has changed relatively little under the 2003 Act. There is no time limit on the duration of the certificate but it may be withdrawn, surrendered or suspended.

'Conditions'

A premises licence may be granted subject to different conditions, and these may be in respect of different parts of the premises and different licensable activities. There is no power to impose conditions on a personal licence. Secretary of State's guidance provides "The only conditions which should be imposed on a premises licence or club premises certificate are those which are necessary for the promotion of the licensing objectives. Accordingly, if the existing law already places certain statutory responsibilities on an employer or operator of premises, it cannot be necessary to impose the same or similar duties on the premises licence holder". Conditions must be proportional and tailored to size, style, characteristics and activities taking place at the premises concerned.

'Designated Premises Supervisor'

The person in the case of premises selling alcohol, who will normally have been given the day to day responsibility for running the premises by the holder of the Premises Licence or will be the Premises Licence holder himself (who must also be a Personal Licence holder).

'Interim Authority Notices'

Where a premises licence lapses due to death, incapacity or insolvency etc. of the holder, specified persons can within 7 days serve an interim authority notice on the licensing authority. This revives the licence, subject to police objection, for a period of up to 2 months so the premises can continue trading. This is the equivalent to 'interim authorities' and 'protection orders' under the Licensing Act 1964.

'Late Night Refreshment'

The supply of hot food and/or drink to members of the public (whether for consumption on or off the premises) between the hours of 11.00pm and 5.00am.

'Licensable Activities'

- The sale by retail of alcohol.
- The supply of alcohol by or on behalf of a club, or to the order of a member of the club.
- The provision of Regulated Entertainment.
- The provision of Late Night Refreshment.

'Licensing Authority'

Dartford Borough Council.

'Licensing Objectives'

The objectives of licensing set out in the 2003 Act:

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

The Licensing Authority must carry out its functions under the Act with a view to promoting the licensing objectives.

'Licensed Premises'

Includes club premises and events unless the context otherwise requires.

'Mandatory Conditions'

Conditions that the Act requires are imposed on a premises licence, club premises certificate or personal licence.

'Objection Notice'

A procedure whereby the police can object to the grant of a personal licence on the grounds that, having regard to convictions of the applicant for relevant offences, the grant would undermine the crime prevention objective.

'Operating Schedule'

A document containing a statement of the following matters (and any others that may be prescribed):-

- Steps taken by the Licence holder to tackle the four licensing objectives.
- The Licensable Activities to be conducted on the premises.
- The times during which the Licensable Activities are to take place and any other times when the premises are open to the public.
- Where the licence is required only 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.

'Personal Licence'

A licence granted to an individual and authorises that person to supply alcohol or authorise the supply of alcohol in accordance with a premises licence. The licence lasts for 10 years and can be renewed. It ceases to have effect when revoked, forfeited, surrendered or suspended. A personal licence holder is not required where the premises concerned do not supply alcohol as one of its licensable activities. A personal licence holder is also not required for the supply of alcohol in a club which holds a club premises certificate. Only the police can object to the grant of a personal licence (there is no equivalent to relevant representations as for premises licences).

'Premises Licence'

A licence granted in respect of any premises, which authorises the premises to be used for one or more licensable activities, has effect until revoked, surrendered or on the death, insolvency etc of the holder. Applications are dealt with by the local authority licensing committee in the area where the premises are situated.

'Provisional Statement'

A procedure by which the licensing authority can give a statement approving for licensing purposes proposals for a premises being built or in the course of being constructed. This is equivalent to a 'provisional grant' under the Licensing Act 1964. Where a provisional statement is made, subject to limited exceptions, the full licence must normally be granted once the premises are completed.

'Qualifying Club'

Club Premises Certificates will be issued to Qualifying Clubs formally Registered Members Clubs. To be eligible for a Club Premises Certificate the club/organisation members must have joined together for a particular social, sporting or political purpose and then have combined to purchase alcohol in bulk as members of the organisation for supply to members and their guests. Qualifying conditions are specified in Section 61 of the Act and the Authority must be satisfied that these conditions have been met, including evidence to support that the club is non-profit making and that there is a minimum of 48 hours delay between application and acceptance of new members. The club must be established and conducted in

'good faith' (this involves consideration of details such as club finances).

'Regulated Entertainment'

Regulated Entertainment requires a licence when it is performed in front of an audience and includes the following:

- A performance of a play.
- An exhibition of a film.
- An indoor sporting event.
- A boxing or wrestling entertainment (indoors or outdoors).
- A performance of live music (not incidental music, i.e. a piano in a restaurant).
- Any playing of recorded music.
- A performance of dance.
- Provisions of facilities for dancing.
- Provision of facilities for making music.
- Entertainment of a similar description to the performance of live music, the playing of recorded music and the performance of dance.

'Relevant Representations'

The 2003 Act does not use the term 'objections' except in relation to the Police. Instead authorised persons, interested parties and responsible authorities may be able to make relevant representations about an application for a licence. Representations must relate to the licensing objectives and where made by an interested party or responsible authority the local authority need only consider relevant representations. The making of relevant representations engages the licensing authorities' discretion to take 'steps' consistent with the licensing objectives when considering the application.

'Review of Licence'

Where a premises licence is in force an interested party or responsible authority may apply to the Licensing Authority for it to be reviewed. The Authority must hold a hearing to review the licence and as a result must take any necessary steps to promote the licensing objectives, such as modification of conditions; exclusion of licensable activities; removal of the premises supervisor; suspension of the licence for up to three months; or the revocation of the licence.

'Responsible Authority'

- The Chief Officer of Police in the area where the premises are situated.
- The Fire Authority in the area where the premises are situated.
- The enforcing authority for Health and Safety at Work.
- The local Planning Authority.
- The local authority responsible for minimising or preventing the risk of pollution of the environment or of harm to human health.
- The body representing matters relating to the protection of children from harm.
- In relation to a vessel, a navigation authority, the Environment Agency, or the British Waterways Board.
- Trading Standards.

'Statement of Licensing Policy'

Each licensing authority must every three years determine and publish a statement of licensing policy. There is a requirement to consult on the policy and keep it under review.

'Supervisor'

Responsible for supervision of the premises e.g. the day to day manager. Any premises where alcohol is supplied as a licensable activity must have a Designated Premises Supervisor.

'Temporary Event Notice'

A permitted Temporary Activity involving one or more Licensable Activities subject to the following various conditions and limitations:-

- Duration - they are limited to events lasting up to 96 hours.
- Scale - they cannot involve the presence of more than 499 people at any one time.
- Use of the same premises - the same premises cannot be used on more than 12 occasions in a calendar year, but are subject to the overall aggregate of 15 days irrespective of the number of occasions on which they have been used.
- The number of notices by one individual within a given period of time - a Personal Licence holder is limited to 50 notices in one year and any other person to 5 notices in a similar period.

If these conditions are not fulfilled, the Temporary Event would require a Premises Licence if it were currently unlicensed for the activity involved.

'Transfer'

A procedure where an application can be made to transfer the premises licence into a new name e.g. if a premises licence holder sells his premises an application may be made to transfer the premises licence to the new owner.

Appendix B - Further Information & Contacts

Further information about the Licensing Act 2003 and the Council's licensing policy can be obtained from:

Licensing Section, Dartford Borough Council, Civic Centre, Home Gardens, Dartford, Kent DA1 1DR
Tel: 01322 343000 *Fax:* 01322 343607 *E-mail:* licensing@dartford.gov.uk *Website:* www.dartford.gov.uk

Information is also available from:

Department for Media, Culture & Sport (Guidance to the Act), 2-4 Cockspur Street, London SW1Y 5DH
Tel: 0207 211 6200 *E-mail:* Enquiries@culture.gov.uk *Website:* www.culture.gov.uk

HMSO (The Licensing Act 2003)
Website: www.hmso.gov.uk

Responsible Authorities:

North Kent Police, Licensing Section, Dartford Police Station, Dartford, Kent DA1 2JN
Tel: 01322 283116 *Fax:* 01322 283189 *E-mail:* paul.diment@kent.pnn.police.uk

Kent Fire & Rescue Service, Fire Safety Office, Dartford Fire Station, Instone Road, Watling Street, Dartford, Kent DA2 6EG
Tel: 01322 278729 *Fax:* 01322 227962 *E-mail:* Dartford.firesafety@kent.fire-uk.org

Health & Safety/Environmental Health/Planning, Dartford Borough Council, Civic Centre, Home Gardens, Dartford, Kent DA1 1DR
Tel: 01322 343434 *Fax:* 01322 343422 *E-mail:* environmental.admin@dartford.gov.uk (H & S/Environmental)
E-mail: planning.admin@dartford.gov.uk (Planning)

Area Manager, North Kent Social Services, St Lawrence House, 48a West Hill, Dartford, Kent DA1 2HG
Tel: 01322 277744 *Fax:* 01322 289343 *E-mail:*

KCC Trading Standards, Legal & Licensing Department, 1st Floor, Invicta House, Maidstone, Kent ME14 1XX
Tel: 01732 525291 *E-mail:* ts.licensing@kent.gov.uk

OTHER USEFUL CONTACTS:

The British Institute of Inn-keeping (BII), Wessex House, 80 Park Street, Camberley, Surrey GU15 3PT
Tel: 01276 684449 *Fax:* 01276 23045 *Website:* www.bii.org.uk

Security Industry Authority (S.I.A.), PO Box 9, Newcastle Upon Tyne, NE82 6YX
Tel: 08702 430100 *Fax:* 08702 430125 *Website:* www.the-sia.org.uk

British Beer & Pub Association (BBPA), Market Towers, 1 Nine Elms Lane, London SW8 5NQ
Tel: 020 7627 9191 *Fax:* 020 7627 9123 *Website:* www.beerandpub.com

Bar, Entertainment & Dance Association (BEDA), 5 Waterloo Road, Stockport, Cheshire SK1 3BD
Tel: 01614 290012 *Fax:* 01614 297214 *Website:* www.beda.gov.uk

The Portman Group, 7-10 Chandos Street, Cavendish Square, London W1G 9DQ
Tel: 020 7907 3700 *Website:* www.portman-group.org.uk

Alcohol Concern, Waterbridge House, 32-36 Loman Street, London SE1 0EE
Tel: 020 7928 7377 *Website:* www.alcoholconcern.org.uk

Appendix C - Licensing Enforcement Policy

1. **Aim**

This Policy is intended to fairly and firmly enforce the law in a consistent and transparent way, and in accordance with the four licensing objectives:-

- Prevention of crime and disorder.
- Public Safety.
- Prevention of public nuisance.
- Protection of children from harm.

The Council will assist and advise wherever appropriate, but proportionate action will be taken against those who breach the provisions of the legislation.

The Council has adopted the provisions of the Regulators' Compliance Code; this enforcement policy helps to promote efficient and effective approaches to regulatory inspection and enforcement, which improve regulatory outcomes without imposing unnecessary burdens. This is in accordance with the Regulators' Compliance Code.

In certain instances we may conclude that a provision in the Code is either not relevant or is outweighed by another provision. We will ensure that any decision to depart from the Code will be properly reasoned, based on material evidence and documented.

2. **Liaison with regulatory agencies.**

The Council will work actively with the Police and other bodies (Fire and Rescue Service, Customs and Excise, Trading Standards, Child Protection, Health and Safety Executive, Security Industry Authority, Crown Prosecution Service, etc), in enforcing the licensing legislation. This will necessitate the sharing of information in relation to those persons involved in licensing and relevant premises based on the requirements of the Licensing Act 2003, Criminal Justice and Police Act 1994, Crime and Disorder Act 1998, the Violent Crime Reduction Act 2006 and other relevant legislation.

There are various statutory provisions that enable the Council to exchange relevant information with other bodies. These provisions will be used as appropriate.

This enforcement policy in no way restricts other regulatory bodies from carrying out enforcement under their own regulatory powers.

3. **Licensing Visits**

Council Officers will make licensing visits to premises, and may on occasion be accompanied primarily by Police and or other regulatory agencies.

Both the Council and the other relevant agencies firmly believe that working with business is the primary method to achieve the licensing objectives, but will take appropriate enforcement action if necessary.

The visiting regime for premises is not decided solely on a risk assessment basis. The Council will, as part of its' proactive stance, make regular visits to and in the vicinity of licensed premises in order to assess the impact of their operation on residents and other businesses in the area.

There will be a presumption that visits will take place when various crime and disorder and other indicators show that there are potential problems developing in relation to specific premises or areas.

The Council will monitor patron movement to, from and between premises and the provision and accessibility of transport to assist dispersal of persons away from licensed premises. The information gained from these monitoring exercises will inform the development of the Councils' Licensing Policy Statement.

4. **Consistency**

The Council and its officers will act in a fair and consistent manner. Council Officers whilst exercising their professional judgement in individual cases will do so within a framework based on consistency and fairness in action.

There will be specific circumstances when the Council will share an enforcement role with the Police or other agencies. When this occurs the same degree of consistency and fairness will be applied.

5. **Proportionality**

The Council, Police and other enforcement agencies will, as far as the law allows and where co-operation is given, work with business/licensees to enable them to meet their legal obligations without undue cost.

The Council will take into account the cost of compliance by ensuring that any enforcement or remedial action required is proportionate to the risks. However clear breaches of the legislation may attract prosecution and/or recommendation for review of the licence where it is deemed to be in the public interest.

6. **Enforcement Action/Options**

- i. The initial contact between Council and Business/Licensees will normally be informal, with the provision of advice, guidance and support.
- ii. Enforcement action can include the following progressive approach to achieve compliance:
 - Verbal advice - which may be documented
 - Written advice
 - Verbal warning - which may be documented
 - Written warning
 - Statutory Notice
 - Formal Caution
 - Prosecution

The individual circumstances of the breach of the legislation will determine the level of enforcement.

In the case of a premises licence the Council or the Police may ask for a review.

All actions will be considered in accordance with the requirements of the Human Rights Act 1998 and considered on its individual merits.

On conviction of a relevant offence Magistrates may endorse, suspend or revoke a Personal Licence.

Council Officers, Police or Crown Prosecutors may, relating to such a conviction remind the Magistrates of their powers to endorse, suspend or revoke a Personal Licence.

- iii. When prosecution is being considered, the relevant enforcement bodies will on a case by case basis decide which is the lead authority to prosecute the offence. Regard will be taken of the Code of Practice made under Section 10 Prosecution of Offences Act 1985 and issued by the Crown Prosecution Service. Due consideration will be given to any guidance and/or advice issued by Government, Local Authority Association and other professional and technical bodies. Statements will be provided as regard to evidence from one agency to another as necessary.

Before deciding whether to prosecute the following factors will be considered:-

- The seriousness of the alleged offence.
- The history of the business/person concerned.
- The willingness of the business/individual to prevent a reoccurrence of the problem and the level of co-operation with Council Officers, Police and/or other agencies.
- Whether it is in the public interest to prosecute.
- The realistic prospect of conviction.
- Whether any other action (including a formal caution) would be appropriate.
- The views of any complainant and other parties with an interest in a prosecution.

The Council takes a proactive stance towards the proper regulation of, and enforcement of the provisions of this legislation.

The Council will normally take a lead on issues including:-

- Noise.
- Production and display of relevant licences and documents.
- Unauthorised licensable activities in relation to the provision of regulated entertainment.
- Breaches of conditions of premises licences.
- Breaches of requirements under Temporary Events Notices.
- Exposing and keeping of alcohol on premises for unauthorised sale.

Other breaches of the Act will be dealt with either directly or jointly as indicated above.

The Council will give full co-operation to any other agency in carrying out their investigations.

ANNEX A: Extract from the Licensing Act 2003: Regulated Entertainment

SCHEDULE 1: Section 1: PROVISION OF REGULATED ENTERTAINMENT

PART 1: GENERAL DEFINITIONS

The provision of regulated entertainment

- 1) For the purposes of this Act the “provision of regulated entertainment” means the provision of –
 - a) entertainment of a description falling within paragraph 2, or
 - b) entertainment facilities falling within paragraph 3, where the conditions in sub-paragraphs (2) and (3) are satisfied.
- 2) The first condition is that the entertainment is, or entertainment facilities are, provided –
 - a) to any extent for members of the public or a section of the public,
 - b) exclusively for members of a club which is a qualifying club in relation to the provision of regulated entertainment, or for members of such a club and their guests, or
 - c) in any case not falling within paragraph (a) or (b), for consideration and with a view to profit.
- 3) The second condition is that the premises on which the entertainment is, or entertainment facilities are, provided are made available for the purpose, or for purposes which include the purpose, of enabling the entertainment concerned (whether of a description falling within paragraph 2(1) or paragraph 3(2)) to take place.

To the extent that the provision of entertainment facilities consists of making premises available, the premises are to be regarded for the purposes of this sub-paragraph as premises “on which” entertainment facilities are provided.
- 4) For the purposes of sub-paragraph (2)(c), entertainment is, or entertainment facilities are, to be regarded as provided for consideration only if any charge –
 - a) is made by or on behalf of –
 - i) any person concerned in the organisation or management of that entertainment, or
 - ii) any person concerned in the organisation or management of those facilities who is also concerned in the organisation or management of the entertainment within paragraph 3(2) in which those facilities enable persons to take part, and
 - b) is paid by or on behalf of some or all of the persons for whom that entertainment is, or those facilities are, provided.
- 5) In sub-paragraph (4), “charge” includes any charge for the provision of goods or services.
- 6) For the purposes of sub-paragraph (4)(a), where the entertainment consists of the performance of live music or the playing of recorded music, a person performing or playing the music is not concerned in the organisation or management of the entertainment by reason only that he does one or more of the following –
 - a) chooses the music to be performed or played,
 - b) determines the manner in which he performs or plays it,
 - c) provides any facilities for the purposes of his performance or playing of the music.
- 7) This paragraph is subject to Part 2 of this Schedule (exemptions).

Entertainment

- 2) 1) The descriptions of entertainment are –
 - a) a performance of a play,
 - b) an exhibition of a film,
 - c) an indoor sporting event,
 - d) a boxing or wrestling entertainment,
 - e) a performance of live music,
 - f) any playing of recorded music,
 - g) a performance of dance,
 - h) entertainment of a similar description to that falling within paragraph (e), (f) or (g),where the entertainment takes place in the presence of an audience and is provided for the purpose, or for purposes which include the purpose, of entertaining that audience.
- 2) Any reference in sub-paragraph (1) to an audience includes a reference to spectators.
- 3) This paragraph is subject to Part 3 of this Schedule (interpretation).

Entertainment facilities

- 3** 1) In this Schedule, “entertainment facilities” means facilities for enabling persons to take part in entertainment of a description falling within sub-paragraph (2) for the purpose, or for purposes which include the purpose, of being entertained.
- 2) The descriptions of entertainment are –
- a) making music,
 - b) dancing,
 - c) entertainment of a similar description to that falling within paragraph (a) or (b).
- 3) This paragraph is subject to Part 3 of this Schedule (interpretation).

Power to amend Schedule

- 4** The Secretary of State may by order amend this Schedule for the purpose of modifying –
- a) the descriptions of entertainment specified in paragraph 2, or
 - b) the descriptions of entertainment specified in paragraph 3,
- and for this purpose “modify” includes adding, varying or removing any description.

PART 2: EXEMPTIONS

Film exhibitions for the purposes of advertisement, information, education, etc.

- 5** The provision of entertainment consisting of the exhibition of a film is not to be regarded as the provision of regulated entertainment for the purposes of this Act if its sole or main purpose is to –
- a) demonstrate any product,
 - b) advertise any goods or services, or
 - c) provide information, education or instruction.

Film exhibitions: museums and art galleries

- 6** The provision of entertainment consisting of the exhibition of a film is not to be regarded as the provision of regulated entertainment for the purposes of this Act if it consists of or forms part of an exhibit put on show for any purposes of a museum or art gallery.

Music incidental to certain other activities

- 7** The provision of entertainment consisting of the performance of live music or the playing of recorded music is not to be regarded as the provision of regulated entertainment for the purposes of this Act to the extent that it is incidental to some other activity which is not itself –
- a) a description of entertainment falling within paragraph 2, or
 - b) the provision of entertainment facilities.

Use of television or radio receivers

- 8** The provision of any entertainment or entertainment facilities is not to be regarded as the provision of regulated entertainment for the purposes of this Act to the extent that it consists of the simultaneous reception and playing of a programme included in a programme service within the meaning of the Broadcasting Act 1990 (c. 42).

Religious services, places of worship etc.

- 9** The provision of any entertainment or entertainment facilities –
- a) for the purposes of, or for purposes incidental to, a religious meeting or service, or
 - b) at a place of public religious worship,
- is not to be regarded as the provision of regulated entertainment for the purposes of this Act.

Garden fêtes, etc.

- 10** 1) The provision of any entertainment or entertainment facilities at a garden fête, or at a function or event of a similar character, is not to be regarded as the provision of regulated entertainment for the purposes of this Act.
- 2) But sub-paragraph (1) does not apply if the fête, function or event is promoted with a view to applying the whole or part of its proceeds for purposes of private gain.
- 3) In sub-paragraph (2) “private gain”, in relation to the proceeds of a fête, function or event, is to be construed in accordance with section 22 of the Lotteries and Amusements Act 1976 (c. 32).

Morris dancing, etc.

- 11** The provision of any entertainment or entertainment facilities is not to be regarded as the provision of regulated entertainment for the purposes of this Act to the extent that it consists of the provision of –
- a) a performance of morris dancing or any dancing of a similar nature or a performance of unamplified, live music as

- an integral part of such a performance, or
- b) facilities for enabling persons to take part in entertainment of a description falling within paragraph (a).

Vehicles in motion

- 12** The provision of any entertainment or entertainment facilities –
- a) on premises consisting of or forming part of a vehicle, and
 - b) at a time when the vehicle is not permanently or temporarily parked,
- is not to be regarded as the provision of regulated entertainment for the purposes of this Act.

PART 3: INTERPRETATION

General

- 13** This Part has effect for the purposes of this Schedule.

Plays

- 141)** A “performance of a play” means a performance of any dramatic piece, whether involving improvisation or not, –
- a) which is given wholly or in part by one or more persons actually present and performing, and
 - b) in which the whole or a major proportion of what is done by the person or persons performing, whether by way of speech, singing or action, involves the playing of a role.
- 2) In this paragraph, “performance” includes rehearsal (and “performing” is to be construed accordingly).

Film exhibitions

- 15** An “exhibition of a film” means any exhibition of moving pictures.

Indoor sporting events

- 161)** An “indoor sporting event” is a sporting event –
- a) which takes place wholly inside a building, and
 - b) at which the spectators present at the event are accommodated wholly inside that building.
- 2) In this paragraph –
- “building” means any roofed structure (other than a structure with a roof which may be opened or closed) and includes a vehicle, vessel or moveable structure,
- “sporting event” means any contest, exhibition or display of any sport, and “sport” includes –
- a) any game in which physical skill is the predominant factor, and
 - b) any form of physical recreation which is also engaged in for purposes of competition or display.

Boxing or wrestling entertainments

- 17** A “boxing or wrestling entertainment” is any contest, exhibition or display of boxing or wrestling.

Music

- 18** “Music” includes vocal or instrumental music or any combination of the two.

ANNEX B: Extract from the Licensing Act 2003: Late Night Refreshment

SCHEDULE 2: Section 1: PROVISION OF LATE NIGHT REFRESHMENT

The provision of late night refreshment

- 1** 1) For the purposes of this Act, a person “provides late night refreshment” if –
- at any time between the hours of 11.00 p.m. and 5.00 a.m., he supplies hot food or hot drink to members of the public, or a section of the public, on or from any premises, whether for consumption on or off the premises, or
 - at any time between those hours when members of the public, or a section of the public, are admitted to any premises, he supplies, or holds himself out as willing to supply, hot food or hot drink to any persons, or to persons of a particular description, on or from those premises, whether for consumption on or off the premises, unless the supply is an exempt supply by virtue of paragraph 3, 4 or 5.
- 2) References in this Act to the “provision of late night refreshment” are to be construed in accordance with sub-paragraph (1).
- 3) This paragraph is subject to the following provisions of this Schedule.

Hot food or hot drink

- 2** Food or drink supplied on or from any premises is “hot” for the purposes of this Schedule if the food or drink, or any part of it, –
- before it is supplied, is heated on the premises or elsewhere for the purpose of enabling it to be consumed at a temperature above the ambient air temperature and, at the time of supply, is above that temperature, or
 - after it is supplied, may be heated on the premises for the purpose of enabling it to be consumed at a temperature above the ambient air temperature.

Exempt supplies: clubs, hotels etc. and employees

- 3** 1) The supply of hot food or hot drink on or from any premises at any time is an exempt supply for the purposes of paragraph 1(1) if, at that time, a person will neither –
- be admitted to the premises, nor
 - be supplied with hot food or hot drink on or from the premises, except by virtue of being a person of a description falling within sub-paragraph (2).
- 2) The descriptions are that –
- he is a member of a recognised club,
 - he is a person staying at a particular hotel, or at particular comparable premises, for the night in question,
 - he is an employee of a particular employer,
 - he is engaged in a particular trade, he is a member of a particular profession or he follows a particular vocation,
 - he is a guest of a person falling within any of paragraphs (a) to (d).
- 3) The premises which, for the purposes of sub-paragraph (2)(b), are comparable to a hotel are –
- a guest house, lodging house or hostel,
 - a caravan site or camping site, or
 - any other premises the main purpose of maintaining which is the provision of facilities for overnight accommodation.

Exempt supplies: premises licensed under certain other Acts

- 4** The supply of hot food or hot drink on or from any premises is an exempt supply for the purposes of paragraph 1(1) if it takes place during a period for which –
- the premises may be used for a public exhibition of a kind described in section 2(1) of the Greater London Council (General Powers) Act 1966 (c. xxviii) by virtue of a licence under that section, or
 - the premises may be used as near beer premises within the meaning of section 14 of the London Local Authorities Act 1995 (c. x) by virtue of a licence under section 16 of that Act.

Miscellaneous exempt supplies

- 5** 1) The following supplies of hot food or hot drink are exempt supplies for the purposes of paragraph 1(1) –
- the supply of hot drink which consists of or contains alcohol,
 - the supply of hot drink by means of a vending machine,
 - the supply of hot food or hot drink free of charge,
 - the supply of hot food or hot drink by a registered charity or a person authorised by a registered charity,
 - the supply of hot food or hot drink on a vehicle at a time when the vehicle is not permanently or temporarily parked.
- 2) Hot drink is supplied by means of a vending machine for the purposes of subparagraph (1)(b) only if
- the payment for the hot drink is inserted into the machine by a member of the public, and

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- b) the hot drink is supplied directly by the machine to a member of the public.
- 3) Hot food or hot drink is not to be regarded as supplied free of charge for the purposes of sub-paragraph (1)(c) if, in order to obtain the hot food or hot drink, a charge must be paid –
- a) for admission to any premises, or
 - b) for some other item.
- 4) In sub-paragraph (1)(d) “registered charity” means –
- a) a charity which is registered under section 3 of the Charities Act 1993 (c. 10), or
 - b) a charity which by virtue of subsection (5) of that section is not required to be so registered.

ANNEX C: Extract from the Licensing Act 2003: Relevant Offences

SCHEDULE 4: Section 113

PERSONAL LICENCE: RELEVANT OFFENCES

- 1** An offence under this Act.
- 2** An offence under any of the following enactments –
 - a) Schedule 12 to the London Government Act 1963 (c. 33) (public entertainment licensing);
 - b) the Licensing Act 1964 (c. 26);
 - c) the Private Places of Entertainment (Licensing) Act 1967 (c. 19);
 - d) section 13 of the Theatres Act 1968 (c. 54);
 - e) the Late Night Refreshment Houses Act 1969 (c. 53);
 - f) section 6 of, or Schedule 1 to, the Local Government (Miscellaneous Provisions) Act 1982 (c. 30);
 - g) the Licensing (Occasional Permissions) Act 1983 (c. 24);
 - h) the Cinemas Act 1985 (c. 13);
 - i) the London Local Authorities Act 1990 (c. vii).
- 3** An offence under the Firearms Act 1968 (c. 27).
- 4** An offence under section 1 of the Trade Descriptions Act 1968 (c. 29) (false trade description of goods) in circumstances where the goods in question are or include alcohol.
- 5** An offence under any of the following provisions of the Theft Act 1968 (c. 60) –
 - a) section 1 (theft);
 - b) section 8 (robbery);
 - c) section 9 (burglary);
 - d) section 10 (aggravated burglary);
 - e) section 11 (removal of articles from places open to the public);
 - f) section 12A (aggravated vehicle-taking), in circumstances where subsection (2)(b) of that section applies and the accident caused the death of any person;
 - g) section 13 (abstracting of electricity);
 - h) section 15 (obtaining property by deception);
 - i) section 15A (obtaining a money transfer by deception);
 - j) section 16 (obtaining pecuniary advantage by deception);
 - k) section 17 (false accounting);
 - l) section 19 (false statements by company directors etc.);
 - m) section 20 (suppression, etc. of documents);
 - n) section 21 (blackmail);
 - o) section 22 (handling stolen goods);
 - p) section 24A (dishonestly retaining a wrongful credit);
 - q) section 25 (going equipped for stealing etc.).
- 6** An offence under section 7(2) of the Gaming Act 1968 (c. 65) (allowing child to take part in gaming on premises licensed for the sale of alcohol).
- 7** An offence under any of the following provisions of the Misuse of Drugs Act 1971 (c. 38) –
 - a) section 4(2) (production of a controlled drug);
 - b) section 4(3) (supply of a controlled drug);
 - c) section 5(3) (possession of a controlled drug with intent to supply);
 - d) section 8 (permitting activities to take place on premises).
- 8** An offence under either of the following provisions of the Theft Act 1978 (c.31) –
 - a) section 1 (obtaining services by deception);
 - b) section 2 (evasion of liability by deception).
- 9** An offence under either of the following provisions of the Customs and Excise Management Act 1979 (c. 2) –
 - a) section 170 (disregarding subsection (1)(a)) (fraudulent evasion of duty etc.);
 - b) section 170B (taking preparatory steps for evasion of duty).
- 10** An offence under either of the following provisions of the Tobacco Products Duty Act 1979 (c. 7) –
 - a) section 8G (possession and sale of unmarked tobacco);
 - b) section 8H (use of premises for sale of unmarked tobacco).

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- 11** An offence under the Forgery and Counterfeiting Act 1981 (c. 45) (other than an offence under section 18 or 19 of that Act).
 - 12** An offence under the Firearms (Amendment) Act 1988 (c. 45).
 - 13** An offence under any of the following provisions of the Copyright, Designs and Patents Act 1988 (c. 48) –
 - a) section 107(1)(d)(iii) (public exhibition in the course of a business of article infringing copyright);
 - b) section 107(3) (infringement of copyright by public performance of work etc.);
 - c) section 198(2) (broadcast etc. of recording of performance made without sufficient consent);
 - d) section 297(1) (fraudulent reception of transmission);
 - e) section 297A(1) (supply etc. of unauthorised decoder).
 - 14** An offence under any of the following provisions of the Road Traffic Act 1988 (c. 52) –
 - a) section 3A (causing death by careless driving while under the influence of drink or drugs);
 - b) section 4 (driving etc. a vehicle when under the influence of drink or drugs);
 - c) section 5 (driving etc. a vehicle with alcohol concentration above prescribed limit).
 - 15** An offence under either of the following provisions of the Food Safety Act 1990 (c. 16) in circumstances where the food in question is or includes alcohol –
 - a) section 14 (selling food or drink not of the nature, substance or quality demanded);
 - b) section 15 (falsely describing or presenting food or drink).
 - 16** An offence under section 92(1) or (2) of the Trade Marks Act 1994 (c. 26) (unauthorised use of trade mark, etc. in relation to goods) in circumstances where the goods in question are or include alcohol.
 - 17** An offence under the Firearms (Amendment) Act 1997 (c. 5).
 - 18** A sexual offence, within the meaning of section 161(2) of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6).
 - 19** A violent offence, within the meaning of section 161(3) of that Act.
 - 20** An offence under section 3 of the Private Security Industry Act 2001 (c. 12) (engaging in certain activities relating to security without a licence).

Annex D: Conditions relating to the prevention of crime and disorder

It should be noted in particular that it is unlawful under the 2003 Act:

- knowingly to sell or supply or attempt to sell or supply alcohol to a person who is drunk
- knowingly to allow disorderly conduct on licensed premises
- for the holder of a premises licence or a designated premises supervisor knowingly to keep or to allow to be kept on licensed premises any goods that have been imported without payment of duty or which have otherwise been unlawfully imported
- to allow the presence of children under 16 who are not accompanied by an adult between midnight and 5am at any premises licensed for the sale of alcohol for consumption on the premises, and at any time in premises used exclusively or primarily for the sale and consumption of alcohol

Conditions enforcing these arrangements are therefore unnecessary.

General

When applicants for premises licences or club premises certificates are preparing their operating schedules or club operating schedules, when responsible authorities are considering such applications and when licensing authorities are considering applications following the receipt of any relevant representations from a responsible authority or interested party, the following options should be considered as measures which, if necessary, would promote the prevention of crime and disorder.

Whether or not any risk assessment shows these options to be necessary in the individual circumstances of any premises will depend on a range of factors including the nature and style of the venue, the activities being conducted there, the location of the premises and the anticipated clientele of the business involved. It should also be borne in mind that club premises operate under codes of discipline to ensure the good order and behaviour of members.

Necessary conditions for the licence or certificate will also depend on local knowledge of the premises.

Under no circumstances should the following measures be regarded as standard conditions to be automatically imposed in all cases. They are designed to provide a range of possible conditions drawn from experience relating to differing situations and to offer guidance.

Any individual preparing an operating schedule is at liberty to volunteer any measure, such as those described below, as a step he or she intends to take to promote the licensing objectives. When incorporated into the licence or certificate as a condition, they become enforceable under the law and a breach of such a condition could give rise to prosecution.

Text/Radio pagers

Text and radio pagers connecting premises licence holders, designated premises supervisors, managers of premises and clubs to the local police can provide for rapid response by the police to situations of disorder which may be endangering the customers and staff on the premises.

Such pagers provide two-way communication, both enabling licence holders, managers, designated premises supervisors and clubs to report incidents to the police, and enabling the police to warn those operating a large number of other premises of potential trouble-makers or individuals suspected of criminal behaviour who are about in a particular area. Pager systems can also be used by licence holders, door supervisors, managers, designated premises supervisors and clubs to warn each other of the presence in an area of such people.

The Secretary of State recommends that text or radio pagers should be considered appropriate necessary conditions for public houses, bars and nightclubs operating in city and town centre leisure areas with a high density of licensed premises. Following individual consideration of the particular circumstances of the venue, such conditions may also be appropriate and necessary in other areas for the prevention of crime and disorder.

It is recommended that a condition requiring the text/radio pager links to the police should include the following elements:

- a requirement that the text/pager equipment is kept in working order at all times;
- a requirement that the pager link be activated, made available to and monitored by the designated premises supervisor or a responsible member of staff at all times that the premises are open to the public;
- a requirement that any police instructions/directions are complied with whenever given; and
- a requirement that all instances of crime or disorder are reported via the text/radio pager link by the designated premises supervisor or a responsible member of staff to an agreed police contact point.

Door supervisors

Conditions relating to the provision of door supervisors and security teams may be valuable in:

- preventing the admission and ensuring the departure from the premises of the drunk and disorderly, without causing further disorder;

- keeping out excluded individuals (subject to court bans or imposed by the licence holder);
- searching and excluding those suspected of carrying illegal drugs, or carrying offensive weapons; and
- maintaining orderly queuing outside of venues prone to such queuing.

Where door supervisors conducting security activities are to be a condition of a licence, which means that they would have to be registered with the Security Industry Authority, conditions may also need to deal with the number of such supervisors, the displaying of name badges, the carrying of proof of registration, where and at what times they should be stationed on the premises, and whether at least one female supervisor should be available (for example, if female customers are to be the subject of body searches). Door supervisors also have a role to play in ensuring public safety (see Annex E).

Bottle bans

Glass bottles may be used as weapons inflicting more serious harm during incidents of disorder. A condition can prevent sales of drinks in glass bottles for consumption on the premises.

It is recommended that a condition requiring that no sales of beverages in glass bottles for consumption on the premises should be expressed in clear terms and include the following elements:

- no bottles containing beverages of any kind, whether open or sealed, shall be given to customers on the premises whether at the bar or by staff service away from the bar;
- no customers carrying open or sealed bottles shall be admitted to the premises at any time that the premises are open to the public (**note:** this needs to be carefully worded where off-sales also take place);

In appropriate circumstances, the condition could include exceptions, for example, as follows:

- but bottles containing wine may be sold for consumption with a table meal by customers who are seated in an area set aside from the main bar area for the consumption of food.

Plastic containers and toughened glass

Glasses containing drinks may be used as weapons during incidents of disorder and in untoughened form, can cause very serious injuries. Consideration could therefore be given to conditions requiring either the use of plastic containers or toughened glass which inflicts less severe injuries where considered necessary. Location and style of the venue and the activities carried on there would be particularly important in assessing whether a condition is necessary. For example, the use of glass containers on the terraces of some outdoor sports grounds may obviously be of concern, and similar concerns may also apply to indoor sports events such as boxing matches. Similarly, the use of such plastic containers or toughened glass during the televising of live sporting events, such as international football matches, when high states of excitement and emotion fuelled by alcohol might arise, may be a necessary condition.

It should be noted that the use of plastic or paper drinks containers and toughened glass may also be relevant as measures necessary to promote public safety (see Annex E).

CCTV

The presence of CCTV cameras can be an important means of deterring and detecting crime at and immediately outside licensed premises. Conditions should not just consider a requirement to have CCTV on the premises, but also the precise siting of each camera, the requirement to maintain cameras in working order, and to retain recordings for an appropriate period of time.

The police should provide individuals conducting risk assessments when preparing operating schedules with advice on the use of CCTV to prevent crime.

Open containers not to be taken from the premises

Drinks purchased in licensed premises or clubs may be taken from those premises for consumption elsewhere. Where premises are licensed for the sale of alcohol for consumption off the premises that would be entirely lawful. However, consideration should be given to a condition preventing the taking of alcoholic and other drinks from the premises in open containers (e.g. glasses and opened bottles). This may again be necessary to prevent the use of these containers as offensive weapons in surrounding streets after individuals have left the premises.

Restrictions on drinking areas

It may be necessary to restrict the areas where alcoholic drinks may be consumed in premises after they have been purchased from the bar. An example would be at a sports ground where the police consider it necessary to prevent the consumption of alcohol on the terracing of sports grounds during particular sports events. Such conditions should not only specify these areas, but indicate the circumstances in which the ban would apply and times at which it should be enforced.

Capacity limits

Although most commonly made a condition of a licence on public safety grounds, consideration should also be given to conditions which set capacity limits for licensed premises or clubs where it may be necessary to prevent overcrowding which can lead to disorder and violence. Where such a condition is considered necessary, consideration should also be given to whether door supervisors would be needed to ensure that the numbers are appropriately controlled.

Proof of age cards

It is unlawful for children under 18 to attempt to buy alcohol just as it is unlawful to sell or supply alcohol to them. To prevent such crimes, it may be necessary to require a policy to be applied at certain licensed premises requiring the production of “proof of age” before such sales are made. This should not be limited to recognised “proof of age” cards, but allow for the production of other proof, such as photo-driving licences, student cards and passports. The Secretary of State strongly supports the PASS accreditation system (see paragraph 12.8 of the Guidance) which aims to approve and accredit various proof of age schemes that are in existence. This ensures that such schemes maintain high standards, particularly in the area of integrity and security, and where appropriate and necessary, conditions may refer directly to PASS accredited proof of age cards, photo-driving licences and passports.

It should be noted that many adults in England and Wales do not currently carry any proof of age. This means that the wording of any condition will require careful thought. For example, the requirement might be to ensure sight of evidence of age from any person appearing to those selling or supplying alcohol to be under the age of 18 and who is attempting to buy alcohol. This would ensure that most minors – even those looking older – would need to produce proof of age appropriately before making such a purchase. Under such an arrangement only a minority of adults might be affected, but for the majority there would be no disruption to their normal activity, for example, when shopping in a supermarket.

Crime prevention notices

It may be necessary at some premises for notices to be displayed which warn customers of the prevalence of crime which may target them. Some premises may be reluctant to volunteer the display of such notices for commercial reasons. For example, in certain areas, a condition attached to a premises licence or club premises certificate might require the displaying of notices at the premises which warn customers about the need to be aware of pickpockets or bag snatchers, and to guard their property. Similarly, it may be necessary for notices to be displayed which advise customers not to leave bags unattended because of concerns about terrorism. Consideration could be given to a condition requiring a notice to display the name of a contact for customers if they wish to report concerns.

Drinks promotions

Standardised conditions should not be attached to premises licences or club premises certificates which promote fixed prices for alcoholic drinks. It is also likely to be unlawful for licensing authorities or police officers to promote voluntary arrangements of this kind. This can risk creating cartels. Using conditions to control the prices of alcoholic drinks in an area may also breach competition law. Conditions tailored to the individual circumstances of particular premises which address **irresponsible** drinks promotions may be permissible provided they are necessary for the promotion of the licensing objectives, but licensing authorities should take their own legal advice before a licence or certificate is granted in that form. Judgements may be subjective, and on occasions, there will be a very fine line between responsible and irresponsible promotions but an even greater distinction to whether the promotion in question can be subject to the imposition of a condition. It is therefore vital that such matters are considered objectively in the context of the licensing objectives and with the benefit of appropriate legal advice.

In addition, when considering any relevant representations which demonstrate a clear causal link between sales promotions or discounting and levels of crime and disorder on or in the vicinity of the premises, it would be appropriate for the licensing authority to consider whether the imposition of a new condition prohibiting irresponsible sales promotions or discounting of prices of alcoholic beverages is necessary at those premises. However, before pursuing any form of restrictions at all, licensing authorities should take their own legal advice.

Signage

It may be necessary for the normal hours under the terms of the premises licence or club premises certificate at which licensable activities are permitted to take place to be displayed on or immediately outside the premises so that it is clear if breaches of the terms of the licence or certificate are taking place.

Similarly, it may be necessary for any restrictions on the admission of children to be displayed on or immediately outside the premises so that the consequences of breaches of these conditions would also be clear and to deter those who might seek admission in breach of those conditions.

Large capacity venues used exclusively or primarily for the “vertical” consumption of alcohol (HVDs)

Large capacity “vertical drinking” premises, sometimes called High Volume Vertical Drinking establishments (HVDs), are premises with exceptionally high capacities, used primarily or exclusively for the sale and consumption of alcohol, and have little or no seating for patrons.

Where necessary and appropriate, conditions can be attached to premises licences for the promotion of the prevention of crime and disorder at such premises (if not volunteered by the venue operator and following representations on such grounds) which require adherence to:

- a prescribed capacity;
- an appropriate ratio of tables and chairs to customers based on the capacity; and
- the presence of SIA registered security teams to control entry for the purpose of compliance with the capacity limit.

ANNEX E: Conditions relating to public safety (including fire safety)

It should be noted that conditions relating to public safety should be those which are necessary, in the particular circumstances of any individual premises or club premises, and should not duplicate other requirements of the law. Equally, the attachment of conditions to a premises licence or club premises certificate will not in any way relieve employers of the statutory duty to comply with the requirements of other legislation including the Health and Safety at Work etc. Act 1974, associated regulations and especially the requirements under the Management of Health and Safety at Work Regulations 1999 and the Fire Precautions (Workplace) Regulations 1997 to undertake risk assessments. Employers should assess the risks, including risks from fire, and take measures necessary to avoid and control these risks. Conditions enforcing those requirements would therefore be unnecessary.

General

When applicants for premises licences or club premises certificates are preparing their operating schedules or club operating schedules, responsible authorities are considering such applications and licensing authorities are considering applications following the receipt of relevant representations from a responsible authority or interested party, the following options should be considered as measures that, if necessary, would promote public safety. Additional matters relating to cinemas and theatres are considered in Annex F. It should also be recognised that special issues may arise in connection with outdoor and large scale events.

Whether or not any risk assessment shows any of the measures to be necessary in the individual circumstances of any premises will depend on a range of factors including the nature and style of the venue, the activities being conducted there, the location of the premises and the anticipated clientele of the business involved.

Necessary conditions for the licence or certificate will also depend on local knowledge of the premises.

In addition, to considering the points made in this Annex, those preparing operating schedules or club operating schedules, licensing authorities and responsible authorities should consider:

- Model National and Standard Conditions for Places of Public Entertainment and Associated Guidance ISBN 1 904031 11 0 (Entertainment Technology Press - ABTT Publications)
- The Event Safety Guide – A guide to health, safety and welfare at music and similar events (HSE 1999) (“The Purple Book”) ISBN 0 71762453 6
- Managing Crowds Safely (HSE 2000) ISBN 0 7176 1834 X
- 5 Steps to Risk Assessment: Case Studies (HSE 1998) ISBN 07176 15804
- The Guide to Safety at Sports Grounds (The Stationery Office, 1997) (“The Green Guide”) ISBN 0 11 300095 2
- Safety Guidance for Street Arts, Carnival, Processions and Large Scale Performances published by the Independent Street Arts Network, copies of which may be obtained through: www.streetartsnetwork.org.uk/pages/publications.htm
- The London District Surveyors Association’s “Technical Standards for Places of Public Entertainment” ISBN 0 9531229 2 1

The following British Standards should also be considered:

- BS 5588 Part 6 (regarding places of assembly)
- BS 5588 Part 9 (regarding ventilation and air conditioning systems)
- BS 5588 Part 9 (regarding means of escape for disabled people)
- BS 5839 (fire detection, fire alarm systems and buildings)
- BS 5266 (emergency lighting systems)

However, in consulting these texts, which were prepared prior to the coming into force of the Licensing Act 2003, those creating operating schedules or club operating schedules, licensing authorities and responsible authorities should again note that under no circumstances should any conditions be regarded as standard for all premises.

Any individual preparing an operating schedule or club operating schedule is at liberty to volunteer any measure, such as those described below, as a step he or she intends to take to promote the licensing objectives. When incorporated into the licence or certificate as a condition, they become enforceable under the law and a breach of such a condition could give rise to prosecution.

Disabled people

In certain premises where existing legislation does not provide adequately for the safety of the public, consideration might also be given to conditions that ensure that:

- when disabled people are present, adequate arrangements exist to enable their safe evacuation in the event of an emergency; and
- disabled people on the premises are made aware of those arrangements.

Escape routes

It may be necessary to include conditions relating to the maintenance of all escape routes and exits including external exits.

These might be expressed in terms of the need to ensure that such exits are kept unobstructed, in good order with non-slippery and even surfaces, free of trip hazards and clearly identified. In restaurants and other premises where chairs and tables are provided this might also include ensuring that internal gangways are kept unobstructed.

In certain premises where existing legislation does not provide adequately for the safety of the public, consideration might also be given to conditions that ensure that:

- all exits doors are easily openable without the use of a key, card, code or similar means;
- doors at such exits are regularly checked to ensure that they function satisfactorily and a record of the check kept;
- any removable security fastenings are removed whenever the premises are open to the public or occupied by staff;
- all fire doors are maintained effectively self-closing and shall not be held open other than by approved devices (for example, electromagnetic releases operated by smoke detectors);
- fire resisting doors to ducts, service shafts, and cupboards shall be kept locked shut; and
- the edges of the treads of steps and stairways are maintained so as to be conspicuous.

Safety checks

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- safety checks are carried out before the admission of the public; and
- details of such checks are kept in a Log-book.

Curtains, hangings, decorations and upholstery

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- hangings, curtains and temporary decorations are maintained in a flame-retardant condition;
- any upholstered seating meets on a continuous basis the pass criteria for smouldering ignition source 0, flaming ignition source 1 and crib ignition source 5 when tested in accordance with section 5 of BS 5852:1990;
- curtains, hangings and temporary decorations are arranged so as not to obstruct exits, fire safety signs or fire-fighting equipment; and
- temporary decorations are not used without prior notification to the licensing authority/fire authority.

Accommodation limits

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- arrangements are made to ensure that any capacity limit imposed under the premises licence or club premises certificate are not exceeded; and
- the licence holder, a club official, manager or designated premises supervisor should be aware of the number of people on the premises and required to inform any authorised person on request.

Fire action notices

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- notices detailing the actions to be taken in the event of fire or other emergencies, including how the fire brigade should be summoned, are prominently displayed and protected from damage and deterioration.

Outbreaks of fire

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- the fire brigade must be called at once to any outbreak of fire, however slight, and the details recorded in a Fire Log-book.

Loss of water

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- the local Fire Control Centre are notified as soon as possible if the water supply to any hydrant, hose reel, sprinkler, drencher or other fire extinguishing installation is cut off or restricted.

Access for emergency vehicles

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- access for emergency vehicles is kept clear and free from obstruction.

First aid

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- adequate and appropriate supply of first aid equipment and materials is available on the premises;
- if necessary, at least one suitably trained first-aider shall be on duty when the public are present; and if more than one suitably trained first-aider that their respective duties are clearly defined.

Lighting

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- in the absence of adequate daylight, the lighting in any area accessible to the public, members or guests shall be fully in operation when they are present;
- fire safety signs are adequately illuminated;
- emergency lighting is not altered;
- emergency lighting batteries are fully charged before the admission of the public, members or guests; and
- in the event of the failure of normal lighting, where the emergency lighting battery has a capacity of one hour, arrangements are in place to ensure that the public, members or guests leave the premises within 20 minutes unless within that time normal lighting has been restored and the battery is being re-charged; and, if the emergency lighting battery has a capacity of three hours, the appropriate period by the end of which the public should have left the premises is one hour.

Temporary electrical installations

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- temporary electrical wiring and distribution systems are not provided without [notification to the licensing authority at least ten days before commencement of the work] [prior inspection by a suitable qualified electrician];
- temporary electrical wiring and distribution systems shall comply with the recommendations of BS 7671 or where applicable BS 7909; and
- where they have not been installed by a competent person, temporary electrical wiring and distribution systems are inspected and certified by a competent person before they are put to use.

With regard to the first bullet above, it should be recognised that ten days notice may not be possible where performances are supported by outside technical teams. For example, where temporary electrical installations are made in theatres for television show performances. In such circumstances, the key requirement is that conditions where necessary should ensure that temporary electrical installations are only undertaken by competent qualified persons, for example, employed by the television company.

Indoor sports entertainments

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- if necessary, an appropriately qualified medical practitioner is present throughout a sports entertainment involving boxing, wrestling, judo, karate or other sports entertainment of a similar nature;
- where a ring is involved, it is constructed and supported by a competent person and inspected by a competent authority and any material used to form the skirt around the ring is flame-retardant;
- at any wrestling or other entertainments of a similar nature members of the public do not occupy any seat within 2.5 metres of the ring; and
- at water sports entertainments, staff adequately trained in rescue and life safety procedures are stationed and remain within the vicinity of the water at all material times (see also *Managing Health and Safety in Swimming Pools* issued jointly by the Health and Safety Commission and Sport England).

Alterations to the premises

Premises should not be altered in such a way as to make it impossible to comply with an existing licence condition without first seeking a variation of the premises licence proposing the deletion of the condition relating to public safety in question. The applicant will need to propose in a new operating schedule reflecting the proposed alteration to the premises how he or she intends to take alternative steps to promote the public safety objective. The application for variation will enable the responsible authorities with expertise in safety matters to consider whether the proposal is acceptable.

Special effects

The use of special effects in venues of all kinds being used for regulated entertainment is increasingly common and can present significant risks. Any special effects or mechanical installation should be arranged and stored so as to minimise any risk to the safety of the audience, the performers and staff.

Special effects which should be considered include:

- dry ice machines and cryogenic fog;
- smoke machines and fog generators;
- pyrotechnics, including fireworks;
- real flame;

-
- firearms;
 - motor vehicles;
 - strobe lighting;
 - lasers (see HSE Guide The Radiation Safety of lasers used for display purposes [HS(G)95] and BS EN 60825: Safety of laser products);
 - explosives and highly flammable substances.

In certain circumstances, it may be necessary to require that certain special effects are only used with the prior notification of the licensing authority or [inspection by] the fire authority.

ANNEX F: Theatres, cinemas, concert halls and similar places (promotion of public safety)

In addition to the points made in Annex E, there are particular matters in the context of public safety and fire safety which should be considered in connection with theatres and cinemas. The principle remains that conditions must be necessary and should be established through risk assessment and standardised conditions should be avoided. The points which follow are for consideration and do not represent a mandatory list.

Premises used for closely seated audiences

Attendants

a) The number of attendants on each floor in a closely seated auditorium should be as set out on the table below:

Number of members of the audience present on a floor	Minimum number of attendants required to be present on that floor
1 - 100	One
101 - 250	Two
251 - 500	Three
501 - 750	Four
751 - 1000	Five
And one additional attendant for each additional 250 persons (or part thereof)	

- b) Attendants shall not be engaged in any duties that would hinder the prompt discharge of their duties in the event of an emergency or entail their absence from that floor or auditorium where they are on duty.
- c) Any attendant shall be readily identifiable to the audience (but this need not entail the wearing of a uniform).
- d) The premises shall not be used for a closely seated audience except in accordance with seating plan(s), a copy of which is available at the premises and shall be shown to any authorised person on request.
- e) No article shall be attached to the back of any seat which would reduce the clear width of seatways or cause a tripping hazard or obstruction.
- f) A copy of any certificate relating to the design, construction and loading of any temporary seating shall be kept available at the premises and shall be shown to any authorised person on request.

Standing and sitting in gangways etc.

- a) Sitting on floors shall not be permitted except where authorised in the premises licence or club premises certificate.
- b) Waiting or standing shall not be permitted except in areas designated in the premises licence or club premises certificate.
- c) In no circumstances shall anyone be permitted to –
- sit in any gangway;
 - stand or sit in front of any exit; or
 - stand or sit on any staircase including any landings.

Drinks

Except as authorised by the premises licence or club premises certificate, no drinks shall be sold to or be consumed by a closely seated audience except in plastic and paper containers.

Balcony Fronts

Clothing or other objects shall not be placed over balcony rails or upon balcony fronts.

Special effects

Any special effects or mechanical installation should be arranged and stored so as to minimise any risk to the safety of the audience, the performers and staff.

Special effects include:

- dry ice machines and cryogenic fog;
- smoke machines and fog generators;
- pyrotechnics, including fireworks;
- real flame;

- firearms;
- motor vehicles;
- strobe lighting;
- lasers (see HSE Guide The Radiation Safety of lasers used for display purposes [HS(G)95] and BS EN 60825: Safety of laser products);
- explosives and highly flammable substances.

In certain circumstances, it may be necessary to require that certain special effects are only used with the prior notification of the licensing authority or [inspection by] fire authority

Scenery

Any scenery should be maintained flame-retardant.

Safety curtain

Where a safety curtain is provided, it should be arranged so as to protect the audience from the effects of a fire or smoke on stage for sufficient time to enable the safe evacuation of the auditorium.

Where a stage with a proscenium arch is not equipped with a safety curtain, any curtains provided between the stage and the auditorium should be heavyweight and be made of non-combustible material or inherently or durably treated flame-retardant fabric.

Ceilings

All ceilings in those parts of the premises to which the audience are admitted should be inspected by a suitably qualified person who will decide when a further inspection would be necessary and a certificate concerning the condition of the ceilings forwarded to the licensing authority.

Seating

Where the potential audience exceeds 250 all seats in the auditorium should, except in boxes accommodating not more than 8 persons, be either securely fixed to the floor or battened together in lengths of not fewer than four or more than twelve.

Premises used for film exhibitions

Attendants – premises without a staff alerting system

Where the premises are not equipped with a staff alerting system the number of attendants present should be as set out in the table below:

Number of members of the audience present on the premises	Minimum number of attendants required to be on duty
1 - 250	Two
And one additional attendant for each additional 250 members of the audience present (or part thereof)	
Where there are more than 150 members of an audience in any auditorium or on any floor	At least one attendant shall be present in any auditorium or on any floor

Attendants – premises with a staff alerting system

a) Where premises are equipped with a staff alerting system the number of attendants present should be as set out in the table below:

Number of members of the audience present on the premises	Minimum number of attendants required to be on duty	Minimum number of other staff on the premises who are available to assist in the event of an emergency
1 - 500	Two	One
501 - 1000	Three	Two
1001 - 1500	Four	Four
1501 or more	Five plus one for every 500 (or part thereof) persons over 2000 on the premises	Five plus one for every 500 (or part thereof) persons over 2000 on the premises

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- b) Staff shall not be considered as being available to assist in the event of an emergency if they are:
 - i) the holder of the premises licence or the manager on duty at the premises; or
 - ii) a member of staff whose normal duties or responsibilities are likely to significantly affect or delay his response in an emergency situation; or
 - iii) a member of staff whose usual location when on duty is more than 60 metres from the location to which he is required to go on being alerted to an emergency situation.
 - c) Attendants shall as far as reasonably practicable be evenly distributed throughout all parts of the premises to which the public have access and keep under observation all parts of the premises to which the audience have access.
 - d) The staff alerting system shall be maintained in working order.

Minimum lighting

The level of lighting in the auditorium should be as great as possible consistent with the effective presentation of the film; and the level of illumination maintained in the auditorium during the showing of films would normally be regarded as satisfactory if it complies with the standards specified in BS CP 1007 (Maintained Lighting for Cinemas).

Flammable films

No flammable films should be allowed on the premises without the prior notification of the licensing authority/fire authority.

ANNEX G: Conditions relating to the prevention of public nuisance

It should be noted that provisions of the Environmental Protection Act 1990 and the Noise Act 1996 provide some protection to the general public from the effects of noise nuisance. In addition, the provisions in Part 8 of the Licensing Act 2003 enable a senior police officer to close down instantly for up to 24 hours licensed premises and premises carrying on temporary permitted activities that are causing nuisance resulting from noise emanating from the premises. These matters should be considered before deciding whether or not conditions are necessary for the prevention of public nuisance.

General

When applicants for premises licences or club premises certificates are preparing their operating schedules or club operating schedules, responsible authorities are considering such applications and licensing authorities are considering applications following the receipt of relevant representations from a responsible authority or interested party, the following options should be considered as measures that, if necessary, would promote the prevention of public nuisance.

Whether or not any risk assessment shows them to be necessary in the individual circumstances of any premises will depend on a range of factors including the nature and style of the venue, the activities being conducted there, the location of the premises and the anticipated clientele of the business involved.

Necessary conditions for licences and certificates will also depend on local knowledge of the premises.

Hours

The hours during which the premises are permitted to be open to the public or to members and their guests can be restricted (other than where they are protected by the transitional provisions of the Licensing Act 2003) by the conditions of a premises licence or a club premises certificate for the prevention of public nuisance. But this must be balanced by the potential impact on disorder which results from artificially early fixed closing times.

Restrictions could be necessary on the times when certain licensable activities take place even though the premises may be open to the public at such times. For example, the playing of recorded music after a certain time might be prohibited, even though other licensable activities are permitted to continue.

Restrictions might be necessary on the parts of premises that might be used for certain licensable activities at certain times. For example, while the provision of regulated entertainment might be permitted while the premises is open to the public or members and their guests, regulated entertainment might not be permitted in garden areas of the premises after a certain time.

Noise and vibration

In certain premises where existing legislation does not provide adequately for the prevention of public nuisance, consideration might be given to conditions that ensure that:

- noise or vibration does not emanate from the premises so as to cause a nuisance to nearby properties. This might be achieved by a simple requirement to keep doors and windows at the premises closed, or to use noise limiters on amplification equipment used at the premises;
- prominent, clear and legible notices are displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly;
- the use of explosives, pyrotechnics and fireworks of a similar nature which could cause disturbance in surrounding areas are restricted; and
- the placing of refuse – such as bottles – into receptacles outside the premises takes place at times that will minimise the disturbance to nearby properties.

Noxious smells

In certain premises where existing legislation does not provide adequately for the prevention of public nuisance, consideration might be given to conditions that ensure that:

- noxious smells from licensed premises are not permitted so as to cause a nuisance to nearby properties and the premises are properly vented.

Light pollution

In certain premises where existing legislation does not provide adequately for the prevention of public nuisance, consideration might be given to conditions that ensure that:

- flashing or particularly bright lights on or outside licensed premises do not cause a nuisance to nearby properties. Any such condition needs to be balanced against the benefits to the prevention of crime and disorder of bright lighting in certain places.

ANNEX H: Conditions relating to the protection of children from harm

It should be noted that it is unlawful under the 2003 Act to permit unaccompanied children under the age of 16 to be present on premises exclusively or primarily used for supply of alcohol for consumption on those premises under the authorisation of a premises licence, club premises certificate or a temporary event notice when open for the purposes of being used for the supply of alcohol for consumption there. In addition, it is an offence to permit the presence of children under 16 who are not accompanied by an adult between midnight and 5am at all premises supplying alcohol for consumption on those premises under the authorisation of any premises licence, club premises certificate or temporary event notice. Conditions duplicating these provisions are, therefore, unnecessary.

Access for children to licensed premises – in general

Restrictions on the access of children under 18 to premises where licensable activities are being carried on should be made where it is necessary to protect children from harm. Precise policy and details will be a matter for individual licensing authorities. Conditions attached to premises licences and club premises certificates may reflect the concerns of responsible authorities and interested parties who have made representations but only where the licensing authority considers it necessary to protect children from harm. Whilst applications in relation to premises licences and club premises certificates must be judged by licensing authorities on their individual merits and characteristics, the Secretary of State recommends (unless there are circumstances justifying the contrary) that:

- for any premises with known associations (having been presented with evidence) with or likely to give rise to heavy or binge or underage drinking, drugs, significant gambling, or any activity or entertainment (whether regulated entertainment or not) of a clearly adult or sexual nature, there should be a strong presumption against permitting any access at all for children under 18 years. Applicants wishing to allow access for children to premises where these associations may be relevant, when preparing operating schedules or club operating schedules or variations of those schedules for the purposes of obtaining or varying a premises licence or club premises certificate should:
 - explain their reasons; and
 - outline in detail the steps that they intend to take to protect children from harm on such premises.
- for any premises, not serving alcohol for consumption on the premises, but where the public are allowed on the premises after 11.00pm in the evening, there should be a presumption against the presence of children under the age of 12 unaccompanied by adults after that time. Applicants wishing to allow access when preparing operating schedules or variations of those schedules or club operating schedules for the purposes of obtaining or varying a premises licence or club premises certificate should:
 - explain their reasons; and
 - outline in detail the steps that they intend to take to protect children from harm on such premises.
- in any other case, subject to the premises licence holder's or club's discretion, the expectation would be for unrestricted access for children subject to the terms of the 2003 Act. An operating schedule or club operating schedule should indicate any decision for the premises to exclude children completely, which would mean there would be no need to detail in the operating schedule steps that the applicant proposes to take to promote the protection of children from harm. Otherwise, where entry is to be permitted, the operating schedule should outline the steps to be taken to promote the protection of children from harm while on the premises.

Age Restrictions – specific

Under the 2003 Act a wide variety of licensable activities could take place at various types of premises and at different times of the day and night. Whilst it may be appropriate to allow children unrestricted access at particular times and when certain activities are not taking place, licensing authorities following relevant representations made by responsible authorities and interested parties will need to consider a range of conditions that are to be tailored to the particular premises and their activities where these are necessary. Licensing authorities are expected to consider:

- the hours of day during which age restrictions should and should not apply. For example, the fact that adult entertainment may be presented at premises after 8.00pm does not mean that it would be necessary to impose age restrictions for earlier parts of the day;
- types of event or activity in respect of which no age restrictions may be needed, for example;
 - family entertainment; or
 - non-alcohol events for young age groups, such as under 18s dances,
- Similarly, types of event or activity which give rise to a more acute need for age restrictions than normal, for example;
 - during "Happy Hours" or on drinks promotion nights;
 - during activities outlined in the first bullet point in the first paragraph above.

Age restrictions – cinemas

The Secretary of State considers that, in addition to the mandatory condition imposed by virtue of section 20, requiring the admission of children to films to be restricted in accordance with recommendations given either by a body designated under section 4 of the Video Recordings Act 1984 or by the licensing authority itself, conditions restricting the admission of children to film exhibitions should include:

- a condition that where the licensing authority itself is to make recommendations on the admission of children to films, the cinema or venue operator must submit any film to the authority that it intends to exhibit 28 days before it is

proposed to show it. This is to allow the authority time to classify it so that the premises licence holder is able to adhere to any age restrictions then imposed;

- a condition that when films are classified, by either the film classification body as specified in the licence or the licensing authority, they should be classified in the following way:
 - U - Universal. Suitable for audiences aged four years and over
 - PG - Parental Guidance. Some scenes may be unsuitable for young children.
 - 12A - Passed only for viewing by persons aged 12 years or older or persons younger than 12 when accompanied by an adult.
 - 15 - Passed only for viewing by persons aged 16 years and over.
 - 18 - Passed only for viewing by persons aged 18 years and over.
- that conditions specify that immediately before each exhibition at the premises of a film passed by the British Board of Film Classification there shall be exhibited on screen for at least five seconds in such a manner as to be easily read by all persons in the auditorium a reproduction of the certificate of the Board or, as regards a trailer advertising a film, of the statement approved by the Board indicating the classification of the film;
- a condition that when a licensing authority has made a recommendation on the restriction of admission of children to a film, notices are required to be displayed both inside and outside the premises so that persons entering can readily be made aware of the classification attached to any film or trailer. Such a condition might be expressed in the following terms:

“Where a programme includes a film recommended by the licensing authority as falling into the 12A, 15 or 18 category no person appearing to be under the age of 12 and unaccompanied, or under 15 or 18 as appropriate, shall be admitted to any part of the programme; and the licence holder shall display in a conspicuous position a notice in the following terms –

PERSONS UNDER THE AGE OF [INSERT APPROPRIATE AGE] CANNOT BE ADMITTED TO ANY PART OF THE PROGRAMME

Where films of different categories form part of the same programme, the notice shall refer to the oldest age restriction.

This condition does not apply to members of staff under the relevant age while on-duty provided that the prior written consent of the person’s parent or legal guardian has first been obtained.”

Theatres

The admission of children to theatres, as with other licensed premises, is not expected to normally be restricted unless it is necessary to promote the licensing objective of the protection of children from harm. However, theatres may be the venue for a wide range of activities. The admission of children to the performance of a play is expected to normally be left to the discretion of the licence holder and no condition restricting the access of children to plays should be attached. However, theatres may also present entertainment including, for example, variety shows, incorporating adult entertainment. A condition restricting the admission of children in such circumstances may be necessary. Entertainment may also be presented at theatres specifically for children (see below).

Licensing authorities are also expected to consider whether a condition should be attached to a premises licence which requires the presence of a sufficient number of adult staff on the premises to ensure the well being of children present on the premises during any emergency (See Annex F).

Performances especially for children

Where performances are presented especially for unaccompanied children in theatres and cinemas conditions are anticipated to be needed which require:

- an attendant to be stationed in the area(s) occupied by the children, in the vicinity of each exit, provided that on each level occupied by children the minimum number of attendants on duty should be one attendant per 50 children or part thereof.

Licensing authorities are expected, having regard to any representations made by responsible authorities on the issue, to also consider whether or not standing should be allowed. For example, there may be reduced risk for children in the stalls than at other levels or areas in the building.

Children in performances

There are many productions each year that are one-off shows where the cast is made up almost entirely of children. They may be taking part as individuals or as part of a drama club, stage school or school group. The age of those involved may range from 5 to 18. The Children (Performances) Regulations 1968 as amended set out requirements for children performing in a show. Licensing authorities should familiarise themselves with the requirements of these Regulations and not duplicate any of these requirements. However, if it is necessary to consider imposing conditions, in addition to these requirements, for the promotion of the protection of children from harm then the licensing authority should consider the matters outlined below.

- **Venue** – the backstage facilities should be large enough to accommodate safely the number of children taking part in any performance.
- **Fire safety** – all chaperones and production crew on the show should receive instruction on the fire procedures

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- applicable to the venue prior to the arrival of the children.
- **Special effects** – it may be inappropriate to use certain special effects, including smoke, dry ice, rapid pulsating or flashing lights, which may trigger adverse reactions especially with regard to children.
 - **Care of children** – theatres, concert halls and similar places are places of work and may contain a lot of potentially dangerous equipment. It is therefore important that children performing at such premises are kept under adult supervision at all times including transfer from stage to dressing room and anywhere else on the premises. It is also important that the children can be accounted for at all times in case of an evacuation or emergency.

The Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks

The Portman Group operates, on behalf of the alcohol industry, a Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks. The Code seeks to ensure that drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years old or older. Complaints about products under the Code are considered by an Independent Complaints Panel and the Panel's decisions are published on the Portman Group's website, in the trade press and in an annual report. If a product's packaging or point-of-sale advertising is found to be in breach of the Code, the Portman Group may issue a Retailer Alert Bulletin to notify retailers of the decision and ask them not to replenish stocks of any such product or to display such point-of-sale material, until the decision has been complied with. The Code is an important mechanism in protecting children from harm because it addresses the naming, marketing and promotion of alcohol products sold in licensed premises in a manner which may appeal to or attract minors.

Where appropriate and necessary, consideration can be given to attaching conditions to premises licences and club premises certificates that require compliance with the Portman Group's Retailer Alert Bulletins.

Proof of Age cards

Proof of age cards are discussed under Annex D in connection with the prevention of crime and disorder. However, where necessary and appropriate, a requirement for the production of proof of age cards before any sale of alcohol is made could be attached to any premises licence or club premises certificate for the protection of children from harm. Any such requirement should not be limited to recognised "proof of age" cards, but allow for the production of other proof, such as photo-driving licences and passports. The Secretary of State strongly supports the PASS accreditation system (see paragraph 12.8 of the Guidance) which aims to approve and accredit various proof of age schemes that are in existence. This ensures that such schemes maintain high standards, particularly in the area of integrity and security, and where appropriate and necessary, conditions may refer directly to PASS accredited proof of age cards, photo-driving licences, student cards and passports. As for conditions relating to crime and disorder, it should be noted that many adults in England and Wales do not currently carry any proof of age. This means that the wording of any condition will require careful thought. For example, the requirement might be to ensure sight of evidence of age from any person appearing to those engaged in selling or supplying alcohol to be under the age of 18 and who is attempting to buy alcohol. This would ensure that most minors - even those looking older - would need to produce proof of age appropriately before making such a purchase. Under such an arrangement only a minority of adults might be affected, but for the majority there would be no disruption to their normal activity, for example, when shopping in a supermarket.

Proof of age cards can also ensure that appropriate checks are made where the presence of children is restricted by age at certain times, such as 16.

ANNEX I: Statutory qualifying conditions for clubs

The following qualifying conditions for clubs are extracted from the Licensing Act 2003.

62 *The general conditions*

- 1) The general conditions which a club must satisfy if it is to be a qualifying club in relation to a qualifying club activity are the following.
- 2) Condition 1 is that under the rules of the club persons may not –
 - a) be admitted to membership, or
 - b) be admitted, as candidates for membership, to any of the privileges of membership, without an interval of at least two days between their nomination or application for membership and their admission.
- 3) Condition 2 is that under the rules of the club persons becoming members without prior nomination or application may not be admitted to the privileges of membership without an interval of at least two days between their becoming members and their admission.
- 4) Condition 3 is that the club is established and conducted in good faith as a club (see section 63).
- 5) Condition 4 is that the club has at least 25 members.
- 6) Condition 5 is that alcohol is not supplied, or intended to be supplied, to members on the premises otherwise than by or on behalf of the club.

63 *Determining whether a club is established and conducted in good faith*

- 1) In determining for the purposes of condition 3 in subsection (4) of section 62 whether a club is established and conducted in good faith as a club, the matters to be taken into account are those specified in subsection (2).
- 2) Those matters are –
 - a) any arrangements restricting the club's freedom of purchase of alcohol;
 - b) any provision in the rules, or arrangements, under which –
 - i) money or property of the club, or
 - ii) any gain arising from the carrying on of the club, is or may be applied otherwise than for the benefit of the club as a whole or for charitable, benevolent or political purposes;
 - c) the arrangements for giving members information about the finances of the club;
 - d) the books of account and other records kept to ensure the accuracy of that information;
 - e) the nature of the premises occupied by the club.
- 3) If a licensing authority decides for any purpose of this Act that a club does not satisfy condition 3 in subsection (4) of section 62, the authority must give the club notice of the decision and of the reasons for it.

64 *The additional conditions for the supply of alcohol*

- 1) The additional conditions which a club must satisfy if it is to be a qualifying club in relation to the supply of alcohol to members or guests are the following.
- 2) Additional condition 1 is that (so far as not managed by the club in general meeting or otherwise by the general body of members) the purchase of alcohol for the club, and the supply of alcohol by the club, are managed by a committee whose members –
 - a) are members of the club;
 - b) have attained the age of 18 years; and
 - c) are elected by the members of the club.This subsection is subject to section 65 (which makes special provision for industrial and provident societies, friendly societies etc.).
- 3) Additional condition 2 is that no arrangements are, or are intended to be, made for any person to receive at the expense of the club any commission, percentage or similar payment on, or with reference to, purchases of alcohol by the club.
- 4) Additional condition 3 is that no arrangements are, or are intended to be, made for any person directly or indirectly to derive any pecuniary benefit from the supply of alcohol by or on behalf of the club to members or guests, apart from –
 - a) any benefit accruing to the club as a whole, or
 - b) any benefit which a person derives indirectly by reason of the supply giving rise or contributing to a general gain from the carrying on of the club.

65 Industrial and provident societies, friendly societies etc.

- 1) Subsection (2) applies in relation to any club which is –
 - a) a registered society, within the meaning of the Industrial and Provident Societies Act 1965 (c. 12)(see section 74(1) of that Act),
 - b) a registered society, within the meaning of the Friendly Societies Act 1974 (c. 46) (see section 111(1) of that Act), or
 - c) a registered friendly society, within the meaning of the Friendly Societies Act 1992 (c. 40) (see section 116 of that Act).
- 2) Any such club is to be taken for the purposes of this Act to satisfy additional condition 1 in subsection (2) of section 64 if and to the extent that –
 - a) the purchase of alcohol for the club, and
 - b) the supply of alcohol by the club,are under the control of the members or of a committee appointed by the members.
- 3) References in this Act, other than this section, to –
 - a) subsection (2) of section 64, or
 - b) additional condition 1 in that subsection, are references to it as read with subsection (1) of this section.
- 4) Subject to subsection (5), this Act applies in relation to an incorporated friendly society as it applies in relation to a club, and accordingly –
 - a) the premises of the society are to be treated as the premises of a club,
 - b) the members of the sodety are to be treated as the members of the club, and
 - c) anything done by or on behalf of the society is to be treated as done by or on behalf of the club.
- 5) In determining for the purposes of section 61 whether an incorporated friendly society is a qualifying club in relation to a qualifying club activity, the society is to be taken to satisfy the following conditions –
 - a) condition 3 in subsection (4) of section 62,
 - b) condition 5 in subsection (6) of that section,
 - c) the additional conditions in section 64.
- 6) In this section “incorporated friendly society” has the same meaning as in the Friendly Societies Act 1992 (see section 116 of that Act).

66 Miners’ welfare institutes

- 1) Subject to subsection (2), this Act applies to a relevant miners’ welfare institute as it applies to a club, and accordingly –
 - a) the premises of the institute are to be treated as the premises of a club,
 - b) the persons enrolled as members of the institute are to be treated as the members of the club, and
 - c) anything done by or on behalf of the trustees or managers in carrying on the institute is to be treated as done by or on behalf of the club.
- 2) In determining for the purposes of section 61 whether a relevant miners’ welfare institute is a qualifying club in relation to a qualifying club activity, the institute is to be taken to satisfy the following conditions –
 - a) condition 3 in subsection (4) of section 62,
 - b) condition 4 in subsection (5) of that section,
 - c) condition 5 in subsection (6) of that section,
 - d) the additional conditions in section 64.
- 3) For the purposes of this section –
 - a) “miners’ welfare institute” means an association organised for the social well-being and recreation of persons employed in or about coal mines (or of such persons in particular), and
 - b) a miners’ welfare institute is “relevant” if it satisfies one of the following conditions.
- 4) The first condition is that –
 - a) the institute is managed by a committee or board, and
 - b) at least two thirds of the committee or board consists –
 - i) partly of persons appointed or nominated, or appointed or elected fmm among persons nominated, by one or more licensed operators within the meaning of the Coal Industry Act 1994 (c. 21), and
 - ii) partly of persons appointed or nominated, or appointed or elected from among persons nominated, by one or more organisations representing persons employed in or about coal mines.
- 5) The second condition is that –
 - a) the institute is managed by a committee or board, but
 - b) the making of –
 - i) an appointment or nomination falling within subsection (4)(b)(i), or

-
- ii) an appointment or nomination falling within subsection (4) (b) (ii),
is not practicable or would not be appropriate, and
 - c) at least two thirds of the committee or board consists –
 - i) partly of persons employed, or formerly employed, in or about coal mines, and
 - ii) partly of persons appointed by the Coal Industry Social Welfare Organisation or a body or person to which the functions of that Organisation have been transferred under section 12(3) of the Miners' Welfare Act 1952 (c. 23).
 - 6) The third condition is that the premises of the institute are held on trusts to which section 2 of the Recreational Charities Act 1958 (c. 17) applies.

ANNEX J: The Safer Clubbing Checklist for club owners, managers and event promoters

The role of club owners, managers and event promoters is to ensure that all aspects of their venue are designed and run in ways which maximise the safety of customers, performers and staff.

Key activities of club owners, managers and event promoters include:

- Communicating all safety requirements clearly to performers ensuring that they are familiar with and understand the safety requirements for the venue
- Developing a constructive working relationship with licensing authority officers and police officers with licensing responsibilities
- Developing a venue drug policy in consultation with licensing and police officers
- Ensuring that all staff are aware of their responsibilities within the drug policy and that they receive training and support to discharge these fully
- Employing door supervisors from a reputable company and with SIA accreditation
- Employing experienced and fully trained first aiders
- Providing free and easily accessible supplies of cold water and ensuring the provision of water is supervised to prevent contamination of water by others
- Liaising with appropriate drug service personnel to provide training to staff, and information, advice and support to clubbers
- Considering inviting and supporting drug outreach work, including integrating outreach workers into the staff team
- Sharing intelligence on drug use and drug dealing with police officers and other local venues
- Informing clubbers of their rights and responsibilities, and encouraging feedback on safety issues
- Considering the provision of safe transport home

Ensuring that all staff are aware of the law and the responsibilities of the club to work within it.



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