

Cherwell District Council

# **Statement of Licensing Policy**

## **Licensing Act 2003**

January 2011

## FOREWORD

This policy statement has four main purposes, which are:

- **To confirm to elected Members** of the Licensing Committee, the boundaries and powers of the Authority and the parameters within which to make decisions.
- **To inform licence applicants** of the parameters within which the Authority will make licensing decisions and therefore how licensed premises are likely to be able to operate within the area.
- **To inform local residents and businesses** of the parameters within which the Authority will make licensing decisions and therefore how their needs will be addressed.
- **To support a case in a court of law** if the Authority has to show how it arrived at its licensing decisions.

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### Using this Statement of Licensing Policy

- The policies are shown in text boxes, which are separately numbered and titled.
- The additional text gives examples, background and reasons for the policies.
- Footnotes refer to the sections of the 2003 Act (or the paragraphs of the Secretary of State's Guidance **issued in March 2010**) from which the policies were derived.
- The Appendices give additional information.

Cherwell District Council has different roles under the Licensing Act 2003, so:

- "Authority" is used where it acts as the Licensing Authority under the 2003 Act.
- "Council" is used where parts of the Council act in other capacities, for example:
  - to determine policy;
  - when the "Council" applies to the "Authority" for a licence for Council premises;
  - when Environmental Health or Planning Control officers act as a "Responsible Authority" in making a Representation about an application received.

The "Authority" must balance the interests of applicants (as stated in their applications for licences) and any interests stated by others (in "Representations"). When it grants a licence, the Authority must attach mandatory conditions if applicable. The Authority cannot attach other conditions unless they are proportional to the applications and Representations received.

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## Glossary

Term	Description	Reference for full details
Authority	Cherwell District Council in its capacity as a Licensing Authority.	
Council	Cherwell District Council in its capacity as a District Council.	
Planning Authority	The Council in its capacity as a Planning Authority.	
Police Authority	Thames Valley Police	
Fire Authority	The Fire and Rescue Service of Oxfordshire County Council	
Navigation Authority For rivers – For canals –	The Environment Agency The British Waterways Board	Section 13(4)(h)
Interested Party  <i>(Interested Parties may make Representations about applications and may request reviews)</i>	Any of the following – (a) a person living in the vicinity of the premises, (b) a body representing persons who live in that vicinity, (c) a person involved in a business in that vicinity, (d) a body representing persons involved in such businesses. <b>(e) a member of the relevant Licensing Authority.</b>	Section 13(3)  <b>Introduced by S33 Policing and Crime Act 2009</b>
Responsible Authority  <i>(Responsible Authorities may make Representations about applications and may request reviews)</i>	Any of the following – (a) the chief officer of Police for the area, (b) the Fire Authority, (c) the enforcing authority under S 18 of Health and Safety at Work etc. Act 1974, (d) the local Planning Authority (i.e. department of the Council), (e) the environmental health department of the Council, (f) the Social and Health Care Department of Oxfordshire County Council, which the Authority recognises as competent to advise on matters of child protection, (g) Trading Standards (h) any other Licensing Authority in whose area part of the premises is situated, (i) in relation to a vessel – the navigation authority.	Section 13(4)
		Continued ...

Objection	Representations made by the Police in relation to an application, on the grounds of the prevention of crime and disorder.	
Representations	Comments made by a Responsible Authority on an application.	
Relevant Representations	Comments made by an Interested Party, which are not rejected by the Authority as irrelevant, frivolous, vexatious, or repetitive.	
<p>Authorised Person</p> <p><i>(Authorised Persons have roles in <u>enforcement</u> of the 2003 Act)</i></p> <p><i>(Police officers are not listed as Authorised Persons, as they already have powers of enforcement under other legislation)</i></p>	<p>Any of the following –</p> <p>(a) an officer of the Licensing Authority, authorised for the purposes of the 2003 Act,</p> <p>(b) an inspector appointed under article 26 of the Regulatory Reform (Fire Safety) Order 2005</p> <p>(c) an inspector appointed under S.19 of the Health and Safety at Work etc. Act 1974,</p> <p>(d) an officer of the Council authorised to exercise statutory environmental health functions,</p> <p>(e) in relation to a vessel, an inspector, or surveyor of ships, appointed under S.256 of the Merchant Shipping Act 1995,</p> <p>(f) a person prescribed for the purposes of S.13(2) of the Licensing Act 2003.</p>	Section 13(2)
<b>Designated Officer</b>	<b>An Officer of the Council that has delegated authority under the Constitution of the Council</b>	
Licensing Committee	The Committee of elected members of Cherwell District Council that is responsible for the Council's licensing functions.	
SIA	Security Industry Authority	
2003 Act	The Licensing Act 2003	
LACORS	Local Authorities Co-ordinator of Regulatory Services	
TSI	Trading Standards Institute	
Secretary of State's Guidance	Guidance issued by the Secretary of State under section 182 of the 2003 Act	
<b>TEN</b>	<b>Temporary Event Notice</b>	



## 1 Introduction

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### 1.1 Objectives

- 1.1.1 The Licensing Authority (the “Authority”) for Cherwell District is the Cherwell District Council (the “Council”).

#### **Policy GN 1: Objectives**

The Authority will carry out its licensing functions under the 2003 Act with a view to promoting the four licensing objectives, which are:

- the prevention of crime and disorder;
- public safety;
- the prevention of public nuisance; and
- the protection of children from harm.

Each of the four licensing objectives is of equal importance and there are no other objectives, so that the four licensing objectives are paramount at all times.

- 1.1.2 The Authority has regard to matters of sustainability, equality, the local economy, tourism and the environment to the extent that they affect the Licensing Policy.

### 1.2 The Authority’s area and the licensable activities

- 1.2.1 Appendix 1 describes the Authority’s area, its centres of population and its population profile. It also describes the mix of licensable activities, where they take place and their positive and negative impacts on the area.

### 1.3 The Authority’s use of conditions and this Licensing Policy Statement

- 1.3.1 The Licensing Authority recognises that where no relevant representations are received, the Licensing Authority must grant the licence subject only to those conditions volunteered by the applicant in their operating schedule.
- 1.3.2 Chapter 8 – Operating Schedules gives a comprehensive list of policies and information to assist the applicant in drafting the operating schedule prior to making an application. The list is not exhaustive and is merely indicative of example measures that the applicant should have regard to in the development of their Operating Schedule appropriate to their premises and its style of operation.

## 2 General

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### 2.1 Precedence issues

- 2.1.1 A licensing policy must not ignore or be inconsistent with provisions in the 2003 Act.

#### **Policy GN 2: Precedence**

The meaning of the 2003 Act and any Regulations made under it take precedence over the meaning of this Statement of Licensing Policy.

### 2.2 Adoption and publication of the Statement of Licensing Policy

- 2.2.1 The Council determined this Statement of Licensing Policy and adopted it on **7 January 2011**.
- 2.2.2 In determining this policy, the Council had regard to the Secretary of State’s Guidance and gave appropriate weight to the views of those consulted.

### **Policy GN 3: Three-yearly licensing policy review**

The Council will prepare and publish a statement of its licensing policy at intervals of no more than three years, to enable it to continue to undertake its licensing functions.

### **Policy GN 4: Interim licensing policy reviews**

The Council will keep its licensing policy under review and will make such revisions to it, at such times, as it considers appropriate.

### **Policy GN 5: Consultation on licensing policy**

Before determining any revision to its Statement of Licensing Policy, the Council will consult:

- (a) the chief officer of Police for the area;
- (b) the Fire Authority for the area;
- (c) the County Trading Standards Officer
- (d) the Social Health Care Department of Oxfordshire County Council, which the Authority considers to be the competent and Responsible Authority for the purpose of advising on issues of protecting children from harm.

together with such persons as the Authority considers at the time to be representative of:

- (e) holders of Premises Licences issued by the Authority;
- (f) holders of Club Premises Certificates issued by the Authority;
- (g) holders of Personal Licences issued by the Authority;
- (h) businesses and residents in its area;
- (i) other interests in the licensing of premises in its area,

The Authority will give appropriate weight to the views of the persons listed above when it determines any revision to its Statement of Licensing Policy.

### **Policy GN 6: Publication of policy revisions**

When the Authority determines any revisions, it will publish either a statement of those revisions, or its revised Statement of Licensing Policy.

## **2.3 Scope of the Statement of Licensing Policy: Licensable activities**

2.3.1 This policy addresses licensing of the following activities:

- (a) the sale of alcohol by retail;
- (b) the supply of alcohol by or on behalf of a club to, or to the order of, a member of a club;
- (c) the provision of late night refreshment<sup>1</sup> (supply of hot food or drink between 2300 and 0500 hours); and
- (d) the provision of 'regulated entertainment' which includes:
  - a performance of a play;
  - an exhibition of a film;
  - an indoor sporting event;
  - a boxing or wrestling entertainment (indoors and outdoors);
  - a performance of live music;
  - the playing of recorded music;
  - a performance of dance;
  - provision of facilities for
    - (i) making music;
    - (ii) dancing.

2.3.2 Activities that are not to be regarded as regulated entertainment and activities that are not to be regarded as late night refreshment are listed respectively in Schedules 1 and 2 of the 2003 Act.

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<sup>1</sup> This includes take-aways and hot-food vans

## 2.4 Scope of the policy: Applications and notices

- 2.4.1 This policy addresses decisions on applications for:
- (a) Premises Licences;
  - (b) Club Premises Certificates;
  - (c) Personal Licences;
  - (d) renewal or transfer of licences;
  - (e) variation of conditions attached to licenses and associated matters.
- 2.4.2 This policy also addresses Temporary Event Notices (TENs) and the review of Premises Licences and Club Premises Certificates.

## 2.5 Fundamental principles

- 2.5.1 The Authority recognises that its power to reject applications, or to apply conditions to Premises Licences and Club Premises Certificates is strictly constrained by the terms of the 2003 Act.
- 2.5.2 The Authority recognises that it has no power to:
- (a) attach any condition, including mandatory conditions, to a TEN;
  - (b) modify mandatory conditions;
  - (c) attach conditions to a Premises Licence or Club Premises Certificate (other than appropriate mandatory conditions) unless those conditions are consistent with the operating schedule submitted with the application, or further to relevant Representations.
- 2.5.3 The Authority also recognises that it has no power to:
- modify conditions attached to a Premises Licence or Club Premises Certificate;
  - to exclude from the scope of the Premises Licence or Club Premises Certificate any of the licensable or qualifying activities to which the application relates;
  - refuse to specify a person in a Premises Licence as the Designated Premises Supervisor;
  - reject the application;
- unless it has received relevant Representations about the application and then only to such extent as the Authority considers necessary for the promotion of the licensing objectives.
- 2.5.4 Throughout this document, statements are made as to the expectations of the Authority. The Statement of Licensing Policy has been developed in consultation with all of the Responsible Authorities. Those Responsible Authorities have indicated that where the expectations are not met in any application, they may make a Representation. This could in turn result in the imposition of appropriate conditions.
- 2.5.5 In considering and determining applications the Authority will take into account:
- (a) The Race Relations Act 1976, as amended by the Race Relations (Amendment) Act 2000;
  - (b) Section 17 of the Crime and Disorder Act 1998;
  - (c) The Human Rights Act 1998;
  - (d) Noise Act 1996
  - (e) Regulatory Reform (Fire Safety) Order 2005
  - (f) Violent Crime and Disorder Act 2006
  - (g) Health Act 2006
  - (h) Policing and Crime Act 2009**
  - (i) and any other relevant legislation or statutory guidance.

- 2.5.6 The Authority:
- (a) will treat each application on its individual merits;
  - (b) will not override the right of any person to apply under the terms of the 2003 Act for a variety of permissions;
  - (c) will not override the right of any person to make Representations on an application or to seek a review of a licence or certificate where the 2003 Act makes provision for them to do so;
  - (d) will, as far as possible, avoid duplication with other licensing and regulatory regimes that already place obligations on employers and operators, e.g. The Health & Safety at Work etc, Act 1974, the Environmental Protection Act 1990, disability discrimination legislation and the Regulatory Reform (Fire Safety) Order 2005 ;
  - (e) will only apply to Premises Licences and Club Premises Certificates conditions that are necessary to underpin or promote the licensing objectives.
- 2.5.7 The Authority recognises that the purpose of the 2003 Act is to allow appropriate levels of regulation for premises, temporary events, members' clubs and persons authorised to make alcohol available for sale.
- 2.5.8 In considering applications the Authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of public living, working or engaged in normal activity in the vicinity of the licensed premises.
- 2.5.9 For each application for the grant, variation or review of a Premises Licence or Club Premises Certificate, the 2003 Act requires the Authority to consider the Representations made by Responsible Authorities and those Representations made by Interested Parties, which the Authority accepts as relevant.
- 2.5.10 "Interested Parties" will be given its widest possible interpretation and, where it includes persons involved in business, will not be confined to those engaged in trade and commerce. It will include partnerships and the functions of charities, churches and medical practices.
- 2.5.11 A Responsible Authority or an Interested Party may also seek a review of a Premises Licence or Club Premises Certificate because of a matter arising at the premises in connection with any of the four licensing objectives.
- 2.5.12 In determining applications and reviews of licensed premises, the Authority will give appropriate weight to:
- (a) Representations received from Responsible Authorities;
  - (b) relevant Representations made by Interested Parties;
  - (c) the Secretary of State's Guidance;
  - (d) this Statement of Licensing Policy;
  - (e) the steps necessary to promote the licensing objectives.
- 2.5.13 Any terms and conditions that the Authority imposes will be focused on matters that are within the control of individual licensees. These matters will centre on the premises and places being used for licensable activities and the vicinity of those premises and places.

## **2.6 Reviewing the Statement of Licensing Policy with other Authorities**

- 2.6.1 The Authority will work with the other Licensing Authorities in Oxfordshire in reviewing this Statement of Licensing Policy to ensure, as far as possible, that a consistent approach is taken to assist applicants for licences and those who may wish to make Representations under the provisions of the 2003 Act. The Authority will also liaise with other neighbouring Licensing Authorities to ensure that there is consistency across District Council boundaries. Full regard will still be given to local issues and situations, which will take precedence.

- 2.6.2 The Authority will maintain partnership working with various enforcement agencies as it recognises that the licensing objectives can only be promoted through a range of actions, some of which are outside the scope of the licensing system.
- 2.6.3 The Authority will agree protocols with the Police, the Fire Authority and Trading Standards Services, as it considers appropriate for enforcing the 2003 Act.
- 2.6.4 The Authority will maintain dialogue with the licensed trade, businesses, local people and relevant organisations in the entertainment and alcohol industry to ensure that the Statement of Licensing Policy remains relevant and secures promotion of the licensing objectives.

## 2.7 Integrating strategies

- 2.7.1 Licensing is about promoting the four licensing objectives by balancing different interests. The experience gained by the Authority can usefully inform the development and application of strategies by others for local crime prevention, planning, transport, tourism and culture. It is important that such strategies do not undermine promotion of the licensing objectives.
- 2.7.2 In preparing this Statement of Licensing Policy, the Authority has taken account of relevant national policies and action plans, which include the following:
  - (a) Safer Nightlife<sup>2</sup>;
  - (b) The Alcohol Harm Reduction Strategy;
  - (c) “Keeping Children Safe” (Department for Education and Skills/Department of Health).
- 2.7.3 The Authority has taken account of the policies and programmes that the Council has already adopted. These are listed in Appendix 2, along with an explanation of how they integrate with the Statement of Licensing Policy.

### **Policy GN 7: Integrating strategies**

The Council will ensure any strategies it may have, or develop, for local crime prevention, planning, transport, waste management and recycling, sustainability, tourism and culture will be integrated with its licensing function but such strategies will not overrule the licensing objectives.

## 2.8 Planning and building control

- 2.8.1 The Council recognises that there is a need for proper separation of the planning, building control and licensing regimes to avoid duplication and inefficiency.
- 2.8.2 The Council recognises that the Planning Authority must be aware of the Authority’s concerns as this will assist in promotion of the licensing objectives. The Authority will provide reports to enable the Planning Authority to have regard to such matters and have a role in promoting the four licensing objectives when the Planning Authority takes its decisions.
- 2.8.3 The Council recognises that the three regimes have different purposes:
  - (a) Planning – ensuring the suitability of the location, use and design of the premises for the activities and the adequacy of the local infrastructure;
  - (b) Building Control – ensuring the suitability of the construction of the premises;
  - (c) Licensing – ensuring the suitability of the proposed use and operation of the premises.
- 2.8.4 Applicants are reminded that the grant of a Premises Licence or Club Premises Certificate, or any variation to one of these, does not relieve the applicant of the need to obtain planning permission and/or building regulations consent as appropriate.

<sup>2</sup> [http://217.154.230.218/NR/rdonlyres/E4E0FE3A-9F8E-4182-AFBF-31C83E74C03A/0/SS\\_LDPF\\_safer\\_nightlife.pdf](http://217.154.230.218/NR/rdonlyres/E4E0FE3A-9F8E-4182-AFBF-31C83E74C03A/0/SS_LDPF_safer_nightlife.pdf)

Sections 2.8.5 – 2.8.12 have been deleted as they duplicate planning policy and guidance that may be subject to change. Sections 2.8.1 – 2.8.4 cover the requirements of the Council in relation to the Licensing Act 2003.

#### **Policy GN 8: Planning consent required before licence application**

The Authority normally expects that an application for a Premises Licence or a Club Premises Certificate to be made only in respect of premises which already have an appropriate established use or any necessary planning consent.

The Authority will similarly normally expect an applicant to have obtained planning permission where necessary for the use proposed, before applying for a provisional statement under section 29 of the 2003 Act.

### **2.9 Administration, exercise and delegation of functions**

#### **Policy GN 9: Levels of decision-making**

The Authority will have the following levels of decision-making for undertaking its licensing functions:

- The Council;
- Licensing Committee;
- Licensing Sub Committees;
- Officers of the Council.

2.9.1 A Licensing Sub-committee will generally determine each application that attracts Representations, unless:

- (a) all Representations from Responsible Authorities are first withdrawn and it is agreed by all parties that a hearing is not necessary (in accordance with the relevant legislation);
- (b) all other Representations are first withdrawn and it is agreed by all parties that a hearing is not necessary or the Representations are determined to be not relevant by a designated officer; and
- (c) the only Representations remaining are vexatious or frivolous; or
- (d) the Licensing Committee wish to consider the matter.

2.9.2 Officers will determine all other applications and the Licensing Committee will receive reports on the decisions made by officers so that members maintain an overview of the general situation.

2.9.3 For the convenience of applicants, the system of delegation is tabulated in Appendix 3.

#### **Policy GN 10: Delegation**

Unless otherwise amended by the Councils Constitution, the Authority has delegated licensing decisions in accordance with the recommendations of the Secretary of State's Guidance and in the interests of speed, efficiency and cost effectiveness, as follows:

- (a) The Council determines:
  - the Statement of Licensing Policy;
  - membership of the Licensing Committee;
  - the extent to which functions, other than functions under the 2003 Act, are delegated to the Licensing Committee.
- (b) The Licensing Committee will undertake all functions of the Authority that are not the responsibility of the Council, as follows:
  - making recommendations to the Council on the Statement of Licensing Policy;
  - reviewing the Statement of Licensing Policy within three-year intervals, keeping the policy under review at other times and undertaking appropriate consultations;
  - arranging for training of members and officers to enable the Authority to

- discharge its duties under the 2003 Act;
  - agreeing which body is competent to advise the Authority in respect of matters relating to the protection of children from harm;
  - deciding the extent to which the Authority will recommend the classification of films;
  - monitoring the impact of licensing on regulated entertainment in general and live music and dancing in particular;
  - establishing and agreeing enforcement protocols (with the Police etc.);
  - reporting to the Planning Authority on the situation concerning licensed premises including the general impact of alcohol related crime and disorder;
  - receiving reports on the needs of the local tourist economy and the cultural strategy for the area;
  - receiving reports on the employment situation in the area;
- (c) Licensing Sub-committees will operate under authority delegated by the Licensing Committee and determine matters as set out in Policy GN 11. Licensing Sub-committees will also receive reports on matters determined by Licensing Officers with delegated authority.
- (d) Licensing Officers will operate under delegated authority and determine matters as set out in Policy GN 12.

#### **Policy GN 11: Licensing Sub-Committee – delegated functions**

Sub-Committees of the Licensing Committee will determine any of the following where a valid Representation has been made and not withdrawn:

- application for a Personal Licence;
- application for Personal Licence with unspent convictions;
- application for Premises Licence or Club Premises Certificate;
- application for provisional statement;
- application to vary a Premises Licence or Club Premises Certificate;
- application to vary Designated Premises Supervisor;
- application for transfer of Premises Licence;
- application for interim authorities;
- application to review a Premises Licence or Club Premises Certificate;
- determination of a Police Representation to a TEN;
- decision to object when the Authority is a consultee and not the relevant authority considering the application.

#### **Policy GN 12: Officers – delegated functions**

An Officer, delegated for the purpose within the Council's Constitution, will determine every other licence application for which no objection or valid Representation has been received, or for which it is agreed by all parties that a hearing is not necessary and all objections or valid Representations have been withdrawn.

The Scheme of Delegation also provides that an Officer shall determine whether representations made by an interested party are irrelevant, frivolous, vexatious or repetitious.

#### **Policy GN 13: Licensing Committee – procedure**

Subject to any statutory provisions, the Licensing Committee will regulate its own procedure and that of Licensing Sub-committees.

#### **Policy GN 14: Licensing Sub-Committee – procedure**

In considering any application on which a representation has been made, Members of the Sub-committee will follow the principles set out in Appendix 3 – Licensing Committee and Licensing Sub-committee procedures.

## **Policy GN 15: Determination of applications – conditions**

The Authority will determine the type and extent of conditions to be affixed to Premises Licences and Club Premises Certificates as follows:

- (a) Matters determined by Officers:
  - Officers will select from a pool of conditions, those conditions that appropriately reproduce the issues addressed in the applicant's operating schedule, or (for an application under "grandfather rights") that match the conditions that apply to the original licence or permission;
  - No other conditions, other than the mandatory conditions specified in Sections 19, 20, 21, 73 and 74 of the 2003 Act, will be added;
  - If none of the pool conditions is appropriate, Officers will develop any condition that they consider necessary to appropriately reproduce the issues addressed in that applicant's operating schedule. Officers will add to the pool of conditions any conditions developed for this reason;
  - Officers will report to the Licensing Committee on the matters that those officers have determined.
- (b) Matters determined by a Sub-committee:
  - Sub-committees will attach conditions from within the pool of conditions or developed to suit, as in (a) above;
  - Sub-committees may also attach special conditions that take account of the Representations made by Responsible Authorities or the relevant Representations made by Interested Parties.

### **2.10 Non-licensing issues: What this statement is not for**

2.10.1 The Authority recognises that:

- (a) licensing is not about mechanisms for the general control of anti- social behaviour by individuals once they are beyond the direct control of the individual club or business holding the licence, certificate or permission concerned.
- (b) licensing is not about matters contained in other legislation, which may well apply simultaneously to the activities of licensed individuals or premises.

2.10.2 Please see also Section 9.

## **3 Cumulative impact**

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### **3.1 Cumulative impact**

- 3.1.1 The Authority wishes to take steps to prevent public nuisance, crime or disorder arising from the concentration of premises in one particular area.
- 3.1.2 Whilst need is primarily an issue for the market and the planning system, the cumulative impact of licensed premises on the promotion of the licensing objectives is a matter for consideration under the licensing provisions. Serious problems of public nuisance and disorder can arise in the vicinity of licensed premises where a number of them are grouped together and particularly where they may be situated near to residential areas on the fringe of urban centres. The numbers of premises selling alcohol and providing entertainment until the early hours of the morning have increased significantly over recent years and many special measures have been adopted to try to deal with the crime and anti social behaviour that can result from the more intensive activities.
- 3.1.3 The distribution of late night premises may be such as to warrant special action from the Authority to combat exceptional problems of disorder and public nuisance over and above the impact from individual premises.
- 3.1.4 Section 160 of the 2003 Act replaces and extends the longstanding powers of section 188 of the Licensing Act 1964. Under section 160 a Police Officer of the rank of



superintendent or above may ask a magistrates' court to make an order requiring all premises holding premises licences or subject to a TEN which are situated at or near the place of the disorder or anticipated disorder to be closed for a period up to 24 hours. The court may not make such an order unless it is satisfied that it is necessary to prevent disorder. A Police Officer may use necessary force to close any premises covered by such an order.

#### **Policy GN 16: "Need" for licensed premises**

The Authority will leave the assessment of the 'need' for licensed premises to the Planning Authority and to the market. It will not address this matter in undertaking its licensing functions.

#### **Policy GN 17: Need for an evidential base**

The Authority will consider Representations based on the impact of the grant of a particular application on the promotion of the licensing objectives in the Authority's area. However, the onus will be on the person making a Representation to lay an evidential base for the assertion that the addition of the premises in question would produce the cumulative impact claimed. The impact can be expected to be different for premises with different styles and characteristics.

#### **Policy GN 18: Use of other mechanisms to address cumulative impact**

The Council will encourage the use of other mechanisms that are available for addressing problems caused by a minority of consumers behaving badly and unlawfully once away from licensed premises. For example:

- (a) planning controls;
- (b) positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the Council;
- (c) powers the Council has to designate parts of its area **as places where the public consumption of alcohol may be controlled;**
- (d) Police enforcement of the normal law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices;
- (e) the prosecution of any Personal Licence holder or member of staff at such premises who is selling alcohol to people who are drunk;
- (f) the confiscation of alcohol from adults and children in designated areas;
- (g) Police powers to close down instantly for up to 24 hours any licensed premises or temporary event on grounds of disorder, or the likelihood of disorder or excessive noise emanating from the premises;
- (h) the power of the Police, other Responsible Authority or a local resident or business to seek a review of the licence or certificate in question.

### **3.2 Special Saturation Policy**

- 3.2.1 It is possible that the impact of the behaviour of customers of separate premises taken together on surrounding areas is greater than the usual impact from customers of individual premises and so creates exceptional problems of crime, disorder or public nuisance. In these circumstances a Responsible Authority or Interested Party may consider that the cumulative effect of new licences is to saturate an area, making it a focal point for large groups of people to gather and circulate away from the licensed premises themselves.
- 3.2.2 If Representations are made by Responsible Authorities or Interested Parties to this effect, the Authority will consider whether the grant of any further Premises Licences or Club Premises Certificates would tend to undermine one of the licensing objectives and whether a Special Saturation Policy should be adopted **for that area.**

- 3.2.3 In considering whether to adopt a Special Saturation Policy the Authority will carry out a review of the available evidence and carry out consultation to determine if there is any part of the district that should be considered for such a policy.
- 3.2.4 The effect of adopting a Special Saturation Policy 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 Saturation Policy issues in their operating schedules in order to rebut such a presumption. However, a Special Saturation Policy must stress that this presumption does not relieve Responsible Authorities or Interested Parties of the need to make a relevant Representation before a Licensing Authority may lawfully consider giving effect to its Special Saturation Policy.
- 3.2.5 If no Representation is received, any application must be granted in terms that are consistent with the application submitted. However, Responsible Authorities, such as the Police, or Interested Parties, can make written Representations maintaining that it is necessary to refuse the application for the promotion of the prevention of crime and disorder and referring to information which had been before the Authority when it developed its Saturation Policy.
- 3.2.6 Where a Special Saturation Policy is in effect, the Authority will regularly monitor the impact of that policy. If it becomes evident that the criteria for such a policy are no longer met, the Authority will arrange for it to be discontinued.

#### **Policy GN 19: Special Saturation Policy – adoption**

If a Responsible Authority, or Interested Party, has identified a concern about crime and disorder or public nuisance and the Authority considers that the available evidence demonstrates that crime and disorder or public nuisance are arising and are caused by the customers of licensed premises in an identifiable area (or that the risk factors are such that the area is reaching a point when a cumulative impact is imminent) then the Authority will consult on a Special Saturation Policy with those specified in section 5(3) of the 2003 Act. The Authority will adopt a Special Saturation Policy if it is satisfied that such a policy is required.

## **4 Pool of conditions**

### **4.1 Pool of conditions**

- 4.1.1 The Secretary of State's Guidance requires the Authority's policy to "make clear that a key concept underscoring the 2003 Act is that conditions attached to licences and certificates should be tailored to the individual style and characteristics of the premises and events concerned." It also states that "This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises where there is no need for such conditions." The Authority will therefore need access to a wide range of appropriate conditions from which it can draw.
- 4.1.2 The Secretary of State has introduced new mandatory conditions which came into force in 2010. Whilst current licences have not been updated with these mandatory conditions, licence holders are required to ensure that they comply with them. As licences are amended through variation or other changes then the new conditions will be added. For the avoidance of doubt the mandatory conditions in force at the time that this policy was adopted are set out at Appendix 5 to this policy.
- 4.1.3 Provided no relevant Representation have been received, the type and extent of conditions to be affixed to various Premises Licences will be determined by officers,

acting under delegated authority, from within the pool of conditions consistent with the operating schedule.

4.1.4 Where Representations have been made by Interested Parties or Responsible Authorities a Licensing Sub-Committee will hear the case and may attach special conditions to a licence. Use of standard conditions will be avoided, as will conditions that are unnecessary because other legislation makes adequate and appropriate provision for applicants' compliance.

4.1.5 In relation to licensable activities which have a clear benefit to culture, the Authority will seek only to impose those conditions that are deemed to be necessary and in proportion to the specific situation. The Authority will consider the potential for conditions deterring applications, but at the same time will not permit the licensing objectives to be undermined.

#### **Policy GN 20: Pool of conditions**

The Authority will maintain a pool of conditions from which appropriate and proportionate conditions can be drawn. The Authority will adapt such conditions as necessary for the promotion of the licensing objectives to suit the individual circumstances of each application for a Premises Licence or Club Premises Certificate.

#### **Policy GN 21: Pool of conditions: premises-specific**

The Authority will not apply standard conditions to every Premises Licence or Club Premises Certificate that it issues.

#### **Policy GN 22: Pool of conditions: additions**

The Authority will add to the pool of conditions each condition that is developed to suit the individual circumstances of each application, so that it may be used as the basis of development of other conditions. The Authority will develop such conditions with regard to:

- (a) the 2003 Act;
- (b) the Secretary of State's Guidance;
- (c) this Statement of Licensing Policy;
- (d) a condition attached to a permission, which requires conversion to a new Premises Licence or Club Premises Certificate; and
- (e) a statement made in the operating schedule by an applicant for a Premises Licence or Club Premises Certificate.

## **4.2 Live music, dancing and theatre**

4.2.1 It would be inappropriate to impose, on small-scale activities, the potentially substantial indirect costs of complying with conditions that are more appropriate to larger events. Such small-scale activities will tend to be those that are arranged for small community groups or for children and have the potential for generating wider cultural benefits for communities generally.

4.2.2 The imposition of inappropriate conditions might inadvertently impose substantial indirect costs and so deter live music, dancing and theatre.

#### **Policy GN 23: Live music, dancing and theatre**

The Authority will take proper account of the need to encourage and promote live music, dancing and theatre in balance with the potential for disturbance from these activities. In determining what conditions should be attached to Premises Licences and Club Premises Certificates, the Authority will take account of the need to avoid measures that inadvertently impose substantial indirect costs.

## 5 Licensing hours

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### 5.1 Zoning

- 5.1.1 The Authority cannot set fixed trading hours, because the Government considers that longer licensing hours for the sale of alcohol (for consumption on the premises) are important to prevent concentrations of customers leaving premises simultaneously. The Government considers this necessary to reduce friction at late night fast food outlets, taxi ranks and other sources of transport, which can lead to disorder and disturbance.

#### **Policy LH 1: Zoning**

The Authority will not generally restrict trading hours, but may restrict hours for particular premises if a Responsible Authority or an Interested Party makes an appropriate Representation and this will promote a licensing objective.

### 5.2 Staggered closing times

- 5.2.1 In the Government's view, "staggered closing times" would only serve to replace the peaks of disorder and disturbance (which have previously occurred after 11.00pm and after 2.00am) with a series of smaller peaks, so minimising any potential improvement in the prevention of crime and disorder. The Secretary of State's Guidance states that the general principle should be to promote later opening so that customers leave for natural reasons slowly over a much longer period and so prevent any artificial concentrations.
- 5.2.2 The prevention of public nuisance will be assisted by not seeking to generally organise opening or closing times in particular areas that may overload the local infrastructure.

#### **Policy LH 2: Staggered closing times**

The Authority will not seek to engineer any pattern of closing times ("staggered closing times") by setting quotas for particular closing times.

### 5.3 Licensing hours not limited

- 5.3.1 Conditions that limit opening hours could tend to concentrate the departure of customers at particular times, which could detract from the promotion of the licensing objectives. In the context of a particular application, some potential problems may be more appropriately addressed through conditions other than limitations on opening times.
- 5.3.2 The Secretary of State's Guidance states that "fixed or artificially early closing hours can lead to binge drinking or 'topping up' meaning that disorder and disturbance can be increased when large numbers of customers are required to leave the premises simultaneously."

#### **Policy LH 3: Licensing hours not limited**

The Authority will not reduce the hours permitted for licensable activities to less than those stated in an application, unless Representations indicate that this is necessary and then only in the context of the individual merits of that application.

### 5.4 Display of operating hours

- 5.4.1 Licensing hours and the closing time of premises may be different. The cessation of licensable activities may take place at some time prior to actual closing time for the premises depending on the nature of the activities.

- 5.4.2 The Authority considers that it would be beneficial for potential customers and “Interested Parties” living or working nearby to be able to easily discover when licensed premises are likely to be operational.

#### **Policy LH 4: Display of operating hours**

Where appropriate the Authority normally expects to see a notice stating the actual operating hours of the premises displayed conspicuously outside every public entrance to a premise operating under a Premises Licence.

#### **Policy LH 5: Closing times**

In determining applications, the Authority will take into account the time that it is proposed to close the premises where patrons have been attracted to attend by a licensable activity. Regard will also be had to matters such as the nature of the locality and the availability of public transport at the time that the premises propose to close.

The Authority considers that licensable activities should normally cease not later than 30 minutes before final closure of the premises.

### **5.5 Dispersal procedures**

- 5.5.1 Organised dispersal procedures can help to prevent crime and disorder and public nuisance where large numbers of persons leave licensed premises over a concentrated period of time. This is relevant whether persons leave over a period of time or in large numbers, at the premises closing time.

- 5.5.2 The Authority considers that having dispersal procedures in place, on which all staff employed at the licensed premises are trained, are particularly necessary for premises at which regulated entertainment or the sale of alcohol for consumption on the premises will continue after midnight. Persons living in the vicinity may experience the effects of the dispersal of customers from licensed premises as a public nuisance. Such problems can be minimised through orderly dispersal.

- 5.5.3 At the same time, it is recognised that dispersal procedures will not be appropriate to all Premises and the need will therefore be assessed on a case-by-case basis having regard to any risk assessments on the potential for nuisance that has been undertaken by the applicant.

- 5.5.4 Staff trained in dispersal procedures could also play a key role in the event of emergency evacuation.

#### **Policy LH 6: Dispersal procedures**

The Authority will require applicants for Premises Licences, normally in those premises open for regulated entertainment or sale of alcohol after midnight, to consider preparing a written statement to be submitted with their application covering procedures for orderly dispersal of patrons at closing time.

Such a statement should show how all staff in the premises are trained in its implementation.

The Authority expects any dispersal procedure to state the time at which the licensable activities cease and the later, actual, closure time of the premises.

### **5.6 Latest admission times**

- 5.6.1 It is undesirable that persons should seek to “top up” their alcohol intake by “club-hopping” and seeking out those premises that are admitting customers at the latest times as crime, disorder and anti social behaviour in urban centres can be increased by persons moving between venues late at night.
- 5.6.2 Establishing last entry times can reduce the tendency of customers to concentrate at those premises which remain open the latest, without restricting the hours of trading. This will encourage dispersal and reduce the pressure on late-night refreshment

outlets and transport facilities that can lead to disorder problems. It will therefore assist with objectives to prevent public nuisance and crime and disorder in certain circumstances.

#### **Policy LH 7: Latest admission times**

The Authority **may require** latest admission times.

The Authority **would normally expect** the latest admission time to be at least one hour before cessation of the licensable activity.

### **5.7 Hours for “off-sales” of alcohol**

5.7.1 The Government suggests that the norm will be for all shops, stores and supermarkets with Premises Licences that permit the sale of alcohol for consumption off the premises to be free to provide such sales of alcohol at any times when the retail outlet is open for shopping unless there are very good reasons for restricting those hours.

5.7.2 Where a licence permits the sale of alcohol in general terms such as “during opening hours”, the Authority, Responsible Authorities and Interested Parties would have no a role in determining the availability of alcohol in any subsequent changes to shopping hours. So any conditions on the timing of alcohol sales should state specific times.

#### **Policy LH 8: Hours for “Off-Sales” of Alcohol**

The Authority will normally approve an application for licensing hours for retail premises that permit the sale of alcohol (for consumption off the premises) at any time that the retail premises are open for shopping.

Where there are good reasons for restricting those hours, the Authority will specify the particular hours during which the sale of alcohol for consumption off the premises is permitted. The Authority will not specify those hours in general terms, such as “at any time that the retail premises are open for shopping”.

If valid Representations are made to the Authority concerning premises licensed for the sale of alcohol for consumption off the premises, because it is likely to become a focus for disturbance or public nuisance, the Authority reserves the right to restrict trading hours as one mechanism of combating such problems.

## **6 Children**

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### **6.1 Access to premises**

6.1.1 The 2003 Act does not prohibit children who are accompanied by an adult from having free access to licensed premises of all kinds, including those selling alcohol for consumption on the premises.

6.1.2 However, the 2003 Act makes it an offence to allow any child under the age of 16 who is not accompanied by an adult from being present:

- (a) at any time on pub premises, or other premises being used exclusively or primarily for the supply of alcohol for consumption on those premises; or
- (b) between the hours of midnight and 5am on restaurant premises, or other premises that supply alcohol for consumption on the premises.

6.1.3 Apart from the above, the admission of children is a matter for the discretion of the individual authorised person at the premises or club, unless conditions included in a Premises Licence or Club Premises Certificate limit the access of children.

6.1.4 The fact that the new offence may effectively bar children under 16, who are not accompanied by an adult, from premises where the consumption of alcohol is the exclusive or primary activity does not mean that the 2003 Act automatically permits unaccompanied children under the age of 18 to have free access to other premises or

to the same premises even if they are accompanied or to premises where the consumption of alcohol is not involved. The 2003 Act includes on the one hand, no presumption of giving children access or on the other hand, no presumption of preventing their access to licensed premises. Each application and the circumstances obtaining at each premises must be considered on its own merits.

**Policy CH 1: Access by children to Licensed Premises not a requirement**

The Authority will not apply conditions to Premises Licences that require that children must be given access.

**Policy CH 2: Restrictions on access by children to Licensed Premises (1)**

The Authority will not apply conditions to Premises Licences that limit the access of children except to the extent that:

- (a) it considers necessary for the prevention of harm to children (with regard to Representations on the application); or
- (b) applicants have included such restrictions in their operating schedules as a result of risk assessments that determined that the presence of children would be undesirable or inappropriate.

6.1.5 The range of situations in policy CH 3, enables the Authority to restrict the access of children to any premises, by taking appropriate account of the “reputation” of those premises in addition to the formal aspects of an application.

**Policy CH 3: Restrictions on access by children to Licensed Premises (2)**

In considering access by children to licensed premises, the Authority will address the individual merits of each application with regard to Representations on the application and, in particular, will take account of situations:

- (a) where entertainment or services of an adult or sexual nature are commonly provided;
- (b) where current staff working at the premises have been convicted of serving alcohol to minors, or the premises have a reputation for underage drinking;
- (c) with a known association with drug taking or dealing;
- (d) where requirements for proof of age cards or other age identification to combat the purchase of alcohol by minors is not the norm;
- (e) where there is a strong element of gambling on the premises; or
- (f) where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.

6.1.6 The range of options in policy CH 4, which can be applied singly or in combination, enables the Authority to apply conditions to a Premises Licence, or Club Premises Certificate, that are in proportion to the scale of a perceived problem.

**Policy CH 4: Restrictions on access by children to Licensed Premises (3)**

The Authority will rarely apply a complete ban on access by children to any individual licensed premises. However when, in response to a Representation, the Authority considers that access by children should be limited, it will apply one or more conditions (to the whole, or parts, of the premises) that include the following options (singly, or in combination):

- (a) limitations on the hours when children may be present;
- (b) age limitations (below specified ages younger than 18);
- (c) limitations or exclusions when certain activities are taking place;
- (d) requirements for accompanying adults (including requirements that apply only to children below specified ages);
- (e) checking proof of age;
- (f) full exclusion of people under 18 from the premises when any licensable activities are taking place.



## 6.2 Prevention of alcohol-consumption by minors

- 6.2.1 In most circumstances, the consumption of alcohol by minors would be illegal. The Authority considers that it would also contribute to harm to children, so systems should be put in place to ensure compliance with the law. A mandatory condition now requires that the Premises Licence Holder or Club premises Certificate Holder ensures that an age verification policy applies to the Premises in relation to the sale or supply of alcohol. The Authority encourages the development of a culture in which the checking of proof-of-age cards is accepted as the norm in circumstances where doubt might otherwise exist. Appendix 9 sets out suggested means of checking proof of age.
- 6.2.2 The Policing and Crime Act 2009 contained several provisions relating to licensing offences:
- (a) Section 28: Selling alcohol to children. S28 amends the offence of persistently selling alcohol to children so that the offence is committed if alcohol is sold to an individual under the age of 18 on two or more occasions rather than on three or more occasions within three months.
  - (b) Section 29: Confiscating alcohol from young persons. S29 amends the confiscation of alcohol (Young Persons) Act 1997 so that Police Officers can confiscate sealed containers of alcohol from young persons in public places without needing to prove that they were consuming or intending to consume alcohol.
  - (c) Section 30: Persistently possessing alcohol in a public place. S30 introduces a new offence of persistently possessing alcohol in a public place. Young persons under 18 can be prosecuted for this offence if they are caught with alcohol in a public place three or more times within a 12 month period.

### Policy CH 5: Prevention of under-age consumption of alcohol

The Authority expects Personal Licence holders to ensure that alcohol is not served to persons under 18 except as permitted under the 2003 Act.

## 6.3 Entertainment for and by children

- 6.3.1 Entertainment specifically for children (for example, pantomimes and films) can attract large numbers of unaccompanied children. The Authority expects licensees to undertake a risk assessment including details of how they will ensure the safe access and egress of children.
- 6.3.2 The Authority expects licensees to provide attendants, at all performances specially presented for children, in accordance with model national standard conditions.

### Policy CH 6: Regulated entertainment for children

The Authority expects that, where regulated entertainment includes performances specially presented for children, applicants will include in their risk assessment details of the number of attendants that will be on duty to ensure the safety of children and to control the access and egress of children.

### Policy CH 7: Regulated entertainment with child performers

For licences that include performances by children, the Authority will normally expect a nominated adult to be responsible for such child performers.

### Policy CH 8: Persons supervising children - CRB checks

In premises where children's entertainment is provided and particularly where children participate in providing entertainment, the Authority would normally expect that any person who will be engaged in direct supervision of children to have been subject to a check through the Enhanced Disclosure procedure of the Criminal Records Bureau.



### **Policy CH 9: Regulated entertainment for children – ticket only policy**

The Authority expects that Regulated Entertainment organised for teenage children in the form of a disco or similar event will normally be managed as ticket-only events, with no tickets available at the door.

If pre-ticketing is not to be used, the Authority requires the applicant to demonstrate what alternative arrangements will be used to control admissions and prevent disorder.

## **6.4 Film exhibitions**

6.4.1 In the case of premises giving film exhibitions the Authority expects applicants to describe in their operating schedules their arrangements for ensuring compliance with the film classification recommendations that apply.

### **Policy CH 10: Film Classification (1)**

To every Premises Licence or Club Premises Certificate that authorises the exhibition of films, the Authority will attach a mandatory condition requiring the admission of children to the exhibition of any film to be restricted in accordance with:

- (a) the recommendations of the film classification body specified in the licence, (which will normally be the British Board of Film Classification (BBFC) whose classification system is copied in Appendix 4), or
- (b) the Authority's recommendation.

### **Policy CH 11: Film Classification (2)**

The Authority will not apply its own system of classification for the majority of films. However, provided the operator submits the film for classification at least 28 days before the proposed date of showing, the Authority may classify a film:

- (a) that has no BBFC classification; or
- (b) that has a BBFC classification, but the operator has requested the Authority to consider reclassification and the Authority agrees to do so, or
- (c) where there have been relevant Representations from Interested Parties or any Responsible Authority with an interest in the protection of children from harm.

The Authority will have regard to the BBFC classification system when making any decision on the classification of films.

Any classification made by the Authority will have precedence over any other classification.

### **Policy CH 12: Exhibition of film – display of notices**

The Authority will expect applications to ensure that appropriate notices are displayed about restrictions on admission and that performances do not take place in areas other than where they can be restricted to a particular audience when necessary.

## **7 Licence Applications**

### **7.1 General**

7.1.1 Applications that are incomplete, or fail to comply with the requirements of the 2003 Act will impose additional administrative burdens that hinder the Authority's ability to process the applications that do comply. The Authority will therefore return applications that it considers incomplete, as it considers that applicants should retain the responsibility for ensuring their applications comply with the requirements of the 2003 Act.

7.1.2 The 2003 Act requires some applications to be advertised for a set period, or to be copied to the Police or other Responsible Authorities. This gives Interested Parties and Responsible Authorities an opportunity to make Representations about the application. The Authority considers that the failure of an applicant to comply with these requirements is appropriate grounds for rejecting an application. **Applicants**

may be required to demonstrate to the Licensing Authority that they have complied with these requirements by providing documentary evidence to the Authority.

- 7.1.3 Ward Councillors are now classed as “interested parties” under the Licensing Act 2003 and are therefore now able to make representations on applications in their own right as well as on behalf of local constituents. They should note however that the relevant Licensing Authority will have its own procedures that apply when Councillors speak at a committee on an item in which they have a personal and prejudicial interest and they will need to be clear about their status when speaking on an item.
- 7.1.4 When a parish/town Council makes any objections to a licence application it needs to clear on its position when making that objection. If the parish/town Council makes an objection to an application because its own premises or business meetings are directly affected by the licence application then it is making that objection as an “interested party” in that it is a person involved in business in the area as defined in Section 13 (3) (d) Licensing Act 2003.
- 7.1.5 If the parish/town Council makes objections on behalf of residents who live in that vicinity then they are acting as an “interested party” as defined in Section 13 (3) (b) Licensing Act 2003 and will need to identify the names and addresses of the residents that they are objecting on behalf of. The parish/town Council should also encourage those residents to object in their own right but allow the parish/town Council to present their case at any hearing that is held.
- 7.1.6 Applications may be made in person by appointment, or by post to the Licensing Authority (address on page i). You may also make an online application through our website at [www.cherwell.gov.uk](http://www.cherwell.gov.uk)
- 7.1.7 Once an application has been accepted, any amendments to the application must normally be made by way of an application for variation, minor variation or a fresh application. The Authority therefore recommends that applicants ensure that their proposals are finalised before submission.
- 7.1.8 Where applications are silent on particular issues, such as the use of special effects or the type of events to be held, this will limit the range of activities permitted under the Premises Licence or Club Premises Certificate that is granted.

#### **Policy LA 1: Licence applications – acceptance**

The Authority expects applications to be complete and to comply with the requirements of the 2003 Act before they are registered as being received. The Authority will return to the applicant any application that it discovers to be incomplete, because it does not comply with the requirements of the 2003 Act, including any requirements to advertise or failure to provide a complete copy to a Responsible Authority.

If the Authority returns an application to an applicant for any of the above reasons, it will treat the application as not received. This policy will apply regardless of any proof of delivery of the application to the Authority.

## **7.2 Personal Licences**

- 7.2.1 The Authority seeks to ensure that it grants only those applications which satisfy the relevant licensing objectives and that the Police have the necessary information on which to base any Representations they may wish to make to the Authority. This is because the holder of a Personal Licence should be a person who is not only properly qualified but someone who will contribute to crime prevention.

#### **Policy LA 2: Personal Licence – applications**

The Authority requires an applicant applying for a Personal Licence, or notifying a change in connection with a Personal Licence to include the documents described in guidance to applicants for Personal Licences.

## 7.3 Premises Licences

### General Prevention of Public Nuisance

- 7.3.1 Frequent complaints can be received regarding the consequences of the operation of licensed premises. Responsible operators will wish to avoid enforcement action having to be taken under licensing or other legislation. Applicants for Premises Licences and Club Premises Certificates are advised to consider measures that prevent public nuisance from occurring.
- 7.3.2 A Noise Abatement Notice under the Environmental Protection Act 1990 may be served on premises that cause a statutory nuisance through failure to meet appropriate standards for preventing the escape of noise, regardless of the conditions of any Premises Licence or Club Premises Certificate.
- 7.3.3 Powers also exist for the Police and the Council to deal with noise issues that may affect persons living in the vicinity of licensed premises selling alcohol and/or providing regulated entertainment.
- 7.3.4 However, it will normally be appropriate for applicants for Premises Licences and Club Premises Certificates to suggest measures which are adequate to deal with the potential for nuisance and/or anti-social behaviour having regard to all the circumstances of the application.
- 7.3.5 As noise could emanate not only from the playing of music but also from air handling equipment or the patrons, applicants themselves may wish to consider undertaking sound tests to ensure that the level of noise leakage from the premises remains acceptable given the location.
- 7.3.6 Night-time trading can increase noise and disturbance for local residents and result in damage to property in the vicinity of licensed premises. The Authority may consider that there are benefits to be achieved in minimising public nuisance by curtailing hours of operation, generally or on specific occasions, if representations are made to that effect.
- 7.3.7 The Authority advises applicants to give special consideration to noise control measures if proposing to provide regulated entertainment or to sell alcohol for consumption on the premises beyond midnight.
- 7.3.8 With the introduction of the Health Act 2006 which banned smoking indoors, most premises have, where appropriate, created external "smoking areas" to allow patrons to continue to smoke outside the premises. These "smoking areas" have the capacity to cause problems of Public Nuisance if they are not properly controlled. The Authority would normally expect to see applicants include within their operating schedule procedures to actively manage these outside areas to prevent nuisance arising.
- 7.3.9 Different approaches to prevention of public nuisance will apply to a premises licence application for regulated entertainment, given the nature of the activities, and special circumstances that can arise in relation to those activities, for example
- (a) longer hours of operation;
  - (b) noise pollution issues;
  - (c) public nuisance caused by people queuing to obtain admission;
  - (d) general safety for the public in a crowded and often dimly lit environment;
  - (e) public nuisance caused by departing customers; and
  - (f) congregation of patrons outside licensed premises.

### Night-time trading

- 7.3.10 The Authority expects applicants to give special consideration to the likely effect on the neighbourhood of the premises and whether there is a real possibility of residents

in the vicinity being disturbed by departing patrons or anti-social behaviour occurring which might adversely affect the local environment. The Authority will wish to strike an equitable balance between the benefits to a community of a licensed venue and the risk of disturbance to local residents or vandalism to property.

7.3.11 Night-time trading can increase noise and disturbance for local residents and result in damage to property in the vicinity of licensed premises. The Authority may consider that there are benefits to be achieved in minimising public nuisance by curtailing hours of operation, generally or on specific occasions.

#### **Policy LA 3: Premises Licence – Regulated Entertainment (General)**

The Authority requires the applicant to address sources of noise leakage in practical ways such as:

- (a) providing adequate mechanical ventilation so that doors and windows can be kept closed;
- (b) ensuring that the mechanical ventilation is adequately sound-proofed;
- (c) installing a sound limiting device to prevent sound exceeding an appropriately defined level;
- (d) installing sound proofing measures to contain sound and vibration;
- (e) other organisational measures to ensure that potential sound leakage is contained, particularly from special events;
- (f) having a queue management policy.

These measures may be employed singly or in combination.

Applicants should ensure that they carefully consider Approved Document F (Ventilation) in the Building Regulations 2000 when deciding on the level and type of activity proposed in the premises.

#### **Policy LA 4: Premises Licence – Noise control to suit late night trading**

The Authority may, in response to Representations, apply conditions on noise control that suit the licensing hours for premises in areas that include residential accommodation.

#### **Addressing local concerns**

7.3.12 Noise nuisance can adversely affect residents living near to licensed premises or business premises in their vicinity if measures taken to deal with noise are inadequate. Management logging of complaints and adoption of procedures for overcoming reported problems will assist with the prevention of public nuisance and the prevention of crime and disorder. Sight of the complaints log will also provide the Authority with information necessary to assess the effectiveness of the management of the premises with regard to the licensing objectives.

#### **Policy LA 5: Premises Licence – Addressing local concerns**

The Authority suggests applicants might wish to address how Interested Parties may raise matters of concern directly with those responsible for managing the premises and how those matters will be effectively addressed.

#### **General Management and Control**

7.3.13 The scope of activities to be undertaken at a licensed venue must be considered in full and an overall plan for minimising crime and disorder should be in place, taking into account policies expressed in this statement. The Authority consider that consistency and stability management is a key issue in effective control of premises. Specifically the licence applicant should, if relevant to the business, consider the co-ordination of

- admission control/queue management
- role of door staff
- roles of persons on duty and in charge of the premises

- intervention protocols to address issues of safety/disorder and how and when police or other agencies will be called to the venue
- the proper operation of dispersal policies

#### **Policy LA 6: Management and Control**

Applicants for premises licences should be able to demonstrate that crime and disorder issues which might arise from licensed activities have been addressed and co-ordinated management structure is in place to address any issues identified.

#### **Policy LA 7: Premises Licence – Safer Clubbing**

Special attention should be given to the organisation and risk assessments for Large Scale and Outdoor events, taking into account the advice and guidance in the 'Safer Nightlife' booklet<sup>3</sup> and the need for higher levels of vigilance than required for normal events. In particular the Authority will expect increased levels of supervision, medical/first aid provision, on-premises drug counselling/advisory services and other arrangements to ensure the safety of patrons attending the event and those supervising it. Additional measures to prevent public nuisance arising from loud music being played at such events must be considered.

#### **Special Effects**

7.3.14 The Authority expects those applicants who propose to provide Regulated Entertainment and to use special effects, to adequately address the implications of risk assessments in their operating schedules and so ensure that public safety is not adversely affected.

7.3.15 Regulated Entertainment can involve special effects such as:

- (a) dry ice machines - cryogenic fog;
- (b) smoke machines - fog generators;
- (c) pyrotechnics including fireworks;
- (d) real flame;
- (e) firearms;
- (f) motor vehicles;
- (g) strobe lighting;
- (h) lasers;
- (i) explosives and highly inflammable substances.

#### **Policy LA 8: Premises Licence – Special Effects**

The Authority expects that a proper risk assessment<sup>4</sup> must be undertaken where any regulated entertainment is proposed that potentially involves danger to the audience or performers.

The organiser should take appropriate measures that are designed to ensure that the risk is effectively removed.

#### **Policy LA 9: Premises Licence – Hypnotism**

Hypnotism can affect the safety of persons present at events where they form part of the entertainment. The Authority would normally expect that an exhibition, demonstration or performance of Hypnotism (as defined in Section 6 of the Hypnotism Act 1952) shall not be given unless a written procedure has been provided with an application setting out the manner in which such exhibitions, demonstrations or performances are to be given and this is satisfactory to the Authority. A Risk assessment should also accompany the application and conform to Home Office model conditions.

<sup>3</sup> [http://217.154.230.218/NR/rdonlyres/E4E0FE3A-9F8E-4182-AFBF-31C83E74C03A/0/SS\\_LDPF\\_safer\\_nightlife.pdf](http://217.154.230.218/NR/rdonlyres/E4E0FE3A-9F8E-4182-AFBF-31C83E74C03A/0/SS_LDPF_safer_nightlife.pdf)

<sup>4</sup> See HSE booklet "Five steps to risk assessment" ([www.hsebooks.co.uk](http://www.hsebooks.co.uk))

## Sanitary Accommodation

- 7.3.16 The Authority expects licensed premises to provide sanitary accommodation for both male and female customers, commensurate with the scale of the licensable activity planned for the premises. This is to promote public safety and to minimise public nuisance caused by departing customers urinating in public places, as convenient alternative facilities may not be available when customers leave.
- 7.3.17 Recommended levels of provision **have been expressed in guidance issued by the BSI** (BS 6465).
- 7.3.18 Local Authorities can require provision of sanitary accommodation at premises providing entertainment, under S20 of the Local Government (Miscellaneous Provisions) Act 1976. However, it would be preferable for applicants to make the necessary arrangements voluntarily in accordance with the BSI Standard.

### Policy LA 10: Premises Licence – Sanitary Accommodation

The Authority **encourages** premises to provide adequate and convenient sanitary accommodation to suit the needs and numbers of its customers, commensurate with the licensable activities proposed.

### Discounting and drinks promotions – Mandatory Conditions

- 7.3.19 Section 32 of the Policing and Crime Act 2009 amended the Licensing Act 2003 to create an enabling power that allows the Secretary of State to set out (in secondary legislation) mandatory licence conditions relating to the supply of alcohol for all new and existing premises licences and all new and existing club premises certificates.
- 7.3.20 Since 6 April 2010 where premises are licensed to sell alcohol certain mandatory conditions relating to drinks promotions are now in place. These will :-
- Ban irresponsible promotions;
  - Ban the dispensing of alcohol directly into the mouth; and
  - Ensure that customers have access to free tap water so that they can space out their drinks and not get too intoxicated too quickly.
- 7.3.21 Further mandatory conditions come into force on 1 October 2010 that will:-
- Require an age verification policy to be in place to prevent underage sales; and
  - Ensure that customers have the opportunity to choose small measures of beers, ciders, spirits and wine.
- 7.3.22 The Home Office ([www.homeoffice.gov.uk](http://www.homeoffice.gov.uk)) have provided some very helpful guidance explaining the conditions further and giving examples of the types of promotions that will be banned. They have produced two documents which offer more guidance.
- “Selling Alcohol Responsibly: the new mandatory licensing conditions”** explains the conditions and gives answers to some Frequently Asked Questions.
- “Selling Alcohol Responsibly: good practice examples from the alcohol retail and hospitality industries”** gives an overview of the types of initiatives that licence holders can use to improve standards of operation within the licensing regime.
- 7.3.23 The Local Authority cannot advise you on what constitutes an “irresponsible promotion”. You should access the Home Office Guidance and obtain your own independent or legal advice.

## 7.4 Club Premises Certificates

- 7.4.1 The Government has emphasised that non-profit making clubs have made an important and traditional contribution to the life of many communities in England and Wales and bring significant benefits. Their activities also take place on private premises and they operate under codes of discipline applying to members and their



families. In determining what conditions should be included in certificates, the Authority will bear these matters in mind and conditions will not be attached unless they can be demonstrated to be strictly necessary.

### **Qualifying Conditions**

- 7.4.2 Section 61 of the 2003 Act sets out five general qualifying conditions that a qualifying club must meet. Section 62 also sets out specified matters for Licensing Authorities to enable them to determine whether a club is established and conducted in good faith - the third qualifying condition. Section 63 sets out additional qualifying conditions that apply solely to clubs intending to supply alcohol to members and guests.

#### **Policy LA 11: Club Premises Certificates – Club qualifying conditions**

The Authority will require applicants to provide copies of the Club's Constitution and Rules for it to be able to determine whether the club is established and conducted in good faith as a club. This information must accompany the application.

### **Operating schedule**

- 7.4.3 The range of issues that should be addressed in operating schedules will be premises-specific, but may include the issues listed in guidance to applicants for Club Premises Certificates and the 'OS' series of Policies within this document.

#### **Policy LA 12: Club Premises Certificates – Scope of the operating schedule**

Where an applicant is required to provide an operating schedule, the Authority expects this to address the four licensing objectives through a comprehensive range of issues applicable to the location and activities proposed at the club premises.

### **Film and theatrical performances**

- 7.4.4 The Authority may require the display of appropriate notices and restrictions on the entry of children, if performances include material that is not suitable for minors.
- 7.4.5 Where there is to be an exhibition of a film or a theatrical performance is to take place on club premises, applicants should refer to the "CH" series of policies set out in this policy statement.
- 7.4.6 The Authority requires that where a special theatrical performance for children takes place in Club Premises then the Authority will require the presence of sufficient adults to control the access and egress of the children and ensure their safety. Such numbers of adults should be agreed with the Authority before the performance takes place.
- 7.4.7 The Authority requires that a restriction on admission is applied in any case where a theatrical performance contains material which can be regarded as suitable for an adult audience only.

#### **Policy LA 13: Club Premises Certificates – Film or Theatrical Performances**

The Authority will require clubs to display appropriate notices about any restrictions on admission to film or theatrical performances and ensure that these do not take place in areas other than where they can be restricted to a particular audience when necessary.

### **Sex equality in clubs**

- 7.4.8 The Authority recognises that equal treatment for men and women is not a licensing objective.

## **Policy LA 14: Club Premises Certificates – Sex Equality**

The Authority will not impose conditions that interfere with the arrangements for granting membership or voting within the club.

### **7.5 Particular premises and activities**

#### **Pubs, Restaurants, Hotels, Guest Houses**

- 7.5.1 The licensable activities in pubs, restaurants, hotels and guest houses are likely to require minimal conditions, provided they only undertake the sale of alcohol, or sale of alcohol with a meal.
- 7.5.2 The Authority expects those responsible for managing licensed premises to prevent public nuisance by ensuring that licensable activities likely to affect third parties are contained and properly managed.

## **Policy PP 1: Premises Licence – Pubs, Pub/Restaurants, Restaurants, Hotels, Guest Houses**

The Authority **normally** expects applicants to ensure that licensable activities only take place within the curtilage of the premises.

In pursuing family friendly environments for such establishments, the Authority expects applicants to ensure that the use of pub gardens and similar areas will not cause a public nuisance to nearby residents and expects applicants to demonstrate that they will appropriately manage activities in such areas. The Authority may exclude **or limit** licensable activities from outside areas at appropriate times or in appropriate circumstances in response to Representations.

#### **High Volume Vertical Drinking Establishments**

- 7.5.3 High Volume Vertical Drinking establishments (HVVDs) are premises with exceptionally high capacities, used primarily or exclusively for the sale and consumption of alcohol with little or no seating for patrons. A comprehensive review of the research conducted in the last twenty-five years into alcohol and crime and its relationship to licensed premises shows that the environment within such establishments can have a significant bearing on the likelihood of crime and disorder arising on the premises.
- 7.5.4 The Authority considers that this research shows that HVVDs do not further the licensing objectives and are consequently undesirable.
- 7.5.5 The research indicates that the key points on preventing crime and disorder include:
- (a) controlling the capacity to prevent overcrowding and frustration to customers;
  - (b) ensuring adequate seating for customers; and
  - (c) ensuring the provision of door security teams at the premises to control capacity and ensure already drunk or disorderly individuals are not admitted.

## **Policy PP 2: High Volume Vertical Drinking Establishments (HVVDs)**

Where necessary and appropriate, the Authority will attach conditions to Premises Licences for HVVDs and similar premises (if not volunteered by the venue operator and following appropriate Representations) which require adherence to:

- (a) a prescribed capacity;
- (b) an appropriate ratio of tables and chairs to customers based on the capacity; &
- (c) the presence of SIA registered security teams to control entry for the purpose of compliance with the capacity and good order.

#### **Internet Sales, Mail Order & Home Deliveries**

- 7.5.6 A premises licence is not required if the contract for the sale of alcohol is made in a different place from that where the alcohol is assigned to the particular purchasers.



With regard to internet & mail order sales, the sale of alcohol will not be regarded as having been made where the contact of sale has been made; this sale is treated as being made at the premises from which the alcohol is assigned to the purchaser. This may differ with Home deliveries if the alcohol is being stored where sales are taking place. However the Council will carefully consider the distance selling supply chain in deciding where the alcohol is appropriated to the contact.

### **Designated sports grounds**

- 7.5.7 The Authority expects organisers of sporting events to make appropriate arrangements to limit the possibility of crowd disturbance within sports stadiums and to take steps to minimise the incidence of public nuisance within the vicinity of stadiums in accordance with licensing objectives to prevent crime, disorder and public nuisance.
- 7.5.8 Issues of disorder among, or safety of, spectators can arise at sporting events and crowd control in and around grounds can be affected where licensable activities such as the sale of alcohol take place.

### **Policy PP 3: Designated Sports Grounds, Designated Sports Events and Outdoor Sports Stadiums**

Subject to Representations from the Police the Authority may seek to restrict sales of alcohol at sporting events to specific areas of the venue, to times set relative to particular performances or events, or to set times and may require different arrangements for public and private areas.

### **Garages and Service Areas**

- 7.5.9 Section 176 of the 2003 Act provides for a general prohibition on the sale of alcohol at motorway service areas and garage forecourts. The Government may, by order, alter the description of premises from which alcohol may be sold.
- 7.5.10 The 2003 Act largely maintains the situation in previous legislation which has allowed the sale of alcohol to develop in line with the range of goods available from garage shops as is now commonplace. Accordingly where proper facilities are provided in the form of a shop at a garage, the Authority does not propose to preclude sales of alcohol within the range of goods available.

### **Policy PP 4: Garages and Service Areas**

The Authority will apply no general restriction on the sale of alcohol from garage shops that also offer a substantial range of groceries for sale.

In order to establish that premises are not primarily used as a garage, which would prevent the sale of alcohol, an applicant will need to show the intensity of use by customers at the premises. This may be evidenced by lists of customers according to usage, or by sales figures classified according to purchases.

This policy does not amend the prohibition of alcohol sales at motorway service areas.

### **Vessels (boats)**

- 7.5.11 When licensing vessels, the Authority will consider the conduct of the proposed licensable activities in the context of the licensing objectives. In particular it will address the need for adequate control of licensable activities to further the public safety objective and to prevent public nuisance to residents in the vicinity of the vessel's navigational route. An activity is not a licensable activity if it takes place aboard vessels engaged on an international journey.
- 7.5.12 The Authority will not be concerned with the safety of the vessel for carriage of passengers, or issues concerning the safe navigation of the vessel. These are matters dealt with under other legislation.

#### **Policy PP 5: Vessels – Safety**

The Authority requires the normal safety measures for a vessel to be supplemented as appropriate to suit the scale, nature and timing of any licensable activities that occur. In considering such matters, the Authority may consult with the Environment Agency or any other Authority with responsibility for the safety of vessels.

#### **Policy PP 6: Vessels – Noise**

Noise or other public nuisance, resulting from licensable activities on board a vessel, must not be caused to persons living near to a vessel's berth or along the route of its navigation. Furthermore, in response to a Representation, the Authority may require that specialist supervision in the form of SIA registered door staff or safety attendants is arranged in connection with any regulated entertainment which takes place on board.

#### **Vehicles and Moveable Structures**

- 7.5.13 Alcohol may not be sold on a moving vehicle but there may be a requirement for sale of alcohol and possibly other licensable activities to take place from a stationary vehicle or structure, for example one that is sited temporarily at an event.
- 7.5.14 Where a Premises Licence is required for the vehicle or structure, this will relate solely to the place where the vehicle is sited and the licensable activities are to take place. Premises licences for vehicles and moveable structure are therefore required wherever they are sited when licensable activities take place and this may well mean applications to more than one Licensing Authority.
- 7.5.15 The operator of a vehicle trading in a 'consent street' will continue to require a street trading consent in addition to any Premises Licence and the conditions attached to the street trading consent will continue to apply. Such conditions will normally be equally relevant to vehicles trading in areas where street trading consents are not required.

#### **Policy PP 7: Vehicles and Moveable Structures**

The Authority requires the operator of any vehicle or moveable structure to ensure that it is located in an area that is appropriate for the proposed licensable activities.

It may not be appropriate to site any such vehicle or structure near to other licensed premises, or in an area subject to an "Alcohol Consumption in Designated Public Places Order" or where it may cause noxious smells or litter problems if operating between 23.00 and 05.00 hours.

#### **Late night refreshment**

- 7.5.16 The 2003 Act requires that premises selling hot food or drink for consumption by members of the public on or off the premises, between the hours of 23.00 and 05.00 must have a Premises Licence.
- 7.5.17 Such premises include those dedicated to providing this service, restaurants (not only those that offer take-away facilities) and mobile vans trading during these hours.

#### **Policy PP 8: Late Night Refreshment Vehicles – outside consent streets**

The Authority will seek to apply the conditions that apply to vehicles under street trading consents to the Premises Licences for vehicles or structures that provide late night refreshment in areas that are not consent streets.

No Premises Licence is valid for a vehicle within an area prohibited to street trading.

- 7.5.18 Premises engaged in the late night provision of hot food and drink are covered by the 2003 Act to enable appropriate controls to be introduced to reduce the incidence of disorder, disturbance and public nuisance that can arise if these venues become the focus for gatherings of people that have come from other venues and may have been consuming alcohol.

7.5.19 Management of late night refreshment venues needs to be undertaken effectively to assist in preventing crime, disorder, anti-social behaviour and public nuisance.

#### **Policy PP 9: Late Night Refreshment**

The Authority will look carefully at the scope of operation intended for late night refreshment premises. The Authority particularly expects applicants to address issues such as:

- (a) Hours of operation, to prevent public nuisance to any nearby residents, or problems of noxious smells and anti social behaviour
- (b) Supervision of queues and the management of large numbers of clientele descending on the premises at certain times - this could include door supervision to control surges of customers where this may occur
- (c) Layout of the premises to cope with patrons e.g. position of counters, entrances and exits
- (d) Litter control and environmental activities, such as litter picking, provision of litter and recycling bins, street sweeping/washing
- (e) CCTV
- (f) Public Safety, including the type of power supply to be used where the application is for a trading vehicle.

The Authority expects premises licensed for late night refreshment to have regard to the "Voluntary Code of Practice for the Fast Food Industry (DEFRA Oct 2003).

<http://www.defra.gov.uk/environment/quality/local/litter/documents/fastfoodcop.pdf>

#### **Policy PP 10: Take-away food outlets – alcohol sales**

The Authority would be concerned about applications for the sale of alcohol from premises where the primary activity during the hours 23.00 to 05.00 is the provision of take-away food unless it can be clearly shown that there will be no contribution to crime or disorder.

#### **Supply of alcohol for consumption off the premises**

7.5.20 It is not the Authority's policy generally to seek to restrict the sale of alcohol for consumption off the premises. However, where premises are relatively isolated, with minimal levels of staffing, this can lead to problems of anti-social behaviour or disorder in the vicinity of the premises. Pressure can also be applied to staff to sell alcohol to persons who are under age.

7.5.21 **The following policy** is intended to ensure that alcohol is sold only to those who are entitled to purchase it and that premises have proper checks in place to ensure that the restrictions are enforced, so that minors do not obtain access to alcohol which can lead to the creation of public nuisance or disorder.

#### **Policy PP 11: Supply of alcohol ("Off-sales")**

For applications that include the sale of alcohol for consumption off the premises, the Authority will expect operating schedules to address how sales of alcohol will be confined to those entitled to purchase it and how the procedures will be consistently applied. The role of the Designated Premises Supervisor will be pivotal in this respect. The operating schedule should cover such practical issues as:

- (a) the display of prominent warning notices about the supply of alcohol to minors;
- (b) offences which adults can commit by buying alcohol for minors; and
- (c) requirements for production of satisfactory proof of age – refer to Appendix 9.

The Authority expects that staff involved in the sale of alcohol will have had appropriate training in order to put the operating schedule into effect.

Times during which alcohol may be sold will be restricted if it appears to the Authority, as a result of Representations, that this would promote the licensing objectives of preventing public nuisance, crime and disorder.

The Authority will maintain close working relationships with both the Police and Trading Standards Officers who will conduct 'test purchasing' of alcohol under the 2003 Act in order to detect and prevent sales of alcohol to minors and to pursue prosecutions where

appropriate.

### **Safe drinking-vessels**

- 7.5.22 The Authority seeks to remove the risk of injury that could result from the use of particular types of drinks containers at particular venues, or in association with particular licensable activities.
- 7.5.23 The risk of injury can arise not only from the deliberate misuse of glass containers and bottles during disturbances, but also from accidental breakage in crowded or dark venues and from broken glass in parks, water features and swimming pools.
- 7.5.24 Where appropriate, such as where there are concerns about crime and disorder or public safety the Authority will require all drinks to be supplied in containers that are safer than traditional glasses or bottles (e.g. polycarbonate or similar, paper, plastic or toughened glass).
- 7.5.25 Paper or plastic containers will often be appropriate, lidded if necessary. However, in some circumstances it can be appropriate to prevent the use of full plastic bottles as weapons or missiles by confiscating the bottle-tops.

### **Policy PP 12: Safe drinking-vessels**

In appropriate circumstances **and following relevant representations**, the Authority will require safe drinking-vessels (polycarbonate or similar) to be used wherever a material risk of injury might arise.

This policy applies not only to drinking vessels and containers for alcohol, but also to containers for soft drinks and water including any brought to the premises by customers.

### **Other potential weapons**

### **Policy PP 13: Other potential weapons**

In appropriate circumstances the Authority will require premises not to provide loose items that could be used as weapons, e.g. glass ashtrays, unfixed furniture.

### **Large Scale and/or Outdoor events**

- 7.5.26 The Authority, **in partnership with other Responsible Authorities in Oxfordshire has produced an event safety guide** for large scale and outdoor events, which organisers will be recommended to adopt. Notwithstanding this the Authority will encourage organisers of such events to approach Council officers at the earliest opportunity to discuss the arrangements for the licensed activities involved. This may include the production of an Event Management Plan. It would normally be expected that reference would be made in the operating schedule to the Event Management Plan. The Authority will offer advice and assistance to organisers about this preparation through the Safety Advisory Group.
- 7.5.27 In producing operating schedules and Event Management Plans for such events the organisers should have regard to the following documents:
- (a) The Event Safety Guide – A Guide to Health, Safety and Welfare at Music and similar events (HSE 1999) (The Purple Book) **ISBN 9780717624539**;
  - (b) Managing Crowds Safely (HSE 2000) **ISBN 9780717618347**;
  - (c) 5 Steps to Risk Assessment: Case Studies (HSE 1998) **ISBN INDG163W/EREV2**;
  - (d) The Guide to Safety at Sports Grounds **5<sup>th</sup> Edition** (HMSO, **2008**) (The Green Guide) **ISBN 9780117020740**
  - (e) Safety Guidance for Street Arts, Carnival Procession and Large Scale Performances **(2009)** published by the Independent Street Arts Network, obtainable through [www.streetartsnetwork.org.uk/cn/publications/index.php](http://www.streetartsnetwork.org.uk/cn/publications/index.php)

(f) Safer **Nightlife**<sup>5</sup>

7.5.28 However, in consulting these texts, **some of** 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.

7.5.29 Any individual preparing an operating schedule or club operating schedule should volunteer any measure, such as those described in Section 8 of this Policy document and in the Authorities adopted Pool of Conditions, as a step he or she intends to take. Such measures will become conditions of the licence/certificate, and as such, any breach of these conditions could give rise to prosecution.

#### **Policy PP 14: Large Scale and/or Outdoor events**

The Authority expects the organiser of a large scale or Outdoor event, except those that may be covered by TENs, to identify an adequate management team at an early stage and to designate a lead person to liaise with the Authority.

The Authority also expects a representative of the organisers of a large scale or outdoor event to attend planning and co-ordination meetings with Responsible Authorities and the Councils Safety Advisory Group.

#### **Sex-related entertainment**

**7.5.30** The Authority is not able to control the content of adult entertainment involving activities such as striptease or lap-dancing through the Licensing Act 2003. However the Authority is in the process of adopting the provisions of Section 27 of the Policing and Crime Act 2009, which will allow it to regulate lap dancing clubs and similar venues under Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982. It will be the responsibility of applicants to ensure they comply with the requirements of the Policing and Crime Act 2009.

7.5.31 The Authority does not have any power to limit the scope of such activities permitted by a licence **under the Licensing Act 2003** unless it receives relevant Representations about the associated application. This applies whether or not the application relates to premises in the vicinity of schools, youth clubs, other premises where significant numbers of children attend or places of worship.

7.5.32 Where an application includes proposals for sex-related entertainment the Authority will seek to ensure:-

- (a) that the entertainment does not require authorisation under the provisions of **Schedule 3 Local Government (Miscellaneous Provisions) Act 1982, or**
- (b) that management of such activities will promote the licensing objective of protection of children from harm and that those activities are conducted in such a manner as to prevent disturbance, crime and disorder.

#### **Policy PP 15: Sex-related entertainment**

In response to relevant Representations, the Authority will consider whether the grant of a licence to include activities with a sex-related content would be inappropriate having regard to:

- (a) the character of the relevant locality and the use of premises in the vicinity;
- (b) the layout and character of the premises; and
- (c) any form of advertising or promotion in connection with the premises.

In response to relevant Representations, the Authority will apply conditions that are tailored to any sex-related entertainment that is permitted.

<sup>5</sup> [http://217.154.230.218/NR/rdonlyres/E4E0FE3A-9F8E-4182-AFBF-31C83E74C03A/0/SS\\_LDPF\\_safer\\_nightlife.pdf](http://217.154.230.218/NR/rdonlyres/E4E0FE3A-9F8E-4182-AFBF-31C83E74C03A/0/SS_LDPF_safer_nightlife.pdf)

## Community Centres and Village Halls

- 7.5.33 The Authority encourages all Community Centres and Village Halls to apply for Premises Licences to cover all expected activities, as the managers of these venues may find the permitted annual number of TENs too restrictive.
- 7.5.34 The Legislative Reform (Supervision of Alcohol Sales in Church and Village Halls etc) Order 20099 amends the 2003 Act to allow certain community premises which have a premises licence that authorises alcohol sales to also apply to include the “the alternative licence condition”. The effect of the alternative licence condition will be that the licence holder (i.e the Management Committee of the hall) is responsible for the supervision and authorisation of all alcohol sales pursuant to the licence. There will be no requirement for a Designated Premises Supervisor or for alcohol sales to be authorised by a personal licence holder.
- 7.5.35 If alcohol is to be supplied, the Personal Licence Holder nominated as the Designated Premises Supervisor need not be a member of the management committee of the centre or hall. Alternatively the management committee may apply for the “alternative licence condition” to be applied to any licence that every supply of alcohol must be made or authorised by the management committee.
- 7.5.36 Many premises may be able to function for the purpose of carrying on licensable activities by using the Temporary Event Notice procedure under the Licensing Act to provide the facilities required. Those booking village halls for such events are reminded that although no formal licence is required if there is a Temporary Event Notice, other legislation concerning nuisance and disturbance for example still applies. See 7.7 for policies on Temporary Event Notices.

## Public spaces and Council-controlled premises

- 7.5.37 In places for which the Council holds a Premises Licence entertainers will be able to give a performance, without the need to serve TENs or to apply for individual Premises Licences.
- 7.5.38 This approach will make it more possible for cultural diversity to thrive and will be a far simpler process for many types of entertainment that use numerous venues each year, such as circuses and street artists. However, entertainers will need to obtain the permission of the Council (as Premises Licence holder) and comply with any conditions that might be imposed.
- 7.5.39 This approach may reduce the administrative burden on the Authority and ensure that licensable activities are encouraged in locations that the Authority considers appropriate and where the promotion of the licensing objectives has been previously considered and any potential noise nuisance can be properly managed.

### Policy PP 16: Public spaces and Council-controlled premises

The Authority encourages the Council and Oxfordshire County Council to seek Premises Licences for the purpose of particular types of public entertainment at premises under their control, such as community halls, parks and public open spaces.

## 7.6 Designated Premises Supervisors

- 7.6.1 In order for alcohol to be sold under a Premises Licence, the licence must name a Designated Premises Supervisor who holds a Personal Licence unless the premises is a community centre or village hall and has applied for the “alternative licence condition as outlined in 7.5.34 above. Even though the Police may not object to the grant of a Personal Licence to a particular person, they may object to that person being named as the Designated Premises Supervisor for particular premises on grounds that the crime prevention objective is likely to be undermined. The Authority will normally attach great importance to any objection by the Police unless there are substantial reasons for not doing so.



- 7.6.2 In premises where alcohol is not sold, there may still be a need for swift engagement with a responsible person and the Authority therefore strongly recommends that a person is identified at all premises where licensable activities are taking place.
- 7.6.3 Although the Designated Premises Supervisor has a key role in the management of premises, the 2003 Act does not require the Designated Premises Supervisor to be there.
- 7.6.4 In the event of any problems, Authorised Persons will need recourse to the Designated Premises Supervisor who is in a pivotal position within licensed premises. So, the Designated Premises Supervisor must be managerially able to mobilise resources at the premises as necessary to assist the promotion of the licensing objectives. In order to comply with the conditions of the licence, this must include the ability to manage the systems described in the applicant's operating schedule.
- 7.6.5 On occasions where the Designated Premises Supervisor is not available then a nominated competent person must be available to oversee the day to day running and control of the premises and to liaise with enforcement agencies, especially when enforcement visits are undertaken.
- 7.6.6 The Authority strongly recommends that contact telephone numbers are made available to the Authority and Police for both routine matters and emergencies.

#### **Policy DPS 1: Designated Premises Supervisors – availability**

The Authority expects the Designated Premises Supervisor to be normally readily available to manage activities at the premises. The Authority also expects the person in charge when the Designated Premises Supervisor is absent, to be both readily available and identifiable.

However the Designated Premises Supervisor and the Premises Licence Holder remain responsible for the premises at all times including compliance with the terms of the Licensing Act and conditions attached to the premises licence to promote the licensing objectives.

### **7.7 Temporary Event Notices and Small Events**

- 7.7.1 Under the 2003 Act, TENs enable licensable activities to take place outside the scope of a Premises Licence. These notices can be given for events that last no more than 96 hours and have less than 500 people present at any one time. There are annual restrictions on how many notices one person may give and on the number of times the same premises can be used.
- 7.7.2 By their nature, temporary events may not be as well resourced as activities organised under a Premises Licence, so are potentially disruptive and can cause problems for residents and owners of property nearby. However, the legislative framework for temporary events envisages a light touch by the Authority and the Police. Although the Police can object to a TEN and can require changes to the proposals, no specific approval is required provided the premises user meets the requirements of the 2003 Act.
- 7.7.3 A minimum of 10 clear working days must be given (not including the day on which the application is received and not including the day of the event itself) to the Authority and the Police, but there is nothing to prevent simultaneous separate notifications of multiple events, provided the first event is at least 10 clear working days away. For practical purposes event organisers are encouraged to give as much notice as possible and to contact Police Licensing Officers about their proposals at an early opportunity. Any late notifications will be deemed invalid; if the minimum period of notice is imminent you should not rely on the postal system to assume your application will be received on time.

## **Policy TEN 1: Temporary Event Notices**

To be valid, TENs must be served on the Authority, with a copy to the relevant Police Authority.

Section relating to Small Scale events has been removed as this duplicates other sections of the legislation and previous wording may have confused applicants.

### **7.8 Provisional Statements; New or Substantially Altered Premises**

- 7.8.1 Where premises are to be newly constructed, extended or substantially altered, an applicant who has an interest in the premises can apply for a "Provisional Statement". This is in addition to any planning and building-control consents that may be required.
- 7.8.2 A Provisional Statement gives the applicant some assurance about the grant of a future application for a Premises Licence. This may be useful if the applicant has insufficient information to be able to complete the operating schedule that is necessary for a Premises Licence application or, if alcohol sales are proposed, is unable to name the proposed Designated Premises Supervisor. An applicant with adequate information could apply, instead, for a Premises Licence at a suitable stage in design and construction.

## **Policy PR1 : Changes to provisional statements**

Where there are any changes to the proposals before a substantive licence is granted, these must be dealt with by way of an application for variation.

Once the Authority has issued a Provisional Statement, it will exclude Representations made about the subsequent application for a Premises Licence if, without reasonable excuse, substantially similar Representations could have been made about the application for the Provisional Statement. However, the Authority recognises that genuine and material changes may arise in the intervening period and the Authority reserves the right to entertain Representations that reflect changed circumstances.

A Provisional Statement may not be sought for a vessel, a vehicle or a moveable structure.

## **8 Operating schedules**

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### **8.1 General**

- 8.1.1 The operating schedule is a key document and, if prepared comprehensively, will form the basis on which premises can be licensed without the need for additional extensive conditions.
- 8.1.2 The Authority expects an operating schedule to indicate the steps that the applicant proposes to promote the licensing objectives. It is particularly important that the operating schedules for appropriate premises should be precise and clear about measures that the management proposes to take to meet the licensing objectives.
- 8.1.3 The following policies are expressed as being relevant to appropriate premises and applicants should have regard to them when preparing their Operating Schedules. They are included to assist applicants in their consideration of how to best to meet the licensing objectives and in doing so may avoid representations being made by Responsible Authorities that may otherwise result in a hearing.

### **8.2 Safety**

- 8.2.1 Safety within premises to which the public are admitted is of fundamental concern and is therefore one of the licensing objectives. All these policies are designed to ensure that the objective is promoted as appropriate to the premises.



- 8.2.2 There are two aspects to safety to take into account, one being the form of construction of the premises, the other being the way in which the patrons are managed once in the premises.
- 8.2.3 The Authority will expect the premises to be constructed to the appropriate standards for the uses to which it is to be put. It expects applicants to have regard to the requirements of Health and Safety at Work and Fire Safety legislation. Where appropriate, applied standards set out in any technical guidance for construction of buildings for a particular purpose should also be met.

#### **Policy OS 1: Operating schedule – Safety**

Those preparing operating schedules and Responsible Authorities should consider:

- (a) Model National and Standard Conditions for Places of Public Entertainment and Associated Guidance (2001) ISBN 1 904031 11 0 (Entertainment Technology Press - ABTT Publications).
- (b) The Event Safety Guide – A Guide to Health, Safety and Welfare at Music and similar events (HSE 1999) (The Purple Book) ISBN 9780717624539
- (c) Managing Crowds Safely (HSE 2000) ISBN 9780717618347
- (d) 5 Steps to Risk Assessment: Case Studies (HSE 1998) ISBN INDG163W/EREV2
- (e) Guide to Fire Precautions in Existing Places of Entertainment and Like Premises (Yellow Guide) 6<sup>th</sup> Impression (2000) HMSO ISBN 9780113409075
- (f) advice from the Fire Officer/Building Control
- (g) Fire Safety Risk Assessment – Open Air Venues ISBN 9781851128235

#### **Policy OS 2: Operating schedule – Premises Management and maintenance**

The Authority would normally expect operating schedules to detail how premises will be properly managed and maintained at all times in relation to the Licensing objectives.

Applicants may wish to include a statement in any operating schedule that the management structures will be such as those that may reasonably be agreed with the Licensing Authority from time to time and deal with the variety of activities taking place on the licensed premises on different days, at different times and in different parts of the premises at the same time.

#### **Policy OS 3: Operating schedule – Log book**

The Authority would normally expect the managers of appropriate premises to maintain a log of activities for the premises that records the details of the manager and staff and the times that they are on duty, with details of incidents such as where people have been refused admission or have been ejected from the premises.

#### **Policy OS 4: Operating schedule – Structural safety**

Part of the building structure may involve suspended structures or other special features that contribute to the entertainment or facilities for enjoyment of the premises. The Authority may want to be assured that in any particular case, checks on equipment or facilities have been carried out and that the necessary evidence of the checks is retained by the Licensee.

#### **Policy OS 5: Operating schedule – Occupancy limits**

The Authority would normally expect the operating schedule for each of the following types of premises to state the occupancy limits:

- (a) cinemas;
- (b) theatres;
- (c) any premises where regulated entertainment is to be provided;
- (d) any other premises, on the advice of a Responsible Authority where there are particular reasons to do so.

The Authority expects the operating schedule to state the occupancy limits of each floor of

such premises and, where appropriate, separate areas on each floor, or under different operating conditions.

#### **Policy OS 6: Operating schedule – Risk assessments**

The Authority will expect to see from the operating schedule that all premises have been subject to a risk assessment. **For guidance to applicants: it is likely that** the Fire Authority **may** require the following information to make appropriate assessments:

- (a) The date of the last fire risk assessment carried out together details of any significant findings.
- (b) Details of any proposed changes or improvements to deal with any significant findings together with timescale for implementation and name(s) of person(s) responsible for ensuring these works are carried out.
- (c) Details of the occupancy numbers for persons permitted to resort to each defined area of the premises and type of use, together with details of management procedures to ensure these limits are not exceeded.
- (d) A copy of the emergency fire action plan for the premises
- (e) A single line scaled plan or architects plan of the premises (preferably 1:100) and including a map if necessary – eg outdoor events. The drawings to show the layout, areas to be licensed, fire safety provisions including fire alarm, emergency lighting, and fire fighting equipment along with details of all fire resisting walls and doors, and escape routes from the premises to a place of ultimate safety together with any significant features
- (f) Details of any Special Effects as referred to in Section 7 of this document including information about any control measures or management procedures to be adopted in respect to these matters.
- (g) Any supporting evidence necessary to confirm appropriate maintenance of fire safety provisions and systems, and evidence of effective management of fire safety in the premises

#### **Policy OS 7: Operating schedule – Premises Access and Egress by Persons with Disabilities**

The Authority envisages reasonable facilities and access being provided for people with disabilities. Details of the Disabled Access Statement should be forwarded to enable the Fire Authority to comment upon the extent to which the evacuation plans for such persons is considered to be suitable and sufficient in the particular circumstances of the premises.

#### **Policy OS 8: Operating schedule – Fire precautions**

The Authority expects the operating schedule to indicate that the premises fully comply with the requirements of the Regulatory Reform (Fire Safety) Order 2005

#### **Policy OS 9: Operating schedule – First aid requirements**

For appropriate premises, the Authority expects to see a risk assessment that identifies the measures that will be taken to deal with the first aid requirements. This will be most relevant to premises where regulated entertainment is provided for large numbers of persons or for prolonged periods and designated first aid areas may be required at appropriate premises.

The Authority expects that anyone designated as a first-aider should be trained to an appropriate standard.

#### **Policy OS 10: Operating schedule – Free drinking water**

**A mandatory condition requires that free tap water is available on request where it is reasonably available.**

### **Policy OS 11: Operating schedule – Smoke Free Premises**

The Authority expects operating schedules to detail how premises will be able to comply with the Health Act 2006 without compromising any of the four objectives.

Applicants may wish to include additional plans to highlight any smoking areas they propose to use.

## **8.3 CCTV**

- 8.3.1 The Authority seeks to further the licensing objective of prevention of crime and disorder through greater use of CCTV in licensed premises, as appropriate to the scale and type of licensable activities proposed. CCTV is in wide use in public areas and has been successful in bearing down on crime and disorder. CCTV has also been in use in nightclubs to complement the CCTV system in public areas and to record information for use in dealing with incidents in clubs.

### **Policy OS 12: Operating schedule – CCTV**

For appropriate premises, the Authority requires the use of CCTV equipment to capture images of appropriate quality, location and frequency. The Authority expects applicants for licences for such premises to demonstrate in their operating schedules that the installation and operational procedures for the equipment at the premises comply with Thames Valley Police's "Standard Minimum Closed Circuit Television Requirements".

## **8.4 Drug control**

- 8.4.1 The Authority seeks to minimise the availability of drugs in furtherance of the public safety and crime and disorder objective. The Authority therefore expects venues to have a comprehensive management approach to eliminating drug use and possession.
- 8.4.2 There are many indications that an increasing number of people are taking illegal drugs and are using a wider range than ever before. This is particularly true of what are often referred to as 'recreational drugs'. Their use, sometimes in places where entertainment is taking place, has led to fatalities.
- 8.4.3 The Authority will actively seek ways in which it can assist in promotional initiatives to highlight the hazards of drug and alcohol abuse.
- 8.4.4 For those venues where drug misuse is an identified risk, measures need to be taken to combat supply, use and the effects of any use. There is advice available about how to control and mitigate the effect of drug-taking, which is relevant for entertainment venues in general and venues which provide intensive dancing, such as 'nightclubs', in particular.

### **Policy OS 13: Operating schedule – Drugs**

The Authority expects licensees, of venues where there is a risk of drug-taking, to take all appropriate steps to prevent drugs from being brought onto the premises and from being traded within the premises, in addition to implementing measures to prevent tragedies as a result of any drug misuse.

The Authority requires licensees of premises that hold prolonged dance events, whether regularly, intermittently or as single events, to produce a drug policy statement. That statement may incorporate the guidance and recommendations in the "Safer Nightlife" booklet (see paragraph 2.7.2).

The Authority expects the operating schedule to show how the whole management structure of the venue is trained and organised to follow the measures agreed for the venue to minimise use of drugs.

Premises that hold prolonged dance events are likely to be required to have SIA registered door staff on duty, so the drugs policy statement for the premises should be explicit about

how the door staff will participate in systems to minimise drug use. In particular, the Authority expects such policies to include clear statements of the procedures for searching customers as a condition of entry.

In appropriate cases **and on receipt of relevant representations** the Authority will consider attaching, to the Premises Licence, conditions that are based upon recommendations detailed in approved guidance on drugs.

## **8.5 Door supervisors**

- 8.5.1 The Authority supports the pro-active use of trained and registered door staff as part of the operational management of some types of premises, because this can reduce the risk of crime, disorder and anti-social behaviour occurring,
- 8.5.2 A Premises Licence that provides for the presence of door supervisors will include a mandatory condition that such door supervisors must be either registered by the Security Industry Authority (SIA) or part of the SIA Approved Contractor Scheme (ACS).
- 8.5.3 The ACS is the mechanism by which the SIA implements the requirements of the Security Industry Act 2001 as it applied to companies. The purpose of the ACS is to “raise performance standards and to assist the private security industry in developing new opportunities “. It aims to achieve this by putting in place a system of inspection for providers of security services. Certification Bodies, like SSAIB, will undertake the inspection activities on behalf of the SIA to ensure that companies who achieve the required standard can be registered as approved.

### **Policy OS 14: Operating schedule – Door Supervisors**

The Authority **may require** Premises holding regulated entertainment that continues beyond midnight to employ door supervisors in furtherance of the licensing objectives **unless it is shown to be unnecessary**.

**In addition to the SIA requirements for registration, the Authority would normally expect door supervisors to comply with the requirements of the “Thames Valley Door Safe” code of conduct whilst they are on duty.**

Where appropriate, the Authority will attach conditions to Premises Licences about the minimum numbers of male and female door supervisors on duty and their roles, which will reflect the layout of the premises, the location, the type of entertainment or function provided and the periods when regulated entertainment normally takes place.

Where a Representation has been made, the Authority may require premises to use door supervisors for particular types of regulated entertainment, which might potentially provoke disorder (e.g. broadcasts of sporting tournaments in pubs) and special promotional events in which the sale of alcohol is significant.

At premises that have regular entertainment or where special events are taking place, other attendants who do not engage in security activities, may be required to supervise areas within the premises.

The Authority expects door supervisors and other staff undertaking security or supervisory duties to be readily identifiable by members of the public and where appropriate to wear high visibility clothing.

## **8.6 Pub-watch & Nightsafe schemes**

- 8.6.1 Pub-watch & Nightsafe schemes are a pro-active means of promoting the licensing objectives. They support the exchange of information and collective agreement on persons being excluded from premises because of anti-social or disruptive behaviour.
- 8.6.2 Responsible managers of appropriate licensed premises will wish to actively participate in such schemes, several of which are in operation in the Authority’s area.

### **Policy OS 15: Operating schedule – 'Pub-watch & Nightsafe' Schemes**

The Authority would normally expect that all premises licensed to sell alcohol will participate in a Pub-watch and/or Nightsafe scheme, where there is one in place and to become part of the alert system(s) that Pub-watch and/or Nightsafe schemes may implement to alert members about potential troublemakers.

## **8.7 Drinks promotions**

- 8.7.1 The Authority has concern about the potential for crime and disorder and public nuisance that might arise from sale of alcohol for consumption on the premises through discounts or special sales promotions. New Mandatory Conditions now require premises licence holders and club premises certificate holders to be able to demonstrate that they have taken all reasonable steps to ensure that staff do not carry out, arrange or participate in, any irresponsible promotions. Further details can be found at Section 7.3.19 of this document. Applicants will need to demonstrate how they intend to achieve this in their operating schedules. The Authority does not wish to deny consumers the opportunity to participate in responsible promotions, but in response to relevant Representations, will restrict activities where it appears that such sales are inadequately supervised, the discounts encourage excessive consumption by individuals, or the period of the promotion too long.
- 8.7.2 Policy OS 16 enables the Authority to consider circumstances where drinks promotions are a regular feature for particular premises and to enable the Police and Authority to consider whether these promotions breach the mandatory condition and/or whether adequate controls are in place to limit or prevent disorder that may result.

### **Policy OS 16: Operating schedule – Discounting and sales promotions**

The Authority expects any discounted drinks and sales promotions to be properly managed and take into account the "Good Practice Guide on Point of Sale Promotions" issued by the British Beer and Pub Association.

The Authority supports measures to promote sensible drinking including a commitment not to participate in drink promotions / happy hours etc, which encourage binge drinking. Premises licences are likely to be subject to review where they have led to any of the licensing objectives being undermined. Licence holders should not only consider the price of the alcohol sold on the premises but also in the manner in which it is promoted.

The Authority expects applicants to include in their operating schedules any proposals for discounting or sales promotions of alcohol and to provide the Authority with written procedures detailing how such promotions will be managed in order to further the licensing objectives, giving particular attention to any increased supervision that may be required on such occasions.

## **8.8 Public Nuisance**

- 8.8.1 The Authority has concern about the potential for public nuisance that might arise from the use of outside areas. The Authority does not wish to deny consumers or premises the opportunity to use such areas, but in response to relevant Representations, conditions may be applied restricting the use of outside areas in order to promote the licensing objectives.
- 8.8.2 Fly posting and littering, as a direct result of promoting a licensed premises or event, can lead to failure to promote the public nuisance objective. The Authority would expect measure to be taken to prevent such occurrences.

### **Policy OS 17: Operating schedule – Public Nuisance Noise**

In considering applications, the Responsible Authority would recommend evidence that the likelihood of public nuisance has been addressed for the premises. The use of outside

areas can potentially cause public nuisance particularly during quieter periods of the day when background noise has diminished. It is anticipated that the Responsible Authority may on occasions request that the operating schedule address measures such as restricting the use of certain areas of the premises e.g. garden area

#### **Policy OS 18: Operating schedule – Public Nuisance Fly Posting and Littering**

The Responsible Authority would normally expect provisions to be made to prevent fly posting and distribution of flyers. We would expect within your operating schedule details of how promotions and special events will be publicised

## **9 Other legislation and controls**

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### **9.1 Other legislation**

9.1.1 The Secretary of State's Guidance proposes that policy statements should provide information on other relevant legislation and controls that apply to licensed premises. This is because the regulatory framework of the 2003 Act will not control all matters that are likely to arouse concern in connection with the operation of licensed premises, including the behaviour of persons away from the immediate vicinity of licensed premises.

9.1.2 Other legislation relevant to licensed premises is as follows:

#### **Planning**

9.1.3 Planning controls are covered above in paragraph 2.8 and Policy GN 8.

#### **Anti Social Behaviour Act 2003**

9.1.4 Section 40 of the Anti Social Behaviour Act 2003 allows the Council's Chief Executive to make a Closure Order against a premises if he reasonably believes that a public nuisance is being caused by noise coming from the premises and it is necessary to close the premises to prevent it. This applies to premises where there is a Premises Licence or a TEN.

#### **Regulatory Reform (Fire Safety) Order 2005**

9.1.5 This Order reforms the law relating to fire safety in non-domestic premises. It replaces fire certification under the Fire Precautions Act 1971 with a general duty to ensure, so far as is reasonably practicable, the safety of employees, a general duty, in relation to non employees to take such fire precautions as may reasonably be required in the circumstances to ensure that premises are safe and a duty to carry out a risk assessment. The Order imposes a number of specific duties in relation to the fire precautions to be taken.

#### **Smoke Free Premises as defined under the Health Act 2006.**

9.1.6 Smoke Free Premises came into effect on 1st July 2007 under the Health Act 2006. The legislation is aimed at ensuring a healthy environment, so everyone can socialise, relax, travel, shop and work free from second-hand smoke.

#### **Disability Discrimination Act 1995**

9.1.7 The Disability Discrimination Act 1995 came into effect in October 2004 and includes widespread responsibilities not to treat people with disabilities in a less advantageous way than other people.

9.1.8 The Authority will not seek to duplicate the requirements of the Disability Discrimination Act 1995 however, in response to representations; the Authority may apply conditions where necessary to ensure the equal treatment of people with



disabilities where they coincide with licensing objectives providing that there is no duplication of a statutory provision.

#### **Race Relations Act 1976 (As Amended)**

- 9.1.9 This places a legal obligation on public authorities to have due regard to the need to eliminate unlawful discrimination; and to promote equality of opportunity and good relations between persons of different racial groups.

#### **Amusement with prizes machines (AWP Machines) Alcohol Licensed Premises gaming machine permits.**

- 9.1.10 The grant of gaming machine permits is granted under Gambling Act 2005 by the Authority. Premises licensed to sell alcohol for consumption on the premise, can automatically have two gaming machines, of categories C and/or D. The holder of the premises licence authorising the sale of alcohol will simply notify the Council, and pay the prescribed fee. If a premises wishes to have more than two machines, then the holder of the premises licence will need to apply for a permit **and pay the prescribed fee.**
- 9.1.11 The Council will accept applications for permits for AWP machines in licensable premises only from the holders, or prospective holders, of Premises Licences and Club Premises Certificates.

#### **Censorship**

- 9.1.12 The content of regulated entertainment is a matter that is already addressed by other laws governing indecency and obscenity.
- 9.1.13 The Authority will not seek to impose conditions that censor the content of any film or play in a way that cannot be related to the licensing objectives. Where the concern is about protecting children, their access will be restricted.

#### **Local Government (Miscellaneous Provisions) Act 1982**

- 9.1.14 Amongst other matters this addresses the issue of prohibited streets and consent streets in relation to street trading.

#### **Health and Safety at Work Act 1974**

- 9.1.15 The Health and Safety at Work Act 1974, also referred to as HASAW or HSW, is the primary piece of legislation covering occupational health and safety in the United Kingdom. The Health and Safety Executive is responsible for enforcing the Act and a number of other Acts and Statutory Instruments relevant to the working environment.

#### **Misuse of Drugs Act 1971**

- 9.1.16 This is the main piece of legislation covering drugs and categorizes drugs as class A, B and C. Offences under the Act include
- Possession of a controlled substance unlawfully
  - Possession of a controlled substance with intent to supply it
  - Supplying or offering to supply a controlled drug (even where no charge is made for the drug)
  - Allowing premises you occupy or manage to be used unlawfully for the purpose of producing or supplying controlled drugs

## **9.2 Other Controls**

- 9.2.1 The Licensing regime for premises and personal licence holders does not provide a means for dealing with all issues that may arise as a result of the operation of licensed premises. **The Authority recognises that other controls, initiatives and legislation are available in promoting the licensing objectives and will support these wherever possible these include:**



- Police enforcement of legislation concerning disorder and anti-social behaviour.
- powers of Local Authorities to designate parts of their area as places where **public consumption of alcohol may be controlled**. There are two such areas in the District in part of Bicester Town Centre and in Banbury;
- prosecution of any Personal Licence holder or member of staff at premises, who is selling alcohol to a person who is drunk;
- test-purchasing to check on sale of alcohol to under-18s;
- litter legislation;
- confiscation of alcohol from anyone in designated areas and from persons under 18 in any public place;
- positive measures to create safe and clean town centre environment in partnership with transport operators, local businesses, the licensed trade etc.
- anti drink-driving campaigns.
- campaigns against domestic violence.
- initiatives to curb binge drinking
- controls on fly-posting

## 10 Reviews and Enforcement Issues for Premises

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### 10.1 Reviews

10.1.1 Under the 2003 Act it is possible for the Authority to review a Premises Licence at any time, if it receives Representations from one or more of the organisations defined as Responsible Authorities or Interested Parties. The Authority may not initiate its own review without having received Representations. Reviews may only arise in connection with a failure or failures in the premises connected to the licensing objectives.

10.1.2 Successful promotion of the licensing objectives relies on a partnership approach between the Authority, licence holders, Interested Parties and Responsible Authorities. Reviews should not therefore be used as a commonplace way of securing adherence to licence conditions or of redressing perceived failures in management of licensed premises.

10.1.3 Reviews in connection with crime, could lead to revocation of the licence - even in the first instance.

#### **Policy RE 1: Reviews (1)**

Generally, unless the Authority regard the issue as serious, a review will only be conducted where there has been a failure to address matters previously raised.

#### **Policy RE 2: Reviews (2)**

Where a request for a review is made, the Authority will expect the person making the Representation to declare the nature of their interest and provide specific evidence to demonstrate why a review is necessary.

#### **Policy RE 3: Reviews (3)**

The Authority will not review licences simply because Representations may have failed on previous occasions or under other legislation.

#### **Policy RE 4: Reviews (4)**

If a request for a review is received from an Interested Party or Responsible Authority, the Authority will decide whether a reasonable interval has elapsed since a previous review, if any, has taken place. It will generally not expect to hold a review into a licence on Representations from an interested person more than annually, unless there are exceptional circumstances.

## 10.2 Enforcement

- 10.2.1 The 2003 Act does not require inspections to take place, save at the discretion of those charged with this role.
- 10.2.2 The Authority will adopt the enforcement principles of risk assessment and targeting, taking into account the nature of the licensed activities, the extent to which the licensing objectives are met and the confidence in the management of the premises. This approach will ensure that enforcement is effectively concentrated on problem premises whilst monitoring the situation in other premises, and provide for efficient deployment of the Council's staff and Police officers.
- 10.2.3 The Council will also undertake pre-event inspections in appropriate situations.

### **Policy EN 1: Enforcement**

The Council will establish and maintain protocols with the local Police and Authorised Persons on enforcement issues.

The Council will seek to ensure that these protocols concentrate on targeting of mutually agreed problems and high-risk premises, while providing a lighter touch in respect of low-risk premises that are well run.

- 10.2.4 There may be occasions when additional inspections will be required, for example following premises alterations, complaints made by Interested Parties or requests by Responsible Authorities.
- 10.2.5 This inspection routine recognises that Premises Licences, unless issued for a specific period of time, have no end date once they have been granted.
- 10.2.6 The Authority has signed the Central and Local Government Concordat on Good Enforcement. Further details of the way in which the Authority will approach enforcement issues are available from the Council's address in Annex A



# Appendices

## **Appendix 1 – The Authority's Area and Licensable Activities**

**THIS APPENDIX WILL BE UPDATED TO REFLECT THE CURRENT CIRCUMSTANCES OF THE DISTRICT COUNCIL AT THE TIME OF PUBLICATION. ANY AMENDMENTS WILL NOT BE MATERIAL TO THE CONSULTATION PROCESS**

The policies have been formulated taking into account the character of the District and the nature of the entertainment and hospitality industry in the District. The area of the District comprises three main urban centres in Banbury, Bicester and Kidlington together with a rural area which comprises some 40% of the District population, which is now in excess of 134,000.

Both Banbury and Bicester being market towns have long provided a focal point for entertainment for people from the immediate surrounding area. Kidlington being situated close to Oxford is affected by entertainment facilities provided there. The District has expanded rapidly in the last 20 years so demand for increased leisure facilities has meant that there has been an expansion of public houses opening late at night in Banbury over the past 8 years, and this has also happened in Bicester and Kidlington. In the rural areas there are many traditional public houses, now often pub/restaurants and there is a great variety of restaurants throughout the District. There are numerous establishments engaged in serving hot food after 11.00 pm which under the new Licensing Act will need to obtain a premises licence.

The ownership and management of many pubs has changed frequently in recent times and this has led to some difficulties for the enforcing Authorities in obtaining consistency in preventative action on incidents of disorder. However, good co-operation generally exists between the Council, Thames Valley Police and licensees to ensure the entertainment and hospitality industry provides good quality, trouble free locations for those who wish to use the Districts facilities for their leisure activities. There has been a well run Door Supervisors Registration Scheme in force for many years throughout the District (managed Thames Valley wide) and there are pub-watch arrangements in force in the urban and rural areas of the District. These are well supported.

The basis of many policies outlined in the statement is founded on the experience developed by the Council over many years as a result of the Council's activities as Licensing Authority for public entertainment, and many of these remain relevant under one or more of the four licensing objectives referred to in the Licensing Act 2003.

The unified approach to licensing will enable the Council to monitor and react to requirements of licensed premises as the District develops.

Positive impacts can be expected in benefits to the local economy in terms of greater basic freedom for premises to offer services during opening hours which suit their customers. Tourism, which is an issue for the Council in terms of the location of the District as a convenient centre for exploring the Cotswolds and Shakespeare country, can be facilitated by establishments being more readily able to provide a range of facilities for their customers and, if the relevant Authorities take up the opportunities, cultural diversity can prosper.

Clearly, increased activity over a likely longer period on opening hours in some cases may have adverse impacts which need to be contained by the action of licensing policy, commensurate with the degree of the impact. Adverse impacts are likely to centre on, noise, public nuisance, and disorder/anti social issues and affect businesses and residents operating or living near to licensed premises.

In keeping with the general thrust of the new legislation, the Council as Licensing Authority is generally minded to encourage all responsibly managed licensed premises to provide well run activities/events and will offer help to applicants to navigate around the licensing policy to comply with the requirements and achieve high standards. The enforcement regime will be targeted to premises which do not appear to be well managed and which therefore give rise to complaint. The Authority will look closely at the whole spectrum of licensable activities on a regular basis and require reports from its Officers, and other organisations involved, such as the Police, to keep it up to date on emerging trends so it can act accordingly.

## Appendix 2 - Other Council policies and strategies

THIS APPENDIX WILL BE UPDATED TO REFLECT THE CURRENT CIRCUMSTANCES OF THE DISTRICT COUNCIL AT THE TIME OF PUBLICATION. ANY AMENDMENTS WILL NOT BE MATERIAL TO THE CONSULTATION PROCESS

The Council has adopted the following local policies, strategies and action plans that are relevant to licensing:

- The Adopted Cherwell Local Plan 1996 and the Adopted Non-Statutory Cherwell Plan
- The Cherwell Community Safety Strategy
- Cherwell District Tourism Plan
- Cherwell District Cultural Strategy
- Town Centre Strategies
- Public Health Strategy
- Drug and Alcohol Action Group
- Pubwatch & Nightsafe Schemes

The following interactions arise from the above policies:-

(i) The Adopted Cherwell Local Plan 1996

- The Cherwell Local Plan contains policies which are directly relevant to licensed premises and their operation - village pubs, and hot food (takeaway) establishments. The adopted Cherwell Local Plan states that the District Council recognises the importance of village services, particularly the local shop and pub, to the local community and will seek to resist the loss of such facilities whenever possible. However, it is recognised that it will be difficult to resist the loss of such facilities when they are proven to be no longer financially viable in the long term.
- In respect of takeaway food establishments these are recognised as having the potential to cause nuisance to nearby residents. Hot food takeaway establishments will therefore normally be resisted in predominately residential areas, and even if they can be permitted, in places such as estate shopping precincts, it is likely that a restriction on hours of operation will be imposed.
- The Planning Authority has prepared a guidance note for hot-food takeaway premises in order to assist the consideration of planning applications (Hot Food Takeaway and Other A3 Uses) and this is available from the Development and Property Services Department at Cherwell District Council, Bodicote House, Bodicote, Banbury, Oxfordshire OX15 4AA.

(ii) Community Safety Strategy

Under the current Crime and Disorder Act Community Safety Strategy there are specific aims that are directed at curbing anti-social behaviour in the district.

Specifically under the overall aims of

- **Reducing drug misuse it is the intention of the strategy to:**

- (1) Reduce disorder and anti-social behaviour that are a direct result of the over consumption of alcohol;
- (2) Protect local communities from drug and alcohol related crime and anti-social behaviour.

- **Reducing nuisance and disorder**

- (1) Approaches will be adopted to reduce the anti-social behaviour and nuisance suffered by residents and visitors;

- (2) Action will be taken to reduce the disorder and violent crime that takes place in urban centres;
- (3) Work will be undertaken to reduce the number of criminal damage offences recorded by the Police.

There is ample research to support the link between criminal damage, violence and disorder and anti-social behaviour and the sale and consumption of intoxicating liquor.

- **Dealing with Domestic Violence Issues**

- (1) Action will be taken to support the victims of domestic violence.

(iii) District Tourism Plan

The Plan sets out a range of actions which inter-relate to licensing in a number of areas as follows:-

- To develop communication and promotional links between local arts venues and artists to create local cultural activity packages to encourage longer stay visitors.
- To review the Council's event promotions and activities to influence development to maximise the total tourist experience.
- To work with local agencies to promote an evening economy in the three urban centres – Banbury, Bicester and Kidlington – through promotions and specific packages.
- Encourage visitors (walkers, cyclists etc) to utilise rural resources such as village shops, post offices, pubs, accommodation, farm shops etc through a range of literature.
- To provide advice, promotion and networking opportunities to support farm diversification into areas such as teashops, farm shops, recreation development and accommodation with support from the Regional Tourist Boards and the Regional Development Agency development initiatives.
- To work with local planning agencies to encourage the development of quality hotels in the area as part of the Cherwell Local Plan.
- Having identified a service shortage, work with the local industry and businesses in Bicester to develop a range of quality inspected accommodation within the town.
- To develop a high quality 'Eating Guide' for the District funded by advertising.

(iv) Cherwell Recreation Development Strategy

The strategy sets out a range of actions which inter-relate to licensing in a number of areas as follows:-

- Encourage travelling theatres, portable cinema equipment and roadshows in rural areas to promote the arts.
- Provide a year-round listing of cultural and recreational events in order to encourage public participation and festival programming for Capital of Culture.
- Provide support to further enhance the current community associations programming.



- Develop further the use of the Courtyard Youth Arts Centre in Bicester for theatre and community cinema.
- Create more participatory cultural activities and facilities for young people.
- Promote community safety and social activity using creative art, to encourage young people and communicate their achievements to their communities.
- Promote further a partnership approach with the retail sector and town planners to develop a thriving evening economy for Banbury, Bicester and Kidlington.

(v) Town Centre Business Plans

The Council has adopted business plans for the urban centres, which have been developed through consultation with key stakeholders, these are: Banbury Town Centre Business and Action Plan 2003 – 2006; Bicester Town Centre Business and Action Plan 2003 – 2006; Kidlington Village Centre Business and Action Plan 2004 – 2007.

The overarching objective of the strategies is to maintain and improve the vitality and viability of the urban centres.

Objectives being pursued which can be affected by licensing policy are:-

- Pro-actively manage and support the growth of the evening economy in the urban centres;
- Use all available powers to exclude known trouble makers from the urban centres;
- Build on the success of the pub watch schemes in the urban centres;
- Establish and support multi-disciplinary groups to consider operational issues relating to the management and growth of the evening economy, in the urban centres;
- Establish and support alcohol free zones in key areas of the urban centres;
- Consider opportunities to establish safe exit strategies from the urban centres, during the night and early morning periods;
- Consider the relevance and feasibility of introducing a urban centres warden service;
- Ensure the effective use of CCTV in the urban centres;
- Encourage a wider range and diversity of activities in the urban centres as part of the evening economy;
- Encourage evening economy premises and other relevant agencies to follow best practice procedures and partnership working,

(vi) Public Health Strategy

Key aims of the Public Health Strategy include:-

- The protection of communities from drug and alcohol related anti-social and criminal behaviour.
- Helping young people resist drug and alcohol misuse.

## **Appendix 3 – Licensing Committee, Licensing Sub-committee procedures – Members Interests and Delegation of functions under the Licensing Act 2003**

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(Note: Regulations define the manner in which hearing procedures take place.)

### **Licensing Sub-Committee – Members' Interests**

1. The Authority will arrange the membership of each Licensing Sub-Committee meeting to suit the business that the Authority must conduct.
2. A Member of a Sub-Committee which is considering licence applications can only participate in the hearing if they do not have a personal and prejudicial interest under the Authority's Code of Conduct for Elected Members. A personal and prejudicial interest may arise through a number of circumstances eg friendship with an applicant for a personal licence or living in close proximity to a set of premises subject to a licence application or being a regular user of particular licensed premises. Members will therefore be alert to these issues and will avoid participating in a Sub-Committee meeting where they would need to declare a personal and prejudicial interest. Another Member, who did not have a declarable interest would then serve on the Sub-Committee instead.
3. Reality is that Members who may serve on Sub-Committees determining licence applications, or reviewing licences when representations have been made, may be lobbied by members of the public. Lobbying can lead to impartiality being called into question. Members need to decide, at an early stage, if they are to be spokespersons for lobbyists or constituents who are making representations about a particular licensing matter. Should they become involved with an issue to the point where they are taking a particular view and representing the interest of those who are opposing a licence application then the Members could not participate in a decision on the matter and will refrain from doing so. Another Member would then serve on the Sub-Committee instead.
4. A Member of a Sub-Committee who is lobbied but who does not intend to participate in any campaign being run by lobbyists should refrain from expressing any view about the matter, should advise lobbyists of any particular procedures that are in place for them to make their views known, and explain to the lobbyists that as a Member, they need to keep an open mind on the matter until they have heard all the evidence and argument at the Sub-Committee hearing.
5. A Member who is a Ward Member for a ward in which a premises application is being considered may serve on a Sub-Committee determining the application provided they do not have a personal and prejudicial interest and provided they have not declared themselves to be part of a campaign in respect of the premises where they have formed a view about the matter and have expressed an intention to vote in a particular way.
6. A Member may submit an individual written representation as a member of the public to a Sub-Committee considering an application, in accordance with any procedures established for the conduct of the hearing either under statutory procedures or under procedures determined by the Authority for conduct of hearings.

## Delegation of functions under the 2003 Act

Matter to be dealt with	Full Committee	Sub-Committee	Authorised Officers
Application for Personal Licence		Police objection (See Note 1)	All other cases
Application for Premises Licence/Club Premises Certificate		Valid Representation (See Note 2)	All other cases
Application for provisional statement		Valid Representation (See Note 2)	All other cases
Application to vary Premises Licence/Club Premises Certificate		Valid Representation (See Note 2)	All other cases
Application to vary Designated Premises Supervisor		Police objection (See Note 1)	All other cases
Request to be removed as Designated Premises Supervisor			All cases
Application for transfer of Premises Licence		Police objection (See Note 1)	All other cases
Applications for interim authorities		Police objection (See Note 1)	All other cases
Application to review Premises Licence/Club Premises Certificate		All cases	
Decision on whether a complaint is irrelevant, frivolous, vexatious, repetitious 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 Representation to a TEN.		All cases	

Note 1 - "Police objection" = If a Police objection has been made and not withdrawn.

Note 2 - "Valid Representation" = If a Representation has been determined by a delegated officer as a relevant Representation from an Interested Party or a Representation has been made by a Responsible Authority and at least one of those Representations is not withdrawn (with the agreement of all parties that a hearing is not necessary).

## Appendix 4 – BBFC Film Classification

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Films would normally be classified by the British Board of Film Classification or the local authority in the following way:

- U Universal – suitable for all
- PG Parental Guidance. Some scenes may be unsuitable for young children.
- 12A (PG12) Passed only for viewing by persons aged 12 years or older or younger persons accompanied by an adult.
- 12 Passed only for viewing by persons aged 12 years or older.
- 15 Passed only for viewing by persons aged 15 years and over.
- 18 Passed only for viewing by persons aged 18 years and over.

In some cases, the PG rating may carry a recommended viewing age – eg PG8 would only be suitable for children over the age of 8, if accompanied by an adult

## **Appendix 5 - Mandatory conditions**

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### **The following mandatory conditions were introduced by Section 19 Licensing Act 2003**

1. No supply of alcohol may be made under the premises licence;
  - (a) at a time when there is no designated premises supervisor in respect of the premises licence, or
  - (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
2. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

### **The following mandatory condition was introduced by Section 20 Licensing Act 2003**

3. The admission of children under the age of 18 to film exhibitions permitted under the terms of the licence shall be restricted in accordance with any recommendations made;
  - (a) by the British Board of Film Classification (BBFC,) where the film has been classified by that Board, or
  - (b) by the Licensing Authority where no classification certificate has been granted by the BBFC, or, where the Licensing Authority has notified the licence holder that section 20 (3) (b) (74 (3)(b) for clubs) of the Licensing Act 2003 applies to the film

### **The following Mandatory Condition was introduced by Section 21 Licensing Act 2003**

4. Where door supervisors are required when the premises is open for any licensable activity, they should all be individually registered with the Security Industry Authority.

### **The following Mandatory Conditions were introduced by Section 32 and Schedule 4 Policing and Crime Act 2009**

1. The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
2. The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
3. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.
5. The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.
6. The responsible person shall ensure that—
  - (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
    - (i) beer or cider: ½ pint;
    - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
    - (iii) still wine in a glass: 125 ml; and
  - (b) customers are made aware of the availability of these measures.

**NOTE: The information in this appendix is correct as at the date that this policy was adopted by the Council and came into effect. After this date subsequent legislation may amend, add to or delete any or all of these mandatory conditions. It is the applicants responsibility to ensure that they are aware of the Mandatory Conditions that are in effect at the date of their application and that may impact upon their application.**

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## Appendix 6 - Personal Licence: Relevant Offences

Under section 113(2) of the 2003 Act, the Secretary of State may amend the list, by order, so as to add, modify or omit any entry.

### 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).
- 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).



**SCHEDULE 1**

Section 1

**PROVISION OF REGULATED ENTERTAINMENT**

**PART 1**

**GENERAL DEFINITIONS**

***The provision of regulated entertainment***

- 1** (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**

- 14 (1) 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**

- 16** (1) 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.

**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—
- (a) 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
  - (b) 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,—
- (a) 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
  - (b) 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—
- (a) be admitted to the premises, nor
  - (b) 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—
- (a) he is a member of a recognised club,
  - (b) he is a person staying at a particular hotel, or at particular comparable premises, for the night in question,
  - (c) he is an employee of a particular employer,
  - (d) he is engaged in a particular trade, he is a member of a particular profession or he follows a particular vocation,
  - (e) 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) a guest house, lodging house or hostel,
  - (b) a caravan site or camping site, or
  - (c) 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—
- (a) the premises may be used for a public exhibition of a kind described in section 21(1) of the Greater London Council (General Powers) Act 1966 (c. xxviii) by virtue of a licence under that section, or
  - (b) 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)—
- (a) the supply of hot drink which consists of or contains alcohol,
  - (b) the supply of hot drink by means of a vending machine,
  - (c) the supply of hot food or hot drink free of charge,
  - (d) the supply of hot food or hot drink by a registered charity or a person authorised by a registered charity,
  - (e) 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 sub-paragraph (1)(b) only if—
- (a) the payment for the hot drink is inserted into the machine by a member of the public, and
  - (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.

**Clubs which are not recognised clubs: members and guests**

- 6 For the purposes of this Schedule—
- (a) the supply of hot food or hot drink to a person as being a member, or the guest of a member, of a club which is not a recognised club is to be taken to be a supply to a member of the public, and
  - (b) the admission of any person to any premises as being such a member or guest is to be taken to be the admission of a member of the public.

## Appendix 9 – Proof of Age documents

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The Licensing Authority also expects Designated Premises Supervisors/Personal Licence holders to ensure that unless it is permitted to do so, serving of alcohol to those under 18 shall not be permitted and that there will therefore be in place in the operating schedule a management protocol to check the age of persons seeking to be served with alcohol.

Appendix 5 outlined how the Policing and Crime Act 2009 had amended the Licensing Act 2003 to bring in some new mandatory conditions. From 1 October 2010 a mandatory condition regarding Proof of Age is introduced. It is as follows:-

1. The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.
2. The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

Consideration should be given to using a “Think 21” policy where anyone considered to look under the age of 21 years old is automatically asked to provide identification.

## Appendix 10 - Summary of the Licensing Act 2003

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The **Licensing Act 2003**, which received Royal Assent on 11th July 2003, **repealed** most of the previous legislation about liquor, public entertainment, theatres, cinemas, late night refreshment houses and night cafes and brings these into a single unified regime. The 2003 Act also introduces tougher powers for the Police, the courts and Licensing Authorities. The intention is to provide greater freedom and flexibility for the hospitality and leisure industry, with an emphasis on greater consumer choice.

The Council **became** the Licensing Authority for its area and administers the licensing regime. **To assist applicants in making their applications for licences the Authority** must first consult on and publish a Statement of Licensing Policy that will promote the following four Licensing Objectives:

- the prevention of crime and disorder;
- the prevention of public nuisance;
- public safety;
- the protection of children from harm.

The Council will promote these objectives by attaching conditions to licences. These conditions will be based upon the details that applicants provide in their operating schedules and may be mandatory, or will result from the determination of an application by a Licensing Committee.

Under the 2003 Act, any of the following “**licensable activities**” will require a licence:

- the retail sale of alcohol and wholesale of alcohol to members of the public;
- the supply of alcohol to members of registered clubs and their guests;
- the supply of hot food or drink between the hours of 11pm and 5am, for consumption on or off the premises (this will include mobile food vans);
- the provision of “**regulated entertainment**” to the public, or to club members or their guests. This includes:
  - (a) **the 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, any playing of recorded music;**
  - (f) **a performance of dance; and**
  - (g) **the provision of facilities for:**
    - (i) making music; and
    - (ii) dancing.

There are exemptions within the above categories and details are subject to regulations.

One of the key elements of the 2003 Act is the removal of standard licensing hours. Premises **are** able to apply for a licence to sell alcohol or provide regulated entertainment at any time (subject to the licensing objectives not being compromised).

Authorisations under the 2003 Act fall into four types:

<b>Premises Licence</b>	For premises, including sites in the open air, where licensable activities are proposed;
<b>Personal Licence</b>	Which authorises an individual to sell alcohol under a <b>Premises Licence</b> ;
<b>Club Premises Certificate</b>	Like a <b>Premises Licence</b> , but with rules to suit club premises;
<b>Temporary Event Notice</b>	Which enables an individual to hold a limited number of events of limited scope and duration that include licensable activities.



Each of these is explained in more detail below:

### Premises licence

- A **Premises Licence** will be required for premises, including sites in the open air, where any licensable activities are proposed.
- If alcohol is to be sold, then the premises must have a **Designated Premises Supervisor** responsible for all sales of alcohol made on the premises. This person must be the holder of a Personal Licence and their name will be endorsed on the Premises Licence.
- Applications to licence new premises, or to amend licences, must be advertised for a period of 28 days outside the premises. Representations from “Authorised Persons” (i.e. Police, fire or environmental health officers) or “Interested Parties” (i.e. local residents, residents’ associations, local businesses and trade associations) can then lead to the Council’s Licensing Committee holding a hearing to decide a licence application.
- A Premises Licence will last in perpetuity. However, the Licensing Committee can review it at any stage, upon request by an Authorised Person or Interested Party because of a matter arising at the premises in connection with any of the four licensing objectives. Conditions can be imposed that promote the licensing objectives, for example requiring noise control measures to control public nuisance.
- Amendments to the Licensing Act 2003 now allow for **community premises (church and village halls)** to apply for the disapplication of Page 98 the Mandatory Condition concerning the supply of alcohol to be authorised by a personal licence holder and the application of the **“alternative licence condition”** requiring that every supply of alcohol under the premises licence is made or authorised by the management committee.

### Personal licence

- A **Personal Licence** will be needed by anyone who wants to allow the retail sale of alcohol as part of his or her business.
- **Personal licences** will be valid for 10 years, unless surrendered, revoked or suspended and holders will be authorised to sell alcohol anywhere in the country at premises that have a valid Premises Licence.
- A Personal Licence holder must have an accredited qualification **and obtain a basic disclosure**.

### Club premises certificate

- A **Club Premises Certificate** will be required by club premises for the supply of alcohol to members and their guests or for the provision of regulated entertainment. This will replace the original Club Registration Certificates for social and other types of clubs and will be similar to a Premises Licence. No **Personal Licence** holder is required for alcohol to be supplied to members and their guests.

### Temporary event notice

- A **TEN** **replaced** the previous “occasional permissions or licences” systems for one-off events (for example school activities, charitable and community events).
- **TENs can** be used for temporary events (which each last up to 96 hours and are at least 24 hours apart) with less than 500 attendees, where “licensable activities” are planned to take place and a suitable Premises Licence is not held.
- No permission is required from the Licensing Authority for these events. However, applicants must give at least 10 **clear** working days notice **(excluding the day of receipt of notification and excluding the day of the event)** to the Police and to the Licensing Authority. If the Police object on the grounds of preventing crime and disorder then the Licensing Committee must hold a hearing to assess the objection. Otherwise the Licensing Authority will acknowledge the notice and the event may be held.
- In any calendar year the number of **TENs** is restricted to 12 for one location, subject to a cumulative maximum of 15 days. (However, a New Year’s Eve event will count as two **TENs**, as it will fall into two calendar years.)

- In any calendar year, a person (over 18) can hold up to 5 **TENs**, whereas a **Personal Licence** holder can hold up to 50. (The same “2 for 1” rule applies to New Year’s Eve. TENs submitted by close associates and family members effectively reduce a person’s annual total.)

(**Responsible Authorities** include the Police, Fire Authority, the local enforcement agency for Health & Safety, the Council’s environmental health and planning services and the local body responsible for matters relating to the protection of children from harm.)

(**Interested Parties** include a person involved in business (or living) in the vicinity of the premises in question, a body representing persons involved in such businesses and a body representing persons living in that vicinity. The 2003 Act does not define the meaning of “vicinity”- this will depend upon interpretation by the courts.)

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**This “Summary of the Licensing Act 2003” is for use as a general guide only.**

Further information on the Licensing Act 2003 (including copies of the Act, explanatory notes and the latest draft of the Guidance) is available from the Government's Department for Culture, Media and Sport Website at [www.culture.gov.uk](http://www.culture.gov.uk).