



# *LICENSING ACT* *2003*

# *STATEMENT OF* *LICENSING POLICY*

Adopted by Regulatory Committee 21<sup>st</sup> October 2004

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**THIS PAGE WILL BE REPLACED  
BY A FOREWORD**

# STATEMENT OF LICENSING POLICY

## 1.0 INTRODUCTION

### Introduction

- 1.1 Braintree District Council is the Licensing Authority under the Licensing Act 2003 and is responsible for granting premises licences, club premises certificates, temporary events notices and personal licences in the District in respect of the sale and/or supply of alcohol and the provision of regulated entertainment and late night refreshment.
- 1.2 When assessing applications, other than personal licences the Licensing Authority must be satisfied that the measures proposed in the applicant's operating schedule aim to achieve the four licensing objectives. Bold type refers to matters that the Licensing Authority expects to see addressed in the applicant's operating schedule, where appropriate. Passages of text that are not in bold are provided to assist applicants to understand what the Licensing Authority is seeking to achieve, the factors that influence the achievement of the licensing objectives and the control measures that could be implemented by the applicant to achieve that outcome. When assessing applications for Personal Licences the four licensing objectives will apply and the Licensing Authority must be satisfied that the tests established by the 2003 Act are fulfilled.
- 1.3 However, it should be recognised that this policy covers a wide variety of premises and activities carried on in them including theatres, cinemas, restaurants, pubs, nightclubs, private members' clubs, village halls and community centres, as well as off-licences and late night food premises and vehicles selling hot food or hot drink after 11p.m. For this reason, this policy cannot detail all the factors that influence the achievement of the licensing objectives nor can this policy detail all the control measures that may be appropriate.
- 1.4 The Human Rights Act 1998 incorporates the European Convention on Human Rights and makes it unlawful for a local authority to act in a way that is incompatible with a Convention right. The Licensing Authority will have particular regard to the following relevant provisions of the European Convention on Human Rights:
- Article 6 that in the determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law;
  - Article 8 that everyone has the right to respect for his home and private life; and
  - Article 1 of the First Protocol that every person is entitled to the peaceful enjoyment of his or her possessions

### The Licensing Objectives

1.5 The 2003 Act requires the Licensing Authority to carry out its various licensing functions so as to promote the four licensing objectives. These are:

- The Prevention of Crime and Disorder
- Public Safety
- The Prevention of Public Nuisance
- The Protection of Children From Harm

These are the only objectives that may be taken into account when determining applications for licences and conditions applied will be those necessary for achieving these objectives.

**1.6 In respect of each of the four licensing objectives, applicants will need to provide evidence to the Licensing Authority that suitable and sufficient measures, as detailed in their operating schedule, will be implemented and maintained, relevant to the individual style and characteristics of their premises and events. Reference will need to be made to whether additional measures will be taken on an occasional or specific basis such as when a special event or promotion is planned, which is intended to, or likely to attract, larger audiences.**

### **Statement of Licensing Policy**

1.7 The 2003 Act further requires that the Licensing Authority publishes a 'Statement of Licensing Policy' that sets out the policies the Licensing Authority will generally apply to promote the licensing objectives when making decisions on applications made under the Act.

1.8 This 'Statement of Licensing Policy' has been prepared in accordance with the provisions of the 2003 Act and having regard to the guidance issued under Section 182 of the Act. It has been drafted in partnership with the Essex Joint Licensing Officers' Forum, the Braintree District Community Safety Responsible Authority Group, which includes the Braintree Crime and Disorder Reduction Partnership and the Braintree Drug and Alcohol Reference Group. These partnerships provide links to the Essex Chief Executives' Association's Crime and Disorder Steering Group, who will maintain a strategic overview of issues associated with permissions issued under the Licensing Act 2003.

1.9 This Policy Statement of licensing policy was reviewed in August, circulated for consultation between 3<sup>rd</sup> September 2007 and 23<sup>rd</sup> November 2007 before being ratified Full Council on 17<sup>th</sup> December 2007. It has effect until 6<sup>th</sup> January 2011.

### Consultation

1.10 There are a number of groups who have a stake in the leisure industry, including providers, customers, residents and enforcers, all of whom have views and

concerns that require consideration as part of the licensing function and promotion of the licensing objectives.

- 1.11 In developing this Policy Statement, the Licensing Authority consulted widely. Along with the statutory consultees (the Chief Police Officer for the District and the Essex County Fire and Rescue Service), the views of existing licence holders, businesses, voluntary groups and residents were also taken into account. Due consideration was given to the views of all those who responded to that consultation process.

### **Links to other Strategies**

- 1.12 In preparing this statement of licensing policy, the Licensing Authority has had regard to and consulted those involved in its local strategies on crime prevention, planning, transport, culture, tourism and economic development, to ensure the proper co-ordination and integration of the aims and actions of these policies. Review and amendment of these strategies will be considered for their impact on this statement of licensing policy. The Local Strategies to which this policy references and under which consultations have proceeded are listed at Appendix 2. In considering applications, the Licensing Authority and applicants should recognise the value of the objectives the strategies seek to promote.
- 1.13 Further, arrangements will be made for the Licensing Committee to receive reports, when appropriate, on the needs of the local tourist economy to ensure that these are reflected in their considerations. The Licensing Committee will also be appraised of the local employment situation and the need for new investment and employment, where appropriate.
- 1.14 To ensure proper integration with the Council's planning policies, the Licensing Committee will provide reports to the Planning Committee, where appropriate, on the situation regarding licensed premises in the area, including the general impact of alcohol related crime and disorder, to enable the planning committee to have regard to such matters when making its decisions.
- 1.15 The Licensing Authority recognises its responsibilities under the Race Relations Act, 1976, as amended by the Race Relations (Amendment) Act, 2000. The impact of this policy on race relations will be monitored through the Council's race equality scheme.

### **Regulated Entertainment**

- 1.16 Having regard to the Council's Cultural Strategy and the International Covenant on Economic, Social and Cultural Rights (ICESCR), ratified in 1976, a diverse provision of cultural activities is welcomed for the benefit of communities. The Licensing Authority will monitor the licensing of regulated entertainment, especially with regard to live music and dancing, theatrical performances,

circuses, etc. to ensure that such events are promoted without unreasonable restrictions being imposed, which would discourage such events. The Licensing Authority will need to balance the natural concern to prevent disturbance in neighbourhoods with the wider cultural benefits, particularly the cultural benefits for children. Advice and guidance on this matter will be sought from the Council's Arts Development Officer.

## Applications

1.17 When considering applications, the Licensing Authority will have regard to

- the Licensing Act 2003 and the licensing objectives,
- Government guidance issued under Section 182 of the Licensing Act 2003,
- any supporting regulations
- this statement of licensing policy

1.18 This does not however undermine the rights of any person to apply under the 2003 Act for a variety of permissions and have the application considered on its individual merits, nor does it override the right of any person to make representations on any application or seek a review of a licence or certificate where they are permitted to do so under the 2003 Act.

1.19 When the Licensing Authority is considering any application, it will avoid duplication with other regulatory regimes, so far as possible, and does not intend to use the licensing regime to achieve outcomes that can be achieved by other legislation. In particular, its licensing functions will be discharged separately from its functions as the local planning authority.

**However, applications for premises licences for permanent commercial premises should normally be from businesses with planning permission, a lawful development certificate or where an application for planning permission or certificate has been made for intended use of the property concerned.** (Other permissions may be applicable to licensed premises and applicants are expected to ensure that such permissions are obtained where necessary.)

1.20 When Braintree District Council is applying for premises licence, the licensing committee and its officers will consider the matter from an entirely neutral standpoint. If relevant representations are made, for example, by local residents or the police, they will be considered fairly by the committee. Those making representations genuinely aggrieved by a positive decision in favour of a local authority application by the licensing authority may be entitled to appeal to the magistrates' court and thereby receive an independent review of any decision made.

1.21 In all cases, applicants and those making representation in respect of applications to the Licensing Authority have a right of appeal to the Magistrates' Court against the decisions of the Licensing Authority.

- 1.22 Appendix 6 provides applicants with the details of the application process, having regard to the Licensing Act 2003, the regulations, statutory guidance and local practice and procedures. It should be noted that incomplete applications will not be accepted but will be returned with an explanation of why it is incomplete.

## **Representations**

- 1.23 The Chief Officer of Police, the Fire Authority, the Enforcing Authority for health and safety purposes, the local planning authority, the authority responsible for minimising or preventing the risk of pollution and the Child Protection Authority are all known as 'Responsible Authorities'. These responsible authorities may make representations on applications for premises licences and club premises certificates, so far as they relate to the promotion of the four licensing objectives, and request reviews once licences have been granted. The Licensing Authority may only consider representations from the Chief Officer of Police in respect of applications for Personal Licences and Temporary Event Notices.
- 1.24 Local residents and businesses, in the vicinity of the premises subject to the application, or their representatives, (known as 'interested parties') are free to raise relevant representations. The Licensing Authority may only consider representations from interested parties in respect of applications for premises licences and club registration certificates. A representation would only be 'relevant' if it relates to the likely effect of the grant of the licence on the promotion of at least one of the four licensing objectives. In addition, the representation must not be frivolous or vexatious, and in the case of reviews, in addition, not repetitious. The term "in the vicinity" is subjective and will ultimately be decided by the Courts. However, as a guideline and in order to ensure clarity of understanding, the Licensing Authority considers an interpretation of the term "in the vicinity" is imperative for applicants and residents. Accordingly as a guideline, the Licensing Authority regards the term as meaning a residence or business sufficiently close to the premises to be directly affected by disorder and disturbance occurring or potentially occurring on those premises or immediately outside as a result of the activities taking place.. This guideline may be reviewed in the future as a result of court action or if legislation is amended.

## **Conditions**

- 1.25 Licensing is about the appropriate control of licensed premises, qualifying clubs, temporary events and the people who manage them or hold personal licences within the terms of the 2003 Act. Where relevant representations are made, the Licensing Authority will seek to make objective judgements as to whether conditions may need to be attached to various authorisations and others in possession of relevant authorisations, to secure achievement of the licensing objectives. Any conditions arising from the operating schedule or as a result of representations will primarily focus on the direct impact of the activities taking

place at licensed premises on those attending the premises and members of the public living, working or otherwise engaged in normal activity in the area concerned and will cover matters that are within the control of individual licensees.

1.26 Braintree District Council acknowledges that the licensing function cannot be used for the general control of the anti-social behaviour of individuals once they are beyond the direct control of the licensee of any premises concerned. However, other mechanisms may be utilised, where appropriate, to tackle unruly or unlawful behaviour of consumers when beyond the control of the individual, club or business holding the licence, certificate or authorisation concerned. These include:

- planning controls
- positive measures to create a safe and clean town environment in partnership with local businesses, transport operators and other departments of the local authority
- the provision of CCTV surveillance in town centres, ample taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols
- powers of local authorities to designate parts of the local authority area as places where alcohol may not be consumed publicly
- police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices
- the prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk
- the confiscation of alcohol from children and adults in designated areas
- police and/or local authority powers to close down instantly for up to 24 hours any licensed premises or temporary events on grounds of disorder, the likelihood of disorder or noise emanating from the premises causing a nuisance
- the power of the police, other responsible authorities or a local resident or business to seek a review of the licence or certificate in question

1.27 If an applicant volunteers a prohibition or restriction in their operating schedule because their own risk assessment has determined such prohibition or restriction to be appropriate, such volunteered prohibitions or restrictions will become conditions attached to the licence, or certificate and will be enforceable as such.

1.28 The Licensing Authority recognises that all applications should be considered on an individual basis and any condition attached to such a licence will be tailored to each individual premises, in order to avoid the imposition of disproportionate and other burdensome conditions on those premises. Standard conditions, other than mandatory conditions, will therefore be avoided and no condition will be imposed that cannot be shown to be necessary for the promotion of the licensing objectives.

## **Delegation of Functions**

- 1.29 With the exception of the approval and review of its Licensing Policy, decisions on licensing matters will be taken in accordance with an approved scheme of delegation aimed at underlining the principles of timely, efficient and effective decision-making. A table setting out how the licensing authority intends to approach its various functions is attached at Appendix 8. The Licensing Committee will receive regular reports regarding licences determined by officers under delegated powers, in order to maintain an overview of the general situation.

### **The Need for Licensed Premises**

- 1.30 There can be confusion about the difference between “need” and the “cumulative impact” of premises on the licensing objectives. “Need” concerns the commercial demand for another pub or restaurant or hotel. This is not a matter for a licensing authority in discharging its licensing functions or for its statement of licensing policy.

### **Cumulative Impact of a Concentration of Licensed Premises**

- 1.31 “Cumulative impact” means the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. The cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for a licensing authority to consider in developing its licensing policy statement.
- 1.32 The Licensing Authority acknowledges that a concentration of licensed premises in a particular area can result in an increased number of people walking through or congregating in streets during the night with the potential impact of an increase in crime, anti-social behaviour, noise pollution and other disturbance to residents, together with an increase in littering or fouling. In such cases the amenity of local residents can be placed under severe pressure but may not be attributable to any individual premises.
- 1.33 The Licensing Authority should only adopt a special policy on cumulative impact if there is evidence that a significant number of licensed premises concentrated in one area is resulting in unacceptable levels of crime and disorder or public nuisance.
- 1.34 The Licensing Authority, having regard to the evidence currently available, considers that there is no particular part of the district causing a cumulative impact on any of the licensing objectives.**
- 1.35 However, the cumulative impact of licensed premises in a particular area may, at a future time, on representation from residents or businesses or a responsible authority, trigger the consideration of whether any additional licences or substantial variations to existing licences, to increase such aspects as capacity or operating hours, would lead to an unacceptable saturation in an area. The onus will be on the objector to provide evidence that additional licences or the variation of existing licences will produce the cumulative impact claimed.

## Advice and Guidance

- 1.36 The Licensing Authority recognises the valuable cultural, social and business importance that premises and events requiring a licence under the Licensing Act provide and welcomes the diversity of activities that are provided by licence holders. In respect of new businesses and developments involving licensable activities, the Licensing Authority welcomes an early opportunity to offer advice and guidance; this includes prior to seeking planning permission. At this stage, it is often easier and more cost effective to integrate such issues as crime and disorder, transport and public safety into the early design stages. With regard to existing businesses, discussions, prior to submitting an application under the Licensing Act 2003, will be encouraged to assist applicants to develop their operating schedule. The Licensing Authority, Essex Police and/or Essex County Fire and Rescue Service will offer as much advice and guidance to applicants, as resources permit.
- 1.37 The Licensing Authority will also seek to liaise with applicants and/or mediate between applicants and others who may make representations, to achieve a satisfactory outcome for all involved, wherever possible and where resources permit. Where an applicant considers that mediation and liaison may be likely or probable, it is recommended that the applicant discuss his proposal with the licensing department/section and those from who they think representations are likely prior to submitting their application. Once an application has been lodged, there are statutory timescales imposed upon the application and determination process, which restrict the opportunity for such discussions, liaison and mediation.
- 1.38 Appendices 3 and 5 provide contact details of various organisations, trade associations and reference literature that an applicant may find useful in preparing an operating schedule and running a safe premises/event.

## Reviews

- 1.39 Where possible and appropriate the Licensing Authority, Essex Police and/or Essex Fire Service will give early warning to licence holders of any concerns about problems identified at premises and of the need for improvement.
- 1.40 Responsible authorities and/or interested parties living in the vicinity can trigger a review of a premises licence but an evidential basis would be required to be presented to the Licensing Authority.
- 1.41 The Authority can generally only determine whether a person is an interested party by reference to the name and address of the person making the application, this authority will not consider any application that fails to provide those details.
- 1.42 The application for review will only be relevant if the grounds upon which it is made relate to the promotion of at least one of the four licensing objectives and is not frivolous, vexatious or repetitive.

- 1.43 No more than one review from interested parties will be normally permitted within any 12 month period on similar grounds except in exceptional and compelling circumstances.

## **Enforcement**

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

- 1.45 The Enforcement Concordat is based on the principles that businesses should:

- receive clear explanations from enforcers of what they need to do and by when;
- have opportunities to resolve differences before enforcement action is taken - unless immediate action is needed;
- receive an explanation of their rights of appeal

A copy of the Enforcement Concordat is available on request.

- 1.46 Braintree District Council recognises the interests of both citizens and businesses and will work closely, with partners, to assist licence holders to comply with the law and the four licensing objectives it seeks to promote. However, proportionate but firm action will be taken against those who commit offences or fail to comply with licence conditions. Braintree District Council has set clear standards of service and performance that the public and businesses can expect. In particular, a licensing enforcement policy is being created that explains how the Council will undertake its role as Licensing Authority and how the principles of effective enforcement will be achieved. This policy is to be freely available from the Licensing Department as are details of the Council's corporate complaints procedures. These documents can also be viewed on the Council's website: [www.braintree.gov.uk](http://www.braintree.gov.uk), when available.
- 1.47 Braintree District Council has established an enforcement protocol with Essex Police, Essex County Fire and Rescue Service and (Essex County Council) Trading Standards on enforcement issues. This protocol provides for the targeting of resources towards high-risk premises and activities that require greater attention, while providing a lighter touch in respect of low risk premises that are well operated.

## **2.0 LICENSING OBJECTIVES**

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

- the prevention of crime and disorder
- public safety

- the prevention of public nuisance
  - the protection of children from harm
- 2.2 In each section relating to the objectives, the Licensing Authority has defined its intended outcome (in bold type). Each section then lists the influencing factors on the achievement of that objective but, because of the wide variety of premises and activities to which this policy applies, the lists provided are not exhaustive. **Applicants should know their premises best and will be expected to address all aspects relevant to the individual style and characteristics of their premises and events.**
- 2.3 Further, in each section, a list of possible control measures is provided, to be of assistance to applicants, but again is not intended to be an exhaustive list. Many control measures achieve more than one objective but have not necessarily been listed under each objective. Similarly, applicants will not be required to mention a control measure more than once in their operating schedule.
- 2.4 **The selection of control measures, referred to in 2.3 above, should be based upon a risk assessment of the premises, events, activities and the customers expected to attend (e.g. their age, number, etc.).** Whilst the Licensing Authority cannot require such risk assessments to be documented, (other than where required by other legislation), it considers such documentation to be good practice and a useful tool in the instruction and training of staff, as well as a sound basis for review by the licence holder, in the event of requiring to make application for variation or in response to changing circumstances/conditions at the premises. In most situations it is good practice that a documented risk assessment would support the operating schedule.
- 2.5 Additional measures may be necessary on an occasional or specific basis such as when a special event (e.g. popular live band) or promotion (e.g. during major sporting occasions) is planned, which is intended to, or likely to attract larger audiences and/or audiences of a different nature, and which can have a significant impact on the achievement of the licensing objectives. **Reference must be made in an applicant's operating schedule, where applicable, to such occasions and the additional measures that are planned in order to achieve the licensing objectives.**
- 2.6 The Licensing Authority considers the effective and responsible management of the premises, instruction, training and supervision of staff and the adoption of best practice to be amongst the most essential control measures for the achievement of all the licensing objectives. **For this reason, these elements should be specifically considered and addressed within an applicant's operating schedule.** For example, it would be good practice for applicants to maintain a register of all personal licence holders working at the premises including names, addresses, licence number and issuing licensing authority.
- 2.7 In addition, the occupancy capacity for premises, and events as appropriate, is also considered to be an essential factor in the achievement of the four

licensing objectives, (except in respect of premises licensed for the consumption of food and/or alcohol off the premises). **The Licensing Authority will expect the issue of occupancy capacity to be considered and addressed, where necessary, within an applicant's operating schedule and, in appropriate instances, will agree a maximum occupancy capacity, based on the applicant's assessment within their operating schedule.**

2.8 The design and layout of premises are important in determining capacity, as is the availability and size of exits within recommended travel distances. Other factors should also be considered when assessing the appropriate capacity for premises or events. These include:

- the nature of the premises or event
- the nature of the licensable activities being provided
- the provision or removal of such items as temporary structures, such as a stage, or furniture
- the number of staff available to supervise customers both ordinarily and in the event of an emergency
- the age of the customers
- the attendance by customers with disabilities, or whose first language is not English
- availability of suitable and sufficient sanitary accommodation
- nature and provision of facilities for ventilation

2.9 The agreement to a capacity for premises or events should not be interpreted as a requirement to also provide permanent monitoring arrangements such as doorstaff, attendance clickers or maintenance of attendance records. The Licensing Authority recognises that the person in charge at the premises can often readily assess the occupancy level of the premises without resort to such measures. **However, where the capacity is likely to be reached (such as on known busy evenings) and particularly where a special event or promotion is planned, the applicant will be expected to detail the additional arrangements that will be put in place to ensure that the capacity of the premises is not exceeded.**

### 3.0 PREVENTION OF CRIME AND DISORDER

3.1 Braintree District Council is committed to further improving the quality of life for the people of the District of Braintree by continuing to reduce crime and the fear of crime. In preparing their operating schedules applicants will be expected to take account of Braintree District Council Community Strategy document together with any annual review documents and the Partners and Communities Together (P.A.C.T.) strategy. Copies are available on request.

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

- 3.3 The promotion of the licensing objective, to prevent crime and disorder, places a responsibility on licence holders to become key partners in achieving this objective. **Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to reduce or prevent crime and disorder on and in the vicinity of their premises, relevant to the individual style and characteristics of their premises and events. (For the term “in the vicinity”, see paragraph 1.24)**
- 3.4 When addressing the issue of crime and disorder, the applicant should demonstrate that those factors that impact on crime and disorder have been considered. For guidance purposes these may include:
- Underage drinking
  - Drunkenness on premises
  - Public drunkenness
  - Drugs
  - Violent behaviour
  - Anti-social behaviour
- 3.5 The following examples of control measures are given to assist applicants who may need to take account of them in their operating schedule, having regard to their particular type of premises and/or activities:
- Effective and responsible management of premises
  - Training and supervision of staff
  - Adoption of best practice guidance (e.g. Safer Clubbing, the National Alcohol Harm Reduction Strategy Toolkit and other voluntary codes of practice, including those relating to drinks promotions e.g. The Point of Sale Promotions published by BBPA, Security in Design published by BBPA and Drugs and Pubs, published by BBPA)
  - Local Alcohol Harm Reduction Strategy
  - Acceptance of accredited ‘proof of age’ cards e.g. PASS, locally approved ‘proof of age’ cards e.g. ‘Prove It’ and/or ‘new type’ driving licences with photographs
  - Provision of effective CCTV in and around premises
  - Employment of Security Industry Authority licensed Doorstaff
  - Provision of toughened or plastic drinking vessels
  - Provision of secure, deposit boxes for confiscated items (‘sin bins’)
  - Provision of litterbins and other security measures, such as lighting, outside premises
  - Membership of local ‘Pubwatch’ schemes or similar organisations
- 3.6 Where applications are made for premises licences involving the supply of alcohol at sporting events, such as football grounds or premises for wrestling or boxing, the Licensing Authority will consider each application on its individual merits.

Applicants should consider in their operating schedule the individual characteristics of these premises and events and the particular nature of control measures that may, for example, be needed relating to the supply/consumption of alcohol in the grounds/at seats/ on the terraces of sporting events. Any applications of this nature will be considered particularly carefully by the Licensing Authority.

- 3.7 Within the operating schedule for premises from which alcohol will be sold, a Premises Supervisor must be designated ('Designated Premises Supervisor' DPS). The Licensing Authority will normally expect the DPS to have been given the day to day responsibility for running the premises by the premises licence holder, and, as such, would normally attend the licensed premises on a regular basis. In addition to the DPS holding a personal licence, the Licensing Authority would strongly encourage the DPS to undergo additional training, or have experience commensurate with the nature and style of entertainment provided and the capacity of the premises.
- 3.8 Certain temporary events are not required to be licensed but can be notified to the Licensing Authority using the Temporary Event Notice procedure. However, depending on the nature and location of such events, these can have serious crime and disorder implications. Organisers of these events are encouraged to submit their notification as soon as reasonably practicable to enable the police and the Licensing Authority to work with them to identify and reduce the risk of crime and disorder, (see appendix 6 for details regarding the application process and timescales for the submission of Temporary Event Notices).

#### 4.0 PUBLIC SAFETY

- 4.1 The Licensing Authority is committed to ensuring that the safety of any person visiting or working in licensed premises is not compromised. **To this end, applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to ensure public safety, relevant to the individual style and characteristics of their premises and events.**
- 4.2 When addressing the issue of public safety, an applicant must demonstrate that those factors that impact on the standards of public safety have been considered. These may include:
- the occupancy capacity of the premises
  - the age, design and layout of the premises, including means of escape in the event of fire
  - the nature of the licensable activities to be provided, in particular the sale or supply of alcohol, and/or the provision of music and dancing and including whether those activities are of a temporary or permanent nature
  - the hours of operation (differentiating the hours of opening from the hours when licensable activities are provided, if different)
  - customer profile (e.g. age, disability)

- the use of special effects such as lasers, pyrotechnics, smoke machines, foam machines, etc.

4.3 The following examples of control measures are given to assist applicants who may need to take account of them in their operating schedule, having regard to their particular type of premises and/or activities:

- Suitable and sufficient risk assessments
- Effective and responsible management of premises
- Provision of a sufficient number of people employed or engaged to secure the safety of the premises and patrons
- Appropriate instruction, training and supervision of those employed or engaged to secure the safety of the premises and patrons
- Adoption of best practice guidance (e.g. Guide to Fire Precautions in Existing Places of Entertainment and Like Premises, The Event Safety Guide, Safety in Pubs published by the BBPA))
- Provision of effective CCTV in and around premises
- Provision of toughened or plastic drinking vessels
- Implementation of crowd management measures
- Proof of regular testing (and certification where appropriate) of procedures, appliances, systems etc. pertinent to safety, where not required by other legislation

## 5.0 PREVENTION OF PUBLIC NUISANCE

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

5.2 The Licensing Authority intends to interpret “public nuisance” in its widest sense, and takes it to include such issues as noise, light, odour, litter and anti-social behaviour, where these matters impact on those living, working or otherwise engaged in normal activity in an area.

**5.3 Applicants need to be clear that the Licensing Authority will normally apply stricter conditions, including controls on licensing hours, where licensed premises are in residential areas and where relevant representations have been received. Conversely, premises for which it can be demonstrated have effective measures planned to prevent public nuisance, may be suitable for 24-hour opening. The Licensing Authority will treat each case on its individual merits, however generally within areas having denser residential accommodation, or where relevant representations are received, the Licensing Authority will have particular regard to the potential for, and risk of nuisance occurring, when considering an application for opening after 23.00 hours. If appropriate, the Licensing Authority will impose stricter conditions to promote the licensing objective for the prevention of public nuisance.**

- 5.4 Where an application involves the provision of regulated entertainment in the form of amplified music after 11pm or live music after 12 midnight then the applicant should consider commissioning a Sound Engineers Report by a person deemed to be a Member of the Institute of Acoustics, a holder of a Diploma in Acoustics or an authorised representative of a Noise Consultancy and submitting it with the Premises Licence application.**

**In preparing the report the applicant should take account of the following matters:-**

- i) The “event noise level” at one metre from the façade of a noise sensitive dwelling shall not at any time, exceed the background noise level by more than 5dB(A). Furthermore, sound from the venue shall be “inaudible” at the noise sensitive dwelling between 23.00 and 09.00 hours.**
- ii) Sound from the venue shall not give rise to structural vibration detectable at any noise sensitive dwelling at anytime.**

### **Definitions**

#### **Background Noise**

**This is the noise level, which is measured as an  $L_{A90}$  for any 15 min period when no performance is taking place, but should be as similar as possible to the conditions that prevail during the performance.**

#### **Noise Sensitive Property**

**This will be any dwelling likely to be affected by noise from the licensed premises normally the nearest dwelling(s).**

#### **The Event Noise Level (ENL)**

**This is the noise level which is measured as  $L_{A eq}$  (an average noise level) for any fifteen minute period of any performance.**

- 5.5 The Licensing Authority will consider each application on its individual merits. Where, in the individual circumstances of an application, the applicant has considered that such a report is not necessary the operating schedule should show what steps will be taken to negate the effect of any noise created on the surrounding residential community.**
- 5.6 In the case of shops, stores and supermarkets selling alcohol, the Licensing Authority will normally permit the hours during which alcohol is sold to match the normal trading hours during which other sales take place, unless there are good reasons for restricting those hours, relating to the prevention of crime and disorder and public nuisance, where relevant representations are made by an interested party or responsible authority. (For example, a**

limitation may be appropriate following police representation in the case of outlets known to be a focus of disorder and disturbance)

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

5.8 When addressing the issue of prevention of public nuisance, the applicant must demonstrate that those factors that impact on the likelihood of public nuisance have been considered. These may include:

- the location of premises and proximity to residential and other noise sensitive premises, such as hospitals, hospices and places of worship
- the hours of opening, particularly between 23.00 and 07.00
- the nature of activities to be provided, including whether those activities are of a temporary or permanent nature and whether they are to be held inside or outside premises
- the design and layout of premises and in particular the presence of noise limiting features
- the occupancy capacity of the premises
- the availability of public transport
- the length of time available between the end of the licensable activities and closure of the premises
- last admission time (premises charging for admission)
- arrangements for the proper collection and disposal of litter and waste in the vicinity of the premises (where relevant the Licensing Committee may place conditions on premises licences to this effect)

5.9 The following examples of control measures are given to assist applicants who may need to take account of them in their operating schedule, having regard to their particular type of premises and/or activities:

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

## 6.0 PROTECTION OF CHILDREN FROM HARM

- 6.1 The protection of children from harm is a most important issue. It is hoped that family friendly premises will thrive, but the risk of harm to children remains a paramount consideration when determining applications.
- 6.2 The general relaxation in the Licensing Act giving accompanied children greater access to licensed premises is a positive step, aimed at bringing about a social change in family friendly leisure. Clearly this relaxation places additional responsibilities upon licence holders. However, it is also recognised that parents and others accompanying children also have responsibilities.
- 6.3 The protection of children from harm includes the protection of children from moral, psychological and physical harm and in relation to the exhibition of films, or transmission of programmes or videos, this includes the protection of children from exposure to strong language and sexual expletives. In certain circumstances children are more vulnerable and their needs will require special consideration. Examples would include topless bar staff, striptease, lap, table or pole dancing, performances involving feigned violence or horrific incidents, feigned or actual sexual acts or fetishism, or entertainment involving strong and offensive language. This vulnerability includes their susceptibility to suggestion, peer group influences, inappropriate example, the unpredictability of their age and the lack of understanding of danger.
- 6.4 The Licensing Authority considers that, on the one hand, there should be no presumption of giving children access or, on the other hand, no presumption of preventing their access to licensed premises. The Licensing Authority has no intention of imposing conditions requiring the admission of children and where no licensing restriction is necessary, admission of children will remain entirely a matter for the discretion of the individual licensee or club, or person who has given a temporary event notice.
- 6.5 Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to protect children from harm, relevant to the individual style and characteristics of their premises and events.**
- 6.6 Whilst children may be adequately protected from harm by the action taken to protect adults, they may also need special consideration and no policy can anticipate every situation. When addressing the issue of protecting children from harm, the applicant must demonstrate that those factors that impact on harm to children have been considered. Areas that will give particular concern in respect of children include:
- where entertainment or services of an adult or sexual nature are commonly provided

- where there have been convictions of members of the current staff at the premises for serving alcohol to minors or with a reputation for underage drinking
- premises with a known association with drug taking or dealing
- where there is a strong element of gambling on the premises, and
- where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.

6.7 The following examples of control measures are given to assist applicants and are considered to be amongst the most essential that applicants should take account of in their operating schedule, having regard to their particular type of premises and/or activities:

- Effective and responsible management of premises
- Provision of a sufficient number of people employed or engaged to secure the protection of children from harm
- Appropriate instruction, training and supervision of those employed or engaged to secure the protection of children from harm
- Adoption of best practice guidance (Public Places Charter, The Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks)
- Limitations on the hours when children may be present, in all or parts of the premises
- Limitations or exclusions by age when certain activities are taking place
- Imposition of requirements for children to be accompanied by an adult
- Acceptance of accredited 'proof of age' cards and/or 'new type' driving licences with photographs
- Measures to ensure children do not purchase, acquire or consume alcohol
- Measures to ensure children are not exposed to incidences of strong and offensive language, violence or disorder

These examples can be adopted in any combination.

6.8 **In the case of film exhibitions, the Licensing Authority will expect licence and certificate holders and those who have given notice of a temporary event within the terms of the 2003 Act to implement measures that restrict children from viewing age-restricted films classified according to the recommendations of the British Board of Film Classification or the Licensing Authority. In the case of a film exhibition that has not been classified, the Licensing Authority will expect the licensee to conduct an assessment of the suitability of the film for exhibition to children and to implement measures that restrict viewing by children if necessary.**

6.9 If considered appropriate, the licensing authority may require that adult supervisors be checked for suitability to work with children.

6.10 The Licensing Authority will rarely impose complete bans on access to children. In exceptional circumstances, conditions restricting access or excluding children completely may be considered necessary.

*Appendix to be completed once the consultation has been completed*

If you would like this policy in an alternative format it can be made available in large print, on tape, in Braille, on CD-rom or an alternative language by contacting 01376 552525 extension 2790 or 2647.