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**EREWASH**



# **LICENSING ACT 2003**

## **STATEMENT OF LICENSING POLICY**

**2015 - 2020**

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# Licensing Act 2003

## Statement of Licensing Policy

### Preface

This Statement of Licensing Policy (the licensing statement) sets out the Erewash Borough Council's policies and proposals for the determination of licence applications and related matters in accordance with the Licensing Act 2003 (the Act).

It replaces the Statement of Licensing Policy adopted by Erewash Borough Council in February 2011. This statement comes into effect on..... 2015.

The licensing statement has been put forward for review in the context of matters arising from:

- The Licensing Act 2003 and any statutory instruments made under it
- Statutory guidance issued under s182 of that Act
- The experiences of Erewash Borough Council as a Licensing Authority
- Relevant matters arising from the Policing and Crime Act 2009, The Equalities Act 2010, the Police Reform and Social Responsibility Act 2011, Live Music Act 2012 and Anti-social Behaviour, Crime and Policing Act 2014
- Erewash Borough Council key policies and strategies as appropriate.

The Council has consulted widely over this licensing statement which sets out the policies to which the Authority will have regard when undertaking its duties under the Licensing Act 2003.

The Authority consulted the persons/organisations listed in Section 5(3) of the Act. Our consultation took place between 1 June 2015 and 7 August 2015

This licensing statement was approved at a meeting of the Licensing and Public Protection Committee on 17 September 2015 and referred to Full Council on 15 October 2015

Copies are available at the licensing offices at Long Eaton Town Hall, Libraries in the Borough or by downloading from the website.

Should you have any comments as regards this licensing statement please send them via e-mail to: '[licensing@erewash.gov.uk](mailto:licensing@erewash.gov.uk)' or by letter to the  
**The Licensing Manager, Civic Centre, Derby Road, Long Eaton NG10 1HU**

## Executive Summary

Erewash Borough Council seeks to promote a sustainable local night time economy. Such an economy must be safe, welcoming, diverse, accessible and attractive to the community and to the population as a whole.

The Licensing Authority acknowledges the potential issues associated with licensable activities in relation to nuisance and anti-social behaviour, which in turn impacts on the community in a variety of ways. It aims to minimise the negative impacts of such an economy, whether on local residents, visitors or the environment.

The Licensing Authority has a crucial role to play achieving this, through the formulation of policy, individual decision-making, promotion and encouragement of best practice and where necessary through enforcement actions. It works in partnership with the Community Safety Partnership, responsible authorities, licensed trade and local communities to identify and resolve issues where possible.

## 1 Introduction

- 1.1 Erewash Borough Council is a Licensing Authority for the purpose of the Licensing Act 2003 (the Act). Section 5 of the Act requires all licensing authorities to prepare and publish a Statement of Licensing Policy that they propose to apply in exercising their functions under the Act. The Statement of Licensing Policy will last for a maximum of five years. The policy must be kept under review and can be revised by the authority at any time it considers appropriate, for instance in the light of feedback from the local community on whether the licensing objectives are being met. The five-year period will commence on the date the policy is published. The Council Statement of Licensing Policy published on the 8 February 2011 will remain in force until replaced by the revised policy.
- 1.2 The Statement of Policy must be produced following consultation with those bodies and persons set out in subsection (3) of section 5. This Statement of Policy meets the requirements of the Guidance issued by the Government under S182 of the Act as revised in March 2015.
- 1.3 The Council is the Licensing Authority under the Act and is responsible for granting premises licences, club premises certificates, and personal licences in the Borough of Erewash in respect of the sale and/or supply of alcohol and late night refreshment and the provision of regulated entertainment.

Erewash Borough 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 the Council acts 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.

1.4 The Statement of Licensing Policy sets out the manner in which applications for licences, which are required by the Act, will be considered by the Council.

1.5 Each application will be considered on its individual merits.

1.6 The entertainment industry brings cultural and financial benefits to the Borough and additional businesses operating in both the daytime and night-time economy support that industry. However, issues such as

- striking an appropriate balance between the needs of residents and the needs of businesses,
- the control of underage and immature drinking,
- the reduction of alcohol related violence and disorder

are matters which are particularly relevant to the exercise of the Council’s licensing functions and ones which applicants and existing licensees also need to consider.

1.7 This Statement of Licensing Policy will not directly seek to regulate matters which are provided for in other legislation but will nonetheless seek to complement and on occasions mirror them to ensure compliance with the licensing objectives.

1.8 In order to sustain a vibrant night-time economy licensees are encouraged to provide a wide range of entertainment activities within the Borough that will promote live music, dance, theatre, etc. for the wider cultural benefit of the community.

1.9 The Authority recognises the appropriate integration of strategic links and other regulatory systems, statutory controls and initiatives which link to the licensing regulatory system including the Erewash Community Safety and Violent Alcohol Harm Licensing Group Partnerships .

## **2 Erewash Borough Council**

2.1 The Borough of Erewash is to be found in the south-east corner of Derbyshire, taking its name from the River Erewash which forms its eastern boundary with Nottinghamshire. The Borough lies between the cities of Derby and Nottingham with the Rivers Trent and Derwent forming its southern and western boundaries.

- 2.2 Erewash is a Borough of sharp contrasts. Approximately 70 per cent of its residents live in the corridor within one mile of the eastern boundary formed by the towns of Ilkeston, Sandiacre and Long Eaton. The remainder of the Borough is predominantly rural consisting of villages set in the pleasant rural landscape typical of the English Shires.
- 2.3 In determining the Statement of Licensing Policy, Erewash Borough Council has taken into account the above factors.
- 2.4 Erewash Borough Council adopted the following Corporate Vision for the period of 2012 – 2016.

‘Putting Erewash on the Map, a first class Borough in which people have pride and where they choose to live, work and play’

The Vision is delivered through the following four Corporate Plan priorities;

- Making Erewash a good place for all to live life to the full
  - Making Erewash even cleaner, greener and safer
  - Working towards a brighter future
  - Delivering excellent services
- 2.5 The Licensing Authority contributes a part in ensuring that all four priorities are achieved. The primary objective is to assist in reducing the levels of crime and the fear of crime, this to ensure a safer Borough, and a good place for all to live life to the full. The Council intends that this Statement of Licensing Policy should support and promote the council’s Corporate Plan priorities and other appropriate Corporate Plans, Policies and Strategies

### **3 Aim of the Council’s Licensing Statement**

- 3.1 The aim of the licensing statement is to secure the safety and amenity of residential communities whilst facilitating a sustainable entertainment and cultural industry within the scope of the Act. In adopting this licensing statement the Council recognises the need to;
- secure the safety and amenity of our communities;
  - facilitate a safe and sustainable licensed trade that contributes to the economy and vibrancy of the Borough;
  - reflect the needs of the Borough’s community in relation to its cultural needs and diversity by supporting licensable activities, including live music, dancing, theatre and the other cultural experiences offered by such activities.
- 3.2 To achieve this aim the Council is committed to partnership working with Derbyshire Constabulary, Derbyshire Fire and Rescue Service, other local

authority services, commerce, including the licensing trade, residents and others towards the promotion of the objectives as set out in this licensing statement.

- 3.3 The licensing statement sets out how the Council intends to promote the licensing objectives pursuant to section 5 of the Act. In accordance with the Act, the licensing statement will be reviewed at least every five years. In the preparation and publication of this licensing statement, the Authority has had regard to the Act, the regulations and the guidance, issued by the Secretary of State under section 182. (hereafter referred to as section 182 guidance).

## **4 Consultation**

- 4.1 Before determining its review of the licensing statement, the Authority must consult the following:

- the chief officer of Derbyshire Constabulary;
- Derbyshire Fire and Rescue Service;
- the Director of Public Health for Derbyshire
- such persons/ bodies which are considered to be representative of holders of premises licence issued by the Authority;
- such persons/ bodies which are considered to be representative of holders of club premises certificates issued by the Authority;
- such persons/ bodies which are considered representative of holders of personal licences issued by the Authority; and
- such persons/ bodies which are representative of businesses and residents in the Council's area.

- 4.2 The views of all the above persons or bodies will be given appropriate weight. The Authority will make all reasonable effort to identify and consult with other persons or bodies that may have an interest and represent all parts of industry affected by the provisions of the Act. **A list of consultees is attached at Appendix 4**

## **5 Scope and purpose of the Policy**

- 5.1 The Council's Statement of Licensing Policy (hereafter referred to as licensing statement) is concerned with the administration of the licensing functions required of the Council under the Act. This policy statement has four main purposes, which are:
- To confirm to elected Members of the Licensing and Public Protection 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 provide a clear process on which licensing decisions are made to support a case in a court of law if the Authority has to show how it arrived at its licensing decisions. –

## **6 Interpretation**

- 6.1 Any words or expressions in this licensing statement have the meanings assigned to them under the Act or regulations made thereunder or, in absence, under section 182 guidance or, in absence, guidance produced by the Authority. Nothing in the licensing statement can be regarded or interpreted so as to prejudice the Act or regulations made thereunder.

## **7 The Council’s licensing function and the licensing objectives**

- 7.1 The Authority will carry out its licensing functions solely with a view to promoting the four licensing objectives in accordance with the requirements of the Act. In carrying out its licensing functions the Authority will have regard to the section 182 Guidance and its licensing statement.

- 7.2 The licensing objectives are:

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

The four licensing objectives have equal importance.

- 7.3 Licensing in this context refers to regulating licensable activities on licensed premises, by qualifying clubs i.e. Member’s clubs and at temporary events within the terms of the 2003 Act. The activities which require a premises licence, club premises certificate or temporary event notice under the provisions of the Act include: -

- Retail sale of alcohol;
- Supply of alcohol by or on behalf of a club, or to the order of a club member;
- Provision of late-night refreshment - the supply of hot food and/or drink from any premises between 11pm and 5am.
- The provision of “regulated entertainment” – to the public, to club members or with a view to profit:
  - a performance of a play;
  - an exhibition of a film;
  - an indoor sporting event;

- boxing or wrestling entertainment;
  - a contest, exhibition or display which combines boxing or wrestling with one or more martial arts (“combined fighting sports”)
  - a performance of live music;
  - any playing of recorded music;
  - a performance of dance;
  - entertainment or similar descriptions
- 7.4 The issue of personal licences is also within the licensing function of the Authority to those resident in its area.
- 7.5 As a result of amendments made to the Act by the Live Music Act 2012 and the Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013, Legislative Reform Order 2014 and the Deregulation Act 2015 the following activities are classed as de-regulated and as such a licence is not required for the following activities, as long as the activity only takes place between 08:00-23:00 on any day:
- a performance of a play in the presence of any audience of no more than 500 people;
  - an indoor sporting event in the presence of any audience of no more than 1,000 people, this includes Greco Roman or free style wrestling
  - most performances of dance in the presence of any audience of no more than 500 people; and
  - live music, where the live music comprises;
    - a performance of unamplified live music
    - a performance of live amplified music in a workplace with an audience of no more than 500 people; or
    - a performance of live or recorded music on licensed premises which takes place in the presence of an audience of no more than 500 people, provided that a number of conditions are satisfied.
- 7.6 Where de-regulated activities take place on licensed premises any licence conditions relating to ‘live’ music or entertainment will be suspended but it is possible to impose new, or reinstate existing, conditions following a review of a premises licence or club premises certificate
- 7.7 When considering whether an activity constitutes ‘the provision of regulated entertainment, ‘each case will be treated on its own merits. There will inevitably be a degree of judgement as to whether a performance is live music or not, so organisers of events should be encouraged to check with the Authority if in doubt.
- 7.8 The Authority recognises that the Act is not a mechanism 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. This is a matter for the Police. The Authority will not, therefore, attempt to control such through its exercise of licensing functions unless clear

evidence links alcohol related violence or disorder to persons having left those premises. The Authority also recognises the impact of drug misuse on and around alcohol licensed premises and will expect premises to adopt a zero tolerance approach and to have reporting procedures in place.

## **8 The Council's approach to applications for premises licences & club premises certificates**

- 8.1 The Authority recognises that each licensing application must be dealt with on its own individual merits and in accordance with the Council's Statement of Licensing Policy
- 8.2 To minimise the number of relevant representations, applicants for a premises licence, club premises certificate or variations should set out their proposals in their operating schedules to demonstrate the steps they intend to take to promote the four licensing objectives and how they will achieve that.
- 8.3 Applicants are encouraged to provide sufficient details, based on the licensable permissions they seek and the location, character, condition, nature and extent of the proposed use and the customer profile likely to resort to the premises and any other relevant matter. Applicants may be required to provide information to demonstrate that consideration has been given to the impact of their licence application on the local area.
- 8.4 The Authority may wish to make a representation as a responsible authority, in order to ensure that appropriate and proportionate conditions are included on a licence where it is not considered clear from an operating schedule.
- 8.5 Applications will not be valid unless made on the correct form, complete and advertised in accordance with Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005. ("The Regulations")
- 8.6 The procedure and documentation required for the application process is prescribed by the Act and Regulations and further advice on the application process is available on the Council's website found at <http://www.erewash.gov.uk/business-licensing.html>.

Where secondary legislation requires applications to be advertised and served on individuals and bodies then the following shall apply to ensure that the legislation has been complied with and that the application is valid.

- Any form of application that is required to be advertised by the Act or Regulations, should be advertised in either the local newspaper or where there is none, in a local newsletter, circular or similar document, which circulates in the vicinity, and

- Proof of advertisement of the application and display of any required notice in accordance with the Regulations shall be provided within 5 working days of such advertisement.
- 8.7 Methods of serving an application for a licence include; by recorded delivery, first class post, by hand or by electronic application facility, the relevant fee must be paid in order for the application to be considered complete.
- Applications received via the electronic application facility can include an electronic signature or this section may be left blank, however, a signed declaration should be provided to the authority within the statutory consultation period.
  - Applications for variation, transfer, or surrender of the licence require the applicant to provide the licence, this may be scanned or if a scanner is not available, a reason why the licence cannot be supplied will be accepted.
  - If an application is made online it will be the responsibility of the Authority to copy the application to relevant responsible authorities on the first working day after the receipt of a valid application and the fee.
  - If part of the application is received in writing it will remain the responsibility of the applicant to copy the whole application to the relevant responsible authorities. In such cases, the application will not be deemed valid unless this is done in accordance with the Act and applicable Regulations.
  - Personal licence applications and renewals, applications for review and representations cannot be served via the electronic application facility. However, applications for review and representations may be received through the normal e-mail procedure if the Authority has made prior agreement.
  - Applications that require notice to be given to the Premises Licence Holder or Designated Premises Supervisor will remain the responsibility of the applicant, even if an online application has been made.
- 8.8 The Act specifies the responsible authorities that must be consulted for each premises licence, club premises certificate or full variation application. **Contact details for these agencies are available at Appendix 1.** It is the applicant's responsibility to ensure that a copy of the application is served on each responsible authority, unless the application is made through the electronic application facility.
- 8.9 In cases where the Council is the responsible authority the applicant must serve a separate copy of the application on each of the various services (i.e. Health and Safety, Environmental Health, Planning etc.) Under the Act the Licensing Authority has two separate roles (responsible authority and administration) It will not be necessary for the applicant to serve two copies on the Licensing Authority.

Consultation periods will not commence until the appropriate responsible authorities have been served with a copy of the application and all relevant documentation required by both the Act and the Council's licensing statement.

- 8.10 Applications for premises licences and many forms of variations must be accompanied by a plan which shall be compliant with the requirements of section 23 (3) of the Licensing Act 2003 (Premises Licences etc.) Regulations 2005.
- 8.11 Plans in support of written and electronic applications, will not be required to be submitted in any particular scale, but they must be in a format which is clear and legible in all material respects i.e. they must be accessible and provide sufficient detail for the Authority to be able to determine the application, including the relative size of any features relevant to the application. In addition to the requirements of section 23 (3), plans should show the location of any CCTV cameras, monitors and recording equipment used in the licensed premises and the position of firefighting equipment and emergency escapes.
- 8.12 All applications for premises licences and full variations will within the Operating Schedule refer to current written risk assessments, which will be available for inspection on request by a Police constable, other responsible authority or other Authorised Officers under the Act.

## **9 Licence Fees**

- 9.1 The Authority will suspend a premises licence or club premises certificate if the annual fee is not paid when it is due.
- 9.2 A grace period of 21 days will be given in cases of dispute of liability or administration error to allow the Authority to resolve the dispute or error. The licence will be suspended if the dispute or error is not resolved during the 21 day grace period.
- 9.3 The Authority will notify the licence / certificate holder in writing and will give at least the minimum of two working days' notice of the date on which the suspension will take effect.
- 9.4 A suspension will cease to have effect when the Authority receives the outstanding fee from the licence/ certificate holder.
- 9.5 Written acknowledgement of the receipt of the outstanding fee will be sent to the licence / certificate holder no later than two working days after the payment is received.
- 9.6 Derbyshire Constabulary will be contacted and advised of any licences/ certificates that are suspended or re-instated on payment of outstanding fee.

## **10 Minor Variation process**

- 10.1 Under sections 41A to 41C of the Licensing Act 2003, an application may be made for small variations that will not impact adversely on the licensing objectives by way of a simplified 'minor variations' process.
- 10.2 Minor variations will generally fall into one of the below categories:
- Minor changes to the structure or layout of the premises
  - The removal of out of date, irrelevant or unenforceable conditions
  - The addition of volunteered conditions
  - The addition of certain licensable activities
  - The removal of licensable activities
- 10.3 The licensee is not required to advertise the variation in a newspaper or copy it to the Responsible Authorities. However, they must display the variation in a white notice at the premises in accordance with Regulations for no less than 10 working days, starting on the working day after the minor variation was given to the Authority.
- 10.4 The Authority shall consider whether the variation could adversely impact upon the licensing objectives. In considering the application, the Authority will consult relevant Responsible Authorities if there is any doubt about the impact of the variation on the licensing objectives or it requires specialist advice.
- 10.5 The Authority will also take into account any relevant representations received from other persons in making a decision on a minor variation application. There is no right to a hearing under the minor variation process.
- 10.6 Applications must be determined within 15 working days, beginning on the first working day after the application was received by the Authority. There is no right to appeal against the decision of the Authority.
- 10.7 Where the Authority considers that the variation could adversely impact upon one or more of the licensing objectives, the application will be refused. If the application is not determined within 15 working days, the licensee will initially be offered the opportunity to treat the undetermined application as a new application.

## **11 Right to Make Representation and Consultation**

- 11.1 The Authority must consider relevant representations as part of its determinations of premises licences and club premises certificates. Relevant representations

can be made in opposition to, or in support of, an application and can be made by a responsible authority or any individual, body or business that has grounds to do so within the prescribed time periods. Where the Authority is of the opinion that representations are frivolous or vexatious, the Act prohibits them being considered as relevant representations.

**Meaning of relevant representation:**

- matters about the likely effect of the grant of the premises licence on the promotion of the licensing objectives with the representation relating to one or more of the licensing objectives; or
- a representation made in respect of a proposed designated premises supervisor if made by the Chief Officer of Police for Derbyshire. Club premises are not required to have a designated premises supervisor.

**Meaning of Responsible Authority:**

- the Licensing Authority
- the Chief Officer of Police for Derbyshire;
- Derbyshire Fire and Rescue Service;
- the health and safety enforcing authority under Health and Safety at Work etc. Act 1974;
- the Council as the local planning authority or under its powers to minimise or prevent the risk of pollution of the environment or of harm to human health;
- Derbyshire Trading Standards
- Derbyshire Safeguarding Children Board;
- Derbyshire Public Health
- Other Councils in whose area part of the premises is situated if the premises straddle the Borough boundary; or,
- Other responsible Authorities as included in the Act.

- 11.2 Representations must be signed, dated, provide the grounds of representation in full and include the name and address of the person / body making the representation. Where exceptional circumstances justify this action the Authority may decide to withhold some or all of the personal detail's from the applicant.
- 11.3 To maximise the efficiency of administering licences and reduce the necessity for representations and hearings, the Authority will actively encourage applicants to consult with the responsible authorities and seek professional guidance from Council services, when operating schedules are being prepared. To allow for liaison to take place in such areas as noise reduction, CCTV, refuse and litter etc.
- 11.4 In promoting the licensing objectives, the Authority will refer complaints about licensed premises/ club premises / temporary events or licensed individuals to its own appropriate service team (e.g. Health and Safety, Pollution Control) or to another agency (e.g. Derbyshire Constabulary, Derbyshire Fire and Rescue Service) for their consideration, in accordance with the Council's own and Derbyshire licensing enforcement protocols.

11.5 The Director of Public Health is responsible for making representations and observations on applications on behalf of health bodies. Public health is not a licensing objective but Public Health is a responsible authority under the Licensing Act, and the Authority believes that public health has much to add to licensing in relation to the local populations' alcohol related health needs. Health bodies such as Public Health have unique access to data not available to other responsible authorities which may inform licensing decisions. Public Health is useful in providing evidence of alcohol related health harms particularly in relation to cumulative impact policies. The Authority recognises the impact of alcohol misuse in Erewash, and it is hoped that through the implementation of this Licensing Policy, the promotion of the four licensing objectives will in turn have a positive effect on preventing alcohol misuse in the Borough.

## **12 Cumulative Impact**

12.1 The Council will not consider the question of need in determining an application. This is not a matter for an Authority or its Statement of Licensing Policy Need is a matter for planning committees and for the market.

12.2 The Council does, however, recognise that in exceptional circumstances the cumulative impact of the number, type and density of licensed/club premises in a given area, may seriously undermine the licensing objectives.

12.3 The Council fully debated the issue of cumulative impact in 2006 and at that time considered there was insufficient evidence to justify the adoption of a cumulative impact policy.

12.4 In order for the Council to consider whether to adopt a cumulative impact policy there should be an evidential basis. The steps to be followed in considering whether to adopt a special policy within the licensing statement are;

- identification of concern about crime and disorder or public nuisance;
- consideration of whether it can be demonstrated that crime and disorder and nuisance are arising and are caused by the customers of licensed premises and, if so, identifying the area from which problems are arising and the boundaries of that area, or that the risk factors are such that the area is reaching a point when a cumulative impact is imminent;
- consultation with those specified by section 5(3) of the Act as part of the general consultation required in respect of the whole licensing statement;
- subject to that consultation inclusion of a special policy about future premises licence or club premises certificate applications from that area within the terms of this Guidance in the licensing statement;



- publication of the special policy as part of the licensing statement required by the Act.
- 12.5 A cumulative impact policy would not prevent the Council considering further applications for premises licences, as these would need to be assessed on their individual merits taking into account the foreseeable impact on the area. It would be incumbent on the applicant to provide the proportionate level of detail to address these special circumstances.
- 12.6 The absence of a cumulative impact policy does not prevent any responsible authority or other person from making representations on a new application for the grant of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives.
- 12.7 The Council regards the adoption of a cumulative impact policy as being exceptional. Many other mechanisms exist outside the licensing regime that are available to address such issues. For example:
- planning controls
  - positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the Council
  - 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 the Council to designate parts of the Borough as places where consumption of alcohol may be restricted
  - enforcement of the normal 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 adults and children in designated areas
  - Derbyshire Constabulary's powers to close down instantly for up to 24 hours (extendable to 48 hours) any licensed premises or temporary events on grounds of disorder, the likelihood of disorder or excessive noise emanating from the premises

- The power of Derbyshire Constabulary, other responsible authorities or other persons to seek a review of the licence or certificate in question.
- The power of Derbyshire Constabulary, to seek a summary review within 48 hours under section 53A of the Act
- Raising a contribution to policing the late night economy through the Late Night Levy between the hours of midnight and 6am.
- Introduction of an Early Morning Restriction Order in whole or part of the Council's area to restrict the sale of alcohol between the hours of midnight and 6am.
- The power to apply a prohibition in a public spaces protection order or closure of premises associated with nuisance or disorder etc. under the Anti-social Behavior, Crime and Policing Act 2014.

These should be supplemented by other local initiatives that similarly address these problems.

- 12.8 Quotas, which pre-determine the individual merits of any application - even in respect of premises selling alcohol for consumption on those premises, will not be used by the Council as such quotas have no regard to the individual characteristics of the premises concerned. Proper regard will be given to those differences and the differing impact they will have on the local community.

### **13 Licensing Hours**

- 13.1 The 2003 Act gives the Authority the power to make decisions regarding licensed opening hours as part of the implementation of its licensing policy statement based on local knowledge and in consultation with other responsible authorities. However, the Authority will not impose pre-determined licensed opening hours and will determine licensing hours on the individual merits of each application.
- 13.2 If relevant representations are received the Authority may impose stricter conditions with regard to noise control in areas which have denser residential accommodation, although this will not prejudice consideration of individual applications where the licensing objectives are observed.
- 13.3 Shops, stores and supermarkets may provide the sale of alcohol for consumption off the premises at any time when the retail outlet is open for shopping unless there is a good reason for restricting them, such as disorder or disturbance. Derbyshire Constabulary would normally be asked to make comment on any alleged patterns of disorder or disturbance and any history of alleged under-age sales.

- 13.4 Where businesses have indicated, when applying for a licence under the Act, that they have also applied for planning permission or that they intend to do so, licensing committees and officers will aim to mutually agree acceptable operating hours with planning counterparts.
- 13.5 Planning permission and building control approval and licensing regimes should be separated to avoid duplication and inefficiency, planning and licensing regimes involve consideration of different, albeit related matters. Licensing committees are not bound by decisions made by a planning committee, and vice versa. Where hours are set as a condition of planning permission and these hours are different to the licensing hours, the applicant must observe the earlier closing time.

## 14 Conditions

- 14.1 Any conditions that are attached to licenses and certificates will be tailored to the individual style and characteristics of the premises and events concerned. Conditions will only be imposed where there is a need to promote the licensing objectives. Standardised conditions will be avoided, but the council may draw from the pools of conditions contained in the best practice guidance issued by the Home Office. **Supporting Guidance – Pools of Conditions is attached at Appendix 3**
- 14.2 There are three types of conditions:  
**Mandatory by 2003 Act** – Mandatory conditions are provided by the Act, amended by the (Mandatory Licensing Conditions) (Amendment) Order 2014 and should be included in every licence and/or club premises certificate. **The Mandatory conditions are attached at Annex 2**

**Proposed by the applicant within the Operating Schedule** - The Authority will not replicate the steps recorded in the applicant's operating schedule and will, where there have been no relevant representations, grant a licence/certificate subject to such conditions transcribed to reflect the applicant's intent with any mandatory conditions set under the Act.

**Imposed by The Authority at a hearing** - The Authority will consider the indirect costs that may arise because of any imposed conditions and consider whether these could be a deterrent to holding events that are valuable to the community or for the funding of good and important causes. Conditions will be:-

- appropriate for the promotion of the licensing objectives.
- precise and enforceable and unambiguous and clear in what they intend to achieve
- should not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation

- tailored to the individual style and characteristics of the premises and events concerned.
- proportionate, justifiable and capable of being met,
- in the direct control of the licence holder and staff i.e. cannot seek to manage the behaviour of customers once they have left the area, but may impact on the behaviour of customers in the immediate vicinity of the premises or as they enter and leave.
- written in prescriptive format and use wording such as must, shall and will.
- standardised conditions will be avoided and may be unlawful when it cannot be demonstrated that they are appropriate for the promotion of the licensing objectives on a case by case basis.

14.3 The Authority will give due regard to the imposition of conditions arising from consultation between the Licensing Enforcement Officer and Responsible Authorities such as the Police and Fire & Rescue Service in order to satisfy the promotion of all four licensing objectives.

## **15 Crime and Disorder**

- 15.1 The Authority will expect the applicant to detail the steps he/she proposes to ensure the deterrence and prevention of crime and disorder. The following issues should be considered in the operating schedule;
- The applicant's intention to engage with recognised local liaison groups, such as pub watch, and/or other groups/organisations (e.g. the Council, Derbyshire Constabulary, the Community Safety Partnership and other agencies) working to promote the licensing objectives in the Borough.
  - Acknowledgement and implementation of the Code of Practice produced by the Portman Group which seeks to ensure that drinks are packaged and promoted in a socially responsible manner and only sold to those who are 18 years old or older;
  - Provision of CCTV for inside and outside the premises and recording equipment; to include details of the type or specification of the system, number of cameras and the proposals for the maintenance of the equipment and retaining and downloading of images.
  - Radio network communication;
  - Search facilities, including, as appropriate metal detection equipment for concealed weapons etc.;
  - Use of safety/shatter-resistant glasses/receptacles;
  - Responsible pricing policies for alcoholic drinks;
  - Measures that are aimed at preventing the incidence, supply and consumption of drugs including the sale and use of new psychoactive substances (NPS) "legal highs".
  - Proof of age monitoring arrangements;
  - Signage and crime prevention notices;
  - Door supervision

- Recording of incidents;
- Capacity limits
- Responsible pricing policies for alcoholic drinks and promotion and events such as happy hours.

**Supporting Guidance – Pools of Conditions is attached at Appendix 3;**

**16 Public Safety**

- 16.1 Licensees must ensure the physical safety of people using the relevant premises or place.
- 16.2 The Authority recognises the protection afforded by the Health & Safety at Work etc. Act 1974 plus the Regulatory Reform (Fire Safety) Order 2005 and other safety legislation. However, where the legislation does not cover the unique circumstances of some regulated activities, the Authority will consider attaching conditions to premises licences and club premises certificates where these are appropriate for the promotion of the public safety licensing objective if relevant representations are received. In particular all premises must comply with the Regulatory reform (Fire Safety) Order 2005 insofar as it applies to the premises.
- 16.3 Applicant's should detail the steps they propose to ensure public safety. The following issues are given to assist applicants who may need to comment on them in their operating schedule;
- The relevance to and, if applicable, the implementation of health & safety at work, fire precautions and other safety legislation;
  - Provision of competent personnel;
  - Maintenance of electrical, fire detection/alarm, emergency lighting, gas appliances and other relevant plan and systems;
  - Capacity limits;
  - The facilities, arrangements and procedures to minimise the harmful effects of drug misuse;
  - Any other relevant matter(s).

Supporting Guidance – Pools of Conditions is attached at Appendix 3

**17 Public Nuisance**

- 17.1 Licensed premises have a significant potential to impact adversely upon communities through public nuisances that arise from their operation. The Licensing Authority will normally apply stricter conditions, including controls on licensing hours, where licensed premises are in residential areas and where significant relevant representations have been received.

17.2 The applicant will only be expected to prevent public nuisance that is under their direct control. The following issues are given to assist applicants who may need to comment on them in their operating schedule;

- Prevent noise and vibration escaping from the premises. Such measures may include sound proofing, air conditioning, acoustic lobbies and sound limitation devices;
- Prevent disturbance by customers arriving at, or leaving the premises, which is usually of greater significance later into the evening and in the early morning. Details may address the potential disturbance caused by queuing;
- Prevent noise and disturbance caused at the premises by persons leaving the building for the purposes of smoking;
- Control nuisance associated with public disturbance;
- The generation of odour, for example from the preparation of food
- Prevent potential litter problems in the vicinity of and caused by their activities including, for example, the distribution of flyers, fly posting and food packaging left by customers from late night refreshment premises;
- Any other relevant matter(s).

17.3 The Authority recognises:-

- the control of nuisance that is not within the vicinity of the premises or the responsibility of the licence holder falls outside the scope of the Act.
- the rich cultural benefit of live entertainment / performances including but not exclusively music, such as singing, jazz, opera dancing, carnival events, comedians, children's entertainers and physical performance artists (egg jugglers and mimes) and theatre.
- and will promote the enjoyment, involvement and celebration of cultural experiences particularly for children, and will balance these benefits against the potential for limited disturbance in neighbourhoods..

17.4 The Authority will have regard to the smoke-free legislation contained within the Health Act 2006 when considering applications in order to ensure that local residents do not suffer from nuisance caused by or in consequence of "smoking solutions" implemented by the licensing premises.

**Supporting Guidance – Pools of Conditions is attached at Appendix 3**

## **18 Children**

18.1 The Authority recognises the great variety of premises for which licences may be sought, for instance theatres, cinemas, restaurants, pubs, nightclubs, cafes, takeaways, community halls and schools.

- 18.2 The Authority will not impose conditions that restrict access to children to any type of premises unless it is considered appropriate to protect them from harm. Example premises which would give rise for concern are:
- where entertainment of an adult or sexual nature is commonly provided;
  - where there have been convictions of members of the current staff for serving alcohol to minors or the premises has a history of convictions for underage drinking at the premises;
  - with a known association for drug taking or dealing;
  - where there is evidence to suggest there will be gambling on the premises (but not for example the simple presence of a small number of cash prize gaming machines);
  - where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.
- 18.3 It would be unusual for the Authority to completely prohibit access of children from premises. The Authority may use the following options in order to protect children from harm;
- limitations on the hours when children may be present;
  - age limitations;
  - limitations or exclusions when certain activities are taking place;
  - requirements for an accompanying adult;
  - full limitations of people under 18 years old from the premises when certain licensable activities are taking place.
- 18.4 The Authority will not impose any condition which requires the admission of children to any premises.
- 18.5 Where the Authority imposes no restriction on access by children it is for the individual licensee or club to ensure the licensing objectives are observed.
- 18.6 The Authority will liaise with Derbyshire Constabulary and Derbyshire County Council's Trading Standards about the extent of unlawful sale and consumption of alcohol to minors and, as appropriate, will be involved in the development of any strategies to control or prevent these unlawful activities and to pursue prosecutions.
- 18.7 The Authority will give considerable weight to representations about child protection matters including the protection of children from moral, psychological and physical harm. This includes not only protecting children from the harms associated directly with alcohol consumption but also wider harms such as exposure to strong language and sexual expletives (for example, in the context of exposure to certain films or adult entertainment).

- 18.8 To minimise the risk to children, young and vulnerable people, premises need to have preventive systems in place to ensure children and vulnerable persons are protected from harm. Staff should be able to recognise the signs of possible abuse or child sexual exploitation and understand their duty to report it. The Authority will consider the need to protect children and vulnerable persons from sexual exploitation when undertaking its licensing functions and will aim to support the relevant agencies in this duty.
- 18.9 Where a responsible authority, or other person presents evidence linking specific premises with harms to children, the Director of Public Health may support a representation with health data about the harms that alcohol can cause to underage drinkers or (such as ambulance data or emergency department attendances by persons under 18 with alcohol related illnesses or injuries). The Authority will liaise with the appropriate bodies at Derbyshire County Council where matters involving safeguarding may exist.

### **Supporting Guidance – Pools of Conditions is attached at Appendix 3**

## **19 Cinemas and Children**

- 19.1 In the case of premises giving film exhibitions, the Authority expects applicants to include in their operating schedule arrangements for enforcing the age restriction on films as classified according to the recommendations of the British Board of Film Classification or other body approved. The Authority may impose age restrictions where a film is not classified.

## **20 Temporary Event Notices (TEN)**

- 20.1 These Notices are for events which are not covered under any licence already issued to the premises or at a premise which does not hold any licence for such an event.
- 20.2 Applications for a Standard TEN must be served on the relevant authorities at least 10 working days before the date of the event Applicants are advised to submit TEN's at least one month before the event to ensure time is given to permit an appeal process.
- 20.3 Applications submitted between 5 and 9 working days before the date of the event would be classed as Late TENS. Late TENS will be refused if a relevant representation is received. Late TENS have no right to an appeal process.
- 20.3 Temporary Event Notices should be sent or delivered to:
- The Licensing Section, Erewash Borough Council, Town Hall, Derby Road, Long Eaton, Derbyshire, NG10 1HU



- Chief Officer of Police, The Licensing Section, Derbyshire Constabulary, D Division Headquarters, Prime Park Way, Chester Green, Derby, DE1 3AB
- The Environmental Health Section, Erewash Borough Council, Merlin House, Merlin Way, Ilkeston, Derbyshire, DE7 4RA

20.4 Two copies of the temporary event notice must be served on the Licensing Section and one copy to be served on the Police and Environmental Health Section for the area in which the premises is situated. The Licensing Authority will endorse one of the two copies and return it to the applicant as acknowledgement.

20.5 The limitations imposed on the use of TENS include

- A maximum period for using premises for licensable activities under the authority of a TEN is 168 hours (7 days).
- A holder of a valid personal licence issued under the Act may hold up to 50 Standard temporary events with up to 10 Late events per year and all other persons may hold up to five Standard temporary events with up to two Late events per year.
- A single premise can hold up to 12 events ( to increase to 15 from 1 January 2016) per calendar year however this must not exceed 21 days in total. A minimum period of 24 hours must apply between events, a TEN submitted for an event occurring less than 24 hours following another event will be rejected.
- A TEN can be given for part of a building such as a single room within larger premises. A clear description of the area in which the licensable activities are to take place should be given in the application.
- A TEN can only be issued for events which restrict the number of people attending to 499 or under.
- Existing conditions may be attached at a hearing where the venue holds a premises licence or club premises certificate and the conditions are appropriate to promote the licensing objectives.

20.6 A TEN will not apply to events over 499 persons and applicants should contact the Authority leaving sufficient time to apply for a premises licence.

20.7 The Authority would expect that organisers of any large scale events over 499 people, where licensable activities are to be taking place, to prepare an event management plan incorporating risk assessments. The authority would expect event organisers to have regards for, and to comply with the Health and Safety Executive publication HSG195 "The Event Safety Guide".

## **21 Integrating Strategies**

21.1 The Authority will ensure its licensing function promotes the licensing objectives through its decision making process and by appropriate use of its powers and through liaison and partnership work. The Authority will secure proper integration with the Local Plan, local crime prevention, planning, community

safety, transport, tourism and cultural strategies and plans in carrying out its licensing function and, more widely, in the interest of the Borough of Erewash.

- 21.2 The Authority recognises the importance of attaching licence conditions that reflect local crime prevention strategies and will have regard to the likely impact of licensing when considering the location, impact, operation and management of all proposed applications. It will give due regard to the legislation and guidance contained within the Violent Crime Reduction Act 2006 and any preceding legislation.

## **22 Equalities Act 2010**

- 22.1 The Authority recognises that the Equalities Act 2010 places an obligation on all public authorities to have due regard to the need to eliminate inequality, discrimination, harassment and victimisation.

## **23 Human Rights Act 1998**

- 23.1 The Authority will implement the Act in a manner consistent with the Human Rights Act 1998. The council will consider the respective human rights of applicants and other parties who may be affected by the grant of licences. Conditions will only be imposed on licences when they are considered to be a proportionate response to the problems they are seeking to address.

## **24 Avoidance of Duplication with other regulatory regimes**

- 24.1 The Authority acknowledges the efforts and responsibilities of other regulators for instance Derbyshire Constabulary, Derbyshire Fire and Rescue Service and the Health and Safety Enforcing Authority under other legislation, which benefit the promotion of the licensing objectives. Licence conditions should not duplicate other statutory provisions. Licence holders should be mindful of requirements and responsibilities placed on them by other legislation.
- 24.2 Where other legislation does not cover the unique circumstances of some licensable activities, the Authority will consider attaching conditions to premises licences and club premises certificates where relevant representations are received and these are appropriate for the promotion of the licensing objectives.

## **25 Enforcement**

- 25.1 The Council will provide adequate resources to enforce the requirements of the Act in accordance with its Enforcement Policy, any enforcement protocols, agreed with other agencies and the Government's Enforcement Concordat.
- 25.2 In determining the most appropriate course of action to secure the licensing objectives the Authority will be mindful of other separate legislation and other

enforcement bodies' powers. Additionally the Authority will take into account any enforcement protocols developed with these organisations and our partners including Derbyshire Constabulary.

## **26 Designated Premises Supervisor and Personal Licence Holders**

- 26.1 The sale and supply of alcohol carries with it greater responsibility than that associated with the provision of regulated entertainment and late night refreshment because of its impact on the wider community, crime and anti-social behaviour.
- 26.2 The Authority accepts that not every person retailing alcohol needs to hold a personal licence, but every sale or supply of alcohol must be authorised by such a licence holder. Such authorisation is a requirement of holding a premises licence under the Act and should be kept at the premises for examination by a Police Officer or other Authorised Officer.
- 26.3 The Authority recognises the responsibility of personal licence holders, particularly the Designated Premises Supervisor in overseeing the day-to-day sale of alcohol. The Council expects there to be clear control in the absence of the Designated Premises Supervisor and sufficient arrangements and numbers of personal licence holders to be present during the hours of operation.
- 26.4 The Authority recognises that the Act retains a special status for bona fide clubs, such as political, working men's clubs and sports and social clubs. This allows alcohol to be supplied for on and behalf of the club without the need for any member or employee to hold a personal licence, or to be named as the Designated Premises Supervisor.
- 26.5 A request may be made to the Authority for the disapplication of the mandatory condition concerning the supervision of alcohol sales by a personal licence holder, and the need for a designated premises supervisor. This only applies to community premises such as Church and Village Halls, and only if the applicant is a committee or board of individuals with responsibility for the management of the premises ("the management committee"). The management committee should notify the Authority if there are changes in the committee composition.

## **27 Review of a Premises Licence or Club Premise Certificate**

- 27.1 The Authority recognises the importance of its ability to review premises licences. The procedures set out in the Act for reviewing premises licences represent a key protection concerning problems associated with crime and disorder, public safety, public nuisance or the protection of children from harm.
- 27.2 The Authority will support Derbyshire Constabulary in reducing serious crime, in particular alcohol related violence and disorder or where the premises have been

used for criminal activity The provisions of section 53A of the Act will offer additional steps to tackle those premises associated with such issues.

## **28 Administration, Exercise and Delegation of Functions**

28.1 The Authority recognises many of the decisions and functions under the Act are purely administrative in nature. In the interest of speed, efficiency and cost-effectiveness the delegation set out in the Council's Constitution sets out various duties of its licensing committee, and officials. (Table 1 in Appendix 7 illustrates the Council's Constitution in this respect).

29 How this policy applies

29.1 All applications for new premises licences or variations need to be supported by an operating schedule. The schedule must specify the steps which the applicant proposes to promote each of the licensing objectives.

29.2 The Authority must grant the application if it does not receive a valid objection (relevant representation) from a responsible authority or other person. The steps proposed by the applicant in the operating schedule will become licence conditions. The Authority will have no discretion to refuse the application or to alter or add to the conditions arising from the operating schedule, subject only to addition of the mandatory conditions under the Act

29.3 Where there are relevant representations, a hearing before a licensing sub-committee (licensing panel) will normally follow. The sub-committee must take such steps as it considers appropriate to promote the licensing objectives. These may include granting the application, adding to or modifying the conditions proposed in the operating schedule or refusing the application.

29.4 The licensing statement has been drawn up in consultation with other expert bodies and responsible authorities, together with community stakeholders. In exercising its discretion, the licensing sub-committee will have regard to this licensing statement. The licensing statement represents the Authority view of the best means of securing the licensing objectives. Applicants are advised to read this licensing statement carefully when drawing up their operating schedule.

29.5 Where there have been relevant representations the Authority will always consider the merits of the case. Conditions will not be applied where the steps proposed by the applicant are sufficient to meet the licensing objectives.

29.6 The contents of this section apply both to premises licences and club premises certificates.

**APPENDIX 1**  
**LICENSING ACT 2003 – RESPONSIBLE AUTHORITIES**

<b>LICENSING AUTHORITY</b>	Licensing Section Erewash Borough Council Civic Centre Derby Road Long Eaton Derbyshire NG10 1HU	Tel: 0115 9072244 Fax: 0115 9072267  licensing@erewash.gov.uk
<b>POLICE</b>	Derbyshire Constabulary D Division Headquarters Prime Park Way Chester Green Derby DE1 3AB	Tel: 0300 1224911 Fax: 0300 1227737 Email: derby.licensing@derbyshire.pnn.police.uk
<b>FIRE AUTHORITY</b>	Derbyshire Fire and Rescue Service – East Area Office Ilkeston Fire Station Derby Road Ilkeston Derbyshire DE7 5EZ	Tel: 0115 9320222/ 9326832 Fax: 0115 9447506
<b>ENVIRONMENTAL PROTECTION</b>	Environmental Protection Team Environmental Health Erewash Borough Council Merlin House Merlin Way Ilkeston Derbyshire DE7 4RA	Tel: 0115 9316030 Fax: 0115 9316079 Email: environmentalhealth@erewash.gov.uk
<b>ENFORCING AUTHORITY FOR HEALTH AND SAFETY AT WORK etc. ACT 1974</b>	Food, Health and Safety Team Environmental Health Erewash Borough Council Merlin House Merlin Way Ilkeston Derbyshire DE7 4RA	Tel: 0115 9316030 Fax: 0115 9316079 Email: environmentalhealth@erewash.gov.uk
<b>For premises where the Health and Safety Executive has enforcement responsibility:-</b>	Noelle Walker H.M Inspector of Health & Safety Health & Safety Executive City Gate West Tollhouse West Nottingham NG1 5AT	Tel: 0115 9712856 Fax:0115 9712802 Email: Noelle.walker@hse.gsi.gov.uk
<b>TRADING STANDARDS</b>	Ian Milward Trading Standards Unit Derbyshire County Council Chatsworth Hall Chesterfield Road Matlock Derbyshire, DE4 3FW	Tel: 01629 580000 x 6181 or x 6187 Fax:01629 585917 Email: trading_standards@derbyshire.gov.uk
<b>PLANNING</b>	Development Control Section Erewash Borough Council The Civic Centre Derby Road Long Eaton Derbyshire, NG10 1HU	Tel: 0115 9072240 Fax: 0115 9072267 Email: planning@erewash.gov.uk
<b>DERBYSHIRE SAFEGUARDING CHILDREN BOARD</b>	Safeguarding Children Board Derbyshire County Council Chatsworth Hall Chesterfield Road Matlock Derbyshire, DE4 3FW	Tel: 01629 532178 Email: trading_standards@derbyshire.gov.uk
<b>DERBYSHIRE PUBLIC HEALTH</b>	Derbyshire Public Health Derbyshire County Council Chatsworth Hall Chesterfield Road Matlock Derbyshire, DE4 3FW	Tel: 01629 536180 Email: trading_standards@derbyshire.gov.uk

## APPENDIX 2

### MANDATORY CONDITIONS PROVIDED BY THE LICENSING ACT 2003

No alcohol may be supplied unless there is a designated premises supervisor in respect of the premises licence or if the designated premises supervisor does not hold a licence or has had his/her personal licence suspended.

- 1) Every supply of alcohol under the premises licence must be made or authorised by a person who holds a person licence.

### **(Mandatory Licensing Conditions) (Amendment) Order 2014**

- 1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
- 2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises:-
  - a) games or other activities which require or encourage, or are designed to require or encourage, individuals to-
    - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
    - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
  - b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
  - c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
  - d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.
  - e) dispensing alcohol directly by one person into the mouth of another ( other than where that other person is unable to drink without assistance by reason of disability).
- 3) The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

- 4) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol:-
  - a) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
  - b) 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 either-
    - c) a holographic mark, or
    - d) an ultraviolet feature
  
- 5) The responsible person must 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 – 25ml or 35ml; and
    - (iii) Still wine in a glass – 125ml; and
  - b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
  - c) where a customer does not, in relation to the sale of alcohol, specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

#### **Mandatory Licensing Conditions in force from 28 May 2014**

- 1) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
- 2) For the purposes of the condition set out in paragraph 1—
  - (a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
  - (b) “permitted price” is the price found by applying the formula—  $P = D + (D \times V)$  where— (i) P is the permitted price, (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
  - (c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence— (i) the holder of the premises licence, (ii) the designated premises supervisor (if any) in respect of such a licence, or (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994.

3) Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

4) (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day (“the first day”) would be different from the permitted price on the next day (“the second day”) as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.”

### **CONDITIONS RELATING TO THE PREVENTION OF CRIME AND DISORDER**

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

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

Conditions enforcing these arrangements are therefore unnecessary.

The following options in Annex 3 should be considered as measures which, if appropriate, would promote the licensing objectives when:-

- applicants for premises licences or club premises certificates are preparing their operating schedules or club operating schedules,
- responsible authorities are considering such applications and
- licensing authorities are considering applications following the receipt of any relevant representations from a responsible authority or other person,.



## APPENDIX 3

### Supporting Guidance – Pools of Conditions

The content of this guidance broadly reflects but is not the statutory guidance (or any part of the statutory guidance) issued by the Secretary of State under section 182 of the Licensing Act 2003. This good practice guidance should be viewed as indicative and may be subject to change. Revised statutory guidance issued under section 182 of the Licensing Act 2003 was laid in Parliament on 25 April 2012 and is available on the Home Office website.

### CORE PRINCIPLES

1. Licensing authorities and other responsible authorities (in considering applications) and applicants for premises licences and clubs premises certificates (in preparing their operating schedules) should consider whether the measures set out below are appropriate to promote the licensing objectives.

2. Any risk assessment to identify appropriate measures should consider the individual circumstances of the premises and the nature of the local area, and take into account a range of factors including:

- the nature, type and location of the venue;
- the activities being conducted there and the potential risk which these activities could pose to the local area;
- the location (including the locality in which the premises are situated and knowledge of any local initiatives); and
- the anticipated clientele.

Under no circumstances should licensing authorities regard these conditions as standard conditions to be automatically imposed in all cases.

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

4. Licensing authorities should carefully consider conditions to ensure that they are not only appropriate but realistic, practical and achievable, so that they are capable of being met. Failure to comply with conditions attached to a licence or certificate could give rise to a prosecution, in particular, as the provision of unauthorised licensable activities

under the 2003 Act, which, on conviction would be punishable by an unlimited fine or up to six months imprisonment or both. As such, it would be wholly inappropriate to impose conditions outside the control of those responsible for the running of the premises. It is also important that conditions which are imprecise or difficult to enforce must be excluded.

## PART 1. CONDITIONS RELATING TO THE PREVENTION OF CRIME AND DISORDER

### RADIO LINKS AND TELEPHONE COMMUNICATIONS

Two-way radio links and telephone communications connecting staff of premises and clubs to local police and other premises can enable rapid responses to situations that may endanger the customers and staff on and around licensed premises. It is recommended that radio links or telephone communications systems should be considered for licensed premises in city and town centre leisure areas with a high density of premises selling alcohol. These conditions may also be appropriate in other areas. It is recommended that a condition requiring a radio or telephone link to the police should include the following requirements:

- the equipment is kept in working order (when licensable activities are taking place);
- the link is activated, made available to and monitored by the designated premises supervisor or a responsible member of staff at all times that the premises are open to the public;
- relevant police instructions/directions are complied with where possible; and
- instances of crime or disorder are reported via the radio link by the designated premises supervisor or a responsible member of staff to an agreed police contact point.

### DOOR SUPERVISORS

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

- keeping out individuals excluded by court bans or by the licence holder;
- searching those suspected of carrying illegal drugs, or carrying offensive weapons;
- assisting in the implementing of the premises' age verification policy; and
- ensuring that queues outside premises and departure of customers from premises do not undermine the licensing objectives.

Where the presence of door supervisors conducting security activities is to be a condition of a licence it may be appropriate for conditions to stipulate:

- That a sufficient number of supervisors be available (possibly requiring both male and female supervisors);
- the displaying of name badges;
- the carrying of proof of registration; and
- where, and at what times, they should be in operation.

All door supervisors must be registered with the Security Industry Authority , Door supervisors also have a role to play in ensuring public safety (see Part 2) and the prevention of public nuisance (see Part 4).

## RESTRICTING ACCESS TO GLASSWARE

Traditional glassware and bottles may be used as weapons or result in accidents and can cause very serious injuries. Conditions can prevent sales of drinks in glass for consumption on the premises. This should be expressed in clear terms and can include the following elements:

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

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

- bottles containing wine may be given to customers for consumption with a table meal if those customers are seated in an area set aside from the main bar area..

The banning of glass may also be a relevant and appropriate measure to promote public safety (see Part 2).

## ALTERNATIVES TO TRADITIONAL GLASSWARE

Where appropriate, consideration should therefore be given to conditions requiring the use of safer alternatives to prevent crime and disorder, and in the interests of public safety. Location and style of the venue and the activities carried on there are particularly important in assessing whether a condition is appropriate. For example, the use of glass containers on the terraces of some outdoor sports grounds may obviously be of concern, and similar concerns may also apply to indoor sports events such as boxing matches. Similarly, the use of alternatives to traditional glassware may be an

appropriate condition during the showing of televised live sporting events, such as international football matches, when there may be high states of excitement and emotion.

## OPEN CONTAINERS NOT TO BE TAKEN FROM THE PREMISES

Drinks purchased in licensed premises or clubs may be taken from those premises for consumption elsewhere. This is lawful where premises are licensed for the sale of alcohol for consumption off the premises. However, consideration should be given to a condition preventing customers from taking alcoholic and other drinks from the premises in open containers (e.g. glasses and opened bottles) for example, by requiring the use of bottle bins on the premises. This may again be appropriate to prevent the use of these containers as offensive weapons, or to prevent consumption of alcohol, in surrounding streets after individuals have left the premises. Restrictions on taking open containers from the premises may also be appropriate measures to prevent public nuisance (see Part 4).

## CCTV

The presence of CCTV cameras can be an important means of deterring and detecting crime at and immediately outside licensed premises. Conditions should not just consider a requirement to have CCTV on the premises, but also the precise location of each camera, the requirement to maintain cameras in working order, to retain recordings for an appropriate period of time and produce images from the system in a required format immediately to the police and local authority. The police should provide individuals conducting risk assessments as part of preparing their operating schedules with advice on the use of CCTV to prevent crime.

## RESTRICTIONS ON DRINKING AREAS

It may be appropriate to restrict the areas of the premises where alcoholic drinks may be consumed after they have been purchased. An example would be at a sports ground where it is appropriate to prevent the consumption of alcohol on the terracing during particular sports events. Conditions should not only specify these areas, but indicate the circumstances and times during which the ban would apply. Restrictions on drinking areas may also be relevant and appropriate measures to prevent public nuisance (see Part 4).

## CAPACITY LIMITS

Capacity limits are most commonly made a condition of a licence on public safety grounds (see Part 2), but can also be considered for licensed premises or clubs where overcrowding may lead to disorder and violence. If such a condition is appropriate, door supervisors may be required to ensure that the numbers are appropriately controlled (see above).

## PROOF OF AGE CARDS

It is unlawful for persons aged under 18 years to buy or attempt to buy alcohol just as it is unlawful to sell or supply alcohol to them. To prevent the commission of these criminal offences, the mandatory conditions require licensed premises to ensure that they have in place an age verification policy. This requires the production of age verification (which must meet defined criteria) before alcohol is served to persons who appear to staff at the premises to be under 18 (or other minimum age set by premises).

Such verification must include the individual's photograph, date of birth and a holographic mark e.g. driving licence, passport, military ID. Given the value and importance of such personal documents, and because not everyone aged 18 years or over necessarily has such documents, the Government endorses the use of ID cards which bear the PASS (Proof of Age Standards Scheme) hologram. PASS is the UK's national proof of age accreditation scheme which sets and maintains minimum criteria for proof of age card issuers to meet. The inclusion of the PASS hologram on accredited cards, together with the verification made by card issuers regarding the personal details of an applicant, gives the retailer the assurance that the holder is of relevant age to buy or be served age-restricted goods. PASS cards are available to people under the age of 18 for other purposes such as access to 15 rated films at cinema theatres so care must be taken to check that the individual is over 18 when attempting to purchase or being served alcohol.

## CRIME PREVENTION NOTICES

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

## DRINKS PROMOTIONS

Licensing authorities should not attach standardised blanket conditions promoting fixed prices for alcoholic drinks to premises licences or club licences or club premises certificates in an area. This may be unlawful under current law. It is also likely to be unlawful for licensing authorities or the police to promote generalised voluntary schemes or codes of practice in relation to price discounts on alcoholic drinks, 'happy hours' or drinks promotions. The mandatory licensing conditions (see chapter 10 of the statutory guidance) ban defined types of behaviour referred to as 'irresponsible promotions'.

## SIGNAGE

It may be appropriate that the hours at which licensable activities are permitted to take place are displayed on or immediately outside the premises so that it is clear if breaches of these terms are taking place. Similarly, it may be appropriate for any restrictions on the admission of children to be displayed on or immediately outside the premises to deter those who might seek admission in breach of those conditions.

## LARGE CAPACITY VENUES USED EXCLUSIVELY OR PRIMARILY FOR THE “VERTICAL” CONSUMPTION OF ALCOHOL (HVVDs)

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

Where appropriate, conditions can be attached to licences for these premises which require adherence to:

- a prescribed capacity; an appropriate ratio of tables and chairs to customers based on the capacity; and
- the presence of security staff holding the appropriate SIA licence or exemption (see Chapter 10 to control entry for the purpose of compliance with the capacity limit.

## PART 2. CONDITIONS RELATING TO PUBLIC SAFETY

The attachment of conditions to a premises licence or club premises certificate will not relieve employers of their duties to comply with other legislation, including the Health and Safety at Work Act 1974 and associated regulations; and, especially, the requirements under the Management of Health and Safety at Work Regulations 1999 and the Regulatory Reform (Fire Safety) Order 2005 to undertake risk assessments. Employers should assess the risks, including risks from fire, and take measures necessary to avoid and control them. Conditions enforcing these requirements are therefore inappropriate.

From 1 October 2006 the Regulatory Reform (Fire Safety) Order 2005 replaced previous fire safety legislation. Licensing authorities should note that under article 43 of the Regulatory Reform (Fire Safety) Order 2005 any conditions imposed by the licensing authority that relate to any requirements or prohibitions that are or could be imposed by the Order have no effect. This means that licensing authorities should not seek to impose fire safety conditions where the Order applies. See Chapter 2 of the statutory guidance for more detail about the Order or <http://www.communities.gov.uk/fire/firesafety/firesafetylaw/>

## GENERAL

Additional matters relating to cinemas and theatres are considered in Part 3. It should also be recognised that special issues may arise in connection with outdoor and large scale events.

In addition, to considering the points made in this Part, those preparing operating schedules or club operating schedules; and licensing authorities and other responsible authorities may consider the following guidance, where relevant:

- Model National and Standard Conditions for Places of Public Entertainment and Associated Guidance ISBN 1 904031 11 0 (Entertainment Technology Press – ABTT Publications)
- The Event Safety Guide – A guide to health, safety and welfare at music and similar events (HSE 1999) (“The Purple Book”) ISBN 0 7176 2453 6
- Managing Crowds Safely (HSE 2000) ISBN 0 7176 1834 X
- 5 Steps to Risk Assessment: Case Studies (HSE 1998) ISBN 07176 15804
- The Guide to Safety at Sports Grounds (The Stationery Office, 1997) (“The Green Guide”) ISBN 0 11 300095 2 Safety Guidance for Street Arts, Carnival, Processions and Large Scale Performances published by the Independent Street Arts Network, copies of which may be obtained through: [www.streetartsnetwork.org.uk/pages/publications.htm](http://www.streetartsnetwork.org.uk/pages/publications.htm)  
The London District Surveyors Association’s “Technical Standards for Places of Public Entertainment”  
ISBN 0 9531229 2 1

The following British Standards should also be considered:

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

In most premises, therefore, relevant legislation will provide adequately for the safety of the public or club members and guests. However, where this is not the case, consideration might be given to the following conditions.

## SAFETY CHECKS

- Safety checks are carried out before the admission of the public.
- Details of such checks are recorded and available to the relevant authorities for inspection.

## ESCAPE ROUTES

- Exits are not obstructed (including by curtains, hangings or temporary decorations), and accessible via non-slippery and even surfaces, free of trip hazards and clearly identified.
- Where chairs and tables are provided in restaurants and other premises, internal gangways are kept unobstructed.
- All exits doors are easily opened without the use of a key, card, code or similar means.
- Doors at such exits are regularly checked to ensure that they function satisfactorily and a record of the check kept.
- Any removable security fastenings are removed whenever the premises are open to the public or occupied by staff.
- The edges of the treads of steps and stairways are maintained so as to be conspicuous.

## PEOPLE WITH DISABILITIES

That adequate arrangements exist to enable the safe evacuation of people with disabilities and in the event of an emergency; on the premises people with disabilities must be made aware of those arrangements.

## LIGHTING

- That lighting in areas accessible to the public, members or guests shall be adequate when they are present.
- That emergency lighting functions properly.
- In the event of the failure of normal lighting, where the emergency lighting battery has a capacity of one hour, arrangements are in place to ensure that the public, members or guests leave the premises within 20 minutes unless within that time normal lighting has been restored and the battery is being re-charged; and, if the emergency lighting battery has a capacity of three hours, the appropriate period by the end of which the public should have left the premises is one hour.

## CAPACITY LIMITS

- Arrangements are made to ensure that any capacity limit imposed under the premises licence or club premises certificate is not exceeded.



- The licence holder, a club official, manager or designated premises supervisor should be aware of the number of people on the premises and be required to inform any authorised person on request.

#### ACCESS FOR EMERGENCY VEHICLES

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

#### FIRST AID

Adequate and appropriate supply of first aid equipment and materials is available on the premises.

If necessary, at least one suitably trained first-aider shall be on duty when the public are present; and if more than one suitably trained first-aider that their respective duties are clearly defined.

#### TEMPORARY ELECTRICAL INSTALLATIONS

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

In relation to the point in the first bullet above, it should be recognised that ten day's notice may not be possible where performances are supported by outside technical teams (for example, where temporary electrical installations are made in theatres for television show performances). In such circumstances, the key requirement is that conditions should ensure that temporary electrical installations are only undertaken by competent qualified persons (for example, those employed by the television company).

#### INDOOR SPORTS ENTERTAINMENTS

- If appropriate, a qualified medical practitioner is present throughout a sports entertainment involving boxing, wrestling, judo, karate or other sports entertainment of a similar nature.
- Any ring is constructed by a competent person and/ or inspected by a competent authority.

- At any wrestling or other entertainments of a similar nature members of the public do not occupy any seat within 2.5 metres of the ring.
- At water sports entertainments, staff adequately trained in rescue and life safety procedures are stationed and remain within the vicinity of the water at all material times (see also Managing Health and Safety in Swimming Pools issued jointly by the Health and Safety Executive and Sport England).

## SPECIAL EFFECTS

The use of special effects in venues being used for regulated entertainment can present significant risks. Special effects or mechanical installations should be arranged and stored so as to minimise any risk to the safety of the audience, the performers and staff. Further details and guidance are given in Part 3.

## ALTERATIONS TO THE PREMISES

Premises should not be altered in such a way as to make it impossible to comply with an existing licence condition without first seeking a variation of the premises licence to delete the relevant public safety condition. The applicant will need to propose how they intend to take alternative steps to promote the public safety objective in a new operating schedule reflecting the proposed alteration to the premises.

The application for variation will enable responsible authorities with expertise in safety matters to consider whether the proposal is acceptable.

## OTHER MEASURES

Other measures previously mentioned in relation to the Prevention of Crime and Disorder may also be appropriate to promote public safety. These might include the provision of door supervisors, bottle bans, and requirements to use plastic or toughened glass containers (see Part 1 for further detail).

## PART 3. THEATRES, CINEMAS, CONCERT HALLS AND SIMILAR PLACES (PROMOTION OF PUBLIC SAFETY)

In addition to the points in Part 2, there are particular public safety matters which should be considered in connection with theatres and cinemas.

### PREMISES USED FOR CLOSELY SEATED AUDIENCES

#### ATTENDANTS

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

Number of members of the audience present on a floor	Minimum number of attendants required to be present on that floor
1 – 100	One
101 – 250	Two
251 – 500	Three
501 – 750	Four
751 -1,000	Five
And one additional attendant for each additional 250 persons (or part thereof)	

(b) Attendants shall not be engaged in duties that would prevent them from promptly discharging their duties in the event of an emergency or require their absence from that floor or auditorium where they are on duty.

(c) Attendants shall be readily identifiable to the audience (but this need not entail the wearing of a uniform).

(d) The premises shall not be used for a closely seated audience except in accordance with seating plan(s), a copy of which is available at the premises and shall be shown to an authorised person on request.

(e) No article shall be attached to the back of any seat which would reduce the clear width of seat ways or cause a tripping hazard or obstruction.

(f) A copy of any certificate relating to the design, construction and loading of temporary seating shall be kept available at the premises and shall be shown to an authorised person on request.

## SEATING

Where the potential audience exceeds 250 all seats in the auditorium should be securely fixed to the floor or battened together in lengths of not fewer than four and not more than twelve.

Standing and sitting in gangways etc.

(a) Sitting on floors shall not be permitted except where authorised in the premises licence or club premises certificate.

(b) Waiting or standing shall not be permitted except in areas designated in the premises licence or club premises certificate.

(c) In no circumstances shall anyone be permitted to-

- (i) sit in a gangway;
- (ii) stand or sit in front of an exit; or
- (iii) stand or sit on a staircase, including landings.

## DRINKS

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

## BALCONY FRONTS

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

## SPECIAL EFFECTS

Special effects or mechanical installations should be arranged and stored so as to minimise risk to the safety of the audience, the performers and staff.

Specials effects include:

- dry ice machines and cryogenic fog;
- smoke machines and fog generators;
- pyrotechnics, including fireworks;
- real flame;
- firearms;
- motor vehicles;
- strobe lighting;
- lasers; and
- explosives and highly flammable substances.

In certain circumstances, it may be appropriate to require that certain special effects are only used with the prior notification of the licensing authority. In these cases, the licensing authority should notify the fire and rescue authority, who will exercise their inspection and enforcement powers under the Regulatory Reform (Fire Safety) Order. Further guidance can be found in the following publications:

- HSE Guide 'The radiation safety of lasers used for display purposes' (HS(G)95)
- 'Smoke and vapour effects used in entertainment' (HSE Entertainment Sheet No 3);
- 'Special or visual effects involving explosives or pyrotechnics used in film and television production' (HSE Entertainment Sheet No 16);
- 'Electrical safety for entertainers' (HSE INDG 247)

- 'Theatre Essentials' – Guidance booklet produced by the Association of British Theatre Technicians 8

## CEILINGS

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

## PREMISES USED FOR FILM EXHIBITIONS

### ATTENDANTS – PREMISES WITHOUT A STAFF ALERTING SYSTEM

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

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

### ATTENDANTS – PREMISES WITH A STAFF ALERTING SYSTEM

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

Number of members of the audience present on the premises	Minimum number of attendants required to be on duty	Minimum number of other staff on the premises who are available to assist in the event of an emergency
1 – 500	Two	One
501 – 1,000	Three	Two
1001 – 1,500	Four	Four
1,501 or more	Five plus one for every 500 (or part thereof) persons over 2,000 on the premises	Five plus one for every 500 (or part thereof) persons over 2,000 on the premises

(b) Staff shall not be considered as being available to assist in the event of an emergency if they are:

(i) the holder of the premises licence or the manager on duty at the premises; or

(ii) a member of staff whose normal duties or responsibilities are likely to significantly affect or delay their response in an emergency situation; or

(iii) a member of staff whose usual location when on duty is more than 60 metres from the location to which they are required to go on being alerted to an emergency situation.

(c) Attendants shall as far as reasonably practicable be evenly distributed throughout all parts of the premises to which the public have access and keep under observation all parts of the premises to which the audience have access.

(d) The staff alerting system shall be maintained in working order.

#### MINIMUM LIGHTING

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

#### PART 4. CONDITIONS RELATING TO THE PREVENTION OF PUBLIC NUISANCE

It should be noted that provisions of the Environmental Protection Act 1990, the Noise Act 1996 and the Clean Neighbourhoods and Environment Act 2005 provide some protection to the general public from public nuisance, including noise nuisance. In addition, the provisions in Part 8 of the Licensing Act 2003 enable a senior police officer to close down instantly for up to 24 hours licensed premises and premises carrying on temporary permitted activities that are causing nuisance resulting from noise emanating from the premises. These matters should be considered before deciding whether or not conditions are appropriate for the prevention of public nuisance.

#### HOURS

The hours during which the premises are permitted to be open to the public or to members and their guests can be restricted for the prevention of public nuisance. Licensing authorities are best placed to determine what hours are appropriate. However, the four licensing objectives should be paramount considerations at all times. Restrictions could be appropriate on the times when certain licensable activities take place even though the premises may be open to the public at such times. For example, the playing of recorded music after a certain time might be prohibited, even though other licensable activities are permitted to continue. Or the playing of recorded music

might only be permitted after a certain time where conditions have been attached to the licence or certificate to ensure that any potential nuisance is satisfactorily prevented.

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

In premises where existing legislation does not provide adequately for the prevention of public nuisance, consideration might be given to the following conditions.

## NOISE AND VIBRATION

In determining which conditions are appropriate, licensing authorities should be aware of the need to avoid disproportionate measures that could deter the holding of events that are valuable to the community, such as live music.

Noise limiters, for example, are very expensive to purchase and install and are likely to be a considerable burden for smaller venues. The following conditions may be considered

Noise or vibration does not emanate from the premises so as to cause a nuisance to nearby properties. This might be achieved by one or more of the following conditions:

- a simple requirement to keep doors and windows at the premises closed;
- limiting live music to a particular area of the building;
- moving the location and direction of speakers away from external walls or walls that abut private premises;
- installation of acoustic curtains;
- fitting of rubber seals to doorways;
- installation of rubber speaker mounts;
- requiring the licence holder to take measures to ensure that music will not be audible above background level at the nearest noise sensitive location;
- require licence holder to undertake routine monitoring to ensure external levels of music are not excessive and take action where appropriate;
- noise limiters on amplification equipment used at the premises (if other measures have been unsuccessful);

- prominent, clear and legible notices to be displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly;
- the use of explosives, pyrotechnics and fireworks of a similar nature which could cause disturbance in surrounding areas are restricted; and
- the placing of refuse – such as bottles – into receptacles outside the premises to take place at times that will minimise the disturbance to nearby properties.

## NOXIOUS SMELLS

Noxious smells from the premises are not permitted to cause a nuisance to nearby properties; and the premises are properly vented.

## LIGHT POLLUTION

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

## OTHER MEASURES

Other measures previously mentioned in relation to the crime prevention objective may also be relevant as appropriate to prevent public nuisance. These might include the provision of door supervisors, open containers not to be taken from the premises, and restrictions on drinking areas (see Part 1 for further detail).

## PART 5. CONDITIONS RELATING TO THE PROTECTION OF CHILDREN FROM HARM

An operating schedule or club operating schedule should indicate any decision for the premises to exclude children completely. This would mean there would be no need to detail in the operating schedule steps that the applicant proposes to take to promote the protection of children from harm. Otherwise, where entry is to be permitted, the operating schedule should outline the steps to be taken to promote the protection of children from harm while on the premises.

## ACCESS FOR CHILDREN TO LICENSED PREMISES – IN GENERAL

The 2003 Act prohibits unaccompanied children from premises that are exclusively primarily used for the supply of alcohol for consumption on the premises. Additional restrictions on the access of children under 18 to premises where licensable activities are being carried on should be made where they are appropriate to protect children from harm. Precise policy and details will be a matter for individual licensing authorities.



It is recommended (unless there are circumstances justifying the contrary) that in relation to:

- premises with known associations (having been presented with evidence) with or likely to give rise to: heavy or binge or underage drinking;
- drugs, significant gambling, or any activity or entertainment (whether regulated entertainment or not) of a clearly adult or sexual nature, there should be a strong presumption against permitting any access at all for children under 18 years;
- premises, not serving alcohol for consumption on the premises, but where the public are allowed on the premises after 11.00pm in the evening, there should be a presumption against the presence of children under the age of 12 unaccompanied by adults after that time.

Applicants wishing to allow access under the above circumstances should, when preparing new operating schedules or club operating schedules or variations of those schedules:

- explain their reasons; and
- outline in detail the steps that they intend to take to protect children from harm on such premises.

In any other case, it is recommended that, subject to the premises licence holder's or club's discretion, the expectation would be for unrestricted access for children, subject to the terms of the 2003 Act.

## AGE RESTRICTIONS – SPECIFIC

Whilst it may be appropriate to allow children unrestricted access at particular times and when certain activities are not taking place, licensing authorities will need to consider:

- The hours in a day during which age restrictions should and should not apply. For example, the fact that adult entertainment may be presented at premises after 8.00pm does not mean that it would be appropriate to impose age restrictions for earlier parts of the day.
- Types of event or activity that are unlikely to require age restrictions, for example:
  - family entertainment; or
  - alcohol free events for young age groups, such as under 18s dances,
- Types of event or activity which give rise to a more acute need for age restrictions than normal, for example: during “Happy Hours” or drinks promotions;

## AGE RESTRICTIONS – CINEMAS

The British Board of Film Classification classifies films in accordance with its published Guidelines, which are based on research into public opinion and professional advice. It is therefore recommended that licensing authorities should not duplicate this effort by choosing to classify films themselves. The classifications recommended by the Board should be those normally applied unless there are very good local reasons for a licensing authority to adopt this role.

Licensing authorities should note that the provisions of the 2003 Act enable them to specify the Board in the licence or certificate and, in relation to individual films, to notify the holder or club that it will make a recommendation for that particular film.

Licensing authorities should be aware that the BBFC currently classifies films in the following way:

- U Universal – suitable for audiences aged four years and over
- PG – Parental Guidance. Some scenes may be unsuitable for young children.
- 12A – Suitable for viewing by persons aged 12 years or older or persons younger than 12 when accompanied by an adult.
- 15 – Suitable for viewing by persons aged 15 years and over.
- 18 – Suitable for viewing by persons aged 18 years and over
- R18 - To be shown only in specially licensed cinemas, or supplied only in licensed sex shops, and to adults of not less than 18 years.

Licensing authorities should note that these classifications may be subject to occasional change and consult the BBFC's website at [www.bbfc.co.uk](http://www.bbfc.co.uk) before applying relevant conditions. In addition to the mandatory condition imposed by section 20, conditions restricting the admission of children to film exhibitions should include that:

- where the licensing authority itself is to make recommendations on the admission of children to films, the cinema or venue operator must submit any film to the authority that it intends to exhibit 28 days before it is proposed to show it. This is to allow the authority time to classify it so that the premises licence holder is able to adhere to any age restrictions then imposed;
- immediately before each exhibition at the premises of a film passed by the British Board of Film Classification there shall be exhibited on screen for at least five seconds in such a manner as to be easily read by all persons in the auditorium a reproduction of the certificate of the Board or, as regards a trailer advertising a film, of the statement approved by the Board indicating the classification of the film;

- when a licensing authority has made a recommendation on the restriction of admission of children to a film, notices are required to be displayed both inside and outside the premises so that persons entering can readily be made aware of the classification attached to any film or trailer.

Such a condition might be expressed in the following terms:

“Where a programme includes a film recommended by the licensing authority as falling into an age restrictive category no person appearing to be under the age specified shall be admitted to any part of the programme; where a programme includes a film recommended by the licensing authority as falling into a category requiring any persons under a specified age to be accompanied by an adult no person appearing to be under the age specified shall be admitted to any part of the programme unaccompanied by an adult, and the licence holder shall display in a conspicuous position a notice clearly stating the relevant age restrictions and requirements. For example:

Persons under the age of [insert Appropriate age] cannot be admitted to any part of the programme

Where films of different categories form part of the same programme, the notice shall refer to the oldest age restriction. This condition does not apply to members of staff under the relevant age while on-duty provided that the prior written consent of the person’s parent or legal guardian has first been obtained.”

## THEATRES

The admission of children to theatres, as with other licensed premises, is not expected to be restricted normally unless it is appropriate to promote the protection of children from harm. However, theatres may be the venue for a wide range of activities. The admission of children to the performance of a play should normally be left to the discretion of the licence holder and no condition restricting the access of children to plays should be attached. However, theatres may also present entertainment including, for example, variety shows, incorporating adult entertainment. A condition restricting the admission of children in such circumstances may be appropriate. Entertainment may also be presented at theatres specifically for children (see below). Licensing authorities are also expected to consider whether a condition should be attached to a premises licence which requires the presence of a sufficient number of adult staff on the premises to ensure the wellbeing of children during any emergency (See Part 3).

## PERFORMANCES ESPECIALLY FOR CHILDREN

Where performances are presented especially for unaccompanied children in theatres and cinemas, licensing authorities will also wish to consider conditions to specify that:

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

Licensing authorities should also consider whether or not standing should be allowed. For example, there may be reduced risk for children in the stalls than at other levels or areas in the building.

## CHILDREN IN PERFORMANCES

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

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

## THE PORTMAN GROUP CODE OF PRACTICE ON THE NAMING, PACKAGING AND PROMOTION OF ALCOHOLIC DRINKS

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

conditions to premises licences and club premises certificates that require compliance with the Portman Group's Retailer Alert Bulletins.

## PROOF OF AGE CARDS

Proof of age cards are discussed under Part 1 in connection with the prevention of crime and disorder.

## APPENDIX 4

<b>TABLE 1 DELEGATION OF FUNCTIONS</b>			
<b>Matter to be dealt with</b>	<b>Licensing Committee*</b>	<b>Licensing Panel*</b>	<b>Officers*</b>
Application for personal licence		If a Police objection	If no representation made
Application for personal licence with unspent convictions		All cases	
Application for premises licence/club premises certificate		If a relevant representation made	If no representation made
Application for provisional statement		If a relevant representation made	If no representation made
Application to vary premises licence/club premises certificate		If a relevant representation made	If no representation made
Application to vary premises licence/club premises certificate by way of a minor variation			All cases
Application to vary designated premises supervisor		If a Police objection	All other cases
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If a Police objection	All other cases
Applications for Interim Authorities		If a Police objection	All other cases
Application to review premises licence/club premises certificate		All cases	
Application for Mandatory alcohol condition requiring a DPS in respect of a premises licence to be disappplied		If a police objection a review must be heard	All cases
Decision on whether a complaint is irrelevant, frivolous, vexatious etc.			All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application		All cases	
Determination of a representation from Derbyshire Constabulary to a temporary event notice		All cases	

Licensing Committee	-	at least 10 but less than 15 members from Licensing and Public Protection Committee
Licensing Panel	-	At least 3 from Licensing & Public Protection Committee
Officers	-	Officers of the Licensing Section

\* Key