



# Licensing Act 2003

## Statement of Licensing Policy

**2020 – 2025**

**2025 - 2030**

**Date policy adopted:**  
**Policy adopted by:**  
**Full Council Date policy implemented:**  
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## East Staffordshire Borough Council

### STATEMENT OF LICENSING POLICY 2020 – 2025 2025 - 2030

#### 1. Introduction

- 1.1. The Borough of East Staffordshire comprises of two Towns, namely Burton Upon Trent and Uttoxeter.
- 1.2. The main Town in the Borough, Burton Upon Trent, is a sub-regional Centre. The Town is divided by the River Trent with the bulk of employment, services and the Town Centre on the western side and a large residential area on the eastern side. The Town is home to a number of major employers, a strong retail offer, a hospital with an A&E facility and a college of education affiliated to a number of Universities.
- 1.3. Uttoxeter is a traditional market Town with a sphere of influence extending into the Derbyshire Dales, Staffordshire Moorlands and Stafford districts and offers a range of services typical of this type and size of Town.
- 1.4. At the last count the population of East Staffordshire was approximately 117,600 in 2017 124,000 in 2021.
- 1.5. The Borough has a rich natural and historic heritage with beautiful countryside and historic Towns and villages. The National Forest includes a significant area within East Staffordshire, and Burton Upon Trent is the “capital” of the National Forest.

#### 2. Legal Background

- 2.1. East Staffordshire Borough Council ("the Council") is required to publish this Statement of Licensing Policy ("Policy") under the Licensing Act 2003 ("the Act").
- 2.2. This Policy has been formulated in direct response to the Consultation carried out on the Statement of Licensing Policy 2020 - 2025. Under the provisions of the Licensing Act 2003 East Staffordshire Borough Council is the Licensing Authority for the administration and enforcement of the Act and associated Orders and Regulations within its area.

The Legislation regulates the:

- The sale of by retail of alcohol (in any state);
- The supply of alcohol by or on behalf of, or to the order of, a member of the Club;
- The provision of regulated entertainment;
- The provision of late night refreshment;
- The temporary carrying on of licensable activities which are not authorised by a Premises Licence or Club Premises Certificate.

- 2.3. Section 5 of the 2003 Act requires that the Licensing Authority prepares and publishes a Statement of its Licensing Policy every five years. The Statement of Licensing Policy must then be published prior to the Authority carrying out any function in respect of individual Applications made under the terms of the Act.
- 2.4. The Licensing Authority undertakes an extensive consultation process in order to formulate its Statement of Licensing Policy.
- 2.5. Before determining its Policy for any five year period, the Authority is required to consult with persons specified in Section 5(3) of the Act. These are:
  - The Chief of Police for the area
  - The Fire Authority
  - The Director of Public Health for the area
  - Bodies representing local holders of Premises Licences
  - Bodies representing local holders of Club Premises Certificates
  - Bodies representing local holders of Personal Licences
  - Bodies representing business and residents in the area
- 2.6. In producing this Policy the views of all of the consultees have been given appropriate weight and all comments considered in an objective and reasoned way.
- 2.7. Although the Policy has a life of five years before it is formally reviewed, the Licensing Authority will continue to review the operation and content of the Policy on an on-going basis. This will ensure that the Policy meets the objectives of the legislation and addresses the local circumstances that exist within East Staffordshire.

2.8. This Statement of Licensing Policy has been prepared in accordance with:

- The requirements of the Act
- The Council's responsibilities under Section 17 of the Crime and Disorder Act 1998
- The guidance issued under Section 182 of the Act by the Secretary of State, and
- After proper consideration of all of the comments received as part of the consultation process.

This Policy shall have effect from 24<sup>th</sup> February 2020.

2.9. In terms of the guidance, the Licensing Authority will have regard to the Secretary of State's Guidance when making and publishing its Policy. The Licensing Authority may, in appropriate cases choose to deviate from its Policy if the individual circumstances of any case merit such a decision in the interests of the promotion of the Licensing objective, however it must have sound and justifiable reason for doing so.

2.10. It should be noted that this Policy Statement has taken full account of the current Home Office guidance and has not significantly deviated from it. This Policy has also taken account of provisions of the European Convention on Human Rights, notably that everyone has the right to respect for his home and private life and that every person is entitled to the peaceful enjoyment of their possessions (including a Licence).

2.11. The Human Rights Act 1998 makes it unlawful for a public authority to act in a way that will be incompatible with a convention right. Consequently an aim of this Policy and in particular in relation to the decision-making processes of the Licensing Authority is to ensure that a Licensing decision does not cause a breach of a convention right.

2.12. In the discharge of their Licensing duties the Licensing Authority will also take into account the provisions of the Crime and Disorder Act 1998 (particularly Section 17). This requires Local Authorities to have regard to the likely effect of the exercise of their functions on crime and disorder in their area and do all they can to prevent such crime and disorder.

2.13. Notwithstanding any controls that exist within the Licensing regime, the Council has been granted additional controls under the Anti-Social Behaviour Act 2003 to deal with Premises that create a public nuisance due to noise. The powers include the provision for an Authorised Officer to serve a closure order requiring Premises to close for up to 24 hours if a public nuisance is being created.

- 2.14. The level of fees and charges associated with the regime are set by the Secretary of State and therefore directly applied at a local level. These charges are designed to include full cost recovery for those activities directly associated with the statutory requirements.

### **3. Licensing Objectives**

- 3.1. In carrying out its duties under the Act, the Licensing Authority will actively promote the Licensing objectives, namely:

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

- 3.2. The Licensing Authority will view each objective with equal importance and pay due regard to any guidance issued by the Secretary of State under Section 182 of the Act. However it should be stressed that irrespective of the content of this Policy, it is the right of any individual or company to make an Application under the Act and have the facts of the case considered on its individual merits.

- 3.3. The Licensing Authority has the ability to deviate from both the guidance issued by the Secretary of State and/or this Statement of Licensing Policy where the facts of a case merit it. If such an occasion does arise then full reasons for such deviation will be given as part of the published decision.

- 3.4. Nothing in this Statement of Policy should be seen as restricting or overriding the right of a person to make representations on an Application or to seek a review of a Licence or Certificate, in circumstances where the Act allows it.

### **4. Scope of Licensing Regime**

- 4.1. The Act deals with the following types of permissions:

- Premises Licences - the Licensing of Premises for the retail sale of alcohol, the provision of regulated entertainment or late night refreshment
- Club Premises Certificates - the supply of alcohol or the provision of regulated entertainment to certain Clubs
- Temporary Event Notices - the permitting of certain licensable activities on a temporary basis
- Personal Licences - the Licensing of individuals for the retail of alcohol

- 4.2. Descriptions of entertainment are:

- a performance of a play
  - an exhibition of a film,
  - an indoor sporting event,
  - a boxing or wrestling entertainment,
  - a performance of live music,(see Section 11 for exemptions)
  - any playing of recorded music,
  - a performance of dance,
  - entertainment of a similar description to that falling within paragraph (e), (f) or (g),
  - late night refreshment. (The supply of hot food or drink on or off the Premises between 11pm and 5am)
- 4.3. [Note: There are certain exemptions from this definition which are set out in the Act which should be referred to].
- 4.4. The scope of the Policy covers new Applications, and where appropriate renewals, transfers and variations of Licences and Certificates including where applicable temporary Premises Licences. The Policy also includes the review of Licences and Certificates, the outcome of which could lead to the revocation of the Licence or Certificate.
- 4.5. In general terms any reference in this Policy to a Licence also encompasses Club Premises Certificates unless stated otherwise.
- 4.6. In addition, the administration and enforcement of the Act will take into account other locally adopted strategies of relevance, including:
- Local planning
  - Local transport
  - Crime prevention, and
  - Tourism and cultural strategies
- 4.7. The Licensing Authority will enter into appropriate partnership working and actively develop existing partnerships to ensure close working with key stakeholders such as the Police, Fire Authority, Trading Standards, local businesses, community representatives and local people.
- 4.8. The Licensing regime is concerned with regulating the carrying on of licensable activities at Licensed Premises, by qualifying Clubs and at temporary events and any Conditions imposed will be focused on matters which are within the control of individual licensees and others in possession of relevant authorisations. Therefore any Conditions will centre on the Licensed Premises or event and the vicinity of those Premises or event. The Licensing Authority will primarily focus on the direct impact of the activities taking place at the Licensed Premises

on members of the public living, working or engaged in normal activity in the area concerned.

- 4.9. Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the Licensed Premises. Licensing law is part of a raft of controls that exist to manage the evening and night-time economy within the area.

## **5. Premises Licensed for Gambling**

- 5.1. The Licensing Authority recognises that gambling is subject to separate legislation and Licensing Authorities should not duplicate any Conditions imposed by this legislation when granting, varying or reviewing Licences that authorise licensable activities under the 2003 Act.
- 5.2. When making a Licence Application an applicant may, in detailing the steps taken in promoting the Licensing objectives, refer to the statutory Conditions in respect of their gambling Licence (where relevant). In addition, any Conditions which are attached to the Premises Licences should not prevent the holder from complying with the requirements of Gambling Legislation or supporting regulations.

### **PRINCIPLES OF OPERATION**

## **6. The Application Process**

- 6.1. The Licensing Authority requires that all Applications for the grant, variation or transfer of any Licence, permit or Certificate detailed in the Act, are made in accordance with the Act and the statutory guidance. In particular all such Applications must be accompanied by the appropriate fee, where applicable, to be deemed duly made.
- 6.2. Where Applications do not comply with the requirements of Section 17 of the Licensing Act 2003 and therefore are not duly made, the whole Application will be returned to the Applicant.
- 6.3. The Licensing Authority will do all that it reasonably can in such circumstances to provide guidance to an applicant on the reasons for the Applications return and in any case will provide guidance to all applicants to assist in the Application process. Where such Applications are statutorily required to be advertised, or notified to other specified persons, the Application must confirm that such advertising or notification has been properly made.
- 6.4. Where significant changes to Premises are proposed or the changes would make it impossible to comply with an existing Licence



Condition, then an Application to vary the Premises Licence should be submitted in advance of the changes take place.

- 6.5. Each Application will be considered on its own merits and any Conditions attached to a Licence or Certificate must be tailored to the individual style and characteristics of the Premises/event. Standardised Conditions will be avoided especially if they cannot be shown to be promoting the Licensing objectives. A continued rigorous approach will be taken in determining each Application for late night opening.
- 6.6. Upon receipt of a valid Application, the Licensing Authority will consider the matter and determine it in accordance with this Licensing Policy, statutory requirements and current guidance issued by the Secretary of State. Each responsible Authority will receive a copy of the Application and make any representations if the Application is likely to undermine any of the four Licensing objectives, these being the prevention of crime and disorder, the protection of children from harm, public safety and public nuisance.
- 6.7. In order to maximise administrative speed, efficiency and cost effectiveness, the Application will be determined in accordance with the following delegation criteria:

**Table 1 Delegation of Functions**

<b>Matter to be dealt with</b>	<b>Licensing and Gambling Act Sub Committee</b>	<b>Officers</b>
Application for Personal Licence	If a Police or immigration enforcement objection	If no objection made
Application for Personal Licence with unspent convictions	If a Police objection	
Application for Premises Licence/Club Premises Certificate	If a relevant representation made	If no relevant representation made or all representations made are withdrawn
Application for provisional Statement	If a relevant representation made	If no relevant representation made or all representations made are withdrawn

Application to vary Premises Licence/Club Premises Certificate	If a relevant representation made	If no relevant representation made or all representations are withdrawn
Application to vary designated Premises supervisor	If a Police objection	If no objection notice is given by the police
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	
Decision on whether a representation is irrelevant frivolous vexatious etc.		All cases
Decision to object when local authority is one of the consultees and not the relevant authority considering the application	All cases	
Determination of an objection to a temporary event notice	All cases	Where objection requires inclusion of Conditions from existing Premises Licence and applicant is in agreement
Determination of Application to vary Premises Licence at community Premises to include alternative Licence Condition	If a Police objection	All other cases
Decision whether to consult other responsible Authorities on minor variation		All cases
Determination of minor variation application		All cases
Application for a minor variation to a Premises Licence or Club Premises Certificate		All cases
Application for the mandatory alcohol Condition under the Licensing Act 2003 requiring a Designated Premises Supervisor in respect of a Premises Licence to be dis-applied	If a Police objection	All other cases

Decision whether to suspend or revoke a Personal Licence	All cases	
Attachment of Conditions from existing Premises Licence to TENS	Where Applicant objects to Conditions	If applicant is in agreement
Issuing of counter notice for TENS		All cases
Issuing of counter notice for Late TENS		All cases
Suspension of Licence for non-payment of fees		All cases
Applications for sale of alcohol at service stations	All cases	

6.8. Section 176 of the Licensing Act 2003 prohibits the sale or supply of alcohol from Premises that are used primarily as a garage or part of a Premises used primarily as a garage. Paragraph 5.22 of the statutory guidance issued under the Act makes it clear that the Licensing Authority must determine whether or not any Premises are used primarily as a garage.

6.9. Therefore Applications for the sale of alcohol at service stations and Premises used as a garage for one or more of the following:

- retailing of petrol, and/or diesel
- the sale of motor vehicles or the maintenance of motor vehicles

Will be required to provide additional information to enable the Authority to make a decision on whether the Premises are used primarily as a garage.

6.10. In determining Applications for garages, the Licensing Authority requires applicants to demonstrate that their Premises are not primarily used as a garage. Such evidence must be based on sales and footfall data over the previous two years and must show that petrol and diesel sales, vehicle maintenance and vehicle sales are not the Premises main feature. Where such information is not available (because for example the Premises have only just started trading), the Licensing Authority will consider imposing a Condition requiring this information to be provided to the Licensing authority on a regular basis for the following two years to ensure the Premises are not primarily a garage.

6.11. Where insufficient evidence exists to establish primary use, it is for the Licensing Authority to decide to grant and deal with any issues through enforcement action.

## 7. Electronic Applications

- 7.1. Applicants may apply using the Licensing forms available at GOV.UK.
- 7.2. The Licensing Authority must copy electronic Applications, made via GOV.UK or its own facility, to responsible Authorities no later than the first working day after the Application is given. However, if an Applicant submits any part of their Application in writing, the Applicant will remain responsible for copying it to Responsible Authorities

## 8. People or Organisations that can make representations

- 8.1. Any responsible Authority and/or other person may make representations; “other person” is defined as any of the following:-
- 8.2. Any individual, body or business including a member of the relevant Licensing authority are entitled to make representations to Licensing Authorities in relation to Applications for the grant, variation, minor variation or review of Premises Licences and Club Premises Certificates or the grant of a provisional Statement, regardless of their geographic proximity to the Premises, and to make Applications for the review of such authorisations.
- 8.3. “Responsible Authorities” are public bodies that must be fully notified of Applications and that are entitled to make representations to the Licensing authority in relation to the Application for the grant, variation or review of a Premises Licence. For all Premises, these include:
  - The relevant Licensing Authority and any other Licensing Authority in whose area part of the Premises is situated
  - The Chief Officer of Police
  - The local Fire and Rescue Authority
  - The relevant enforcing Authority under the Health and Safety at Work Act 1974
  - The local Authority with responsibility for Environmental Health
  - The local Planning Authority
  - A body that represents those who are responsible for, or interested in, matters relating to the protection of children from harm
  - Each local authority’s Director of Public Health (DPH) in England
  - The local weights and measures Authority (Trading Standards)
  - **The Home Office Immigration Service**

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8.4. Where an objection is received in relation to the grant or renewal of a Licence for any purpose regulated by the Act, the matter will be determined in accordance with the terms of this Licensing Policy. It is for the Licensing Authority to decide in the first instance whether or not representations are relevant. It is the impact of issues relating to the four Licensing objectives that is the key consideration. The objection will be considered in accordance with the delegation criteria listed in Table 1.

8.5. Where the complaint or objection has been judged to be irrelevant, frivolous or vexatious, the matter will not proceed any further and the complainant will be advised in writing of this fact. In such circumstances the Act does not provide a means of appeal, however any such decision is capable of being challenged by way of judicial review.

8.6. Relevant representations must address the likely effect of the proposed Premises on one or more of the four Licensing objectives. Where “relevant representations” are received, the Licensing Authority will normally hold a hearing to consider them (except in the case of a minor variation).

8.7. Should the representation fulfill the criteria, it will be copied and sent to the applicant, along with any other representations received and all

parties involved will be informed of the time and place of the hearing. Representations can be made in opposition or in support of an Application.

- 8.8. It is important that the Applicant is provided with the opportunity to address the comments raised in the representation.
- 8.9. In addition, a copy of the representation, including Personal details will be included in the Committee papers all of which are public documents.
- 8.10. A copy of these papers will be published on the Council's website.
- 8.11. If a person does not want Personal details released then they will be unable to make a representation unless there are exceptional circumstances. For example if it is believed that through making Personal details available a person may suffer reprisals. It may in some cases be possible to exclude Personal details if the circumstances warrant it.
- 8.12. Prior to the hearing and whenever feasible, the Licensing Authority will facilitate discussion between the applicant and objectors to assess whether a compromise can be agreed between both parties. The Licensing Authority will have regard to the Hearing Regulations and extend the time limit for holding an Hearing if mediated agreement is likely where permitted.
- 8.13. Where no representations are received, representations are withdrawn, or agreements are made that a hearing on an Application is unnecessary; the Licensing Authority will approve the Application. In such circumstances, the Licensing Authority will only impose Conditions that are consistent with the operating schedules accompanying it and/or are statutorily required of it under Sections 19, 20, 21, 25, 41, 73 and/or 74 of the Act.
- 8.14. In relation to a refusal to grant a Licence or Club Premises Certificate, the notification will detail the grounds for the refusal, and specify the process for the applicant to appeal against the Licensing Authority decision.
- 8.15. The proceedings set out in the 2003 Act for reviewing Premises licenses represents a key protection for the community where problems associated with the Licensing objectives are occurring after the grant or variation of a Premises Licence. Responsible Authorities will aim to give licensees early warning of any concerns identified at Premises before calling for a review.
- 8.16. Where an Application is made for the review of a Premises Licence or Club Premises Certificate, the matter will be determined in accordance with the terms of this Policy. The Application for review

will be considered in accordance with the delegated criteria listed in Table 1.

8.17. Where an Application for review has been judged to be irrelevant, frivolous or vexatious, the matter will not proceed any further and the complainant will be advised in writing of this fact (see comment above relating to Judicial review).

8.18. When an Application to review a Premises Licence or Club Premises Certificate has been determined in accordance with the procedures detailed above, the Licence or Certificate will either:

- Continue in operation unaltered,
- Be modified and the terms and Conditions changed in accordance with the Licensing Authority decision, or
- Be cancelled.

8.19. The Licensing Authority will determine the date upon which the decision will take effect and the Licence Holder and Applicant for review advised accordingly.

8.20. In relation to a modification or the cancellation of a Licence or Club Premises Certificate, the notification will detail the grounds for the modification or cancellation and specify the process for the applicant to appeal against the Licensing Authority's decision.

8.21. The Police can call for a summary review of any Premises Licensed to sell alcohol if they certify that those Premises are associated with serious crime, serious disorder or both. The review Application must be heard within 28 calendar days of receipt but first of all, within 48 hours of receipt, the Licensing Authority must consider whether to impose any interim steps, which take immediate effect pending the determination of the review Application. The interim steps available to the Licensing Authority are:

- Modifying the Conditions of the Licence;
- Excluding the sale of alcohol from the Licence;
- Removing the designated Premises supervisor;
- Suspending the Licence

8.22. Only the Premises Licence Holder is able to make representations against any interim steps imposed and where such representations are made, the Licensing Authority must hold an Hearing to consider them within 48 hours of receipt. At the Hearing to determine the summary review Application the Licensing Authority can decide to:

- Modify the Licence;
- Exclude a licensable activity;
- Remove the designated Premises supervisor;



- Suspend the Licence for a maximum of three months; or
- Revoke the Licence

## 9. Temporary Event Notices (TENs)

- 9.1. The system of permitted temporary activities is intended as a light touch process, and as such, the carrying on of licensable activities does not have to be authorised by the licensing authority on an application. Instead a person wishing to hold an event at which such activities are proposed to be carried on gives notice to the licensing authority of the event.
- 9.2. There are two types of TENs, standard TENs and late TENs. These are subject to different processes; a standard TENs is given no later than ten working days before the event to which it relates and a late TENs is given not before nine and not later than five days before the event.
- 9.3. If a Premises is not authorised by a Premises Licence or Club Premises Certificate to carry on licensable activities but wishes to do so then a TENs is required. A TENs is also required if a Premises currently holds a Licence but wishes to carry on other licensable activities that are not included in the Licence. At least 10 working days' notice is required for a TENs (not including the day the Application is submitted or the day of the event). Staffordshire Police and the Local Authority Environmental Health are the only responsible Authorities that can object to TENs and only on the grounds of crime and disorder.

## 10. Late Temporary Event Notices

- 10.1. Late temporary event notices can be given up to five working days but no earlier than nine working days before the event is scheduled and, unless given electronically to the Council, must also be sent by the Premises user to the Police and Environmental health. If there is an objection to a late TENs the event cannot go ahead. **There is no right of appeal in respect of a late TEN following objection by the police or Environmental Health.** A late TENs given less than five days before the event to which it relates will be returned void and the activities to which it relates will not be authorised.
- 10.2. All temporary event notices are subject to limitations.
- 10.3. Currently the TEN criteria is:

- Event for 499 or less people
- Duration is less than 168 hours
- At least 24 hours between events
- Maximum 21 days per premises per year

- Maximum 15 TENS per premises per year
- Personal licence holder limited to 50 TENS per year, of which 10 of these can be late TENS
- Non personal licence holder limited to 5 TENS per year of which 2 of these can be late TENS.

## 11. Live Music Act

11.1. From 1<sup>st</sup> October 2012, the Live Music Act 2012 amended the Licensing Act 2003 by removing the provision of entertainment facilities as a Licensing activity, and partially deregulating the performance of live music in the following circumstances:

[Note: Performances relate to between the hours of 8am and 11pm and are subject to audience limitations. The Live Music Act should be referred to in this instance].

## 12. Adoption of Special Policies

### Cumulative Impact Policy

#### Cumulative Impact

Cumulative impact is the potential impact on the promotion of the Licensing objectives of a number of Licensed Premises concentrated in one area.

In some areas where the number, type or density of Licensed Premises, such as those selling alcohol or providing late night refreshment, is high or exceptional, serious problems of nuisance and disorder may arise outside or some distance from the Premises. Such problems generally occur as a result of large numbers of drinkers being concentrated in one area, for example when leaving a Premises at peak times or when queuing at fast food outlets or for public transport.

Queuing in itself may lead to conflict, disorder and anti-social behaviour. Moreover, large concentrations of people may also attract criminal activities such as drug dealing, pick pocketing and street robbery. Local services such as public transport, public lavatory provision and street cleaning may not be able to meet the demand posed by such concentrations of drinkers leading to issues such as street fouling, littering, traffic and public nuisance caused by concentrations of people who cannot be effectively dispersed quickly.

Variable Licensing hours may facilitate a more gradual dispersal of customers from Premises. However, in some cases, the impact on surrounding areas of behaviour of the customers of all Premises taken together will be greater than the impact of customers of individual Premises. These Conditions are more likely to arise in Town and city centres, but may also arise in other urban centres

and the suburbs, for example on smaller high streets with high concentrations of Licensed Premises.

With effect from 6 April 2018, the Policing and Crime Act 2017 introduced the concept of cumulative impact assessments into the Licensing Act 2003 by inserting into the Act a new Section 5A and placing it on a statutory footing.

A Cumulative Impact Assessment (CIA) may be published by a Licensing Authority to help it to limit the number or types of Licence Applications granted in areas where there is evidence to show that the number or density of Licensed Premises in the area is having a Cumulative Impact and leading to problems which are undermining the Licensing objectives. CIA's relate to Applications for new Premises Licences and Club Premises Certificates in a specified area.

Publication of a CIA is in accordance with the requirements of Section 5A of the Licensing Act 2003 and with regard to the Guidance issued by the Secretary of State under 182 of the Licensing Act 2003.

A Cumulative Impact Policy which has been adopted by the Authority applies to properties within the boundary highlighted in Appendix.9. The Cumulative Impact Policy has been reviewed in 2019.

### **13. Licensing Hours**

- 13.1. As regards the imposition of Licensing hours, where representations are received, the Licensing Authority will judge each Application on merit. The Licensing Authority will have regard to the overall impact of the Licensed Premises on the local amenity and any proposals the applicant might submit to mitigate such impact. The Licensing Authority recognises that longer licensing hours can be a means of preventing large concentrations of people accumulating in areas which then become overly congested.
- 13.2. The opening hours granted on a Premises Licence should be seen as the maximum rather than mandatory opening hours for the Premises.
- 13.3. Uniform or standardised hours of operation for Premises or areas will not be set thus avoiding a 'zoning effect' and enabling the orderly departure of customers. However, there may be circumstances in which the Licensing Authority may deem it appropriate to attach stricter Conditions with regard to noise control, an example being customer departure in a particularly noise sensitive area.
- 13.4. In relation to Premises purely selling alcohol for consumption off the Premises, there will be a presumption that the activity will be Licensed to operate at all the times that the Premises are open for their normal business. However, the Licensing Authority will consider the imposition of more restrictive hours for the sale of alcohol at those

Premises where, for example, that activity creates a focus for disorder and disturbance by people congregating in isolated areas.

- 13.5. **Note** – The Licensing Authority will actively encourage openness, transparency and reasonableness as regards the Conditioning of licenses'. Consequently officers will seek to discuss proposed Conditions in advance with the Applicant and/or representative, with the aim of achieving a mutually agreeable level of protection to the public and fulfilment of the Licensing objectives.

## 14. Licensing Conditions

- 14.1. One of the key concepts of the Act is for Conditions only to be attached to Licences/Certificates that are tailored to the individual Premises or event. Unlike previous regimes, standard Conditions will not be applied to all Premises irrespective of their operating practice and circumstances. Ideally, applicants will identify the Conditions that are appropriate to their Premises and address the four Licensing objectives, and include them within their operating schedule. These will then be translated into Conditions, which will be attached to the Licence.
- 14.2. The Licensing Authority will only attach Conditions that are reasonable, proportionate and strictly necessary for the promotion of the Licensing objectives. There is a need to avoid measures, as far as possible, that deter live music, dancing and theatre by imposing indirect costs of a disproportionate nature.
- 14.3. In order to provide guidance to Applicants, four sets of possible Conditions are attached to this Policy as appendices 2 – 7. These Conditions have been reproduced from the Secretary of State's Guidance and therefore include the majority of possible Conditions that could be appropriate. It should be noted however that the Conditions are only guidance and are not exhaustive; therefore applicants should be prepared to amend or add alternative and/or additional Conditions to their Applications if it is appropriate to the operation of their Premises. Where any control measure(s) is/are not relevant in respect of particular Premises or activities, the Licensing Authority clearly will not expect it or them to be mentioned in the operating schedule.
- 14.4. The Licensing Authority recognises that some Conditions may address more than one of the Licensing objectives.
- 14.5. In deciding if any of the attached or additional Conditions would be appropriate, the applicant should consider amongst other things:
- The type, layout, construction and size of Premises
  - Its location
  - Its clientele

- The number of people attending
- The age profile of the customers
- Its proposed hours of operation
- The nature of any drinks promotions
- The type(s) of entertainment to be provided
- The times when the entertainment will be provided
- The previous history of problems at or related to the Premises (including drug misuse and abuse of alcohol)
- The ability of the designated Premises Supervisor to control and supervise customer behaviour

## **15. Adult Entertainment**

15.1. In April 2010 Schedule 3 of The Local Government (Miscellaneous Provisions) Act 1982 was amended by the Section 27 of the Policing and Crime Act 2009 enabling Local Authorities to regulate Sexual Entertainment Venues. The Council has resolved and adopted schedule 3 in relation to lap dancing and other sexual entertainment venues. The Authority has produced a Policy relating to the Licensing of such Premises.

15.2. The Licensing Act makes no specific provision with respect to certain activities such as “lap”, “table” and “pole” dancing these and similar forms of sexual entertainment are not in themselves designated as licensable activities under the Act. However, if the Premises also carry on other licensable activities (e.g. the sale of alcohol or the provision of regulated entertainment that is not sexual entertainment), they will require a Premises Licence, Club Premises Certificate or temporary events notice under the Licensing Act for those activities. The Licensing Committee will have regard to any Conditions or policies regarding these venues as and when an Application is made to operate a venue of this kind.

## **16. Large Events**

16.1. Advice regarding large events is available via the HSE publication ‘Event Safety Guide’ which is available to download. The Licensing Authority recommends to all organisers of large events to view this type of document prior to submitting an Application under the Licensing Act.

## **17. Prevention of Crime and Disorder**

17.1. The essential purpose of the Licence or Certificate is to regulate behaviour on Premises and access to them where this relates to licensable activities and the Licensing objectives. Conditions attached to Licences cannot seek to manage the behaviour of

customers once they are beyond the direct management of the Licence holder and his staff or agents. They can however directly impact on the behaviour of those under the Licensee's direction when on their Premises or in the immediate vicinity of the Premises as they seek entry or leave.

17.2. There are a number of offences both within the Licensing Act 2003 and other legislation that relate to crime and disorder and that licensees should be familiar with. These offences stand in their own right and will not be duplicated as Conditions on any Licence/Certificate.

17.3. Appendix 3 contains the suggested Conditions from the Secretary of State's guidance relating to crime and disorder.

17.4. A 'Pubwatch' scheme operates within the East Staffordshire area and aims to counter individuals who threaten damage, disorder and violence or use or deal in drugs in their Premises by excluding them from Licensed Premises. The Licensing Authority is particularly supportive of such schemes and considers Premises should join where it is appropriate to do so. Licensed Premises sited within Burton and Uttoxeter Town Centre are particularly encouraged to join the Pubwatch scheme and if they are not members will be expected to demonstrate alternative controls, of at least the same effect, to counteract crime and disorder in relation to their Premises.

17.5. The Security Industry Authority also plays an important role in preventing crime and disorder by ensuring door supervisors are properly Licensed. The Authority will co-operate and work with the security industry.

17.6. **Drugs** - The licensing authority recognises that the supply and use of illegal drugs by individuals is not relevant to all licensed premises, however in certain venues if representations are received. Psychoactive substances are those intended for human consumption that is capable of producing a psychoactive effect. It is a criminal offence to produce, supply or sell psychoactive substances. The Psychoactive Substances Act 2016 amends the Licensing Act 2003, creating new powers of entry relating to offences. Premises should have a written drugs policy for the premises.

17.7. **Drink spiking** – The Licensing Act 2003 includes taking measures to prevent incidents of spiking, prosecutable under the Offences Against the Person Act 1861 and the Sexual Offences Act 2003. The following are examples which are considered spiking:

- Putting alcohol into some ones drink without their knowledge or permission

- Putting prescription or illegal drugs into an alcoholic or non-alcoholic drink without permission or knowledge
  - Injecting another person with prescription or illegal drugs without their knowledge or permission
  - Putting prescription or illegal drugs into another person's food without their knowledge or permission
  - Putting prescription or illegal drugs into another person's cigarette or vape without their knowledge or permission.
- 17.8. Ask for Angela Campaign – The Ask for Angela initiative aims to ensure that anyone who is feeling vulnerable or unsafe is able to get discreet support. This could be on a night out, on a date or meeting friends. The initiative works by training staff in vulnerability management and what to do when someone 'Asks for Angela'.
- 17.9. The Council expects that when a trained member of staff hears the code phrase they should understand that the person is in need of support and will be able to respond in an appropriate way out of the venue, calling them a taxi or in a more serious situation, altering venue security and/or the Police. More information can be found here:  
<https://violencereductionalliance.co.uk/ask-for-angela/>

## 18. Public Safety and Counter Terrorism

- 18.1. The public safety objective is concerned with the physical safety, including fire safety, of the people using the relevant Premises and not with public health, which is dealt with in other legislation. Public safety includes the safety of performers appearing at any Premises.
- 18.2. Appendices 4 and 5 contain the suggested Conditions from the Secretary of State's guidance relating to public safety.
- 18.3. The Authority has noted that from 1<sup>st</sup> October 2006 the Regulatory Reform (Fire Safety) Order 2005 replaced previous fire safety legislation. Responsibility for complying with the order rests with the 'responsible person' who has control of Premises.
- 18.4. The Licensing Authority is familiar with the "Safer Clubbing Guide" and its Application to nightclubs and dance events. The Guide contains a number of suggestions and safeguards, which appropriate Premises should consider and include within their operating schedules as necessary.
- 18.5. There are a number of other key publications that relate to public safety at entertainment events, which the Licensing Authority would recommend to applicants. The details of these publications are reproduced in Appendix 3.

## Counter Terrorism

18.6. The licensing authority requires that applicants for premises licenses and variation to those licenses, to pay particular attention to possible terrorist threats in relation to security and health care provision at appropriate premises and events applying for a licence.

18.7. Existing licence holders should also carefully consider the information below and pay particular attention to possible terrorist threats as further legislation and guidance may be forthcoming.

18.8. Organisations, businesses, local and public authorities and individuals who own or operate publicly accessible premises or events should be aware of the Terrorism (Protection of Premises) Bill (Also known as Martyns Law) and its potential affect.

18.9. Where appropriate, applicants and existing licence holders should consider appropriate access for emergency services and vehicles such as ambulances; good communication with local authorities and emergency services, for example communications networks with the police and signing up for local incident alerts and ensuring the presence of sufficient trained first aiders on the premises and appropriate first aid kits.

18.10. Guidance on counter terrorism measure and information on further security planning and health care provision in the aftermath of a particular type of incident can be found in an annex at the rear of the S182 Statutory Guidance.

[https://assets.publishing.service.gov.uk/media/65a8f578ed27ca00d27b1f9/Revised\\_guidance\\_issued\\_under\\_section\\_182\\_of\\_the\\_Licensing\\_Act\\_2003-December\\_2023.pdf](https://assets.publishing.service.gov.uk/media/65a8f578ed27ca00d27b1f9/Revised_guidance_issued_under_section_182_of_the_Licensing_Act_2003-December_2023.pdf)

18.11. Applicants for premises licenses and variation to those licenses, should also consider:

- That certain members of staff must have completed the free of charge [Action Counter Terrorism \(ACT\) Awareness e-learning training](#) in order that the premises has sufficient members of staff who are trained and available to promptly identify and respond to any terrorist incident.
- Counter-terrorism awareness training session for their Designated Premises Supervisor (DPS). This will be separate to the training mentioned above and may be available through the Council and other providers.
- A documented security assessment, which incorporates counter terrorism measures for the premises.



- Within 28 days of the grant or variation of the licence, the premises licence holder shall evaluate any risks and take prompt steps to reduce the risk as far as is reasonably practicable. Business development support is available at: [ProtectUK | Home](#)
- Whether the premises must have a documented security plan, which sets out counter measures to be implemented in response to a terrorist attack at or near your premises. This may be particularly relevant at high profile or large premises or events or where there are factors which may increase attractiveness to attacks, and in particular when in receipt of relevant advice from police counter terrorist staff. More information and support is available at: [ProtectUK | Home](#)

### **Pavement Licences**

- 18.12. Pavement Licences are granted by the Local Authority, or deemed to have been granted, which allows the licence holder to place removable furniture over certain highways adjacent to the premises. Licences that are deemed to have been granted should remain in place for such period as the local authority may specify in the licence with a maximum limit of 2 years.
- 18.13. The Levelling Up and Regeneration Act 2023 makes permanent the provisions set out in the Business and Planning Act 2020 that streamlined the process to allow businesses to secure these licences quickly.
- 18.14. Businesses that are eligible include public houses, cafes, restaurants and bars, coffee shops, snack bars and ice cream parlours which use, or propose to use, premises for the sale of food or drink for consumption (on or off the premises) can apply for authorisation and a licence.
- 18.15. A licence allows the business to place removable furniture such as tables and chairs on the highway adjacent to their premises to sell or serve food and drink and/or allow it to be used by people for consumption of food and drink supplied from, or in connection with the use of the premises.
- 18.16. Guidance on Pavement Licences can be found here: [Pavement Licences | East Staffordshire Borough Council \(eaststaffsbc.gov.uk\)](#)

More information on the Business and Planning Act can be found here:

Guidance: pavement licences (outdoor seating) - GOV.UK ([www.gov.uk](http://www.gov.uk))

Alcohol licensing: guidance on temporary off-sales permissions - GOV.UK ([www.gov.uk](http://www.gov.uk))

## 19. Prevention of Public Nuisance

- 19.1. The public nuisance objective is designed to deal with the impacts of licensable activities at specific Premises on persons living and working (including doing business) in the vicinity that is disproportionate and unreasonable. The main issues for concern will be noise nuisance, light pollution, noxious smells and litter.
- 19.2. The provision of welfare facilities such as toilets within Licensed Premises is relevant to the prevention of public nuisance. Adequate welfare provisions may prevent nuisance activities taking place within the street, such as urination. Licensees should therefore ensure that adequate facilities are provided within the Premises and include these details within their operating schedule.
- 19.3. Public nuisance is not defined within the Act but is given a broad common law definition. The prevention of public nuisance could therefore include low-level nuisance perhaps affecting a few people living locally as well as major disturbances affecting the whole community. It may also include in appropriate circumstances the reduction of the living and working amenity and environment of other persons in the vicinity of the Licensed Premises.
- 19.4. The Licensing Authority will have regard to the powers available within the Anti-Social Behaviour Act 2003. This provides that if a noise from Licensed Premises is causing a public nuisance the local authority has powers to issue a closure order for up to 24 hours. This compliments the police powers under Part 8 of the 2003 Act.
- 19.5. Section 19 of the Criminal Justice and Police Act 2001 (the Act) gives licensing authorities, police and local authorities the power to serve a closure notice where any premises are being used (or have been used within the last 24 hours), for the sale of alcohol for the consumption on or in the vicinity of the premises; and the activity was not authorised (premises licence, club premises certificate or temporary event notice) or not in accordance with the conditions of authorisation. The notice informs the person with control of, or responsibility for, the activities carried on at the premise (normally the licence holder or the designated premises supervisor) that if unauthorised alcohol sales continue, an application may be made to the court under section 20 for an order to close the premises under section 21 of the Act. Such an application cannot be made less than seven days or more than six months after the service of the closure notice under section 19.

19.6. The person should be warned that it is an offence under section 136 of the Licensing Act 2003 to carry on the sale of alcohol without, or in breach of, an authorisation.

19.7. Appendix 6 contains the suggested Conditions from the Secretary of State's Guidance relating to public nuisance.

## 20. Protection of Children from Harm

20.1. The Act has tightened up on the controls relating to the sale and supply of alcohol to children with new and further principle offences contained within the Act itself. However the intention of the Act is to make Licensed Premises accessible to families and only limit access to children where it is necessary in order to prevent physical, moral or psychological harm to them. When deciding whether restrictions should be imposed, the Licensing Authority will examine the individual merits of each Application and only impose Conditions where the circumstances justify them.

20.2. Appendix 7 contains the suggested Conditions from the Secretary of State's guidance relating to the protection of children from harm.

20.3. The protection of children from harm includes the protection of children from moral, psychological and physical harm, and this would include the protection of children from too early an exposure to strong language, sexual expletives, violence or frightening images, for example, in the context of film exhibitions, or where adult entertainment is provided.

20.4. Aspects of an Application that would be likely to raise concerns in relation to access by children would include:

- Where entertainment or services of an adult or sexual nature are commonly provided;
- Where there have been convictions of members of the current staff at the Premises for serving alcohol to minors or with a reputation for underage drinking;
- With a known association with drug taking or dealing;
- Where there is a strong element of gambling on the Premises (but not, for example, the simple presence of a small number of cash prize gaming machines); and
- Where the supply of alcohol for consumption on the Premises is the exclusive or primary purpose of the services provided at the Premises.

20.5. It is not possible to provide an exhaustive list of the entertainment or services that are of an adult or sexual nature, therefore a common sense approach will be taken to interpretation. However such

entertainment or services would also include entertainment involving strong and offensive language.

20.6. Where Conditions are required for the prevention of harm to children, a range of alternatives will be considered as methods for limiting access. These will include:

- Limitations on hours when children may be present;
- Limitations on the exclusion of the presence of children under certain ages when particular specified activities are taking place;
- Limitations on the parts of the Premises to which children might be given access;
- Age limitations (below 18);
- Requirements for accompanying adults (including for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult); and
- Full exclusion of those people under 18 from the Premises when any licensable activities are taking place.

20.7. The Licensing Authority, Staffordshire County Council Trading Standards and the Police take a very serious view of the persistent and illegal sale of alcohol and other age-restricted goods. Together with Trading Standards, the Licensing Authority will continue to seek to ensure that illegal sales of alcohol and other age-restricted goods is reduced and ultimately eradicated.

20.8. The sale of alcohol to minors (under 18 years of age) is a Criminal Offence and Trading Standards has, over time, worked to advise the off-Licence trade on how to set up systems to avoid sales taking place. (Advice and materials from Trading Standards is not chargeable). Trading Standards will continue to regularly conduct covert test purchasing exercises with volunteers in response to complaints and local intelligence.

20.9. The Licensing Authority will maintain close contact with the Police, Young Offender's Team and Trading Standards officers regarding unlawful activities and share actions and intelligence where appropriate.

**Table 2. Offences Relating to Children**

Section	Offence	Prosecuting Authority
145	Unaccompanied children prohibited from certain Premises	Police/and or Licensing Authority
146	Sale of alcohol to children	Police, Licensing Authority and /or

		local Weights and Measures
147	Allowing the sale of alcohol to children	Police, Licensing Authority and /or local Weights and Measures
147a	Persistently selling alcohol to children	Police, and /or local Weights and Measures
149	Purchase of alcohol by or on behalf of children	Police, and/or Licensing Authority
150	Consumption of alcohol by children	Police, and/or Licensing Authority
151	Delivering alcohol to children	Police, and/or Licensing Authority
152	Sending a child to obtain alcohol	Police, and/or Licensing Authority
153	Prohibition of unsupervised sales by children	Police, and/or Licensing Authority

20.10. Attached at Appendix 8 is guidance issued by Staffordshire Trading Standards detailing suggested actions that Licensees could take in order to show that they are addressing the issue of underage sales of alcohol. Applicants are advised to consider whether any or all of the suggested actions are appropriate to include within their operating schedule.

20.11. The Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks 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. The Code is an important weapon in protecting children from harm because it addresses the naming, marketing and promotion of alcohol products sold in Licensed Premises in a manner that may appeal to or attract minors. The Licensing Authority commends the Code to Licence holders and Applicants.

20.12. Although the Act is designed not to unnecessarily restrict access to Licensed Premises by children, equally Conditions will not be imposed on Licences requiring general access for children this will be left to the discretion of the licensee.

20.13. The Licensing Authority recognises the Director for Families and Communities of Social Care and Health for Staffordshire County Council and Staffordshire Police as the responsible Authorities for advising the Licensing Authority on matters relating to the Licensing objective to protect children from harm.

Licensing Authorities should give considerable weight to representations about child protection matters. In addition to the responsible authority whose functions relate directly to child protection, the Director of Public Health may also have access to relevant evidence to inform such representations. These representations may include, amongst other things, the use of health data about the harms that alcohol can cause to underage drinkers. Where a responsible Authority, or other person, presents evidence to the Licensing Authority linking specific Premises with harms to children (such as ambulance data or emergency department attendances by persons under 18 years old with alcohol-related illnesses or injuries) this evidence should be considered, and the Licensing authority should also consider what action is appropriate to ensure this Licensing objective is effectively enforced. In relation to Applications for the grant of a Licence in areas where evidence is presented on high levels of alcohol-related harms in person aged under 18, it is recommended that the Licensing Authority considers what Conditions may be appropriate to ensure that this objective is promoted effectively.

- 20.14. In the case of Premises giving film exhibitions, the Licensing Authority will expect licensees or Clubs to include in their operating schedules arrangements for restricting children from viewing age-restricted films classified according to the recommendations of the British Board of Film Classification. A mandatory Condition to this effect will be applied to all Premises licenses and Club Premises Certificates where the exhibition of films is included as part of the Application.

## **21. Integrating Strategies**

- 21.1. The Licensing Authority recognises that this Statement of Licensing Policy should not stand alone but integrate with other local strategies and policies, for example local crime prevention, planning, transport, tourism, race equality schemes, and cultural strategies as well as plans introduced for the management of the Town Centre.
- 21.2. The local Crime Prevention strategy will influence any Conditions imposed on a Premises Licence or Club Premises Certificate in relation to crime and disorder. It is important for the Local Authority to fulfil its obligations under Section 17 of the Crime and Disorder Act 1998 when carrying out its functions under the 2003 Act. Section 17 gives the vital work of crime and disorder reduction a focus across a wide range of local services and putting it at the heart of local decision-making. It places a duty on certain key Authorities, including the Police and Fire and Rescue to do all they reasonably can to prevent crime and disorder in the area.

- 21.3. The Licensing Authority will as a matter of good practice involve Crime and Disorder Reduction Partnerships in decision making to ensure the Licensing Policy includes effective crime and disorder strategies.
- 21.4. The Licensing Authority believes that the promotion of the arts and cultural activities are an important part in developing the cultural life of the community. The Council plays a key role in both providing and facilitating cultural activities within the Borough. Neither the Act nor the Council, in the way that it administers the Act, intend the provisions to be a restriction on the provision and promotion of cultural activities, particularly live music and dancing.
- 21.5. The Licensing Authority are also empowered by the Anti-Social Behaviour Crime and Policing Act 2014 to make Public Space Protection Orders to restrict the drinking of alcohol in a public space where this has or is likely to have a detrimental effect on the quality of life of those in the locality, be persistent or continuing in nature and unreasonable. This will be in consultation with Staffordshire Police.
- 21.6. A key aspect of reducing crime and disorder and public nuisance, particularly at night time, is the requirement to disperse people from the Town centres swiftly and safely. The increased flexibility relating to opening hours should reduce the burden on local transport providers (i.e. hackney carriage and private hire providers).
- 21.7. The Licensing Authority will facilitate the opportunity for the full Licensing Committee to receive reports and/or representations relating to the needs of the local tourist economy and the local employment situation, with particular reference to the entertainment sector and nighttime economy. Such representations will be relevant both to the Application of the existing Policy but also assist in molding any future Policies.
- 21.8. The Licensing Authority recognises that the Licensing regime should not be used to duplicate existing regulatory regimes. Where existing regimes already provide adequate controls in relation to licensable activities then it will not be considered necessary to duplicate these with Licensing Conditions. The only provisos to this are:
- That the Act is designed to be preventative i.e. anticipates potential problems and proactively introduces controls to prevent them occurring. Some existing regulatory regimes do not operate proactively and therefore Licensing Conditions may be a more appropriate means of exercising control.

- That existing regulatory regimes may not address the unique circumstances that arise in connection with licensable activities, particularly regulated entertainment, at specific Premises and tailored Conditions may be necessary.

21.9. Planning, Building Control and Licensing regimes will be properly separated to avoid duplication and inefficiency. Applications for Premises Licences for permanent commercial Premises should normally be from businesses with planning consent for the property concerned. Licensing Applications will not be a re-run of the planning Applications and should not cut across decisions taken by the local Planning Authority. Similarly, the granting by the Licensing Committee of any variation of a Licence, which involves a material alteration to a building, will not relieve the applicant of the need to apply for planning permission or building regulation approval. Although the regimes are separate, the Council will do its utmost to give applicants advice about the other regimes that are relevant to their Application and signpost them to help and assistance where this is needed.

21.10. Where appropriate, details of the local position relating to Licensed Premises, including the general impact of alcohol related crime and disorder will be provided to the Planning Applications Committee. This will enable the Planning Applications Committee to have regard to such matters when taking their decisions.

21.11. Where there is an application for planning permission, the National Policy Framework expects new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses or community facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required by the local planning authority to provide suitable mitigation before the development has been completed.

21.12. The Licensing Authority recognises that the Race Relations Act 1976 (as amended) places a legal obligation on public Authorities to have due regard to the need to eliminate unlawful discrimination, and to promote equality of opportunity and good relations between persons of different racial groups. The Licensing Authority will exercise its functions under the Act in accordance with the Race Relations Act, and its activities will be monitored in accordance with its Race Equality Scheme.

21.13. The Licensing Authority will have regard to "The Government's Alcohol Strategy".



## 22. Enforcement

- 22.1. The Licensing Authority recognises that efficient and effective enforcement is of paramount importance in ensuring that the Licensing objectives contained within the Act are met. Enforcement responsibilities under the Act fall principally to the Licensing Authority and the police. The Licensing Authority will continue working with the police to develop their partnership working and support the key tasks expected of the police by Government.
- 22.2. The Council's Corporate Enforcement Policy will be used. This Policy supports the fundamental principles for good enforcement recommended by the Better Regulation Taskforce, namely:
- Targeting – i.e. focusing on activities that give rise to the most serious risks or where hazards are least well controlled
  - Consistency – i.e. similar approaches in similar circumstances to achieve similar ends
  - Transparency – i.e. helping duty holders to understand what is expected and distinguishing between statutory requirements and guidance
  - Proportionality – i.e. action taken should be proportional to the risk presented.
- 22.3. In applying good enforcement practice, the Licensing Authority will operate a 'light touch' inspection regime for well managed and well maintained Premises, with a targeted and graduated inspection and enforcement for problem and high-risk Premises.
- 22.4. The Licensing Authority, the Police and other Responsible Bodies will share information about licensees, Licensed Premises and activities associated with them. Such information sharing is permitted under Section 185 of the Act. The Licensing Authority and the Police will work closely in order to ensure consistency, transparency and proportionality in their enforcement activities. The Licensing Authority will continue to investigate complaints and conduct proactive enforcement exercises to ensure that Licences and the Conditions attached to them are complied with and that unlicensed activity is dealt with as appropriate to ensure the highest standards of licensees and Premises in the Borough.
- 22.5. The Councils Enforcement Team are authorised to act as the Responsible Authority on behalf of the Licensing Authority.

- 22.6. The Licensing Authority work in partnership with other local Authorities and have an agreement to take into account the Staffordshire and Stoke on Trent Framework Agreement on Multi Agency Approach to Alcohol Licensing and Enforcement.

### **23. Early Morning Restriction Orders**

- 23.1. Early Morning Restriction Orders can be introduced by the Licensing Authority for any part of the Borough where it is considered that restricting the sale of alcohol between Midnight and 0600 hours is appropriate to promote the four Licensing objectives in the Licensing Act 2003. It can apply either every day or for certain days, and for an unlimited or time-limited period. Prior to introducing an Early Morning Restriction Orders, the Authority must consult directly with Responsible Authorities and Licensed Premises, and more widely with residents and parties likely to be affected. Any representations must be made within a 28-day period and be considered by the Licensing Committee; the Early Morning Restriction Order itself must be endorsed by Full Council. Once introduced, the Early Morning Restriction Orders will make it an offence to sell alcohol during the times specified in the order, whether under a Premises Licence, Club Premises Certificate or TENs (subject to certain specified exceptions).
- 23.2. Any consultation in relation to a possible Early Morning Restriction Orders or decision to implement an Early Morning Restriction Order will be undertaken separate to this Policy document.

### **24. Late Night Levy**

- 24.1. Late night levies allow Licensing Authorities to raise a contribution from late opening alcohol retailers towards the policing costs generated by the late night economy. The levy will apply to all Premises (on or of trade), throughout the Licensing Authority's area, which are authorised to sell or supply alcohol in the time period set by the Licensing Authority. This can be any time between Midnight and 0600 hours. A Consultation process will include the Police, Licence holders and others. Unlike Early Morning Restriction Orders a Late Night Levy will not apply to TENs.
- 24.2. Any consultation in relation to a possible Late Night Levy or decision to implement a Late Night Levy will be undertaken separate to this Policy.

### **25. Entitlement to Work - Immigration Act 2016**

- 25.1 Section 36 of and Schedule 4 to the Immigration Act 2016 made a number of amendments to the Licensing Act 2003 to introduce immigration safeguards in respect of Licensing Applications made in

England and Wales on or after 6 April 2017. The intention of these changes is to prevent illegal working in Premises Licensed for the sale of alcohol or late night refreshment.

- 25.2 The statutory prevention of crime and disorder Licensing objective in the Licensing Act 2003 includes the prevention of immigration crime and the prevention of illegal working in Licensed Premises. The Council will work with the Home Office (Immigration Enforcement) as well as the Police, in respect of these matters.
- 25.3 Section 36 of and Schedule 4 to the Immigration Act 2016 (the 2016 Act) amended the 2003 Act to provide that in England and Wales:
- Premises Licences to sell alcohol or provide late night refreshment and Personal Licences cannot be issued to an individual who does not have permission to be in the UK, or is not entitled to undertake work relating to the carrying on of a licensable activity;
  - Licences issued to those with limited permission to be in the UK will lapse when their permission to be in the UK and work in a licensable activity comes to an end;
  - Immigration offences including civil penalties are relevant offences as defined by the 2003 Act;
  - The Home Secretary (in practice Home Office Immigration Enforcement) was added to the list of responsible Authorities in the Licensing regimes, which requires Home Office (Immigration Enforcement) to receive Premises Licence Applications (except regulated entertainment only Licences) and Applications to transfer Premises Licenses, and in some limited circumstances Personal Licence Applications, and permits Home Office (Immigration Enforcement) to make appropriate representations and objections to the grant of a Licence; and
  - Immigration Officers are permitted to enter Premises which they have reason to believe are being used to sell alcohol or provide late night refreshment, to investigate whether immigration offences are being committed in connection with the licensable activity.
- 25.4 Licensing Authorities must be satisfied that an applicant has the right to work in the UK.
- 25.5 For applications made on or after 6 April 2017, where an applicant's immigration permission to live and work in the UK is time-limited, a personal licence may be issued. However, it will become invalid when the immigration permission expires. In the event that the Home Office cuts short or ends a person's immigration permission, any licence issued in respect of an application made on or after 6 April 2017 will automatically lapse.
- 25.6 A person is disqualified from applying for a personal licence or a premises licence by reason of their immigration status if:

- The person requires leave to enter or remain in the UK and has not been granted it; or
  - The person's leave to enter or remain in the UK:
    - is invalid,
    - has ceased to have effect (whether by reason of curtailment, revocation, cancellation, passage of time, or otherwise), or
    - is subject to a condition preventing the person from doing work of that kind.
- 25.7 The licensing authority should establish whether or not an applicant has a lawful immigration status in the UK or is prohibited from working because they are in the UK unlawfully or is subject to a condition that prevents them from holding a licence.
- 25.8 If an applicant has restrictions on the length of time they may work in the UK, a premises licence or personal licence may still be issued. However, the licence will cease to have effect when the right to work lapses.
- 25.9 In most cases the licensing authority should be able to make an assessment that the applicant is not disqualified from applying for a premises or personal licence based on any information provided with the application. This will include all cases where the applicant is a British citizen. It is only necessary to contact the Home Office SVEC Unit in the following circumstances to verify that someone has the right to hold a premises or personal licence:
- 25.10 That licensing authorities are presented with a document (non-digital CoA or an acknowledgement letter or email) confirming receipt of an application to the EU Settlement Scheme (EUSS) on or before 30 June 2021; or licensing authorities are presented with a non-digital CoA confirming receipt of an application to the EUSS on or after 1 July 2021; or licensing authorities have checked a digital CoA, using the online service, confirming receipt of an application to the EUSS on or after 1 July 2021, and been directed to SVEC; or that the applicant is unable to provide evidence of their right to work due to an outstanding application for permission to remain in the UK which was made before their previous immigration leave expired, or has an outstanding appeal or administrative review against a Home Office decision that grants them a right to work; or that licensing authorities consider that they have not been provided with any acceptable documents, but the applicant presents other information indicating they are a long-term resident of the UK who arrived in the UK before 1988.
- 25.11 In these five circumstances, SVEC will confirm the individual's immigration status.
- 25.12 However, licensing authorities will still have to determine whether the

applicant should be granted a licence.

### **25.13 Entitlement to work in the UK for EEA citizens since 1 July 2021**

25.14 The UK has left the European Union (EU) and the Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 ended free movement on 31 December 2020. There followed a grace period of six-months , during which relevant aspects of free movement were saved to allow eligible EEA citizens and their family members resident in the UK by 31 December 2020 to apply to the EU Settlement Scheme (EUSS). This period ended on 30 June 2021.

25.15 Since 1 July 2021, EEA citizens and their family members require immigration status in the UK. They can no longer rely on an EEA passport or national identity card, which only confirms their nationality, to prove their right to work. They are required to provide evidence of lawful immigration status in the UK, in the same way as other foreign nationals.

### **25.16 Irish citizens**

25.17 Irish citizens continue to have unrestricted access to work in the UK, they can prove their right to work using their Irish passport or Irish passport card. Alternatively, they can use their Irish birth or adoption certificate, together with an official document giving their permanent National Insurance number and their name. The latter must be issued by a Government Agency or a previous employer.

25.18 If licensing authorities have existing or prospective licence applicants who require further advice and support with regard to their immigration status, they can access information on GOV.UK: <https://www.gov.uk/government/publications/view-and-proveyour-immigration-status-evisa>. This also provides further information on how to prove immigration status, how to update personal details, and support available.

25.19 The Licensing Authority will have regard to any guidance issued by the Home Office in relation to the immigration related provisions now contained in the Licensing Act 2003.

25.20 The Licensing Authority will also work in partnership with the Home Office (Immigration Enforcement) and Staffordshire Police with a view to preventing illegal working in Premises Licensed for the sale of alcohol or late night refreshment.

## **26. Late Night Refreshment – Powers to Deregulate**

Section 71 of the Deregulation Act 2015 inserted paragraph 2A into Schedule 2 of the Licensing Act 2003 in relation to the provision of Late Night Refreshment.

This amendment created a discretionary power to Licensing Authorities to exempt Premises in certain circumstances, from the requirement to have Licence to provide Late Night Refreshment.

The powers allow a relevant licensing authority to exempt the supply of Late Night Refreshment if it takes place:

- On or from Premises which are wholly situated in a designated area
- On or from Premises which re of a designated description;
- During a designated period beginning no earlier than 23.00hours and ending no late than 5.00hours.

The Licensing authority has currently not exercised these discretionary powers.

## **27. Contacts**

The Licensing Act 2003 regime is being dealt with by:

E-mail: [licensing@eaststaffsbc.gov.uk](mailto:licensing@eaststaffsbc.gov.uk)

By Post:

Licensing Office  
East Staffordshire Borough Council  
The Town Hall  
King Edward Place  
Burton Upon Trent  
Staffordshire DE14 2EB

Appointments to submit or discuss Applications are available by calling 01283 508310 / 508585 / 508692 / 508505

## **Appendix 1**

### **List of Consultees**

- Staffordshire Police
- Staffordshire Fire and Rescue Service
- Staffordshire County Council – Department of Social Care and Health
- Staffordshire County Council – Highways Department
- Health and Safety Executive
- East Staffordshire Borough Council – Elected Members
- East Staffordshire Borough Council – ESBC Heads of Service

- East Staffordshire Borough Council – Environmental Health Manager
- Parish Councils within East Staffordshire
- Burton & District Chamber of Trade and Commerce
- East Staffordshire Pubwatch Scheme
- East Staffordshire Crime and Disorder Partnership
- East Staffordshire Racial Equality Council
- East Staffordshire Primary Care Trust
- Immigration

Responsible Authorities:

- Southern Licensing Department, Staffordshire Police
- Staffordshire Safeguarding Children Board
- Eastern Service Delivery Group, Staffordshire Fire & Rescue
- Planning Delivery, East Staffordshire Borough Council
- Pollution – Environmental Health, East Staffordshire Borough Council
- Enforcement, East Staffordshire Borough Council
- Staffordshire County Council Trading Standards
- Dr. Richard HARLING, Director of Public Health, Staffordshire County Council and Staffordshire NHS
- Alcohol Licensing Team, Immigration
  
- All District/Borough Councils in Staffordshire
- South Derbyshire District Council
- Derbyshire Dales District Council
- North West Leicestershire Council
- Derby City Council
  
- Punch Taverns Ltd
- Punch Partnerships (PTL) Ltd
- Marstons plc
- Spirit Pub Company (Services) Ltd
- Mitchells & Butlers Leisure Retail Ltd
- Admiral Taverns
- Central England Co-Operative
- JD Wetherspoon plc
- EI Group plc
- New River Trustee
- Greene King Brewing & Retailing
- Sainsbury's plc
- Tesco
  
- John Gaunt & Partners
- Poppleston Allen Solicitors
- Flint Bishop Solicitors
- Eversheds Sutherland (International) LLP

- Woodsworth Solicitors
- DWF Solicitors
- TLT Solicitors
- Gosschalks Solicitors
- Winckworth Sherwood Solicitors
  
- Premises Licence Holders and Club Premises Certificate Holders
  
- East Staffordshire Borough Council - website

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## **Appendix 2**

### **Possible Conditions relating to the four Licensing objectives**

#### **General**

1. When applicants for Premises Licences or Club Premises Certificates are preparing their operating schedules or Club operating schedules, responsible Authorities and Licensing Authorities are considering applications following the receipt of relevant representations they should consider whether the measures set out below are necessary to promote the Licensing objectives.



2. Any risk assessment to identify necessary measures should consider the individual circumstances of the Premises (including local knowledge) and take into account a range of factors including:
  - The nature and style of the venue
  - The activities being conducted there
  - The location of the Premises and
  - The anticipated clientele of the business involved.

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

3. Any individual preparing an operating schedule is at liberty to volunteer any measure, such as those described below, as a step he or she intends to take to promote the Licensing objectives. When measures are incorporated into the Licence or Certificate as Conditions, they become enforceable under the law and a breach of such a Condition could give rise to prosecution.
4. Licensing Authorities should carefully consider Conditions to ensure that they are not only necessary but realistic, practical and achievable, so they are capable of being met. Failure to comply with Conditions attached to a Licence or Certificate is a criminal offence, which on conviction would be punishable by a fine of up to £20,000 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 vague or difficult to enforce should be avoided.
5. The conditions that are appropriate for the promotion of the licensing objectives which must also emerge initially from risk assessment carried out by a prospective licence or certificate holder, which they should carry out before making their application for a premises licence or club premises certificate. This would be translated into the steps recorded in the operating schedule which must also set out the proposed hours during the licensable activities will be conducted and any other hours during which the premises is open to the public.
6. It is not acceptable for licensing authorities to simply replicate the wording from applicants operating schedule. A condition should be interpreted in accordance with the applicants intention and be appropriate and proportionate for the promotion of the licensing objectives.
7. It should also be borne in mind that Club Premises operate under codes of discipline to ensure the good order and behaviour of members and that Conditions enforcing offences under the Act are unnecessary.

### **Appendix 3**

### **Possible 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.

### **Text/Radio pagers**

Text and radio pagers connecting Premises Licence holders, designated Premises supervisors, managers of Premises and Clubs to the local Police can provide for rapid response by the Police to situations of disorder which may be endangering the customers and staff on the Premises.

Such pagers provide two-way communication, enabling Licence holders, managers, designated Premises supervisors and Clubs to report incidents to the Police, and enabling the Police to warn those operating a large number of other Premises of potential trouble-makers or individuals suspected of criminal behaviour who are about in a particular area. Licence holders, door supervisors, managers, designated Premises supervisors and Clubs to warn each other of the presence in an area of such people can also use pager systems.

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

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

- A requirement that the text/pager equipment is kept in working order at all times;
- A requirement that the pager link be activated made available to and monitored by the designated Premises supervisor or a responsible member of staff at all times that the Premises are open to the public;

- A requirement that any police instructions/directions are complied with whenever given; and
- A requirement that all instances of crime or disorder are reported via the text/radio pager link by the designated Premises supervisor or a responsible member of staff to an agreed police contact point.

### **Door supervisors**

Conditions relating to the provision of Door Supervisors and Security Teams may be valuable in:

- Preventing the admission and ensuring the departure from the Premises of drunk and disorderly, without causing further disorder;
- Keeping out excluded individuals (subject to court bans or imposed by the Licence holder);
- Searching and excluding those suspected of carrying illegal drugs, or carrying offensive weapons; and
- Maintaining orderly queuing outside of venues prone to such queuing.

Where Door Supervisors conducting security activities are to be a Condition of a Licence, they must be registered with the Security Industry Authority. The Conditions will also state in what capacity the supervisor is working and differentiate between security activities and those of a steward. Conditions may also need to deal with the number of such supervisors, the displaying of name badges, the carrying of proof of registration, where and at what times they should be stationed on the Premises, and whether at least one female supervisor should be available (for example, if female customers are to be the subject of body searches). Door supervisors also have a role to play in ensuring public safety and preventing public nuisance (see Appendices 4 and 6).

### **Bottle bans**

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

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

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

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

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

### **Plastic containers and toughened glass**

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

Premises should use a risk-based approach with regard to tackling this problem. It should be noted that the use of plastic or paper drinks containers and toughened glass may also be relevant as measures necessary to promote public safety (see Appendix 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, and to retain recordings for an appropriate period of time.

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

### **Open containers not to be taken from the Premises**

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

### **Restrictions on drinking areas**

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

### **Capacity limits**

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

### **Proof of age cards**

It is unlawful for children under 18 to attempt to buy alcohol just as it is unlawful to sell or supply alcohol to them. To prevent such crimes, it may be necessary to require a Policy to be applied at certain Licensed Premises requiring the production of "proof of age" before such sales are made. This should not be limited to recognised "proof of age" cards, but allow for the production of other proof, such as photo driving Licences, student cards and passports. Where

appropriate and necessary, Conditions may refer directly to accredited proof of age cards, photo-driving Licences and passports.

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

Many Premises have adopted the “Challenge 25” initiative or similar; making this a Condition is possible and ensures that most minors would need to produce appropriate proof of age before a purchase is made.

### **Crime prevention notices**

It may be necessary at some Premises for notices to be displayed, which warn customers of the prevalence of crime, which may target them. Some Premises may be reluctant to volunteer the display of such notices for commercial reasons. For example, in certain areas, a Condition attached to a Premises Licence or Club Premises Certificate might require the displaying of notices at the Premises which warn customers about the need to be aware of pickpockets or bag snatchers and to guard their property.

Similarly, it may be necessary for notices to be displayed, which advise customers not to leave bags unattended because of concerns about terrorism. Consideration could be given to a Condition requiring a notice to display the name of a contact for customers if they wish to report concerns.

### **Drinks promotions**

Standardised blanket Conditions promoting fixed prices for alcoholic drinks to Premises Licences or Club Premises Certificates in an area is likely to breach competition Law. It is also likely to be unlawful for Licensing Authorities or police officers to promote voluntary arrangements of this kind as this can risk creating cartels. Discounting at individual Premises may be permissible provided it is consistent with the Licensing objectives.

Irresponsible promotions are addressed through mandatory Licensing Conditions. Licensing Authorities may need a ‘judgement’ on whether a specific promotion is responsible or irresponsible. It is therefore vital that they consider these matters objectively in the context of the Licensing objectives and before pursuing any form of restrictions at all, take their own legal advice.

### **Signage**

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

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

### **Design, Character and Layout**

The design, character and layout of Licensed Premises will influence how easily a Premises is able to meet the Licensing objectives. Careful thought should be given to the character of the Premises, seating arrangements and the possibility of maintaining existing walls and other room dividers. The position of toilets and bars is also important in seeking to avoid congestion that could lead to frayed tempers.

### **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 with exceptionally high capacities, used primarily or exclusively for the sale and consumption of alcohol and have little or no seating for patrons.

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

- A prescribed capacity;
- An appropriate ratio of tables and chairs to customers based on the capacity;
- and

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- The presence of SIA registered security teams to control entry for the purpose of compliance with the capacity limit.

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## **Appendix 4**

### **Possible Conditions relating to public safety (including fire safety)**

It should be noted that Conditions relating to public safety should be those, which are necessary, in the particular circumstances of any individual Premises or Club Premises, and should not duplicate other requirements of the law. Equally, the attachment of Conditions to a Premises Licence or Club Premises Certificate will not in any way relieve employers of the statutory duty to comply with the requirements of other legislation including the Health and Safety at Work etc. Act 1974, associated regulations and especially the requirements under the Management of Health and Safety at Work Regulations 1999 and the Regulatory Reform (Fire Safety) Order 2005 for risk assessments. Employers should assess the risks, including risks from fire, and take measures necessary to avoid and control these risks. Conditions enforcing those requirements would therefore be unnecessary.

When applicants for Premises Licences or Club Premises Certificates are preparing their operating schedules or Club operating schedules, Responsible Authorities are considering such Applications and Licensing Authorities are considering Applications following the receipt of relevant representations from a responsible authority or interested party, the following options should be considered as measures that, if necessary, would promote public safety. Additional matters relating to cinemas and theatres are considered in Appendix 5. It should also be recognised that special issues may arise in connection with outdoor and large-scale events.

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

Necessary Conditions for the Licence or Certificate will also depend on local knowledge of the Premises.

In addition, to considering the points made in this Annex, those preparing operating schedules or Club-operating schedules, Licensing Authorities and responsible Authorities should consider:

- Model National and Standard Conditions for Places of Public Entertainment and Associated Guidance ISBN 1 904031 11 0 (Entertainment Technology Press – ABTT Publications)
- The Event Safety Guide – A guide to health, safety and welfare at music and similar events (HSE 1999) (“The Purple Book”) ISBN 0 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)

The secure by design standards and status should be considered, particularly in relation to new or altered Premises.

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

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

### **Disabled people**

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

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

### **Escape routes**

It may be necessary to include Conditions relating to the maintenance of all escape routes and exits including external exits. These might be expressed in terms of the need to ensure that such exits are kept unobstructed, in good order with non-slippery and even surfaces, free of trip hazards and clearly identified. In restaurants and other Premises where chairs and tables are provided this might also include ensuring that internal gangways are kept unobstructed.

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

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

### **Safety checks**

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

- Safety checks are carried out before the admission of the public; and
- Details of such checks are kept in a Logbook.

### **Curtains, hangings, decorations and upholstery**

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

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

### **Accommodation limits**

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

- Arrangements are made to ensure that any capacity limit imposed under the Premises Licence or Club Premises Certificate are not exceeded; and
- The Licence holder, a Club official, manager or designated Premises supervisor should be aware of the number of people on the Premises and required to inform any authorised person on request.

### **Fire action notices**

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

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

### **Outbreaks of fire**

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

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

### **Loss of water**

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

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

### **Access for emergency vehicles**

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

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

### **First aid**

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

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

### **Lighting**

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

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

### **Temporary electrical installations**

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

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

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

### **Indoor sports entertainments**

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

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

### **Alterations to the Premises**

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

## **Special effects**

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

Specials effects, which should be considered, include:

- Dry ice machines and cryogenic fog;
- Smoke machines and fog generators;
- Pyrotechnics, including fireworks;
- Real flame;
- Firearms;
- Motor vehicles;
- Strobe lighting;
- Lasers (see HSE Guide The Radiation Safety of lasers used for display purposes [HS (G) 95] and BS EN 60825: Safety of laser products);
- Explosives and highly flammable substances.

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

## **Appendix 5**

### **Possible Conditions for theatres, cinemas, concert halls and similar places (promotion of public safety)**

In addition to the points made in Appendix 4, there are particular matters in the context of public safety and fire safety, which should be considered in connection with theatres and cinemas. The principle remains that Conditions must be necessary and should be established through risk assessment and standardised Conditions should be avoided. The points, which follow, are for consideration and do not represent a mandatory list.

#### **Premises used for closely seated audiences**

##### **Attendants**

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

<b>Number of members of the audience present on a floor</b>	<b>Minimum number of attendants required to be present on that floor</b>
1 – 100	One
101 – 250	Two
251 – 500	Three
501 – 750	Four
751 – 1000	Five

And one additional attendant for each additional 250 persons (or part thereof)

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

#### **Standing and sitting in gangways etc.**

- (a) Sitting on floors shall not be permitted except where authorised in the Premises Licence or Club Premises Certificate.
- (b) Waiting or standing shall not be permitted except in areas designated in the Premises Licence or Club Premises Certificate.
- (c) In no circumstances shall anyone be permitted to-
- Sit in any gangway;
  - Stand or sit in front of any exit; or
  - Stand or sit on any staircase including any landings.



### **Drinks**

Except as authorised by the Premises Licence or Club Premises Certificate, no drinks shall be sold to or be consumed by a closely seated audience except in plastic and paper containers.

### **Balcony Fronts**

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

### **Special effects**

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

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

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

### **Scenery**

Any scenery should be maintained flame-retardant.

### **Safety curtain**

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

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

### **Ceilings**

All ceilings in those parts of the Premises to which the audience are admitted should be inspected by a suitably qualified person who will decide when a further inspection would be necessary and a Certificate concerning the Condition of the ceilings forwarded to the Licensing Authority.

**Seating**

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

**Premises used for film exhibitions****Attendants – Premises without a staff alerting system**

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

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

**Attendants – Premises with a staff alerting system**

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

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

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

- (i) The holder of the Premises Licence or the manager on duty at the Premises; or
- (ii) A member of staff whose normal duties or responsibilities are likely to significantly affect or delay his response in an emergency situation; or
- (iii) A member of staff whose usual location when on duty is more than 60 metres from the location to which he is required to go on being alerted to an emergency situation.

- (c) Attendants shall as far as reasonably practicable be evenly distributed throughout all parts of the Premises to which the public have access and keep under observation all parts of the Premises to which the audience have access.
- (d) The staff alerting system shall be maintained in working order.

**Minimum lighting**

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

**Flammable films**

No flammable films should be allowed on the Premises without the prior notification of the Licensing Authority/Fire Authority.

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## **Appendix 6**

### **Possible Conditions relating to the prevention of public nuisance**

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

#### **Hours**

The hours during which the Premises are permitted to be open to the public or to members and their guests can be restricted (other than where they are protected by the transitional provisions of the Licensing Act 2003) by the Conditions of a Premises Licence or a Club Premises Certificate for the prevention of public nuisance. But this must be balanced by the potential impact on disorder, which results from arbitrarily early fixed closing times.

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

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

#### **Noise and vibration**

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

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

### **Noxious smells**

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

- Noxious smells from Licensed Premises are not permitted so as to cause a nuisance to nearby properties and the Premises are properly vented.

### **Light pollution**

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

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

### **Other measures**

Other measures previously mentioned in relation to the Prevention of Crime and Disorder may also be relevant as necessary 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.

## **Appendix 7**

### **Possible Conditions relating to the protection of children from harm**

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

### **Access for children to Licensed Premises – in general**

Restrictions on the access of children under 18 to Premises where licensable activities are being carried on should be made where it is necessary to protect children from harm. Precise Policy and details will be a matter for individual Licensing Authorities. Conditions attached to Premises Licences and Club Premises Certificates may reflect the concerns of responsible Authorities and interested parties who have made representations but only where the Licensing Authority considers it necessary to protect children from harm. Whilst Applications in relation to Premises Licences and Club Premises Certificates must be judged by Licensing Authorities on their individual merits and characteristics, the Secretary of State recommends (unless there are circumstances justifying the contrary) that:

- For any Premises with known associations (having been presented with evidence) with or likely to give rise to heavy or binge or underage drinking, drugs, significant gambling, or any activity or entertainment (whether regulated entertainment or not) of a clearly adult or sexual nature, there should be a strong presumption against permitting any access at all for children under 18 years.
- Applicants wishing to allow access for children to Premises where these associations may be relevant, when preparing operating schedules or Club operating schedules or variations of those schedules for the purposes of obtaining or varying a Premises Licence or Club Premises Certificate should:
  - Explain their reasons; and
  - Outline in detail the steps that they intend to take to protect children from harm on such Premises.

- For any Premises, not serving alcohol for consumption on the Premises, but where the public are allowed on the Premises after 11.00pm in the evening, there should be a presumption against the presence of children under the age of 12 unaccompanied by adults after that time. Applicants wishing to allow access when preparing operating schedules or variations of those schedules or Club operating schedules for the purposes of obtaining or varying a Premises Licence or Club Premises Certificate should:
  - Explain their reasons; and
  - Outline in detail the steps that they intend to take to protect children from harm on such Premises.
- In any other case, subject to the Premises Licence holder's or Club's discretion, the expectation would be for unrestricted access for children subject to the terms of the 2003 Act. An operating schedule or Club operating schedule should indicate any decision for the Premises to exclude children completely, which would mean there would be no need to detail in the operating schedule steps that the applicant proposes to take to promote the protection of children from harm. Otherwise, where entry is to be permitted, the operating schedule should outline the steps to be taken to promote the protection of children from harm while on the Premises.

### **Age Restrictions – specific**

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

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

## **Age restrictions – cinemas**

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

- A Condition that where the Licensing Authority itself is to make recommendations on the admission of children to films, the cinema or venue operator must submit any film to the authority that it intends to exhibit 28 days before it is proposed to show it. This is to allow the Authority time to classify it so that the Premises Licence holder is able to adhere to any age restrictions then imposed;
- A Condition that when films are classified, by either the film classification body as specified in the Licence or the Licensing Authority, they should be classified in the following way:
  - U – Universal. Suitable for audiences aged four years and over
  - PG – Parental Guidance. Some scenes may be unsuitable for young children.
  - 12A – Passed only for viewing by persons aged 12 years or older or persons younger than 12 when accompanied by an adult.
  - 15 – Passed only for viewing by persons aged 15 years and over.
  - 18 – Passed only for viewing by persons aged 18 years and over.
- That Conditions specify that immediately before each exhibition at the Premises of a film passed by the British Board of Film Classification there shall be exhibited on screen for at least five seconds in such a manner as to be easily read by all persons in the auditorium a reproduction of the Certificate of the Board or, as regards a trailer advertising a film, of the Statement approved by the Board indicating the classification of the film;
- A Condition that when a Licensing Authority has made a recommendation on the restriction of admission of children to a film, notices are required to be displayed both inside and outside the Premises so that persons entering can readily be made aware of the classification attached to any film or trailer. Such a Condition might be expressed in the following terms:

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

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



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

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

## **Theatres**

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

Licensing Authorities are also expected to consider whether a Condition should be attached to a Premises Licence which requires the presence of a sufficient number of adult staff on the Premises to ensure the wellbeing of children present on the Premises during any emergency (See Annex F).

## **Performances especially for children**

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

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

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

## Children in performances

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

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

Where children are involved in sporting events e.g. boxing or wrestling then additional controls may need to be imposed which would not be necessary where adults are undertaking the same activity.

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

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

Where appropriate and necessary, consideration can be given to attaching Conditions to Premises Licences and Club Premises Certificates that require compliance with the Portman Group's Retailer Alert Bulletins.

### **Proof of Age cards**

Proof of age cards is discussed under Appendix 2 in connection with the prevention of crime and disorder. However, where necessary and appropriate, a requirement for the production of proof of age cards before any sale of alcohol is made could be attached to any Premises Licence or Club Premises Certificate for the protection of children from harm. Any such requirement should not be limited to recognised "proof of age" cards, but allow for the production of other proof, such as photo-driving Licences and passports. The Secretary of State strongly supports the PASS accreditation system (see paragraph 12.8 of the Guidance), which aims to approve and accredit various proof of age schemes that are in existence. This ensures that such schemes maintain high standards, particularly in the area of integrity and security, and where appropriate and necessary, Conditions may refer directly to accredited proof of age cards, photo-driving Licences, student cards and passports. As for Conditions relating to crime and disorder, it should be noted that many adults in England and Wales do not currently carry any proof of age. This means that the wording of any Condition will require careful thought. For example, the requirement might be to ensure sight of evidence of age from any person appearing to those engaged in selling or supplying alcohol to be under the age of 18 and who is attempting to buy alcohol. This would ensure that most minors – even those looking older – would need to produce proof of age appropriately before making such a purchase. Under such an arrangement only a minority of adults might be affected, but for the majority there would be no disruption to their normal activity, for example, when shopping in a supermarket.

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

### **Second-hand smoke**

The risks to children from second-hand smoke should be considered when submitting operating schedules. The Licensing Authority will expect applicants to have put in place effective measures, and to have documented those measures necessary to prevent such exposure to children in all of the areas where smoking is permitted by law and to which children will be admitted or may have access to.

## **Appendix 8**

### **Guidance issued by Staffordshire Trading Standards – Controls related to the control of age-restricted goods**

The Authority will expect applicants for Licences to demonstrate that they have ensured that all their frontline staff have received adequate training on the law with regard to age restricted sales and that this has been properly documented and training records kept. Ideally, suitable training material should be issued to all staff and their understanding of the material checked through appraisals and by means of a short written test. Group training sessions amongst all staff are to be encouraged in order to discuss compliance with the legislation. Records of the material issued, appraisal meetings and any tests taken must be kept on the Premises in the employee's personnel file and must be made available for inspection by the Licensing Officer, Trading Standards or the Police if requested. Training will need to be refreshed periodically.

The Authority will expect staff training to include a basic understanding of the law and a requirement of checking identification for proof of age through a secure system. Ideally, identification should be a photo driving Licence or passport, but other 'proof of age' cards are available – the most secure are Citizen card and the Portman card. Other cards must be treated with caution because some have been shown to be insecure. Trading Standards will expect that training for staff will ensure their competency to challenge purchasers. Trading Standards regularly find that some employees engaged in selling alcohol are incapable of confronting and challenging the under-18's because they lack the confidence to do so and are concerned at the prospect of a dispute. Employees who are not prepared to challenge in this way are unsuitable and should not be given the responsibility of selling alcohol.

Employees themselves must be over 18 years of age to sell alcohol, unless the sale is authorised by someone who is over 18. If a sale is authorised in this way, the person making the authorisation is also responsible for ensuring that the purchaser is over 18.

Licensees or employees actually engaged in selling alcohol will need to have a reasonable understanding of English in order to effectively question purchasers so that they can be satisfied that the purchaser is over 18 years of age.

The Authority will actively encourage licensees to keep registers of refused sales (refusals books) where sales of alcohol and any other age-restricted goods have been refused for any reason. Keeping such records helps to demonstrate that the responsibilities for checking the ages of purchasers are being taken seriously. Refusals books should be kept on the Licensed Premises and be made available for inspection by the Licensing Officer, Trading Standards or the Police.

Version 9 Adopted by Full Council on 24 February 2020

Version 10 Adopted by Full Council on \*\*\*\*

Particularly in Premises where alcohol is not the main product sold – for example, in food retailers and corner shops - the Trading Standards will actively encourage the use of warning messages where an electronic point of sale system (EPOS) is in use. Such a warning system can help employees and as it prompts them to check the age of purchasers of alcohol or other age restricted products when they are presented at the check- out.

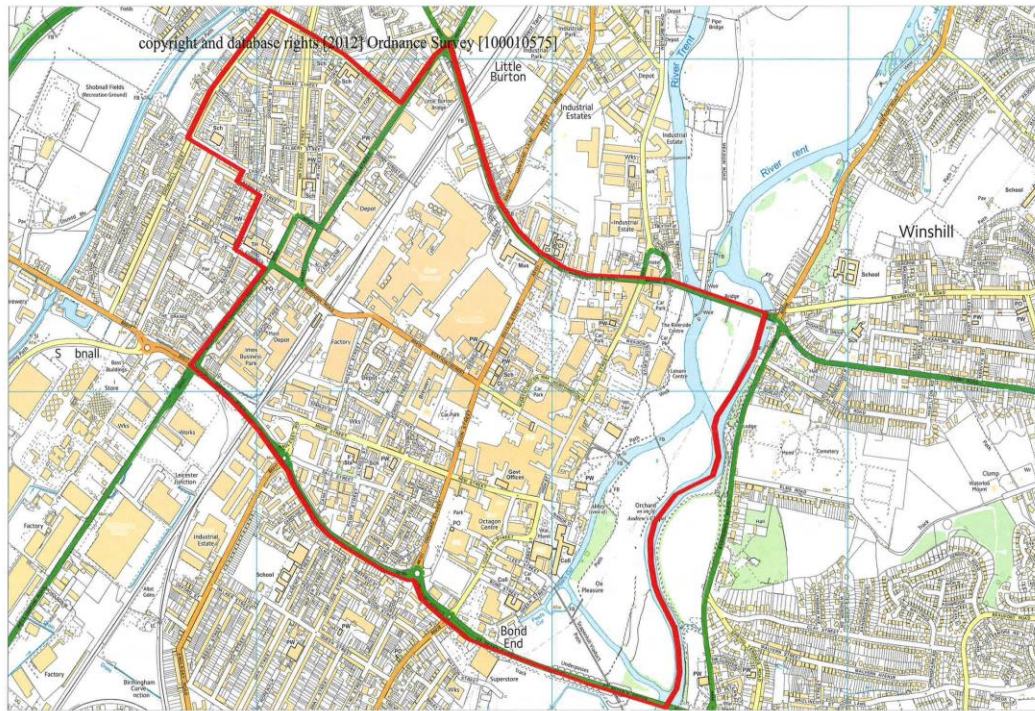
~~In relation to pubs, restaurants and Clubs, the Trading Standards will actively encourage licensees to have due regard to the guidelines issued by the National Association of Cigarette Machine Operators (NACMO). Cigarette machines should be sited in a position where they are clearly visible to members of staff so that attempted purchases by young people can be challenged.~~

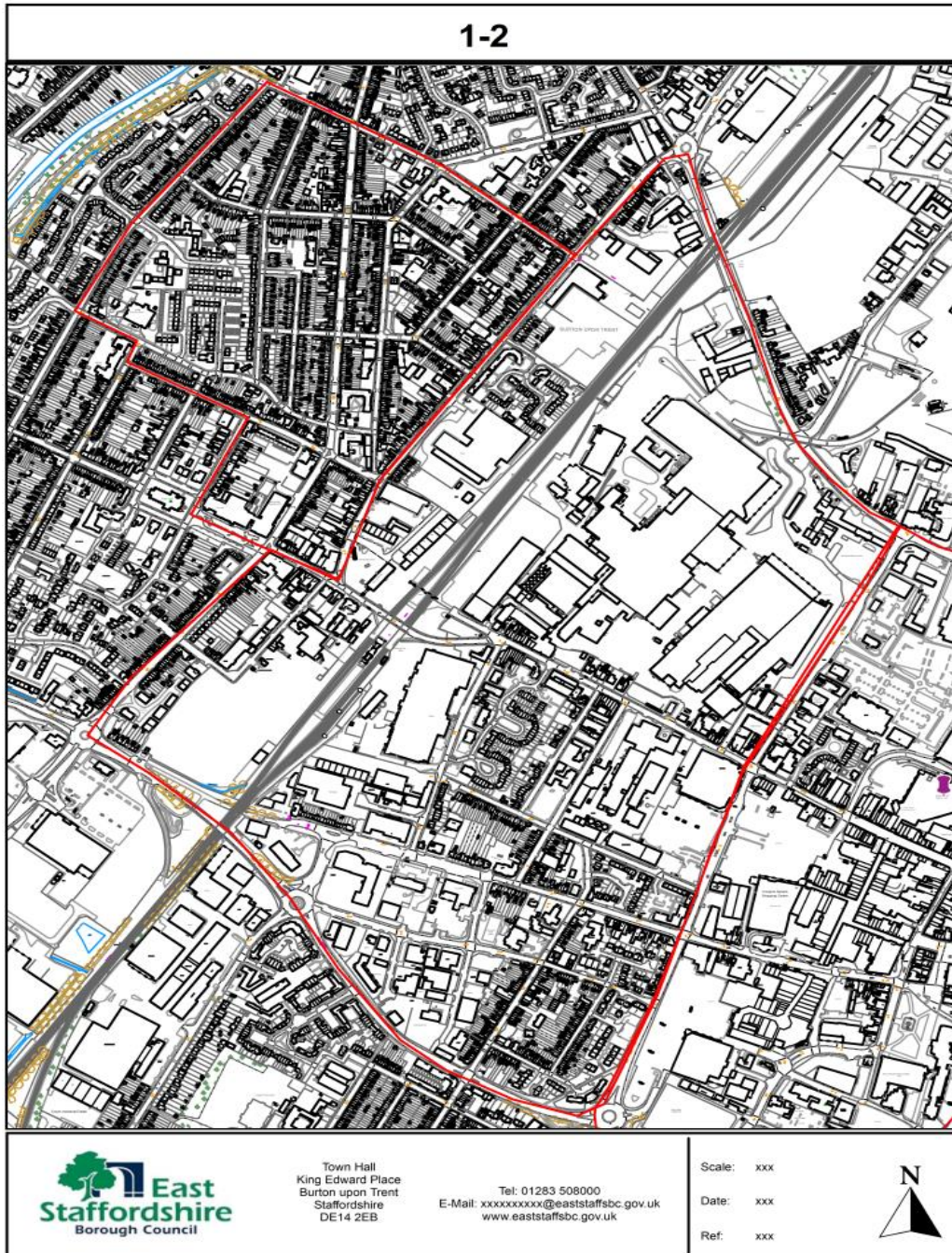
The work of Staffordshire County Council Trading Standards will continue to take place under the Licensing regime. The Licensing Officer will take a very serious view of any transgression, whether or not a successful prosecution results, under the provisions of the Licensing Act 2003 or any other Trading Standards legislation.

If you need advice on how to avoid selling age restricted goods, Staffordshire County Council Trading Standards provide a **free** advice service and can be contacted on **08453 303 313 0300 111 8002**.

**Appendix 9**

**Cumulative Impact - Special Saturation Area – roads concerned**





## APPENDIX 10

### MANDATORY CONDITIONS

The 2003 Act provides for the following mandatory Conditions to be included in every Licence and/or Club premise Certificate.

#### **Designated Premises Supervisor**

Any Premises at which alcohol is sold or supplied may employ one or more Personal Licence holders. The main purpose of the 'designated Premises supervisor' as defined in the 2003 Act is to ensure that there is always one specified individual among these Personal Licence holders who can be readily identified for the Premises where a Premises Licence is in force. That person will normally have been given day to day responsibility for running the Premises by the Premises Licence holder.

#### **Authorisation by Personal Licence Holders**

In addition, the Licence must require that every supply of alcohol under the Premises Licence must be made or authorised by a person who holds a Personal Licence. This in most instances will be the designated Premises supervisor who must hold a valid Personal Licence. This does not mean that the Condition should require the presence of the designated Premises supervisor or any other Personal Licence holder on the Premises at all material times. The local authority requires that Personal Licence holders give specific written authorisations to individuals that they are authorising to retail alcohol in their absence.

The new mandatory Conditions introduced in Section 19A of the 2003 Act (governing e.g. irresponsible promotions), unlike the existing mandatory Conditions (e.g. the requirement for a Designated Premises Supervisor under Section 19 of the 2003 Act), do not have to be physically included in the Licence or Certificate. The Conditions will apply to every Licence and Certificate authorising the sale and supply of alcohol for consumption on the Premises. However, like the existing mandatory Conditions, the new mandatory Conditions do not apply to activities (including the supply of alcohol) authorised by a temporary event notice.



**REVISED MANDATORY LICENSING CONDITIONS WITH EFFECT FROM  
1<sup>ST</sup> OCTOBER 2014**

Mandatory Licensing Conditions

1. (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).

2. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
3. (1) 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.
  - (2) 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.
  - (3) 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—
    - (a) a holographic mark, or
    - (b) an ultraviolet feature.
4. 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: 25 ml or 35 ml; and
    - (iii) still wine in a glass: 125 ml;
  - (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 a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.”

Mandatory Condition: exhibition of films

- (1) The admission of children to the exhibition of any film is restricted in accordance with this Condition..
- (2) Where the film classification body is specified in this Licence, unless subsection (3)(b) applies, admission of children must be restricted in accordance with any recommendation made by that body.
- (3) Where -
  - (a) the film classification body is not specified in this Licence, or
  - (b) the relevant Licensing authority has notified the holder of this Licence that this subsection applies to the film in question,admission of children must be restricted in accordance with any recommendation made by this Licensing authority.
- (4) In this Section -

"children" means persons aged under 18; and  
"film classification body" means the person or persons designated as the authority under Section 4 of the Video Recordings Act 1984 (c.39) (authority to determine suitability of video works for classification)
- (5) For the purpose of this Condition the film classification body referred to in (2) above, is the British Board of Film Classification.

Mandatory Condition: door supervision

- (1) Any individual carrying out a security activity must be Licensed by the Security Industry Authority

"security activity" means an activity to which paragraph 2(1) (a) of schedule 2 to the Private Security Industry Act 2001 applies

**Mandatory Licensing Conditions with effect from 28<sup>th</sup> May 2014 -  
(Applicable to both on and off sales)**

(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) In this Condition:—

(a) “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;

(b) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

(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 would not be a whole number of pennies, the permitted price shall be taken to be the price rounded up to the nearest penny.

(4) Where the permitted price 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, 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.

**New Mandatory Condition for Club sales 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) In this Condition:—

(a) “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;

(b) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

(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 would not be a whole number of pennies, the permitted price shall be taken to be the price rounded up to the nearest penny.

(4) Where the permitted price 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, 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.

## **Appendix 11**

### **USEFUL INFORMATION AND CONTACTS**

#### **BRITISH BEER AND PUB ASSOCIATION PARTNERSHIPS INITIATIVE**

The Government and the British Beer and Pub Association (BBPA) are committed to encouraging the voluntary participation of licensees' groups in their local Crime and Disorder Reduction Partnerships; and encouraging CDRPs and local representatives of the hospitality industry to work together in partnership. Since March 2000, 240 CDRPs have sought industry involvement in the work of their partnership. The Government and the BBPA continue to work to encourage further participation.

#### **NATIONAL PUBWATCH AND LOCAL PUBWATCH SCHEMES**

Pubwatch schemes have been in existence throughout the United Kingdom for over 20 years and range in size from over 200 Premises in cities to small rural schemes with as few as 5 Premises involved. The basic working principle underpinning a Pubwatch scheme is that the licensees of the Premises involved agree on a number of policies to counter individuals who threaten damage, disorder, and violence or use or deal in drugs in their Premises. Normally, action consists of agreeing to refuse to serve individuals that cause, or are known to have caused, these sorts of problems. Refusal of admission and service to those that cause trouble has proved to be effective in reducing anti-social behaviour. To work effectively any Pubwatch scheme must work closely with the police, Licensing Authorities and other agencies. National Pubwatch is an entirely voluntary organisation set up to support existing pub watches and encourage the creation of new Pubwatch schemes with the key aim of achieving a safe, secure social drinking environment in all Licensed Premises throughout the UK helping to reduce drink-related crime.

The National Pubwatch Good Practice Guide provides advice on how such schemes can be established locally and includes Codes of Practice on sharing information, photographs and banning policies with regard to responsibilities under the Data Protection Act 1998. Licensing Authorities should familiarise themselves with Pubwatch schemes operating in their areas and support their aims. Information about Pubwatch can be obtained through their website: [www.nationalpubwatch.org.uk](http://www.nationalpubwatch.org.uk)