

SEDGEFIELD BOROUGH COUNCIL

LICENSING ACT 2003

STATEMENT OF LICENSING POLICY

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CONTENTS

	Page
1. Introduction	3
2. The Licensing Act 2003	3
3. The Licensing Objectives	7
4. The Prevention of Crime and Disorder.....	9
5. Public Safety.....	12
6. Prevention of Public Nuisance.....	13
7. Prevention of Harm to Children	14
8. Licensing Hours	17
9. Human Rights and Promotion of Racial Equality.....	18
10. Safer Clubbing.....	18
11. Integrating Strategies and Avoiding Duplication	19
12. Live Music, Dancing and Theatre	19
13. Gaming Machines	21
14. Administration, Exercise and Delegation of Functions	21
15. Enforcement	23
16. Definitions.....	25
17. Licence Conditions	27

Appendices

1. Conditions Relating to the Prevention of Crime and Disorder	29
2. Conditions Relating to Public Safety (Including Fire Safety)	36
3. Conditions Relating to Theatres, Cinemas, Concert Halls and Similar Places (Promotion of Public Safety).....	43
4. Conditions Relating to the Prevention of Public Nuisance .	48
5. Conditions Relating to the Protection of Children from Harm	50
6. Table of Delegated Functions	56
 Contact Names and Addresses	 57

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SEDGEFIELD BOROUGH COUNCIL

LICENSING ACT 2003

STATEMENT OF LICENSING POLICY

1. Introduction

- 1.1 Sedgefield Borough has a population of around 88,000 people and is one of 7 local authorities in County Durham. The Borough is a mixture of urban and rural areas and stretches across 52,000 acres. It includes historic villages, small towns and a new town. The east of the Borough is generally rural in character, giving way further north to the villages on the old Durham coalfield. The west is more densely populated with the major towns of Shildon, Spennymoor, Newton Aycliffe and Ferryhill concentrated within a few miles of each other.
- 1.2 There are approximately 300 public houses, private clubs, shops selling alcohol and takeaway food premises distributed throughout the Borough. Local venues such as village, community and school halls also provide many of the locations for cultural activities. There are five large leisure centres and one nightclub in the Borough. There are no premises used solely as theatres or cinemas. **The newly constructed "Locomotion" Railway museum has recently opened in Shildon.**
- 1.3 The Council has adopted the Community Strategy's ambitions relating "to creating a healthy, prosperous, attractive borough with strong communities" and has recognised the importance of linking its future strategic objectives to these aims together with priorities that relate to community needs and aspirations. It is expected that the implementation of this policy will contribute significantly to the Council's key ambitions.

2. The Licensing Act 2003

- 2.1 In July 2003, the Government gained Royal Assent for the introduction of the Licensing Act 2003.
- 2.2 The Act is the first substantial change to the licensing laws in 90 years and replaces and consolidates earlier legislative controls on key areas of liquor and public entertainment licensing. The Government believes that the new act will serve to modernise social consumption of alcohol

and provide a simpler, more transparent and accountable statutory framework for the licensing and control of sales of beers, wines, spirits and associated entertainment.

- 2.3 In 2005 responsibility for licensing premises and individuals for licensable activities will move from the Magistrates Court to Local Authorities.**
- 2.4 Part 1 of schedule 8 of the 2003 Act sets out arrangements for a “Transitional Period” to allow for the smooth change from the existing licensing regime to the new arrangements under the 2003 Act. This period begins on the 7th February 2005 (first appointed day) and ends on a date in November 2005 (second appointed day) yet to be set by Government. New licences and certificates granted during the transitional period will not become operable until the second appointed day.**
- 2.5 Sedgefield Borough Council is the Licensing Authority under the Licensing Act 2003 (the 2003 Act) and is responsible for granting premises licences, club premises certificates, temporary events notices, personal licences and provisional statements throughout the Borough in respect of the sale and/or supply of alcohol and the provision of regulated entertainment and late night refreshment.
- 2.6 Section 5 of the 2003 Act requires the Licensing Authority to prepare and publish a Statement of its Licensing Policy.
- 2.7 This statement of licensing policy has therefore been prepared in accordance with the provisions of the 2003 Act and the Guidance issued by the Secretary of State **for the Department of Culture, Media and Sport (DCMS)** under Section **182** of the 2003 Act.
- 2.8 The licensing policy has 4 main purposes, these are:
- To reinforce to elected Members on the Licensing Committee and any sub-committee the boundaries and power of the local authority, and to provide them with parameters under which to make their decisions. The committee should be able to test the application against criteria set out in the policy and if necessary add conditions to those set out in the operating schedule.
 - To inform the licence applicants of the parameters under which the authority will make licence decisions, and therefore how a licensed premises is likely to be able to operate within an area. (Note however that each case must be examined on an individual basis).
 - To inform residents and businesses of the parameters under which the authority will make licence decisions, and therefore how their needs will be addressed.
 - To support decisions made by the Licensing Authority when these decisions are challenged in a Court of Law.

- 2.9 The policy sets out the manner in which applications for licences, required by the 2003 Act will be considered by the **Licensing Authority**. Every application and decision will be considered on its own merits and will take into account all relevant factors. **This Policy does not seek to undermine the rights of any person to apply under the Act for a variety of permissions, or have their application considered on its individual merits, nor does it override the rights of any person making representations on any application or seeking a review of a licence where they are permitted to do so under the Act.**
- 2.10 When considering applications, the **Licensing Authority** will have regard to this Policy, Licensing Act 2003, Guidance issued under Section 182 of the Act, the licensing objectives and all supporting legislation.
- 2.11 **Sedgefield Borough** Council in adopting this licensing policy, recognises both the need of residents for a safe and healthy environment in which to live and work and the importance of safe and well run entertainment premises to both the local economy and vibrancy of the Borough. It is the **Licensing Authority's** wish to facilitate well managed premises with licence holders displaying sensitivity to the impact of premises on local residents
- 2.12 **In determining this policy the following have been consulted:**
- **Chief Constable of Durham Constabulary**
 - **Chief Fire Officer County Durham and Darlington Fire and Rescue Service.**
 - **All businesses throughout the Borough holding a current licence or likely to require a licence including pubs, clubs, off licences, supermarkets, take aways, restaurants and mobile food vendors.**
 - **Durham Area Child Protection Committee**
 - **All elected members of Sedgefield Borough Council**
 - **Clerks of Sedgefield Town Council, Spennymoor Town Council, Great Aycliffe Town Council, Ferryhill Town Council, Shildon Town Council.**
 - **Parish Councils of Bishop Middleham, Chilton, Cornforth, Eldon, Fishburn, Trimdon Windlestone Middridge.**
 - **Crime and Disorder Reduction Partnership**
 - **Durham CIU.**
 - **British Institute of Innkeeping**
 - **The British Beer and Pub Association**
 - **The Federation of Licensed Victuallers**
 - **New Century Inns, Wolverhampton and Dudley Breweries PLC, Spirit Group PLC,, Punch Pub Company, Enterprise Inns PLC,**

- **Innspired Pubs and Taverns, Jennings Brothers PLC, Dorbiere Ltd, Pub Estate Company Limited, Tadcaster Pub Company.**
 - **The Association of Licensed Multiple Retailers**
 - **Equity**
 - **Sedgefield Primary Care Trust**
 - North East Musicians Union
 - Hammonds Solicitors
 - Poppleston and Allan Solicitors
- 2.13 Due consideration **has been** given to the views of all those who responded to the consultation process.
- 2.14 The **Licensing Authority** will review its Policy every 3 years and as a result of that review, it will undertake consultation with appropriate residents, businesses and licence holders. In addition, it will keep its policy under review between the main 3 yearly periods and it will make revisions as appropriate to support the licensing objectives.
- 2.15 Nothing in this policy will prevent the Local Authority from making application in its own name for the grant of licences. The Council will before any such licence is granted be subject to the same considerations and application of the same scrutiny as any other applicant.
- 2.16 All references to licences in this policy include licences, certificates, or other permissions under the Act.
- 2.17 The policy does not seek to regulate matters which are provided for in other legislation e.g. planning, health and safety, employment rights, fire safety etc.
- 2.18 All relevant representations will be considered during the decision making process, unless they are considered to be frivolous, vexatious or repetitious.
- 2.19 **Although the licensing authority is required to have regard to the DCMS Guidance it may, if it considers it appropriate, deviate from the guidance where there are good reasons which can be justified.**
- 2.20 **Scope of the Policy**
- The Licensing activities specified in the Licensing Act 2003, which are covered by this policy, include:**
- **The retail sale of alcohol (including current ‘on’ and ‘off’ licences)**
 - **Supply of hot food or drink from premises between 11pm and 5am**

- Supply of alcohol or provision of regulated entertainment to club members
- Provision of entertainment listed below (known as regulated entertainment) to the public, to club members or with a view to profit:
 - Film exhibitions
 - Performances of a play
 - Indoor sporting events
 - A boxing or wrestling entertainment
 - Live music performances
 - Playing of recorded music
 - Dance performances
 - Provision of facilities for making music
 - Provision of dancing facilities

The Policy covers a wide variety of premises and associated activities including:

- public houses
- nightclubs
- private members clubs
- off licences
- shops selling alcohol
- late night food premises and vehicles selling hot food or drink between 11pm and 5am.
- village halls
- community centers

The Act requires:

- The licensing of individuals for the retail sale of alcohol (a personal licence)
- The licensing of premises for the retail sale of alcohol, the provision of regulated entertainment or late night refreshment (a premises licence);
- The supply of alcohol or the provision of regulated entertainment at certain clubs (a club premises certificate)
- The permitting of certain licensable activities on a temporary basis (a temporary event notice)

3.0 The Licensing Objectives

3.1 The 2003 Act requires that the **Licensing Authority** carries out its various licensing functions so as to promote the following four licensing objectives:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance

- **the protection of children from harm.**
- 3.2 Each objective is of equal importance and the **Licensing Authority's will as a matter of policy only take these objectives** into account when determining applications **and** will where necessary consider attaching conditions to licences to promote the licensing objectives.
- 3.3 **It is important to note that licensing is about regulating the carrying on of licensable activities on licensed premises, by qualifying clubs and at temporary events within the terms of the 2003 Act. The conditions attached to various authorisations will focus on matters which are within the control of the individuals holding those licences or relevant authorisations.**
- 3.4 The licensing function is only one means of securing the delivery of the above objectives and should not therefore be seen as a means of solving all problems within the community. The Licensing Authority will work in partnership with neighbouring authorities, the police, local businesses and local people towards the promotion of the above objectives. In this respect the **Licensing Authority** will aim to ensure that it integrates the Council's various strategies and others **including the Sedgefield Primary Care Trust's proposed Alcohol Harm Reduction Strategy in order to achieve clarity for applicants and effective determination.**
- 3.5 The **Licensing Authority** notes the Government's recommendation that all Licensing Authorities should hold regular open meetings at which the community can express how well it feels the licensing objectives are being met.
- 3.6 The Council recognises that there are a number of other mechanisms for addressing anti-social behaviour and nuisance once customers are away from the vicinity of licensed premises. These include:
- **Planning controls**
 - **Positive measures to create a safe clean town environment in partnership with local businesses, transport operators and other departments of the Local Authority**
 - **The provision of CCTV surveillance in town centres, ample taxi ranks, the provision of public conveniences open late at night, street cleaning and litter patrols**
 - **Powers of the Local Authority to designate parts of its area as places where alcohol may not be consumed in public**
 - **Police enforcement of the general law concerning disorder and anti-social behaviour, including the issue of fixed penalty notices**
 - **The prosecution of any Personal Licence holder or member of staff at such premises who is selling alcohol to people who are drunk**

- **The confiscation of alcohol from children and adults in designated areas**
- **Police and / or local authority powers to close down instantly for up to 24 hours any licensed premises or temporary events on the grounds of disorder, the likelihood of disorder or noise emanating from the premises causing a nuisance**
- **The power of the Police, other Responsible Authorities or a local resident or business to seek a review of a licence or certificate in question.**

3.7 Nonetheless licensing law is a key aspect of control and will be part of a holistic approach to the management of the evening and night time economy.

3.8 Applicants will have to **ensure that** in respect of each of the four licensing objectives, suitable and sufficient measures, as detailed in their operating schedule, will be implemented and maintained, relevant to the individual style and characteristics of their premises and events.

3.9 The following sections set out how the policy relates specifically to each of the four licensing objectives.

4.0 The Prevention of Crime and Disorder

4.1 Licensed premises, especially those offering late night/early morning entertainment, alcohol and refreshment may sometimes, if not properly managed, become a source of public nuisance, generating crime and disorder problems. **The Licensing Authority recommends the membership and active participation in established “Pubwatch schemes” as one means of discussing and addressing issues relating to crime and disorder.**

4.2 As a matter of policy the Council will require every holder of a licence, certificate or permission to be responsible for minimising the impact of their activities and anti-social behaviour by their patrons within the vicinity of their premises.

4.3 The **Licensing Authority** will therefore **require** applicants to demonstrate in their Operating Schedules suitable and sufficient measures, ranging from the design and layout of the premises through to the daily operation of the business that have been identified and will be implemented and maintained with the intention of preventing crime and disorder in and around the vicinity of their premises.

4.4 The Licensing Authority when considering applications will take into account as appropriate matters outlined in any relevant local planning, transport, tourism, cultural and crime prevention or similar strategies and policies. Conditions may be attached to licences that will reflect matters outlines in these strategies. Applicants are recommended to take these matters into account when preparing their applications.

Procedures to deal with drunken customers, violence and anti social behaviour in and outside premises and the provision of closed circuit television are for example matters that could be addressed in a crime prevention strategy.

- 4.5 Applicants must in particular, consider the impact on crime and disorder of underage drinking, drunkenness on premises, public drunkenness, drugs, violent behaviour and anti social behaviour. The Licensing Authority considers the effective and responsible management of the premises, instruction, training and supervision of staff and the adoption of best practice to be among the most important control measures for the achievement of all licensing objectives. These issues should be addressed within an applicants operating schedule.
- 4.6 The operating schedule for premises selling alcohol must identify a Designated Premises Supervisor who must also hold a Personal Licence.
- 4.7 **The Licensing Authority** expects that the designated premises supervisor will be present on the premises on a regular basis
- 4.8 **It is important that there is an accountable, responsible person present when alcohol is being sold. This is to ensure for example that alcohol is not sold to persons who have had too much to drink or those under the age of 18 years. In terms of crime and disorder there is a need for an identified person with whom the Licensing Authority and Police can discuss any problems/issues arising from the licensable activities offered on the premises. The licensing authority will take a positive view of anyone who invests in training and in particular nationally accredited qualifications tailored to the licensing sector.**
- 4.9 **The Licensing Authority may set a maximum number of people that can attend a premises or an event. Any maximum will only be imposed where there is a clear and justifiable need in respect of that particular premises or event based on the nature and style of the operation. The Licensing Authority will consider information provided by the applicant and any other body in particular the Council's Building Control Section, Environmental Health Section and the Durham and Darlington Fire and Rescue Service before setting a maximum number. Premises where a fire certificate has been issued which imposes an occupancy level will not have an occupancy level imposed under the Premises Licence, unless the Fire Authority recommends a change.**
- 4.10 Applicants will be expected to detail the arrangements that will be put in place to ensure that the permitted number of people attending the premises or event will not be exceeded. e.g. **provision of door staff.**

- 4.11 From 13 December 2004 any persons employed at licensed premises to carry out any security activity must be licensed by the Security Industry Authority
- 4.12 The **Licensing Authority** may depending on the nature and characteristics of the premises or event impose a condition that licensed door supervisors be employed.
- 4.13 In addition to the requirement of the Licensing Authority to promote the licensing objectives, the Council also has a duty under Section 17 of the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in the Borough and to consider crime and disorder in its decision making process. This duty will be taken into account when considering all applications.

Cumulative impact of licences on the amenity of particular areas.

- 4.14 Where there is a significant number of licensed premises selling alcohol for consumption on premises concentrated in one area, the cumulative effect of those premises on the promotion of the licensing objectives is something the **Licensing Authority** may take into account.
- 4.15 The **Licensing Authority** will not however take 'economic need' into account when considering an application, as this is a matter for planning control and the market forces. The **Licensing Authority** recognises that the cumulative effect of the number, type and density of licensed premises in a given area may lead to serious problems of nuisance and disorder outside and some distance from the premises. The Licensing Authority wishes to ensure that these problems are minimised.
- 4.16 Representations may be received from a Responsible Authority e.g. the police or an Interested Party e.g. a person living/working in the vicinity of the premises, that an area has become saturated with premises making it a focal point for large groups of people to gather and circulate away from the licensed premises themselves, creating exceptional problems of disorder and nuisance over and above the impact from the individual premises. In these circumstances the onus will be on the objector to provide evidence that additional licences or the variation of licences will produce the cumulative effect claimed.
- 4.17 When considering such representations the **Licensing Authority** will have regard to such matters as the character of the surrounding area and the nature and character of the proposed operation.
- 4.18 The **Licensing Authority** will consider representations based on the impact on the promotion of the licensing objectives in the Borough generally in respect of the particular application in front of them.

However, the onus to provide evidence to back up any assertion that the addition of the premises in question would produce the cumulative effect claimed, taking into account that the effect will be different for premises with different styles and characteristics, will be on those making representations.

- 4.19 The **Licensing Authority** is not currently aware of any part of the Borough where a concentration of licensed premises is likely to cause a cumulative impact on one or more of the licensing objectives. **The Licensing Authority will not therefore be initiating any specific policy relating to the cumulative impact of premises in a particular area.**
- 4.20 Such a policy **will** only be considered following relevant representations from the police or other responsible authority or from interested parties within the vicinity of the premises concerned.
- 4.21 The **Licensing Authority** recognises that the diversity of premises selling alcohol, serving food and providing entertainment covers a wide range of contrasting styles and characteristics and will have full regard to those differences and the differing impact these will have on the local community.
- 4.22 The Council will consider attaching Conditions to licences and permissions to promote crime and disorder, and these may be drawn from the Model Pool of Conditions (See Appendix 1)

5. Public Safety

- 5.1 The 2003 Act covers a wide range of premises that require licensing, including cinemas, concert halls, theatres, nightclubs, public houses, as well as cafes/restaurants, fast food outlets/takeaways selling hot food or drink after 11pm.
- 5.2 Each of these types of premises presents a mixture of risks, with many common to most premises and others unique to specific operations. It is essential that premises are constructed or adapted and operated so as to acknowledge and safeguard occupants against these risks **and that these matters are reflected in licence applications.**
- 5.3 When addressing the issue of public safety, an applicant must demonstrate that those factors that impact on public safety have been considered. These may include:
- The occupancy capacity of the premises;
 - The age, condition, design and **internal** layout of the premises,
 - **Adequate access and egress** and the means of escape in fire;
 - The nature of the activities to be provided, in particular the sale or supply of alcohol and including whether those activities are of a temporary or permanent nature;

- The hours of operation and hours of opening if different
- Customer profile (e.g. age, disability etc.). **The Disability Discrimination Act 1995 introduced measures to tackle discrimination encountered by disabled people in the areas of employment, access to goods, facilities and services and the management, buying or renting of land or property. Applicants are reminded that since December 1996 it has been unlawful to treat disabled people less favourably than other people for a reason related to their disability and that since October 1999 reasonable adjustments should be made for disabled people, such as providing extra help or making changes to the way they provide their services. From October 2004 reasonable adjustments should be made to the physical features of their premises which are open to the public, such as Licensed Premises, to overcome physical barriers to access.**
- The use of special effects such as lasers, pyrotechnics, smoke machines, etc.

5.4 **The Licensing Authority will expect that Operating Schedules will satisfactorily address the relevant fire and health and safety legislation issues and applicants are therefore advised to seek advice from Council Officers, the Durham and Darlington Fire and Rescue Service before submitting their applications.**

5.5 **Where relevant representations are made by Responsible Authorities or Interested Persons following an application the Licensing Authority will consider attaching Conditions to licences certificates and permissions to promote public safety, and these may be drawn from the Model Pool of Conditions (See Appendices 2 and 3)**

6. **Prevention of Public Nuisance**

6.1 Licensed premises, especially those operating late at night and in the early hours of the morning, can cause a range of nuisances impacting on people living, working or sleeping in the vicinity of the premises.

6.2 The concerns relate, amongst other things, to litter, light pollution, noxious odours and noise nuisance resulting from music, human voices, ventilation equipment and vehicles. Due regard will be taken on the impact these may have and for a licence to be granted the **Licensing Authority** will expect Operating Schedules to demonstrate that suitable and sufficient measures have been identified and will be implemented and maintained with the intention of preventing public nuisance relevant to the individual style and characteristics of their premises and events.

6.3 Applicants are advised to seek advice from Council Officers before preparing and submitting their applications.

- 6.4 **Where relevant representations are made by Responsible Authorities or Interested Persons following an application the Licensing Authority** will consider attaching Conditions to licences, certificates and permissions to prevent public nuisance and these may include conditions drawn from the Model Pool of Conditions (see appendix 4)
- 6.5 The extent to which the above matters will need to be addressed will be dependant on the nature of the area where the premises are situated, the type of premises concerned, the licensable activities to be provided, operational procedures and the needs of the local community.
- 6.6 The **Licensing Authority** will **require** more comprehensive measures to be in place at late night entertainment venues and premises which have a history of previous nuisance complaints proved against the premises and in particular where statutory notices have been served on the present licensees.
- 6.7 The **Licensing Authority** does not support drinks' promotions that encourage the irresponsible consumption of alcohol, such as binge drinking. If such promotions are held they should be in accordance with industry best practice guides e.g. The Point of Sale Promotions published by the British Beer and Pub Association.

7. **Prevention of Harm to Children**

- 7.1 **The 2003 Act makes it an offence for any child under the age of 16 who is not accompanied by an adult from being present:-**
- **At any time on pub premises, or other premises being used exclusively or primarily for the supply of alcohol for consumption on those premises or**
 - **Between the hours of midnight and 5.00 a.m. on restaurant premises or other premises that supply alcohol for consumption on the premises**
- 7.2 The wide range of premises that require licensing means that children can be expected to visit many of these, often on their own, for food and/or entertainment.
- 7.3 While the 2003 Act does not prohibit children from having free access to any licensed premises, the **Licensing Authority** recognises that limitations may have to be considered where it appears necessary to protect children from physical, moral or psychological harm.
- 7.4 The **Licensing Authority** will judge the merits of each separate application before deciding whether to impose conditions limiting the access of children to individual premises. The following are examples of premises that may raise concerns;

- where there have been convictions 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
- where entertainment of an adult or sexual nature is commonly provided
- where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.

7.5 The **Licensing Authority** will consider the following when dealing with a licence application where limiting the access of children is considered necessary to prevent harm to children:

- Limitations on the hours when children may be present
- Limitations on ages below 18
- Limitations or exclusion when certain activities are taking place
- Requirements for an accompanying adult to be present
- Full exclusion of people under 18 from the premises when certain licensable activities are taking place (e.g. entertainment of a sexual nature)
- **Limitations on the parts of premises to which children will be given access**

7.6 The 2003 Act details a number of offences designed to protect children in licensed premises and the **Licensing Authority** will work closely with the Police and **Durham County Trading Standards Service** to ensure the appropriate enforcement of the law, especially relating to the sale and supply of alcohol to children. **Alcohol must not be served to persons under the age of 18, except in limited conditions allowed by the law and then only after verifying a persons proof of age. Proof of age can be verified by a passport, photocard driving licence, a proof of age scheme card, a citizen card, connexions card or an official identity card issued by HM Forces or by a European Union country. In addition recorded staff training programmes, the use of a refusals register, in store signage and sensible siting of drinks can all reduce the likelihood of illegal sales**

7.7 No conditions will be imposed requiring that children be admitted to any premises and **no conditions will be imposed to remove a licence holders discretion to refuse to admit children.**

7.8 The **Licensing Authority** commends the use of the Portman Group code of practice on the naming, packaging and the promotion of alcoholic drinks in all licensed premises.

Access to Cinemas

- 7.9 In the case of premises which are used for film exhibitions, **applicants should include in the operating schedule arrangements for restricting access only to those children who meet the required age limit, in line with any certificate granted by the British Board of Film Classification or, in specific cases, a certificate given to the film by the Local Authority.**
- 7.10 The 2003 Act provides that it is mandatory for licensing authorities to include a condition in all premises licences and club certificates authorising the exhibition of film, for the admission of children to the exhibition of any film to be restricted in accordance with the recommendations given to films either by the British Board of Film Classification or by the Licensing Authority itself.
- 7.11 **Sedgefield Borough Council does not intend at this moment in time to adopt its own system of film classification in its capacity as a licensing authority.**

Children and Public Entertainment

- 7.12 Many children go to see and/or take part in an entertainment arranged especially for them, for example children's film shows and dance or drama school productions, and additional arrangements are required to safeguard them while at the premises.
- 7.13 Where entertainment requiring a licence is specifically presented for children, the **Licensing Authority** will require the presence of at least one member of staff for every 50 children present to ensure their safety and protection from harm and to control their access and egress from the premises. The Council will require those caring for or supervising children to have undergone an appropriate Criminal Record check with the Criminal Records Bureau.
- 7.14 For a licence to be granted, the **Licensing Authority** will require the submitted Operating Schedules to satisfactorily address these issues.
- 7.15 **Where relevant representations are made by Responsible Authorities or Interested Persons following an application the Licensing Authority** will consider attaching Conditions to licences, certificates and permissions to prevent harm to children, and these may include Conditions drawn from the Model of Conditions relating to the Protection of Children from Harm (see Appendix 5).
- 7.16 The Licensing Authority considers that the Responsible Authority to which applications will need to be copied who are best able to deal with matters relating to the protection of children from harm is the Area Child Protection Committee.

8. Licensing Hours

- 8.1 The **Licensing Authority** recognises that longer licensing hours for the sale of alcohol could avoid large numbers of people leaving premises at the same time, which in turn could reduce the potential for disturbance at late night fast food outlets, taxi ranks, minicab offices and other sources of transport. **It is however unclear at this moment what impact longer licensing hours could have on levels of disturbance across the Borough.**
- 8.2 The **Licensing Authority** considers that licensing hours should not inhibit the development of safe and thriving evening and night-time local economies which are important for investment and employment locally and attractive to tourists and visitors alike. The **Licensing Authority** considers that providing consumers and the licensed trade with greater choice and flexibility is an important consideration.
- 8.3 Fixed pre determined closing times within designated areas otherwise known as zoning will not be set as this could lead to significant movements of people across boundaries at particular times seeking premises opening later, with the potential for concentrations of disturbance and noise. This would treat residents in one area less favourably than those in another as well as causing the peaks of disorder and disturbance the 2003 Act is trying to avoid.
- 8.4 Restrictions on trading hours will only be considered where necessary to meet the licensing objectives.
- 8.5 The **Licensing Authority** will generally deal with the issue of licensing hours having due regard to the individual merits of each application. However, consideration will be given to imposing stricter conditions or limitations in respect of noise control where premises are situated in mainly residential areas.
- 8.6 **In all cases the granting of a licence will be dependant on the impact of the premises or activity particularly on local residents. Applicants will need to take into consideration the level of impact which could arise from noise, vibration, litter, parking, availability of public transport and taxis, crowds etc.**
- 8.7 **Applicants must carefully consider the hours of opening which they consider appropriate for the future operation of their business, and in particular their requirements to accommodate special events and celebrations. Applicants are not encouraged to apply for hours of operation beyond their current opening hours if they have no intention of operating for the extended period. This will reduce the burden placed on the licensing administration and will assist in the efficient operation of the licensing system. Where an applicant wishes to apply to extend**

their current opening hours beyond midnight, the Council will expect their Operating Schedule to detail measures to be taken to ensure the licensing objectives are addressed and that there will be no significant disturbance to members of the public, living, working or otherwise engaged in normal activity in the vicinity of the premises concerned.

8.8 The **Licensing Authority** will generally consider licensing retail premises to sell alcohol for consumption off the premises at any times they are open for shopping. However, it may consider there are very good reasons for restricting those hours, for example, where police representations made in respect of individual shops which are known to be the focus of disorder and disturbance.

8.9 **Applicants for premises licences will also be expected to reflect any operating hours that are stipulated as part of a planning consent and will not be granted a licence where the proposals exceed the hours granted in any such planning consent.**

9 Human Rights and Promotion of Racial Equality

9.1 The Human Rights Act 1998 makes it unlawful for a Local authority to act in a way which is incompatible with a right under the European Convention on Human Rights. In carrying out its licensing functions the Council will therefore have particular regard to:

- Article 6 – Right to a fair hearing. In the determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law.
- Article 8 - Right to respect for private and family life.
- Article 1 of the first protocol – Protection of Property. Every person is entitled to the peaceful enjoyment of his or her possessions (including for example the possession of a licence).

9.2 The **Licensing Authority** opposes all forms of unlawful and unfair discrimination in all areas of its activities and recognises that it should take the lead on race equality in order to achieve a society that respects people regardless of their race, colour or creed. In this respect Sedgefield Borough Council has implemented a 'Race Equality Scheme' throughout the Borough.

10 Safer Clubbing – Guidance for licensing authorities, club managers and promoters

10.1 For premises which may have problems with drugs, crime and disorder and/or are open late the Licensing Authority will refer to the guidance given and will expect applicants in their operating schedules to use the strategies outlined in the Home Office Drug Strategy booklet entitled Safer Clubbing (**ISBN 1840827807**).

11 Integrating Strategies and Avoiding Duplication

- 11.1 There are many stakeholders in the leisure industry, covering a wide range of disciplines. Many are involved, directly or indirectly, in the promotion of the licensing objectives, particularly those relating to the prevention of crime and disorder and public nuisance.
- 11.2 Many of their strategies deal in part with the licensing function and the **Licensing Authority** will participate in multi-disciplinary working groups to ensure proper integration of local crime prevention, planning, transport, tourism and cultural strategies and also to obtain information on the effects of this policy on local regulated entertainment.
- 11.3 The **Licensing Authority** will arrange for protocols with Durham Police **to enable them to report to the Committee responsible for transport matters on the need for the swift and safe dispersal of people from town centers to avoid concentrations, which can produce disorder and disturbance.**
- 11.4 **The Licensing Authority** recognises the need to avoid so far as possible duplication with other regulatory regimes. Whilst having regard to the planning regime the Council recognises that there should be a clear separation of the planning and licensing regimes and licensing applications should not be a re-run of the planning application. **Prior to submitting an application to the Licensing Authority applicants should ensure that there is an appropriate current planning permission for the hours and activities for which the application is being made. Building regulation approval and completion certificates will also be required prior to the use of premises for licensable activities.**
- 11.5 **The Licensing Authority will require an applicant to have obtained planning permission where necessary for the proposed use of any premises before applying for a Provisional Statement under Section 29 of the Act.**
- 11.6 The **Licensing Authority** will endeavour to minimise the burden of legislation on small businesses. Some regulations do not cover the unique circumstances of some entertainment and the **Licensing Authority** will consider attaching conditions to premises licences and club premises certificates where these are necessary for the promotion of the licensing objectives and are not already provided for in any other legislation.

12 Live Music, Dancing and Theatre

- 12.1 The **Licensing Authority** recognises the need to encourage and promote live music, dance and theatre for the wider cultural benefit of the community, particularly for children.

- 12.2 The **Licensing Authority** will not therefore discourage the promotion of such events but will, when considering applications for such events and the imposition of conditions on licences or certificates carefully balance the cultural needs with the necessity of promoting the licensing objectives.
- 12.3 Consideration will be given to the particular characteristics of any event, including the type, scale and duration of the proposed entertainment, especially where limited disturbance only may be caused.
- 12.4 In places for which the Council holds a premises licence e.g. parks and public open spaces, entertainers will be able to give a performance, without the need to serve temporary event notices or to apply for individual premises licences. This approach will make it more possible for cultural diversity to thrive and will be a far simpler process for many types of entertainment that use numerous venues each year such as circuses and street artists. However, entertainers will need to obtain permission of the Council (as premises licence holder) and comply with any conditions that might be imposed. This approach may reduce the administrative burden on the Licensing Authority and ensure that licensable activities are encouraged in locations that the Licensing Authority considers appropriate and where the promotion of the licensing objectives have been previously considered and any potential noise nuisance can be properly managed.**
- 12.5 Temporary Event Notices enable licensable activities to take place outside the scope of a Premises Licence. These notices can be given for small scale events attracting no more than 499 people at a time and lasting for no more than 96 hours. **There are annual restrictions on how many notices one person may give and on the number of times the same premises can be used.** Applicants must however provide advance notice to the Police and the Licensing Authority and although the law states that a minimum of 10 days notice must be given, organisers of temporary events are strongly advised to give the **Licensing Authority** and the Police at least 28 days notice of any such event to enable any issues to be dealt with in a timely manner.
- 12.6 The Authority encourages such premises such as community centers and village halls to apply for Premises Licences to cover all expected activities as the managers of these venues may find the permitted annual number of temporary event notices too restrictive.**
- 12.7 **The Licensing Authority will monitor the impact on regulated entertainment, and particularly live music and dancing. Where there is any indication that such events are being deterred by**

licensing requirements the policy will be revisited with a view to investigating how the situation might be reversed

13 Gaming Machines

- 13.1 The **Licensing Authority's** existing powers under Section 34 of the Gaming Act 1968 to grant permits for Amusement with Prizes machines (AWP's) in premises that do not sell alcohol have been extended by the Licensing Act 2003 to include AWP's in premises that do sell alcohol. The Licensing Authority will be prepared to grant permits for up to 2 machines without a hearing.
- 13.2 All AWP'S will be required to be sited within site of the bar so they can be supervised by staff working in the premises.

14 Administration, Exercise and Delegation of Functions

- 14.1 The **Licensing Authority** will be involved in a wide range of licensing decisions and functions and has established a Licensing Committee of 15 members to administer them.
- 14.2 Appreciating the need to provide a speedy, efficient and cost-effective service to all parties involved in the licensing process, the Committee has delegated certain decisions and functions and has established a number of Sub-Committees to deal with them.
- 14.3 With many of the decisions and functions being purely administrative in nature, the grant of non-contentious applications, including for example, those licences and certificates where no representations have been made, has been delegated to Council Officers. All such matters dealt with by Officers will be reported for information and comment only to the full licensing committee.
- 14.4 Where there are relevant representations, applications will be dealt with by the Licensing Committee of the Council, or by a sub-committee as will any application for review of a licence.
- 14.5 The Table of Delegated Functions (see Appendix 6) sets out the agreed delegation of decisions and functions to the Licensing Committee, Sub-Committees and Officers.
- 14.6 This form of delegations is without prejudice to Officers referring an application to a Sub-Committee, or a Sub-Committee to Full Committee, if considered appropriate in the circumstances of any particular case.
- 14.7 The 2003 Act itself creates a presumption that applications will be granted unless a representation is raised.

14.8 Where representations are made a licensing officer will liaise with the applicant, interested parties and the responsible authorities to see if an agreement can be reached without the need for the matter to go before the Licensing Committee or Licensing Sub Committee. Only where representations are raised which cannot be resolved will matters be referred to either the Sub Committee or the Full Committee for determination.

Committee/Sub Committee Procedural Requirements.

14.9 When it is considered necessary to put an application before the Licensing Committee / Sub Committee, applicants, interested parties and responsible authorities will be asked beforehand to estimate the likely timescale of their presentation or representations. This is to ensure that sufficient time can be allocated to hear the application. Wherever possible interested parties will be encouraged to attend the meetings and present their evidence in person.

14.10 A member of a sub committee considering licence applications will only participate in the hearing if they do not have a personal or prejudicial interest under the Local Authority's Code of Conduct for Elected Members.

14.11 Licensing Committee hearings are quasi judicial in nature. However the **Licensing Authority** will try to keep the proceedings as informal as possible. Some degree of formality will however be necessary to ensure that all parties represented are able to **present** their views openly and fairly and that they receive a fair hearing.

14.12 The Committee and sub committees will determine each case before it on its merits and in determining the application the Licensing Committee or sub committee will consider:

- The case and evidence presented by all parties
- The promotion of the four licensing objectives.
- The Licensing Act 2003 and associated regulations.
- Guidance issued by central Government
- The Statement of Licensing Policy

14.13 Hearings will commence with the Chairperson of the Licensing Committee introducing himself/herself and the other Members present.

14.14 The Chairperson will then ask the applicant, interested parties and the responsible authorities to introduce themselves and any witnesses. The reason for the hearing will then be outlined.

14.15 A Council officer will present the previously circulated report after which the applicant and any representors may ask questions. Sub committee members may then seek clarification on any points raised.

- 14.16 The applicant will be asked to present his/her case and to call any witnesses to present evidence.
- 14.17 Responsible Authorities, Interested Parties, Members of the Licensing Committee and Council Officers, in that order, will then be given the opportunity to ask questions at the end of any presentation. Any witnesses giving evidence on behalf of the applicant may also be questioned after giving their evidence.
- 14.18 The Chairperson will then give the responsible authorities and interested parties the opportunity to present their representations. Once completed the applicant, members of the licensing committee and officers will be able to ask questions. When all the evidence has been given the responsible authorities and interested parties will be given the opportunity to sum up their objections in the same order as they presented their cases. The applicant will then be given the opportunity to sum up his/her case.
- 14.19 Decisions relating to contested licensing applications will always be made by the Committee or sub committees in private. The committee members will be accompanied by the Council's Legal Advisor who will provide advice on legal and procedural points, but will not comment on the merits of the application. A public announcement of the decision will be made at the end of the hearing together with clear, convincing reasons for the decision. The decision will then be confirmed in writing after the hearing.
- 14.20 Applicants and those making representations in respect of applications to the **Licensing Authority** have a right of appeal to the Magistrates Court against decisions of the **Licensing Authority in accordance with the 2003 Act.**
- 14.21 Where the Committee and sub committees determine that it is appropriate to attach conditions to a licence / certificate it will ensure that those conditions are focused on the direct impact of the activities taking place at the premises on members of the public living, working or engaged in normal activity in the area concerned. Such conditions will be proportionate to the activity to be controlled and will only be imposed in the interests of the licensing objectives.

15. Enforcement

- 15.1 Once licensed, it is essential that premises are maintained and operated so as to ensure the continued promotion of the licensing objectives and compliance with the specific requirements of the 2003 Act. Although annual inspections of premises will not be undertaken as a matter of course the **Licensing Authority** will make arrangements to monitor premises.

- 15.2 The **Licensing Authority** intends to establish protocols with the Police, Fire Authority and other enforcing authorities e.g. **Durham County Council Trading Standards Service**. These protocols will provide for the targeting of agreed problem and high-risk premises, but with a lighter touch being applied to those premises which are shown to be well managed and maintained.
- 15.3 **The Act sets out a number of offences, proceedings for which may be instigated by the following;**
- **The Licensing Authority**
 - **The Director of Public Prosecutions**
 - **In the case of an offence under section 146 or 147 (sale of alcohol to children), by a weights and measures authority (within the meaning of section 69 of the Weights and Measures Act 1985(c.72)).**
- 15.4 All enforcement actions taken by the Council will comply its "Enforcement and Prosecution Policy" and the Government's Enforcement Concordat, which the Council has adopted. The Council's "Enforcement and Prosecution Policy" can be viewed on the Council's website at :
http://www.sedgefield.gov.uk/environmentalhealth/htdocs/business_news/enforce_prosecution_policy.htm
- 15.5 The Council, Durham Constabulary and the County Durham and Darlington Fire and Rescue Service will whenever necessary give early warning to licence holders of any concerns about problems occurring at premises associated with the licensing objectives.
- 15.6 The 2003 Act provides a mechanism for reviewing a Premises Licence where problems associated with achieving the Licensing objectives occur. An interested party or responsible authority may apply to the Licensing Authority for the licence to be reviewed. In such circumstances the Licensing Authority will hold a hearing and take any necessary steps to promote the licensing objectives, such as modification of conditions, exclusion of licensable activities, removal of the premises supervisor, suspension of the licence for up to 3 months or the revocation of the licence.
- 15.7 The Council will not expect a premises licence to be reviewed more than once within any 12 month period on similar grounds except in exceptional circumstances or where it arises following a closure order.
- 15.8 The Council's licensing enforcement officers will investigate complaints and allegations of unlicensed activities and ensure that the conditions related to licensed premises are complied with and will seek to work actively with Durham Constabulary in enforcing licensing legislation.

16. Definitions

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

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

‘Interested Party’ means any of the following:

- A person living in the vicinity of the premises
- A body representing persons who live in that vicinity
- A person involved in a business in that vicinity
- A body representing persons involved in such a business

‘Late Night Refreshment’ means the supply of hot food or hot drink to members of the public (whether for consumption on or off the premises) between the hours of 11.00 pm and 5.00 am.

‘Licensable Activities’ means:-

- the sale by retail of alcohol
- the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club
- the provision of Regulated Entertainment
- the provision of Late Night Refreshment i.e. the supply of hot food or drink between 11.00 p.m. and 5.00 a.m.

‘Licensed Premises’ includes club premises and events unless the context otherwise requires.

‘Operating Schedule’ means a document containing a statement of the following matters (and any others that may be prescribed):-

- the relevant Licensable Activities
- the times at which the Licensable Activities are to take place and any other times when premises are open to the public
- information regarding the person who will be specified in the Premises Licence as the Designated Premises Supervisor

- where the Licensable Activities involve the supply of alcohol, and whether it is for the supply on and/or off the premises
- the steps being taken to promote the Licensing Objectives

'Personal Licence' is a licence granted to an individual and authorises that person to supply alcohol or authorise the supply of alcohol in accordance with a premises licence. The licence lasts for 10 years and can be renewed. It ceases to have effect when revoked, forfeited, surrendered or suspended. A personal licence holder is not required where the premises concerned does not supply alcohol as one of its licensable activities. A personal licence holder is also not required for the supply of alcohol in a club which holds a club certificate.. Only the police can object to the grant of a personal licence.

'Portman Group Code of Practice' defines best practice in the naming packaging and promotion of alcoholic drinks and provides a procedural framework for influencing, regulating and controlling industry practice. The code is supported by virtually the whole Industry including producers, importers, wholesalers, retailers and trade associations.

'Premises Licence' is a licence granted by the local authority which authorises the use of any premises, which includes any place or part of premises, for licensable activities described in Section 1 (1) and Schedules 1 and 2 of the 2003 Act.

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

'Regulated Entertainment' means:-

- a performance of a play
- an exhibition of a film
- an indoor sporting event
- a boxing or wrestling entertainment
- a performance of live music
- any playing of recorded music
- a performance of dance
- entertainment of a similar description falling within the last three of the categories listed above but only where the entertainment takes place in the presence of and for the purposes of entertaining that audience or spectators.

Exemptions Schedule1 Part 2

- **Advertising and Educational Films**
- **Films at Museums and art galleries**
- **Incidental Live and Recorded Music**
- **Television or Radio Broadcasts**
- **Religious meetings or services**
- **Secular entertainment in places of public religious worship**
- **Garden Fetes**
- **Morris Dancing**
- **Vehicles in motion – but not vessels**
- **Small events in licensed premises (section 177)**

‘Responsible Authority’ means any of the following:-

- the Chief Officer of Police
- the Fire Authority
- the enforcing authority for Health and Safety at Work
- the local planning authority
- the local authority responsible for minimising or preventing the risk of pollution of the environment or of harm to human health
- the body representing matters relating to the protection of children from harm

‘Temporary Event Notice’ means a Permitted Temporary Activity involving one or more Licensable Activities subject to the following various conditions and limitations:-

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

(if these conditions are not fulfilled, the Temporary Event would require a Premises Licence if it were currently unlicensed for the activity involved a full Premises Licence or Club Premises Certificate will be required for the period of the event involved)

17 Licence Conditions

- 17.1 The Council does not propose to implement standard licensing conditions across the board. Where considered appropriate and necessary for the promotion of the Licensing Objectives, the Council will given the circumstances of each individual case consider attaching

Conditions drawn from the relevant Model Pools of Conditions set out in Appendices 1 - 5.

- 17.2 Conditions not listed in the pool of model conditions may be specifically tailored to the individual style and characteristics of the particular premises and attached to licences as appropriate.
- 17.3 Applicants may find it useful to refer to the pool of conditions when preparing “operating schedules” and considering what, if any, voluntary measures to be taken by them may contribute to the attainment of the licensing objectives and enhance the suitability of the application.
- 17.4 Licensing conditions which may be attached to licences :
 - i. In the absence of “relevant representations”, only where such conditions are consistent with the “operating schedule” submitted with the application.
 - ii. Where in the opinion of the Licensing Authority valid “relevant representations” exist and then only so far as the authority considers necessary for the promotion of the “licensing conditions”.

Conditions Relating to the Prevention of Crime and Disorder

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

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

Conditions enforcing these arrangements are therefore unnecessary.

General

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

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

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

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

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

Text pagers

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

Such pagers provide two-way communication, both enabling licence holders, managers, designated premises supervisors and clubs to report incidents to the police, and enabling the police to warn those operating a large number of other premises of potential trouble-makers or individuals suspected of criminal behaviour who are about in a particular area.

Pager systems can also be used by licence holders, door supervisors, managers, designated premises supervisors and clubs to warn each other of the presence in an area of such people.

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

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

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

Door Supervisors

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

- preventing the admission and ensuring the departure from the premises of the drunk and disorderly, without causing further disorder;
- keeping out excluded individuals (subject to court bans or imposed by the licence holder);
- searching and excluding those suspected of carrying illegal drugs, or carrying offensive weapons; and

- maintaining orderly queuing outside of venues prone to such queuing.

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

Door supervisors also have a role to play in ensuring public safety

Bottle bans

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

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

- no bottles containing beverages of any kind, whether open or sealed, shall be given to customers on the premises whether at the bar or by staff service away from the bar;
- no customer 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 exemptions, 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

However it should be noted that many women consider drinking from bottles to be safer as it is easier for them to prevent the spiking of drinks with drugs in bottles the openings of which may be readily covered. These issues therefore need to be carefully balanced.

Plastic containers and toughened glass

Glasses containing drinks may be used as weapons during incidents of disorder and in normal form, can cause very serious injuries. Consideration should therefore be given to conditions requiring either the use of plastic containers or toughened glass which inflicts less severe injuries. Location and style of the venue and the activities carried on there would be particularly important in accessing whether a condition is necessary. For example, the

use of glass containers on the terraces of outdoor sports grounds may obviously be of concern, but similar concerns may also apply to indoor sports events such as boxing matches. Similarly, the use of such plastic containers or toughened glass during the televising of live sporting events, such as international football matches, when high states of excitement and emotion fuelled by alcohol might arise, may be a necessary condition.

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

CCTV

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

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

Open containers not to be taken from the premises

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

Restrictions on Drinking Areas

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

Capacity limits

Although most commonly made a condition of a licence on public safety grounds, consideration should also be given to conditions which set capacity limits for licensed premises or clubs where it may be necessary to prevent overcrowding which can lead to disorder and violence. Where such a condition is considered necessary, consideration should also be given to

whether door supervisors would be needed to ensure that the numbers are appropriately controlled.

Proof of Age cards

It is unlawful for children under 18 to attempt to buy alcohol just as it is unlawful to sell or supply alcohol to them.

To prevent such crimes, it may be necessary to require a policy to be applied at certain licensed premises requiring the production of “proof of age” before such sales are made. This should not be limited to recognised “proof of age” cards, but allow for the production of other proof, such as photo-driving licences, student cards and passports. The Secretary of State strongly supports the PASS accreditation system (see paragraph 12.8 of the Guidance issued under section 182 of the Licensing Act 2003), which aims to approve and accredit various proof of age schemes that are in existence. This ensures that such schemes maintain high standards, particularly in the area of integrity and security, and where appropriate and necessary, conditions may refer directly to PASS accredited proof of age cards, photo-driving licences and passports.

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

Crime prevention notices

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

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

Drinks promotions

Standardised conditions should not be attached to premises licences or club premises certificates that promote fixed prices for alcoholic drinks. It is also likely to be unlawful for licensing authorities or police officers to promote voluntary arrangements of this kind. This can risk creating cartels. Using conditions to control the prices of alcoholic drinks in an area may also breach competition law.

Conditions tailored to the individual circumstances of particular premises which address irresponsible drinks promotions may be permissible provided they are necessary for the promotion of the licensing objectives, but licensing authorities should take their own legal advice before a licence or certificate is granted in that form. Judgements may be subjective, and on occasions, there will be a very fine line between responsible and irresponsible promotions but an even greater distinction as to whether the promotion in question can be subject to the imposition of a condition. It is therefore vital that such matters are considered objectively in the context of the licensing objectives and with the benefit of expert legal advice.

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

Signage

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

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

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

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

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

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

Conditions Relating to Public Safety (including fire safety)

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

General

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

- 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/pages/publications

The following British Standards should also be considered:

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

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

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

Disabled people

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

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

Escape routes

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

provided this might also include ensuring that internal gangways are kept unobstructed.

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

- All existing 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 prior to the premises being open to the public;
- All fire doors are maintained effectively self-closing and shall not be held open other than by approved devices (for example, electromagnetic releases operated by smoke detectors)
- Fire resisting doors to ducts, service shafts, and cupboards shall be kept locked shut; and the edges of the treads of steps and stairways are maintained so as to be conspicuous.

Safety checks

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

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

Curtains, hangings, decorations and upholstery

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

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

Accommodation limits

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

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

Fire action notices

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

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

Outbreaks of fire

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

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

Loss of water

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

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

Access for emergency vehicles

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

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

First Aid

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

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

Lighting

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

- in the absence of adequate daylight, the lighting in any area accessible to the public, members or guests shall be fully in operation when they are present.
- Fire safety signs are adequately illuminated.
- Emergency lighting is not be 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.
- Temporary electrical wiring and distribution systems shall comply with the recommendations of BS 7671 or where applicable BS 7909.
- Where they have not been installed by a competent person, temporary electrical wiring and distribution systems are inspected and certified by a competent person before they are put to use.

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

Indoor Sports Entertainments

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might 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 to the satisfaction of the licensing 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.
- 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 conditions without first seeking a variation of the premises licence proposing the deletion of the condition relating to public safety in question. The applicant will need to propose in a new operating schedule reflecting the proposed alteration to the premises, how he or she intends to take alternative steps to promote the public safety objective. The application for variation will enable the responsible authorities with expertise in safety matters to consider whether the proposal is acceptable.

Special Effects

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

- Dry ice machines and cryogenic fog;
- Smoke machines and fog generators;

- Pyrotechnics, including fireworks;
- Real flame;
- Firearms;
- Motor vehicles;
- Strobe lighting;
- Lasers (see HSE Guide The Radiation Safety of lasers used for display [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 3

Conditions Relating to Theatres, Cinemas, Concert Halls and Similar Places (promotion of public safety)

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

Premises used for Closely Seated Audiences

Attendants

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

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

(b) Attendants shall not be engaged in any duties that would hinder the prompt discharge of their duties in the event of an emergency or entail their absence from that floor or auditorium where they are on duty.

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

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

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

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

Standing and Sitting in Gangways etc

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

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

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

- (i) sit in any gangway
- (ii) stand or sit in front of any exit or
- (iii) 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.

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 consent of the licensing authority. Any scenery should be maintained flame-retardant.

Scenery

Any scenery should be maintained flame-retardant.

Safety curtain

Where a safety curtain is necessary, 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-retarded fabric.

Ceilings

All ceilings in those parts of the premises to which the audience are admitted should be inspected by a suitably qualified person every five years and a certificate concerning the condition of the ceilings forwarded to the licensing authority.

Seating

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

Premises used for Film Exhibitions

Attendants - premises without a staff alerting system

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

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

Attendants – with a staff alerting system

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

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

(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 metre 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 consent of the licensing authority.

Conditions relating to the prevention of public nuisance

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

General

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

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

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

Hours

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

Restrictions could be necessary on the times when certain licensable activities take place even though the premises may be open to the public as 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.
- 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.

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 licences, club premises certificates 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.

5.1 Access for children to licensed premises - 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 at a hearing) with 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 unaccompanied by adults under the age of 12 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 was no need to include, in the schedule, steps 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.

5.2 Age Restrictions - specific

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

Licensing authorities are expected to consider:

- The hours of day during which age restrictions should and should not apply. For example, the fact that adult entertainment may be presented at premises after 8.00pm does not mean that it would be necessary to impose age restrictions for earlier parts of the day.
- Types of event or activity in respect of which no age restrictions may be needed, for example:
 - Family entertainment; or
 - Non-alcohol events for young age groups such as under 18s dances,
- Similarly, types of event or activity which give rise to a more acute need for age restrictions than normal, for example;

- During “Happy Hours” or on drinks promotion nights;
- During activities outlined in the first bullet point in the first paragraph above.

5.3 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 parents or legal guardian has first been obtained."

5.4 Theatres

The admission of children to theatres, as with other licensed premises, is not expected to normally be restricted unless it is necessary to promote the licensing objective of the protection of children from harm. However, theatres may be the venue for a wide range of activities. The admission of children to the performance of a play is expected to normally be left to the discretion of the licence holder and no condition restricting the access of children to plays should be attached.

However, theatres may also present entertainment including, for example, variety shows, incorporating adult entertainment. A condition restricting the admission of children in such circumstances may be necessary.

Entertainment may also be presented at theatres specifically for children (see below).

Licensing authorities are also expected to consider whether a condition should be attached to a premises licence which requires the presence of a sufficient number of adult staff on the premises to ensure the well being of children present on the premises during any emergency (See Section 3).

5.5 Performances especially for children

Where performances are presented especially for 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.

5.6 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.

5.7 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.

5.8 Proof Of Age Cards

Proof of age cards are discussed under Appendix 1 above 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 issued under Section 182 of the Licensing Act 2003), which aims to approve and accredit various proof of age schemes that are in existence. This ensures that such schemes maintain high standards, particularly in the area of integrity and security and, where appropriate and necessary, conditions may refer directly to PASS accredited proof of age cards, photo-driving licences, student cards and passports. As for conditions relating to crime and disorder, it should be noted that many adults in England and Wales do not currently carry any proof of age. This means that the wording of any conditions 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.

APPENDIX 6

TABLE OF DELEGATED FUNCTIONS

Matter to be Dealt With	Full Committee	Sub-Committee	Officers
Application for personal licence		If a police objection is made	If no objection is made
Application for personal licence with unspent convictions		All cases	
Application for premises licence/club premises certificate.		If a relevant representation is made	If no relevant representation is made
Application for provisional statement		If a relevant representation is made	If no relevant representation is made
Application to vary premises licence/club premises certificate		If a representation is made	If no representation is made
Application to vary designated personal licence holder		If a Police objection is made	All other cases
Request to be removed as designated personal licence holder			All cases
Application for transfer of premises licence		If a Police objection is made	All other cases
Application for interim authority		If a Police objection is made	All other cases
Application to review premises licence/club premises certificate		All cases	
Decision of whether a complaint or objection is irrelevant, frivolous, vexatious etc.		All cases	
Decision to object when Local Authority is a consultee and not the relevant authority considering the application		All cases	
Determination of a Police representation to a temporary event notice		All cases	

Contact Names and Addresses

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