



# **LICENSING ACT 2003**

# **LICENSING POLICY JANUARY 2021**

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**TEST VALLEY BOROUGH COUNCIL - LICENSING ACT 2003 - SECTION 5****Statement of Licensing Policy - 2021-2026**

**A licensing policy as determined by the Council in respect of its licensing functions for the five year period commencing 7 January 2021 is set out in this statement of licensing policy. During the five year period the policy will be kept under review and the Council will make such revisions to it, at such times, as it considers appropriate. Further licensing statements will be published every five years thereafter.**

**PART 1 : BACKGROUND**

- 1.1 Test Valley Borough is situated in the County of Hampshire and has a large number of licensed premises. The Council recognises that these premises are an important part of the Borough and are major contributors to the local economy, attracting tourists and visitors, and making for vibrant towns and communities, whilst at the same time providing employment.
- 1.2 There are approximately 400 licensed premises in the Borough where alcohol is sold or entertainment provided on a regular or occasional basis. These premises include:
- public houses and nightclubs
  - off licences
  - businesses offering hot food between 2300 and 0500
  - hotels, guest houses, restaurants and other places that sell alcohol
  - private members clubs and social clubs
  - theatres and amateur dramatic groups
  - cinemas
  - premises where indoor sporting events take place

**Other Legislation**

- 1.3 The use of any licensed premises or places (including outside areas) are subject to planning controls. This would equally affect licensable activities held under a premises licence and possibly a temporary events notice. There are several key differences between licensing and planning control. The most significant is that planning is concerned with how land is used, whereas licensing is concerned with ensuring that public safety in its widest sense is protected. It is recommended that issues concerning planning permission be resolved before a licence application is made.
- 1.4 Planning, Building Control and Licensing applications and conditions are separate. Licensing applications should not be a re-run of a planning application. The Licensing Section will liaise with the Planning and Building Service. Internal and external alterations to licensed premises must have building regulation approval where such approval is required under the Building Acts, etc.
- 1.5 Furthermore premises must comply with all other relevant legislation, e.g.

- Food Safety Act 1990 (Food Hygiene)
- Health & Safety at Work etc. Act 1974 (Risk Assessments for work practices and fire safety)
- Equality Act 2010
- Building Regulations
- Regulatory Reform (Fire Safety) Order 2005

1.6 The Council will seek to avoid duplication with other regulatory regimes as far as possible. However, if other regulations do not cover the unique circumstances that arise in connection with, for example, entertainment at specified premises then additional controls will be imposed.

### **Impact of alcohol in Test Valley**

1.7 The effects of harmful drinking on individuals, families and communities are wide-ranging. Alcohol is a causal factor in more than 60 medical conditions including: mouth, throat, stomach, liver and breast cancers; high blood pressure; liver cirrhosis; and depression. Reviews have also demonstrated the negative impact alcohol has socially. It is an important factor in family and relationship problems, adverse childhood experiences, crime and disorder and reduced workplace productivity.

Whilst Test Valley compares well to national and regional rates on many key indicators of alcohol-related health harms, admissions are on an upwards trend. There were 2,684 admissions to hospital where alcohol was a direct cause or contributing factor in 2018/19, a 129% increase from 2008/09.

An area to note is the continued increasing trend of hospital admissions where alcohol can be wholly attributed as a cause. There were 907 admissions in 2018/19, a 75% increase since 2016/17. In 2018/19, Test Valley had a significantly higher rate of admissions (713 per 100,000 people) than England.

## **PART 2 : INTRODUCTION**

2.1 Test Valley Borough Council ("the Council") is the Licensing Authority pursuant to the Licensing Act 2003 ("the Act") and is responsible for considering all applications for licensable activities, as defined in section 1 of the Act. The purpose of licensing is to regulate the carrying on of licensable activities on licensed premises, by qualifying clubs and at temporary events. Licensable activities, identified by the Act, include:

- Retail sale of alcohol
- Supply of hot food or drink from premises between 2300 and 0500 hours
- Supply of alcohol to club members
- Provision of entertainment listed below (known as "regulated entertainment") to the public or club members or with a view to profit:
  - Film exhibitions
  - Performances of a play
  - Indoor sporting events
  - Boxing or wrestling entertainment

- Live music performances
  - Playing of recorded music
  - Dance performances
- 2.2 There are a number of exceptions and details of these are set out in Sections 173 to 175 of the Act. The Live Music Act 2012, Legislative Reform (Entertainment Licensing) Order 2014 and Deregulation Act 2015 introduced various exemptions from licensing for most forms of regulated entertainment. When considering whether an activity constitutes the provision of regulated entertainment each case will need to be treated on its own merits.
- 2.3 This Statement of Licensing Policy has been prepared in accordance with the provisions of the Act and the Guidance issued under Section 182 of the Act.
- 2.4 The Policy will be kept under review and where any amendments are considered necessary these will only be made after consultation has taken place in accordance with Section 5(3) of the Act. Proper weight shall be given to the views of all those consulted. Those to be consulted will include:
- The Chief Officer of Police for Test Valley Borough
  - The Chief Officer of the Fire and Rescue Service for Test Valley Borough
  - Bodies and persons representing local holders of premises licences
  - Bodies and persons representing local holders of club premises certificates
  - Bodies and persons representing local holders of personal licences
  - Bodies and persons representing businesses and residents in the Council's area
  - Any other bodies the Council deems appropriate
- 2.5 The Council recognises that the best means of promoting the licensing objectives (see 2.6 below) is through the co-operation and partnership of local authorities, the police, local business, performers, local people and those involved in child protection.

### Licensing Objectives

- 2.6 When dealing with licensing matters the Council will promote and have regard to the four licensing objectives set out in the Act. These are:
- The prevention of crime and disorder;
  - Public safety;
  - The prevention of public nuisance; and
  - The protection of children from harm.

Each licence application will be considered on its own merits in the context of the four licensing objectives. This Council will take this Policy into account if its discretion is engaged i.e. at a hearing following representations.

- 2.7 The Council's primary focus is the direct impact of activities taking place at licensed premises on members of the public who are living, working or engaged in normal activity in the vicinity of the premises/place concerned. Licensing law is not a mechanism for the general control of anti-social behaviour by individuals once they are away from that premises/place and,

therefore, beyond the direct control of the individual, business or club holding the licence or certificate concerned.

- 2.8 Accordingly, any conditions attached to the licence/certificate will centre on the premises and places being used for licensable activities and the vicinity of those premises and places. Whether or not an instance can be regarded as being in the vicinity of licensed premises or places is a question of fact and will depend on the particular circumstances of the case. The licensing authority can only impose a number of mandatory conditions, conditions that reflect the operating schedule for the premises or, following representations, conditions appropriate to ensure the achievement of the four licensing objectives.

### **Integration of Strategies**

- 2.9 The Council will take into consideration the following in so far as they are relevant to the licensing objectives:
- The need of the local tourist economy.
  - The cultural strategy for the Borough, and the Council's wish to encourage and promote live music, dancing and theatre to the wider cultural benefit of its community.
  - The employment situation in the Borough, and the need for investment and employment where appropriate.
  - Promoting the health and wellbeing of communities through reducing the harm caused by alcohol.
- 2.10 There are many stakeholders in the leisure industry. 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.
- 2.11 The Council will ensure at all times that it takes into account the views of these stakeholders and ensures proper integration of local crime prevention, planning, transport, tourism and cultural strategies. The Council will work closely with the police on issues of enforcement. Where appropriate, neighbouring authorities and parish councils will also be consulted.
- 2.12 Conditions attached to premises licences and club premises certificates will, so far as possible, reflect local crime prevention strategies.

### **Cumulative Effect of a number of Licensed Premises in one area**

- 2.13 The Council will not take 'need' into account when considering an application, as this is a matter for planning development control and the market. However, it recognises that the cumulative impact of the number, type and density of licensed premises in a given area, may lead to serious problems of nuisance and disorder both in the vicinity of and at some distance from the premises.
- 2.14 Representations may be received from a responsible authority or other party 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. This concentration of premises may be creating

exceptional problems of disorder and nuisance over and above the impact from the individual premises.

- 2.15 In these circumstances, the Council may consider that the imposition of conditions is unlikely to address these problems and may consider the adoption of a special policy of refusing new premises licences or club premises certificates if it believes that the area is saturated with such premises and the granting of any more would undermine one of the licensing objectives. The Council will consult widely in considering such a policy and once adopted, any such policy will be regularly reviewed.
- 2.16 When deciding whether to adopt a special saturation policy the Council will consider:
- whether serious and chronic concerns have been identified by a responsible authority or significant representations from residents have been received about the levels of nuisance and disorder;
  - whether it can be demonstrated that disorder and nuisance is arising as a result of customers from licensed premises in an identified and specific area;
  - whether taking all relevant matters into account a policy about future licence applications from that area should be adopted.
- 2.17 If such a policy were adopted, the Council will consider representations on the grant of a particular application based on its impact on the promotion of the licensing objectives in the Borough generally.
- 2.18 However, the onus would be on the objector to provide evidence to back up any assertion that the addition of the premises in question would produce the cumulative impact claimed, always remembering that the impact will be different for premises with different styles and characteristics.
- 2.19 It therefore also recognises that, within this policy, it may be able to approve licences that are unlikely to add significantly to the saturation and will consider the circumstances of each individual application.

### **Other Controls on Anti-social Behaviour**

- 2.20 Other mechanisms exist to control the anti-social behaviour of a minority of consumers who behave badly and unlawfully after leaving licensed premises etc. These controls include:
- Planning controls
  - Positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the local authority
  - Power of local authorities to designate parts of the local authority area as places for alcohol, i.e. not to be consumed publicly
  - Police enforcement of normal law concerning disorder and anti-social behaviour including the issuing of fixed penalty notices
  - The prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk
  - The confiscation of alcohol from adults and children in designated areas

- Police powers to close down instantly for up to 24 hours any licensed premises or temporary events on grounds of disorder, the likelihood of disorder or excessive noise emanating from the premises
- The power of the Police and other responsible authorities or a Borough Councillor or a local resident or business to seek a review of the licence or certificate in question

### **Licensing Hours**

- 2.21 With regard to licensing hours consideration will be given to the individual merits of an application. Longer licensing hours relating to the sale of alcohol are important to ensure that concentrations of customers leaving premises simultaneously are avoided. It is hoped that longer hours will also result in a reduction in binge drinking at the end of an evening. This is necessary to reduce friction at late night food outlets, taxi ranks and other sources of transport which can lead to problems of disorder and disturbance.

### **Conditions**

- 2.22 Following relevant representations, where the Council believes it to be appropriate and necessary, in order to promote any of the licensing objectives, it will consider attaching conditions to licences. Conditions attached to licences will be tailored to the individual style and characteristics of the premises and licensable activities concerned. Disproportionate and over burdensome conditions on premises will not be imposed. Standardised conditions will be avoided, other than the mandatory conditions. Conditions can only be carried forward from a Premises Licence or Club Premises Certificate onto a Temporary Event Notice where relevant objections have been made by the Police or Environmental Health and either a hearing takes place or all parties agree a hearing is unnecessary.

### **Enforcement**

- 2.23 The Council will establish protocols with the local Police and Trading Standards on enforcement issues. This will enable the more efficient deployment of local authority staff and Police Officers who are commonly engaged in enforcing licensing law and the inspection of licensed premises. The aim of the protocol will be to target agreed problem and high risk premises which require greater attention while providing a lighter touch in respect of low risk premises which are well run.

### **Casinos and bingo clubs**

- 2.24 Casinos and bingo clubs are the subject of separate legislation with regard to the licensing of gaming – the Gambling Act 2005. When granting, varying or reviewing licences authorising the sale of alcohol for consumption on such premises and/or the provision of regulated entertainment and/or late night refreshment at such premises, the licensing authority should not duplicate any conditions imposed by virtue of such legislation. Where applicants wish to carry on activities licensable under the 2003 Act, they should prepare and submit an operating schedule, but in detailing the steps to be taken in promoting the four licensing objectives the applicant may refer to the statutory conditions in respect of his/her gambling licence where relevant. In addition,



any conditions which are attached to premises licences should not prevent the holder from complying with the requirements of the 2005 Act and its supporting regulations.

### **Reviews of Premises**

- 2.25 The Licensing Authority recognises the importance of working in partnership with licence holders to achieve the promotion of the licensing objectives. Where possible, responsible authorities will aim to give licence holders early warning of any concerns identified at premises. Responsible authorities and other parties (including Borough Councillors) can apply for the review of a licence. The licensing authority's role will be to administrate the process and determine its outcome at a hearing where an evidential basis for the allegations made will need to be submitted.

### **Delegation of functions**

- 2.26 In the interests of speed and efficiency the Council will, where possible, delegate licensing decisions and functions to officers. However, if the determination of the matter under delegated powers is precluded by law then it will be decided by the Licensing Sub-Committee. Details regarding the powers and duties of the Sub-Committee, its formation and procedures are contained in the Council's Constitution.

### **Early Morning Restriction Orders (EMRO)**

- 2.27 The power for licensing authorities to introduce an EMRO is specified in sections 172A to 172E of the Licensing Act 2003 which was amended by Section 119 of the Police Reform and Social Responsibility Act 2011. The legislation gives licensing authorities discretion to restrict sales of alcohol by introducing an EMRO to restrict the sale or supply of alcohol to tackle high levels of alcohol related crime and disorder, nuisance and anti-social behaviour. The order may be applied to the whole or part of the licensing authority area and if relevant on specific days at specific times. The licensing authority must be satisfied that such an order would be appropriate to promote the licensing objectives.
- 2.28 The only exemptions to EMROs are New Year's Eve and the provision of alcohol to residents in premises with overnight accommodation by means of bars and room service. The decision to implement an EMRO will be evidence based and will include consideration of the potential burden imposed as well as the potential benefits. At the time of publication of this Policy, it is not envisaged any EMRO will be implemented by the Council.

### **Late Night Levy**

- 2.29 The legislative provisions relating to the late night levy are not part of the Licensing Act 2003 but are contained in Sections 125 to 139 of the Police Reform and Social Responsibility Act 2011. Regulations have been brought into force setting out the way in which the levy must be applied and

administered and arrangements for expenses, exemptions and reductions. These new powers enable licensing authorities to charge a levy in relation to premises licensed to sell or supply alcohol late at night as a means of raising a contribution towards the costs of policing the night-time economy. It is a local power that licensing authorities can choose whether or not to exercise. Any decision to introduce, vary or cease the requirement for a levy has to be made by the full Council. At the time of publication of this policy, it is not envisaged any Late Night Levy will be implemented by the Council.

### **Coronavirus**

2.30 At the time of publication of this Policy the Covid-19 pandemic has resulted in the issuing of emergency legislation which has impacted upon the existing Licensing Act 2003 and placed additional requirements upon licence holders. Further changes to legislation may be possible whilst the pandemic continues. Changes will generally be published on the GOV.UK website.

### **Delegation of functions**

Please see the table on the next page.

<b>Matter to be dealt with</b>	<b>Licensing Sub-Committee</b>	<b>Officers</b>
Application for Personal Licence with unspent convictions	If a Police representation made	If no representation made
Application for Premises Licence/Club Premises Certificate	If a relevant representation made	If no representation made
Application for a Provisional Statement	If a relevant representation made	If no representation made
Application to vary Premises Licence/Club Premises Certificate	If a relevant representation made	If no representation made
Minor variation (of Premises/Club)		All cases
Application to Vary the Designated Premises Supervisor	If a Police objection	All other cases
Request to be removed as a Designated Premises Supervisor		All cases
Application for transfer of a Premises Licence	If a Police objection	All other cases
Applications for interim authorities	If a Police objection	All other cases
Application to Review a Premises Licence/Club Premises Certificate	All cases	
Decision on whether a representation is irrelevant, frivolous, vexatious, etc.		All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application	All cases	
Determination of a Police objection to a Temporary Event Notice	All cases	
In cases where the Magistrates Court has determined the licence on appeal		All cases
Decision to suspend Premises Licence/Club Premises Certificate for non-payment of annual fees		All cases
Decision to impose existing Premises Licence/Club Premises Certificate onto a Temporary Event Notice where all parties agree a hearing is unnecessary		All cases

**PART 3 : TYPES OF LICENCES, CERTIFICATES AND NOTICES****Personal licences**

- 3.1 A personal licence will be granted to any applicant, aged 18 or over, who possesses a relevant qualification or is a person of a prescribed description as determined by the legislation. A licence will not be granted to any applicant who has forfeited a personal application in the five year period ending with the date of the application.
- 3.2 The police can oppose an application if an applicant has a relevant unspent conviction or a conviction for a comparable offence in a foreign jurisdiction.
- 3.3 Applicants who meet the statutory criteria in terms of age, qualifications and non-forfeiture, as mentioned above, will be granted a licence (subject to any police objections being received). Applications that do not meet those criteria will be rejected.
- 3.4 If a police objection is received the application will be determined by a Licensing Sub-Committee at a hearing where all representations, which are relevant to the grant or refusal of the licence, will be taken into consideration. These may include the nature of any offences, the time since their commission and any mitigating circumstances. The Act requires the Council to reject an application if it considers it is appropriate in the interests of crime prevention to do so and, where there is a police objection, the normal course of events will be refusal unless there are exceptional and compelling reasons to grant the application.
- 3.5 There will be no need for a hearing if the applicant, Council and chief officer of police agree that a hearing is not necessary.
- 3.6 The Council requires every new application for a personal licence to be accompanied by a basic level criminal record disclosure. This will assist the Council in determining whether the applicant has any relevant unspent convictions.
- 3.7 A personal licence holder who is charged with a relevant offence is required by section 128 of the Act to produce the personal licence to the court on their first appearance in court in connection with the offence. If for any reason the personal licence cannot be produced, the holder must notify the court that they hold a personal licence and the reasons why it cannot be produced. Section 128 provides additional information in relation to this requirement and it is recommended that legal advice is sought by any individual to which this section relates. Failure to comply with this section is in itself an offence, and is likely to result in further prosecution proceedings being taken against the individual by the licensing authority or the Police.
- 3.8 Applicants who originate from, or who have lived under, foreign jurisdiction will be required to provide a document from that jurisdiction, equivalent to the criminal records disclosure form, or swear a statutory declaration confirming that they have not been convicted outside of England and Wales of a relevant offence or equivalent offence. Applicants should be warned that the making of

a false declaration for the purpose of obtaining a licence is a criminal offence for which they will be prosecuted and upon conviction will be liable for a fine.

### **Temporary Event Notices**

- 3.9 Temporary events involving relevant licensable activities may be held if certain criteria are fulfilled. However, the Council actively encourages persons organising such events ("premises users") to have due regard to any concerns of occupiers of premises adjacent to the proposed venue where the temporary event is due to take place.
- 3.10 When a temporary event is proposed notice of the event, along with the relevant fee, must be served on the Council at least 10 clear working days before the event. The Council hopes that in most cases the premises user will serve notice on the Council as far as possible ahead of the proposed event. However, if this is not possible there is the ability to submit a 'late' notice no later than five clear working days before the event. Please also see paragraph 3.11 below.
- 3.11 On receipt of a temporary event notice the Council will issue an acknowledgement notice in accordance with the requirements of the Act, unless a counter notice has been served under Section 107 of the Act. Counter notices under this Section relate to circumstances where the limits permitted under the Act for the service of temporary events notices are exceeded. The premises user must also serve a copy of the notice on the local Chief Officer of Police and the local authority Environmental Health service within the same timescales as detailed in paragraph 3.10 above. The notice may be sent electronically, i.e. by fax or email. Contact details are available from the Licensing Authority's website.
- 3.12 If the Chief Officer of Police is satisfied that allowing the premises to be used in accordance with the notice will undermine the crime prevention objective he/she must serve an objection notice, stating his/her reasons, on both the Council and the premises user within 2 working days of receiving the temporary event notice.
- 3.13 If the Council receives an objection notice it will hold a hearing to consider the objections (unless the Council, police and premises user agree that a hearing is unnecessary) and will give the premises user a counter notice under Section 105 of the Act if it considers it appropriate for the promotion of the crime prevention objective to do so. The above comments apply solely in respect of 'standard' notices and any objection to a 'late' notice, i.e. those submitted less than ten clear working days before the event, will be automatically refused without any right of a hearing to consider the objection(s).

### **Club Premises Certificates**

- 3.14 The Council acknowledges that private premises to which public access is restricted, and where alcohol is supplied, other than for profit, give rise to different issues for licensing law than those presented by commercial enterprises selling direct to the public. The Council encourages clubs to take advantage of the benefits offered to such premises such as the absence of a

requirement for a Personal Licence Holder ("PLH") or Designated Premises Supervisor ("DPS").

- 3.15 The Council will consider applications for premises licences if the Club decides that it wishes to offer its facilities commercially for use by the general public but the Applicant should remember that the appropriate planning consent should be sought prior to the application for a premises licence being submitted.
- 3.16 When premises have the benefit of a Club Premises Certificate, an application may be made to allow those running the premises to supply alcohol for consumption off the premises. Such supply will only be allowed during the hours that the premises are open for supply of alcohol to its members on the premises. Any such permission that is granted will be subject to conditions that any alcohol supplied will be in a sealed container and will only be supplied to members.

### **Premises Licences**

- 3.17 A premises licence is required for any premises which are used for one or more licensable activity as defined in 2.1 above. Those who may apply for licences are defined in Section 16 of the Act.
- 3.18 The requirements in relation to applications for premises licences are set out in Section 17 of the Act and the Council will not be able to consider applications which do not comply with those requirements. This Section requires that applications should be accompanied by:
- an operating schedule that demonstrates that the licensed premises can comply with the Council's licensing policy and promotes the 4 licensing objectives. The operating schedule must be adequate and appropriate for the type, location and opening hours of the particular premises. The licensing policies and matters for consideration by applicants, as detailed in Part D, need to be considered carefully and measures included in the operating schedule, where necessary, showing how compliance with those policies will be achieved.
  - a plan of the premises to which the application relates in the prescribed form details of the relevant premises supervisor and appropriate consent.
  - the appropriate fee.

Note: fee levels and prescribed forms may be viewed on the website of the Council, or can be obtained from the Council's licensing section.

### **Designated Premises Supervisors**

- 3.19 Any premises licence which authorises the sale of alcohol as a licensable activity is required to specify an individual on the premises licence as Designated Premises Supervisor (DPS). The Secretary of State's Guidance indicates that the DPS should be the individual who is in day to day control of the premises. The DPS must hold a valid personal licence at all times. Where this is not the case, it is an offence to sell alcohol until the premises licence is varied to specify a new DPS. Where the Police request removal of a DPS from a premises licence, this will be done as part of a request for review of the

Premises Licence. The Police can also object to the change of a DPS under the prevention of crime and disorder objective.

- 3.20 Community premises wishing to be licensed for the sale of alcohol are reminded of the ability to apply for removal of the mandatory condition relating to the requirement for a DPS and personal licence holder whereby the premises management committee or similar takes collective responsibility for such matters.

## **PART 4 : LICENSING POLICIES & MATTERS FOR CONSIDERATION BY APPLICANTS**

### **Section A : Prevention of Crime and Disorder**

#### **Matters for consideration by applicants.**

Applicants should have regard to the following matters when writing their operating schedules and are advised to consult Hampshire Police before submitting their application. If the Council receives a representation, additional conditions may be imposed at the Hearing that determines the application.

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 05:00 hrs 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.

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 the Council is considering applications, following receipt of any relevant representations from a responsible authority or other party, the measures laid down in Section A should be considered as practices which, if appropriate, may 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 their own codes of discipline to ensure the good order and behaviour of members.

Whether it is appropriate to impose conditions on 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.

## **Measures which should be considered**

### **Electronic Communication Devices**

Electronic communication devices such as radios and text alerts connecting premises licence holders, designated premises supervisors, managers of premises and clubs to the local Police can provide for rapid response by the Police to situations of disorder which may be endangering the customers or staff on the premises.

Such devices provide two-way communication, enabling licence holders, managers, designated premises supervisors and clubs to report incidents to the Police, and enabling the Police to warn a large number of other premises of potential trouble-makers or individuals suspected of criminal behaviour that are about in a particular area. Text alert 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. Where Shopwatch radio networks or similar exist, licensed premises are encouraged to join these.

### **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
- Maintaining orderly queuing outside of venues prone to such queuing
- Preventing underage alcohol consumption by checking for proof of age ID

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, where and at what times they should be stationed on the premises, and whether at least one female 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**

Bottles may be used as weapons inflicting more serious harm during incidents of disorder. A condition can prevent sales of drinks in their bottles for consumption on the premises. However, many women consider that 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 can cause very serious injuries. Consideration should therefore be given to conditions requiring either the use of plastic containers or toughened glass that inflicts less severe injuries. Location and style of the venue and the activities carried on there would be particularly important in assessing whether a condition is necessary. For example, the use of glass containers on the terraces of 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 also 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. Operating schedules should state 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. Use of CCTV should comply with any data protection legislation and guidance issued by the Information Commissioner.

## **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 preventing the taking of alcoholic and other drinks from the premises in open containers (e.g. glasses and opened bottles). This may again be necessary to prevent the use of these containers as offensive weapons in surrounding streets after individuals have left the premises.

## **Restrictions of 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. Gardens

and terraces outside premises can have the benefit of encouraging a continental style café culture. However, late at night the tables and chairs within these areas can be used as weapons. Operating Schedules should not only specify these areas, but also indicate the circumstances in which the ban would apply and times at which it should be enforced.

### **Capacity Limits**

Operating Schedules may need to 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 appropriate, consideration should also be given to whether door supervisors would be needed to ensure that the numbers are appropriately controlled. Under the Fire Safety Order, a capacity limit should not be included on a licence if the only reason for so doing would be for fire safety purposes.

### **Proof of Age**

It is unlawful for children under 18 to attempt to buy alcohol, just as it is unlawful to sell or supply alcohol to them. Although all premises licences and club premises certificates have from October 2010 included a mandatory condition requiring an age verification policy, responsible authorities may consider it appropriate to require a condition that premises apply a recognised proof of age scheme such as “Challenge 21” or “Challenge 25”. In line with central government guidance, acceptable forms of identification for proof of age will be UK photo-card driving licences, passports and proof of age cards that are accredited by the PASS scheme.

### **Crime Prevention Notices**

It may be necessary at some premises for notices to be displayed warning customers of the prevalence of crime that may affect them. 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 advising customers about the need to be vigilant of unattended bags because of concerns about terrorism.

### **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 when 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.

The Licensing Act requires the Premises Licence/Club Certificate summary to be fully displayed in a prominent position and a copy of the full licence to be available for inspection.

### **Policy A1 : Prevention of Crime and Disorder**

The applicant must indicate in the operating schedule the steps he/she proposes to prevent crime and disorder. Normally without exception for premises open between 2300 and 0800, and as appropriate for all other premises, depending on the specific premises and business being carried out, the Council would expect operating schedules to include arrangements for the following measures:

- Use of CCTV both within and outside the premises in accordance with the code of practice issued by the Information Commissioner from time to time e.g. warning signs
- Metal detection and search facilities
- Procedures for risk assessing promotions and events such as "happy hours" including the potential to cause crime and disorder, and plans for minimising such risks
- Measures to prevent the use or supply of illegal drugs
- Employment of qualified door supervisors currently licensed by the Security Industry Authority and other appropriately trained staff
- Participation in an appropriate Watch Scheme or other body designed to ensure effective liaison with the local community
- Proof of Age schemes
- Controls on bottles, glasses and containers
- Capacity limits
- Notices and signage, including a prominent sign giving the name of the personal licence holder in charge of the premises.
- No admissions after a specified time
- A personal licence holder to be on duty at the premises during opening hours

**Reason:**

Prevention of crime is both an objective of the Licensing Act 2003 and an important responsibility of the Council under the Crime & Disorder Act 1998. It is important, therefore, that the applicant be able to demonstrate to the Council the practical steps that will be taken to further this objective.

**Policy A2 : Drugs**

The Council will expect licensees of venues to take all reasonable steps to prevent the entry of drugs into licensed premises, to take appropriate steps to prevent drugs changing hands within the premises and to take practical measures to prevent tragedies as a result of drug misuse.

In particular the Council will expect licensees of venues to have an understanding of drug awareness. The Council will also expect licensees to be following the recommendations of the book "Safer Clubbing" published by the Drugs Prevention Advisory Service, 2002 (ISBN 1840827807 available from the Occupational Health & Safety Information Service).

**Reason:**

The purpose of this policy is to further the crime prevention objective and to ensure public safety by preventing tragic loss of life caused by drug abuse, including overheating and other factors.

**Policy A3 : Shops, Stores and Supermarkets**

**The Council will generally consider licensing shops, stores and supermarkets to sell alcohol for consumption off the premises at any times they are open for shopping. But shops must have adequate management practices to ensure that sales are not made to under 18 year olds and persons where there are grounds to believe that the sale will result in crime and disorder.**

**Ensure only over 18 year olds sell alcohol or under 18 year olds are closely supervised doing so.**

**However, if there are good reasons for restricting those hours, for example, where police representations made in respect of shops known to be the focus of disorder and disturbance, then restriction of hours will be considered.**

**Reason:**

**To prevent poorly managed shops from selling alcohol to children and persons under the influence of alcohol.**

**Section B : Public Safety****Matters to be considered by Applicants**

Applicants should have regard to the following matters when writing their operating schedules and are advised to consult the Environmental Health Unit of the Housing and Environmental Health Service at Test Valley Borough Council before submitting their application. If the Council receives a representation, then at the Hearing that determines the application, additional conditions may be imposed.

It should be noted in that conditions relating to public safety should be those, which are appropriate, in the particular circumstances of any individual premises or club premises and should not duplicate other requirements of the law.

Equally, the attachment of conditions to a premises licence or club premises certificate will not in any way relieve employers of the statutory duty to comply with the requirements of other legislation including the Health and Safety at Work etc. Act 1974, associated regulations and especially the requirements under the Management of Health and Safety at Work Regulations 1999 and the Regulatory Reform (Fire Safety) Order 2005 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 the Council is considering applications following the receipt of relevant representations from a responsible authority or other party, the following measures should be considered as practices that, if necessary, would promote public safety. It should also be recognised that special issues may arise in connection with outdoor and large - scale events.

Whether or not any risk assessment shows any of the measures to be necessary in the individual circumstance 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.

In addition, to considering the points made in this Part, those preparing premises operating schedules or club operating schedules, should consider:

- Technical Standards for Places of Entertainment (Entertainment Technology Press - ABTT Publications)(The Yellow Book)
- Fire Safety Risk Assessment – Small and Medium Places of Assembly (TSO 2006) ISBN 9781851128204
- The Purple Guide - A guide to health, safety and welfare at music and other events (Events Industry Forum, 2014) [www.thepurpleguide.co.uk](http://www.thepurpleguide.co.uk)
- Managing Crowds Safely (HSE 2000) ISBN 9780717618347
- Risk Assessment: A brief guide to controlling risks in the workplace (HSE, 2014) ISBN 978 0 7176 6463 4
- The Guide to Safety at Sports Grounds Sixth edition (Sports Ground Safety Authority, 2018) ("The Green Guide") ISBN 978 1-9164583-0-7

- Safety Guidance for Street Arts, Carnival, Processions and Large Scale Performances (Independent Street Arts Network, 2009) ISBN 978 0 9544892 5 0

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

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. Such measures will become conditions of the licence/certificate, and as such, any breach of these conditions could give rise to prosecution.

## **Measures that should be considered**

### **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 appropriate 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 or club members and guests, consideration might also be given to conditions that ensure that:

- All exits doors are easily openable where necessary opening in the direction of escape 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 security fastenings are removed prior to the premises being open to the public;
- All fire resisting doors required to be self-closing are maintained effectively self-closing and shall not be held open other than by appropriate devices approved by the licensing authority and the fire authority
- Fire resisting doors to ducts, service shafts, and cupboards shall be kept locked shut
- The edges of the treads of steps and stairways are maintained so as to be conspicuous
- Adequate handrails to staircases and changes of floor level

**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; and
- 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 Part 5 of BS 5852:1990; and
- Curtains, hangings and temporary decorations are arranged so as not to obstruct exits, fire safety signs or fire-fighting equipment; and
- Any temporary decorations which may be used from time to time must be specified in the operating schedule. Any decorations that are not so specified must not be used without the express consent of the Council.

**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 is not exceeded; and
- The personal 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 service 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 service must be called at once to any outbreak of fire, however slight and the details recorded in a Fire Log-book
- There should be an effective means of detecting any outbreak of fire and for warning people in the premises
- There should be suitable fire-fighting equipment in place for appropriate persons to use, without exposing themselves to danger, to extinguish a fire in its early stages.

### **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 supplies of first aid equipment and materials are available on the premises and are checked on a regular basis at least once each week. A record should be kept of the date of the check, the person completing the check and the results.
- 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 provided.
- Emergency lighting is not to be altered without the consent of the Council.
- Emergency lighting batteries are fully charged before the admission of the public, members or guests.
- In the event of the failure of normal lighting, where the emergency lighting battery has a capacity of an 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.
- Relevant warnings are issued where strobe or similar lighting is to be used.

### **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 Council 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.
- Temporary electrical wiring and distribution systems are inspected and certified by a competent qualified person before they are put to use.

### **Ventilation**

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:

- Where the ventilation system is designed to maintain positive air pressure within part of the premises, that pressure is maintained whenever the public, member or guests are present in that part of the premises.
- Ventilation ducts are kept clean.
- Air filters are periodically cleaned and replaced to maintain a satisfactory air supply.

### **Indoor Sports Entertainment**

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

- If necessary, an appropriately qualified medical practitioner is present throughout a sports entertainment involving boxing, wrestling, judo, karate or other sports entertainment of a similar nature.
- Where a ring is involved, it is constructed and supported to the satisfaction of the Council 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 Health and Safety in Swimming Pools (HSG179) issued by the Health and Safety Executive).

### **Theatres and Cinemas (Promotion of 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 appropriate and should be established through risk assessment.

### **Premises used for Closely Seated Audiences**

#### **Attendants**

- (a) The number of attendants on each floor in a closely seated auditorium should be as necessary to deal with the risks identified by a risk assessment but could be based on the figures set out in 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 seat ways 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 containers.

### **Balcony Fronts**

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

### **Special effects**

Any special effects or mechanical installation should be arranged and stored so as to minimise any risk to the safety of the audience, the performers and staff. Advance warning of any special effects should be made to patrons upon entering the premises.

Special 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 Safety of laser lighting displays [INDG224] 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 Council.

### **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 heavy weight 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 structural safety certificate concerning the condition of the ceilings forwarded to the Council.

### **Seating**

Where 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 metres from the location to which he is required to go on being alerted to an emergency situation.
- (c) Attendants shall as far as reasonably practicable be evenly distributed throughout all parts of the premises to which the public have access and keep under observation all parts of the premises to which the audience have access.
- (d) The staff alerting system shall be maintained in working order.

### **Minimum Lighting**

The level of lighting in the auditorium should be as great as possible consistent with the effective presentation of the film; and the level of illumination maintained in the auditorium during the showing of films would normally be regarded as satisfactory if it complies with the standards specified in BS 5266-1 (Code of Practice for the emergency escape lighting of premises).

### **Flammable films**

No flammable films should be allowed on the premises without the consent of the Council.

### **Policy B1 : Public Safety**

**Premises that provide regulated entertainment for large numbers of people create additional safety hazards that need to be controlled. Operating Schedules must include details of provisions to ensure the safety of temporary and permanent electrical installations, measures to provide means of escape from fire (including maximum numbers and emergency lighting), fire fighting, fire precautions, lighting, attendants and structural safety.**

#### **Reason**

**Licensed premises need to demonstrate in their Operating Schedules practical safety procedures and measures that are sufficient to control the risks associated with temporary structures, installations and large numbers of people.**

## **Section C: 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 of the Anti-social Behaviour, Crime and Policing Act 2014 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 will be considered before deciding whether or not conditions are appropriate for the prevention of public nuisance.

### **Matters to be considered by Applicants**

In cases where a significant variation to the nature, scope or timings of public entertainment is being sought and/or where there may be an adverse impact from noise on the local community then applicants are advised to consult the Environmental Protection Team at Test Valley Borough Council before submitting their application. If the Council receives a representation at the Hearing that determines the application, additional conditions may be imposed.

### **Hours**

The hours during which the premises are 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. This must be balanced by the potential impact on disorder that 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 at such times. For example, the playing of recorded music after a certain time might be prohibited, even though other licensable activities are permitted to continue.

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

### **Noise and Vibration - Overview**

Applicants must specify in sufficient detail the measures to be implemented to control noise from the licensed premises and so demonstrate how the licensed premises will be a “good neighbour”. The operating schedule must have regard to the nature of the area where the premises are situated, the type of premises concerned, the licensable activities to be provided and the expectations of the local community.

### **Policy C1 : Noise - General**

**When assessing the adequacy of the operating schedule, the Council will have regard to relevant guidance e.g. the Good Practice Guide on the Control of**

**Noise from Pubs and Clubs\*<sup>1</sup> and, where applicable, the Code of Practice on Environmental Noise Control at Concerts\*<sup>2</sup>.**

**[Footnotes:**

**\*<sup>1</sup> The Institute of Acoustics Good Practice Guide on the Control of Noise from Pubs and Clubs (March 2003), available from the Institute of Acoustics Email [publications@ioa.org.uk](mailto:publications@ioa.org.uk); [www.ioa.org.uk](http://www.ioa.org.uk) ). This document provides guidance for the assessment and control of noise affecting noise-sensitive properties, from the public and private use of public houses, clubs, hotels, discotheques, restaurants, cafes, community or village halls and similar premises.**

**\*<sup>2</sup> The Noise Council Code of Practice on Environmental Noise Control at Concerts (1995), ISBN 0 900103 51 5 (Tel. 0207 8275800). This publication provides guidance on the control of noise from large-scale music events. ]**

**Conditions relating to noise control will be considered in any of the following circumstances:**

**(a) Conditions will be applied that implement measures detailed within the operating schedule to prevent public nuisance.**

**(b) The operating schedule does not adequately demonstrate that the licensing objective for the prevention of public nuisance will be met, i.e. where effective noise control measures are either not practicable or have not been specified in the operating schedule;**

**(c) A review of existing conditions has taken place and additional or modified conditions are considered to be in the interests of preventing public nuisance;**

**(d) Conditions relating to a particular category of premises or particular activities are considered to be in the interests of preventing public nuisance.**

**Stricter conditions with regard to noise control may be appropriate in areas of the Borough which have denser residential accommodation or low levels of background noise. However, this will not limit opening hours without regard to the individual merits of the circumstances.**

**The policy of the Council is to strike a fair balance between the benefits to a community of a licensed venue and the risk of disturbance to local residents. Consequently in sensitive areas the Council may restrict the hours of operation, as an alternative to extensive sound insulation and noise control measures.**

**Premises open between 2300 and 0800 will be expected to have:**

**(a) an operating schedule agreed with the Council that indicates the applicant is taking appropriate steps to comply with the licensing objective of preventing public nuisance; and**

- (b) an appropriate amount of car parking readily accessible to the premises, and situated in such a way that vehicular movement will not cause demonstrable adverse impact to local residents.**

### **Noise from Regulated Entertainment**

The main sources of noise from holding regulated entertainment are from music, singing, raised voices and the use of public address systems. The operating schedule must indicate clearly the nature, timings and frequency of any regulated entertainment, as well as the noise control measures to be put in place. The Council may impose restrictions, for example relating to the nature, timings or frequency of regulated entertainment held, if the operating schedule does not adequately demonstrate that the licensing objective for the prevention of public nuisance will be met.

### **Policy C2 : Noise from Regulated Entertainment**

**When assessing the acceptability of noise associated with regulated entertainment, the Council will take particular account of the likely sound level produced, the timing, duration and frequency of events, and what level of noise control is reasonable and proportionate in the circumstances. The Council generally expects that noise associated with regulated entertainment which takes place between the hours of 23.00 – 09.00, or takes place on a frequent basis at any time, should be controlled so as to provide a high level of protection to residents living in the vicinity of the licensed premises. A high level of protection would in most cases equate to a sound level that the Council expects would be *inaudible*<sup>\*3</sup> to people inside all affected residential properties, with windows open for normal ventilation purposes. In some cases, a noise assessment will be required to demonstrate that this aim is likely to be met on a consistent basis.**

#### **[Footnotes or Glossary –**

**\*<sup>3</sup> *Inaudible*: Sound that cannot be heard or is imperceptible to the human ear (as defined in the Institute of Acoustics Good Practice Guide on the Control of Noise from Pubs and Clubs, published in March 2003). For the purposes of this policy, inaudible at all times inside all noise-sensitive properties means inaudible with windows open in a typical manner for ventilation. ]**

**Where applicable, the applicant will be expected to adequately demonstrate that compliance with the inaudibility criterion will be achieved. Accordingly, the applicant may be required to appoint a competent noise control consultant to carry out acoustic tests of the premises under worst-case conditions and identify suitable additional noise control measures required to meet the inaudibility criterion.**

**In all cases where regulated entertainment is provided within a building the Council will expect the applicant to identify any areas of sound leakage from the premises and include in the operating schedule practicable measures for addressing any areas so identified, such as:**

- Keeping doors and windows closed, providing acoustic lobbies and providing adequate mechanical ventilation where necessary;**



- **Reducing sound levels and installing and maintaining a sound limiting device to prevent sound exceeding the appropriate level;**
- **Installing soundproofing measures to contain sound and vibration.**

The level of detail expected by the Council with respect to noise control measures and procedures specified in the operating schedule will vary depending on circumstances, in particular the proximity of the premises to residential areas and the nature, frequency and timings of regulated entertainment events.

The following general issues should also be covered in the operating schedule:

- The methods used to assess the potential for noise disturbance;
- The monitoring systems to be put in place to check on compliance with noise control procedures;
- Procedures to be put in place for the recording and responding to any noise complaints;
- The provision of appropriate information, instructions and training to employees with respect to noise control matters.

### **Plant and Machinery**

Fixed plant and machinery such as air conditioning plant and cooking extraction systems can cause noise disturbance if not appropriately designed, constructed, maintained and located. The noise produced may not be a problem during the daytime but may cause disturbance to local residents at night.

### **Policy C3 : Noise from Plant and Machinery**

**Applicants will be expected to demonstrate in their operating schedules that noise produced will not cause disturbance to local residents in either of the following situations:**

**(a) New fixed plant or machinery, which may be audible at any noise-sensitive properties in the vicinity of the premises, is to be installed or has recently been installed;**

**(b) There is a significant change in the hours or manner of operating existing plant or machinery and such machinery is or may be audible at any noise-sensitive properties in the vicinity of the premises.**

In all cases, licensees will be expected to minimise noise from fixed plant and machinery as far as reasonably practicable and specify noise control measures taken in the operating schedule. This could include measures such as switching off plant and machinery, for example ventilation fans, when not required.

### **Noise from the Use of Gardens, Play Areas and Other Outdoor Areas**

In residential areas noise disturbance may arise from using gardens, play areas and other outdoor areas, particularly during events such as barbeques, festivals, family fun days etc. Outdoor seating areas can also encourage patrons and passers by to loiter rather than disperse late at night. There should be no loud speakers outside the building unless agreed by the Council for a specific event and the operating

schedule must include measures to control noise e.g. hours of use, if near residential premises.

#### **Policy C4 : Noise from Gardens etc.**

**Time restrictions or other conditions relating to the use of such outdoor areas may be imposed if considered to be in the interests of preventing public nuisance.**

#### **Noise from Patrons Leaving and Entering Premises**

Noise disturbance can arise from patrons leaving premises or congregating in the vicinity of the premises prior to leaving the area. Such disturbance can include raised voices (including rowdy behaviour), use of in-car entertainment systems, car horns, the slamming of car doors, the screeching of tyres, excessive engine revving, prolonged idling and other similar activities.

It is self evident that the risk of disturbance to local residents is greater when licensable activities continue late at night and into the early hours of the morning. For example, the risk of residents' sleep being disturbed by patrons leaving licensed premises is obviously greater at 02.00 than at 23.00.

#### **Policy C5 : Noise from Patrons**

**The policy of the Council is to strike a fair balance between the benefits to the community of a licensed venue and the risk of disturbance to local residents. Consequently, the Council may restrict the hours of operation where effective noise control measures are either not practicable or have not been specified in the operating schedule.**

In terms of patrons leaving the premises particularly late at night (after 23.00) or early in the morning the Council will expect the applicant to have included in the operating schedule such practical steps as:

- Erecting prominent notices at the exits to premises asking customers to leave quietly and not to slam car doors.
- Making announcements at appropriate times within the premises to the same effect.
- Instructing door staff to ask customers leaving the premises to leave the area quietly.
- Reducing the volume of music towards the end of the evening and where appropriate playing quieter, more soothing, music as the evening winds down.
- Making available licensed taxis or private hire vehicles to take patrons from the premises.
- Ensuring good communication with neighbours particularly for special events where a greater than usual impact is anticipated.

The Council will expect popular venues (including take-aways), which attract queues, to formulate a system to avoid disturbance to residents. This can sometimes be achieved by simply ensuring that the direction of the queue is as far away as possible from residential accommodation.

However, excessive noise and/or disorder require more rigorous action. It is important that queues formed later in the evening are supervised to keep noise to a minimum. This action can also help stop drug dealers from passing on drugs during the queuing process but the primary purpose is to prevent noise and disturbance. Door supervisors will generally carry out this role, but they must be given clear instructions as to their duties and responsibilities where necessary they should be adequately supervised.

### **Noxious smells**

Where it is considered to be in the interests of preventing public nuisance, consideration might be given to conditions that ensure that noxious smells from licensed premises are adequately controlled and the premises are properly vented.

### **Light pollution**

Bright or flashing lights on or outside licensed premises should 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.

### **Policy C6 : Exterior Lighting**

**Exterior lighting and security lighting must be positioned to avoid disturbing neighbouring residential property.**

#### **Reason**

**Bright lights shining into the windows of residential properties can cause disturbance.**

### **Policy C7 : Sanitary Accommodation**

**Premises must have sufficient provision of sanitary accommodation (e.g. water closets/urinals) for males and females adequately signed, located, maintained and kept clean. In certain circumstances applicants may wish to erect notices on the premises suggesting customers may wish to avail themselves of the toilet facilities before leaving the premises.**

#### **Reason**

**To prevent the public nuisance of people urinating and defecating in the street, public places or private land, causing nuisance to members of the public.**

**Section D: Protection of Children****Matters to be considered by Applicants**

Applicants should have regard to the following matters when writing their operating schedules and are advised to consult the Hampshire County Council Safeguarding Unit. If the Council receive a representation, at the Hearing that determines the application, additional conditions may be imposed.

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

- (a) premises exclusively or primarily used for supply of alcohol for consumption on those premises under the authorisation of a premises licence, club premises certificate or a temporary event notice when open for the purposes of being used for the supply of alcohol for consumption there; or
- (b) in between midnight and 0500hrs at all premises supplying alcohol for consumption on those premises under the authorisation of any premises licence, club premises certificate or temporary event notice.

Conditions duplicating these provisions are therefore unnecessary.

**Access for children to licensed premises - in general**

Restrictions on the access of children under 18 to premises where licensable activities are being carried on should be made where it is appropriate to protect children from harm. Conditions attached to premises licences and club premises certificates may reflect the concerns of responsible authorities and other parties who have made representations but only where the Council considers such conditions appropriate to protect children from harm. Whilst applications in relation to premises licences and club premises certificates must be judged by the Council 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 10.00 pm 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 operation 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 personal licence holder, designated premises supervisor or club's discretion, the expectation would be for unrestricted access for children of any age to premises. An operating schedule or club operating schedule should indicate any decision for the premises to exclude children completely, following from which there would be no need to include in the schedule steps the applicant proposes to take to promote the protection of children from harm.

### **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 the Council following relevant representations made by responsible authorities and interested parties will need to consider a range of conditions that are tailored to the particular premises and their activities where these are appropriate. The Council will consider:

- The times of day during when age restrictions should and should not apply. For example, the fact that adult entertainment may be presented at premises after 20:00 hrs 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-alcoholic events for young age groups such as under 18s dances

Similarly, types of event or activity that 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 above.

### **Age restrictions - cinemas**

The Secretary of State considers that, in addition to the mandatory condition imposed by virtue of Part 20 of the Act, requiring the admission of children to films to be restricted in accordance with recommendations given either by a body designated

under Part 4 of the Video Recordings Act 1984 or by the Council itself, conditions restricting the admission of children to film exhibitions should include:

- A condition that where the Council 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 Council, 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.
  - 12 - Passed only for viewing by persons aged 12 years or older
  - 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 Council 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 Council as falling into the 12, 12A, 15 or 18 category no person appearing to be under the age of 12, under 12 and unaccompanied, 15 or 18 as appropriate shall be admitted to any part of the programme; and the licence holder shall display in a conspicuous position at each entrance to the premises 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 provided that the prior written consent of the person's parents or legal guardian has first been obtained,"

## Theatres

The admission of children to theatres, as with other licensed premises, is not normally expected to be restricted unless it is appropriate 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 will normally be left to the discretion of the licence holder and no condition restricting the access of children to plays should be attached. However, theatres may also present entertainment including, for example, variety shows, incorporating adult entertainment. A condition restricting the admission of children in such circumstances may be appropriate. Entertainment may also be presented at theatres specifically for children (see below).

Consideration will be given to the imposition of conditions to premises licence requiring the presence of a sufficient number of adult staff on the premises to ensure the wellbeing of children present on the premises during any emergency.

### 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 [who may need to be duly screened for child protection] 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.
- Whether or not standing should be allowed. For example, there may be reduced risk for children in the stalls than at other levels or areas in the building.

### Children in performances

There are many productions each year that are one-off shows where the cast is made up almost entirely of children. They may be taking part as individuals or as part of a drama club, stage school or school group. The age of those involved may range from 5 to 18. The Children (Performances) Regulations 1968 as amended set out requirements for children performing in a show. However, if it is appropriate to consider imposing conditions for the promotion of the protection of children from harm then the Council will 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, concerts 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.

**Policy D1 : Protection of children from harm**

Where the activities proposed under the licence include those of a sex related nature (e.g. topless waitresses, striptease, table dancing etc) the Council will take into account the increased risk to the licensing objectives.

**Note:** For the sake of convenience the term “striptease” in this part of the policy should be taken to refer to any entertainment or service involving exposure of private parts or the sexual stimulation of patrons.

Where such entertainment is provided the operating schedule must include conditions designed to ensure that children are not admitted to and cannot witness these activities and to prevent crime and disorder problems. For example:

The area proposed for striptease shall:

- (a) be in a position where the performance cannot be seen from the street;
- (b) be in a designated area of the premises with segregation from the audience;
- (c) be in a position where the performers will have direct access to the dressing room without passing through or in close proximity to the audience.

Whilst striptease entertainment is taking place no person under the age of 18 shall be on the licensed *premises* and a clear notice shall be displayed at each entrance to the premises in a prominent position, so that it can be easily read by persons entering the premises, in the following terms:

**NO PERSON UNDER 18 WILL BE ADMITTED**

The Council has adopted the relevant provisions of the Local Government (Miscellaneous Provisions) Act 1982 as amended by the Policing and Crime Act 2009 such that premises providing sexual entertainment will require a Sexual Entertainment Venue Licence. Conditions are attached to such licences and where there are similar conditions to those on a Premises Licence or Club Premises Certificate, the more onerous apply.

**Reason**

These policies are designed to further the licensing objective of protecting children by preventing them being exposed to unsuitable material or acts. They are also designed to further the crime prevention and prevention of nuisance objectives by recognising the increased risk of nuisance or illegal activities such as performers offering “extras” to customers or the plying for trade by prostitutes.



**Policy D2 : Access to licensed premises by children**

The Council will take strong measures to protect children from harm. Examples of premises where the introduction of additional controls are likely to be necessary are:

- Where there have been convictions for serving alcohol to a minor or with a reputation for under-age 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 provided

In such circumstances while it may sometimes be necessary to impose a complete prohibition this would be only rarely imposed. The Council would normally require:

- Limitations on the hours when children may be present
- Age limitations below 18
- Limitations or exclusions when certain activities are taking place
- Requirements for accompanying adults
- Full exclusion of people under 18 from the premises when any licensable activities are taking place

Where there is provision of entertainment specifically for children (e.g. a children's disco) the Council will require the presence of sufficient adults to control the access and egress of the children and assure their safety.

**Reason**

These policies are designed to allow flexibility for the licensee, to ensure that where appropriate licensed premises are “user friendly” for children but to ensure they are adequately protected.

**Policy D3 Children & Cinemas**

The Council expects licensees to include in their operating schedule arrangements for restricting children from viewing age restricted films classified according to the recommendations of the British Board of Film Classification.

Where the exhibition of films is permitted the authority will expect the age restrictions of the British Board of Film Classification (BBFC) in respect of the films to be exhibited to be complied with. Only in exceptional cases will variations of this general rule be granted by the Council and then only with appropriate safeguards.

In relation to specialist Film Festivals where it is desired to show films not classified by the BBFC the Council will, provided adequate notice has been given, classify the films concerned. To achieve consistency and the protection of children the Council will use the guidelines published by the BBFC.

**Reason**

**To prevent children from viewing unsuitable films.**

**Policy D4 Children and Regulated Entertainment**

**It is expected that adult staff will be at places of public entertainment to control the access and egress of children and to protect them from harm. This requirement also applies to children present at an event as performers, in which case, for every ten children there must be one supervising adult [who may need to be duly screened for child protection] present at all times.**

Enquiries on this Policy should be addressed to:

The Licensing Section  
Legal and Democratic Service  
Test Valley Borough Council  
Beech Hurst  
Weyhill Road  
Andover SP10 3AJ

Email: [licensing@testvalley.gov.uk](mailto:licensing@testvalley.gov.uk)

For further information please contact Michael White on 01264 368013.

Further details about the licensing and application processes, including application forms, fees and details regarding each type of application can be obtained from the above address. A range of information including contact details for the responsible authorities is available from the above address and also on the Licensing Authority's website at [www.testvalley.gov.uk](http://www.testvalley.gov.uk).