

**THE LICENSING ACT 2003**

**STATEMENT OF LICENSING POLICY**

**7TH JANUARY 2011**

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## **PREAMBLE**

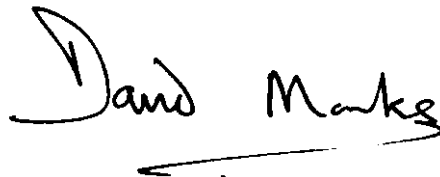
This Statement of Licensing Policy has been prepared by Huntingdonshire District Council acting as the licensing authority under the Licensing Act 2003. It represents the authority's policy with respect to the exercise of its licensing functions for the licensing of the sale and supply of alcohol, certain forms of entertainment and the provision of late night refreshment.

The statement replaces an existing three year statement and was approved by the licensing authority on 15th December 2010. It came into operation on 7th January 2011 for a further period of three years during which time it will be kept under review by the authority.

The Act has introduced greater flexibility for the entertainment industry, which can have a positive impact upon local communities in Huntingdonshire. This is balanced by tougher controls for the police and the licensing authority and an opportunity for other businesses and residents to raise concerns in the event of those greater freedoms having an adverse effect on our communities.

The licensing authority consulted widely in the preparation of the Statement and took into account the views submitted in its adoption.

**If you wish to make further comments on the statement or think that the contents should be reviewed, please contact the Licensing Section, Huntingdonshire District Council, Pathfinder House, St Mary's Street, Huntingdon, PE29 3TN.**

A handwritten signature in black ink that reads "David Monks". The signature is written in a cursive style with a long horizontal stroke underneath the name.

Cllr Terry Bell  
Chairman  
Licensing Committee

David Monks  
Chief Executive

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# HUNTINGDONSHIRE DISTRICT COUNCIL

## LICENSING ACT 2003

### STATEMENT OF LICENSING POLICY

#### 1. INTRODUCTION

- 1.1 The Licensing Act 2003 introduced fundamental changes to the law relating to the licensing of the sale and supply of alcohol, the provision of regulated entertainment and the provision of late night refreshment. It brought together six previously separate licensing procedures into a unified system of regulation and transferred the licensing of the sale and supply of alcohol to local authorities. Huntingdonshire District Council is the authority responsible for the licensing of such activities within Huntingdonshire and is referred to in this statement as the licensing authority.
- 1.2 The Licensing Act requires the Secretary of State to issue guidance to licensing authorities on the implementation and administration of the legislation and each authority to prepare a statement of licensing policy based upon the legislation and the Secretary of State's guidance. In publishing this statement, the licensing authority has consulted widely with interested parties and has given the views received appropriate weight in determining its policy.

#### 2. PRINCIPLES OF THE LEGISLATION

- 2.1 The Act requires all parties involved in the licensing and provision of regulated activities to have regard to four statutory objectives –
- the prevention of crime and disorder
  - public safety
  - the prevention of public nuisance
  - the protection of children from harm
- 2.2 However the legislation extends more widely than the statutory objectives and there are other key aims and purposes that are of fundamental significance for all involved in licensed activities. These include –
- the necessary protection of local residents, whose lives can be blighted by disturbance and anti-social behaviour associated with the behaviour of some people visiting licensed premises of entertainment;
  - the introduction of better and more proportionate regulation to give business greater freedom and flexibility to meet their customers' expectations;
  - greater choice for consumers, including tourists, about where, when and how they spend their leisure time;
  - the encouragement of more family friendly premises where younger children can be free to go with their family;
  - the further development within communities of our rich culture of live music, dancing and theatre, both in rural and urban areas;

- the regeneration of areas that need the increased investment and employment opportunities that a thriving and safe night-time economy can bring; and
  - the necessary protection of local residents, whose lives can be blighted by disturbance and anti-social behaviour associated with the behaviour of some people visiting places of entertainment.
- 2.3 The Act has introduced a lighter touch administration for those businesses and community activities which enhance leisure opportunities and our cultural heritage. Those businesses that meet the licensing criteria without an adverse impact upon the communities in which they are situated can expect no unnecessary interference. However where licence holders fail to meet the licensing objectives, there are opportunities for residents and businesses who are adversely affected to bring their concerns to the licensing authority and licence holders and their employees can expect a sharp focus on enforcement.
- 2.4 This can be best achieved through partnership working between all involved, including the licensing authority itself, other responsible bodies such as the police, fire and rescue authority, environmental health and health and safety which are defined in the Act, the private sector providing the leisure opportunities, local residents and community groups, town centre managers, Crime and Disorder Reduction Partnerships, performers and local transport providers. All have an equally vital role to play in promoting the licensing objectives.
- 2.5 The licensing authority will form licensing liaison groups and forums where necessary that bring together interested parties on a regular basis to monitor developments and propose possible solutions to any problems that arise.
- 2.6 Licensing is concerned with the regulation of licensable activities on licensed premises, at qualifying clubs and at temporary events within the meaning of the legislation. The conditions to be attached to the required authorisations will focus on those matters that are within the control of individual licence and certificate holders. They will relate to the direct impact of the activities taking place at the licensed or club premises on members of the public living or working in the vicinity of the premises. However the licensing legislation is not the primary mechanism for the general control of anti-social behaviour and nuisance by individuals who are not in the vicinity of the licensed or club premises and therefore beyond the direct control of the licence or certificate holder and their employees.
- 2.7 The Act complements and does not duplicate existing legislation. The licensing authority will therefore not impose conditions on a licence which are already dealt with by other current legislation. Nor will the authority impose conditions that are not within the control of a licence or certificate holder.

### **3. LICENSING OBJECTIVES**

- 3.1 This statement of licensing policy is concerned with the promotion of the four licensing objectives –
- the prevention of crime and disorder
  - public safety



- the prevention of public nuisance
  - the protection of children from harm.
- 3.2 Each objective has equal weight. In carrying out its licensing functions, the licensing authority will have regard to the licensing objectives, the Guidance issued by the Secretary of State under the Act and this statement of licensing policy. So far as is possible, the licensing authority will avoid duplication with other regulatory regimes, for example fire safety or health and safety at work.
- 3.3 Equally, applicants are required to have regard to the licensing objectives, the Secretary of State's Guidance and this statement and to demonstrate in their application and operating schedule how they will achieve those objectives and how they have met the requirements of other relevant regulatory regimes. Other guidance and best practice which is commended by the licensing authority to applicants is listed in Annex A.
- 3.4 An applicant will be required to demonstrate in his/her application and accompanying operating schedule that suitable measures and controls will be implemented and maintained to achieve the licensing objectives relevant to the nature of the premises, the locality in which it is situated and the type of activity to be licensed.

#### **4. STATEMENT OF LICENSING POLICY**

- 4.1 This statement has replaced a similar statement approved by the authority in December 2008 and will come into effect from 7<sup>th</sup> January 2011. It will remain in force for a further period of three years and will be subject to review at the end of that period with a view to a new statement being adopted with effect from January 2014. During the period in which it is in force, the licensing authority will keep the policy under review and may make such revisions to it as may be considered appropriate. If any revision is made, the licensing authority will publish a statement of the revisions or the revised statement of licensing policy in such a manner as to bring it to the attention of the bodies referred to below and the general public.
- 4.2 In preparing this statement, the licensing authority has consulted Cambridgeshire Constabulary, Cambridgeshire Fire and Rescue Service, other responsible authorities, such persons/bodies as are considered to be representative of local holders of premises licences, club premises certificates and personal licences, such persons/bodies considered to be representative of businesses and residents in the District and other organisations considered by the authority to have an interest in the matter. Comments were welcomed from any interested party and member of the public and given due weight in the adoption of this policy.
- 4.3 In considering any revision of the policy and its further review after three years, the licensing authority will consult fully with appropriate parties and with such persons as are considered to be representative of the holders of premises and personal licences and club registration certificates issued by the licensing authority.

#### **5. CO-ORDINATION WITH OTHER POLICIES**

- 5.1 In preparing this statement of licensing policy, the licensing authority has had regard to and consulted with those involved in other relevant strategies and policies in relation to local crime prevention, culture, planning, building control, transportation, economic development, tourism, racial equality, and other

plans for the management of town centres and the night-time economy. A schedule listing the relevant policies is attached as Annex B.

- 5.2 The licensing authority also recognises that as part of implementing the local authority's cultural strategy, proper account should be taken of the need to encourage and promote a broad range of entertainment, particularly live music, dance and theatre, including the performance of a wide range of traditional and historic plays for the wider cultural benefit of communities. A natural concern to prevent disturbance in neighbourhoods will be carefully balanced with the wider cultural benefits.
- 5.3 The licensing authority will ensure the proper co-ordination and integration of such strategies and policies to ensure that they are complementary and mutually supportive. The licensing authority will also monitor the impact of any change in those strategies and policies on this licensing policy and will undertake a revision of this policy if that is considered appropriate.
- 5.4 Arrangements will be made for the licensing authority's Licensing Committee to receive, where appropriate, reports on the needs of the local tourist economy for the District to ensure that these are reflected in the deliberations of the Committee. The Committee will be apprised of the employment situation in the District and the need for new investment and employment where appropriate.
- 5.5 Applications for premises licences for permanent commercial establishments should normally be from businesses with planning permission for the property concerned. The licensing regime will thus be separated from the planning and building control regimes to avoid duplication and inefficiency. Licensing applications will not be a re-run of a planning application and similarly the granting by the Licensing Committee of a variation of a licence which involves a material alteration to a building will not relieve an applicant from the need to apply for planning permission or building control permission where these are required. The Licensing Committee will, where appropriate, provide regular reports to the local authority's Development Management Panel on the situation regarding licensed premises in the District, including the general impact of alcohol related crime and disorder.
- 5.6 The licensing authority recognises its responsibilities under the Race Relations Act 1976, as amended by the Race Relations (Amendment) Act 2000. The impact of this policy upon race relations in the District will be monitored through the Council's corporate equality policy.

## **6. ACTIVITIES TO BE LICENSED**

- 6.1 The following activities are required to be licensed under the Licensing Act 2003 -
  - the sale by retail of alcohol,
  - the supply of alcohol by or on behalf of a qualifying club to a member of the club,
  - the provision of regulated entertainment, and
  - the provision of late night refreshment.
- 6.2 Regulated entertainment is defined as both the provision of entertainment and entertainment facilities. Entertainment includes –

- a performance of a play,
- an exhibition of a film,
- an indoor sporting event,
- a boxing or wrestling entertainment,
- a performance of live music,
- any playing of recorded music,
- a performance of dance, and
- any similar entertainment to the playing of live or recorded music or dance

where the entertainment takes place in the presence of an audience.

Entertainment facilities means facilities for enabling persons to take part in entertainment consisting of making music, dancing or any entertainment of a similar description to making music or dancing.

- 6.3 Certain activities are not regarded as regulated entertainment and are exempt for the purposes of the Act. A list of exempt entertainment is attached at Annex C.
- 6.4 Late night refreshment means the supply of hot food or drink to members of the public between the hours of 11.00 p.m. and 5.00 a.m., whether for consumption on or off the premises. It includes the provision of refreshment from vehicles while they are stationary.
- 6.5 The Act requires a premises licence or a club premises certificate to be obtained where any of the licensable activities are to take place (including the open air). Such licences and certificates are of unlimited duration unless where otherwise stated in the licence or certificate.
- 6.6 The sale and supply of alcohol, because of its impact on the wider community and on crime and anti-social behaviour, carries with it greater responsibility than the provision of regulated entertainment and late night refreshment. Individuals who are engaged in or authorising the sale and supply of alcohol require a personal licence. A personal licence is of ten years duration and an application for its renewal must be made to the original licensing authority that granted the licence, irrespective of the current address of the personal licence holder.
- 6.7 Not every person who sells or supplies alcohol at premises licensed for that purpose needs to hold a personal licence but every person engaged in the sale or supply of alcohol must be clearly authorised by such a licence holder. The licensing authority will expect –
- every person authorised to sell alcohol at any particular premises to be clearly identified,
  - for the authorisation to have specified the acts so authorised,
  - for there to be an overt act of authorisation, such as a written statement given to the individual so authorised, and

- for sensible arrangements to be in place for the personal licence holder to monitor the activity that they have authorised on a reasonably regular basis.
- 6.8 A personal licence holder is not required for the supply or authorisation of the supply of alcohol in qualifying clubs. To qualify as a club for the purposes of the Act, a series of conditions defined in the Act have to be met involving the membership and rules of a club which are summarised in Annex D.
- 6.9 Special arrangements apply for temporary events which require the service of a temporary events notice upon the licensing authority and the police not less than 10 days prior to the event.
- 6.10 A glossary of relevant terminology is contained at Annex D.

## 7. APPLICATIONS AND OPERATING SCHEDULES

- 7.1 Any person (including a business or an individual over the age of 18 years) may apply for a premises licence either on a permanent basis or for a time-limited period to carry out licensable activities on the premises (which includes the open air). A qualifying club may apply for a club premises certificate to carry out those activities. An application must be accompanied by the required fee, an operating schedule, a plan of the premises in a prescribed form and, if the application involves the supply of alcohol at licensed premises, the written consent of the person who is to be the designated premises supervisor. The only exception is in the case of an application in respect of community premises, defined in Annex D, where instead of the written consent of the person to become the designated premises supervisor, a committee or board of individuals can apply to be the licence holder and will then become responsible for the supervision and authorisations of alcohol sales at the premises.
- 7.2 Details of the required fees, forms and plans are available from the licensing authority and on the authority's website at [www.huntingdonshire.gov.uk](http://www.huntingdonshire.gov.uk). In submitting an application, an applicant must have regard to this statement of licensing policy.
- 7.3 Organisers of major festivals, carnivals and similar types of events are encouraged to approach the licensing authority at the earliest opportunity to discuss arrangements for licensing activities falling under the Act. An operating schedule for such an event will be substantial and the authority will offer advice and assistance, where appropriate, in its preparation. The authority may also act as a co-ordinator for the input of responsible bodies in respect of an application.
- 7.4 **The operating schedule forms a crucial part of the completed application. It should include sufficient information to enable the responsible authorities and any interested party to assess whether the steps to be taken to promote the licensing objectives are satisfactory.** For example, it should include a description of the style and character of the business to be conducted on the premises (for example, a supermarket, or a cinema with a number of screens and a bar, or a restaurant, or a public house with a number of bars, a dining area and a garden open to customers). Where alcohol is to be sold for consumption on the premises, the application should show the amount of seating to be provided. Where dancing is to be provided, the operating schedule should describe the type of dancing in broad terms and whether the dancing is to be provided by professional performers

or involves members of the public or both. It should also disclose whether the dancing is to include striptease or lap dancing.

7.5 An operating schedule must also set out the following details –

- the relevant licensable activities to be undertaken on the premises;
- the times during which the licensable activities are to take place (including the days of the week, the times of day, whether those times are different on different days, whether different times will apply in different seasons or holiday periods);
- any other times when the premises are open to the public;
- where the licence is only required for a limited period of time, what that period is;
- where the activities include the supply of alcohol, the name and address of the individual to be specified as the designated premises supervisor or, in the case of community premises, the name of the management committee;
- where the activities include the supply of alcohol, whether the alcohol will be supplied for consumption on or off the premises or both; and
- the steps that the applicant proposes to take to promote the licensing objectives.

7.6 An applicant should carry out a risk assessment in preparing an operating schedule to identify what risks are posed to employees, to performers, to persons attending the premises and members of the public who live and work in the vicinity of the premises and to demonstrate what action will be taken to alleviate those risks.

7.7 Applicants are particularly reminded that the Regulatory Reform (Fire Safety) Order 2005 has replaced previous fire safety legislation. The Order covers general fire precautions and other fire safety duties that are needed to protect relevant persons in case of fire in and around most premises. Responsibility for complying with the Order rests with the responsible person which may be the employer or any other person who may have control of the premises. Each responsible person must carry out a fire risk assessment that must focus on the safety in case of fire for all relevant persons.

7.8 The licensing authority will not therefore seek to impose fire safety conditions in any licence or certificate where the Order applies. Any conditions attached to existing licences and certificates that relate to any requirements or prohibitions that could have been imposed by the Order have automatically ceased to have effect. There is no need for existing licence or certificate holders to apply to vary their licences or certificates.

7.9 An applicant will be required to advertise an application in the required format and the licensing authority will consider any representations received from responsible bodies and interested parties described in Section 10 below. If any representations are received from such a body or party, unless these are determined by the authority to be frivolous or vexatious, the application will be heard by a licensing sub committee of the licensing authority's Licensing Committee. In exceptional circumstances, it may be heard by the Licensing Committee itself. It is important therefore for an applicant to include in the

application as much information as possible to satisfy those bodies and parties to pre-empt any representations that they may otherwise make which would result in a hearing before a licensing sub committee.

- 7.10 All parties are expected to work in partnership together to ensure that the licensing objectives are promoted collectively and to minimise the burden on the licensing authority and applicants. Applicants are encouraged to seek the views of the licensing authority, the police and the fire authority before formally submitting applications. Having completed drafts of their operating schedules, applicants may wish to consult with appropriate bodies to minimise subsequent representations on their part, for example with the police on matters relating to crime and disorder and with the Council's Environmental Health Division on noise nuisance.

## **8. CUMULATIVE IMPACT**

- 8.1 Cumulative impact is the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area, for example the cumulative impact on crime and disorder or public nuisance in a town centre as a result of a large concentration of licensed premises of a particular type in that part of the District.
- 8.2 If, after considering the available evidence and consulting relevant individuals and organisations, the licensing authority is satisfied that it is appropriate and necessary to include an approach to cumulative impact in the statement of licensing policy, a special policy will be included in the statement that the licensing authority will generally refuse new applications for premises licences or club premises certificates whenever relevant representations are received about the cumulative impact on the licensing objectives.
- 8.3 The effect of the special policy is to create a rebuttable presumption that applications for new premises licences or certificates will normally be refused, if relevant representations to that effect are received, unless it can be demonstrated to the licensing authority's satisfaction that the operation of the premises will not add to the cumulative impact already being experienced. This presumption does not however relieve responsible authorities or interested parties of the need to make relevant representations before the licensing authority can consider giving effect to the special policy on cumulative impact.
- 8.4 A special policy is not absolute and the circumstances of each application will be considered individually by the licensing authority, with licences and certificates that are unlikely to add to the cumulative impact on the licensing objectives being granted. It would also not be justifiable, for example, to adopt a special policy on the basis of a concentration of shops, stores or supermarkets selling alcohol for consumption off the premises. A special policy is intended to address the impact of a concentration of licensed premises selling alcohol for consumption on the premises which may give rise to large numbers of people on the streets who have been drinking alcohol in a particular area.
- 8.5 A special policy will not be used as a ground for revoking an existing premises licence or certificate when relevant representations are received about problems with those premises. By its nature, cumulative impact refers to the concentration of many premises in a particular area. Identifying an individual premise in the context of a review would be arbitrary.

- 8.6 The steps to be taken in considering whether to adopt a special policy in the statement of licensing policy will be –
- the identification of concern about crime and disorder or public nuisance;
  - consideration as to whether crime and disorder and public nuisance are rising and are caused by the customers of licensed premises, and if so identifying the area from which problems are arising and the boundaries of that area; or that the risk factors are such that the area is reaching a point when a cumulative impact is imminent;
  - consultation with the police, the fire authority, representatives of the holders of premises and personal licences and club premises certificates and of businesses and residents in the area as part of a general consultation required in respect of the whole statement of licensing policy;
  - subject to that consultation, inclusion of a special policy about future premises licence or club registration certificate applications from that area within the terms of the statutory guidance and the statement of licensing policy; and
  - publication of the special policy as part of the statement of licensing policy as required by the Act.
- 8.7 On the evidence available to it, the licensing authority is of the opinion that a special policy on cumulative impact should not be included in this statement of licensing policy.
- 8.8 The absence of a special policy does not prevent any responsible authority or interested party from making representations on a new application for the grant of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives.
- 8.9 Notwithstanding the absence of a special policy on cumulative impact, there are other mechanisms both within and outside the licensing regime that are available to address the minority of consumers who behave badly and unlawfully once they have left licensed premises. These include –
- planning controls;
  - positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other divisions of the Council;
  - the provision of CCTV surveillance in town centres, the existence of sufficient taxi ranks, the provision of public conveniences open late at night, street cleaning and litter controls;
  - the power of the licensing authority to designate parts of the District as places where alcohol cannot be consumed publicly;
  - police enforcement of the general law concerning disorder and anti-social behaviour, including the issue of fixed penalty notices;
  - the prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk;
  - the confiscation of alcohol from adults and children in designated areas;

- police powers to close down instantly for up to 24 hours licensed premises or temporary events on the grounds of disorder or likely disorder or noise emanating from the premises causing a nuisance; and
  - the power of the police, other responsible authorities or a local resident or business to seek a review of the licence or certificate in question.
- 8.10 These may be supported by other local initiatives that seek to address the problem.

## **9. LIVE MUSIC, DANCING AND THEATRE**

- 9.1 In carrying out its licensing function, the licensing authority will take into account the need to encourage and promote a broad range of entertainment, particularly live music, dance and theatre, including the performance of a wide range of traditional and historic plays for the wider benefit of communities. This will be balanced against a concern to prevent disturbance in neighbourhoods. To ensure a thriving cultural diversity, the licensing authority will consider establishing a policy of seeking premises licences for public spaces within the community itself. This could include village greens, market squares, parks and other public areas. Performers and entertainers would then not be obliged to obtain a licence or submit a temporary events notice to enable them to give a performance in those areas. Advice about whether an activity requires a licence in such circumstances can be obtained from the authority's Licensing Section, contact details of which are contained in Annex I.
- 9.2 When applications for premises licences are submitted from another part of the Council, the Licensing Committee and officers with delegated powers will consider such matters from an entirely neutral standpoint.

## **10. AUTHORISED PERSONS, INTERESTED PARTIES AND RESPONSIBLE AUTHORITIES**

- 10.1 Three key groups have important roles in the context of applications, inspection, enforcement and reviews of premises licenses and certificates.
- 10.2 '**Authorised persons**' are bodies empowered by the Act to carry out inspection and enforcement roles. These include licensing officers of the Council, fire inspectors, inspectors locally responsible for the enforcement of the Health and Safety at Work legislation (usually officers of the Council) and environmental health officers. The police are not regarded as an authorised person as they have separate powers under the Act to carry out their duties. Other authorised officers may be prescribed in secondary legislation from time to time by the Secretary of State.
- 10.3 '**Interested parties**' are the bodies or individuals who are entitled to make representations to the Council on applications for the grant, variation or review of premises licences and certificates. Interested parties may themselves also seek a review of a premises licence or certificate. This group includes –
- a person living in the vicinity of the premises in question;
  - a body representing persons living in the vicinity such as a residents' association or a town or parish council;



- a person involved in a business in the vicinity of the premises in question;
  - a body representing persons involved in such businesses such as a chamber of trade or commerce; and
  - a member of the licensing authority, i.e. a councillor elected to Huntingdonshire District Council.
- 10.4 Any of these individuals or groups may request a representative to make representations on their behalf. This can include a legal representative, a friend, a Member of Parliament or a local ward or town or parish councillor.
- 10.5 Local councillors play an important role in their local communities. They can make representations in writing and at a hearing on behalf of an interested party if specifically requested to do so or in their own right as an interested party. They can also make representations in their own right if they live or are involved in a business in the vicinity of the premises in question. However a councillor who is making representations on behalf of an individual or group or in his or her own right as an interested party who is also a member of the licensing authority's Licensing Committee will be required to declare an interest under the Council's code of conduct for members and may not take part in the decision-making process in respect of that application or licence.
- 10.6 Recent changes to the members' code of conduct will enable a councillor with a prejudicial interest, having declared that interest, to make representations, answer questions and give evidence at a sub committee hearing in the same way as any other interested party but the councillor must withdraw from the meeting immediately after doing so. The licensing authority has adopted a Members' Licensing Code of Good Practice to assist its councillors in dealing with the implications of the Act, a copy of which can be inspected as part of the authority's constitution on its website at [www.huntingdonshire.gov.uk](http://www.huntingdonshire.gov.uk)
- 10.7 The licensing authority will determine whether or not representations are relevant representations or whether they are frivolous or vexatious and will interpret whether a person resides or a business takes place in the vicinity of the premises which has been licensed or is the subject of an application. In the case of the latter, an interested party should be able to demonstrate that they are (or, in the case of new premises, are likely to be), affected by disorder and disturbance occurring (or potentially occurring) on those premises.
- 10.8 The licensing authority will provide information on its website and in such other means as are considered appropriate to advise interested parties how they can make representations to it.
- 10.9 **'Responsible authorities'** are public bodies that must be notified of applications and that are entitled to make representations to the licensing authority in relation to an application for the grant, variation or review of a premises licence or club premises certificate. All representations made by responsible authorities are relevant representations if they concern the effect of the premises on the licensing objectives. Responsible authorities include the chief officer of police, the local fire and rescue authority, the local enforcement agency for the Health and Safety at Work etc. Act 1974 (which may be the Council or the Health and Safety at Work Executive), the Council in its roles as the authority responsible for environmental health and for planning, and any body that represents those who are responsible for or interested in matters relating to the protection of children from harm and is recognised by the Council as being competent to advise it on such matters.

In the case of the latter, the body recognised by the Council is Cambridgeshire County Council's Office of Children and Young Persons. In relation to a vessel, this will also include the Environment Agency and the British Waterways Board.

## **11. DETERMINATION OF APPLICATIONS**

- 11.1 If an application has been submitted in the prescribed format and properly made and no relevant representations are received, the licensing authority must grant the application in the terms sought, subject only to any mandatory conditions that may apply and any conditions consistent with the operating schedule.
- 11.2 Responsible authorities and interested parties may make representations to the licensing authority about an application for a premises licence or club premises certificate and for a review of a licence or certificate that has been issued. It is not the intention of the licensing authority, except in exceptional circumstances, to notify residents living in the vicinity of the premises that an application for a licence or certificate or for a review of a licence or certificate has been received
- 11.3 If no representations are received or there are no objections from the police to an application for a personal licence or a notice for a temporary event, the process of determining applications will be of an administrative nature and will be dealt with by officers. Where representations are received and unless they are considered to be vexatious or frivolous or repetitious (in the case of a review), the Act requires a hearing to be convened of the Licensing Committee or a sub committee of that committee which will determine the application or the review of an existing licence or certificate. In practice, this will be a hearing of a licensing sub committee.
- 11.4 Where a notice of a hearing is given to an applicant or an existing licence or certificate holder, the authority will provide copies of any relevant representations that have been made. In exceptional circumstances, if the authority is satisfied that an interested party has a genuine and well-founded fear of intimidation or may be deterred from making a representation for that reason, the authority may advise the party to make any representation through a responsible authority or may withhold some or all of the party's personal details from an applicant or licence or certificate holder, providing only sufficient detail to demonstrate that the party is within the vicinity of the premises. Interested parties who wish to have their name and address withheld should seek guidance from the licensing authority and should explain clearly in their representation the reason(s) for their request.
- 11.5 In the interests of the efficient administration of the licensing procedure, the licensing authority has delegated decision-making to its Licensing Committee, sub committee(s) and officers in accordance with the Act and secondary legislation as set out in Annex E. However the statement of licensing policy will be approved by the licensing authority itself and the Licensing Committee will receive regular reports on decisions made by officers so that they can maintain an overview of the general situation with regard to licensing within the District.

## **12. OPENING HOURS**

- 12.1 The aim through the promotion of the licensing objectives should be to reduce the potential for concentrations of customers leaving licensed premises simultaneously and achieve a slower dispersal of people through flexible

opening hours. Arbitrary restrictions that would undermine the principle of flexibility will be therefore avoided by the licensing authority. The authority will not fix predetermined closing times for particular areas through a zoning of the District, nor seek to engineer staggered closing times by setting quotas for particular closing times. Licence and certificate holders however are under no obligation to remain open during the whole of the permitted hours specified in the premises licence, club premises certificate or temporary events notice.

- 12.2 The licensing authority will generally permit shops, stores and supermarkets to sell alcohol for consumption off the premises in line with their normal trading hours, unless there are exceptional reasons why to do so would hinder the achievement of the licensing objectives. An example of the latter would be if some shops were known to be a focus of disorder and disturbance because youths gather there. Similarly the licensing authority will not take into account the question of any rights of employees working on licensed premises in terms of the closing hours as these are addressed in employment legislation.
- 12.3 Applicants will be required to demonstrate in their operating schedule how the hours that they propose to be open for the sale of alcohol, the provision of regulated entertainment or the supply of late night refreshment will promote the licensing objectives.

### **13. CONDITIONS**

- 13.1 A key concept of the Licensing Act is for conditions to be attached to licences and certificates that are tailored to the individual style and characteristics of the premises and events concerned. Disproportionate and overly burdensome conditions will be avoided by the licensing authority where there is no need for such conditions. Conditions may only be imposed where they are necessary for the promotion of one or more of the licensing objectives and not for other purposes.
- 13.2 Conditions that are necessary for the promotion of the licensing objectives should emerge initially from the risk assessment which should be undertaken by an applicant before submitting an application for a licence or certificate. These will be translated into the operating schedule which will be the subject of scrutiny by responsible authorities and interested parties. Where relevant representations are not received as a result of the advertisement of the application, it is the duty of the licensing authority to grant the application for a licence or certificate, subject only to those conditions that are consistent with the operating schedule and any mandatory conditions prescribed in the Act.
- 13.3 Applicants should avoid ambiguous statements or actions in their operating schedules which are open to interpretation or are unclear. The contents of the operating schedule should be readily translatable by the authority into conditions that are easily understandable by the licence or certificate holder, responsible authorities and interested parties. The licensing authority may not impose any other conditions unless its discretion has been engaged by the making of relevant representations and it has been satisfied at a hearing of the necessity to impose conditions due to the representations raised.
- 13.4 The only conditions that may be attached to a licence or certificate by the licensing authority are those which are necessary and proportionate for the promotion of the licensing objectives. If other existing legislation places certain statutory responsibilities on an employer or operator of premises, it will not be necessary to duplicate this requirement by imposing the same or

similar duties under the premises licence or club premises certificate. Standard conditions will therefore not be imposed by the licensing authority but Annex F contains pools of conditions from which necessary and proportionate conditions may be drawn in particular circumstances.

- 13.5 Applicants for premises licences and for club premises certificates should carry out risk assessments before preparing their operating schedules and addressing in those operating schedules how they will promote the licensing objectives, with special regard to the matters referred to in the pool of conditions attached at Annex F.
- 13.6 Conditions will not require adherence to requirements in law that the use of copyright material must be authorised. Applicants and licence and certificate holders are however reminded of the need, where appropriate, to obtain Performing Right Society (PRS) and Phonographic Performance Ltd (PPL) licences and to observe other copyright arrangements. Failure to observe the law in this respect could lead to an application for the review of a premises licence or club premises certificate on the grounds of the crime prevention objective.
- 13.7 Notwithstanding the conditions that can be attached to a licence or certificate by the licensing authority, there are a number of mandatory conditions, some of which are of general application and will not be specified in the licence or certificate. Those that will be specified in the licence are –
- that there should be no sale of alcohol in licensed premises unless a designated premises supervisor has been appointed and every supply of alcohol must be made or authorised by a personal licence holder;
  - that where a premises licence authorises the exhibition of films, there will be restrictions on the admission of children to films in accordance with a film classification body; and
  - that where a premises licence includes a condition requiring door supervision, the individuals concerned must be licensed to do so under the Private Security Industry Act 2001.

The mandatory conditions that will not be specified in the licence or certificate relate to –

- the prevention of irresponsible drinks promotions;
- the prevention of alcohol being dispensed directly into the mouth of another person (except where a person is unable to drink without assistance because of a disability);
- the provision of free tap water;
- the imposition of an age verification requirement; and
- the requirement to make small alcohol measures available.

## **14. CHILDREN**

- 14.1 Under the Licensing Act, it is an offence to permit children under the age of 16 who are not accompanied by an adult to be present on premises being used exclusively or primarily for the supply of alcohol for consumption on the premises under a premises licence, club premises certificate or under the

authority of a temporary events notice. It is also an offence to permit the presence of children under 16 who are not accompanied by an adult between midnight and 5.00 a.m. at other premises supplying alcohol for consumption on the premises. This does not automatically permit unaccompanied children under the age of 18 to have free access to licensed premises, even if they are accompanied by an adult or to premises where the consumption of alcohol is not allowed. Subject to the Act and any licence or certificate conditions, it will be a matter for the discretion of the person managing the premises as to whether they admit children.

14.2 The licensing authority will not therefore seek to limit the access of children to any premises unless it is necessary for the prevention of physical, moral or psychological harm to them. General principles will not be applied in such circumstances and the licensing authority will consider the individual merits of each application. However the following areas will give rise to particular concern in respect of children in premises –

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

14.3 Applicants for a premises licence or club registration certificate should demonstrate in their application and operating schedule how they propose to promote the licensing objectives in respect of the admission of children to the premises.

14.4 Alternatives that may be considered for limiting the access of children, where that is necessary for the prevention of harm to them, include any or a combination of the following factors –

- limitations on the hours when children may be present;
- limitations on the exclusion of the presence of children under certain ages when particular specified activities are taking place;
- limitations on the parts of premises to which children might be given access;
- age limitations (below 18);
- requirements for accompanying adults;
- full exclusion of those people under 18 from the premises when any licensable activities are taking place; and
- production of proof of age cards before any sale of alcohol takes place.

- 14.5 The licensing authority also commends to the operators of licensed premises and clubs The Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks which seeks to ensure that drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years of age or older.

## **15. CHILDREN AND CINEMAS**

- 15.1 In the case of premises giving film exhibitions, the licensing authority will expect licence and certificate holders to include in their operating schedules arrangements for restricting children from viewing age-restricted films classified by the British Board of Film Classification or, in exceptional circumstances, by the licensing authority itself.

## **16. REVIEWS**

- 16.1 At any stage following the grant of a premises licence or club premises certificate, a responsible authority or an interested party may ask the licensing authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives. In addition a review of the licence or certificate will normally follow any action by the police to close down the premises for up to 24 hours on grounds of disorder or noise nuisance as a result of a magistrate court's determination sent to the licensing authority.
- 16.2 Representations must be relevant and must not be vexatious, frivolous or repetitious. In considering whether a representation is repetitious, the authority will take into consideration the nature of the representations and whether a reasonable interval has elapsed since an earlier review or grant of a licence or certificate.
- 16.3 Subject to the above, the authority will hold a hearing of a licensing sub committee to hear the representations. It may decide that no further steps are necessary to promote the licensing objectives or to issue an informal warning to the licence or certificate holder and recommend improvements within a specified period. The authority may also, if it considers that action is required, modify the conditions of a licence or certificate, exclude a licensable activity, remove the designated premises supervisor, suspend the licence or certificate for up to three months or revoke the licence or certificate.

## **17. APPEALS**

- 17.1 An appeal against the decision of the licensing authority may be made to the magistrates court within a period of 21 days beginning with the day when the appellant was notified by the licensing authority of the decision. An appeal may be made by an applicant if an application for a licence or certificate or for the variation of such a licence or certificate is refused by the licensing authority. An interested person or responsible authority may also submit an appeal if they made relevant representations to the licensing authority and the application or variation upon which they made those representations is approved. An appeal may also be made about the approval or wording of any condition attached to a licence or certificate by the authority.
- 17.2 In order to provide applicants, responsible authorities and interested parties with sufficient information to enable them to decide whether they wish to appeal against a decision, the licensing authority will give comprehensive

reasons for its decisions and will supply copies of those reasons to those parties who are entitled to appeal against a decision.

- 17.3 In hearing an appeal against a decision of the licensing authority, the magistrates court will need to have regard to this statement of licensing policy and to the Guidance issued by the Secretary of State but it is entitled to depart from the statement or Guidance if it is considered appropriate to do so because of the individual circumstances of any case or because the court regards the statement to be ultra vires.

## **18. ENFORCEMENT**

- 18.1 Enforcement will be appropriate and proportionate and at the discretion of the licensing authority and the police as the enforcing authorities. A principle of risk assessment and targeting will prevail and inspections will be undertaken when they are considered necessary which will help to concentrate resources on problem areas.
- 18.2 In order to provide for an efficient deployment of resources, the licensing authority has developed with the police and other responsible authorities a protocol on enforcement issues which is attached at Annex G.
- 18.3 The licensing authority has also signed the local government enforcement concordat and has adopted a code of practice for licensing enforcement that has regard to the concordat, the regulators' compliance code, and advice and guidance issued by the Local Better Regulation Office, the Local Authorities Co-ordinators of Regulatory Services and the Institute of Licensing. The code is attached at Annex H.

## **19. TEMPORARY EVENTS NOTICES**

- 19.1 Permission is not required for a temporary event in certain circumstances. However the organiser of an event where licensable activities are being provided is required to give notice to the licensing authority and to the police at least ten working days prior to the event being held. Although the licensing authority is unable to attach any terms, limitations or restrictions on the carrying on of licensable activities at such events under a temporary events notice, the organiser should have regard to such other legislative requirements as may apply to such events and the impact of the event upon others that may give rise to concern.
- 19.2 The licensing authority will therefore provide local advice about the following matters to event organisers –
- proper respect for the concerns of local residents;
  - other legislative requirements regarding health and safety, noise pollution or the building of temporary structures;
  - other necessary permissions, for example, with regard to road closures or the use of pyrotechnics or lasers in public places;
  - the impact of any local byelaws; and
  - the need to prevent anti-social behaviour by those attending.
- 19.3 The police may object to the event taking place for reasons of preventing crime and disorder which may arise because of concerns about the scale,

location or timing of the event. If the police issue an objection notice, a hearing must be held by the licensing authority. The police also have powers to close an event for up to 24 hours without notice where the activity is in their opinion disorderly, likely to become disorderly or cause disturbance by excessive noise. To alleviate the possibility of police intervention, event organisers are encouraged not to rely on the minimum notice of 10 days but to contact the licensing authority and the police at the earliest possible opportunity about their proposals.

## **20. CONTACT DETAILS**

- 20.1 The names and addresses of relevant authorities and bodies are given in Annex I.



## **ANNEX A**

### **GUIDANCE AND BEST PRACTICE**

Various guidance and best practice has been issued which are relevant to the licensing activities regulated under the Licensing Act 2003. Some have been commended to licensing authorities in the Guidance issued by the Secretary of State.

The licensing authority similarly commends the following documents to those involved in licensable activities and other interested parties –

The Government's Alcohol Harm Reduction Strategy ([www.dcms.gov.uk](http://www.dcms.gov.uk))

The National Pubwatch Good Practice Guide ([www.uniquepubs.com/pubwatch](http://www.uniquepubs.com/pubwatch))

The Government's Safer Clubbing Guide and Updated Drug Strategy ([www.drugs.gov.uk](http://www.drugs.gov.uk))

The Anti-Social Behaviour Act 2003

The Violent Crime Reduction Act 2006

The Health Act 2006 – workplace smoking ban

The Clean Neighbourhoods and Environment Act 2005 which provides local authorities with the power to issue a fixed penalty notice to any licensed premises emitting noise that exceeds a permitted level between 11.00 p.m. and 7.00 a.m.

The Regulatory Reform (Fire Safety) Order 2005

The Event Safety Guide – A guide to health, safety and welfare at music and similar events (HSE 1999) ("The Purple Book") ISBN 0 7176 2453 6

Managing Crowds Safely (HSE 2000) ISBN 0 7176 1834 X

5 Steps to Risk Assessment: Case Studies (HSE 1998) ISBN 07176 15804

The Guide to Safety at Sports Grounds (The Stationery Office 1997) ("The Green Guide") ISBN 0 11 300095 2

Safety Guidance for Street Arts, Carnival, Processions and Large Scale Performances published by the Independent Street Arts Network ([www.streetartsnetwork.org/pages/publications](http://www.streetartsnetwork.org/pages/publications))

Fire Safety Risk Assessment – Open Air Events and Venues (ISBN 978 1 85112 8235) available from [www.communities.gov.uk/fire](http://www.communities.gov.uk/fire)

Advice on steps to provide for the safety of people and performers with disabilities obtainable from the Disability Rights Commission's website ([www.drc-gb.org](http://www.drc-gb.org)).

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

The Noise Council Code of Practice on Environmental Noise Control at Concerts

Home Office guidance on the preparation of race impact assessments ([www.raceimpact.homeoffice.gov.uk](http://www.raceimpact.homeoffice.gov.uk))

HSE Guide The Radiation Safety of Lasers used for Display Purposes [HS/(G)95] and BS EN 60825: Safety of laser products)

British Standards CP 1007 (Maintained Lighting for Cinemas)

Guide to responsible alcohol retailing produced by the Association of Convenience Stores, the British Retail Consortium and the Wine and Spirits Trade Association ([www.thelocalshop.com/resposibleretailing](http://www.thelocalshop.com/resposibleretailing)).

## **ANNEX B**

### **CONNECTIONS BETWEEN THE STATEMENT OF LICENSING POLICY AND OTHER RELEVANT POLICIES**

Huntingdonshire District Council has developed either individually or in partnership with other authorities and organisations a range of policies and strategies which impact upon the licensing objectives and this statement of licensing policy. These include –

Huntingdonshire Sustainable Community Strategy

Huntingdonshire District Council Corporate Plan – Growing Success

Huntingdonshire Local Plan 1995

Huntingdonshire Local Plan Alteration 2002

Huntingdonshire Local Development Framework Core Strategy 2009

Huntingdonshire Local Development Framework Development Management Development Plan Document 2009

Huntingdonshire Community Safety Strategy 2008-11

Cambridgeshire Local Transport Plan 2004-11

Huntingdonshire District Council Single Equality Scheme

Huntingdonshire District Council Communications and Marketing Strategy

Huntingdonshire District Council Local Economy Strategy

Copies of the policies and strategies are available on request from the Council or by viewing the Council's website on [www.huntingdonshire.gov.uk](http://www.huntingdonshire.gov.uk) .

## **ANNEX C**

### **EXEMPTIONS**

The following activities are not regarded as regulated entertainment and are therefore exempt for the purposes of the Act:-

#### **Exhibition of a Film**

If the sole or main purpose of the entertainment is to demonstrate any product, advertise any goods or services, or provide information, education or instruction.

If the entertainment consists of or forms part of an exhibit put on show for any purposes of a museum or gallery.

#### **Live Music or the Playing of Recorded Music**

If the entertainment is incidental to some other activity which is not in itself within the description of regulated entertainment or the provision of entertainment facilities.

#### **Television or Radio Receivers**

If the entertainment consists of the simultaneous reception and playing of a programme included in a programme service within the meaning of the Broadcasting Act 1990.

#### **Religious Services and Places of Worship etc**

If the entertainment is for the purposes of, or for purposes incidental to, a religious meeting or service or at a place of public religious worship.

#### **Garden Fetes etc**

If the entertainment is at a garden fete, function or event of a similar character, unless the fete, function or event is promoted with a view to applying the whole or part of its proceeds for purposes of private gain (as defined in the Gambling Act 2005).

#### **Morris Dancing etc**

If the entertainment is a performance of morris dancing or any dancing of a similar nature or a performance of unamplified, live music as an integral part of such a performance, or facilities for enabling persons to take part in such activities.

#### **Vehicles in Motion**

If the entertainment is on premises consisting of or forming part of a vehicle and at a time when the vehicle is not permanently or temporarily parked.

## **Small Venues providing Unamplified, Live Music**

Where,

- a premises licence or club premises certificate authorises the supply of alcohol for consumption on the premises and the provision of music entertainment; and
- the premises are used primarily for the consumption of alcohol on the premises; and
- the premises have a capacity of up to 200 persons; and
- the music entertainment comprises unamplified, live music or facilities to enable persons to take part in that music; and
- the entertainment takes place between 8.00 am and midnight;

any condition imposed on the premises licence or certificate which relates to the provision of the music entertainment will not have effect unless it was imposed on the grounds of preventing crime and disorder and/or public safety.

This exemption will not apply if a licence or certificate has been the subject of a review and has been modified by the licensing authority to include a statement disapplying this exemption to the licence or certificate.

## ANNEX D

### GLOSSARY OF TERMINOLOGY

#### Licensable Activities and Qualifying Club Activities

- **Are defined in the Licensing Act as:**

- (a) the sale by retail of alcohol;
- (b) the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club;
- (c) the provision of regulated entertainment;
- (d) the provision of late night refreshment.

- **For those purposes the following licensable activities are also qualifying club activities:**

- (a) the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club for consumption on the premises where the supply takes place;
- (b) the sale by retail of alcohol by or on behalf of a club to a guest of a member of the club for consumption on the premises where the sale takes place;
- (c) the provision of regulated entertainment where that provision is by or on behalf of a club for members of the club or members of the club and their guests.

#### Qualifying Club

**General conditions that a club must satisfy to be a qualifying club:**

- (a) Under the rules of the club, persons may not be admitted to membership or admitted as candidates for membership without an interval of at least two days between nomination or application and admission;
- (b) Under the rules of the club, persons becoming members without prior nomination or application may not be admitted to the privileges of membership without an interval of two days between their becoming members and their admission;
- (c) the club is established and conducted in good faith as a club;
- (d) the club has at least 25 members; and
- (e) that alcohol is not supplied, or intended to be supplied, to members on the premises otherwise than by or on behalf of the club

#### Regulated Entertainment

- **Is defined as:**

- (a) A performance of a play
- (b) An exhibition of film

- (c) An indoor sporting event
- (d) A boxing or wrestling entertainment
- (e) A performance of live music
- (f) Any playing of recorded music
- (g) A performance of dance
- (h) Entertainment of a similar description to that falling within paragraph e), f) or g)

where the entertainment takes place in the presence of an audience and is provided for the purpose, or for purposes which include the purpose, of entertaining that audience. Any reference to an audience includes a reference to spectators. This definition is subject to Part 3 of Schedule 1 to the Licensing Act 2003.

### **Entertainment Facilities**

- **Are defined as:**

Facilities for enabling persons to take part in entertainment of a description falling within those mentioned above for the purpose, or for purposes which include the purpose, of being entertained. The descriptions of entertainment are making music, dancing, and entertainment of a similar description to that falling within those mentioned above. This definition is subject to Part 3 of Schedule 1 to the Licensing Act 2003.

### **Interested Party**

- **Is defined as:**

- (a) a person living in the vicinity of the premises;
- (b) a body representing persons who live in that vicinity;
- (c) a person involved in a business in that vicinity;
- (d) a body representing persons involved in such businesses;
- (e) a councillor elected to Huntingdonshire District Council.

### **Responsible Authority**

- **Is defined as:**

- (a) the Chief Officer of Police for any Police area in which the premises are situated;
- (b) the Fire Authority for any area in which the premises are situated;
- (c) the enforcing authority within the meaning given by section 18 of the Health and Safety at Work etc. Act 1974 for any area in which the premises are situated;
- (d) the local planning authority within the meaning given by the Town and Country Planning Act 1990 for any area in which the premises are situated;

- (e) the local authority by which statutory functions are exercisable in any area in which the premises are situated in relation to minimising or preventing the risk of pollution of the environment or of harm to human health;
- (f) a body which:
  - (i) represents those who, in relation to any such area, are responsible for, or interested in, matters relating to the protection of children from harm, and
  - (ii) is recognised by the licensing authority for that area for the purposes of this section as being competent to advise it on such matters.
- (g) any licensing authority (other than the relevant licensing authority) in whose area part of the premises is situated;
- (h) in relation to a vessel:
  - (i) a navigation authority (within the meaning of section 221(1) of the Water Resources Act 1991) having functions in relation to the waters where the vessel is usually moored or berthed or any waters where it is, or is proposed to be, navigated at a time when it is used for licensable activities
  - (ii) the Environment Agency
  - (iii) the British Waterways Board, or
  - (iv) the Secretary of State
  - (v) a person prescribed for the purpose of this subsection.

### **Temporary Event**

- **Is defined as:**

The use of premises for one or more of the licensable activities during a period not exceeding 96 hours usually where a premises licence covering the licensable activity is not in place and limited to events involving less than 500 people.

### **Provision of Late Night Refreshment**

- **Is defined as:**

- (a) The provision of hot food or hot drink to members of the public, or a section of the public, on or from any premises, whether for consumption on or off the premises between 11.00pm and 5.00am, or;
- (b) At any time between those hours when members of the public, or a section of the public, are admitted to any premises, a person supplies, or holds himself willing to supply, hot food or hot drink to any persons, or to persons of a particular description, on or from those premises, whether for consumption on or off the premises.

### **Hot Food or Hot Drink**



- **Is defined as:**

Food or drink supplied on or from any premises is “hot” for the purposes of Schedule 2 to the Act if the food or drink, or any part of it:

- (a) before it is supplied, is heated on the premises or elsewhere for the purpose of enabling it to be consumed at a temperature above the ambient air temperature and, at the time of supply, is above that temperature, or
- (b) after it is supplied, may be heated on the premises for the purpose of enabling it to be consumed at a temperature above the ambient air temperature.

### **Community Premises**

- **Are defined as**

Premises that are or form part of a church hall, chapel hall or similar building or a village hall, parish hall or community hall or other similar building.

**ANNEX E  
DELEGATION OF FUNCTIONS**

<b>Matter to be dealt with</b>	<b>Full Committee</b>	<b>Sub Committee</b>	<b>Officers</b>
Application for personal licence		If a police objection	If no objection made
Application for premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application for provisional statement		If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application for minor variation of premises licence/club premises certificate			All cases
Application to vary designated premises supervisor		If a police objection	All other cases
Application for transfer of premises licence		If a police objection	All other cases
Cancellation of interim authority notice		If a police objection	
Application to review premises licence/club premises certificate		All cases	
Agreement that hearing is unnecessary where relevant representations received			All cases, after consultation with Chairman or Vice-Chairman
Decision on whether a complaint is irrelevant, frivolous, vexatious, etc			All cases, after consultation with Chairman or Vice-Chairman
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	

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Proceedings  
contravention of  
provisions of the Act

for  
the

All cases, after  
consultation with  
Chairman or  
Vice-Chairman

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## ANNEX F

### POOLS OF LICENSING CONDITIONS

#### 1. Pool of Conditions

Guidance issued by the Secretary of State outlines a number of conditions that may be used to promote the licensing objectives. Whilst this list is not exhaustive it is an indication to applicants of the conditions that may be considered appropriate in individual cases. A risk assessment to identify any measures that are necessary to promote the licensing objectives should consider the individual circumstances of the premises and take into account a range of factors including the nature and style of the venue, the activities being conducted there, its location and the anticipated clientele.

It should be noted that the Licensing Act 2003 creates the following offences and conditions prohibiting these activities do not therefore need to be attached to licences and certificates:

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

#### 2. Conditions relating to Crime and Disorder

##### (a) Door Supervisors

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

- (i) preventing the admission and ensuring the departure from the premises of the drunk and disorderly, without causing further disorder;
- (ii) keeping out individuals excluded by court bans or by the licence or certificate holder;
- (iii) searching and excluding those suspected of carrying illegal drugs or carrying offensive weapons and;
- (iv) maintaining orderly queuing outside venues

Where door supervisors 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

- (i) the number of supervisors;
- (ii) the displaying of name badges;
- (iii) the carrying of proof of registration;
- (iv) where and at what times they should be stationed at the premises;
- (v) whether at least one female supervisor should be available (for example if female customers are to be given body searches).

##### (b) Bottle bans

Glass bottles may be used as weapons inflicting serious harm during incidents of disorder. A condition can prevent sales of drinks in glass bottles for consumption on the premises. This should be expressed in clear terms and include the following elements:

- (i) No bottles containing beverages of any kind, whether open or sealed, shall be given to customers on the premises whether at the bar or by staff service away from the bar;
- (ii) No customer carrying open or sealed bottles shall be admitted to the premises at any time that the premises are open to the public.

In appropriate circumstances, conditions may exempt bottles containing wine or similar sold for consumption with a table meal by customers who are seated in a separate area set aside from the bar area.

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

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

**(c) Plastic containers and toughened glass**

Glasses containing drinks may be used as weapons and in untoughened form, can cause very severe injuries. Where necessary, consideration should be given to conditions requiring the use of safer alternatives which inflict less severe injuries. Location and style of the venue and the activities carried on there are particularly important in assessing whether a condition is necessary.

**(d) CCTV**

The presence of CCTV cameras can be an important means of deterring and detecting crime at and immediately outside licensed premises. Conditions may include:

- (i) The need to have CCTV cameras on the premises;
- (ii) The precise positioning of each camera;
- (iii) The requirement to maintain cameras in good working order; and
- (iv) The requirement to retain recordings for an appropriate period.

**(e) Other conditions that may be considered relevant to promote the reduction of crime and disorder may include:**

- (i) Text/radio pagers connecting premises with the local police;
- (ii) Restrictions on drinking areas;
- (iii) Capacity limits;
- (iv) Proof of age cards;
- (v) Crime prevention notices;
- (vi) Signage at or immediately outside the premises;
- (vii) Open containers not to be taken from the premises;
- (viii) Irresponsible drinks promotions; and

- (ix) An appropriate ratio of tables and chairs to customers based on the capacity of premises used exclusively or primarily for the “vertical” consumption of alcohol (HVDDs).

### 3. Conditions Relating to Public Safety

Conditions relating to public safety will be those that are necessary to promote the objective of public safety for individual premises or clubs. They should not duplicate other legal requirements. Equally the attachment of conditions to a premises licence or club premises certificate will not relieve employers of the statutory duty to comply with the requirements of Health and Safety at Work legislation and the requirements under the Management of Health and Safety at Work Regulations 1999 and the Regulatory Reform (Fire Safety) Order 2005 including the undertaking of risk assessments. Conditions enforcing these arrangements will therefore be unnecessary.

In addition those preparing an operating schedule, responsible authorities and the licensing authority should consider:

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

The following British Standards should also be considered:

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

Where existing legislation does not provide adequately for the safety of the public, consideration may be given to conditions covering:

#### (a) Disabled people

- (i) Adequate arrangements to enable their safe evacuation in the event of an emergency
- (ii) Disabled people on the premises are made aware of those arrangements.

#### (b) Escape routes

- (i) All exit doors are easily openable without the use of a key, card, code or similar means
- (ii) Doors at such exits are regularly checked to ensure that they function satisfactorily and a record of the check kept

- (iii) Any removable security fastenings are removed whenever the premises are open to the public or occupied by staff
  - (iv) Exits are kept unobstructed with non-slippery and even surfaces, free of trip hazards and clearly identified
  - (v) Where chairs and tables are provided in restaurants and other premises, internal gangways are kept unobstructed
  - (vi) The edges of treads of steps and stairways are maintained so as to be conspicuous.
- (c) **Safety Checks**
- (i) Safety checks are carried out before the admission of the public and details of such checks are kept in a log book.
- (d) **Curtains, Hangings, Decorations and Upholstery**
- (i) Curtains, hangings and temporary decorations are arranged so as not to obstruct exits
  - (ii) Temporary decorations are not used without prior notification to the licensing authority and relevant responsible body.
- (e) **Capacity limits**
- (i) Arrangements are made to ensure that any capacity limit imposed under the premises licence or club premises certificate is not exceeded
  - (ii) The licence holder, a club official, manager or designated premises supervisor should be aware of the number of people on the premises and required to inform any authorised person on request.
- (f) **Access for emergency vehicles**
- (i) Access for emergency vehicles is kept clear and free from obstruction.
- (g) **First aid**
- (i) An adequate and appropriate supply of first aid equipment and materials is available on the premises
  - (ii) Where appropriate, 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.
- (h) **Lighting**
- (i) 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
  - (ii) Emergency lighting is not altered
  - (iii) Emergency lighting batteries are fully charged before the admission of the public, guests and members
  - (iv) In the event of failure of normal lighting where the emergency lighting has a capacity of one hour, arrangements are in place to ensure that the public, members or guests leave the premises within 20 minutes unless within that time normal lighting has been restored and the battery is being re-charged. 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.

- (i) **Temporary electrical installations**
  - (i) Temporary electrical wiring and distribution systems shall comply with the recommendations of applicable British Standards 7671 or 7909
  - (ii) Where they have not been installed by a competent person, temporary electrical wiring and distribution systems are inspected and certified by a competent person before they are put to use
  - (iii) Temporary electrical wiring and distribution systems are not provided without notification to the licensing authority at least ten days before commencement of the work and/or prior inspection by a suitable qualified electrician.
  
- (j) **Indoor sports entertainments**
  - (i) 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
  - (ii) Where a ring is being used, it is constructed by a competent person and inspected by a competent authority
  - (iii) At any wrestling or other entertainment of a similar nature members of the public do not occupy any seat within 2.5 metres of the ring
  - (iv) 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.
  
- (k) **Alterations to premises**
  - (i) Premises should not be altered in such a way as to make it impossible to comply with an existing licensing condition without first seeking a variation of the premises licence or club premises certificate to delete the relevant public safety condition.
  
- (l) **Special effects**
  - (i) 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.
  
- (m) **Other measures**
  - (i) Other measures mentioned in relation to the prevention of crime and disorder may also be relevant to promote public safety, including the provision of door supervisors, bottle bans and the requirement to use plastic or toughened glasses.

#### **4. Theatres, Cinemas, Concert Halls and Similar Places (Promotion of Public Safety)**

In addition to the points made in Section 3, there are particular matters in the context of public safety which should be considered in connection with theatres and cinemas.

##### **(a) Attendants**

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



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

- (ii) Attendants shall not be engaged in any duties that would hinder the prompt discharge of their duties in the event of an emergency or require their absence from that floor or auditorium where they are on duty
- (iii) Any attendant shall be readily identifiable to the audience (but this need not entail the wearing of a uniform)
- (iv) The premises shall not be used for a closely seated audience except in accordance with a seating plan(s), a copy of which is available at the premises and shall be shown to any authorised person on request
- (v) No article shall be attached to the back of any seat which would reduce the clear width of seatways or cause a tripping hazard or obstruction
- (vi) 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.

**(b) Seating**

- (i) Where the potential audience exceeds 250, all seats in the auditorium should, except in boxes accommodating not more than 8 persons, be either securely fixed to the floor or battened together in lengths of fewer than 4 or more than 12.

**(c) Standing and sitting in gangways etc.**

- (i) Sitting on floors shall not be permitted except where authorised in the premises licence or club premises certificate
- (ii) Waiting or standing shall not be permitted except in areas designated in the premises licence or club premises certificate
- (iii) 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.

**(d) Drinks**

- (i) 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.

**(e) Balcony Fronts**

- (i) Clothing or other objects shall not be placed over balcony rails or upon balcony fronts.

**(f) Special Effects**

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

Special effects include:

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

In certain circumstances, it may be necessary to require that certain special effects are only used with the prior notification of the licensing authority who shall notify the fire and rescue authority.

Further guidance can be found in the following publications:

HSE Guide 'The radiation safety of lasers used for display purposes'(HS(G)95)

Smoke and vapour effects used in entertainment (HSE Entertainment Sheet No. 3)

Special or visual effects involving explosives or pyrotechnics used in film and television production (HSE Entertainment Sheet No 16)

Electrical safety for entertainers (HSE INDG 247)

Theatre Essentials – guidance booklet produced by the Association of British Theatre Technicians 8

**(g) Ceilings**

- (i) All ceilings in those parts of the premises to which the audience are admitted should be inspected by a suitably qualified person who will decide when a

further inspection would be necessary and a certificate concerning the condition of the ceilings forwarded to the licensing authority.

**Premises used for film exhibitions**

**(a) Attendants – premises without a staff alerting system**

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

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

**(b) Attendants – premises with a staff alerting system**

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

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

- (ii) Staff shall not be considered as being available to assist in the event of an emergency if they are:
- (a) the holder of the premises licence or the manager on duty at the premises; or
  - (b) a member of staff whose normal duties or responsibilities are likely to significantly affect or delay his/her response in an emergency situation; or

- (c) 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
- (iii) 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.
- (iv) The staff alerting system shall be maintained in working order.

**(c) Minimum Lighting**

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

**5. Conditions relating to the prevention of public nuisance.**

Some protection to the general public from the effects of noise nuisance is contained in the provisions of the Environmental Protection Act 1990, the Noise Act 1996 and the Clean Neighbourhoods and Environment Act 2005. A senior police officer also may close down licensed premises and permitted temporary activities instantly for up to 24 hours if they are causing nuisance resulting from noise emanating from the premises.

Licence and certificate holders should have regard to the provisions of the legislation referred to before considering whether any of the following conditions are necessary:

**(a) Hours**

The hours during which the premises are permitted to be open to the public or to members and their guests can be restricted by the conditions of a premises licence or club premises certificate for the prevention of public nuisance. This must be balanced by the potential impact on disorder which may result from arbitrarily fixed closing times. However there is no general presumption in favour of lengthening licensing hours and the four licensing objectives should be paramount considerations at all times. Conditions could include:

- (i) Restrictions on the hours during which premises are permitted to be open to the public or to members and their guests
- (ii) Restrictions may be necessary on the times when certain licensable activities take place even though the premises may be open to the public at such times
- (iii) Restrictions may be necessary on parts of a premise used for certain licensable activities at certain times.

**(b) Noise and vibration**

- (i) Noise or vibration should not emanate from the premises so as to cause a nuisance to nearby properties. This may be achieved by one or more of the following conditions:
- a simple requirement to keep doors and windows at the premises closed;
  - limiting live music to a particular area of the building;
  - moving the location and direction of speakers away from external walls or walls that abut private premises;
  - installation of acoustic curtains;
  - fitting of rubber seals to doorways;
  - installation of rubber speaker mounts;
  - requiring the licence or certificate holder to take measures to ensure that music will not be audible above background level at the nearest noise sensitive location;
  - requiring the licence or certificate holder to undertake routine monitoring to ensure external levels of music are not excessive and take appropriate action where necessary;
  - noise limiters on amplification equipment used at the premises (if other measures are unsuccessful);
- (ii) Prominent, clear and legible notices are displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly
- (iii) The use of explosives, pyrotechnics and fireworks of a similar nature which could cause disturbance in surrounding areas are restricted
- (iv) The placing of refuse - such as bottles- into receptacles outside the premises takes place at times that will minimise the disturbance to nearby properties.

**(c) Noxious smells**

- (i) Noxious smells from the licensed premises are not permitted so as to cause a nuisance to nearby properties and the premises are properly vented.

**(d) Light Pollution**

- (i) Flashing or particularly bright lights on or outside licensed premises do not cause a nuisance to nearby properties. Any such condition must be balanced against the benefits of promoting the prevention of crime and disorder by bright lighting in certain places.

**(e) Other measures**

- (i) Other measures mentioned in relation to the prevention of crime and disorder may also be relevant to prevent public nuisance, including the provision of door supervisors, open containers not to be taken from the premises and restrictions on drinking areas

**6. Conditions relating to the protection of children from harm**

Restrictions on the access of children under 18 to premises where licensable activities are taking place should be made where it is necessary to protect children from harm.

Unless there are consequences justifying the contrary, there should be a strong presumption against permitting any access at all for children under 18 at any premises with known associations (having been presented with evidence) with or likely to give rise to:

- heavy or binge or underage drinking;
- drugs;
- significant gambling; or
- any activity or entertainment (whether regulated entertainment or not) of a clearly adult or sexual nature.

For any premises not serving alcohol for consumption on the premises, but where the public are allowed on the premises after 11.00 p.m., there should be a presumption against the presence of children under the age of 12 unaccompanied by adults after that time.

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

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

In any other case and subject to the licence or certificate holder's discretion, the expectation is that there would be unrestricted access for children subject to the terms of the Licensing Act 2003.

#### **(a) Age Restrictions – specific**

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

- (i) The hours of day during which age restrictions should or should not apply. For example, the fact that adult entertainment may be present at premises in the evening does not mean that it would be necessary to impose age restrictions for earlier parts of the day
- (ii) Types of event or activity that are unlikely to require age restrictions such as family entertainment or non-alcohol events for young age groups such as under 18s dances
- (iii) Types of event or activity which give rise to a more acute need for age restrictions than normal such as "Happy Hours" or drinks promotion nights or activities of an adult nature.

#### **(b) Age Restrictions – Cinemas**

The classifications for films recommended by the British Board of Film Classification should be those normally applied, unless the licensing authority notifies the licence or certificate holder that it will make a recommendation for that particular film.

- (i) In the event that the licensing authority decides to make a recommendation 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 will enable the authority time to classify it so that the licence or certificate holder is able to adhere to any age restrictions then imposed.

- (ii) When films are classified, by either the British Board of Film Classification as specified in the licence or the licensing authority they will be classified in the following way:
- U – Universal, suitable for audiences aged four years and over
  - PG – Parental Guidance. Some scenes may be unsuitable for young children
  - 12A – Passed only for viewing by persons aged over 12 years or older or persons younger than 12 years 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 of age and over
- (iii) Immediately before any exhibition at the premises of a film passed by the British Board of Film Classification there shall be exhibited on screen for at least 5 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
- (iv) Where the licensing authority has made a recommendation on the restriction of admission of children to a film, notices are required to be displayed both inside and outside the premises to make people aware of the classification attached to any film or trailer. The condition will be expressed that -

“Where a programme includes a film recommended by the licensing authority as falling into an age restrictive category, no person appearing to be under the age specified shall be admitted to any part of the programme; where a programme includes a film recommended by the licensing authority as falling into a category requiring any persons under a specified age to be accompanied by an adult, no person appearing to be under the age specified shall be admitted to any part of the programme unaccompanied by an adult; and the licence or certificate holder shall display in a conspicuous position a notice clearly stating the relevant age restrictions and requirements, for example **PERSONS UNDER THE AGE OF (INSERT APPROPRIATE AGE) CANNOT BE ADMITTED TO ANY PART OF THE PROGRAMME.**

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

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

### **(c) Theatres**

The admission of children to theatres is not expected to be restricted unless it is necessary to promote the protection of children from harm. However theatres may be the venue for a wide range of activities. Although the admission of children to performances normally should be left to the discretion of the licence or certificate holder, a condition restricting the admission of children to shows incorporating adult entertainment may be necessary.

### **(d) Performances especially for children.**

- (i) Conditions may require a sufficient number of adult staff on the premises to ensure the well being of children on the premises during any emergency.
- (iii) Where performances are presented especially for unaccompanied children in theatres and cinemas, conditions may require an attendant to be stationed in any area occupied by the children, in the vicinity of each exit or subject to a minimum of one attendant on duty per 50 children or part thereof on each level occupied by children.

**(e) Children in performances**

The Children (Performances) Regulations 1968, as amended, set out requirements for children performing in a show. Those requirements will not be duplicated in conditions but if additional conditions are considered necessary, the following matters will apply:

- (i) Venue – The backstage facilities should be large enough to accommodate safely the number of children taking part in any performance
- (iii) 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
- (iv) Care of Children - Children performing at theatres, concert halls and similar places of work should be kept under adult supervision at all times including transfer from stage to dressing room and anywhere else on the premises. It is also important for children to be accounted for at all times in case of an evacuation or emergency.

**(f) Proof of Age cards**

Conditions may be attached to premises where alcohol is sold requiring the production of proof of age cards before any sale of alcohol takes place. This could include the 'Challenge 25' or 'Challenge 21' or other similar initiative.

**(g) Drinks Promotions**

The Portman Group operates a code of practice on the naming, packaging and promotion of Alcoholic Drinks. The code seeks to ensure that drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years or older. By means of its website, the trade press and an annual report, it reports on an Independent Complaints Panel's decisions on complaints about products and issues bulletins notifying retailers of products that breach this code, asking them not to re-stock or display any such product or point of display material until such time as the code is complied with.

In certain circumstances it may be appropriate to attach conditions requiring premises to comply with the Portman Group Code of Practice and its Retailer Alert Bulletins.



## ***Licensing Act 2003***

### **Memorandum of Understanding and Joint Enforcement Protocol signed between Huntingdonshire District Council (the Licensing Authority) and**

- 1. Cambridgeshire Constabulary**
- 2. Cambridgeshire & Peterborough Fire & Rescue Authority**
- 3. Cambridgeshire County Council Trading Standards Service**
- 4. Cambridgeshire County Council Child Protection Service**
- 5. Huntingdonshire District Council Environmental Health and Planning Services.**

1. The above statutory organisations are the Parties to this Memorandum of Understanding and Joint Enforcement Protocol.
2. Huntingdonshire District Council and Cambridgeshire Constabulary, Cambridgeshire & Peterborough Fire & Rescue Authority and Cambridgeshire County Council aim to provide safe environments for the community of Cambridgeshire.
3. The Licensing Act 2003 introduces a new regime for the licensing of a variety of activities, including places where alcohol is sold and entertainment is provided. It sets out four equal licensing objectives which are to be promoted by licensing authorities, in conjunction with other “responsible authorities”, as defined by the Act, and the holders of licences. The Act also defines other bodies as responsible authorities, with rights of consultation and objection to applications, but it is not thought that formal agreements will be required with these bodies.

These are –

- (a) The prevention of crime and disorder.
  - (b) The promotion of public safety.
  - (c) The prevention of public nuisance.
  - (d) The protection of children from harm.
4. Each party has enforcement responsibilities in relation to premises licensed under the Act and recognises the importance of effective co-operation and liaison to ensure that premises licence holders, designated premises supervisors, personal licence holders and club premises certificate holders understand and comply with the law.
  5. The Government has strongly recommended that protocols be set up between authorities and this document has been prepared with that in mind.
  6. The purpose of this document is to ensure efficient and effective co-operation between agencies when dealing with areas of mutual interest, to secure -

- (a) High levels of open communication between agencies.
- (b) Clear lines of responsibility regarding enforcement of the law.
- (c) Sharing intelligence, where appropriate to enable effective enforcement of the law.

It sets out the steps that have been agreed to achieve that aim, in accordance with guidance issued by the Office of the Deputy Prime Minister (ODPM).

## **7. Communication**

- 7.1 Good communication between agencies is vital to ensure that information of mutual interest is shared effectively and, in particular, where responses are required within a tight timescale to meet statutory periods for determination of applications, that deadlines can be met. It is important that each organisation has a reliable contact point, and will identify nominated officers and their deputies. There must be a clear understanding about when, where and how contact shall be made, including for emergencies.

## **8. Sharing Intelligence**

- 8.1 The parties to this Memorandum of Understanding need to share information about premises and people currently licensed or proposed to be licensed, in such a way as to enable the effective operation of the licensing process. This agreement enables the sharing of information by all parties in compliance with the rules on Data Protection, Freedom of Information and Human Rights.

## **9. Data Protection and Exchange of Information**

- 9.1 Section 185 of the Licensing Act 2003 states that the licensing authority and responsible authorities may share information for the purpose of "facilitating the exercise of the Authority's functions under this Act". Information should not be further disclosed except to a licensing authority or responsible authority and only for the purpose mentioned above.
- 9.2 Section 29 of the Data Protection Act 1998 allows for the exchange of information for the purposes of the prevention of crime or the apprehension of offenders.
- 9.3 Section 115 of the Crime and Disorder Act 1998 enables information to be exchanged between authorities.
- 9.4 Parties to this Protocol may disclose information to other Parties for these purposes providing that the local Protocols applicable to each organisation for data protection are observed. Every request for information under the Act must be made in writing giving reasons why disclosure is necessary.
- 9.5 Information supplied must only be used for the purpose for which it is obtained, must be securely retained whilst in the possession of the responsible authority that has requested it, and must be securely disposed of when no longer required. It must not be further transmitted to a third party without the consent of the original authority that supplied the information.
- 9.6 This part of the Protocol may be supplemented by any Memorandum of Understanding on data exchange agreed either at a local or national level.

## 10. Indemnity

- 10.1 The signatories to this Memorandum of Understanding are all committed to the sharing of information to prevent and detect crime. As all signatories to this agreement are also signatories of the Cambridgeshire Partnership Information Exchange Protocol for Crime and Disorder, misuse of information provided within this Agreement will invoke the cover provided within the indemnity within the above protocol.

## 11. Enforcement Action

- 11.1 Enforcement action taken in respect of breaches of legislation will remain the responsibility of the agency designated for each piece of legislation, but the outcome of such action should be fed into the process for determining applications and reviewing the status of licences currently in force.
- 11.2 The Licensing Act does not transfer from any enforcement body, including the Police or the Fire Authority, powers of enforcement for any pieces of legislation. From time to time, however, it may be expedient for joint operations to be carried out in respect of licensed premises by officers from the licensing authority and officers from one or more of the relevant responsible authorities.
- 11.3 Joint operations will normally be conducted on the basis of a risk assessment applied to all licensed premises, or in response to specific complaints. Responsibility for seeking a joint operation will rest with the responsible authority with the expertise in dealing with the complaint in question (e.g. the Environmental Health Service for prevention of nuisance; the Fire & Rescue Service for fire risk issues).

## 12. Relevant Legislation

- (a) **Licensing Act 2003** – provides a clear focus on the promotion of the licensing objectives; introduces better and more proportionate regulation to give customers more choice, whilst providing the necessary protection for local residents and others.
- (b) **Police Act 1964** – imposes a primary responsibility on the Police Authority to maintain an adequate and effective Police Force.
- (c) **Fire & Rescue Services Act 2004** – places a duty on the Fire Authority to provide efficient arrangements for the giving, when requested, of advice in respect of buildings and other property as to fire prevention, restricting the spread of fires and means of escape in case of fire.
- (d) **Crime & Disorder Act 1998** – places a statutory requirement on Police Services, Local Authorities and other agencies to tackle crime and disorder by working in partnership.

## 13. Offences

- 13.1 The Parties agree that the prime responsibility for enforcing the offences under the Act should lie as follows:

*Note: Abbreviations as follows –*

LA = Licensing Authority  
CPC = Club Premises Certificate

DPS = Designated Premises Supervisor  
 PLH = Premises Licence Holder  
 AO = Authorised Officer

Section	Offence	1 Authority
33 (6)	Failure to notify LA of change of name or address PLH or DPS	LA
40 (2)	Failure to notify existing DPS of variation to premises licence to exclude them	LA
41 (5)	Failure to provide premises licence to LA upon removal of DPS	LA
46 (4)	Failure to notify DPS of application for transfer of premises licence	LA
49 (5)	Failure to notify DPS of grant of interim authority notice	LA
56 (3)	Failure to provide premises licence at request of LA for amendment	LA
57 (4)	Failure to keep or display premises licence on premises	LA
57 (7)	Failure to produce premises licence to an AO for examination	LA
59 (5)	Obstruction of an AO entering premises to inspect before grant of a licence, review or a statement	LA
82 (6)	Failure to notify of change of name or alteration of rules of a club	LA
83 (6)	Failure to notify of a change of registered address of club	LA
93 (3)	Failure to produce CPC for amendment within 14 days of LA request	LA
94 (5, 6, 9)	Duty to keep, display and produce club premises certificate at premises	LA
96 (6)	Inspection of premises before grant etc of club premises certificate	LA
108 (3)	Obstruction of an AO in inspecting temporary event premises	LA or Police
109 (4)	Failure to keep or display temporary event notice on premises	LA
109 (8)	Failure to produce temporary event	LA

	notice to an AO	
123 (2)	Failure to notify LA of conviction for relevant offence during application or renewal period	LA
127 (4)	Failure to notify LA of change of name or address of personal licence holder	LA
128 (6)	Fail to notify court of personal licence or “notifiable event” when being dealt with for a relevant offence	Police or LA
132 (4)	Failure to notify LA of conviction for relevant or foreign offence	LA
134 (5)	Failure to produce personal licence within 14 days to LA for updating	LA
135 (4)	Failure to produce personal licence to an AO whilst on premises to sell or authorise sale of alcohol	LA or Police
136 (1)	Allowing licensable activities otherwise than in accordance with an authorisation	LA or Police
137 (1)	Unauthorised exposure for retail sale of alcohol	LA or Police
138 (1)	Unauthorised possession of alcohol with intent to sell or supply	LA or Police
140 (1)	Allowing disorderly conduct on licensed premises	Police or LA
141 (1)	Sale or supply of alcohol to person who is drunk	Police or LA
142 (1)	Obtaining alcohol for a person who is drunk	Police or LA
143 (1)	Failure to leave licensed premises following a request from a PC or AO	Police
144 (1)	Keeping unlawfully imported goods on relevant premises	Police or Customs and Excise
145 (1)	Allowing unaccompanied children under 16 on relevant premises when alcohol is being supplied	LA or Police
146 (1, 2, 3)	Sale or supply of alcohol to children under 18	LA, Police or Trading Standards
147 (1, 3)	Allowing sale or supply of alcohol to children under 18	LA, Police or Trading Standards

148 (1, 2)	Sale or supply of liqueur confectionery to children under 16	LA or Police
149 (1, 3, 4)	Purchase or supply of alcohol by or on behalf of children under 18	LA or Police
150 (1, 2)	Consumption on relevant premises of alcohol by children under 18, or knowingly allowing it to occur	LA or Police
151 (1, 2, 4)	Delivering or permitting others to deliver alcohol to children under 18	LA or Police
152 (1)	Sending a child under 18 to obtain alcohol for consumption	LA or Police
153 (1)	Permitting children under 18 to sell or supply alcohol to children	LA or Police
156 (1)	Sale of alcohol in or from a moving vehicle	Police
158 (1)	False statement in connection with a licensing application	LA
160 (4)	Keeping premises open in contravention of an area closure order	Police or LA
161 (6)	Permitting premises to be open in contravention of a premises closure order	Police or LA
165 (7)	Permitting premises to be open in contravention of a Magistrates' closure order	Police or LA
179 (4)	Obstructing entry by a PC or an AO to premises to check on the carrying out of licensable activity	Relevant responsible authority

## 14. Investigation of Offences

14.1 When the licensing authority or a responsible authority has become aware of an offence and would like another more appropriate responsible authority (or the licensing authority) to take formal action, they will take the following steps:

- (a) early discussion with the appropriate authority, including (unless in cases of extreme urgency) the licensing authority's enforcement officer;
- (b) supply the relevant authority in a timely manner all of the relevant evidence (whether subsequently used or unused);
- (c) set out in writing details of the offence and request that the relevant authority take action.

14.2 Once in receipt of a written request to take action, the appropriate authority will:

- (a) assess the facts and take appropriate action in accordance with its own enforcement policy. The appropriate authority will, unless immediate action is required, commence an investigation within a maximum of 15 working days of receipt of the complaint;
- (b) inform the authority that initiated the complaint, and any other relevant authority, of the action taken, and reasons why.

## **15. Responsibility for Prosecutions**

- 15.1 Section 186 of the Act provides that proceedings for offences under the Act may be instituted by:
- (a) the licensing authority;
  - (b) the Director of Public Prosecutions;
  - (c) for offences under Ss. 146 and 147, the local weights and measures authority
- 15.2 It is expected that the Police and the weights & measures authority will normally bring proceedings, including the issue of formal cautions, as a result of offences which they have investigated, unless, in the case of some minor offences, it is specifically agreed that the licensing authority will do so. (This may, for example, be part of a prosecution which relates to a series of matters of which the offences form part).
- 15.3 In all other cases, the licensing authority will be the prosecuting authority.

## **16. Notification of Prosecutions and Cautions**

- 16.1 Notwithstanding the duty of the court in section 131 (duty to notify the licensing authority of convictions) the appropriate prosecuting authority will inform the licensing authority within five working days of any conviction or caution under the Act.
- 16.2 The licensing authority for these purposes is the licensing authority that issued the personal licence, premises licence, club premises certificate or which received the temporary event notice, even if not a party to this Protocol.
- 16.3 The notification shall be in writing and shall state:
- (a) the name and address of the person convicted or cautioned;
  - (b) the nature and date of the conviction or caution; and
  - (c) the details of any conviction including any order under section 129 of the Act.

## **17. Register of Cautions**

- 17.1 The licensing authority will maintain a register of formal cautions issued to holders of personal licences, premises licences, club premises certificates or persons issuing a temporary event notice.

## **18. Liaison between Parties to this Agreement**

- 18.1 Liaison meetings will take normally place between the licensing authority and the Police on a monthly basis, depending on the nature and quantity of business and with other responsible authorities on a basis to be agreed, but not less than annually.

18.2 Responsible authorities will determine the basis for liaising with each other, but this will be not less than annually.

## **19. Consultation on Applications**

19.1 Applicants for licences have a duty to send copies of applications to the appropriate responsible authorities at the same time as the application is submitted to the licensing authority. If this is not done, the application may be returned, as not duly made.

19.2 The licensing authority will communicate with all responsible authorities on a regular basis, to check that all relevant copies of applications have been received.

19.3 Responsible authorities have a maximum of 28 days to raise representations to licences, where they consider that the operating schedule does not address sufficiently one or more of the licensing objectives.

19.4 Representations should include suggestions for conditions which would overcome the perceived shortcomings of the application.

19.5 Responsible authorities are encouraged to contact applicants to discuss areas of concern, so that there is an opportunity to amend applications in advance of the date set by the licensing authority for a hearing. If this is successfully achieved, **and the licensing authority receives written confirmation of the amendments from the applicant**, a representation can be withdrawn, and this may obviate the need for a hearing.

## **20. Applications for Review of a Licence**

20.1 This document recognises the right of any responsible authority to apply to the licensing authority for a licence or club premises certificate to be reviewed at any time.

20.2 Except in extreme cases (where there has been a serious incident of crime and disorder, a serious risk to public safety, a serious incident of public nuisance or a serious incident related to the protection of children from harm) the responsible authority seeking a review will be expected to:

- (a) give an early indication to the licensing authority of the events requiring an application;
- (b) seek an informal resolution to the matter if possible or appropriate;
- (c) be able to demonstrate to the licensing committee hearing the application for a licence review that, where appropriate, alternative approaches to dealing with the situation leading to the application have first been attempted, in accordance with the authority's enforcement policy.

## **21. Procedural Review**

21.1 All parties to this agreement shall periodically review this document to ensure that it maintains a suitable response and working arrangement for all licensing functions and achieves necessary feedback to assist in meeting the statutory objectives. It is suggested that the first review should take place not later than one year following the Second Appointed Day.

Signed



Huntingdonshire District Council as the Licensing Authority, Environmental Health Authority and Planning Authority

Cambridgeshire Constabulary

Cambridgeshire & Peterborough Fire & Rescue Authority

Cambridgeshire County Council (Trading Standards Service)

Cambridgeshire County Council (Child Protection Service)

**HUNTINGDONSHIRE DISTRICT COUNCIL LICENSING COMPLIANCE AND ENFORCEMENT  
POLICY**

The licensing authority's licensing compliance and enforcement policy was approved by the Licensing Committee on 27th January 2010 and applies to the enforcement of the Licensing Act 2003 by this annex to the statement of licensing policy.

**HUNTINGDONSHIRE DISTRICT COUNCIL**

**LICENSING COMPLIANCE AND ENFORCEMENT POLICY STATEMENT**

**1. INTRODUCTION**

- 1.1 The purpose of this policy is to express the commitment and intention of Huntingdonshire District Council to the principles of consistent and effective enforcement of legislation relating to various forms of licensing listed in Appendix A. In carrying out its functions under the Licensing Act 2003 and the Gambling Act 2005, the Council is acting as the licensing authority but for the purposes of consistency the term 'the Council' is used throughout this policy statement.
- 1.2 In approving this policy statement, the Council's Licensing Committee and Licensing and Protection Panel have had regard to the Concordat on Good Enforcement - the Enforcement Concordat - issued in 1998 by the Cabinet Office and the statutory Regulators' Compliance Code which came into force in 2008. The Council has also had regard to advice and guidance issued by the Local Better Regulation Office, the Local Authorities Co-ordinators of Regulatory Services (LACORS) and the Institute of Licensing.
- 1.3 The Council recognises that effective and well targeted regulation is essential to promote fairness and protection from harm, while being proportionate and flexible enough to encourage economic progress and vitality. This policy is therefore designed to set out the arrangements by which the principles of proportionality, consistency, transparency, helpfulness, openness and targeting of resources will be incorporated into actions.
- 1.4 The Council will adopt a positive and pro-active approach towards ensuring compliance by -

- helping and encouraging those subject to regulation to understand and meet the regulatory requirements more easily; and
- responding proportionately to breaches of regulation.

In certain instances, the Council may conclude that a provision in the Regulators' Compliance Code is either not relevant or outweighed by another provision. Where a decision is made to depart from the Code, it will be properly reasoned, based on material evidence and documented.

- 1.5 The Officers who carry out the enforcement of licensing legislation listed in Appendix A are Council employees who are authorised in writing by the Council to enforce tasks and duties in accordance with the Council's Scheme of Delegation. Officers will carry appropriate means of identification and authorisation cards.

## **2. STATEMENT OF INTENT**

- 2.1 It is the Council's policy to work with businesses and their employees to -

- ◆ ensure that the risks to the public and those employed in licensed activities are properly controlled and managed so that they are reduced to the lowest level that is reasonably practicable;
- ◆ comply with all legislative requirements, while having regard to statutory codes of practice and statutory guidance.

- 2.2 In order to achieve this objective, enforcement action will be proportionate to the risk(s) perceived or the seriousness of the contravention of legislation and will be undertaken in accordance with this policy.

- 2.3 When considering the appropriate course of action to be taken following an inspection or investigation, this policy will be read in conjunction with relevant guidance issued by the Secretary of State, the Gambling Commission and other relevant bodies.

- 2.4 Officers will comply with this policy when undertaking enforcement action. They will offer an educative and advisory approach in the first instance to those responsible for complying with relevant licensing legislation but thereafter will enforce the law and compliance with licence conditions by the use of a range of enforcement options including – verbal and written warnings, use of statutory notices, formal cautions and prosecution. Prosecution will not normally constitute a punitive response to minor contraventions of licensing legislation.

- 2.5 This policy has regard to the Enforcement Concordat and the Regulators' Compliance Code. Except where there is considered to be a significant risk to public safety, departures from the guidelines contained in this policy will be exceptional and only following agreement with the Head of Democratic and Central Services or Central Services Manager of the Council.

2.6 All authorised Officers shall have regard to this policy when carrying out their duties in relation to the legislation listed in Appendix A.

2.7 Where there are issues of dual or joint enforcement with other external enforcement agencies such as Cambridgeshire Constabulary, Cambridgeshire Fire and Rescue Service and Cambridgeshire County Council Trading Standards or internally with Environmental and Community Health Services, consultation will take place with the relevant body(ies) before any enforcement action is initiated.

### **3. GENERAL PRINCIPLES**

3.1 Licensing legislation is often prescriptive and subject to frequent change which limits the discretion of the Council and the licence holder.

3.2 The Council will endeavour to ensure compliance in full with all relevant licensing legislation listed in Appendix A. Officers will seek to offer relevant information and advice to licence holders in person as well as in writing. Officers will deal with anyone subject to this enforcement process in a courteous, fair and objective manner in accordance with the Council's corporate equalities policy.

3.2 Officers will assist businesses and individuals to understand legal requirements and the obligations imposed by relevant legislation. They will seek to encourage good practice and will be sensitive to the needs of business, particularly in regard to any requirements for prompt responses, transparency of action and the imposition of minimum burdens consistent with regulatory requirements.

3.3 Officers will also use formal enforcement measures as specified in the relevant legal provisions including the issue of statutory notices, formal cautions and by initiating prosecutions. Where there has been a serious breach of legislation or the safety of the public or employees is considered to be at risk, there will be quick and effective action as distinct from a graduated response. In considering whether this is necessary, Officers will take account of relevant guidance and will use their professional judgement to determine the extent to which public safety is considered to be endangered.

3.4 Where appropriate, the Council will carry out both overt and covert surveillance of individuals or organisations. In doing so, Officers will comply with any human rights legislation and have regard to any associated guidance and codes of practice in existence at the time, together with any internal policies and procedures. The Council has a covert surveillance policy under the Regulation of Investigatory Powers Act 2000 that includes a detailed procedure for authorisation and record keeping when covert surveillance is considered appropriate.

3.4 The Council will ensure that its Officers are suitably experienced and competent to undertake the enforcement duties that they have been authorised to carry out.

3.5 Within available resources, the Council will endeavour to provide suitable training and education to local businesses on a range of licensing matters designed to encourage

businesses to comply with the law. This will be particularly relevant when new legislation is introduced and where an educative approach is appropriate. Documentation including guidance and standard conditions issued by the Council will be accurate and reflect current practice. In providing education and documentation, every effort will be made to provide it in languages other than English where there is shown to be a demand and resources permit.

#### **4. PRINCIPLES OF ENFORCEMENT**

4.1 The enforcement of the licensing legislation will be guided by the principles that are contained within the Regulators' Compliance Code and where appropriate the Enforcement Concordat. These constitute a framework for local authorities to operate in accordance with better regulation principles as follows:-

##### **Standards**

4.2 The Council is accountable to the local electorate for its actions and omissions. It will have clear policies and standards against which it can be judged.

##### **Openness**

4.3 The Council will provide information and advice in plain language on the law that it enforces and will disseminate this as widely as possible. It will also be open about how it sets about its work, including any charges that are made for specific activities. Officers will be prepared to discuss general issues, specific compliance failures or problems with businesses, their employees and representatives. Where necessary, the public registers will contain details of any notices that are served or action taken.

##### **Helpfulness**

4.4 The Council will work with businesses, especially small and medium sized operators and companies, to advise and assist on compliance with the legislation and licence conditions. It will provide a courteous and efficient service and Officers will encourage licence holders, businesses and the public to contact them to seek advice and information. The Council will ensure that, wherever practicable, its enforcement activities are effectively co-ordinated to minimise any unnecessary overlap or delay and where appropriate will work with other regulators to ensure an efficient service in accordance with guidance issued by The Local Better Regulation Office and the Department for Business and Skills.

4.5 The Council will be prepared to discuss with businesses any letters, guidance or other communication that Officers have dispatched. Requests made under the Freedom of Information and Data Protection legislation will be dealt with in accordance with the legislation and the Council's procedures.

##### **Complaints about Service**

4.6 The Council has adopted a feedback procedure which will be made accessible to licence holders, businesses, employees and the public. Complaints made to the Council will be dealt with initially under that procedure. Where a person remains dissatisfied with the outcome of a complaint, the Council will make available the procedure for a complaint to be made to the Local Government Ombudsman that the Council has acted with maladministration. This is without prejudice to any statutory rights of appeal that are available to a business or licence holder which will be explained in writing by the Council.

### **Proportionality**

4.7 Enforcement action will be proportionate to the risk and cost involved. Action taken by the Council to ensure that activities are licensed and that licence conditions are complied with will be proportionate to the risk to public safety and to the seriousness of any breach of the legislation or relevant licensing conditions.

4.8 Some licensing requirements are prescribed by law with no room for discretion or individual interpretation. However others require action in line with the principles of reasonableness and the regulatory system will apply the concept of proportionality through such principles. Deciding what is reasonable or appropriate to control risks involves the exercise of judgement by businesses and, where permitted by the legislation, by regulators based on sound professional judgement. Where a licence holder and the Council cannot reach agreement, the final determination of what is reasonable in particular circumstances may ultimately be made by the courts.

4.9 Risk assessment will be based on all available relevant and quality data, including explicit consideration of the combined effect of the potential impact of non-compliance on regulatory outcomes and the likelihood of non-compliance. In evaluating the likelihood of non-compliance, the Council will consider all relevant factors, including past compliance records and potential future risks, the existence of good systems for managing risks, evidence of recognised external accreditation and a business's management competence and willingness to comply.

### **Consistency**

4.10 Consistency of approach means taking a similar approach in similar circumstances to achieve similar ends. Licence holders will expect a consistent approach from the Council and its Officers in the advice provided, the use of powers, the determination of applications for licences, decisions on whether to prosecute and responses to incidents. In practice, Officers will be faced with many variables such as the severity of the risk to public safety, the attitude and competence of the licence holder and any previous history of non-compliance. Decisions on enforcement will be a matter of sound professional judgement based upon a risk assessment which will be exercised by the Council and its Officers.

### **Transparency**

4.11 Assistance and advice will be offered to licensees to enable them to understand what is required of them by the legislation and licence conditions. It also will make clear what

can be expected from the Council and the reasons why the Council and its Officers intend to or have taken a particular course of action.

4.12 The Council will assess the effectiveness of its information and support services by monitoring businesses' awareness and understanding of the legal requirements, including the extent to which they may have to incur external advice and costs to understand and comply with legal requirements. However there may remain a need for businesses and licence holders with particularly complex practices to use specialist or professional advisers as appropriate.

4.13 The Council will encourage businesses and licence holders to reasonably seek and access advice without directly triggering enforcement action. In responding to such an approach, the Council will seek primarily to provide the advice and guidance necessary to help ensure compliance.

### **Targeting**

4.14 Targeting means making sure that resources are targeted primarily on those whose activities give rise to the most serious risk to licence holders, employees and the public or where hazards are least well controlled. Action will be focused on the licence holders and businesses who are responsible for the risk and who are best placed to control it.

4.10 The Council will prioritise inspections and visits in accordance with the risk to the public and complaints about business activities. Certain licensed or approved operations will receive more regular visits and inspections so that the Council can be satisfied that potentially high risk operations have effective public safety management arrangements in place.

4.11 Where formal enforcement action is necessary, it will, where appropriate, be directed against the licence holder or business responsible. Where responsibility is shared by several individuals, the Council will take action against those who can be shown to be in breach of the legislation or licence conditions.

## **5. SPECIFIC ENFORCEMENT ACTIVITIES**

### **Routine Inspections**

- 5.1 Under normal circumstances appointments will be made with a licensee where an inspection and visit to licensed premises is to be undertaken by an Officer. However, inspections and visits to licensed premises will also be made without prior warning where this is considered to be necessary.
- 5.2 Officers will identify themselves at the premises at the time of entry unless for operational reasons the purpose of the visit is for surveillance purposes. Officers will show their identification and their authority to enter licensed premises at the time of entry. It is an offence for any person to intentionally obstruct an authorised officer in the execution of his or her duties or refuse entry to certain licensed premises.
- 5.3 The main purpose of an inspection or visit is to ensure that licence conditions are being complied with. The Officer will state the purpose of the inspection at the start of the visit to the person in charge at that time. Inspections and visits will normally involve discussion with the licence holder or his representative. It can also include discussions with other employees at working at the premises at that time. Officers will offer to supply any copies of licence conditions or guidance notes at the time of inspection or will supply them later if requested. The conditions, notes or letters can be translated into other languages if requested and interpreters can be used if appropriate.
- 5.4 Generally, enforcement will be undertaken in a graduated approach. In the first instance, a discussion of requirements will take place with the licence holder or his representative. When considering formal enforcement, account will be taken as to whether there is also evidence of significant breaches of other licensing legislation. In the absence of other significant breaches, the Officer may consider a formal approach where
- ◆ there is a high risk to public safety; or
  - ◆ breaches would be likely to lead a more serious breach of licence conditions which would give rise to an unacceptable risk to public safety; or
  - ◆ the licensee has already failed to respond to an informal approach, or
  - ◆ there has been an act of obstruction or non-co-operation, or
  - ◆ there have been cumulative breaches of legislation.
- 5.5 Offences or breaches of a minor nature may be dealt with by way of advice, verbal warning letter or re-visit or any combination of these.

### **Investigations**

- 5.6 The Council will respond to and, where appropriate, investigate all complaints about activities being undertaken without a licence or about a breach of licence conditions within 3 working days. The response may vary according to the nature of the allegation, its severity, the number of persons at risk and the nature of that risk and the severity of the legislative breach.



The licence holder will normally be informed that a complaint has been received and the nature of that complaint. In some instances, by agreement with the complainant, it may be appropriate to release the complainant's details. However, where it is necessary to protect the identity of the complainant, e.g. where there may be a risk of intimidation or the person is an employee of the licence holder, then the personal details of the complainant will remain confidential, unless otherwise required to be released.

5.7 Where a complaint is received, the licence holder will be notified as soon as reasonably practicable unless it is not appropriate to do so, e.g. it may hinder a more serious ongoing issue which is subject to a separate investigation. The investigating Officer will, where appropriate, keep the licence holder or his representative informed of the progress of the investigation. At the end of the investigation, the licence holder and interested parties will be informed of the outcome and whether any further action will be taken by the Council.

## 6. ENFORCEMENT OPTIONS

6.1 There are a number of enforcement options available to the Council where a contravention of licensing legislation or breach of licence condition has been identified. These include –

- ◆ take no action; or
- ◆ take informal action; or
- ◆ issue a formal caution; or
- ◆ suspend, revoke or refuse to renew a licence; or
- ◆ prosecute (which can be taken in addition to the service of a notice of suspension or revocation).

6.2 Where appropriate, a graduated approach to enforcement will be adopted and in the first instance businesses and licence holders will be given the opportunity to discuss and remedy any problems before action is taken, unless immediate action is required. In each situation the Officer will need to assess the degree of risk, the seriousness of the offence and the means of remedying the situation, together with the previous history of compliance. The decision as to which type of enforcement is appropriate will always be governed by the particular circumstances of the case.

6.3 In particular, the Council's sanctions and penalties will -

- aim to change the behaviour of the offender;
- aim to eliminate any financial gain or benefit from non-compliance;
- be responsive and consider what is appropriate for the particular offender and licensing issue;
- be proportionate to the nature of the offence and the harm caused;
- aim to restore the harm caused by licensing non-compliance, where appropriate; and
- aim to deter future non-compliance.

### No Action

6.4 Where an inspection or investigation reveals that at the time of the visit full compliance with the legislation and licence conditions has been achieved, no further action may be required other than record the outcome of the inspection.

### **Informal Action**

6.5 Informal action may consist of any or all of the following -

- ◆ advice and offering general assistance and guidance;
- ◆ a verbal warning; and
- ◆ a letter requesting action.

6.6 Officers will use informal action if they believe that such a procedure will secure compliance with the requirements of the relevant Act and ancillary legislation within a timescale that is reasonable in the circumstances. If an Officer decides to use informal methods such as written advice, this should not result in a lower standard of compliance with the Act and ancillary legislation than would be achieved by more formal action.

6.7 While the action taken by the Officer will depend on the circumstances of the particular case, for guidance purposes only, the Council considers the following circumstances to be appropriate for informal action to be taken –

- ◆ the offence is not serious enough to warrant formal action, e.g. a minor technical offence which creates little or no risk to public safety;
- ◆ from past history, it can reasonably be expected that informal action will achieve compliance;
- ◆ confidence that the business management involved is high.

6.8 Where informal action has already been adopted in relation to the same business or licence holder but without success, Officers will consider using a more formal approach.

### **Formal Caution**

6.9 The Council may consider issuing a formal caution in appropriate cases as an alternative to a prosecution. The person receiving a caution will be made aware of the implications and the fact that a further breach of licensing legislation or licence conditions is likely to lead to the suspension or revocation of a licence and/or prosecution. The purpose of a caution is to –

- ◆ deal quickly and simply with less serious offences;
- ◆ divert less serious offences away from the courts;
- ◆ reduce the chance of repeat offences.

6.10 Where a formal caution is under consideration, the following conditions must be fulfilled before it is given –

- ◆ there must be evidence of the suspected offender's guilt sufficient to give a realistic prospect of conviction if a prosecution were to be taken as an alternative; and
- ◆ the suspected offender must admit the offence; and
- ◆ the suspected offender must understand the significance of a formal caution and give an informed consent to being cautioned.

6.11 The formal caution will only be administered by the Head of Democratic and Central Services or Central Services Manager. Where a person declines the offer of a formal caution, it will be necessary to consider taking alternative enforcement action. This could include suspension or revocation of or refusal to renew a licence or prosecution. The criteria for prosecution will be reconsidered in the light of the person's unwillingness to accept a formal caution.

### **Prosecution**

6.12 Prosecution is one of a number of enforcement options available to the Council. Each case needs to be considered on its own merits and any policy therefore cannot be prescriptive. The prosecution policy is attached as Appendix B and is consistent with the Enforcement Concordat agreed by central and local government and which the Council has adopted.

6.13 Through its Constitution, the Council has delegated responsibility for licensing matters to the Licensing and Protection Panel. The Licensing Committee is a statutory committee established by legislation. Both the Panel and the Committee have delegated authority to institute proceedings for contravention of legislation to the Director of Central Services or the Head of Democratic and Central Services, after consultation with the Chairman or Vice Chairman of the Panel or Committee, as appropriate. The Council's Head of Law, Property and Governance will be consulted as part of the decision making process and dependent on the case in question other appropriate persons and bodies may be consulted including the Council's Head of Environmental and Community Health Services, Cambridgeshire Constabulary, Cambridgeshire Fire and Rescue Service and external professionals/experts in connection with licensing issues.

6.14 Officers will gather appropriate evidence and prepare the case for prosecution on behalf of the Council. Where, having considered all the evidence, it is felt by Officers that a prosecution may be warranted, the authorisation of the Director of Central Services or the Head of Democratic and Central Services will be sought. Following agreement to proceed, the Head of Law, Property and Governance will instigate the prosecution in consultation with the Case Officer. Regard will be had during the investigation to the requirements of the Police and Criminal Evidence Act 1984 (PACE), the Criminal Procedure and Investigation Act 1996 (CPIA) and the Regulation of Investigatory Powers Act 2000 (RIPA).

## **APPENDIX A**

### **LICENSING ACTIVITIES**

#### **GAMBLING**

##### **Gambling Act 2005**

Casinos  
Bingo premises  
Betting offices  
Track betting  
Adult gaming and family entertainment centres  
Gaming and machine permits  
Prize gaming  
Small society lotteries

#### **ENTERTAINMENT**

##### **Licensing Act 2003**

Sale and supply of alcohol  
Regulated entertainment comprising plays, films, indoor sporting events, boxing and wrestling, live and recorded music, and dance.  
Late night refreshment  
Temporary events notices

##### **Local Government (Miscellaneous Provisions) Act 1982**

Sex establishments comprising sex cinemas, sex encounter establishments and sex shops

#### **HACKNEY CARRIAGE AND PRIVATE HIRE**

##### **Town Police Clauses Act 1847**

##### **Local Government (Miscellaneous Provisions) Act 1976**

Hackney carriage vehicles and drivers  
Private hire operators, vehicles and drivers

#### **TRADING AND COLLECTIONS**

##### **Police, Factories, etc (Miscellaneous Provisions) Act 1916**

Street collections

##### **House to House Collections Act 1939**

House to house collections

##### **Local Government (Miscellaneous Provisions) Act 1982**

Acupuncture, tattooing, ear piercing and electrolysis  
Street trading

**Local Government (Miscellaneous Provisions) Act 1976**

Pavement cafes

## APPENDIX B

### PROSECUTION POLICY

1. In order to ensure public safety, the Council will use a variety of means to ensure that the law relating to various licences listed in Appendix A and for which the Council is the licensing authority is complied with within the District. This will include education, advice, guidance, formal cautions, statutory notices and prosecution.
2. The Council will use discretion in deciding whether to initiate proceedings leading to a prosecution. In general, Officers will attempt to ensure compliance with the licensing legislation and licence conditions by informal means except where they have grounds to consider that it is necessary to serve a formal notice or recommend prosecution. The Council recognises that the decision to prosecute is significant and could have far reaching consequences on the offender. Before deciding whether to initiate proceedings leading to a prosecution, they will take account of the criteria set out in paragraph 3 below.
3. The decision to prosecute has been delegated by the Council's Licensing and Protection Panel and Licensing Committee to the Director of Central Services or the Head of Democratic and Central Services, after consultation with the Chairman or Vice Chairman of the Panel or Committee. Public safety will be of paramount consideration and the following matters will be taken into account in addition to any other matter which may be considered relevant in any particular case –
  - 3.1 Whether the evidence available is sufficiently reliable, admissible and substantial to provide a realistic prospect of conviction, having regard to the evidential and public interest tests set down in the Code for Crown Prosecutors and any other prosecution code or government guidance for the time being relevant to the case under consideration.
  - 3.2 The general record and attitude of the offender.
  - 3.3 The attitude and reliability of any witnesses.
  - 3.4 The gravity of the offence (including where the alleged offence involves a breach of the licensing legislation or licence conditions such that public safety or well-being is placed at risk).
  - 3.5 The failure by offenders to comply with previous written directions given by Officers provided that offenders have been given reasonable opportunity to comply with those directions.
  - 3.6 Whether it is desirable to deter others from similar failures to comply with licensing legislation or licence conditions.
  - 3.7 Whether it is more appropriate after consideration of all of the circumstances and on being satisfied of a person's guilt and the offender accepting that guilt, to offer a formal caution in accordance with guidance laid down in Home Office Circular 30/2005.

4. This prosecution policy also relates to the prosecution of individuals and individual managers or directors whether the Council considers that a conviction is warranted and it can be shown that the offence was committed with their consent or connivance or to have been attributable to neglect on their part.
5. Having decided to prosecute, the policy of the Council is to prosecute without any unnecessary delay. Once the prosecution has been determined by a court of law, the Council will contact the witnesses involved to inform them of the outcome.
6. The Council take seriously its obligations arising from the Human Rights Act 1998 and associated legislation. It will endeavour at all times to act compatibly with this legislation.
7. This policy is consistent with the Enforcement Concordat agreed by central and local government and the Regulators' Compliance Code.

## **ANNEX I**

### **CONTACT POINTS**

Further information on application forms, operating schedules, the statement of licensing policy and advice as to whether or not activities need to be licensed can be obtained from –

The Licensing Section,  
Huntingdonshire District Council,  
Pathfinder House  
St Mary's Street  
Huntingdon  
Cams  
PE29 3TN

Telephone – 01480 388010/388209

Fax. – 01480 388099

E-mail – [Greg.Peck@huntsdc.gov.uk](mailto:Greg.Peck@huntsdc.gov.uk)  
[John.Frampton@huntsdc.gov.uk](mailto:John.Frampton@huntsdc.gov.uk)  
[Charlotte.Dean@huntsdc.gov.uk](mailto:Charlotte.Dean@huntsdc.gov.uk)

This information is available on the licensing authority's website at [www.huntingdonshire.gov.uk](http://www.huntingdonshire.gov.uk).

Completed applications and temporary events notices should be sent to –

Licensing Section  
Huntingdonshire District Council  
Pathfinder House  
St Mary's Street  
Huntingdon  
Cams  
PE29 3TN

An applicant must give notice of his/her application to each of the following responsible authorities and such other persons as may be prescribed within the prescribed period –

The Chief Constable of Police  
Cambridgeshire Constabulary  
Hinchingsbrooke Park  
Huntingdon  
PE29 6NP

Chief Fire Officer  
Cambridgeshire Fire and Rescue Service  
Hinchingsbrooke Cottage  
Brampton Road  
Huntingdon  
PE29 2NA



The Head of Environmental and Community Health Services  
Huntingdonshire District Council  
Pathfinder House  
St Mary's Street  
Huntingdon  
Cams  
PE29 3TN

Director General  
The Health and Safety Executive  
Rose Cottage  
2 Southwark Bridge  
London  
SE1 9HS

The Head of Planning Services  
Huntingdonshire District Council  
Pathfinder House  
St Mary's Street  
Huntingdon  
Cams  
PE29 3TN

The Director of the Office of Children and Young Persons  
Cambridgeshire County Council  
Shire Hall  
Cambridge  
CB3 0AP

The Environment Agency  
Kingfisher House  
Goldhay Way  
Orton Goldhay  
Peterborough  
PE2 5ZR

The British Waterways Board  
Willow Grange (HQ)  
Church Road  
Watford  
Herts  
WD17 4QA

Or

Ground Floor (SE)  
Witan Gate House  
500-600 Witan Gate  
Milton Keynes  
MK9 1BW

Those organisers serving a temporary events notice upon the licensing authority are also required to serve a copy on the Chief Officer of Police as above.

