

LEWES DISTRICT COUNCIL STATEMENT OF LICENSING POLICY

1 INTRODUCTION

Lewes District Council makes this Statement of Licensing Policy in order to comply with its duties and powers under the Licensing Act 2003, 'the Act.'

1.1 THE SCOPE OF THIS POLICY COVERS THE FOLLOWING:

- Retail sale of alcohol
- The supply of alcohol by or on behalf of a club, or to the order of a member of the club
- The provision of regulated entertainment (as defined in Schedule 1 of the Act)
- The provision of late night refreshment

1.2 THE AIMS OF THIS POLICY ARE TO:

- secure the safety and amenity of residential communities
- help to ensure a sustainable environment and provide regulation of the cultural/entertainment industry
- promote the Licensing Objectives as set out in the Act

1.3 THE LICENSING OBJECTIVES ARE:

- Prevention of crime and disorder
- Public safety
- Prevention of public nuisance
- Protection of children from harm

1.4 IN MAKING THIS POLICY, LEWES DISTRICT COUNCIL RECOGNISES THE FOLLOWING:

- residents within the District need a safe and healthy environment to live and work in.
- safe and well run entertainment premises are important to the local economy and vibrancy of the District.

1.5 THIS STATEMENT PROVIDES GUIDANCE

to the police, applicants, objectors and residents on the general approach that the Council (acting through its Licensing Committee) will take when making licensing decisions.

The following will be taken into account when licensing decisions are being made:-

- the Council as licensing authority must carry out its functions under the Act with a view to promoting the Licensing Objectives.
- each licence application will be given individual consideration on its merits.

when making its decisions, the Council will have regard to the matters contained in this Statement and to any

government guidance that is issued from time to time.

- that the Council will have regard to the provisions of the Human Rights Act 1998 and in particular, Article 6 (right to a fair and public hearing); Article 8 (right to respect for home, private and family life) and Article 1 of the First Protocol (right to peaceful enjoyment of property and possessions)
- that the Council will have regard to its responsibilities under the Race Relations Act 1976 as amended by the Race Relations (Amendment) Act 2000
- that when exercising a licensing function the Council will have due regard to its duty under section 17 of the Crime and Disorder Act 1998 and any local public service agreements relating to the reduction of public place violence

1.6 This Statement takes effect on 7 January 2005 for a period of 3 years and will be kept under review and revised/amended as required, following consultation.

2 LOCAL FEATURES

2.1 Lewes District Council covers an area of 113 square miles and is home to nearly 90,000 people. Bordered by the varied landscape of the Downs to the south and the Weald to the north, it has 9 miles of coastline. From coastal strip to rural countryside, Lewes District comprises a rich mix of town and village communities. The District population is concentrated to the coast with half of all residents living in the towns of Seaford, Newhaven, Peacehaven, Telscombe Cliffs and East Saltdean, while inland Lewes is the County Town of East Sussex. There are also numerous villages and hamlets within the area, which vary in size and form, and the District has one of the fastest growing populations in the South of England.

2.2 The main focus for licensed activities is in the Town Centres where there is a varied mix of premises from clubs, pubs, café/bars, restaurants, and large stores to smaller retail outlets for off licence sales. In the rural areas there are a great number of village pubs, which are very much part of the community and supporting leisure and local activities.

2.3 Overall, the District has approximately 321 premises that will require licensing under the new Act, evenly spread across the towns and rural area, catering for the needs of the community and with only four late night venues, club culture at the moment is not highly developed or wide spread.

3 DELEGATION OF FUNCTIONS

Licensing decisions and functions may be taken or carried out by the Council's Licensing Committee or delegated to a Licensing Sub-Committee or in appropriate cases, officers of the Council. The scheme of delegation for dealing with licensing matters is set out below:

Matter to be dealt with	Licensing Committee	Sub-Committee	Officers
Application for personal licence		If a representation made	If no representation made
Application for personal licence with unspent convictions		All cases	
Application for premises licence/club premises certificate		If a representation made	If no representation made
Application for provisional statement		If a representation made	If no representation made
Application to vary premises licence/club premises certificate		If a representation made	If no representation made
Application to vary designated premises supervisor		If a police representation	All other cases
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If a police representation	All other cases
Application for Interim Authorisation		If a police representation	All other cases
Application to review premises licence/club premises certificate		All cases	
Decision on whether a complaint is irrelevant, frivolous, vexatious etc			All cases
Decision to object when Council is a consultee and not the Licensing Authority		All cases	
Determination of a police representation to a temporary event notice		All cases	

4 GENERAL STATEMENT OF GUIDING PRINCIPLES

4.1 The following principles have been adopted by the Council as a licensing authority. These principles will serve as a general guide to the Council when it carries out its licensing functions:-

PRINCIPLE 1

Issues of nuisance, noise, public safety and crime and disorder associated with the character, number and proximity of licensed premises in any one area (cumulative impact) will be addressed by the means set out in paragraph 5.1.5 of this Statement. However, if there is evidence to suggest that these means are unsuccessful in combating the issues referred to above then the council will consider reviewing its policy with a view to restricting the grant of licences to new premises in the affected areas.

PRINCIPLE 2

The Council supports the use of longer opening hours as a means of reducing the number of people leaving licensed premises at the same time.

PRINCIPLE 3

The Council will limit the access of children to licensed premises where this is necessary to protect them from harm.

5 THE PRINCIPLES IN DETAIL

5.1 PRINCIPLE 1

Issues of nuisance, noise, public safety and crime and disorder associated with the character, number and proximity of licensed premises in any one area (cumulative impact) will be addressed by the means set out in paragraph 5.1.5 of this Statement. However, if there is evidence to suggest that these means are unsuccessful in combating the issues referred to above then the council will consider reviewing its policy with a view to restricting the grant of licences to new premises in the affected areas.

5.1.1 This is intended to:

- Promote the prevention of crime and disorder
- Promote public safety
- Address the issue of cumulative impact

5.1.2 The matter of need for an additional licensed facility whether pub, club etc is not covered by this policy but will be a matter for planning policies and strategies and for the area/district as a whole.

5.1.3 Licensed premises, especially those offering late night/early morning entertainment, alcohol and refreshment (for large numbers of people) can be a source of crime and disorder and applicants are recommended to seek advice from the Council's Licensing Officer and the Police as well as taking into account local planning and transport policies, tourism, cultural and crime prevention strategies when preparing applications and operating schedules. Copies of these policies and strategies can be obtained from the Council's Licensing Officer – see Contact Details, paragraph 9.

5.1.4 The Council will support:

- diversity of premises to ensure a mix of a different type of licensed premises, particularly in areas where there is a high density of such premises.
- care and control of premises by effective management and supervision both within and outside the premises. This is a key factor in reducing crime and disorder and applicants for premises licenses in particular should address these issues within their respective operating schedules.
- good quality training for staff employed within the licensing trade. The Council believes that proper staff training plays an important role in the promotion of the licensing objectives.
- café bar conditions where the sale of alcohol and other beverages are by a waiter/waitress service for consumption by persons seated at tables or equivalent and substantial refreshments are available during operating hours.

5.1.5 If there are problems in a particular area with nuisance, crime and disorder and those problems are associated with the character, number or proximity of licensed premises in the area, the Council will seek to address those problems by the following means:

- Planning Controls
- The use of relevant and appropriate licence conditions. (However, see paragraph 6.5)
- Positive measures to create a safe and clean environment in partnership with local businesses, transport operations and other Council departments
- Application of the powers of the Council to designate parts of the district as places where alcohol may not be consumed in public
- The confiscation of alcohol from adults and children in such designated areas

- Police enforcement of disorder and anti-social behaviour, including the issue of fixed penalty notices
- The seeking of anti-social behaviour orders by the Council in appropriate cases
- The prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk
- The application of closure powers under the Act
- The review, suspension and revocation of licences granted under the Act

This list is not exhaustive of the measures that the Council may consider or take.

5.1.6 Any objection to a licence application or variation on the grounds of cumulative impact must be relevant and impact on one or more of the licensing objectives.

5.2 PRINCIPLE 2

The Council supports the use of longer opening hours as a means of reducing the number of people leaving licensed premises at the same time.

5.2.1 This is intended to:

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

5.2.2 It is recognised by the Council that longer licensing hours (with regard to the sale of alcohol) may help to ensure that the number of customers leaving premises at the same time is reduced. Government research suggests that fixed and artificially early closing times encourage, in the case of sales of alcohol, rapid binge drinking close to closing times and are a key cause of disorder and disturbance when large numbers of customers are required to leave premises at the same time.

5.2.3 All residents living in the vicinity of licensed premises have an equal right to make representations concerning applications for premises licences and hours of trading and to have those representations given equal weight regardless of the area of the District in which they live.

5.2.4 In each case that arises following objections/representations the Council will:

- consider the potential for public nuisance, crime and disorder and/or danger to public safety associated with the style, characteristics and activities of the business involved.
- examine the potential steps which could be taken to reduce the risk of public nuisance, crime and

disorder and/or danger to public safety, particularly in areas of dense residential accommodation.

- consider restricting the hours of trading as a last resort and only in cases where there are good grounds for believing that the licensing objectives will be or are being undermined.

5.3 PRINCIPLE 3

5.3.1 The Council will limit the access of children to licensed premises where this is necessary to protect them from harm.

This is intended to:

- promote the protection of children from harm
- address the issue of children in licensed premises, including cinemas and other public entertainment.

5.3.2 No policy can anticipate every issue of concern that could arise in respect of children with regard to individual premises. Consideration of the individual merits of each application are therefore the best mechanism for judging such matters.

5.3.3 The Council will take particular account when:

- there have been convictions for serving alcohol to minors
- there is evidence of underage drinking
- there is evidence of drug taking or dealing
- there is a strong element of gambling
- entertainment of an adult or sexual nature is commonly provided.
- the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at those premises

5.3.4 Complete bans will be rare, but the options for limiting the access of children, where necessary, to prevent harm include:

- limitations on the hours when children may be present
- age limitations (below 18 years)
- limitations or exclusions when certain activities are taking place
- requirements for an accompanying adult
- full exclusion of people under 18 years from the premises when any licensable activities are taking place.

5.3.5 The Council will not impose conditions that require licensed premises to admit children. Where there is no necessity for a licensing restriction the decision to admit children will be a matter for the discretion of the individual licensee or club.

5.3.6 CHILDREN AND CINEMAS

In the case of premises giving film exhibitions, the Council expects licensees to impose conditions that children will be restricted from viewing age-restricted films classified in accordance with the recommendations of the British Board of Film Classifications.

5.3.7 CHILDREN AND PUBLIC ENTERTAINMENTS

Where such entertainments are due to take place, the Council will expect an adequate number of adults to be present for health and safety reasons. The number of adults required should be calculated on the basis of a risk assessment. The Council will also take into account considerations such as the size of the venue, the number and ages of the children present and the type of activity involved.

6 OTHER CONSIDERATIONS

6.1 LIVE MUSIC, DANCING & THEATRE

The Council recognises the need to encourage and promote live music, dance and theatre for the wider cultural benefits of the community. The Council will seek to obtain a balance between the potential for limited neighbourhood disturbance and the benefits of cultural activities, particularly for children, and will not allow the views of vocal minorities to predominate over the general interests of the community.

The Council will only attach licence conditions that are reasonable, proportionate and strictly necessary for the promotion of the licensing objectives. The Council is aware of the need to avoid measures as far as possible that deter live music, dancing and theatre for example by imposing indirect costs of a disproportionate nature.

The Council is aware of the value to the community of a broad range of cultural entertainments, particularly live music, dancing and theatre. The Council wishes to encourage them for the benefit of all.

6.2 SHOPS, STORES AND SUPERMARKETS

6.2.1 Shops, stores and supermarkets should be free to provide sales of alcohol for consumption off the premises at any time when the retail outlet is open.

6.2.2 The Council will generally permit the sale of alcohol during retain opening hours.

6.2.3 In certain circumstances, however, it may be necessary to impose a limitation, for example, following police representations, disturbance or anti-social behaviour.

6.2.4 When determining an application for a premises licence the Council has no obligation to consider the rights of workers employed. These are covered by separate legislation.

6.2.5 The impact on workers of extended hours permitted by a premises licence is a contractual matter to be resolved between the employer and employee, and the Council will not seek to intervene in these matters.

6.3 INTEGRATION OF STRATEGIES

6.3.1 The Council is ensuring that this Statement of Policy integrates with crime prevention, anti-social behaviour, planning, transport, tourism and cultural strategies by:

- Liaising and consulting with the Sussex Police, with the Crime and Community Disorder Reduction Partnership and by following the guidance in community safety and crime disorder strategies.
- Liaising and consulting with East Sussex Fire and Rescue Service and by following the guidance in fire safety strategies and protocols.
- Liaising and consulting with the Local Strategic Partnership and Area Partnerships.
- Liaising and consulting with the Planning Authority.
- Liaising and consulting with the Highway Authority.
- Liaising and consulting with tourism, stakeholder and business groups such as the local Chamber of Commerce.
- Liaising and consulting with East Sussex County Council's Trading Standards Department.
- Having regard to any future guidance issued in relation to the Private Security Industry Act 2001 including any liaison or information sharing protocols.
- Having regard to the Home Office "Safer Clubbing Guide"

6.3.2 Specific conditions may be attached to premises licences to reflect local crime prevention strategies (however see paragraph 6.5).

Such conditions may include:

- the use of closed circuit television cameras
- the provision and use of shatterproof drinking containers
- a drugs and weapons search policy
- the use of registered door supervisors under the Private Security Industry Act 2001
- specialised lighting requirements
- restrictions on hours of opening

6.3.3 Certificates issued to club premises will reflect local crime prevention strategies and may include any or all of the requirements listed above. Account will also be taken of any designation orders and guidelines that regulate street drinking.

6.3.4 Club owners and promoters will be expected to have regard to safer clubbing guidance for Licensing Authorities, club managers and promoters. The Council will ensure that licensed premises are designed and run in a way that maximises the safety of customers and staff.

6.3.5 The Council will take account of the need to disperse people quickly and safely from town centres to avoid concentrations which may produce disorder and disturbance. The Council will also take into account any protocols agreed between the police and other licensing enforcement agencies.

6.3.6 The Licensing Committee will seek to avoid making decisions that undermine or conflict with planning decisions made in respect of the same premises. The Council's planning and licensing regimes shall be separate and the Licensing Committee will not consider representations that relate to planning rather than licensing issues.

6.3.7 The grant of a premises licence shall not be regarded as an indication that planning permission or building regulations approval has been (or will in the future be) granted. A separate application for planning consent, change of use and/or building regulations approval must always be made. Ideally, planning consent should be obtained before a licensing application is submitted.

6.4 OTHER LEGISLATION

6.4.1 This policy shall avoid duplication with other regulatory regimes wherever possible. In this regard, reference shall be made to the following notes:

6.4.2 HEALTH AND SAFETY

The Council's Environmental Health inspection staff will normally have visited licensed premises to assess/enforce health and safety requirements.

Certain premises will fall outside the responsibility of the Environmental Health Department and will be subject to regulation/enforcement by the Health and Safety Executive (HSE).

Health and Safety regulations impose a range of general and specific duties on employees, employers, operators of venues and members of the public. Matters arising out of the Health and Safety at Work etc Act 1974 and associated regulations will not be addressed by the imposition of licensing conditions unless they are necessary for the promotion of the licensing objectives.

6.4.3 FIRE SAFETY

Operators of licensed premises have duties under various fire safety regulations and the same considerations as above will apply. With each application, the Council will require confirmation from the Fire Authority that there are no outstanding fire safety issues to be resolved.

6.4.4 FOOD HYGIENE

Premises selling alcohol and/or premises engaged in a food business will be registered with Lewes District Council and subject to risk-based food hygiene inspections at regular intervals.

6.4.5 NOISE

Statutory and Public nuisances are dealt with by the Environmental Health Department under the Environmental Protection Act 1990 and associated legislation. Noise from commercial premises may also be covered by this legislation.

6.4.6 WASTE

Complaints relating to the accumulation and storage of waste will be dealt with under the provisions of the Environmental Protection Act 1990 and the Refuse Disposal (Amenity) Act 1978.

6.5 STANDARD CONDITIONS

If a responsible authority and/or interested parties do not raise any representations about a licensing application made to the Council, it is the duty of the Council to grant the Licence or Club Premises Certificate subject only to conditions that are consistent with the operating schedule or club operating schedule and any mandatory conditions prescribed in the 2003 Act itself.

The Council may not therefore impose any conditions unless its discretion has been engaged following the making of relevant representations and it has been satisfied at a hearing of the necessity to impose conditions due to the representations raised. It may then only impose such conditions that are necessary to promote the licensing objectives arising out of consideration of the representations.

The Council may tailor its own conditions or draw from the pool of model conditions contained in the Guidance issued under section 182 of the Act. Those model conditions are annexed to this Statement.

6.6 ENFORCEMENT

6.6.1 Protocols relating to the enforcement of licensing law, public safety and the inspection of licensed premises have been agreed between Sussex Police, East Sussex Fire and Rescue Service and the Licensing Authorities in Sussex. Copies of these protocols can be obtained from the Council's Licensing Officer – see Contact Details at paragraph 9.

6.6.2 Attention is drawn to the targeting of agreed problem and high risk premises requiring greater attention as identified in the protocols. Inspections of premises will be on a risk assessed basis, to be undertaken when and if necessary.

7 TRANSITIONAL ARRANGEMENTS

The Secretary of State has declared that the transitional period will commence on 7 February 2005 (First Appointed Day) and run for a period of nine months until the Second Appointed Day. During this period, applications for personal licences, premises licences and club premises certificates (including variations) may be made alongside the existing regimes. The Council will ensure as smooth, efficient and rapid a transition as possible whilst undertaking developmental work under the new regime. For the sake of national and local economies, transitional provisions are intended to provide the retail, hospitality, leisure and entertainment industries with greater certainty of continued trading without any disincentive to apply for longer hours or wider permissions.

The following points are for information only and are not intended to be an accurate guide to the law.

- Generally, all current holders of justices' licences are entitled to apply for the new personal licence without the need to provide evidence of a criminal record check or of a proper licensing qualification. These applicants have already been judged to be 'fit and proper' people, to sell alcohol by retail, by the licensing justices.
- On and after 7 February 2005 (the First Appointed Day) applications may be made to register the following existing licenses and registrations, together with their current conditions, in order to have them converted to the new premises licences:
- **Alcohol licences**
- **Public Entertainment Licences (PEL's)**
- **Theatre licences**
- **Cinema licences**
- **Late night refreshment house registrations**
- **Night café registrations**
- Registered Members Clubs may similarly apply to convert their registration into club premises certificates.
- Such applications mentioned above (submitted within six months of the First Appointed Day) would have their registered details automatically converted by the Licensing Authority into the new Premises Licence which will have effect from the Second Appointed Day.

- If not intending to keep to existing licence restrictions (closing times, permitted numbers, etc.) current holders may also apply to vary the premises licence (eg hours of trading, terms and conditions) at the same time as above.
- Variation applications will need to follow the new licensing regime's procedures and will require advertising and copying to the relevant responsible authorities (see paragraph 8). If relevant representations are made in respect of these applications then the Licensing Authority will need to hold a hearing to determine whether the application should be granted.
- Prior to the Second Appointed Day, all premises licences and variations granted during the transitional period will in effect be lying dormant until brought into force. Existing licences and permissions will therefore continue to be in force throughout the transitional period. The new and old systems will run in parallel until the transition period is completed and any matters regarding existing licences will be dealt with by existing regimes (magistrates' courts for registered clubs, licensing justices for alcohol licences and The Local Authority for all the others).

8 DETAILS OF RESPONSIBLE AUTHORITIES

As well as applying to the Council in the prescribed manner, copies of each license application must be served on the following authorities by the applicant:

The Chief Officer of Sussex Police
Licensing Officer
Crowborough Police Station
Crowborough Hill East Sussex TN6 2DA
T 0845 6070 999

The Chief Officer, East Sussex Fire and Rescue Service
Fire Safety Department
Uckfield Fire Station
Bell Farm Road
Uckfield East Sussex TN22 1 BA
T 0845 130 8855

Head of Children's Safeguards and Quality Assurance
PO Box 5 East Sussex County Council
County Hall
Lewes East Sussex BN7 1 SW
T 01273 481000

Planning and Environmental Services
Environmental Health
Southover House Southover Road
Lewes East Sussex BN7 1AB
T 01273 471600

Trading Standards (Weights and Measures)
 St Mary's House
 52 St Leonards Road
 Eastbourne East Sussex BN21 3UU
 T 01323 418200

Enforcement Liaison Officer
 HSE
 Phoenix House 23-25 Cantelupe Road
 East Grinstead RH19 3BE
 T 01342 334200

9 CONTACT DETAILS

Members of the public can obtain advice and help about this policy or other matters concerning whether or not activities fall to be licensed by contacting the Licensing Officer, Lewes District Council, Southover House, Southover Road, Lewes BN7 1AB. Telephone **01273 484953** or Fax 01273 484451.

Further information can also be found on the Council's web-site www.lewes.gov.uk

Advice and guidance may also be sought from the Police and Fire and Rescue Service by contacting them direct.

APPENDIX

Model pool of Conditions taken from Guidance issued under section 182 of the Licensing Act 2003

ANNEX D CONDITIONS RELATING TO THE PREVENTION OF CRIME AND DISORDER

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

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

Conditions enforcing these arrangements are therefore unnecessary.

GENERAL

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

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

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

Under no circumstances should the following measures be regarded as standard conditions to be automatically imposed in all cases. They are designed

to provide a range of possible conditions drawn from experience relating to differing situations and to offer guidance.

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

TEXT/RADIO PAGERS

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

Such pagers provide two-way communication, both enabling licence holders, managers, designated premises supervisors and clubs to report incidents to the police, and enabling the police to warn those operating a large number of other premises of potential trouble-makers or individuals suspected of criminal behaviour who are about in a particular area. Pager systems can also be used by licence holders, door supervisors, managers, designated premises supervisors and clubs to warn each other of the presence in an area of such people.

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

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

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

DOOR SUPERVISORS

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

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

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

BOTTLE BANS

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

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

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

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

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

PLASTIC CONTAINERS AND TOUGHENED GLASS

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

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

CCTV

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

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

OPEN CONTAINERS NOT TO BE TAKEN FROM THE PREMISES

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

RESTRICTIONS ON DRINKING AREAS

It may be necessary to restrict the areas where alcoholic drinks may be consumed in premises after they have been purchased from the bar. An example

would be at a sports ground where the police consider it necessary to prevent the consumption of alcohol on the terracing of sports grounds during particular sports events. Such conditions should not only specify these areas, but indicate the circumstances in which the ban would apply and times at which it should be enforced.

CAPACITY LIMITS

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

PROOF OF AGE CARDS

It is unlawful for children under 18 to attempt to buy alcohol just as it is unlawful to sell or supply alcohol to them. To prevent such crimes, it may be necessary to require a policy to be applied at certain licensed premises requiring the production of "proof of age" before such sales are made. This should not be limited to recognised "proof of age" cards, but allow for the production of other proof, such as photo-driving licences, student cards and passports. The Secretary of State strongly supports the PASS accreditation system (see paragraph 12.8 of the Guidance) which aims to approve and accredit various proof of age schemes that are in existence. This ensures that such schemes maintain high standards, particularly in the area of integrity and security, and where appropriate and necessary, conditions may refer directly to PASS accredited proof of age cards, photo driving licences and passports.

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

CRIME PREVENTION NOTICES

It may be necessary at some premises for notices to be displayed which warn customers of the prevalence of crime which may target them. Some premises may be reluctant to volunteer the display of such notices for

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

DRINKS PROMOTIONS

Standardised conditions should not be attached to premises licences or club premises certificates which promote fixed prices for alcoholic drinks. It is also likely to be unlawful for licensing authorities or police officers to promote voluntary arrangements of this kind. This can risk creating cartels. Using conditions to control the prices of alcoholic drinks in an area may also breach competition law. Conditions tailored to the individual circumstances of particular premises which address irresponsible drinks promotions may be permissible provided they are necessary for the promotion of the licensing objectives, but licensing authorities should take their own legal advice before a licence or certificate is granted in that form. Judgements may be subjective, and on occasions, there will be a very fine line between responsible and irresponsible promotions but an even greater distinction to whether the promotion in question can be subject to the imposition of a condition. It is therefore vital that such matters are considered objectively in the context of the licensing objectives and with the benefit of appropriate legal advice.

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

SIGNAGE

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

Similarly, it may be necessary for any restrictions on

the admission of children to be displayed on or immediately outside the premises so that the consequences of breaches of these conditions would also be clear and to deter those who might seek admission in breach of those conditions.

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

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

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

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

ANNEX E CONDITIONS RELATING TO PUBLIC SAFETY (INCLUDING FIRE SAFETY)

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

GENERAL

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

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

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

In addition, to considering the points made in this Annex, those preparing operating schedules or club operating schedules, licensing authorities and responsible authorities should consider:

- Model National and Standard Conditions for Places of Public Entertainment and Associated Guidance ISBN 1 904031 110 (Entertainment Technology Press – ABTT Publications)
- The Event Safety Guide – A guide to health, safety and welfare at music and similar events (HSE 1999) (“The Purple Book”) ISBN 0 7176 2453 6
- Managing Crowds Safely (HSE 2000) ISBN 0 7176 1834 X
- 5 Steps to Risk Assessment: Case Studies (HSE 1998) ISBN 07176 15804
- The Guide to Safety at Sports Grounds (The Stationery Office, 1997) (“The Green Guide”) ISBN 0 11 300095 2
- Safety Guidance for Street Arts, Carnival, Processions and Large Scale Performances published by the Independent Street Arts Network, copies of which may be obtained through: www.streetartsnetwork.org.uk/pages/publications.htm
- The London district Surveyors Association’s “Technical Standards for Places of Public Entertainment” ISBN 0 9531229 2 1

The following British Standards should also be considered:

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

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

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

DISABLED PEOPLE

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

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

ESCAPE ROUTES

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

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

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

SAFETY CHECKS

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

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

CURTAINS, HANGINGS, DECORATIONS AND UPHOLSTERY

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

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

ACCOMMODATION LIMITS

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

- arrangements are made to ensure that any capacity limit imposed under the premises licence or club premises certificate are not exceeded; and
- the licence holder, a club official, manager or designated premises supervisor should be aware of

the number of people on the premises and required to inform any authorised person on request.

FIRE ACTION NOTICES

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

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

OUTBREAKS OF FIRE

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

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

LOSS OF WATER

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

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

ACCESS FOR EMERGENCY VEHICLES

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

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

FIRST AID

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

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

LIGHTING

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

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

TEMPORARY ELECTRICAL INSTALLATIONS

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

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

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

INDOOR SPORTS ENTERTAINMENTS

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

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

ALTERATIONS TO THE PREMISES

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

SPECIAL EFFECTS

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

Special effects which should be considered include:

- dry ice machines and cryogenic fog;
- smoke machines and fog generators;
- pyrotechnics, including fireworks;
- real flame;
- firearms;
- motor vehicles;
- strobe lighting;
- lasers (see HSE Guide The Radiation Safety of lasers used for display purposes [HS(G)95] and BS EN 60825: Safety of laser products);
- explosives and highly flammable substances.

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

ANNEX F

THEATRES, CINEMAS, CONCERT HALLS AND SIMILAR PLACES (PROMOTION OF PUBLIC SAFETY)

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

PREMISES USED FOR CLOSELY SEATED AUDIENCES Attendants

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

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

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

- (b) Attendants shall not be engaged in any duties that would hinder the prompt discharge of their duties in the event of an emergency or entail their absence from that floor or auditorium where they are on duty.
- (c) Any attendant shall be readily identifiable to the audience (but this need not entail the wearing of a uniform).
- (d) The premises shall not be used for a closely seated audience except in accordance with seating plan(s), a copy of which is available at the premises and shall be shown to any authorised person on request.

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

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

STANDING AND SITTING IN GANGWAYS

- (a) Sitting on floors shall not be permitted except where authorised in the premises licence or club premises certificate.
- (b) Waiting or standing shall not be permitted except in areas designated in the premises licence or club premises certificate.
- (c) In no circumstances shall anyone be permitted to
- sit in any gangway;
 - stand or sit in front of any exit; or
 - stand or sit on any staircase including any landings.

DRINKS

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

BALCONY FRONTS

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

SPECIAL EFFECTS

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

Special effects include:

- dry ice machines and cryogenic fog;
- smoke machines and fog generators;
- pyrotechnics, including fireworks;
- real flame;
- firearms;
- motor vehicles;
- strobe lighting;
- lasers (see HSE Guide The Radiation Safety of lasers used for display purposes [HS(G)95] and BS EN 60825: Safety of laser products);
- explosives and highly flammable substances.

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

SCENERY

Any scenery should be maintained flameretardant.

SAFETY CURTAIN

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

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

CEILINGS

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

SEATING

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

PREMISES USED FOR FILM EXHIBITIONS

Attendants – premises without a staff alerting system

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

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

ATTENDANTS – PREMISES WITH A STAFF ALERTING SYSTEM

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

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

- (b) Staff shall not be considered as being available to assist in the event of an emergency if they are:
 - (i) the holder of the premises licence or the manager on duty at the premises; or
 - (ii) a member of staff whose normal duties or responsibilities are likely to significantly affect or delay his response in an emergency situation; or
 - (iii) a member of staff whose usual location when on duty is more than 60 metres from the location to which is required to go on being alerted to an emergency situation.
- (c) Attendants shall as far as reasonably practicable be evenly distributed throughout all parts of the premises to which the public have access and keep under observation all parts of the premises to which the audience have access.
- d) The staff alerting system shall be maintained in working order.

MINIMUM LIGHTING

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

FLAMMABLE FILMS

No flammable films should be allowed on the premises without the prior notification of the licensing authority/fire authority.

ANNEX G

CONDITIONS RELATING TO THE PREVENTION OF PUBLIC NUISANCE

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

GENERAL

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

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

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

HOURS

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

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

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

NOISE AND VIBRATION

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

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

NOXIOUS SMELLS

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

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

LIGHT POLLUTION

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

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

ANNEX H

CONDITIONS RELATING TO THE PROTECTION OF CHILDREN FROM HARM

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

ACCESS FOR CHILDREN TO LICENSED PREMISES – IN GENERAL

Restrictions on the access of children under 18 to premises where licensable activities are being carried on should be made where it is necessary to protect children from harm. Precise policy and details will be a matter for individual licensing authorities. Conditions attached to premises licences and club premises certificates may reflect the concerns of responsible authorities and interested parties who have made representations but only where the licensing authority considers it necessary to protect children from harm. Whilst applications in relation to premises licences and club premises certificates must be judged by licensing authorities on their individual merits and characteristics, the Secretary of State recommends (unless there are circumstances justifying the contrary) that:

- for any premises with known associations (having been presented with evidence) with or likely to give rise to heavy or binge or underage drinking, drugs, significant gambling, or any activity or entertainment (whether regulated entertainment or not) of a clearly adult or sexual nature, there should be a strong presumption against permitting any access at all for children under 18 years. Applicants wishing to allow access for children to premises where these associations may be relevant, when preparing operating schedules or club operating schedules or variations of those schedules for the purposes of obtaining or varying a premises licence or club premises certificate should:
 - explain their reasons; and
 - outline in detail the steps that they intend to take to protect children from harm on such premises.
- for any premises, not serving alcohol for consumption on the premises, but where the public are allowed on the premises after 11.00pm in the evening, there should be a presumption against the presence of children under the age of 12 unaccompanied by adults after that time. Applicants wishing to allow access when preparing operating schedules or variations of those schedules or club operating schedules for the purposes of obtaining or varying a premises licence or club premises certificate should:
 - explain their reasons; and
 - outline in detail the steps that they intend to take to protect children from harm on such premises.
- in any other case, subject to the premises licence holder's or club's discretion, the expectation would be for unrestricted access for children subject to the terms of the 2003 Act. An operating schedule or club operating schedule should indicate any decision for the premises to exclude children completely, which would mean there would be no need to detail in the operating schedule steps that the applicant proposes to take to promote the protection of children from harm. Otherwise, where entry is to be permitted, the operating schedule should outline the steps to be taken to promote the protection of children from harm while on the premises.

AGE RESTRICTIONS – SPECIFIC

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

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

AGE RESTRICTIONS – CINEMAS

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

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

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

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

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

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

THEATRES

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

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

PERFORMANCES ESPECIALLY FOR CHILDREN

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

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

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

CHILDREN IN PERFORMANCES

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

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

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

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

promotion of alcohol products sold in licensed premises in a manner which may appeal to or attract minors.

Where appropriate and necessary, consideration can be given to attaching conditions to premises licences and club premises certificates that require compliance with the Portman Group's Retailer Alert Bulletins.

PROOF OF AGE CARDS

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

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