

**LICENSING ACT 2003**

**EASTBOURNE BOROUGH COUNCIL STATEMENT  
OF LICENSING POLICY 2024-2029**

Eastbourne Borough Council  
Town Hall  
Grove Road  
Eastbourne  
East Sussex  
BN21 4UG

[customerfirst@eastbourne.gov.uk](mailto:customerfirst@eastbourne.gov.uk)

Tel no: 01323 410000

## Summary

This is the Statement of Licensing Policy as determined by the Council in respect of its licensing functions, with regard to the Licensing Act 2003. This document sets out the position and view of the Licensing Authority in respect of matters in connection with the discharge of its licensing function.

This Statement of Licensing Policy commences XXXXXXX and continues for a five year period. During the five year period the Policy will be kept under review and the Authority will make such revision to it as it considers appropriate. Further licensing statements will be published every five years thereafter or earlier as necessary.

All references to the Guidance refer to the latest version of the Home Office Guidance to Licensing Authorities issued under section 182 of the Licensing Act 2003.

The Policy explains the approach the Council intends to take in order to meet the four Licensing Objectives stated in the Act as follows: -

- The Prevention of Crime and Disorder;
- Public Safety;
- The Prevention of Public Nuisance; and
- The Protection of children from Harm.

The aims of this Statement of Licensing Policy, in line with the four licensing objectives, are to:

- Minimise nuisance and disturbance to the public through the licensing process
- Help build a fair and prosperous society that balances the rights of people and their communities
- Integrate its aims and objectives with other initiatives:
  - i. Reduce crime and disorder
  - ii. Encourage tourism
  - iii. Encourage an early evening and night time economy which is viable, sustainable and socially responsible
  - iv. Reduce alcohol misuse
  - v. Encourage employment
  - vi. Encourage the self-sufficiency of local communities
  - vii. Reduce the burden of unnecessary regulation on business
  - viii. Encourage and promote live music, dancing and theatre for the wider cultural benefit of communities generally

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## 1.0 Introduction and Purpose

- 1.1 Eastbourne Borough Council (the Council) is the Licensing Authority under the Licensing Act 2003 (the Act) and is responsible for granting premises licences, club premises certificates, temporary event notices and personal licences in the Borough in respect of the sale and/or supply of alcohol, the provision of regulated entertainment and late-night refreshment.
- 1.2 The Act requires the Licensing Authority to publish a 'Statement of Licensing Policy' which sets out the policies the Licensing Authority will generally apply to promote the Licensing Objectives.
- 1.3 This Statement of Licensing Policy has been prepared in accordance with the provisions of the Act and [Government Guidance under Section 182](#) of the Act, as revised in [December 2023](#).
- 1.4 Licensing is about the regulation of licensed premises, qualifying clubs and temporary events within the terms of the Act. Conditions, where attached to the various permissions, will focus on matters that are within the control of individual operators and others granted relevant permissions.
- 1.5 The licensable activities as defined by the Act include:
- Sale and/or supply of alcohol
  - The provision of regulated entertainment which includes:
    - i. The performance of a play
    - ii. An exhibition of a film
    - iii. An indoor sporting event
    - iv. Boxing or wrestling entertainment
    - v. A performance of live music
    - vi. Performance of dance
    - vii. Entertainment of a similar description to a performance of live music, any playing of recorded music or a performance of dance
    - viii. Provision of late night refreshment, limited to hot food or hot drink between 23.00 - 05.00
- 1.6 Following the introduction of the Live Music Act 2012, the legislative reform (Entertainment Licensing) Order 2014 and the Deregulation Act 2015, a licence is not required to stage a performance of live music, or the playing of recorded music if:
- It takes place between 8am and 23:00; and
  - It takes place at an alcohol on licensed premises; and
  - The audience is no more than 500 people

You also do not need a licence

- To put on unamplified live music at any place between the same hours; or

- To put on unamplified live music at a workplace between the same hours and provided the audience is no more than 500 people

1.7 The types of premises likely to be included within the licensing regime include:

- Pubs and night clubs
- Off licences (includes supermarkets/shops selling alcohol)
- Restaurants serving alcohol
- Restaurants serving hot food and drink after 23:00
- Private members clubs/social clubs
- Hotels/guest houses selling alcohol
- Cinemas/theatres
- Community premises and village halls
- Providers of temporary events involving licensable activities and any other premises at which licensable activities are to be provided

1.8 The Policy will apply across a range of applications which include the following;

- New premises Licences and Club Premises Certificates
- Variations to Premises Licences and Club Premises Certificates
- Provisional Statement for proposed premises yet to be built
- Transfer of Premises Licences
- Disapplication of mandatory condition in respect of alcohol sales at community premises
- Variations of licences to change the Designated Premises Supervisor
- Reviews of Premises Licences and Club Premises Certificates
- Personal Licences
- Temporary Events Notices

1.9 The Licensing Authority also regulates other activities at licensed premises which include gambling this is outlined in the [Eastbourne Borough Council Gambling Policy](#) .

1.10 Consultation

The Statement of Licensing Policy will be kept under review and where any significant amendments are considered necessary these will only be made after consultation have taken place in accordance with section 5 of the Licensing Act 2003. Amendments required due to a change in legislation that do not impact on the aims and objectives will be made by Lead for Regulatory Services in consultation with the Chair of the Licensing Committee, In order for Policy to remain legislatively correct

Proper weight in accordance with the Guidance, has been given to the views of all those consulted. Those consulted in the preparation of the Policy included:

- The Chief Office of Police in Sussex
- The Superintendent of Police for the Eastbourne Borough Area
- The Fire and Rescue Service for Eastbourne Borough Area

- One or more person who appear to the authority to represent the interested of persons carrying on licensed businesses in the council area
- One or more persons who appear with the authority to represent the interests of persons who are likely to be affected by the exercise of the authorities functions under the Act
- Any other bodies the council deemed appropriate

## **2.0 Statement of Guiding Principles**

2.1 In carrying out its licensing functions, the Licensing Authority will aim to promote the four Licensing Objectives set out in Section 4 of the Act:

- The Prevention of Crime and Disorder
- Public Safety
- The Prevention of Public Nuisance
- The Protection of Children from Harm

2.2 This Policy is not intended to duplicate existing legislation and regulatory regimes that already place obligations on employers.

2.3 Conditions attached to licences and certificates will be tailored to the individual style and characteristics of the premises, and the events concerned. Conditions will relate to the licensing objectives and will be restricted to matters within the control of individual licence holders.

2.4 All relevant representations will be considered during the decision-making process, unless they are considered to be frivolous, vexatious or repetitious.

2.5 Each application will be considered on its own merits. Nothing in this Policy will undermine the right of any individual to apply for the variety of permissions needed to operate or the right of any person to make representations on an application or to seek a review of a licence or certificate where provision has been made for them to do so in the Licensing Act 2003.

### 3.0 GUIDING PRINCIPLES

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.

#### 3.1 PRINCIPLE 1

3.1.1 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 18.0 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.

3.1.2 This is intended to:

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

3.1.3 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 Section and the Police as well as taking into account local planning and transport policies, tourism, cultural and crime prevention strategies and local social demographic characteristics when preparing application and operation schedules which will be of benefit to the Licensing Authority when determining the application. Guidance regarding these policies and other specific local matters can be obtained from the Council's Licensing Section.

3.1.4 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 licences in particular should address these issues within their respective operating schedules
- good quality training for staff employed within the licensing trade and the obtaining of the accredited licensing qualification for bar staff and personal licence holders. The Council believes that proper staff training plays an important role in the promotion of the licencing 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.

3.1.5 Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the licence holder the club or responsible person concerned. Nonetheless, it is a key aspect of such control and licensing plays a part in the management of the night-time economy. 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 licenced 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.
- 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 and the confiscation of alcohol from adults and children in such designated places
- Liaise with Police over the enforcement of 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 or under age
- Work in partnership with Police to utilise powers to close down instantly for up to 24 hours any licensed premises or temporary event on grounds of disorder, the likelihood of disorder, or noise emanating from the premises causing a nuisance.
- The Licensing Authority does not anticipate granting permission for outside patio/garden areas to be used by the public beyond 2300 hours throughout the borough other than in exceptional circumstances. We do not consider a record of good management or financial considerations to constitute exceptional circumstances.

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

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

## 3.2 PRINCIPLE 2

3.2.1 The Council acknowledges that **staggered closing hours** can help to ensure that the number of people leaving licensed premises at the same time is reduced.

3.2.2 This is intended to:

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



- 3.2.3 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 simultaneously is avoided. Fixed and artificially early closing times can 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.
- 3.2.4 However, there is no general presumption in favour of lengthening licensing hours. The four licensing objectives will be paramount considerations at all times and each case judged on its individual merits.
- 3.2.5 Any person has a right to make representations concerning applications for premises licences and club certificates and hours of trading and to have those representations given due regard.
- 3.2.6 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 and the rights of residents to peace and quiet
  - 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 in cases where there are good grounds for believing that the licensing objectives will be or are being undermined

### 3.3 PRINCIPLE 3

- 3.3.1 The Council will limit the access of children to licenced premises where this is necessary to protect them from harm.
- 3.3.2 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
- 3.3.3 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.
- 3.3.4 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

3.3.5 Complete bans will be rare, but the options for limiting the access of children, where appropriate, 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

3.3.6 The Council will not impose conditions that require licensed premises to admit children. Where it is not appropriate for a licensing restriction the decision to admit children will be a matter for the discretion of the individual licensee or club.

3.3.7 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 or the Local Authority.

3.3.8 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.

## **4.0 Local Features**

4.1 Eastbourne is a thriving seaside town and a spectacular gateway to the South Downs National Park and beauty spot, Beachy Head. It has a resident population of approximately 103,000 persons.

4.2 Eastbourne has five miles of beaches, an extensive marina complex and over 4,000 acres of South Downs countryside. Tourism is crucial to this cosmopolitan area and is Eastbourne's primary industry.

4.3 One of the largest accommodation stocks in the South East. The town stages a busy events programme which includes international tennis, theatre shows direct from the West End and an international four-day air show, Airbourne, bringing over 800,000 visitors.

## 5.0 OTHER CONSIDERATIONS

### 5.1 Live Music, Dancing & Theatre

5.1.1 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 the few to predominate over the general interests of the community.

5.1.2 The Council will only attach licence conditions that are reasonable, proportionate and appropriate for the promotion of the licencing 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.

5.1.3 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.

### 5.2 Shops, Stores and Supermarkets

5.2.1 Shops, stores and supermarkets will generally be permitted to sell alcohol for consumption off the premises throughout the period they are open for general trading, unless there are good reasons, based on the licensing objectives, for restricting those hours.

5.2.2 In certain circumstances, however, it may be appropriate to impose a limitation, for example, when representations are received.

5.2.3 Mindful of the details contained in Principles 1,2 and 3 we do not anticipate granting permission to such establishments (described in 6.2.1) for the sale of alcohol outside the hours of 0600hrs to 2300hrs save in exceptional circumstances. We do not consider a record of good management or financial considerations to constitute exceptional circumstances.

5.2.4 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.

5.2.5 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.

### 5.3 Integration of Strategies

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

- Having regard to the Lead Agency Protocol drawn up between Sussex

Police, Local Authorities, the Fire and Rescue Service and Trading Standards.

- Liaising and consulting with Sussex Police, with the Community Safety 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 Planning Authorities
- Liaising and consulting with the Highway Authority
- Liaising and consulting with the East Sussex Healthcare NHS Trust
- Liaising and consulting with UK Visas and Immigration
- 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
- **Liaising and consulting with East Sussex County Councils Public Health**
- Having regard to any future guidance issued in relation to the Private Security Industry Act 2001 including any liaison or information sharing protocols.

5.3.2 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 Private Security Industry Act 2001
- specialised lighting requirements
- restrictions on hours opening

5.3.3 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 public spaces protection orders and guidelines that regulate street drinking.

5.3.4 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 licenced premises are designed and run in a way that maximises the safety of customers and staff.

5.3.5 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 licencing enforcement agencies.

5.3.6 The Council's planning and licencing regimes are separate, they involve

consideration of different (albeit related) matters. The Licencing Committee will not consider representations that relate to planning rather than licencing issues and will not be bound by decisions that are made by the Planning Committee, and vice versa.

5.3.7 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 licencing application is submitted.

#### 5.4 Other Legislation

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

##### 5.4.2 Health And Safety

The Council's Environmental Protection inspection staff will normally have visited licenced premises to assess/enforce health and safety requirements. Certain premises will fall outside the responsibility of the Environmental Protection Team 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 licencing conditions unless they are appropriate for the promotion of the licencing objectives.

##### 5.4.3 Smoking

The Health Act 2006 introduced the smoke free provisions that protect employees and the public from the harmful effects of second hand smoke. The Council will be responsible for enforcing these provisions and will offer information advice and support to businesses so they can meet their legal obligations. Managers of licensed premises will have a legal responsibility to prevent smoking.

##### 5.4.4 Fire Safety

Operators of licensed premises have duties under various fire safety regulations and the same considerations as above will apply.

##### 5.4.5 Food Hygiene

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

##### 5.4.6 Noise

Statutory and Public nuisances are dealt with by the Environmental Protection

Team under the Environmental Protection Act 1990 and associated legislation. Noise from commercial premises may also be covered by the legislation.

#### 5.4.7 Waste

Complaints relating to the accumulation and storage of waste will be dealt with by the Council under the provisions of any appropriate legislation.

### **6.0 Licensing Authority general policy considerations**

- 6.1 The Licensing Authority encourages the development of premises which are not alcohol led and which are aimed at different sectors of the population, including age and gender. Premises that promote the arts, a food offer, or other cultural activities are particularly encouraged
- 6.2 Where premises such as pubs are alcohol- based, they are encouraged to consider diversifying their provisions so as to encourage a mixed customer- base and wider attractions, including community uses, soft refreshments, snacks and live entertainment. Diversification is important in the promotion of the licensing objectives as well as ensuring a sustainable economic future for premises.
- 6.3 The Licensing Authority recognises the need to promote and encourage live and recorded music, dancing, theatre and other forms of entertainment for the wider cultural benefit of communities generally. The potential for limited disturbance in neighbourhoods will be carefully balanced with the wider benefits.
- 6.4 The Licensing Authority expects applicants to have researched and understood the relevant law and the area surrounding the vicinity of the proposed premises, in relation to their application and their particular business plans as well as this policy.
- 6.5 Supermarkets and other “Off” licensed premises selling alcohol. The Licensing Authority will generally consider licensing, shops, stores and supermarkets to sell alcohol for consumption off the premises throughout opening times. However where there are reasons for restricting or amending hours, for example, where premises become the focus of disorder and /or disturbance such restrictions or amendments will be considered where relevant representations have been made.
- 6.6 All Off licensed premises must comply with the Licensing Act 2003 Mandatory Conditions order in relation to age related sales. The Licensing Authority also expects such premises to implement additional measures to prevent and deter proxy sales on behalf of under 18's
- 6.7 Licensees should also carefully consider alcohol sales to customers who have or appear to have alcohol related health issues, and whether those customers appear to be under the influence of alcohol when attempting to make purchases.
- 6.8 The Licensing Authority expects adequate checks to be made and all reasonable steps taken to ensure alcohol delivered by way of online shopping services (as provided by most large supermarket chains) is not delivered to minors to prevent a risk of underage consumption. Therefore the authority requests that as part of

the application the Operating Schedule should include the procedures the applicant is intending to operate to ensure the following:

- The person they are selling alcohol to is over the age of 18
- That alcohol is only delivered to a person over the age of 18
- That a clear document trail of the order proceed from order, despatch from the licensed premises and delivery to the customer is maintained (with times and signatures) and available for inspection by an authorised officer
- The time that the alcohol deliveries/despatch takes place. This is to assist with the prevention of public nuisance to the neighbouring properties

- 6.9 Where self-pay till points are made available in stores selling alcohol, provision, must be included for alcohol sales to be identified and approved prior to completion of the purchase.
- 6.10 Designated Premises Supervisor (DPS) at alcohol licensed premises. Whilst this role has a limited definition under the Licensing Act 2003, it is expected that this person nominated on a licence will have overall responsibility for the day to day management and control of the licensed premises and in particular be responsible for the safe receipt, storage and sale of alcohol.
- 6.11 The Licensing Authority expects the DPS to provide training to staff in relation to alcohol sales and to authorise the employees the DPS considers competent to sell alcohol on their behalf in writing
- 6.12 The Licensing Authority may wish to satisfy itself that the premises in question can be effectively managed by that person whilst responsibly promoting the licensing objectives.
- 6.13 Film Exhibitions the Licensing Authority expects Licence and Club Certificate holders to include in their operating schedules arrangements for restricting children from viewing age restricted films classified according to the recommendations of the British Board of Film Classification or the licensing authority itself.
- 6.14 It is acknowledged the implementation of the Live Music Act in 2012 has resulted in a lighter touch regulation of live music up to 11pm on alcohol licensed premises, and this is seen as a positive approach for premises wishing to provide live music. However, the Licensing Authority does not see this as an opportunity for licensees to provide live music events that cause nuisance and disturbance to local residents or businesses
- 6.15 The Licensing Authority expects that where unregulated live music is proposed at licensed premises, all due care and consideration is taken to prevent disturbance. The council will consider using its powers under the Environmental Protection Act 1990 to prevent and control public nuisance caused by poorly managed live music at licensed premises.
- 6.16 The Legislative reform (Entertainment Licensing) Order 2014 and the Deregulation Act 2015 has reduced the regulatory control on some regulated entertainment however the Licensing Authority will expect licence holders to

ensure that no nuisance or disturbance is caused to local residents and businesses when providing the deregulated activities. The Licensing Authority will consider using alternative powers.

- 6.17 Late Night Levy (LNL) Whilst it is acknowledged that the provisions for implementing a late night levy arise from the Police Reform and Social Responsibility Act 2011, any levy will potentially have a direct impact on all licensed premises within the borough. The Licensing Authority has considered the options around the imposition of a LNL but has no plans, at this time, of reviewing this policy. Should evidence arise to support implementing a levy the statutory consultation process will be followed and the authority will very carefully use its discretion in relation to design and impact of a levy.
- 6.18 In advance of any decision to implement a LNL, this authority will enter into discussions with the Police to agree the allocation of the Police share of the levy to support the policing of the night-time economy within this Borough.
- 6.19 The licensing legislation is not the primary mechanism, for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and therefore beyond the direct control of the individual, club or business holding the licence certificate or authorisation.
- 6.20 The use of a licensed premises or place, may be subject to planning controls. This is a separate regulatory regime outside the scope of the Licensing Act 2003. The Licensing Authority recognises that there is no legal basis for refusing a licence application in the absence of any planning permission for the business to which the licence application relates.
- 6.21 Need concerns the commercial demand for particular licensed premises such as a pub club or hotel. This is a 'market forces' matter and is not of concern to the Licensing Authority. Cumulative Impact means the potential impact on the promotion of the licensing objectives by a significant or excessive number of licensed premises concentrated in one locality. This is a matter for consideration by the Licensing Authority.
- 6.22 The Licensing Authority acknowledges that a concentration of some types of licensed premises in a locality can result in increased footfall. Congregation of the public in the streets and potential for increased crime and disorder, litter and antisocial behaviour, as well as noise nuisance to local residents. This would be a result of the presence of the number of premises and not attributable to individual businesses.

## **7.0 Responsible Authorities and other persons**

- 7.1 Responsible authorities are public bodies that are statutory consultees that must be notified of applications by the applicant. The full list of contact details can be found at Appendix 3 and are contained on Eastbourne Borough Council website.
- 7.2 When dealing with applications for licences and reviews of premises licences, the Licensing Authority is obliged to consider representations from two categories of persons, referred to as 'Responsible Authorities' and other person. This allows for



a broad range of people to comment both for and against applications for premises licenses and club premises certificates and for reviews.

7.3 The Licensing Authority may only consider representations that are relevant. In that they relate to the promotion of the licensing objectives, or that they raise issues in relation to this Statement of Licensing Policy or Home Office Guidance

7.4 The Licensing Authority will examine closely representations to ensure that they are not frivolous, repetitive or vexatious. Matters that this authority will look at are likely to include:

- Who is making the representation, and whether there is a history of making representations that are not relevant or which have been previously considered vexatious or frivolous:
- Whether the representation raises issues specifically to do with the premises and/or the licensable activities that are the subject of the application

7.5 Nothing in this Policy should be taken to undermine the right of any person to make a representation on an application or to seek a review of a licence where provision to do so exists.

7.6 The Director of Public Health as a Responsible Authority. It is acknowledged that they may be useful in providing evidence of alcohol related health harms that are directly linked to premises or a cluster of premises. Public Health may also be able to provide relevant information on alcohol related admissions and sickness that relate to specific licensed premises.

7.7 The Licensing Authority as a Responsible Authority. The Licensing Authority has carefully considered its role as a Responsible Authority under the Act. It will achieve a separation of responsibilities through procedures and approved delegations within the authority to ensure procedural fairness and eliminate conflicts of interest. A separation is achieved by allocating distinct functions (i.e. those of Licensing Authority and Responsible Authority)

7.8 The Licensing Authority does not expect to act as a Responsible Authority on behalf of third parties but accepts that there may be rare circumstances where this approach may be required. An example may be where matters arise at premises of which the licensing authority is aware that impact negatively on the promotion of the licensing objectives and residents, and other third parties are unwilling or unable to either request a review or make a representation.

## 8.0 Exchange of Information

8.1 The Licensing Authority will act in accordance with the provisions of the Licensing Act 2003, the General Data Protection Regulations (GDPR) and the Data Protection Act 2018 in its exchange of information with other regulatory bodies, any such protocol will be made publicly available.

## **9.0 Human rights and Equalities opportunities**

- 9.1 The Human Rights Act 1998 makes it unlawful for a local authority to act in a way which is incompatible with the European Convention on Human Rights. In making decisions and determining appropriate action the council will have due regard to the Human Rights 1998 Act. The Licensing Authority will interpret the Licensing Act 2003 in a manner consistent with the Human Rights 1998 Act.
- 9.2 The Licensing Authority will consider the effect upon peoples human rights and adopt a principle of proportionality and the need to balance the rights of the individual with the rights of the community as a whole. Action taken by the council which affects rights must be no more onerous than is necessary in a democratic society.
- 9.3 The Equality Act 2010 requires public bodies to consider all individuals when carrying out their functions – in shaping Policy, in delivering services and in relation to their own employees. It requires public bodies to have due regard to the need to eliminate discrimination, advance quality of opportunity, and foster good relations between different people when carrying out their activities.
- 9.4 The Equality Duty supports good decision making – it encourages public bodies to understand how different people will be affected by their activities, so that their policies and services are appropriate and accessible to all and meet different people’s needs. By understanding the effect of their activities on different people and how inclusive public services can support and open up people opportunities, public bodies can be more efficient and effective.
- 9.5 Immigration Act 2016 and the Modern Slavery Act 2015 – The Licensing Authority has responsibilities the relates to the prevention of immigration crime, specifically the prevention of illegal working in licensed premises. Licences must not be issued to people who are illegally present in the UK, who are not permitted to work, or who are permitted to work but are subject to a condition that prohibits them from doing work relating to the carrying on of a licensable activity.
- 9.6 These provisions apply to premises licence for alcohol and late night refreshment, (but not entertainment only licences) and personal licences. Other types of authorisation under the Licensing Act 2003 (Club premises certificates and temporary event notices are not covered).

## **10.0 Compliance and enforcement**

- 10.1 There are a range of offences detailed under Part 7 of the Licensing Act 2003. The Licensing Authority will liaise with the Responsible authorities to determine enforcement of specific offences in a case by case basis. Offences related to sales of alcohol to minors will be enforced by the Police or Trading Standards Authority unless they form part of a range of offences identified by the Licensing Authority.
- 10.2 The Licensing Authority has an approved Enforcement Policy which complies with the Regulatory Compliance Code.

10.3 A risk based inspection programme is in place, which includes the targeting of high risk premises which require greater attention, whilst operating a lighter touch in respect of low risk and well managed premises. The risk-based approach is based on Home Office Guidance, the activities authorised and premises compliance history.

10.4 The authority acknowledges that where annual fee payments for premises licences or club premises certificates are not made it must notify the holder in writing and specify the date on which the suspension takes effect; this date must be at least two working days from receipt of letter

## 11.0 Decision Making Process

11.1 The types of applications/notices covered by the Act and relevant to this policy include:

- Personal licences
- New Premises licence applications
- Provisional statements
- Full and Minor Variations to Premises Licence
- Transfers
- Temporary Event Notices
- Interim Authorities
- Reviews
- Club Premises Certificates
- Matters involving the Designated Premises Supervisor

11.2 Licensing decisions and functions may be taken or carried out by the Licensing Committee of Eastbourne Borough Council, except for those relating to the making of a Statement of Licensing Policy, or delegated to the Licensing Sub-committee, or in appropriate cases to authorised Officers of the Authority.

11.3 Many of the decisions will be largely administrative and it is anticipated that authorised Officers will make them, in the interests of speed, efficiency, and cost effectiveness.

11.4 The terms of delegation of licensing functions are set out below.

Matter to be dealt with	Full Licensing Committee	Sub-committee	Officers
Application for personal licence		If the police or immigration enforcement give an objection	If no objection notice is given by the police or immigration enforcement
Decision whether to suspend or revoke a personal licence		All cases	

Application for personal licence with unspent convictions		If a police objection	
Application for premises licence/club premises certificate		If relevant representation	If no relevant representation made or all representations made are withdrawn
Application for provisional Statement		If relevant representation made	If no relevant representation made or all representations made are withdrawn
Application to vary premises licence/club premises certificate		If relevant representation made	If no relevant representation made or all representations made are withdrawn
Application to vary designated premises supervisor.		If a police or immigration enforcement objection	All other cases
Request to be removed as designated personal licence holder.			All cases
Application for transfer of premises licence		If a police or immigration enforcement objection	All other cases
Application for interim authorities		If a police or immigration enforcement objection	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 local authority is a consultee and not the relevant authority			All cases

considering the application.			
Minor Variation			All cases
Determination of a police or Environmental Protection objection to a temporary event notice.		All cases	

11.5 The power to grant licences and permissions includes the power to renew, vary, refuse, suspend or revoke such licence or permission and the power to impose conditions.

11.6 The role of the Licensing Authority is primarily to regulate the carrying on of licensable activities. It recognises the differing specific interests of those involved in the licensed trade, the carrying out of those activities and their likely impact. The Licensing Authority is keen to ensure that the licensing objectives are promoted, taking account of the wider interests of the community.

11.7 Due consideration should be given to appropriate counterterrorism measures or advice when considering licence applications. It is particularly relevant to consider conditions around health care provision in this regard.

## 12.0 Integration and the Promotion of Other Strategies

12.1 The Licensing Authority shall secure the proper integration of this Policy with local crime prevention, planning policy, transport, tourism and cultural strategies by undertaking a range of functions including: -

- Liaising and consulting with the East Sussex Fire & Rescue Service;
- Liaising and consulting with the Local Strategic Partnerships, Safety Advisory Groups and other Community Safety Partnerships;
- Liaising and consulting with the Planning and Highways Authority;
- Liaising and consulting with tourism, stakeholder groups, such as the Business Forum and the economic development functions for the Council;
- Having regard to any future documents issued relating to the Private Security Industry Act 2001, for example liaison or information sharing protocols;
- Liaising and consulting with the Trading Standards Team, for example with regard to test purchasing codes of practice;
- Liaising and consulting with Public Health in relation to Alcohol Harm Strategies, online ordering and delivery. Taking into consideration ESCC Health and Wellbeing Strategy and Integrated Care Strategy
- Liaising and consulting with the Sussex Police, Community Safety Partnerships and following the guidance in community safety and crime

and disorder strategies;

- Having regard to local and national strategies to promote safer socialising, responsible drinking and alcohol treatment services.

12.2 The Licensing Authority shall have due regard to the need to eliminate unlawful discrimination, and to promote equality of opportunity and positive relations between persons of diverse backgrounds, in line with statutory requirements and the Council's Equality and Fairness Strategy. This includes communities of interest such as; disabled people; racial and ethnic groups and faith groups.

12.3 The Policy supports the Eastbourne Tourism Strategy. It recognises the benefits for the local economy of creating a safe and more attractive town centre. The Licensing Committee may receive any reports relevant to the needs of the local economy for the area in order to ensure that it considers all relevant matters. It may also receive information relating to the employment within the Borough, and the demand for new investment and employment where appropriate.

### **13.0 Other Regulatory Regimes and Avoidance of Duplication**

13.1 This Policy avoids duplication with other regulatory regimes wherever possible.

The following are generally considered under separate regimes:

- **Health and Safety:** Certain premises will be the subject of health and safety enforcement by the Local Authority or the Health and Safety Executive (HSE). If other existing law already places certain statutory responsibilities on an employer or operator of premises, for example the Management of Health and Safety at Work Regulations 1999, it will not be necessary to impose the same or similar duties on the premises licence holder or club under the Licensing Act 2003.

13.2 However, existing duties will not always adequately cover specific issues that arise on the premises in connection with, for example, certain types of entertainment. Additional conditions or supplementary measures may be considered appropriate to effectively promote the licensing objectives.

- **Fire Safety:** Premises and their operators must have regard to current fire safety regimes and the Regulatory Reform (Fire Safety) Order 2005.
- **Food Hygiene:** Licensed premises engaged in a food business will be registered and subject to risk-based food hygiene inspections by the Council's Specialist Advisors.
- **Noise:** Statutory and Public nuisances are dealt with by the Council's Specialist Advisors and Customer Case Workers under the Environmental Protection Act 1990 and associated legislation. Noise from commercial premises may often fall under this regime in addition to closure powers as set out in other legislation designed to control the conduct of licensed premises.
- **Public Sector Equality Duty:** requires public authorities, in the exercise of their functions, to have due regard to the need to: eliminate unlawful

discrimination, victimisation and harassment; advance equality of opportunity; and foster good relations between people who share a relevant protected characteristic and those who do not share it. The local authority has a written statement in regard to these obligations which this Statement of Licensing Policy has taken account of.

- **Community Relations:** Integration of corporate strategies with the Policy recognises the Council's role, as a community leader, to promote community cohesion and good relations between diverse communities.
- **Anti-social Behaviour, Crime and Policing Act 2014:** Provides that if the noise and/ or disorder from any licensed premises is causing a public nuisance, an authorised Officer has the power to issue a closure order in respect of it effective for up to 24 hours. This complements the Police powers under the act to close licensed premises for temporary periods for violent or disorderly conduct.
- **Litter and Smoking:** Authorised Officers of the Council have powers to enforce premises operators' responsibilities under smoke free legislation and duties to keep external areas clear of litter.
- **Equality Act 2010:** Applicants for new premises, or for variations involving changes to the layout of premises, must have regard to this legislation.
- **Gambling Act 2005:** Where the principal purpose is gaming, the sale of alcohol and the provision of entertainment in such premises is generally incidental to gaming. However, in some instances, permissions may be required under the Licensing Act. Applicants will have regard to the licensing objectives of both regimes, but duplication of conditions will be avoided where possible.
- **Planning:** The Licensing Authority will not duplicate matters considered as part of a planning application. Licensing decisions will take into account any relevant planning decisions and will not normally cut across this. It is for individuals to ensure that they have the relevant planning permission in place before trading.

## 14.0 Trading Hours

14.1 The Licensing Authority recognises that **staggered closing hours** can contribute to easing crime and disorder by avoiding large concentrations of customers leaving premises simultaneously. This, in turn, reduces congestion and potential conflict at other locations, for example, taxi ranks and fast-food outlets.

14.2 This Policy does not set fixed trading hours and does not seek to artificially introduce staggered closing times. The Council will consider each particular case on its merits having regard to representations, including:

- Are the licensed activities likely to cause an adverse impact on local residents and businesses, for example crime, noise and disturbance. If there is potential to cause an adverse impact, what, if any, measures will be put in place to prevent it;
- Will there be a substantial adverse increase in the cumulative impact from these or similar activities, on adjacent residential areas;
- Is there a suitable level of public transport and taxi/private hire provision

- accessible at the appropriate times to facilitate dispersal of patrons;
- The representations of the Police, or other relevant agency or representative.

14.3 The Licensing Authority will closely scrutinise extended hours applications to ensure that the Licensing Objectives are met.

14.4 The Licensing Sub-Committee may decide that the circumstances are such that a restriction on hours is the only appropriate means to promote the Licensing Objectives.

14.5 It will be the normal Policy of the Licensing Authority to allow shops, and supermarkets to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping, unless there is evidence for restricting hours.

14.6 [The government has extended temporary off-sales until 31 March 2025 in order to continue to provide vital support to the hospitality sector.](#)

## **15.0 The Operating Schedule**

15.1 The Operating Schedule sets out how the premises propose to operate when carrying on licensable activities. It also enables the Licensing Authority, any Responsible Authority or any other person to assess whether the steps taken to promote the licensing objectives are satisfactory. It must include the following information:

- the licensable activities to be conducted and whether these are on or off the premises
- the proposed hours during which the relevant licensable activities are to take place
- the proposed hours that the premises are to be open to the public
- the duration of the licence (if it is to have a fixed term)
- details of who is to be the designated premises supervisor if the licensable activities include the sale or supply of alcohol
- where alcohol is to be supplied, whether the supplies are proposed to be for consumption on and/or off premises
- Details of the type of any regulated entertainment to be provided
- The Operating Schedule, detailing the steps the applicant proposes to take to promote the Licensing Objectives

15.2 The Licensing Authority will seek to ensure that licensed premises are designed and run in a way which promotes the licensing objectives. Applicants are advised that Operating Schedules should be considered by professional experts in the relevant field and that applicants consult with all Responsible Authorities when Operating Schedules are being prepared. This may limit opportunities for dispute and negate the need for hearings.

15.3 In order to minimise representations and the necessity for hearings, applicants



are advised to consult with all Responsible Authorities when preparing an Operating Schedule.

- 15.4 Operators of licensed premises will have to comply with a variety of other regulatory regimes including; planning, environmental protection, fire safety, licensing and building control legislation when opening or adapting licensed premises.
- 15.5 The Council will seek to avoid confusion and duplication by not imposing licence conditions relating to matters that are regulated under other legislation, except where they can be exceptionally justified to promote the Licensing Objectives.

## **16.0 Prevention of Crime and Disorder**

- 16.1 In the Operating Schedule, the Licensing Authority will require the applicant to detail the steps proposed to ensure the deterrence and prevention of crime and disorder, on and in the vicinity of the premises. This should also take account of the location, character, condition, the nature and extent of the proposed use and the persons likely to frequent the premises.
- 16.2 The Licensing Authority will require the licence holder to take all reasonable steps to promote responsible drinking and put mechanisms in place to control excessive consumption of alcohol, underage sales and drunkenness on licensed premises.
- 16.3 This reduces the risk of anti-social behaviour occurring on the site and elsewhere after customers have left the premises.
- 16.4 In considering licence applications, the Licensing Authority will have regard to:

The physical security features installed in the premises including: design and layout of the premises in minimising the opportunities for crime and conflict, provision of CCTV and associated recording equipment, display of crime prevention material raising patrons awareness of crime, noise, nuisance and safety issues, adequate lighting levels in the premises, metal detection and search facilities, the use of toughened /shatterproof and plastic drinking vessels within the area covered by a premises licence.

- Procedures for risk assessing promotions such as 'happy hours,' and cheap drink promotions which may contribute to the impact on excessive alcohol consumption as well as associated crime and disorder and plans for minimising such risks. This will need to be considered in conjunction with the mandatory licence conditions.
- The measures employed to prevent the consumption or supply of illegal drugs, including any search procedures and entry policies;
- Where premises are subject to age-restrictions, the procedures in place to conduct age verification checks.
- The likelihood of any violence, public order or policing problem if the licence is granted.

- The measures taken to control admission to the premises, including the use of Security Industry Authority (SIA) licensed door supervisors.
  - Any other such measures as may be appropriate, including; participation in a local Pubwatch or Nightwatch scheme, or other body designed to ensure effective liaison and partnership with the local community, the use of 'music wind-down policies' and 'chill out areas.'
  - Measures to effectively control the premises during key events, for example; during sporting events, during Freshers Week, Airbourne and other significant times.
  - Other examples of industry Best Practice.
  - Any representations made by the Police, or other relevant agency or representative.
  - Steps taken to train staff in licensing law and raise awareness of issues in relation to licensed premises, including; excessive consumption of alcohol, underage and proxy sales of age restricted products, drug misuse and associated crime prevention strategies.
- 16.5 Where applicable, applicants must show that they can comply with the Home Office guidance in relation to the control of illegal drugs on their premises. They shall also adhere to the protocol with the Police on the handling of illegal drugs found on their premises.
- 16.6 The Licensing Authority expects that the Designated Premises Supervisor (DPS) will spend a significant amount of time on the licensed premises. When not on the premises, it is essential that the DPS is contactable, has given their written consent and has left a competent, authorised person in charge to act in their absence. It is expected that this person, will normally be a personal licence holder.
- 16.7 The Licensing Authority will keep itself well briefed on the nature, location and type of premises where alcohol related violence, disorder and nuisance are occurring so it can take full account of the facts and avoid exacerbating problems.
- 16.8 Where licensed premises are found to cause nuisance or be associated with disorder, unreasonable disturbance, powers of revocation or the imposition of conditions may be considered. Conditions may include:
- The installation and use of CCTV and associated recording equipment to a standard specification
  - Inclusion of a drugs and search policy of customers
  - The use of SIA registered door supervisors
  - Earlier closing times or last admissions time
  - Action Plans for premises failing to meet the required standards
  - Closure Orders
  - Review and revocation proceedings
  - Use of other mechanisms to effectively control an area where there is alcohol related crime and disorder, including powers under the Violent Crime Act 2006.

16.9 Such action to restrict the operation of sites in order to promote the licensing objectives may be taken for trial periods to allow businesses an opportunity to remedy existing instances of disorder, nuisance and/or disturbance.

## **17.0 Public Safety**

17.1 The Licensing Authority will require the applicant to detail the steps taken to address the issue of public safety in the relevant licensed premises or place.

17.2 Conditions may be imposed in accordance with Operating Schedule to protect public safety including: -

- Specified maximum occupancy limits on the premises licence or certificate were considered necessary for the promotion of public safety or the prevention of crime and disorder.
- Provision of CCTV and associated recording equipment installed to a standard specification
- Use of shatterproof drinking vessels and bottles, requiring the use of toughened glass or plastic throughout the licensed premise.
- The use of SIA Registered Door Supervisors, and a requirement of a minimum of such, namely 1 per 100 customers where the event is attended by persons over 18 and 1 per 50 customers where the event is attended predominantly by persons under 18.
- The provision of designated and suitably qualified and trained first aiders.
- Strategies to prevent binge drinking and promote 'safer socialising' and responsible drinking.
- Systems in place to prevent the theft of items and 'spiking' of drinks.
- SIA Registered Door staff to maintain order inside and outside venues, protecting customer safety as well as participation in Nightwatch/ Pubwatch schemes to alert Police and other venues where customers and staff are perceived to be at risk
- The provision of chill out rooms/quiet areas to allow patrons to relax and unwind.

17.3 The Council would expect relevant places or premises to have conducted a risk assessment with regard to the promotion of the Licensing Objectives. A separate Fire Risk Assessment should also be undertaken to ensure that any protective and preventive measures identified are taken to ensure the safety of any relevant persons. This may include the provision of fire-fighting equipment, emergency lighting and an appropriate means of raising the alarm in the event of an emergency. Applicants and responsible persons should make themselves aware of the Regulatory Reform (Fire Safety) Order 2005.

17.4 The Licensing Authority may review what measures are in place to aid the dispersal of patrons in a quick and safe manner in order to avoid opportunities for disorder and disturbance. This may include the availability of taxis, location of taxi ranks and other late night transport systems, as well as the use of registered staff

to control queues and external areas.

- 17.5 Where appropriate, licence holders or their authorised representatives will attend Safety Advisory Group Meetings and other planning meetings prior to large scale events which take place within licensed premises and/or in an open space. Applicants should have regard to relevant guidance and publications.
- 17.6 Prior consent will be required for; performance of stage Hypnotism, fireworks and lasers. Applications should contain details prescribed by the Licensing Authority. Conditions may be applied to any consent.

## **18.0 Prevention of Public Nuisance**

- 18.1 The Licensing Authority will require operators to demonstrate how matters will be addressed to limit public nuisance, prevent disturbance and protect amenities.
- 18.2 In considering an application, the Licensing Authority will consider the adequacy of proposed measures to remove or effectively manage the potential for noise, nuisance and anti-social behaviour.
- 18.3 Amplified music or other entertainment noise from within the premises shall be inaudible within any residential premises. The test for compliance with 'inaudibility' will be that noise should be no more than barely audible outside of nearby business and residential properties.
- 18.4 The Licensing Authority will take into consideration a range of issues, and consider the imposition as appropriate of conditions, including:
- The proximity of residential accommodation.
  - The type of use proposed, including the likely numbers of customers, proposed hours of operation, nature of regulated entertainment and the frequency of activity.
  - Steps taken or proposed to be taken to prevent noise, disturbance and vibration breaking out from the premises. This may include music, noise from ventilation equipment, and human voices.
  - Steps taken to prevent disturbance by customers arriving at or leaving the premises will also need to be detailed. This will usually be of greater importance between 22.30 and 07.00. than at other times of the day.
  - The steps taken or proposed to be taken by the applicant to prevent customers queuing. If queuing is inevitable, then queues should be diverted away from neighbouring premises and residential accommodation or be otherwise managed to prevent disturbance or obstruction.
  - The steps taken to ensure staff and customers leave the premises quietly, including the provision of appropriate "leave quietly" signage.
  - Arrangements made or proposed for parking by customers specific to the licensed premises where relevant, and the effect of parking by patrons on local residents.
  - The provision for public transport in the locality, including taxis and private hire vehicles for customers to facilitate dispersal.

- The level of likely disturbance from associated vehicular movement.
- The delivery and collection areas and delivery/collection times.
- The siting of external lighting, including security lighting which may cause light pollution and/or disturbance to neighbouring properties.
- The impact on refuse storage and litter.
- The history of previous nuisance complaints proved against the premises; particularly where statutory notices have been served on the present premises licence operators.
- The history of the applicant in controlling anti-social behaviour and preventing nuisance.
- The generation of odour, e.g. from the preparation of food.
- Any other relevant activity likely to give rise to nuisance.
- Any representations made by the Responsible Authorities or other relevant agency/representative.
- The use and control of gardens and other open-air areas.

18.5 Such measures may include:

- Keeping windows and doors shut save for access and egress.
- The installation of soundproofing, air conditioning, acoustic lobbies, acoustic devices and sound limitation devices.
- Operators to undertake regular checks and assessments in the vicinity of the premises and take steps to limit disturbance and noise breakout
- Limiting the number of patrons at any one time in any external areas, particularly where it is in close proximity to residential accommodation.

## **19.0 Protection of Children from Harm**

19.1 The Licensing Authority will require the details and measures taken in relation to the protection of children from harm. This includes moral, psychological and physical harm which may be associated with licensed premises and certificated club premises. This may include exposure to strong language and sexual expletives, in the context of film exhibitions or where adult entertainment or material is provided.

19.2 It is intended that the admission of children to premises holding a premises licence or club premises certificate should normally be freely allowed, without restricting conditions unless the 2003 Act itself imposes such conditions or there are good reasons to restrict entry or to exclude children completely.

19.3 It is recognised by the Licensing Authority that drink related disorder frequently involves under 18's. To prevent illegal purchases of alcohol by such persons, the Licensing Authority recommends that all operators should implement a suitable 'Proof of Age' scheme, for example 'Challenge 25' and ensure that appropriate photographic identification is requested prior to entry and when alcohol is requested by a person appearing to be under the age of 18.

- 19.4 Appropriate provenance forms of identification are currently considered to be those recommended by the Police, Licensing Authority, and Trading Standards Officers.
- 19.5 The Licensing Authority expects that all staff responsible for the sale of intoxicating liquor receive information and training on the licensing laws relating to children and young persons in licensed premises. Licensed premises staff are required to take reasonable steps to prevent underage sales and proxy purchasing.
- 19.6 The Licensing Authority will not 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. Each application will be considered on its own merit.
- 19.7 To reduce alcohol-induced problematic behaviour by under 18-year-olds, to enforce underage purchases and to assist in the protection of children from harm, the Licensing Authority supports the following measures: -
- Police to exercise powers to remove alcohol from young people on the street as well as the implementation of Dispersal Orders.
  - Test purchasing operations and the conducting of age challenges to reduce underage drinking in pubs and licensed venues.
  - Further take-up of proof of age schemes will be promoted, for example “Challenge 25.”
  - In-house, “mystery shopper” type schemes operated by local businesses will be supported.
  - Providers of licensed events specifically catering for persons under the age of 18 should consider the ratio of SIA accredited Supervisors to children, normally 1:50 to assist in the control and supervision of events, and whether all staff at such events need to be Disclosure Barring Service checked.
  - Measures to prevent proxy purchase of alcohol.
- 19.8 The following areas give rise to concern in respect of children, who will normally be excluded from premises: -
- where there have been convictions for serving alcohol to minors or with a reputation for underage drinking;
  - with a known association with drug taking or dealing;
  - where there is a strong element of gambling on the premises;
  - where entertainment of an adult or sexual nature is commonly provided;
  - where premises are used primarily or exclusively for the sale and consumption of alcohol and there is little or no seating for patrons.
- 19.9 The Licensing Authority may consider the following: -
- limitations on the hours when children may be present;

- age limitations as required by mandatory condition, for example film exhibitions;
- limitations or exclusions when certain activities are taking place;
- requirements for an accompanying adult;
- full exclusion of people under 18.

19.10 Nothing in this policy shall seek to override child supervision requirements contained in other legislation or regulations. The Licensing Authority recognises the Children, Families and Schools Section as being competent to advise on matters relating to the protection of children from harm.

19.11 Applicants shall copy their applications to the Local Safeguarding Children Board (LSCB) in its capacity as the Responsible Authority.

19.12 The Licensing Authority will expect Operating Schedules to specify the measures and management controls in place to prevent alcohol being served or supplied to children, other than in those limited circumstances permitted by the Licensing Act 2003.

## **20.0 Sex Establishment Policy**

20.1 The Council has a Sex Establishment Policy and this can be found on the Council's website.

## **21.0 The Health Act 2006 & Associated Smoke Free Issues**

21.1 Since the introduction of Smoke free legislation under the Health Act 2006 on the 1<sup>st</sup> July 2007, Environmental Protection have received an increase in the number of noise complaints concerning noise from people smoking outside of licensed premises. This includes noise from people congregating on the public highway, and from outside areas which form part of the licensed premises for example beer gardens. This is in addition to noise breakout as people enter and leave premises to smoke.

21.2 In addition to the increase in complaints, licence variations have been received to vary the use of outdoor areas to incorporate a smoking area and/or erect a smoking shelter. Environmental Protection, in conjunction with the Council's Smoke free Lead Officer, will assess each application on its merits and may; where the matter forms part of an area or activity governed by the Licensing Act 2003, make representations as appropriate.

21.3 Applicants considering the provision of a smoking area and/or shelter should consider reasonable controls to minimise the noise impact and could include the following steps:

- Develop a management plan on how to manage smoking on the premises and ensure that all staff are aware of the contents of this plan, and that it is effectively implemented.

- Noise from people smoking and talking can be intermittent, vary in character and volume and be intrusive. An effective smoking management plan will help prevent neighbours being disturbed.
- Comply with any planning conditions restricting the use of outdoor areas
- Ensure that any structures used by smokers comply with the design criteria and requirements detailed in the Heath Act 2006 and that any structures, awnings, retractable canopies, etc have the relevant planning permission. • Any new lighting to outdoor areas must be designed so as not to cause a light nuisance to neighbours and again have the relevant planning permission and building control consent.
- Ensure that the conditions on the premises licence are complied with.
- Consideration is given to the siting of any smoking areas, to protect against the potential of second-hand smoke drifting back into the premises or adjacent properties so as not to cause a nuisance to patrons and neighbours.
- Signage in the designated areas asking customers to keep noise levels to a minimum.
- Consideration given to the availability, type and siting of litter bins to cater for smoking related litter.
- Conditions restricting the hours of use of gardens and outdoor areas. Having reviewed the contents of the premises licence, applicants may find it necessary to request a variation of the premises licence.
- Any tables and chairs on the Public Highway require a tables and chairs licence under the provisions of the Highways Act 1980. Again these licences may have conditions restricting the times that the area can be used.
- Controls on drinks, glasses and bottles being removed from the premises.
- Steps to discourage smokers from remaining in gardens and outdoor areas, including conditions on the premises licence or the premises management policy may include a requirement that drinks are prohibited in outside areas, or prohibited after a certain time.
- A system could be introduced that after a certain time the number of smokers outside are restricted to a maximum number.
- Staff positioned on the doors can help to encourage customers not to cause a noise problem.

## **22.0 Premises Licences**

22.1 An application for a premises licence under the Licensing Act 2003 must be made in the prescribed form to the Licensing Authority. The application must be accompanied by:

- The required fee,
- An Operating Schedule,
- 2 plans of the premises in a prescribed form, including any external areas,
- Copies of the appropriate certificates



- If the application involves the supply of alcohol, a form of consent from the individual who is to be specified in the licence as the Designated Premises Supervisor (DPS). This person will normally have been given day to day responsibility for running the premises by the premises licence holder and the person through whom all alcohol sales are authorised.

### **23.0 Planning Permission**

- 23.1 The Licensing Authority recognises that planning, building control and licensing regimes should be properly separated.
- 23.2 Applications for premises licences for permanent commercial premises should normally be from businesses with planning consent already in place for the property concerned.
- 23.3 The Licensing Authority recognises that Licensing applications should not be a rerun of the planning process and should not cut across decisions taken by the Local Authority Planning Committee or following appeals against decisions taken by that Committee.
- 23.4 Similarly the granting by a Licensing Sub Committee of any variation of a licence which involves a material alteration to a building would not relieve the applicant of the need to apply for planning permission or building control or other consents where appropriate.

### **24.0 Applications for Personal Licences**

- 24.1 A personal licence is issued to an individual authorising them to make or authorise the sale of alcohol in accordance with a premises licence. Every premises licence that authorises the sale of alcohol must specify an individual who acts as the designated premises supervisor (DPS). The DPS must hold a personal licence.
- a) The applicant is aged 18 or over
  - b) The applicant is entitled to work in the United Kingdom
  - c) The applicant possesses a licensing qualification or is a person of a prescribed description
  - d) The applicant has not forfeited a personal licence in the five year period prior to their application being made
  - e) The applicant has not been convicted of any relevant offence or any foreign offence or required to pay an immigration penalty
- 24.2 The licensing authority must reject an application if the applicant fails to meet one or more of the requirements set out in (a) to (e) above.
- 24.2.1 Where the applicant meets the requirements in (a) to (d) but does not meet the requirements of (e), the licensing authority must give the chief officer of police for its area a notice to this effect. Having received such a notice, if the chief officer of police is satisfied that the granting of the application would undermine the crime

prevention objective, he must within 14 days, give the licensing authority a notice to that effect.

24.2.2 Where the applicant fails to meet the requirements of (e) as a result of a conviction for an immigration offence or because they have been required to pay an immigration penalty, the licensing authority must give a notice to the Secretary of State for the Home Department to that effect. The Home Office may object to an application on grounds that granting the personal licence would be prejudicial to the prevention of illegal working in licensed premises.

24.3 Where an objection to the grant of a personal licence is received from either the chief officer of police or the Home Office, the applicant is entitled to a hearing before the licensing authority. If no objections are received, the licensing authority must grant the application.

24.4 At a hearing to determine a personal licence application to which the chief officer of police or Home Office have objected, the licensing authority will have regard to all of the circumstances including the following:

- The need to assess each case on its merits
- The duty to promote the crime prevention objective
- The objection notice given by the Police or Home Office
- The guidance issued by the Secretary of State under section 182 of the Licensing Act 2003
- The seriousness of the relevant offence
- The sentence or penalty imposed on the applicant for the relevant offence.

24.5 If, having considered all of the circumstances, the licensing authority considers that it is appropriate for either the promotion of the crime prevention objective or for the prevention of illegal working in licensed premises to reject the application, it must do so. In all other cases the application must be granted.

24.6 If an application is refused, the applicant will be entitled to appeal against the decision they make. Similarly, if the application is granted despite a police objection notice or an objection from the Home Office, the chief officer of police or Home Office are entitled to appeal against the licensing authority's determination. The licensing authority will therefore record in full the reasons for any decision that it makes.

## **25.0 Personal Licences – Suspension and Revocation**

25.1 Section 138 of the Policing and Crime Act 2017 amended the Licensing Act 2003 and gave the power to a licensing authority to suspend or revoke personal licences that it has issued with effect from 6 April 2017.

25.2 When a licensing authority has granted a personal licence and becomes aware that the licence holder has been convicted of a relevant offence or foreign offence or been required to pay an immigration penalty, a licensing authority may revoke the licence or suspend it for a period of up to six months. This applies to convictions received and civil immigration penalties which a person has been required to pay at any time before or after the licence was granted, as long as the conviction was received after 6 April 2017, or the requirement to pay the civil

penalty arose after 6 April 2017. Only magistrates' courts can order the forfeiture or suspension of a personal licence for convictions received prior to 6 April 2017.

- 25.3 The process which must be undertaken by the licensing authority to suspend or revoke a personal licence is set out at section 132A of the 2003 Act. The decision to revoke or suspend a personal licence must be made by the licensing committee or sub-committee, but the actions required before making a final decision may be made by a licensing officer.
- 25.4 The licensing authority may not take action if the licence holder has appealed against the conviction or the sentence imposed in relation to the offence, until the appeal is disposed of. Where an appeal is not lodged, the licensing authority may not take action until the time limit for making an appeal has expired.
- 25.5 If a licensing authority is considering revoking or suspending a personal licence, the authority must give notice to the licence holder. This notice must invite the holder to make representations about the conviction, any decision of a court in relation to the licence, or any decision by an appellate court if the licence holder has appealed such a decision. The licence holder may also decide to include any other information, for example, about their personal circumstances.
- 25.6 The licence holder must be given 28 days to make their representation, beginning on the day the notice was issued. The licensing authority does not need to hold a hearing to consider the representations. Before deciding whether to revoke or suspend the licence the licensing authority must consider any representations made by the licence holder, any decisions made by the court or appellate court in respect of the personal licence of which the licensing authority is aware, and any other information which the licensing authority considers relevant.
- 25.7 The licensing authority may not be aware of whether the court considered whether to revoke or suspend the licence, and there is no obligation on the licensing authority to find this out before making a decision themselves. Where the court has considered the personal licence and decided not to take action, this does not prevent the licensing authority from deciding to take action itself. Licensing authorities have different aims to courts in that they must fulfil their statutory duty to promote the licensing objectives, and therefore it is appropriate for the licensing authority to come to its own decision about the licence.
- 25.8 If the licensing authority, having considered a suspension and revocation and subsequently considered all the information made available to it, proposes not to revoke the licence it must give notice to the chief officer of police in the licensing authority's area, and invite the chief officer to make representations about whether the licence should be suspended or revoked, having regard to the prevention of crime. The chief officer may make representations within the period of 14 days from the day they receive the notice from the licensing authority.
- 25.9 Any representations made by the chief officer of police must be taken into account by the licensing authority in deciding whether to suspend or revoke the licence.
- 25.10 Convictions may become known via police in another area, for example if the

personal licence holder no longer lives in the area of the licensing authority which issued the licence, or if the offence took place in another police force area. In this instance it would be good practice for the police providing the information to notify the police force in the licensing authority area, because it is the local chief officer who must provide representations if the licensing authority proposes not to revoke the licence.

25.11 Where the licence holder is convicted of immigration offences or has been required to pay a civil penalty for immigration matters, the licensing authority should notify Home Office Immigration Enforcement and allow representations to be made in the same way.

25.12 In deciding whether to suspend or revoke a personal licence, the licensing authority will have regard to all of the circumstances including the following:

- The need to assess each case on its merits
- The duty to promote the licensing objectives
- The guidance issued by the Secretary of State under section 182 of the Licensing Act 2003
- The seriousness of the relevant offence
- The sentence or penalty imposed on the licence holder for the relevant offence
- Any representations made by the Police or Home Office Immigration Enforcement
- Any representations made by the holder of the licence
- Any evidence as to the previous character of the holder of the licence

25.13 The licensing authority must notify the licence holder and the chief officer of police of the decision made (even if the police did not make representations). The licence holder may appeal the licensing authority's decision to revoke or suspend their personal licence. A decision to revoke or suspend the licence does not take effect until the end of the period allowed for appealing the decision (21 days); or if the decision is appealed against, until the appeal is disposed of.

25.14 If the personal licence holder is a DPS, the licensing authority may notify the premises licence holder once the decision to revoke or suspend the licence has been made if it becomes necessary to do so in order for the licensing authority to be able to conduct their functions.

25.15 The licensing authority may also notify any person who has declared an interest in the premises under section 178 of the 2003 Act if it becomes necessary to do so in order for the licensing authority to be able to conduct their functions

## **26.0 Immigration Act 2016 – Entitlement to Work**

26.1 Section 36 of and Schedule 4 to the Immigration Act 2016 made a number of amendments to the Licensing Act 2003 to introduce immigration safeguards in respect of licensing applications made in England and Wales on or after 6 April 2017. The intention of these changes is to prevent illegal working in premises

licensed for the sale of alcohol or late night refreshment.

26.2 The statutory prevention of crime and disorder licensing objective in the Licensing Act 2003 includes the prevention of immigration crime and the prevention of illegal working in licensed premises. The Council will work with the Home Office (Immigration Enforcement) as well as the police, in respect of these matters.

26.3 Section 36 of and Schedule 4 to the Immigration Act 2016 (the 2016 Act) amended the 2003 Act to provide that in England and Wales:

- Premises licences to sell alcohol or provide late night refreshment and personal licences cannot be issued to an individual who does not have permission to be in the UK, or is not entitled to undertake work relating to the carrying on of a licensable activity;
- Licences issued to those with limited permission to be in the UK will lapse when their permission to be in the UK and work in a licensable activity ends;
- Immigration offences, including civil penalties, are 'relevant offences' as defined by the 2003 Act;
- The Home Secretary (in practice Home Office (Immigration Enforcement)) was added to the list of responsible authorities in the licensing regime, which requires Home Office (Immigration Enforcement) to receive premises licence applications (except regulated entertainment only licences) and applications to transfer premises licences, and in some limited circumstances personal licence applications, and permits Home Office (Immigration Enforcement) to make appropriate representations and objections to the grant of a licence; and
- Immigration officers are permitted to enter premises which they have reason to believe are being used to sell alcohol or provide late night refreshment, to investigate whether immigration offences are being committed in connection with the licensable activity.

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

26.5 The licensing authority will also work in partnership with the Home Office (Immigration Enforcement) and Sussex Police with a view to preventing illegal working in premises licensed for the sale of alcohol or late night refreshment.

## **27.0 Live Music Act 2012 and Entertainment Licensing Deregulation**

27.1 The Live Music Act 2012 came into force on 1st October 2012 and is designed to encourage more performances of 'live' music. The Act removes the licensing requirements for:

- amplified 'live' music between 08:00 and 23:00 before audiences of no more than 200 people on premises authorised to sell alcohol for

- consumption on the premises
  - amplified 'live' music between 08:00 and 23:00 before audiences of no more than 200 people in workplaces not otherwise licensed under the 2003 Act (or licensed only for the provision of late night refreshment)
  - unamplified 'live' music between 08:00 and 23:00 in all venues
  - the provision of entertainment facilities
- 27.2 Where licensable activities continue to take place on premises any licence conditions relating to 'live' music will be suspended, but it will be possible to impose new, or reinstate existing conditions following a review.
- 27.3 When considering whether an activity constitutes the provision of regulated entertainment each case will be treated on its own merits. There will inevitably be a degree of judgment as to whether a performance is live music or not, so organisers are encouraged to check with the licensing authority if in doubt.
- 27.4 There was a further deregulation of entertainment licensing in June 2013 when the Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013 came into force on 27 June 2013. The effect of the order is that no authorisation is required for the following activities to the extent that they take place between 08:00 - 23:00 on any day:
- a performance of a play in the presence of any audience of no more than 500 people
  - an indoor sporting event in the presence of any audience of no more than 1000 people
  - a performance of dance in the presence of any audience of no more than 500 people
- 27.5 Entertainment licensing requirements were further deregulated as a result of the Legislative Reform (Entertainment Licensing) Order 2014, which came into force on 6 April 2015.
- 27.6 The 2014 Order deregulated entertainment licensing in the following ways: The provision of regulated entertainment by or on behalf of local authorities, health care providers, or schools on their own defined premises became exempt from entertainment licensing between 08.00 - 23.00 on the same day, with no audience limit.
- The audience limit for a performance of live amplified music in relevant alcohol licensed premises or in a workplace between 08.00 - 23.00 on the same day was raised from 200 to 500.
  - Local authorities, health care providers and schools are now exempt from entertainment licensing when making their own defined premises available to third parties for live and recorded music activities between 08:00 - 23:00 on the same day for audiences of up to 500.
  - Community premises not licensed to supply alcohol are now exempt from entertainment licensing requirements for live and recorded music between 08:00 - 23:00 on the same day for audiences of up to 500.

- Travelling circuses are now exempt from entertainment licensing in respect of all descriptions of entertainment, except an exhibition of a film or a boxing or wrestling entertainment, where the entertainment or sport takes place between 08:00 - 23:00 on the same day, with no audience limit.
- Greco-Roman and freestyle wrestling are now deregulated between 08:00 - 23:00 for audiences of up to 1000 people.
- An exhibition of film that is incidental to another activity (where that other activity is not itself a description of entertainment set out in paragraph 2 of Schedule 1 to the 2003 Act) is exempt now from licensing.

27.7 The exhibition of films in community premises has also been deregulated as a result of section 76 of the Deregulation Act 2015.

27.8 No licence is required for an exhibition of film on community premises between 08:00 - 23:00 on any day provided that:

- the film entertainment is not provided with a view to profit;
- the film entertainment is in the presence of an audience of no more than 500 people;
- the admission of children is subject to such restrictions as are necessary to comply with the recommendation issued by the BBFC or relevant licensing authority regarding the admission of children; and
- a person concerned in the organisation or management of the exhibition of the film has obtained the prior written consent of the management committee of the premises, or if there is no management committee, a person who has control of the premises in connection with the carrying on by that person of a trade, business or other undertaking, or failing that a person with a relevant property interest in the premises.

## **28.0 Temporary Event Notices**

28.1 A temporary event notice (TEN) is required if you wish to hold an event, involving less than 500 people, at which one or more licensable activities will take place that are not authorised by an existing premises licence or club premises certificates.

28.2 A TEN is a notification to the licensing authority that an individual intends to continue licensable activities for a period not exceeding 168 hours or 7 days.

28.3 Who can give a TEN:

- A TEN can be given by any individual aged 18 or over, but cannot be given by a business or organisation;
- The individual giving the notice is 'the premises user;'
- An individual who holds a personal licence under the Licensing Act 2003 may give up to 50 TENs in any calendar year, up to 10 of which may be 'late' TENs;
- Individuals not holding a valid personal licence are restricted to 5 TENs in any calendar year, up to 2 of which may be late TENs;

- Standard and late TENs, in any combination count towards these overall total limits for TENs;
- A TEN which relates to an event taking place within 2 calendar years counts against the limits for that individual in respect of both calendar years;
- A maximum of 15 TENs can be given in relation to the same premises in any calendar year; and
- Any premises cannot be used for activities authorised by TENs for more than 21 days in any calendar year.

- 28.4 The notice has been given on the licensing authority (or licensing authorities where the premises is situated in more than one authority area), with copies to the police and the local authority exercising environmental protection functions - This must normally be done no later than 10 working days prior to the proposed event although there is provision for a limited number of late TENs to be served up to 5 working days, but no earlier than 9 working days, prior to the event.
- 28.5 A TEN can be sent electronically to the licensing authority which will forward it to the police and local authority exercising environmental protection functions by the end of the working day after which the TEN was received.
- 28.6 The prescribed form of a TEN must be used and all required information provided. There must be a minimum of 24 hours between event periods in relation to the same premises.
- 28.7 On receipt of a TEN, the licensing authority must acknowledge receipt of the notice before the end of the first working day after the day of receipt (or the day after where the TEN is served on a weekend day).
- 28.8 The police and local authority exercising environmental protection functions (relevant persons) have three working days to give an objection to a TEN where they consider that the proposed activities will undermine a licensing objective.
- 28.9 The objection notice must give reasons for the objection and must be given to the licensing authority, other relevant persons and the premises user.
- 28.10 In the case of a standard TEN, where an objection is received, the licensing authority must hold a hearing to consider the matter unless all parties agree that no hearing is necessary. The licensing authority must send a counter notice to the premises user if it considers it appropriate for the promotion of a licensing objective. In the case of late TENS, the licensing authority must issue a counter notice if objections are received from the police or local authority exercising environmental protection functions.
- 28.11 Organisers of temporary events are strongly advised to contact the Licensing Authority and other appropriate agency for advice at the earliest opportunity when planning events. This may avoid any unnecessary objections being made that may arise from misunderstandings or confusion concerning the proposed event.

## **29.0 Appeals**



- 29.1 Entitlements to appeal for parties aggrieved by decisions of the Council are set out in Schedule 5 to the Licensing Act 2003. Appeals must be made to the Magistrates' Court and made within 21 days beginning with the day on which the Appellant was notified of the Council decision. This includes applicants, Responsible Authorities and anyone else.
- 29.2 The Act also covers appeals in relation to temporary event notices, personal licences and closure orders. In relation to temporary event notices, premises users may appeal against the decision by a Council to give a counter notice. [However, there is no right of appeal in relation to a late temporary notice following an objection for the Police or Environmental Protection.](#) Applicants for personal licences may appeal against the decision to reject an application for or application to renew a licence. Where the Police lodge an objection notice to the grant or renewal of a personal licence and the Council grants or renews the licence, the Police may appeal.

### **30.0 Problematic Premises**

- 30.1 The Council expects licensed premises to be properly controlled and managed by responsible operators. This should prevent or minimise problems to any of the other groups affected by it, including residents and businesses in the vicinity, as well as Responsible Authorities.
- 30.2 However, legitimate concerns will sometimes be raised about particular operations. In those instances the Council will encourage the individuals or groups affected to raise those concerns directly with the operator in the first instance. In the Council's experience this approach can often be successful as the operator may not be fully aware of the problems and can introduce changes to improve the situation.
- 30.3 Where concerned individuals or groups do not wish to approach operators directly (perhaps fearing abuse or reprisals,) the Council will approach the operator to discuss the concerns and seek improvements, if required.
- 30.4 The Council collaborates closely with Responsible Authorities and will intervene at an early stage where it is found that the provision of licensable activities is being carried on in a manner which does not promote the four Licensing Objectives.
- 30.5 The Council expects all licensees to co-operate with the agencies concerned and to deal promptly and properly with the concerns raised. Where a premises fails to meet the required standards or comply with legislation, they may be placed on an "Action Plan" or face prosecution proceedings.
- 30.6 The Council has a joint enforcement protocol with Sussex Police on enforcement and inspection issues to provide for the efficient and effective deployment of its staff and police officers in enforcing licensing law. This includes the targeting of resources where 'hotspot' crime and disorder premises and/or areas have been identified.

- 30.7 When necessary, the enforcement action will be taken in accordance with the principles of Eastbourne Borough Council's Enforcement Policy.
- 30.8 The Council recognises that once away from premises a minority of consumers will behave badly and unlawfully. However, licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned.
- 30.9 However, the Council recognises that there are mechanisms both within and outside of the licensing regime that are available for addressing such issues. These are detailed within points 16.0 - 19.0 of this policy.
- 30.10 The Council does not seek to prevent any individual or group from using the formal procedures for review of a premises licence or club premises certificate. Neither does it seek to constrain the powers of the police to close premises where they consider it necessary to do so in the interests of public safety or to prevent a public nuisance.
- 30.11 However, the Council believes that by working in partnership with all the groups involved in the licensing process the formal review procedures and exercise of the police powers to close premises should be instituted in general after voluntary measures have been attempted.

### **31.0 Enforcement Policy**

- 31.1 Premises that generate disorder, threaten public safety, generate public nuisance or pose a risk to the wellbeing of children will be targeted for enforcement action. Action will be focused on those responsible at the premises for its management.
- 31.2 The Council has an established Enforcement Policy based around the principles of consistency, transparency and proportionality in accordance with the Regulators Compliance Code.
- 31.3 A graduated response will be taken where offences against legislation are found, or where premises licence conditions have been breached. The action taken may range from verbal advice, written warnings, placement of the premises on an Action Plan and/or Formal Caution. Enforcement action may include prosecution proceedings.
- 31.4 Enforcement action is generally progressive. This does not prevent the Licensing Authority or any of the other enforcement Partners, taking more robust action where it is considered appropriate.
- 31.5 The Licensing Authority will seek to collaborate with the Police, East Sussex Fire and Rescue Service and Trading Standards and other enforcement partners in

the enforcement of licensing and other legislation.

- 31.6 Enforcement will be focused on premises or persons found to be failing to promote the Licensing Objectives.
- 31.7 A number of other Council and government policies, strategies and guidance documents may also be taken into account to complement this policy, including:
- Community Safety & Crime Reduction Strategies
  - Drugs and alcohol Strategies
  - Aims and objectives of the Private Security Industry Authority
  - The Anti-Social Behaviour, Crime & Policing Act 2014
  - The Health Act 2006
  - The Violent Crime Reduction Act 2006
  - Section 182 Guidance as revised in December 2023 in conjunction with amendments to the Licensing Act 2003

### **32.0 Dealing with Representations**

- 32.1 Where a representation is made to the Licensing Authority, it will consider whether it is valid. In determining whether a representation is valid, the Licensing Authority will first consider if the representation made is relevant and also whether it is, vexatious, frivolous or repetitious.
- 32.2 Where someone or a Responsible Authority has made a valid representation about a licensed premises, or a valid application for a licence to be reviewed, then the Council's Licensing Team may initially arrange a mediation meeting to facilitate communication between all parties and attempt to address, clarify and resolve the issue/s of concern.
- 32.3 This process will not override the right of the Licensing Authority to consider a valid representation in a committee environment or for any licence holder or other party to refuse to participate in a mediation meeting.

### **33.0 Reviews**

- 33.1 A key protection for the community is contained within the Licensing Act 2003. This is a review of the premises licence, or club premises certificate. It can be initiated at any time, where it can be shown that the licensing objectives of crime and disorder, public safety, public nuisance or the protection of children from harm are being undermined.
- 33.2 At any stage following the grant of a premises licence a 'Responsible Authority' which includes the Police, Council's Environmental Protection Team, Trading Standards or any other person such as a local resident, residents' association, Ward Councillor, local business or trade organisation may ask the Licensing Authority to review a premises licence at any time because of a matter arising at the premises in connection with the promotion of the four Licensing Objectives.

33.3 Revocation or suspension of premises licences or certificates will normally be considered where offences, such as sale of alcohol to persons who are drunk or sale of alcohol to persons under 18, occur on a regular basis. Review proceedings are often the last stage in a process where other steps have failed to address the issues that may arise:

- Action needed should seek to promote the licensing objectives but be balanced against the financial impact on the business.
- Action should be proportionate.
- Action should support the local community safety, crime reduction and drugs strategies, particularly those relating to alcohol misuse.

33.4 A review of a premises licence would normally follow any action by the Police to close down a premises for up to 24 hours on the grounds of serious crime or disorder or noise nuisance as following a closure notice, issued by a Magistrates' Court which is then sent to the Licensing Authority.

33.5 The Secretary of State has recommended that ordinarily no more than one review should be permitted by a Licensing Authority from any person unless in compelling circumstances or arising following a closure order.

33.6 Section 182 Guidance, the Guidance, issued in connection with the Licensing Act 2003 stipulates that any representation made must be in writing, relate to particular licensed premises and be relevant to the promotion of the four licensing objectives.

33.7 The value of detailed evidence to support a representation cannot be over emphasized. Persons making a representation can attend the Review hearing. The person making the representation can present this at the hearing, but not extend this to other matters outside of the original representation. If the review is in public any person can attend but will be unable to speak.

33.8 Where the Licensing Authority considers that action under its statutory powers is appropriate it may seek to:

- Modify the conditions/hours of the premises licence/certificate;
- Exclude a licensable activity from the scope of the licence;
- Remove the DPS where the sale or supply of alcohol is a feature;
- Suspend the licence for up to 3 months;
- Issue a warning, verbal or written
- Issue a Simple Caution
- Initiate prosecution proceedings;
- Revoke the licence/certificate.

33.9 Partnership working and warnings:

33.9.1 The Guidance further states that the promotion of the licensing objectives relies heavily upon partnership working with licence holders, authorised persons, any other person and Responsible Authorities in the pursuit of common aims and

objectives. Reviews should not be used as a mechanism to create divisions between these groups to the extent that it undermines the benefits of co-operation and partnership working.

33.9.2 The Guidance recognises that it would be good practice for authorised persons and responsible authorities to give licence-holders early warning of their concerns about problems identified at the premises or in the vicinity of the premises where this can be linked back to the site and of the need for improvement. Failure to respond to these warnings or a Premises Action Plan is expected to lead to a decision to request a review of the premises licence or certificate.

33.10 'Not relevant'

A request would not be considered relevant where the matter complained of did not relate to the promotion of at least one of the licensing objectives at the licensed premise. Similarly, a general complaint over crime and disorder in a locality that is not tied or linked by a causal connection to particular licensed premises would not be considered relevant.

33.11 'Vexatious'

Vexatious requests for a review may arise out of disputes between businesses.

33.12 'Frivolous'

The national guidance notes that frivolous requests would be noticeable by their lack of seriousness.

33.13 Repetitious

A repetitious representation is one that is identical or substantially similar to:

- a ground for review specified in an earlier application for review made in respect of the same premises licence which has already been determined; or
- representations considered by the Licensing Authority when the premises licence was first granted, or
- representations which would have been made when the application for the premises licence was first made and which were excluded and
- in addition to the above grounds, that a reasonable interval has not lapsed since that earlier review or the grant of the licence.

33.14 Arranging the Hearing

Following receipt of a request for a review or following a closure order, the Licensing Authority will arrange for a hearing in line with the Licensing Act 2003 and regulations prescribed by the Secretary of State.

33.15 The Licensing Authority has a range of actions it can take resulting from the hearing, including:

- take no action;
- issue an informal warning to the licence holder and/or recommend improvements over a particular time period;
- modify the premises licence/certificate;
- exclude a licensable activity from the licence;
- remove the Designated Premises Supervisor (DPS) in case of poor management or other reason;
- suspend the licence for up to 3 months;
- Revoke the licence.

### **34.0 Administration, Exercise and Overview of Functions**

- 34.1 The Licensing Committee will consist of councillors who will sit at least annually to discuss policy. The Council will review the Statement of Licensing Policy at least every 5 years. Any major changes to the Policy will include full consultation with the Responsible Authorities and others.
- 34.2 Sub Committees of 3 Councillors will determine applications when representations have been received from any person and/or Responsible Authorities. A 'Hearings Procedure' has been developed to assist decision makers, applicants, any other person and the Responsible Authorities with the process. This is included at Appendix 4.
- 34.3 A Sub Committee may also refer any matters to the Full Licensing Committee
- 34.4 Each decision of the Licensing Committee or its Sub Committee(s) shall be accompanied with clear reasons for the decision.
- 34.5 The Council's Authorised Officers will deal with all other licence applications where either no representations have been received, or where representations have been received and it is agreed by the parties that a hearing is not necessary.

## **Appendix 1:**

### **Glossary of terms**

The Act, the Guidance, the Regulations, the Council's Statement of Licensing Policy and this website may contain words and phrases with which you are not familiar. To assist you, we have set out an overview of what they mean:

#### **Act**

The Licensing Act 2003 (as amended)

#### **Club Premises Certificate**

This is a licence granting 'qualifying club' status to specific premises, according to a number of qualifying conditions, including the provision that there are at least 25 members and that alcohol is only supplied by or on behalf of the club.

#### **Current applications**

A schedule of all applications currently under consideration.

#### **Designated Premises Supervisor (DPS)**

The Personal Licence Holder named on the Premises Licence as being in day-to-day control of the premises through whom all alcohol sales must be authorised.

#### **Guidance**

Guidance issued by the Home Office under Section 182 of the Licensing Act 2003, as revised in December 2023

#### **Hearing**

When an application goes to a Licensing Sub Committee for consideration.

#### **Late Night Refreshment**

Under the terms of the Licensing Act 2003, the supply of hot food or hot drink between 23:00 and 05:00 whether for consumption on or off the premises

#### **Licensable Activities**

The sale by retail of alcohol;  
The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club;  
The provision of regulated entertainment; and  
The provision of late-night refreshment.



## **Licensing Objectives**

The Prevention of Crime and Disorder;  
Public Safety;  
The Prevention of Public Nuisance; and  
The Protection of Children from Harm.

Each objective is of equal importance.

## **Licensing Qualification**

A qualification accredited by the Secretary of State (or one which is certified as if it is such a qualification or is considered equivalent)

## **Licensing Sub Committee**

A panel of 3 elected Councillors, taken from the Full Licensing Committee who will determine matters put before it within the terms of the Act, to include new applications, variations, reviews

## **Mandatory Conditions**

The Act sets out certain conditions that must be imposed on a licence in specified circumstances.

## **Minor Variation**

Process by which minor changes can be made to a premises licence, with certain exceptions.

## **Objection notice**

A procedure whereby the Police or Environmental Protection can object to the grant of a personal licence or to a Temporary Event Notice. (See also Relevant Representation)

## **Operating Schedule**

A document in a prescribed form that sets out information about how the applicant for a premises licence intends to operate his business when carrying on licensable activities. Where an applicant for a premises licence submits an operating schedule, and there are no relevant representations (objections), Eastbourne Borough Council must grant the application and can only include those conditions on the licence which are mandatory, and that are consistent with the operating schedule.

## **Personal Licences**

A licence granted to an individual and authorises that person to supply alcohol or authorise the supply of alcohol in accordance with a premises licence. The licence lasts for 10 years and can be renewed

## **Premises**

Means any place and includes a vehicle, vessel or moveable structure providing licensable activities under the Licensing Act 2003

## **Premises Licence**

A licence granted in relation to specific premises and will specify the nature of the licensable activity and any applicable conditions.

## **Premises User**

The person applying for a Temporary Event Notice (TEN)

## **Procedure and Policy**

The regulations to be applied at hearings for matters under the [Licensing Act 2003 \(Hearings\) Regulations 2005](#)

## **Registered club activities**

Licensable activities continued at premises holding a Club Premises Certificate

## **Regulations**

Regulations and Order to be made under the Licensing Act 2003

## **Relevant Representations**

The Act does not use the term “objections.” , any other person and responsible authorities may make relevant “representations” about an application for a licence. Representations must relate to the licensing objectives and where made by not a Responsible Authority must not be frivolous or vexatious.

## **Responsible Authority**

Responsible authorities are public bodies that must be fully notified of applications and that are entitled to make representations to the Licensing Authority in relation to grant, variation or review.

## **The Responsible Authorities are:**

Sussex Police  
East Sussex Fire and Rescue Authority  
Health and Safety  
Environmental Protection  
Planning  
Child Protection East Sussex County Council  
Trading Standards  
Licensing Authority

## **Review**

The proceedings set out in the Act for reviewing premises licences and club premises certificates where problems associated with crime and disorder, public safety, public nuisance or the protection of children from harm are alleged to be occurring

## **Statement of Licensing Policy**

A document that sets out how Eastbourne Borough Council will conduct licensing for the next 5 years and how it proposes to uphold the four licensing objectives and other initiatives at a local level.

## **Steps**

The Act refers to “steps” that Eastbourne Borough Council can take where relevant representations have been made about an application. These are the grant subject to conditions; exclusion of licensable activities; restriction on such hours for licensable activities, rejection of the proposed premises supervisor; and rejection of the application.

## **Temporary Event Notices (TENs)**

A TEN can be used for one-off events with less than 500 people and for less than 168 hours or 7 days. No more than 15 can be held per premises and can only be held for 21 days aggregate.

## **Vary/Variation**

To vary a licence, or apply for a variation of a licence, means to change a licence under the terms of the Act.

## **Appendix 2 - List of Useful Websites:**

[Department For Culture Media and Sport](#)

[East Sussex Drug and Alcohol Action Team](#)

[Alcohol Licensing \(Licensing Act 2003\)](#)

[Gambling Commission](#)

[Health and Safety Executive, 'Managing Crowds Safely'](#)

[Portman Group – Age Verification](#)

[Safer Pubbing and Clubbing Guide for Licensing Authorities, Club Managers and Promoters](#)

[Section 182 Guidance issued in conjunction with the Licensing Act 2003](#)

[Security Industry Authority \(SIA\) Registered Door Supervisors](#)

[Smoke free Legislation](#)

[Temporary Event Notice Guidance \(Licensing Act 2003\)](#)

[What to do if you are worried about the safety of a child](#)

## **Appendix 3 - Contact Details of Responsible Authorities:**

### **Eastbourne Borough Council**

Licensing Team  
Eastbourne Borough Council  
Town Hall  
Grove Road  
Eastbourne  
East Sussex  
BN21 4UG  
Email: [licensing@lewes-eastbourne.gov.uk](mailto:licensing@lewes-eastbourne.gov.uk)  
Tel:01323 410000

### **Fire Safety Officer**

East Sussex Fire and Rescue Service  
Eastbourne Borough Fire Safety Office  
Whitley Road  
Eastbourne  
BN22 8LA  
Email: [firesafety.consultations@esfrs.org](mailto:firesafety.consultations@esfrs.org)  
Tel: 0845 1308855

### **Sussex Police**

The Chief Officer of Police  
Licensing Department  
Battle Police Station  
North Trade Road  
Battle  
TN33 0EX  
Email: [EastSussex.Licensing@sussex.police.uk](mailto:EastSussex.Licensing@sussex.police.uk)  
Tel: 101

For Non-council owned premises:

### **Health & Safety**

Health & Safety Team  
Eastbourne Borough Council  
Town Hall  
Grove Road  
Eastbourne  
East Sussex  
BN21 4UG  
Email: [Health&Safety@lewes-eastbourne.gov.uk](mailto:Health&Safety@lewes-eastbourne.gov.uk)  
Tel:01323 410000

For Health and Safety at Council owned premises please contact HSE:

### **Enforcement Liaison Officer**

Health & Safety Executive  
Phoenix House  
23-25 Cantelupe Road  
East Grinstead  
RH19 3BE  
Website: [www.hse.gov.uk](http://www.hse.gov.uk)  
Tel: 01342 334200

### **Planning**

Planning Team  
Eastbourne Borough Council  
Town Hall  
Grove Road  
Eastbourne  
East Sussex  
BN21 4UG  
Email: [planning@lewes-eastbourne.gov.uk](mailto:planning@lewes-eastbourne.gov.uk)  
Tel:01323 410000

### **Environmental Protection**

Environmental Protection Team  
Eastbourne Borough Council  
Town Hall  
Grove Road  
Eastbourne  
East Sussex  
BN21 4UG  
Email: [environmentalprotection@lewes-eastbourne.gov.uk](mailto:environmentalprotection@lewes-eastbourne.gov.uk)  
Tel:01323 410000

### **Child Protection**

East Sussex County Council  
Head of Children's Safeguards and Quality Assurance  
P.O Box 5  
East Sussex County Council  
County Hall  
Lewes  
BN7 1SW  
Email: [childprotectionpremisegaminglicencenotifications@eastsussex.gov.uk](mailto:childprotectionpremisegaminglicencenotifications@eastsussex.gov.uk)  
Tel: 01273 481000

## **Trading Standards**

Trading Standards Team  
East Sussex County Council  
St Marys House  
52 St Leonards Road  
Eastbourne  
East Sussex  
BN21 3UL  
Email: [trading.standards@eastsussex.gov.uk](mailto:trading.standards@eastsussex.gov.uk)  
Tel: 01323 418200

## **Public Health**

Public Health Network & Business Manager  
E1C County Hall  
St Anne's Crescent  
Lewes  
East Sussex  
BN7 1UE  
Email: [publichealth@eastsussex.gov.uk](mailto:publichealth@eastsussex.gov.uk)

## **Appendix 4 – Hearing Procedure**

1. Nomination of Chair
2. Introduction of Members, Officers, Applicant/Representative, then the Representor/s.
3. Specialist Advisor to introduce Report.
4. Members to ask questions of Specialist Advisor, then the Applicant/Representative and then the Representor/s may ask questions.
5. Applicant/Representative to address the Sub-Committee
6. Members to ask questions of the Applicant/Representative, then the Representor/s may ask questions.
7. The Representor to address the Sub-Committee
8. Members to ask questions of the Representor, then the Applicant/Representative may ask questions.
9. Closing remarks from the Applicant/Representative
10. Closing remarks from the Representor

Note: The Applicant and the Representor/s will be given equal amounts of time to address the Sub Committee.

11. Sub Committee retire to make decision. Note that the decision may not be given on the day of the hearing and in those circumstances the decision will be sent to the parties within the legal time limits.