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**12 October 2015**

## **S U M M O N S**

**MEETING:** Licensing Board  
**DATE:** 20 October 2015  
**TIME:** 6pm  
**PLACE:** Council Chamber, Town Hall, Gosport  
**Democratic Services contact:** Lisa Young

LINDA EDWARDS  
BOROUGH SOLICITOR

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### **MEMBERS OF THE BOARD**

The Mayor (Councillor Farr) (ex officio)  
Chairman of P & O Board (Councillor Hook ) (ex officio)

Councillor Allen (Chairman)  
Councillor Mrs Morgan (Vice Chairman)

Councillor Ms. Ballard	Councillor Geddes
Councillor Mrs Batty	Councillor Murphy
Councillor Beavis	Councillor Ronayne
Councillor Ms. Diffey	Councillor Scard
Councillor Mrs Forder	Councillor Mrs Searle

### **FIRE PRECAUTIONS**

(To be read by the Chairman if members of the public are present)

**In the event of the fire alarm sounding, please leave the room immediately. Proceed downstairs by way of the main stairs or as directed by GBC staff, follow any of the emergency exit signs. People with disability or mobility issues please identify yourself to GBC staff who will assist in your evacuation of the building.**

**This meeting may be filmed or otherwise recorded. By attending this meeting, you are consenting to any broadcast of your image and being recorded.**

**IMPORTANT NOTICE:**

- If you are in a wheelchair or have difficulty in walking and require access to the Committee Room on the First Floor of the Town Hall for this meeting, assistance can be provided by Town Hall staff on request

If you require any of the services detailed above please ring the Direct Line for the Democratic Services Officer listed on the Summons (first page).

**NOTE:**

- i. Councillors are requested to note that, if any Councillor who is not a Member of the Board wishes to speak at the Board meeting, then the Borough Solicitor is required to receive not less than 24 hours prior notice in writing or electronically and such notice shall indicate the agenda item or items on which the member wishes to speak.
- ii. Please note that mobile phones should be switched off or switched to silent for the duration of the meeting.

**AGENDA**

RECOMMEN  
DED MINUTE  
FORMAT

**PART A ITEMS**

1. APOLOGIES FOR NON-ATTENDANCE

2. DECLARATIONS OF INTEREST

*All Members are required to disclose, at this point in the meeting or as soon as possible thereafter, any disclosable pecuniary interest or personal interest in any item(s) being considered at this meeting.*

3. MINUTES OF THE MEETING OF THE BOARD HELD ON 7 JULY 2015

4. DEPUTATIONS – STANDING ORDER 3.5

*(NOTE: The Board is required to receive a deputation(s) on a matter which is before the meeting of the Board provided that notice of the intended deputation and its object shall have been received by the Borough Solicitor by 12 noon on Friday, 16 October 2015. The total time for deputations in favour and against a proposal shall not exceed 10 minutes).*

5. PUBLIC QUESTIONS – STANDING ORDER 3.6

*(NOTE: The Board is required to allow a total of 15 minutes for questions from Members of the public on matters within the terms of reference of the Board provided that notice of such Question(s) shall have been submitted to the Borough Solicitor by 12 noon on Friday, 16 October 2015).*

6. REVIEW OF LICENSING POLICY

*The Council is required to determine and publish every 5 years a statement of licensing policy in relation to the exercise of its functions under the Licensing Act 2003 ("Licensing Policy"). The five year period to which the current Licensing Policy relates ends in January 2016. The current Licensing Policy has been reviewed by the Head of Environmental Health.*

*The purpose of this report is to bring before the Licensing Board the draft Licensing Policy for 2016-2021 (the "Draft Licensing Policy") and to approve the same (with or without amendment) for statutory consultation.*

7. ANY OTHER ITEMS

*which the Chairman determines should be considered, by reason of special circumstances, as a matter of urgency.*

Licensing Board  
20 October 2015

## Agenda item no. 6

<b>Board/Committee:</b>	Licensing Board
<b>Date of meeting:</b>	20 <sup>th</sup> October 2015
<b>Title:</b>	Review of Licensing Policy
<b>Author:</b>	Ian Rickman
<b>Status:</b>	FOR DECISION

### **Purpose**

The Council is required to determine and publish every 5 years a statement of licensing policy in relation to the exercise of its functions under the Licensing Act 2003 ("Licensing Policy"). The five year period to which the current Licensing Policy relates ends in January 2016. The current Licensing Policy has been reviewed by the Head of Environmental Health.

The purpose of this report is to bring before the Licensing Board the draft Licensing Policy for 2016-2021 (the "Draft Licensing Policy") and to approve the same (with or without amendment) for statutory consultation.

### **Recommendation**

That the attached Draft Licensing Policy shall be approved for the purposes of statutory consultation.

The Head of Environmental Health shall have delegated authority to undertake statutory consultation in respect of the Draft Licensing Policy.

The Policy and Organisation Board shall at its meeting on 2nd December 2015 consider any representations received during the consultation period, and approve the publication of the Draft Licensing Policy with or without amendment

### **1. Background**

- 1.1 The Licensing Act 2003 took effect on 25 November 2005 and provided a unified system of regulation for the sale of alcohol, the provision of regulated entertainment and late night refreshment. Most significantly it transferred to the local authority, as part of these new provisions, liquor licensing, which was previously carried out by the Magistrates' Court. The Council is the licensing authority in its area. for the discharge of licensing functions under the Licensing Act 2003.

- 1.2 Section 5 of the Licensing Act 2003 requires each licensing authority to determine and publish a Statement of Licensing Policy at the beginning of each five year period. The Licensing Policy must be kept under review and such revisions must be made at such times as it considers appropriate.

## **2. Report**

- 2.1 The present five year period ends in January 2016 and therefore a Licensing Policy for 2016-2021 must be determined and -published. Before doing so, consultation must have taken place with prescribed persons and groups being consulted. Before determining its policy for a five year period, a licensing authority must consult:

- (a) the chief officer of police for the licensing area;
- (b) the fire authority for that area;
- (c) such persons as the authority considers to be representative of holders of premises licences issued by that authority;
- (d) such persons as the authority considers to be representative of holders of club premises certificates issued by that authority;
- (e) such persons as the authority considers to be representative of holders of personal licences issued by that authority; and
- (f) Representatives of businesses and residents in its area.

## **2.2 LICENSING POLICY**

The Licensing Act requires that the Council carries out its various licensing functions so as to promote the following four licensing objectives:-

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance; and
- The protection of children from harm.

- 2.3 In carrying out its licensing functions, a licensing authority must also have regard to:

- Its statement of Licensing Policy published under section 5 of the Act; and
- Any guidance issued by the Secretary of State under section 182 of the Act.

- 2.4 The Licensing Act requires the Council to publish a Licensing Policy' that sets out the policies the Council will generally apply to promote these licensing objectives when making decisions on applications made under the Act.

- 2.5 Where any revisions are made to the policy, it is also incumbent upon the licensing authority to publish a statement of the revisions or the revised licensing statement.
- 2.6 The Head of Environmental Health has reviewed the current Licensing Policy. A Draft Licensing Policy has been prepared for the Board to consider and approve for the purpose of statutory consultation. There are no substantive changes other than those to simplify it and making the document more concise. The Draft Licensing Policy is attached as Appendix A to this report.
- 2.7 There are no significant risk considerations in relation to this report; however the Council is required to have a current Licensing Policy in place in order to assist it to meet its statutory obligations under the Act. The Licensing Policy itself is a key document as it details how the authority intends to operate and reflect the licensing objectives. If it makes any decisions which are not in line with the policy, full reasons must be given for that departure.
- 2.8 Section 5 Licensing Act 2003 stipulates that once statutory consultation has been undertaken the approval of the Draft Licensing Policy for publication is not a function that can be discharged by Licensing Board. This decision must be made at a meeting of the Policy and Organisation Board.

### **3. Conclusion**

- 3.1 The Licensing Act 2003 made provision for the transfer to local authorities (the licensing authority) of the regulation of the sale and supply of alcohol, the provision of entertainment and the provision of late night refreshment.
- 3.2 The general duties of a licensing authority are that it must carry out its functions under the Act with a view to promoting the licensing objectives and, in carrying out its licensing functions, it must also have regard to its licensing statement published under section 5 of the Act and any guidance issued by the Secretary of State under section 182 of the Act.
- 3.3 Before determining its policy, however, a licensing authority must consult widely, in particular with those representatives listed and, under section 5 (3) of the Act, with any other person or group which it feels it is necessary to consult.
- 3.4 The Board is invited to approve the Draft Licensing Policy attached as Appendix A for the prescribed consultation. The Policy and Organisation Board at the meeting of 2<sup>nd</sup> December 2015 shall, taking into account any representations arising from the statutory consultation, and resolve to approve the Draft Licensing Policy with or without amendment for publication.

<b>Financial Services comments:</b>	
<b>Legal Services comments:</b>	Contained in the report
<b>Service Improvement Plan implications:</b>	None
<b>Corporate Plan</b>	None
<b>Risk Assessment</b>	Included within report
<b>Background papers:</b>	Licensing Act 2003 and associated regulations. DCMS Guidance issued under section 182 of the Licensing Act 2003 (March 2015) Licensing Policy 2009 -2016
<b>Appendices/Enclosures:</b>	Appendix A - Draft Licensing Policy
<b>Report author/Lead Officer:</b>	Ian Rickman





**GOSPORT**  
Borough Council

# Licensing Act 2003

Draft Statement of Licensing Policy

7<sup>th</sup> January 2016 – 6<sup>th</sup> January 2021

## **1. Introduction**

- 1.1 The Licensing Act 2003 requires licensing authorities to publish a "statement of licensing policy" every five years, which sets out how they intend to exercise their functions. The policy sets out a general approach to making licensing decisions. Each application will be considered on its own individual merits. The discretion of the licensing authority in relation to applications is only used if relevant representations are made
- 1.2 The Policy relates to all those licensing activities identified as falling within the provisions of the Act (Part 1 Section 1) namely:
- Retail sale of alcohol;
  - Supply of alcohol to club members;
  - The supply of hot food and/or drink from any premises between 11 p.m. and 5 a.m.;
  - Provision of "Regulated Entertainment" – to the public, to club members or with a view to profit. "Regulated Entertainment" is defined as:
    - A performance of a play
    - An exhibition of a film;
    - An indoor sporting event;
    - Boxing or wrestling entertainment;
    - A performance of live music;
    - Any playing of recorded music;
    - A performance of dance;
    - Provision of facilities for making music;
    - Provision of facilities for dancing.
- 1.3 The Legislative Reform (Entertainment Licensing) Order 2014 and the Deregulation Act 2015 provide significant exemptions to some of the activities. These include licensed premises music exemptions.
- 1.4 The licensing authority has a duty under the Act to carry out its functions with a view to promoting the four licensing objectives, which are:
- Prevention of crime and disorder
  - Public safety
  - Prevention of public nuisance
  - Protection of children from harm

- 1.5 The Authority must also have regard to this Statement of Licensing Policy and any statutory guidance issued by the Secretary of State. That does not mean that it has to follow the policy and guidance slavishly. It can depart from it if, having properly taken it into account, it has to have good reason to do so and where it is appropriate to do so to promote one or more of the licensing objectives.
- 1.6 In promoting the licensing objectives the licensing authority has a number of key aims and purposes which should be principal aims for everyone involved in licensing work and are therefore integral to the Policy. They include:
1. Protecting the public and local residents from crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises;
  2. Giving the police, licensing officers and responsible authorities the powers they need to effectively manage and police the night-time economy and take action against those premises that are causing problems;
  3. Recognising the important role which licensed premises play in our local communities and economy by minimizing the regulatory burden on business, encouraging innovation and supporting responsible premises;
  4. Providing a regulatory framework for alcohol which reflects the needs of local communities and empowers local authorities to make and enforce decisions about the most appropriate licensing strategies for their local area; and
  5. Encouraging greater community involvement in licensing decisions and giving local residents the opportunity to have their say regarding licensing decisions that may impact upon them.

### **Consultation**

- 1.7 In accordance with section 5 of the Act and prior to the publication of this Policy the licensing authority consulted with:
- Chief Officer of Police for the area (Hampshire Police)
  - Hampshire Fire and Rescue Authority
  - Persons/bodies representative of local holders of premises licences;
  - Persons/bodies representative of local holders of club premises certificates;
  - Persons/bodies representative of local holders of personal licences;

- 1.8 This Policy will come into effect on 9 February 2016 and remain in force for a period of five years. During this time the policy will be subject to regular review.

## **2. Profile**

- 2.1 Gosport Borough is located in South Hampshire on the western side of Portsmouth Harbour opposite the city of Portsmouth. The Borough is a peninsula of 2,750 hectares surrounded on three sides by The Solent and Portsmouth Harbour with almost 39 kilometres of coastline. It is predominately urban in character and contains two principal settlements, Gosport and Lee-on-the-Solent, separated by the Alver Valley.
- 2.2 The population of the Borough in 2011 was 82,600 persons. The Borough is also one of the most densely populated areas in the South East Region, with an urban density of 32.6 people per hectare. There are approximately 35,400 households.

## **3. The Impact of Alcohol on Gosport**

- 3.1 Figures from Public Health England do not show Gosport as a separate entity. Hampshire figures are significantly lower than those for Portsmouth, Southampton and the England average in all the groups measured in the Local Alcohol profile.
- 3.2 Public Health England state “Alcohol consumption is a contributing factor to hospital admissions and deaths from a diverse range of conditions. Alcohol misuse is estimated to cost the NHS about £3.5 billion per year and society as a whole £21 billion annually.

## **4. Licensing Process**

- 4.1 Applicants are strongly encouraged to seek advice at the earliest possible stage from the licensing authority and other responsible authorities before making an application.
- 4.2 Applicants will need to comply with the statutory requirements or risk their application being invalid.
- 4.3 The licensing authority will expect individual applicants to address the licensing objectives in their operating schedule, having regard to the type of premises (which includes a vessel i.e. ship or boat), the licensable activities to be provided, the operational procedures, the nature of the location and needs of the local community.

- 4.4 It is recommended that applicants obtain planning permission and building regulation approval along with all other necessary permissions and licences for the premises prior to an application being submitted.
- 4.5 When formulating their operating schedule applicants will be expected to make themselves aware of any relevant planning and transportation policies, tourism and cultural strategies or local crime prevention strategies and to have taken these into account where appropriate.
- 4.6 When determining applications the licensing authority will have regard to any guidance issued by the Government. In particular, account will be taken of the need to encourage and promote live music, dancing and theatre for the wider cultural benefit of the community as a whole. If representations are made concerning the potential for limited disturbance in a particular neighbourhood, the licensing authority's consideration of those representations will be balanced against the wider benefits to the community.
- 4.7 When determining applications the only conditions which should be imposed on a premises licence or club premises licence are those that are appropriate and proportionate for the promotion of the licensing objectives. In particular, regard will be had to any local crime prevention strategies.

### **Operating Schedules**

- 4.8 The operating schedule must form part of the completed application form for a premises licence. It should include information, which is necessary to enable a responsible authority or other person to assess whether and what steps have been taken or are proposed in order to promote the licensing objectives.
- 4.9 As and when appropriate the applicant should provide in the operating schedule such further relevant additional information/evidence where there is an apparent departure from the promotion of the licensing objectives.
- 4.10 It is strongly recommended that applicants and/or their legal advisors discuss with Council officers and representatives of responsible authorities the draft operating schedule before it is formally submitted. This will help ensure it properly addresses all relevant issues that might give rise for concern. This may avoid the necessity for a hearing if the application otherwise passes without representation.

## **Representations**

- 4.11 There is a prescribed period during which the licensing authority can receive a written representation to an application. This is usually 28 days from the date the licensing authority receives the application but varies depending on the type of application under consideration.
- 4.12 “Relevant representations” can include positive, supportive representations as well as objections.

## **Decision Making Process**

- 4.13 It will be the licensing authority’s policy to provide an efficient and cost effective service to all parties involved in the licensing process. With the exception of the approval and review of this Policy, decisions on licensing matters will be taken in accordance with an approved scheme of delegation.
- 4.14 In accordance with DCMS Guidance the licensing authority has delegated licensing functions to sub-committees or in appropriate cases, to officials supporting the licensing authority as follows:

<b>Matter to be dealt with</b>	<b>Board</b>	<b>Officers</b>
Application for personal licence	If a police objection	If no objection made
Application for person licence with unspent convictions	All cases	
Application for premises licence/club premises certificate	If a relevant representation made	If no relevant representation made
Application for provisional statement	If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate	If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor	If a police objection	All other cases
Request to be removed as designated premises supervisor		All cases
Application for transfer of premises licence	If a police objection	All other cases
Applications for interim authorities	If a police 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		All cases

<b>Matter to be dealt with</b>	<b>Board</b>	<b>Officers</b>
the relevant authority considering the application		
Determination of a police objection to a temporary event notice		All cases
Determination of application to vary premises licence at a community premises to include alternative licence condition	If a police objection	All other cases
Decision whether to consult other responsible authorities on minor variation application		All cases
Determination of minor variation application		All cases

- 4.15 If no relevant representations are received then the authorisation will be issued automatically with, in the case of a premises licence or club premises certificate, such conditions attached as are mandatory or are consistent with the operating schedule accompanying the application. The licensing authority will have no conditions attached to the licence.
- 4.16 Where relevant representations are made and not withdrawn, the licensing authority must hold a hearing before the Licensing Board who will take such of the following steps as it considers appropriate for the promotion of the licensing objectives.
- 4.17 The steps are:
- grant the licence subject to the operating schedule modified to such extent as the Board considers appropriate for the promotion of the licensing objectives, and subject to the relevant mandatory conditions;
  - exclude from the scope of the licence any of the licensable activities to which the application relates;
  - to refuse to specify a person in the licence as the premises supervisor;
  - reject the application.

## **Applications for Large Events**

- 4.18 Events that the Council believe may require a co-ordinated approach to manage may be subject to a Safety Advisory Group (SAG) process. This will be at the discretion of the Council. Applicants will need to demonstrate to the members of the SAG they are supporting the licensing objectives.
- 4.19 An Event Management Plan needs to be submitted at least 6 months prior to the event to allow for the SAG process to be undertaken before any required licensing process.

## **Shops Selling Alcohol (Off Licences)**

- 4.20 In 2013 the British Beer and Pub Association estimated that twice as much alcohol is bought in off-licensed premises as from pubs or other licensed premises. This was after years of seeing a steady increase in the amount of alcohol sold in off licences. Pre-loading with alcohol before a night out is much more frequent. This change in habit has the potential to negatively impact on the licensing objectives with on-licensed premises most at risk of the consequences. There are additional increased potential risks such as easier access to alcohol by children (given that consumption is not monitored / regulated), theft, increased street drinking and an increase in crime and disorder.
- 4.21 To address theft and access by children to alcohol the layout of premises, CCTV, where alcohol will be displayed and what steps will be undertaken to support the licensing objectives will be considered.

## **Temporary Event Notices (TENS)**

- 4.22 The Licensing Act 2003 enables certain organised events for fewer than 500 people to take place following notification to the licensing authority, the Police and Environmental Health.
- 4.23 Guidance on giving Notice can be found in the Home Office Fact Sheet. [www.gov.uk/government/publications/temporary-events-notices-factsheet](http://www.gov.uk/government/publications/temporary-events-notices-factsheet).
- 4.24 Although the statutory legal minimum time required for the notification of a temporary event to the licensing authority, Police and Environmental Health is ten working days, or five working days for a late temporary event, it is essential that proper consideration of the proposed event is given. Statutory guidance allows the licensing authority to publicise its preferred timescale for notification.



- 4.25 The licensing authority will encourage bona fide community events. Giving TENs for existing licensed premises will not be encouraged where the proposal is simply to regularly extend the existing hours of operation.
- 4.26 The licensing authority expects those who have given notice of a temporary event to have identified any particular issues having regard to their type of premises and/or activities, and to have in place written policies for addressing issues such as drunkenness, crime/disorder and drugs on their premises and for ensuring staff are trained on these policies.

## **5. Management of Premises**

### **Designated Premises Supervisor**

- 5.1 Any premises where alcohol is sold under a premises licence must have a designated premises supervisor (DPS). The DPS will be named in the premises licence, a summary of which must be displayed on the premises. A DPS must be a personal licence holder. Every sale of alcohol must be made or authorised by a person who holds a personal licence (or must be made or authorised by the management committee in the case of community premises).
- 5.2 The Licensing Act 2003 does not require a DPS or any other personal licence holder to be present on the premises at all times when alcohol is sold. However, the DPS and the premises licence holder remain responsible for the premises at all times.
- 5.3 The licensing authority will normally expect the DPS to have been given the day-to-day responsibility for running the premises and as such it is expected that the DPS would usually be present at the licensed premises on a regular basis. The Authority expects that this will be in excess of 50% of a seven-day week.
- 5.4 The premises licence holder will be expected to ensure that the DPS has experience commensurate with the size, capacity, nature and style of the premises and licensable activities to be provided.
- 5.5 Within all licensed premises, whether or not alcohol is to be sold, the licensing authority will expect there to be proper management arrangements in place which will ensure that there is an appropriate number of responsible, trained/instructed persons at the premises to ensure the proper management of the premises and of the activities taking place, as well as adherence to all statutory duties and the terms and conditions of the premises licence.

## **Door Supervisors**

- 5.6 The premises licence holder and DPS should ensure that their premises do not increase the fear of crime as well as actual crime in their locality. To this end they should ensure, so far as is possible, that customers do not cause nuisance or disorder outside the premises and that measures to ensure the safety of customers and prevention of nuisance are in place. Door supervisors have an important role in managing customers, not only on the doors but also in the immediate area of premises.

## **Dispersal Policies**

- 5.7 The licensing authority accepts that licensed premises can have a diffuse impact. People can cause disturbance when returning to residential areas from later-opening premises elsewhere and people who use off-licences may locate to a remote spot to drink. These problems may not be within the direct control of any particular licensed premises. However, premises licence holders are generally expected to take measures to encourage people to leave their premises quietly and considerately. The Licensing Authority would encourage premises to adopt a dispersal policy where appropriate.

## **Risk Assessment**

- 5.8 The licensing authority will expect that appropriate and satisfactory general and technical risk assessments, management procedures and documentation have been made available to the relevant responsible authorities and to the licensing authority, that demonstrate that the public will be safe within and in the vicinity of the premises.
- 5.9 As a minimum the following matters must be taken into consideration:
- Whether the premises already have a licence which specifies the maximum number of people that can be present and, whether a risk assessment has been undertaken as to the maximum number of people who can be present in various parts of the premises, so that they can be operated safely and can be evacuated safely in the event of an emergency.
  - Whether there are procedures in place to record and limit the number of people on the premises with opportunities for “pass outs” and readmission.
  - Whether patrons can arrive at and depart from the premises safely.

- Whether there may be overcrowding in particular parts of the premises;
- Whether music and dance venues and performance venues will use equipment or special effects that may affect public safety (e.g. moving equipment, vehicles, pyrotechnics, strobe lights, smoke machines).
- Whether there are defined responsibilities and procedures for medical and other emergencies and for calling the emergency services.

### **Promoters**

- 5.10 The premises licence holder, DPS and personal licence holders remain responsible for activities taking place on premises when promotions take place. In addition the licensing authority will expect premises licence holders to have in place written agreements to ensure that when hiring out venues to promoters, the responsibility for the management of the premises is clear. The Promoter and its employees or agents, shall comply in all respects with all conditions, requirements and regulations of the local authority, licensing authority, police authority and fire authority and have regard to good practice for licensed premises.

### **Takeaway Premises (Late Night Refreshment Houses)**

- 5.11 The Licensing Authority considers that it will normally be inappropriate to grant a premises licence permitting the sale of alcohol at premises which are principally used for selling hot food for consumption off the premises ("takeaway" premises).
- 5.12 It is recognised that takeaway premises open late at night can be associated with disorder as persons under the influence of alcohol having left, or in some cases being ejected from, late night venues congregate there. Applicants are recommended to have clear written policies for dealing with disorder and nuisance.
- 5.13 Operators of takeaway premises (including mobile units) must have suitable arrangements in place for the containment and disposal of their waste in accordance with the Environmental Protection Act 1990 and subsidiary regulations. Operators of premises where food or drink is provided in disposable containers for consumption elsewhere than on the premises are expected to consider the potential for litter near their premises and take steps to actively reduce the amount of litter generated from their premises. Applicants are also asked to consider the type of packaging container, whether it is always necessary and whether it can be sourced from sustainable materials.

- 5.14 Where the Licensing Authority considers it appropriate, it may impose conditions on a premises licence to require the operator of premises serving customers with hot food or drink to provide litter bins in the vicinity of the premises in order to prevent the accumulation of litter from its customers. It may require the proprietor to service those litter bins as part of their own waste management arrangements.

### **External Areas**

- 5.15 The introduction of the requirement for smoke free public places under the Health Act 2006 has led to an increase in the number of people outside licensed premises. The provision of tables and chairs outside premises can enhance the attractiveness of a venue, but regard should be had to the need to ensure that the use of such areas will not cause nuisance to the occupiers of other premises in the vicinity. In particular, those with authorisations are expected to manage persons smoking in the vicinity of premises so they do not impede access to the premises and do not cause disturbance. In addition they are expected to provide secure ash trays or wall mounted cigarette bins for patrons so as to minimise litter.
- 5.16 Licensees should also be aware of the possibility of breakages of drinking glasses and glass bottles in outside areas. Consideration should therefore be given to the use of toughened or “plastic” drinking vessels and other management controls to avoid or lessen the likelihood of broken glass in these areas.
- 5.17 The licensing authority has a number of concerns with respect to the development of external areas to licensed premises, and will consider imposing conditions to improve the management of the outside area or prohibiting or restricting the use of these areas in order to promote the public nuisance objective.

### **Vehicles**

- 5.18 Under the Act, alcohol may not be sold on or from a moving vehicle and therefore any application for such will be refused. However, applications for Premises Licences will be considered for the sale of alcohol from parked or stationary vehicles relating solely to the place where the vehicle is parked and the sale of alcohol will take place.

## **6. Cumulative Impact/Special Saturation Policy**

- 6.1 The licensing authority will not take the “need” for an establishment into account when considering an application, as this is a matter for the market. The licensing authority however recognises that the cumulative impact of the number, type and density of licensed premises in a given area, may lead to serious problems of nuisance and disorder in the vicinity of the premises.
- 6.2 If representations are received from a responsible authority or other persons suggesting that an area has become saturated with licensed premises, such degree of concentration making it a focal point for large groups of people to gather in surrounding areas, possibly away from the premises themselves, the licensing authority will consider on an evidential basis if this impact has an adverse effect on the promotion of the licensing objectives in addition to that created by the individual premises.
- 6.3 In these circumstances, the licensing authority will assess whether the imposition of conditions can address these problems or if the adoption of a special policy of refusing applications for new Premises Licences or Club Premises Certificates is needed because the area is saturated with licensed premises and that granting of any more would undermine at least one of the licensing objectives.
- 6.4 When considering whether to adopt a special saturation policy the Licensing Authority will consider a range of issues including the following:
- Evidence of identification of concern about crime and disorder or public nuisance;
  - Where it can be demonstrated that nuisance and/or disorder is arising as a result of customers from licensed premises, identifying the area from which problems are arising and the boundaries of that area;
  - Following consultation and subject to that consultation, inclusion of a special policy about future Premises Licence or Club Premises Certificate applications from that area; and
  - Publication of the special policy.
- 6.5 If a special policy is adopted it creates a rebuttable presumption that licence and certificate applications or material variations will normally be refused if relevant representations are received. Accordingly applicants will need to address the special policy issues in their operating schedules in seeking to rebut the presumption. Applicants would need to demonstrate that the operation of the premises involved would not add to the cumulative impact already being experienced.

- 6.6 If implemented, the licensing authority would regularly review any special saturation policies to see whether they have had the intended effect and are still required.
- 6.7 The licensing authority will not normally use special saturation policies solely;
- As grounds for removing a licence when representations are received about problems with existing licensed premises, or;
  - To refuse modifications to a licence, except where the modifications are directly relevant to the policy, for example where the application is for a significant increase in the capacity limits.
- 6.8 The licensing authority also recognises that, within this policy, it may be able to approve licences that are unlikely to add significantly to the saturation, and will consider the circumstances of each individual application having regard to the licensing objectives.
- 6.9 The licensing authority, having regard to the evidence currently available, considers that at present there is no particular part of the district where a cumulative impact exists, leading to an adverse impact upon the fulfilment of the licensing objectives. However, the cumulative impact of licensed premises will be kept under review.
- 6.10 Other mechanisms, both within and outside the licensing regime that are available for controlling cumulative effect are:
- Planning controls;
  - Positive measures to create a safe and clean environment in partnership with local businesses, transport operators and other Local Authority services;
  - Application of the powers of the Council to designate parts of the area as places where alcohol may not be consumed publicly;
  - Police enforcement of the normal law concerning disorder and anti-social behaviour, including the issue of fixed penalty notices;
  - The prosecution of any holder of a Personal Licence or member of staff at such premises who is selling alcohol to people who are drunk;
  - The confiscation of alcohol from adults and children in designated areas;
  - Application of Police powers to close for up to 24 hours, any licensed premises or temporary event on the grounds of disorder, the likelihood of disorder, or excessive noise emanating from the premises; and
  - Application of Police powers, other Responsible Authorities, local residents or businesses to seek a formal review of a licence/certificate.

## **7. Children**

- 7.1 A child is anyone under the age of 18 years unless otherwise stated.
- 7.2 This statement of licensing policy does not seek to limit the access of children to any premises unless it is necessary for the prevention of physical, moral or psychological harm.
- 7.3 When considering applications for premises licences, the licensing authority will take into account the history of a particular premises and the nature of the activities proposed to be provided when considering any options appropriate to prevent harm to children. The relevant matters include 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 the supply of alcohol is the exclusive or primary purpose of the service at the premises.
  - in these circumstances, conditions may be attached to any licence to:
    - limit the hours when children may be present;
    - restrict the age of persons on premises;
    - exclude children from all or part of the premises when certain activities may take place;
    - require an adult to accompany a child;
    - set out a requirement for the presence of adult staff according to a set adult/child ratio where children are attending regulated entertainment;
  - exclude people under 18 from the premises when any licensable activities are taking place.
- 7.4 Where no licensing restriction is considered necessary, however, it is at the discretion of the premises licence holder or club to decide whether or not to admit children; however the licensing authority strongly supports the use of Challenge 25 policies, the recording of all refusals and training on all age restricted activity.
- 7.5 Where premises give film exhibitions, licensees must ensure that children are prevented from viewing age-restricted films classified according to the British Board of Film Classification.

- 7.6 Except as in 7.2 above the authority will not impose conditions restricting the admission of children to any premises believing this should remain a matter of discretion of the licence holder. The licensing authority encourages family friendly policies. It will take strong measures to protect children where any licence holder is convicted of serving alcohol to children, where premises have or acquire a known association with drug taking or dealing, where gambling takes place on the premises or where entertainment of an adult or sexual nature is commonly provided. In such circumstances while it may sometimes be necessary to impose a complete ban on the admission of children this would be rarely imposed, it would be more likely to require conditions as referred to above.
- 7.7 Where a large number of children are likely to be present on any licensed premises, for example, a children's show or pantomime, then conditions will be imposed requiring the presence of an appropriate number of adult staff to ensure public safety and their protection from harm including control of access and egress and consideration may be given to include conditions concerning child/adult ratios
- 7.8 The licensing authority recognises the great variety of premises for which licences may be sought. These will include theatres, cinemas, restaurants, pubs, nightclubs, cafes, takeaways, community halls and schools. Access by children to all types of premises will not be limited in any way unless it is considered appropriate to do so in order to protect them from harm
- 7.9 In the case of premises which are used for film exhibitions conditions will be imposed restricting access only to those who meet the required age limit in line with any certificate granted by the British Board of Film Classification or, in a specific case where there are very good local reasons a certificate given to the film by the licensing authority itself.
- 7.10 Where no restriction or limitation is imposed the issue of access will remain a matter for the discretion of the individual licensee or club.
- 7.11 The wide range of premises that require licensing means that children can be expected to visit many of these, often on their own, for food and/or entertainment.
- 7.12 The Act details a number of offences designed to protect children in licensed premises and the licensing authority will work closely with the police and other appropriate agencies to ensure the appropriate enforcement of the law, especially relating to the sale and supply of alcohol to children.



## **8. Enforcement**

- 8.1 It is essential that premises are maintained and operated so as to ensure the continued promotion of the licensing objectives and compliance with the approved operating schedule, the specific requirements of the 2003 Act and any licence conditions imposed. The licensing authority, in partnership with the responsible authorities, will make arrangements to monitor premises.
- 8.2 The licensing authority will work closely with the police, trading Standards and the other responsible authorities, liaising on a regular basis to establish enforcement protocols and concordats to ensure an efficient deployment of resources engaged in enforcing licensing law and inspecting licensed premises, in order to ensure that resources are targeted at problem and high-risk premises.
- 8.3 The Act details a number of offences designed to protect children in licensed premises and the licensing authority will work closely with the police, Trading Standards and other appropriate agencies to ensure the appropriate enforcement of the law, especially relating to the sale and supply of alcohol and tobacco products to children.
- 8.4 The premises licence holder is responsible to ensure the four licensing objectives are upheld:
- Prevention of crime and disorder
  - Public Safety
  - Prevention of public nuisance
  - Protection of children from harm
- 8.5 Where there is evidence to suggest the licensing objectives are being undermined, enforcement action will be taken in accordance with the principles of better regulation and the Regulator's Compliance Code. The aim is to have well run premises operating in our borough. Problems at premises will be identified by the relevant authorities and the licence holder will have responsibility to resolve the problem. Failure to address or respond to problems or isolated serious failures will normally result in a review application.