



DERBY CITY COUNCIL

LICENSING AND APPEALS COMMITTEE 7 SEPTEMBER 2004

Report of the Director of Corporate Services

DRAFT LICENSING POLICY

RECOMMENDATION

- 1.1 To approve the revised draft Licensing Policy and revised consultation timetable.
- 1.2 To establish a cross party working group to consider comments received from the consultation exercise and make recommendations to Licensing and Appeals Committee at its meeting in December 2004.

SUPPORTING INFORMATION

- 2.1 The first version of the draft licensing policy was considered by the Licensing and Appeals Committee on 18 June 2003. Since that time the Licensing Act 2003 received Royal Assent on 10 July 2003 and the associated guidance was published by the Secretary of State on 7 July 2004.
- 2.2 Some changes were noted in the final version of the guidance and the Council's draft licensing policy has been amended to reflect these.
- 2.3 The draft policy sets out how the Council will achieve its responsibilities set out in the Licensing Act 2003. It contains information to all interested parties about what needs to be included in an application, how licences will be processed and determined to achieve the requirements of the Act and information about the attachment of licence conditions through consultation, liaison and enforcement.
- 2.4 The draft policy has been written to coincide with the tight schedule set by Government. It is anticipated that the first licence applications will be received by the Council's Licensing Team in Environmental Health and Trading Standards after 7 February 2005. The second appointed date will be in November 2005, when the Council will take over full licensing responsibility. It is therefore vital that the deadlines set out in the report are achieved.
- 2.5 The draft Licensing Policy is attached at Appendix 2. In summary, the key issues are:
 - a) The need to achieve four licensing objectives relating to:
 - public safety
 - protection of children from harm
 - prevention of crime and disorder
 - prevention of public nuisance

- b) The importance of the Council to consult and liaise with statutory consultees, partnership and industry groups, potential applicants and members of the community.
- c) The use of licence conditions attached to individual licences to ensure premises and persons achieve the four licensing objectives.
- d) The provision of a risk based educational and enforcement licensing system to achieve a consistent, cost effective and fair system.
- e) The need to plan and provide an effective system of administration and delegation of the licensing function.

2.6 The revised consultation timetable is provided at Appendix 3. The procedure for consultation remains the same as that approved by Licensing & Appeals Committee on 18 June 2003.

2.7 As part of its consultation process, the Council will consult with:

- Derbyshire Constabulary
- Derbyshire Fire & Rescue Service
- Existing Licence holders and their representatives
- Existing holders of club premises certificates and their representatives
- Existing holders of personal licences
- Representatives of business and residents in the City
- City Councillors
- Other relevant bodies, i.e. those involved with the reduction in crime and disorder, consumer protection, planning & development, tourism, child protection, transport, alcohol reduction, local performers etc.

2.8 Following the consultation period, any comments received will need to be considered. As this may be a lengthy process, it is proposed that a small cross-party working group is formed to consider the consultees' comments and the views of licensing officers. The working group will then make recommendations for consideration by the Licensing and Appeals Committee in December 2004.

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Background papers:	Licensing and Appeals Committee Report 18 June 2003 Item 9 - Draft Licensing Policy
List of appendices:	Appendix 1 – Implications Appendix 2 – Revised Draft Licensing Policy Appendix 3 – Revised Consultation Timetable

IMPLICATIONS

Financial

- 1.1 Additional funding for producing the licensing policy and the consultation process has already been approved and included in the 2004/05 budget process.

Legal

- 2.1 The Licensing Act 2003 requires the Council to prepare and publish a statement of its licensing policy every three years. The policy must be published before the Council carries out any function in respect of any applications made under the terms of the Act.
- 2.2 Before determining its policy for any three-year period, the Council must carry out a statutory consultation process.

Personnel

- 3.1 None directly arising from this report.

Equalities impact

- 4.1 The licensing policy promotes the principles of openness, fairness and equality throughout, but specifically mentions equality in section 10. The consultation process will aim to ensure that as many different groups as possible are able to see and comment on the policy.

Corporate themes and priorities for change

- 5.1 The new licensing proposals contribute to the Council's objectives of **protecting and supporting people and a healthy environment**.
- 5.2 The new licensing proposals further the Council's priorities of **promoting the City as a centre for industry, commerce, culture and tourism, improving management for the City and district centres and improving customer service**.

DRAFT LICENSING POLICY**1. INTRODUCTION**

- 1.1 The Government has introduced legislation to reform the existing Licensing Laws. The Licensing Act 2003 (the Act) requires Derby City Council (the Council) to publish a Licensing Policy (the policy).
- 1.2 When writing the policy, the Council has had regard to the guidance issued by the Secretary of State for Culture Media and Sport, under Section 182 of the Act (the guidance).
- 1.3 The policy will guide the elected members of the Licensing Committee on the boundaries and power of the Council and provide them with parameters, within which to make their decisions.
- 1.4 The policy will inform the licence applicants, residents and business of the parameters within which the Council will make their decisions.
- 1.5 The Council (the licensing authority) may depart from its own policy if the individual circumstances of any case merit such a decision in the interests of the promotion of the licensing objectives. In such cases, the Council will provide a full reason for departing from its licensing policy.

2. PURPOSE OF THE LICENSING POLICY

- 2.1 The aim of the policy is to:
 - Secure the safety and amenity of our communities
 - Help to promote safe and sustainable licensed trade that contributes to the economy and vibrancy of the City
 - Reflect the needs of the City's community in relation to its cultural needs and diversity by supporting licensable activities, including live music, dancing, theatre and other cultural experiences for the wider benefit of the community

The Council in adopting the policy recognises both the needs of residents for a safe and healthy environment in which to live and move and the importance of safe and well-run premises to the local economy and vibrancy of the City.

- 2.2 To achieve this aim the Council is committed to partnership working with Derbyshire Constabulary, Derbyshire Fire & Rescue Service, commerce, including the licensed trade, residents and others towards the promotion of the 4 licensing objectives set out in the Act (See Section 8).
- 2.3 The policy will come into effect on 7 February 2005.
- 2.4 The policy will be reviewed at least every 3 years. In the preparation and publication of this policy, the Council will consult with:

- Derbyshire Constabulary
- Derbyshire Fire & Rescue Service
- Existing Licence holders and their representatives
- Existing holders of club premises certificates and their representatives
- Existing holders of personal licences
- Representatives of business and residents in the City
- Other relevant bodies, i.e. those involved with the reduction in crime and disorder, consumer protection, planning & development, tourism, child protection, transport, alcohol reduction, local performers etc.

2.5 The views of the consultees will be given appropriate weight when the policy is decided.

3. SCOPE

3.1 The policy relates to all licensing activities and people identified as falling within the provisions of the Act. These are likely to include:

- public and private places of entertainment (providing live/recorded music and/or dancing)
- premises that supply or sell alcohol for consumption on or off the premises
- night cafes (premises that supply hot food and/or drink between 11pm and 5am)
- premises providing entertainment of a sexual nature
- indoor sports
- qualifying club premises
- cinemas
- theatre and amateur dramatic groups
- temporary events
- people licensed to manage premises

4. INTERPRETATION

4.1 Any words or expressions in the policy have the meanings assigned to them under the Act or in the guidance as issued by the Secretary of State.

5. FUNDAMENTAL PRINCIPLES

5.1 The Council will carry out its licensing functions with a view to promoting the four licensing objectives identified in the Act. The Council will also have regard to the guidance and its policy when considering licence applications.

5.2 The licensing policy promotes the four licensing objectives:

- the prevention of crime and disorder
- public safety

- the prevention of public nuisance
- the protection of children from harm

The four licensing objectives have equal importance.

- 5.3 The Council recognises that each licensing application must be dealt with on its own individual merits, and will be treated fairly and objectively in accordance with the licensing objectives. The policy will not prevent an applicant from applying for a variety of licences.
- 5.4 Applicants should set out their proposals for addressing the four licensing objectives in their operating schedules (as required in the Act). These proposals could reflect the conditions suggested in the guidance and should be capable of being attached to licences. These suggested conditions are attached at Appendices A – E.
- 5.5 Any terms or conditions attached to a licence will be focussed on matters which are within the control of the individual licence holder or others with relevant authorisations. These matters will centre on premises and places being used for licensable activities and in the vicinity of those premises and places.
- 5.6 When considering applications the Council will focus on the direct impact of the activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the area concerned.
- 5.7 The Council recognises the Act is not the primary mechanism for the general control of anti-social behaviour by individuals as soon as they are beyond the direct control of an individual, club or business holding the relevant licence.
- 5.8 When considering applications the Council will ensure that ‘relevant representations’ from all ‘responsible authorities’ are considered fully and fairly.

Responsible authorities are:

- Derbyshire Constabulary
- Derbyshire Fire & Rescue Service
- the Council’s Health & Safety Team
- the Council’s Trading Standards Division
- the Council’s Pollution Control Team
- the Council’s Social Services Department
- the Council’s Development & Cultural Services Department

- 5.9 When considering applications the Council will ensure that ‘relevant representations’ from all ‘interested parties’ are considered fully and fairly.

Interested parties are:

- people living in the vicinity of the premises
- bodies representing people living in that vicinity
- people involved in businesses in the vicinity of the premises
- bodies representing businesses in that vicinity

5.10 'Relevant representations' may only relate to:

- matters about the likely effect of the grant of the premises licence on the promotion of the licensing objectives, or
- a proposed designated premises supervisor if made by Derbyshire Constabulary

5.11 The Council will only consider those representations submitted within the prescribed time period in accordance with the Act.

5.12 Where the Council is of the opinion that representations are vexatious, frivolous or repetitious, the Act prohibits them being considered as relevant representations.

5.13 The policy does not prohibit an individual or relevant body from making a relevant representation on an application, or request a review into an existing licence or certificate, where it is permitted under the Act.

5.14 The Council may not impose conditions on or refuse to grant or vary a premises licence or club premises certificate unless it has received relevant representation from a responsible authority or an interested party. Where no relevant representations are received the application will be approved.

5.15 Applications for licences will not be valid unless properly made. A valid application will include:

- the required fee
- a plan of the premises
- an operating schedule that contains sufficient information to achieve the licensing objectives
- if the application is for the supply of alcohol, a consent form from the Designated Premises Supervisor

5.16 The application should also include such information as:

- the physical arrangement/layout and extent of the premises
- the nature and features of the premises throughout all its operating hours
- equipment/facilities provided or proposed at the premises
- number and competency of personnel to secure compliance with the Act and the likely licence conditions
- managerial systems and procedures to monitor and control the premises and its vicinity during its operating times
- any other matter that affects the licensing objectives

6. CUMULATIVE IMPACT

6.1 The Council will not consider commercial demand ('need') when considering an application. 'Need' is a matter for the planning committee and the market and not for the licensing authority or the licensing policy.

- 6.2 The Council does recognise that the ‘cumulative impact’ of the number, type and density of licensed/club premises may undermine the licensing objectives. However, the Council may not impose conditions on or refuse to grant or vary a premises licence or club premises certificate unless it has received relevant representation from a responsible authority or an interested party.
- 6.3 Saturated areas are those which experience exceptional problems of disorder and nuisance over and above the impact of an individual premises.
- 6.4 Before being able to consider whether individual new applications relating to a potential saturated area should not be granted on grounds that they will have an adverse effect on the licensing objectives, the Council must adopt a special policy.
- 6.5 Where relevant representations are received from a responsible authority or an interested person asking for a specific area to be classed as saturated as described in the guidance, they would need to provide suitable evidence.
- 6.6 The Council will need to follow the necessary steps in considering whether to adopt a special policy. These are:
- Identification of serious concern from a responsible authority or interested party about crime and disorder or public nuisance
 - Assessment of the causes
 - Where it can be demonstrated that crime and disorder or nuisance is arising as a result of customers of licensed premises, identifying the area where problems are arising and the boundaries of that area
 - Consulting with responsible authorities and interested parties
 - Adopting and publishing of the special policy concerning saturation areas and any future licence applications from that area
- 6.7 A special policy must be reviewed regularly to assess whether it is needed or if any revisions are required.
- 6.8 A special policy would not prevent the Council considering future applications as each application is considered on its own merits. However, the applicant will need to demonstrate how the premises would not add to the cumulative impact on the area concerned.
- 6.9 Special policies will be restricted to the impact of a concentration of licensed premises selling alcohol for consumption on the premises. A concentration of premises selling alcohol for consumption off the premises will not normally justify a special saturation policy.
- 6.10 The Council will not use a special policy as grounds for revoking an existing licence or certificate. A relevant complaint that could be linked to a particular premises from a responsible authority or interested party would allow a review of the licence or certificate to take place.
- 6.11 A special policy must not be used to impose a terminal hour (closing time) on licensed premises in a particular area. Dictated terminal hours have been abolished under the Act, to avoid problems arising with customers leaving premises simultaneously.

6.12 The Council regards the adoption of a special saturation policy as exceptional. Other mechanisms exist to address behaviour that causes a public nuisance or is unlawful, for example:

- planning controls
- positive measures to create a safe and clean city centre environment in partnership with local businesses, transport operators and the Council
- powers of the Council to designate parts of the City area as places where alcohol may not be consumed publicly
- Derbyshire Constabulary's enforcement of the general law concerning disorder and anti-social behaviour, including fixed penalty notices;
- anti-social behaviour orders
- the prosecution of any personal licence holders or member of staff at each premises who is selling alcohol to people who are drunk
- the confiscation of alcohol from adults and children in designated areas
- Derbyshire Constabulary's powers to close down instantly for 24 hours any licensed/club premises or temporary events on grounds of disorder, the likelihood of disorder or excessive noise emanating from the premises
- the power of Derbyshire Constabulary, other responsible authority or interested party to seek a review of the licence or certificate in question

6.13 Matters in 6.12 may be supplemented by local initiatives to address these problems.

6.14 Quotas which pre-determine the individual merits of any application, for example, restricting numbers of premises or their capacities, will not be used by the Council. This is because quotas have no regard to the individual characteristics of the premises concerned. Proper consideration must be given to the differences in contrasting styles and characteristics of premises and their differing impact they will have on the local community.

7. LICENSING HOURS

7.1 The Council will determine licensing hours on the individual merits of each application. The Council recognises that longer licensing hours for the sale of alcohol can avoid large numbers of people leaving premises at the same time. This in turn reduces the friction at late night fast food outlets, taxi ranks and other sources of transport which can lead to disorder and disturbance. The Council wants to ensure licensing hours do not inhibit the development of thriving and safe evening and night-time economies, which are important for investment, employment, domestic and international tourism. Providing consumers with greater choice and flexibility is an important consideration.

7.2 The Council will not impose conditions that artificially fix opening hours on premises within areas of the City (often referred to as zoning). Such 'zoning' may lead to migration of customers from one area to another at particular times and may result in greater concentrations of noise and disturbance.

- 7.3 Stricter conditions may be imposed by the Council with regard to noise control in areas which have a denser residential accommodation. Each application will be judged on its own merits.
- 7.4 With regard to shops, stores and supermarkets, the Council will allow the sale of alcohol for consumption off the premises at any time when the retail shop is open for trading, unless there are very good reasons for restricting those hours. For example, a limitation may be appropriate following representation from Derby Constabulary in the case of some shops known to be a focus of disorder and disturbance because youths gather there.
- 7.5 If specific hours of trading have been imposed by the planning authority, licensing hours will not be permitted beyond those times.

8. LICENSING OBJECTIVES

- 8.1 The Council will expect the applicant to detail how they propose to promote the four licensing objectives when preparing their operating schedules.
- 8.2 Whether or not a risk assessment shows the options outlined in Appendices A – E will depend on a range of factors, including nature and style of venue, the activities, location of the premises and the anticipated clientele.
- 8.3 The applicant is free to volunteer any measure they feel promotes the licensing objectives. Any measure outlined in the operating schedule may become a condition on the licence or certificate.
- 8.4 When incorporated into the licence or certificate as a condition, they become enforceable under the law and any breach of conditions could give rise to prosecution.
- 8.5 The pool of conditions outlined in Appendices A – E issued in the guidance should be considered as measures that would promote the licensing objectives. However the lists are not exhaustive and applicant may wish to include other measures which they consider promote the licensing objectives. Responsible authorities when considering applications, and the Council following receipt of relevant representations/complaints from responsible authorities or interested parties, should consider these options as ways of meeting the licensing objectives.

Prevention of Crime and Disorder

- 8.6 Appendix A provides areas that should be considered by the applicant.

Public Safety

- 8.7 Licensees must ensure the physical safety of people using the relevant premises or place. Appendix B outlines some areas that should be considered by the applicant.
- 8.8 The Council will specify maximum occupancy limits in the premises licence in consultation with Derbyshire Fire & Rescue Service and the Council's

Environmental Health & Trading Standards Division to ensure the safety of people at the premises and to ensure a safe means of escape.

Occupancy limits will be set for:

- nightclubs
- cinemas
- theatres
- other premises where regulated entertainment is being provided

- 8.9 Premises which already have an occupancy limit imposed on them by a fire safety certificate issued under the Fire Precautions Act 1971 will not have an occupancy limit imposed under the premises licence, unless Derbyshire Fire & Rescue Service recommends a change.
- 8.10 The Council will require every relevant place or premises to be fitted with fire-fighting equipment, emergency lighting and an appropriate means of raising the alarm in the event of a fire, which is agreed in consultation with the Derbyshire Fire & Rescue Service.
- 8.11 Appendix C outlines specific matters that require consideration under public safety for theatres and cinemas.
- 8.12 In relevant premises licence holders will be expected to incorporate the principles of Safer Clubbing into their operating schedules. The guide can be viewed in full on www.drugs.gov.uk.

Prevention of Public Nuisance

- 8.13 The applicant will only be expected to prevent public nuisance that is under their direct control. In order to achieve this the applicant must demonstrate how they intend to:
- prevent noise and vibration escaping from the premises, such measures may include soundproofing, air conditioning, acoustic lobbies and sound limitation devices
 - prevent disturbance by customers arriving at, queuing and leaving the premises, which is usually of greater significance later in the evening or early morning
 - control nuisance associated with public disturbance
 - control the generation of odour, for example from the preparation of food
 - prevent potential litter problems in the vicinity of and caused by their activities, including, distribution of flyers, fly posting, food packaging left by customers from late night refreshment premises
 - any other matters likely to cause public nuisance
- 8.14 The Council recognises the control of nuisance that is not within the vicinity of the premises or the responsibility of the licence holder, does not fall within the Act.
- 8.15 The rich cultural benefit of live music, dancing and theatre is recognised by the Council. Our cultural strategy promotes the enjoyment involvement and celebration

of cultural experiences. The potential for limited disturbance in neighbourhoods will be balanced with these benefits, particularly for children.

Protection of Children From Harm

- 8.16 Appendix E outlines some areas that should be considered by the applicant.
- 8.17 The Council will not impose conditions that restrict access to children to any type of premises unless it is considered necessary to protect them from physical, moral or psychological harm. Premises that would give rise for concern are:
- where entertainment or services of an adult or sexual nature are commonly provided
 - where there have been convictions of current members of staff at the premises for serving alcohol to minors, or where there is a reputation for underage drinking
 - where there is a known association with drug taking or dealing
 - where there is a strong element of gambling on the premises
 - where the supply of alcohol for consumption on the premises is the primary purpose of the premises
- 8.18 It would be unusual for the Council to completely prohibit access of children from the premises. The following options could be used in order to protect children from physical, moral or psychological harm:
- limitations on the hours when children may be present
 - age limitations
 - limitations or exclusions when certain activities are taking place
 - requirements for an accompanying adult
 - limitations on parts of the premises
 - full exclusion for those under 18 when certain licenses/activities are taking place
- 8.19 The Council will not impose any condition which requires admission of children to any premises.
- 8.20 Where the Council imposes no restriction on access by children, it is left to the discretion of the individual licensee or club to ensure the licensing objective is met.
- 8.21 The Council will liaise with Derbyshire Constabulary and Derby City Council's Trading Standards Division about the extent of unlawful sale and consumption of alcohol to minors and, as appropriate, will be involved in the development of any strategies to control or prevent these unlawful activities and to pursue prosecutions.
- 8.22 The Council recognises the protection afforded to children under the Protection of Children Act 1999. This legislation puts obligations on child care organisations. Other organisations are able to make use of the scheme set up to support the Protection of Children Act 1999, and this includes use of the Criminal Records Bureau. The holders of the premises licence, club premises certificate and premises users must take appropriate steps, including, where necessary the use of these services to ensure protection of children from harm.

- 8.23 The Council is committed to accepting the Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks. This is to ensure drinks are packaged and promoted in a socially responsible manner to only those who are 18 or over. The Code is an important weapon in protecting children from harm.

Children and Cinemas

- 8.24 The Council expects licensees or clients to include in their operating schedules, arrangements for restricting children from viewing age-restricted films classified according to the recommendation of the British Board of Film Classification.
- 8.25 It is mandatory under the Act that a condition is imposed on all premises licences or club premises certificates authorising the exhibition of films for the admission of children to be restricted in accordance with the British Board of Film Classification.

9. INTEGRATING STRATEGY

- 9.1 The Council will ensure its licensing function promotes the licensing objectives through its decision making process, and by appropriate use of its powers and its responsibilities through liaison and partnership work. The Council will secure proper integration of the licensing policy with:
- Derbyshire Community Safety Strategy
 - City of Derby Local Plan
 - Derby Crime & Disorder Strategies
 - Derby Cultural & Tourism Strategies
 - Derby Area Child Protection Committee Procedures
 - Derby Cityscape
 - Derby Neighbourhood Renewal Strategy
 - Derbyshire Local Transport Plan
 - Derby's Public Health Strategy
- 9.2 The Council recognises the importance of attaching relevant licence conditions that reflect local strategies, in particular, crime prevention.
- 9.3 Arrangements will be made for the Licensing Committees to receive reports on the following to ensure these are reflected in their consideration:
- the needs of the local tourist economy and cultural strategy for the City
 - the employment situation in the City and the need for investment and employment where appropriate
- 9.4 The Council will expect each applicant to have obtained the appropriate planning consent in respect of the premises/club premises applied for to avoid duplication and inefficiency. Application for licences should not be a re-run of the planning application and should not cut across decisions made by the planning committee.
- 9.5 To enable the planning committee to have regard to such matters when making decisions and avoid unnecessary overlap, the licensing committee will provide reports to the planning committee on the situation regarding licensed/club premises

in the area. This may include information concerning the general impact of alcohol related crime and disorder.

- 9.6 If the Council has concerns, or receives valid relevant representations from Derbyshire Constabulary, it will liaise with local Traffic and Transportation Managers and transport providers in relation to the swift dispersal of people to avoid concentrations which produce disorder and disturbances.

10. PROMOTION OF EQUALITY

- 10.1 The Race Relations Act 1976 as amended by the Race Relations (Amendment) Act 2000 places a legal obligation on the Council to have due regard to the need to eliminate unlawful discrimination, and to promote equality of opportunity and good relations between persons of different racial groups.
- 10.2 The Council will produce a race equality scheme, assess and consult on the likely impact of the licensing policy on race equality. The Council will monitor the policy for any adverse impact on race equality and publish the results of consultations, assessments and monitoring.
- 10.3 The licensing policy will be referenced in the race equality scheme.
- 10.4 The Council's Equalities Plan will also address the full range of equalities issues, including, disability, gender, age, sexual orientation, culture and religion. The Council will also promote equality of opportunity and access for all who live in, work in or visit Derby.

11. DUPLICATION

- 11.1 The Council is committed to avoiding duplication with other regulatory agencies. Where there is primary legislation, such as health and safety, fire safety etc, the relevant enforcement agency must use its powers to secure compliance. Conditions in respect of public safety should only be attached to premises licences and club premises certificates that are 'necessary' for the promotion of that licensing objective. If already provided for in other legislation, they cannot be considered necessary in the context of licensing law.
- 11.2 Where separate primary legislation does not cover the unique circumstance of some licensable activities, the Council will consider attaching conditions to premises licences and club premises certificates where these are necessary for licensing law.

12. CONDITIONS

- 12.1 The Council will adopt the pool of conditions as suggested by the Secretary of State in the guidance, from which necessary and proportionate conditions will may be drawn in particular circumstances. These are set out in Appendices A – E.

- 12.2 Any condition attached to premises licences or club premises certificates will be tailored to the individual style and characteristics of the premises and events concerned. Such conditions will be proportionate to the circumstances to ensure the licensing objectives are promoted.
- 12.3 In certain circumstances the Council may impose mandatory conditions on the premises licence. These mandatory conditions relate to:
- premises where alcohol is sold
 - children and the exhibition of films
 - where there is a requirement for door supervisors

These mandatory conditions are found in Appendices E and F.

13. LIVE MUSIC, DANCING AND THEATRE

- 13.1 The Council recognises the importance of live music, dancing and theatre performances have on the development of cultural diversity, promoting vibrant and exciting communities where artistic freedom of expression is a fundamental right and is greatly valued. Traditional music and dancing are parts of cultural heritage and help to unite communities, particularly in ethnically diverse communities.
- 13.2 To ensure cultural diversity thrives, the Council will encourage and promote a broad range of entertainment for the wider cultural benefit of communities. A natural concern to prevent disturbance in neighbourhoods should be balanced with these wider cultural benefits, particularly for children.
- 13.3 The Council should be aware when attaching conditions to licences and certificates they should be necessary for the promotion of the licensing objectives and avoid imposing indirect costs of a disproportionate nature. This should avoid deterring performances of live music, dancing and theatre.

14. ENFORCEMENT

- 14.1 In order to ensure compliance with the licensing conditions, premises will be inspected using a risk-based approach. This will allow resources to be more effectively targeted on high-risk or problematic premises and prevent over burdensome enforcement on well-managed premises or events.
- 14.2 Appropriate enforcement action will be taken in accordance with the Council's Environmental Health and Trading Standards Enforcement Policy, the government's Enforcement Concordat and any other enforcement protocols agreed with other agencies.
- 14.3 In determining the most appropriate course of action the Council will be mindful of the primary legislation and the regulatory power of other enforcement bodies. The Council will also have consideration of partnership working with other relevant bodies, and any enforcement protocols developed with these bodies, in particular Derbyshire Constabulary.

15. REVIEW

- 15.1 At any stage after the grant of a licence, a responsible authority or interested party may ask the Council to review the licence because of a matter arising at the premises concerning any of the licensing objectives.
- 15.2 Relevant representations must be in writing. Representations from interested parties, for example, local residents, residents associations, local businesses or trade associates must not be vexatious, frivolous or repetitious.
- 15.3 A review will also follow any action by Derbyshire Constabulary or the Council's Environmental Health Officers to close the premises for up to 24 hours on the grounds of disorder or noise nuisance. It will take place as soon as possible after the Magistrates' court's determination being received by the Council.

16. ADMINISTRATION, EXERCISE AND DELEGATION OF FUNCTIONS

- 16.1 The Council recognises many of the decisions and functions under the Act are purely administrative in nature. In the interests of speed, efficiency and cost-effectiveness the Council will implement the suggested delegation of functions as outlined in the guidance. These are reproduced in Table 1.
- 16.2 Where there are no relevant representations being made to application for the grant of a premises licence or club premises certificate or police objections to a personal licence, or to an activity taking place under a temporary event notice, these matters will be dealt with by the licensing officers. This is to ensure applications are dealt with speedily.
- 16.3 The Council's Licensing Committee will receive regular reports on decisions made by officers, so that they can maintain an overview of the licensing situation.
- 16.4 The points of contact for any licensing issues or enquiries is the Licensing Clerk, Environmental Health & Trading Standards, Derby City Council, Celtic House, Heritage Gate, Friary Street, Derby, DE1 1QX, or telephone Derby (01332) 716338, or e-mail at environmental.services@derby.gov.uk. A copy of this licensing policy is available at www.derby.gov.uk.

The Act and the guidance issued by the Department of Culture, Media and Sport are available on www.culture.gov.uk.

Table 1**Delegation of Functions**

Matter to be dealt with	Licensing Committee*	Licensing Panel*	Officers*
Application for personal licence		If a Police objection	If no objection made
Application for personal 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 a premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application to vary designated personal licence holder		If a Police objection	All other cases
Request to be removed as designated personal licence holder			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 license/club premises certificate		All cases	
Decision on whether a complaint is irrelevant, vexatious etc.			All cases
Decision to object when local authority is a consultee and not the lead authority		All cases	
Determination of a police representation to a temporary event notice		All cases	

***Key:**

Licensing Committee	-	at least 10 but less than 15 members from Licensing and Appeals Committee
Licensing Panel	-	at least 3 from Licensing Committee
Officers	-	Officers of the Licensing Team

Appendix A

Conditions relating to the prevention of crime and disorder

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

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

Conditions enforcing these arrangements are therefore unnecessary.

General

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

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

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

Under no circumstances should the following measures be regarded as standard conditions to be automatically imposed in all cases. They are designed to provide a range of possible conditions drawn from experience relating to differing situations and to offer guidance.

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

Text/Radio pagers

Text and radio pagers connecting premises licence holders, designated premises supervisors, managers of premises and clubs to the local police can provide for rapid

response by the police to situations of disorder which may be endangering the customers and staff on the premises.

Such pagers provide two-way communication, both enabling licence holders, managers, designated premises supervisors and clubs to report incidents to the police, and enabling the police to warn those operating a large number of other premises of potential trouble-makers or individuals suspected of criminal behaviour who are about in a particular area.

Pager systems can also be used by licence holders, door supervisors, managers, designated premises supervisors and clubs to warn each other of the presence in an area of such people.

The Secretary of State recommends that text or radio pagers should be considered appropriate necessary conditions for public houses, bars and nightclubs operating in city and town centre leisure areas with a high density of licensed premises.

Following individual consideration of the particular circumstances of the venue, such conditions may also be appropriate and necessary in other areas for the prevention of crime and disorder.

A condition requiring the text/radio pager links to the police could include the following elements:

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

Door supervisors

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

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

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

Door supervisors also have a role to play in ensuring public safety.

Bottle bans

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

A condition requiring that no sales of beverages in glass bottles for consumption on the premises could include the following elements:

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

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

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

Plastic containers and toughened glass

Glasses containing drinks may be used as weapons during incidents of disorder and in un-toughened form, can cause very serious injuries.

Consideration could therefore be given to conditions requiring either the use of plastic containers or toughened glass which inflicts less severe injuries where considered necessary.

Location and style of the venue and the activities carried on there would be particularly important in assessing whether a condition is necessary. For example, the use of glass containers on the terraces of some outdoor sports grounds may obviously be of concern, and similar concerns may also apply to indoor sports events such as boxing matches.

Similarly, the use of such plastic containers or toughened glass during the televising of live sporting events, such as international football matches, when high states of excitement and emotion fuelled by alcohol might arise, may be a necessary condition.

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

CCTV

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

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

Open containers not to be taken from the premises

Drinks purchased in licensed premises or clubs may be taken from those premises for consumption elsewhere. Where premises are licensed for the sale of alcohol for consumption off the premises that would be entirely lawful.

However, consideration should be given to a condition preventing the taking of alcoholic and other drinks from the premises in open containers (e.g. glasses and opened bottles).

This may again be necessary to prevent the use of these containers as offensive weapons in surrounding streets after individuals have left the premises.

Restrictions on drinking areas

It may be necessary to restrict the areas where alcoholic drinks may be consumed in premises after they have been purchased from the bar. An example would be at a sports ground where the police consider it necessary to prevent the consumption of alcohol on the terracing of sports grounds during particular sports events. Such conditions should not only specify these areas, but indicate the circumstances in which the ban would apply and times at which it should be enforced.

Capacity limits

Although most commonly made a condition of a licence on public safety grounds, consideration should also be given to conditions which set capacity limits for licensed premises or clubs where it may be necessary to prevent overcrowding which can lead to disorder and violence.

Where such a condition is considered necessary, consideration should also be given to whether door supervisors would be needed to ensure that the numbers are appropriately controlled.

Proof of age cards

It is unlawful for children under 18 to attempt to buy alcohol just as it is unlawful to sell or supply alcohol to them.

To prevent such crimes, it may be necessary to require a policy to be applied at certain licensed premises requiring the production of “proof of age” before such sales are made. This should not be limited to recognised “proof of age” cards, but allow for the production of other proof, such as photo-driving licences, student cards and passports.

The Council strongly supports the PASS accreditation system which aims to approve and accredit various proof of age schemes that are in existence. This ensures that such schemes maintain high standards, particularly in the area of integrity and security, and where appropriate and necessary, conditions may refer directly to PASS accredited proof of age cards, photo-driving licences and passports.

A condition could ensure sight of evidence of age from any person appearing to those selling or supplying alcohol to be under the age of 18 and who is attempting to buy alcohol. This would ensure that most minors – even those looking older – would need to produce proof of age appropriately before making such a purchase. Under such an

arrangement only a minority of adults might be affected, but for the majority there would be no disruption to their normal activity, for example, when shopping in a supermarket.

Crime prevention notices

It may be necessary at some premises for notices to be displayed which warn customers of the prevalence of crime which may target them. Some premises may be reluctant to volunteer the display of such notices for commercial reasons. For example, in certain areas, a condition attached to a premises licence or club premises certificate might require the displaying of notices at the premises which warn customers about the need to be aware of pickpockets or bag snatchers, and to guard their property.

Similarly, it may be necessary for notices to be displayed which advise customers not to leave bags unattended because of concerns about terrorism. Consideration could be given to a condition requiring a notice to display the name of a contact for customers if they wish to report concerns.

Drinks promotions

Standardised conditions should not be attached to premises licences or club premises certificates which promote fixed prices for alcoholic drinks. It is also likely to be unlawful for licensing authorities or police officers to promote voluntary arrangements of this kind. This can risk creating cartels. Using conditions to control the prices of alcoholic drinks in an area may also breach competition law.

Conditions tailored to the individual circumstances of particular premises which address irresponsible drinks promotions may be permissible provided they are necessary for the promotion of the licensing objectives, but the Council will take legal advice before a licence or certificate is granted in that form. Judgements may be subjective, and on occasions, there will be a very fine line between responsible and irresponsible promotions but an even greater distinction to whether the promotion in question can be subject to the imposition of a condition. It is therefore vital that such matters are considered objectively in the context of the licensing objectives and with the benefit of appropriate legal advice.

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

Signage

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

Similarly, it may be necessary for any restrictions on the admission of children to be displayed on or immediately outside the premises so that the consequences of breaches of these conditions would also be clear and to deter those who might seek admission in breach of those conditions.

Large capacity venues used exclusively or primarily for the “vertical” consumption of alcohol (HVVDs)

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

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

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

Appendix B

Conditions relating to public safety (including fire safety)

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

Equally, the attachment of conditions to a premises licence or club premises certificate will not in any way relieve employers of the statutory duty to comply with the requirements of other legislation including the Health and Safety at Work etc. Act 1974, associated regulations and especially the requirements under the Management of Health and Safety at Work Regulations 1999 and the Fire Precautions (Workplace) Regulations 1997 to undertake risk assessments.

Employers should assess the risks, including risks from fire, and take measures necessary to avoid and control these risks.

Conditions enforcing those requirements would therefore be unnecessary.

General

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

Additional matters relating to cinemas and theatres are considered in Appendix C. It should also be recognised that special issues may arise in connection with outdoor and large-scale events.

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

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

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

- Model National and Standard Conditions for Places of Public Entertainment and Associated Guidance ISBN 1 904031 11 0 (Entertainment Technology Press – ABTT Publications)
- The Event Safety Guide – A guide to health, safety and welfare at music and similar events (HSE 1999) (“The Purple Book”) ISBN 0 7176 2453 6
- Managing Crowds Safely (HSE 2000) ISBN 0 7176 1834 X
- 5 Steps to Risk Assessment: Case Studies (HSE 1998) ISBN 07176 15804

- The Guide to Safety at Sports Grounds (The Stationery Office, 1997) ("The Green Guide") ISBN 0 11 300095 2
- Safety Guidance for Street Arts, Carnival, Processions and Large Scale Performances published by the Independent Street Arts Network, copies of which may be obtained through www.streetartsnetwork.org.uk/pages/publications.htm
- The London District Surveyors Association's "Technical Standards for Places of Public Entertainment" ISBN 0 9531229 2 1

The following British Standards should also be considered:

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

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

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

Disabled people

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

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

Escape routes

It may be necessary to include conditions relating to the maintenance of all escape routes and exits including external exits.

These might be expressed in terms of the need to ensure that such exits are kept unobstructed, in good order with non-slippery and even surfaces, free of trip hazards and clearly identified.

In restaurants and other premises where chairs and tables are provided, this might also include ensuring that internal gangways are kept unobstructed.

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

- all exits doors are easily open able without the use of a key, card, code or similar means

- doors at such exits are regularly checked to ensure that they function satisfactorily and a record of the check kept
- any removable security fastenings are removed whenever the premises are open to the public or occupied by staff
- all fire doors are maintained effectively self-closing and shall not be held open other than by approved devices (for example, electromagnetic releases operated by smoke detectors)
- fire resisting doors to ducts, service shafts, and cupboards shall be kept locked shut
- the edges of the treads of steps and stairways are maintained so as to be conspicuous

Safety checks

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

- safety checks are carried out before the admission of the public
- details of such checks are kept in a log-book

Curtains, hangings, decorations and upholstery

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

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

Accommodation limits

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

- arrangements are made to ensure that any capacity limit imposed under the premises licence or club premises certificate are not exceeded
- the licence holder, a club official, manager or designated premises supervisor should be aware of the number of people on the premises and required to inform any authorised person on request

Fire action notices

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

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

Outbreaks of fire

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

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

Loss of water

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

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

Access for emergency vehicles

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

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

First aid

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

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

Lighting

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

- in the absence of adequate daylight, the lighting in any area accessible to the public, members or guests shall be fully in operation when they are present;
- fire safety signs are adequately illuminated
- emergency lighting is not altered
- emergency lighting batteries are fully charged before the admission of the public, members or guests
- in the event of the failure of normal lighting, where the emergency lighting battery has a capacity of one hour, arrangements are in place to ensure that the public,

members or guests leave the premises within 20 minutes unless within that time normal lighting has been restored and the battery is being re-charged; and, if the emergency lighting battery has a capacity of three hours, the appropriate period by the end of which the public should have left the premises is one hour

Temporary electrical installations

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

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

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

Indoor sports entertainments

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

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

Alterations to the premises

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

Special effects

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

Specials effects which should be considered include:

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

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

Appendix C

Theatres, cinemas, concert halls and similar places (promotion of public safety)

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

Premises used for closely seated audiences

Attendants

- (a) The number of attendants on each floor in a closely seated auditorium should be as set out on the table below.
- (b) Attendants shall not be engaged in any duties that would hinder the prompt discharge of their duties in the event of an emergency or entail their absence from that floor or auditorium where they are on duty.
- (c) Any attendant shall be readily identifiable to the audience (but this need not entail the wearing of a uniform).
- (d) The premises shall not be used for a closely seated audience except in accordance with seating plan(s), a copy of which is available at the premises and shall be shown to any authorised person on request.
- (e) No article shall be attached to the back of any seat which would reduce the clear width of seat-ways or cause a tripping hazard or obstruction.
- (f) A copy of any certificate relating to the design, construction and loading of any temporary seating shall be kept available at the premises and shall be shown to any authorised person on request.

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

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

Standing and sitting in gangways etc.

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

Drinks

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

Balcony Fronts

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

Special effects

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

Specials effects include:

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

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

Scenery

Any scenery should be maintained flame-retardant.

Safety curtain

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

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

Ceilings

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

Seating

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

Premises used for film exhibitions

Attendants – premises without a staff alerting system

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

Number of members of the audience present on a floor	Minimum number of attendants required to be present on that floor
1 - 250	Two

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

Where there are more than 150 members of an audience in any auditorium or on any floor At least one attendant shall be present in any auditorium or on any floor.

Attendants – premises with a staff alerting system

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

Number of members of the audience present on a floor	Minimum number of attendants required to be present on that floor	Minimum number of other staff on the premises who are available to assist in the event of an emergency
1 - 500	Two	One
501 - 1000	Three	Two
1001 - 1500	Four	Four

1501 or more Five plus one for every 500 (or part thereof) persons under 2000 on the premises.

Five plus one for every 500 (or part thereof) persons over 2000 on the premises

Minimum lighting

The level of lighting in the auditorium should be as great as possible consistent with the effective presentation of the film; and the level of illumination maintained in the auditorium

during the showing of films would normally be regarded as satisfactory if it complies with the standards specified in BS CP 1007 (Maintained Lighting for Cinemas).

Flammable films

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

Appendix D

Conditions relating to the prevention of public nuisance

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

General

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

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

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

Hours

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

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

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

Noise and vibration

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

- noise or vibration does not emanate from the premises so as to cause a nuisance to nearby properties. This might be achieved by a simple requirement to keep doors

and windows at the premises closed, or to use noise limiters on amplification equipment used at the premises

- prominent, clear and legible notices are displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly
- the use of explosives, pyrotechnics and fireworks of a similar nature which could cause disturbance in surrounding areas are restricted
- the placing of refuse – such as bottles – into receptacles outside the premises takes place at times that will minimise the disturbance to nearby properties

Noxious smells

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

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

Light pollution

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

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

Appendix E

Conditions relating to the protection of children from harm

It should be noted that it is unlawful under the 2003 Act to permit unaccompanied children under the age of 16 to be present on premises exclusively or primarily used for supply of alcohol for consumption on those premises under the authorisation of a premises licence, club premises certificate or a temporary event notice when open for the purposes of being used for the supply of alcohol for consumption there.

In addition, it is an offence to permit the presence of children under 16 who are not accompanied by an adult between midnight and 5am at all premises supplying alcohol for consumption on those premises under the authorisation of any premises licence, club premises certificate or temporary event notice.

Conditions duplicating these provisions are, therefore, unnecessary.

Access for children to licensed premises – in general

Restrictions on the access of children under 18 to premises where licensable activities are being carried on should be made where it is necessary to protect children from harm. Precise policy and details will be a matter for individual licensing authorities.

Conditions attached to premises licences and club premises certificates may reflect the concerns of responsible authorities and interested parties who have made representations but only where the Council considers it necessary to protect children from harm. Whilst applications in relation to premises licences and club premises certificates must be judged on their individual merits and characteristics, the Council recommends (unless there are circumstances justifying the contrary) that:

- for any premises with known associations (having been presented with evidence) with or likely to give rise to heavy or binge or underage drinking, drugs, significant gambling, or any activity or entertainment (whether regulated entertainment or not) of a clearly adult or sexual nature, there should be a strong presumption against permitting any access at all for children under 18 years

Applicants wishing to allow access for children to premises where these associations may be relevant, when preparing operating schedules or club operating schedules or variations of those schedules for the purposes of obtaining or varying a premises licence or club premises certificate should:

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

For any premises, not serving alcohol for consumption on the premises, but where the public are allowed on the premises after 11.00pm in the evening, there should be a presumption against the presence of children under the age of 12 unaccompanied by adults after that time. Applicants wishing to allow access when preparing operating schedules or variations of those schedules or club operating schedules for the purposes of obtaining or varying a premises licence or club premises certificate should:

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

In any other case, subject to the premises licence holder's or club's discretion, the expectation would be for unrestricted access for children subject to the terms of the 2003 Act.

An operating schedule or club operating schedule should indicate any decision for the premises to exclude children completely, which would mean there would be no need to detail in the operating schedule steps that the applicant proposes to take to promote the protection of children from harm. Otherwise, where entry is to be permitted, the operating schedule should outline the steps to be taken to promote the protection of children from harm while on the premises.

Age Restrictions – specific

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

The Council will consider:

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

Age restrictions – cinemas

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

- a condition that where the licensing authority itself is to make recommendations on the admission of children to films, the cinema or venue operator must submit any film to the authority that it intends to exhibit 28 days before it is proposed to show it. This is to allow the authority time to classify it so that the premises licence holder is able to adhere to any age restrictions then imposed
- a condition that when films are classified, by either the film classification body as specified in the licence or the licensing authority, they should be classified in the following way:

U – Universal. Suitable for audiences aged four years and over

PG – Parental Guidance. Some scenes may be unsuitable for young children.

- 12A – Passed only for viewing by persons aged 12 years or older or persons younger than 12 when accompanied by an adult.**
15 – Passed only for viewing by persons aged 15 years and over.
18 – Passed only for viewing by persons aged 18 years and over.

- that conditions specify that immediately before each exhibition at the premises of a film passed by the British Board of Film Classification there shall be exhibited on screen for at least five seconds in such a manner as to be easily read by all persons in the auditorium a reproduction of the certificate of the Board or, as regards a trailer advertising a film, of the statement approved by the Board indicating the classification of the film
- a condition that when a licensing authority has made a recommendation on the restriction of admission of children to a film, notices are required to be displayed both inside and outside the premises so that persons entering can readily be made aware of the classification attached to any film or trailer. Such a condition might be expressed in the following terms:

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

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

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

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

Theatres

The admission of children to theatres, as with other licensed premises, is not expected to normally be restricted unless it is necessary to promote the licensing objective of the protection of children from harm. However, theatres may be the venue for a wide range of activities.

The admission of children to the performance of a play is expected to normally be left to the discretion of the licence holder and no condition restricting the access of children to plays should be attached. However, theatres may also present entertainment including, for example, variety shows, incorporating adult entertainment. A condition restricting the admission of children in such circumstances may be necessary.

Entertainment may also be presented at theatres specifically for children (see below). Licensing authorities are also expected to consider whether a condition should be attached to a premises licence which requires the presence of a sufficient number of adult staff on the premises to ensure the well being of children present on the premises during any emergency.

Performances especially for children

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

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

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

Children in performances

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

The Council will familiarise themselves with the requirements of these Regulations and not duplicate any of these requirements. However, if it is necessary to consider imposing conditions, in addition to these requirements, for the promotion of the protection of children from harm then the licensing authority should consider the matters outlined below.

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

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

The Portman Group operates, on behalf of the alcohol industry, a Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks. The Code seeks to ensure that drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years old or older.

Complaints about products under the Code are considered by an Independent Complaints Panel and the Panel's decisions are published on the Portman Group's website, in the trade press and in an annual report.

If a product's packaging or point-of-sale advertising is found to be in breach of the Code, the Portman Group may issue a Retailer Alert Bulletin to notify retailers of the decision and ask them not to replenish stocks of any such product or to display such point-of-sale material, until the decision has been complied with.

The Code is an important mechanism in protecting children from harm because it addresses the naming, marketing and promotion of alcohol products sold in licensed premises in a manner which may appeal to or attract minors.

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

Proof of Age cards

Proof of age cards are discussed under Appendix A in connection with the prevention of crime and disorder. However, where necessary and appropriate, a requirement for the production of proof of age cards before any sale of alcohol is made could be attached to any premises licence or club premises certificate for the protection of children from harm. Any such requirement should not be limited to recognised "proof of age" cards, but allow for the production of other proof, such as photo-driving licences and passports.

The Council strongly supports the PASS accreditation system which aims to approve and accredit various proof of age schemes that are in existence. This ensures that such schemes maintain high standards, particularly in the area of integrity and security, and where appropriate and necessary, conditions may refer directly to PASS accredited proof of age cards, photo-driving licences, student cards and passports.

A condition could ensure sight of evidence of age from any person appearing to those engaged in selling or supplying alcohol to be under the age of 18 and who is attempting to buy alcohol. This would ensure that most minors – even those looking older – would need to produce proof of age appropriately before making such a purchase. Under such an arrangement only a minority of adults might be affected, but for the majority there would be no disruption to their normal activity, for example, when shopping in a supermarket.

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

Appendix F

Mandatory Conditions

Where the 2003 Act provides for a mandatory condition to be included in a premises licence, it is the duty of the licensing authority issuing the licence to include that condition on the premises licence.

The 2003 Act provides that, where a premises licence authorises the supply of alcohol, it must include a condition that no supply of alcohol may be made at a time when no designated premises supervisor has been specified in the licence or at a time when the designated premises supervisor does not hold a personal licence or his or her licence has been suspended.

In addition, the licence must require that every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

This does not mean that the condition should require the presence on the premises at all material times of the designated premises supervisor.

Similarly, the fact that every supply of alcohol must be made under the authority of a personal licence holder does not mean that only personal licence holders can make such sales or that they must be personally present at every transaction. A personal licence holder may authorise members of staff to make sales of alcohol during the course of an evening, but may be absent at times from the premises when a transaction takes place. However, the personal licence holder will not be able to escape responsibility for the actions of those he authorises to make such sales.

Door supervision

Under the terms of the 2003 Act, whenever a condition is included in a premises licence that at any time individuals must be present at the premises to carry out a security activity (for example, door supervisors), **the licence must include a condition requiring that each such person must be licensed by the Security Industry Authority.**

Further details can be found in the Private Security Industry Act 2001 (as amended by the 2003 Act).

LICENSING POLICY REVISED CONSULTATION TIMETABLE**1.0 TIMETABLE**

1.1 The policy must be in-place before licensing applications are received by the Council. Applicants may begin to apply for licences from 7 February 2005.

1.2 The proposed timescale for consultation is:

7 September 2004	-	Revised draft policy to Licensing & Appeals Committee (any recommendations to be referred to Council)
1 October – 31 October 2004	-	Draft policy out for full consultation
November 2004	-	Collating feedback from consultation
23 November 2004	-	Member training on Licensing Act 2003
8 December 2004	-	Consultation comments back to Licensing & Appeals Committee to agree final policy
22 January 2005	-	Final Policy to ratified by Full Council
January/ February 2005	-	Publish and publicise policy
7 February 2005	-	Implement policy as liquor licensing transfers to Council