

**Appendix 1 – Draft policy**

**STATEMENT OF LICENSING POLICY  
LONDON BOROUGH  
OF BARNET  
Jan 2014**

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## 1. INTRODUCTION

- 1.1 The London Borough of Barnet has produced this Licensing Policy Statement in accordance with the provisions of the [Licensing Act 2003](#) and the guidance issued under Section 182 by the Department of Culture Media and Sport.
- 1.2 The aim of this licensing policy is to set out how the Council will seek to meet the four licensing objectives and has been devised based on best practice.
- 1.3 This policy succeeds the Council's Licensing Policy statement dated January 2011 and whilst subject to on-going review will be in force for a period of 5 years from January 2014.

### 1.4 Scope

- 1.4.1 The sale and supply of alcohol, the provision of regulated entertainment, and of late night refreshment play a key role in our economy and society and are activities which takes place throughout the Borough. How the Council deals with this issue will impact on many residents and businesses.
- 1.4.2 The licensing policy will form an important part of the development strategy for the Borough and will work in concert with:
  - The Council's Enforcement Policy
  - [The Human Rights Act 1998](#)
  - [Crime and Disorder Act 1998](#)
  - [Disability Discrimination Act 1995](#) and other anti-discrimination legislation,
  - [Guidance](#) issued by the Home Office on behalf of the Secretary of State under section 182 Licensing Act 2003
  - Home Office Safer Clubbing Guide [www.drugs.gov.uk](http://www.drugs.gov.uk)
  - Metropolitan Police Service publication Controlled Drugs and Weapons in Licensed premises
  - [The Mayor's London Ambient Noise Strategy](#)
  - [Police Reform and Social Responsibilities Act 2011](#),
  - [Live Music Act 2012](#)

The above is not an exhaustive list.

- 1.4.3 The licensing policy has 3 main purposes:
  - To inform licence applicants of the parameters under which the Council will make licence decisions, and therefore how a licensed premises is likely to be able to operate within an area. However each case must be examined on an individual basis.
  - To inform residents and business of the parameters under which the Council will make licence decisions and therefore how their needs will be addressed.
  - To reinforce the elected Members on the licensing Committee, the powers of the Council and the limits of those powers, and to provide them with parameters under which to make decisions.
- 1.4.4 As the Licensing Authority the Council is empowered under the Act to grant, review, vary, suspend or refuse premises licences, club premises certificates, personal licences

and deal with temporary event notices in the Borough. The licensable activities dealt with by the licensing authority and set out in the act are as follows:

- The sale by retail of alcohol
- Supply of alcohol to club members
- Provision of “regulated entertainment” – to the public, to club members or with a view to profit. This includes the;
  - Performance of a play
  - Exhibition of a film
  - Indoor sporting events
  - Boxing or wrestling entertainment
  - Performance of live music
  - Playing recorded music
  - Performance of dance
- The provision of late night refreshment being the supply of hot food and/or drink from any premises between 11pm and 5am.

1.4.5 The Act divides licences into premises licences for the building and personal licences for each licensee.

## 2. OBJECTIVES

2.1 The Council will carry out its various licensing functions so as to promote the four licensing objectives:

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

2.2 To achieve these objectives the Council will use a full range of measures including its planning, transport, crime and disorder policies and powers together with its duties to protect children. The Council will work closely with the Police, the Fire Authority, the remaining Responsible Authorities, local businesses, community representatives and local people to meet these objectives.

2.3 A Responsible Authority details are shown in Appendices 3

2.4 The Council as a licensing authority is now included in the list of responsible authorities under the Licensing Act 2003.

2.5 The 2003 Act does not require responsible authorities to make representations about applications for the grant of premises licences or to take any other steps in respect of different licensing processes.

2.6 The Council as a Licensing authority is not expected to act as responsible authorities on behalf of other parties (for example, local residents, local Councillors or community groups) although there are occasions where the authority may decide to do so. Such parties can make relevant representations to the licensing authority in their own right, and it is reasonable for the licensing authority to expect them to make representations themselves where they are reasonably able to do so. However, if these bodies have failed

to take action and the licensing authority is aware of relevant grounds to make a representation, it may choose to act in its capacity as responsible authority.

- 2.7 It is also reasonable for the Council as a licensing authority to expect that other responsible authorities should intervene where the basis for the intervention falls within the remit of that other responsible authority. For example, the police should make representations where the representations are based on concerns about crime and disorder. Likewise, it is reasonable to expect the local authority exercising environmental health functions to make representations where there are concerns about noise nuisance. Each responsible authority has equal standing under the 2003 Act and may act independently without waiting for representations from any other responsible authority.
- 2.8 Nothing in this policy will prevent every licence application being considered on its own merits. However the Council will not ordinarily treat the following considerations as justifiable reasons to divert from this policy:
- That the premises are well managed
  - That the applicant is of good character
  - That the premises, or the capacity, or the size of the increase applied for, is small.

### 3. POLICY CONSIDERATIONS

- 3.1 In determining a licence application the overriding principle will be that each application will be determined on its individual merits.
- 3.2 Nothing in the Licensing Policy will:
- Undermine the rights of any person to apply the 2003 Act for a variety of permissions and have the application considered on its individual merits.
  - Override the right of any person to make representations on any application or seek a review of a licence or certificate where they are permitted to do so under the Act.
- 3.3 The decision taken by the Council will be focused on matters that are within the control of the individual licensees and others granted relevant permissions. Accordingly, these matters will centre on the premises and places being used for licensable activities and the vicinity of those premises and places. The Council will focus on the direct impact of activities taking place at the licensed premises on both adults and children living in, working in or visiting the area concerned.
- 3.4 In taking its decisions, the Council will take into account the fact that licensing law is not the primary mechanism for the control of nuisance and anti-social behaviour by individuals once they are beyond the direct control of the individual, club or business holding the licence, certificate or permission concerned. Nonetheless, licensing law will be part of a holistic approach to the management of the evening and night-time economy in town and city centres
- 3.5 Licence conditions imposed will be relevant to the individual application and those appropriate to meet the licensing objectives. Licence conditions will not be imposed where other regulatory regimes, such as fire safety legislation, provide sufficient protection for patrons and other members of the public.

- 3.6 Individual applicants are expected to address the licensing objectives in their Operating Schedule within the context of the nature of the location, type of premises, regulated activities to be provided, operational procedures and the needs of the local community (see section 15 – Operating Schedules - later).
- 3.7 Appropriate weight is given to all relevant representations made to the Council. This does not include those representations which are considered to be frivolous, vexatious or repetitious, which will be disregarded.
- 3.8 In forming this policy the Council has consulted the parties stipulated in Appendix 2. Before determination of this policy adequate weight has been given to the responses received.

#### 4. INTEGRATING STRATEGIES & AVOIDING DUPLICATION

4.1 The Council recognises the need to avoid, so far as possible, duplication of the existing legislation and other mechanisms to deal with any environmental or other impacts on the leisure economy such as;

- Planning controls
- Positive measures to create a safe and clean town centre environment
- Powers of the Council to designate public places where the consumption of alcohol is not permitted
- Police enforcement of disorder and anti-social behaviour
- Prosecuting of personal licence holders and staff selling alcohol to those underage.
- Police and the Council's powers to close down instantly any licence premises on the ground of disorder or likely to cause disorder or excessive noise emanating from the premises
- Environmental Protection Act 1990
- Children Act 1989
- Health and Safety at Work Act 1974 etc.
- Powers of the police/local residents/businesses ability to seek a review of a licence.

4.2 The Council recognises that there should be a clear separation of the planning and licensing regimes in respect of applications to avoid duplication or a re-run of the planning application process but also recognises that some factors affecting the planning decision may also affect the decision of the Licensing Committee.

4.3 The Licensing Authority will arrange for protocols with the Barnet Borough Police to enable them to liaise with the Council's Traffic Manager on the need for the swift and safe dispersal of people from licensed premises to avoid concentrations which can produce disorder and disturbance.

4.4 The Authority recognises that licensing applications should not be seen as a re-run of the planning application process and that there should be a clear separation of the planning and licensing regimes to avoid duplication and inefficiency. However, the Authority will normally expect applicants to demonstrate that, their proposed use of the premises is lawful in planning terms, including complying with any conditions that may be imposed upon a planning consent, prior to applications under this Act being submitted. Nevertheless, the Council recognises that it is permissible for applications for licences to be made before any relevant planning permission has been sought or granted by the planning authority.

4.5 As outlined at paragraph 13.56 of the Consolidated Guidance issued under Section 182 of the Licensing Act 2003 (October 2012 version), there are also circumstances when as a condition of planning permission a terminal hour has been set for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant MUST observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law.

4.6 We will monitor the impact of the licensing policy.

## **5. APPROACH TO LICENSING APPLICATIONS**

5.1 When exercising its licensing functions the Council will not be influenced by the question of need. The question of whether or not there is a need for any particular premises is a commercial matter which is not relevant to the Council's considerations. The issue of need may be a matter for planning consideration or for the market to decide and does not form part of this licensing policy statement.

5.2 The statutory guidance will be taken into account in relation to the issue of cumulative impact and the hours of operation:

## **6. RISK ASSESSMENT**

6.1 The Council recommends that all applicants carry out sufficient risk assessments for the activities on their premises, and that the findings are put into practice. The Council encourages applicants to carry out an assessment of the likely impact of the activities to be carried on at the premises, with a view to identifying any control measures that may be appropriate.

6.2 The Council encourages applicants to send risk assessments as well as any other supporting documentation with the application.

6.3 The Council reminds the applicant that it is not the function of the responsible authority to endorse any such assessments and encourages applicants and event organisers to seek advice about control measures.

## **7. PUBLIC SAFETY**

7.1 The Act covers a wide range of premises that require licensing including: cinemas, concert halls, theatres, nightclubs, public houses, cafes/restaurants, members clubs, fast food outlets and other entertainment venues. Each type of these premises present mixtures of risks with are common to most premises and others unique to specific operations. It is essential that premises are constructed or adapted so as to safeguard occupants by minimising these risks.

7.2 The Council will expect operating schedules to satisfactorily address public safety issues and applicants are advised to seek appropriate Health and Safety advice and consult the

London Fire and Emergency Planning Authority before preparing their plans and schedules.

- 7.3 Applicants are reminded that any performers are also members of the public and as such their safety should be specifically addressed in operating schedules.
- 7.4 Where door supervision is in operation, supervisors must be registered with the Security Industry Authority. The Council strongly recommends that a record of SIA registered staff on duty in this capacity is maintained on the premises and that an incident report book is maintained. Both of these records should be available for inspection at all reasonable times by authorised officers of the Council or a Police Officer.
- 7.5 Where necessary, the Council will attach conditions to the licences and permissions that promote public safety.

## 7.6 Health Considerations of Licensing

- 7.6.1 Health bodies are now responsible authorities as identified by the Act and as such are notified of all new premises applications to which they can make representations. Their representations must however still be relevant to the existing statutory licensing objectives.
- 7.6.2 The Health body will be particularly useful in providing evidence of alcohol-related health harms when the licensing authority revises its policy. PCTs/DPHs may also be useful in providing evidence such as alcohol-related A & E admissions or ambulance service data that might be directly relevant to an application under the Act.

## 8. PROTECTION OF CHILDREN FROM HARM

- 8.1 The wide range of premises that require licensing means that children can be expected to visit them. Children will wish to visit premises which are licensed and may or may not be accompanied by an adult. In general it is the view of the Council that the question of whether children will be admitted to any premises should be left to the discretion of the licence holder who, where there may be risks, will take adequate steps to protect them from harm. However, applicants should consider the following points when drawing up their Operating Schedule.
- 8.2 The Council will take strong measures to protect children from physical, moral or psychological harm where for example:
- Any licence holder or employee has been convicted of serving alcohol to minors or the premises have a reputation for underage drinking.
  - Premises where there is evidence of an association with drug taking or drug dealing.
  - Gambling takes place on the premises, except for the provision of a small number of cash prize machines. (The Council expects all premises which have gambling on the premises to have read its policy on Gambling licensing in relation to this exemption for small cash prize machines)
  - Whenever entertainment or services of an adult nature or sexual nature are provided.
  - Where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.



8.3 The Council will rarely impose licence conditions that simply exclude children. Where it is considered that the protection of children from harm requires conditions to limit their access to any premises, the Council will consider options such as:

- Limitations on the hours when children may be present.
- Limitations on ages below 18.
- Limitations or exclusion when certain activities are taking place.
- Requirements for the accompanying adult.
- Full exclusion of people under 18 from the premises when any licensable activities are taking place.

8.4 It is strongly recommended that applicants, where appropriate, address the access of children to the premises in their Operating Schedule and that they state the time after which children will not be admitted to premises serving alcohol for consumption on or off the premises. Such cut-off times may be split into age groups.

8.5 The 2003 Act details a number of offences designed to protect children in licensed premises and the Council will work closely with the Police to ensure the appropriate enforcement of the law.

8.6 The Council supports the [Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks](#) and strongly recommends that traders immediately remove any products or display material that is the subject of a Retailer Alert Bulletin.

8.7 The Council strongly recommends that to prevent illegal sales to under-aged persons, licence holders work with a “proof of age scheme”.

8.8 The Council will expect traders to take all reasonable steps to prevent the unlawful sale or supply of alcohol to children. Where persons are found to be in breach of this requirement, strong enforcement action will be taken.

## 8.9 Showing of Films, Videos etc

8.9.1 In accordance with section 20 of the Act where the exhibition of films is permitted, the specified classification body will normally be the British Board of Film Classifications and the Council will require age restrictions to be strictly complied with in accordance with their recommendations. A mandatory condition will be imposed to this effect. Only in exceptional circumstances will variations of this general rule be considered.

8.9.2 Applicants should make it clear in their Operating Schedule what steps will be taken to ensure that only children of the appropriate age are admitted to exhibitions.

## 8.10 Children and Public Entertainment

8.10.1 Many children go to see and/or take part in an entertainment arranged especially for them (e.g. children’s film shows, dance productions) and additional arrangements are required to safeguard them while they are at the premises.

8.10.2 Where a regulated entertainment is specially presented for children, the Council will require their safety to be specifically addressed in the Operating Schedule.

8.10.3 Applicants are strongly recommended to pay particular attention to all safety issues and in particular to keep gangways and exits free from children and other obstructions during performances.

8.10.4 Where necessary and proportionate the Council may attach conditions to premises licences and club premises certificates to prevent harm to children. Such conditions will, as far as possible be drawn from the Model Pool of Conditions. The Council strongly recommends that applicants familiarise themselves with the model conditions in Annex D to the Guidance issued under section 182 of the Licensing Act 2003. The Council will expect applicants to address relevant considerations in their Operating Schedule as these issues will be carefully considered by the Licensing Authority and other responsible authorities.

## 9. CRIME & DISORDER/ANTI-SOCIAL BEHAVIOUR

9.1 In addition to the requirements for the Council to promote the licensing objectives, it also has a duty under Section 17 of the Crime and Disorder Act 1998 to do all that it reasonably can to prevent crime and disorder in the Borough. The Council also has responsibilities under the Anti-Social Behaviour Act 2003.

9.2 Where necessary, the Council will attach conditions on premise licences and club premise certificates to deter and prevent crime and disorder, both inside and immediately outside premises. Such conditions will, as far as possible and reflect local crime prevention strategies.

9.3 The Council recognises that, apart from the licensing function, there are a number of other mechanisms available for addressing issues of unruly behaviour that can occur away from licensed premises including (but not limited to):

- Planning controls
- On-going measures to create a safe and clean environment in partnership with local businesses, transport operators and other Council departments.
- Regular liaison with the Borough Police on enforcement issues, including (but not limited to): fixed penalty notices, prosecution of selling alcohol to those underage, confiscation of alcohol from adults and children
- The power of the Police to close down instantly for up to 24 hours any licensed premises or temporary event on the grounds of disorder, the likelihood of disorder or excessive noise from the premises.
- The power of the Police, other responsible authority or a local resident or business to seek a review of the licence or certificate.
- Designation if necessary of parts of the Borough as designated public place order which provides police with greater powers to prevent people drinking alcohol within this zone.

9.4 In considering all licence applications, the Council will consider the adequacy of measures proposed to deal with the potential for crime and public disorder having regard to all the circumstances of the case and will particularly consider the following (which is not an exhaustive list):

- The general management of the premises and the proposed extent and manner of day to day management of the premises.

- Measures to prevent crime and disorder and anti-social behaviour have been taken, such as the use of CCTV or the employment of registered door supervisors
- The likelihood of violence, public disorder or policing problem arising if a licence were granted.
- Measures proposed to prevent the consumption or supply of illegal drugs, including any search procedures,
- If the applicant has previously held a licence within the borough/district and the history of any enforcement action arising from those premises.
- Reports of crime analysis produced by the Barnet Safer Community Partnership/Police Licensing Officer
- Irresponsible alcohol promotion

9.5 In addition to the statutory requirements for plans, applicants should indicate on the plan provided to the Licensing Authority the proposed locations for the display and storage of any alcohol and the locations where sales and/or consumption will take place.

9.6 In order to avoid disruption to businesses during the absence of the Designated Premises Supervisor, the Council strongly recommends that a minimum of one additional member of staff should hold a personal licence. It is considered good practice for personal licence holders who authorise others to sell alcohol to formalise the authorisation process and the Council encourages such authorities to be written in clear and unambiguous terms.

9.7 The Licensing Authority strongly encourages Designated Premises Supervisors and others connected with the retail sale of alcohol to attend meetings supported by the Council and/or the Borough Police aimed at the reduction of crime and disorder. An example of this would be the Pubwatch Scheme(s).

## 10. NUISANCE

10.1 In addition to the requirements of the Council to promote the licensing objectives, it also has a duty under the Environmental Protection Act 1990 to do all it reasonably can to prevent nuisance, including noise.

10.2 Applicants for a licence for the provision of late night refreshments for consumption off the premises are reminded under section 93-95 of the Environmental Protection Act the Council may issue a Street Litter Control Notice where there is a recurrent defacement by litter or refuse of the street in the vicinity.

10.3 Where necessary, the Council will attach conditions to licences and permissions to deter and prevent nuisance. Such conditions will so far as possible and reflect local strategies.

10.4 For all licence applications, the Council will consider the adequacy of measures proposed to deal with the potential for nuisance having regard to all circumstances of the case, and will particularly consider the following:

- The steps the applicant has taken or proposes to take to prevent noise and vibration escaping from the premises, including music, noise from ventilation equipment and human voices. Such measures may include sound proofing, air conditioning, acoustic lobbies and sound limitation.
- The steps the applicant has taken or proposes to take to prevent disturbance created by patrons arriving or leaving the premises.

## 10.5 Live Music, Dancing & Theatre

10.5.1 The Licensing Authority wishes to encourage and promote live music, dance and theatre for the wider cultural benefit of the community particularly for children.

10.5.2 When considering applications for such events and the imposition of conditions on licences, the Council will carefully balance the cultural needs with the necessity of promoting the licensing objectives. The Council would wish to avoid, so far as possible, measures which deter live music, dancing and theatre.

10.5.3 Consideration will be given to the particular characteristics of any event, including the type, scale and duration of the proposed entertainment, especially where limited disturbance may be caused.

10.5.4 Where appropriate the Council may seek premises licences in its own name for community public spaces and local authority buildings. In this instance, performers and entertainers will not need to apply for a licence themselves to give a performance but would require the Council's permission and supervision as premises licence holders.

10.5.5 The Council will monitor the impact of the licensing on the provision of regulated entertainment, and particularly live music and dancing.

10.5.6 The Live Music Act came into force on 1st October 2012 and is designed to encourage more performances of 'live' music. The Act :

- Removes the licensing requirement for unamplified live music taking place between 8am and 11pm in all venues, subject to the right of a licensing authority to impose conditions about live music following a review of a premises licence relating to premises authorised to supply alcohol for consumption on the premises.
- Removes the licensing requirement for amplified live music taking place between 8am and 11pm before audiences of no more than 200 persons on premises authorised to supply alcohol for consumption on the premises, subject to the right of a licensing authority to impose conditions about live music following a review of a premises licence.
- Removes the licensing requirement for amplified live music taking place between 8am and 11pm before audiences of no more than 200 persons in workplaces (but not necessarily for workers) not otherwise licensed under the 2003 Act (or licensed only for the provision of late night refreshment).
- Removes the licensing requirement for the provision of entertainment facilities and widens the licensing exemption for live music integral to a performance of Morris dancing or dancing of a similar type, so that the exemption applies to live or recorded music instead of unamplified live music

10.5.7 In addition the following activities have also been deregulated and therefore NO licence is required when they take place between **08:00-23:00** on any day:

- a performance of a play in the presence of any audience of **no more than 500** people

- an indoor sporting event in the presence of any audience of **no more than 1,000** people
- **most** performances of dance in the presence of any audience of **no more than 500** people
- live music, where the live music comprises of a performance of **unamplified** live music;
- live music, where the live music comprises a performance of **live amplified music in a workplace** with an audience of **no more than 200** people
- live music, where the live music comprises a performance of live music on **licensed premises** (by virtue of a premises licence or a club premises certificate which authorises the sale of alcohol for the consumption **on** the premises) Where the performance takes place in the presence of an audience of **no more than 200** people

Live Music remains licensable where a performance of live music – whether amplified or unamplified – takes place before 08:00 or after 23:00 on any day;

## 11. ENFORCEMENT.

- 11.1 The Licensing Authority supports partnership with other regulatory bodies in respect of enforcing the provisions of the Act. This will be reflected in the nature and the extent of the working arrangements agreed between those bodies and the Licensing Authority, and on the need for efficient deployment of staff and avoidance of duplication of role. In particular, special arrangements will be maintained with the Police and other responsible authorities to achieve those ends.
- 11.2 The Licensing Authority will adopt enforcement regimes that will take account of the entire range of business activities and of individuals that require licensing under the new Act, with emphasis on the continued promotion of the licensing objectives. This will include both permanent business premises and premises used for temporary events. The Licensing Authority will make appropriate arrangements to monitor premises with a view to implementing targeted and proportionate enforcement action to achieve these objectives. Unlicensed activities and non compliance with conditions will not be tolerated at ANY premises.
- 11.3 Routine enforcement activity undertaken by the Licensing Authority will be targeted to ensure that high risk, poorly run premises, receive a high level of intervention, and that lower risk, well-run premises, receive a lower level of intervention. Complaint led enforcement will be subject to normal service response standards by the licensing team. The frequency of inspections will be based on a risk-rating system for the relevant licensed premises, dependent on business type and characteristics, the activities taking place and on historic data held by the Licensing Authority. Inspection frequency will be subject to review and possible amendments following the outcome of any inspection by the Licensing Authority and/or following investigation of a complaint received.
- 11.4 Enforcement action will be taken in accordance with the principles of the Cabinet Office's [Enforcement Concordat](#) in addition to the [Local Better Regulation Office Guidance](#), [Code for Crown Prosecutors](#), [Attorney Generals Guidelines](#).

The Licensing Authority has enforcement protocols with the police and will develop them with the other responsible authorities to provide for the most effective methods of monitoring and enforcing compliance with licensing requirements.

## **12 EARLY MORNING RESTRICTION ORDERS (EMRO)**

12.1 EMROs are designed to address recurring problems such as high levels of alcohol-related crime and disorder in specific areas at specific times in which serious public nuisance or alcohol related anti-social behaviour is not directly attributable to specific premises.

12.1.1 The Licensing Authority may introduce, vary or revoke an EMRO. This power enables the Authority to prohibit the sale of alcohol for a specified period between the hours of 12 midnight to 0600 hours in the whole or part of its area if it is satisfied that this would be appropriate for the promotion of the Licensing objectives.

12.2 Introducing an EMRO

12.2.1 The Home Office issued guidance in June 2013 under section 182 of the licensing Act 2003 outlining the process and matters that should be considered when the council believes an EMRO is required. The council will follow the guidance if it considers that an EMRO is required for an area in Barnet. Any application for an EMRO must be approved by full Council.

12.3 Exceptions to an EMRO

12.3.1 An EMRO shall not apply to:

a) Any premises on New Year's Eve (defined as 12 midnight 31 December to 0600 hours on 1 January.

b) The supply of alcohol to residents by accommodation providers between 12 midnight and 0600 hours, provided the alcohol is sold through mini-bars and/or room service.

c) A relation of the licensing hours by virtue of an order made under section 172 of the 2003 Act

## **13 Late Night levy**

13.1 The late night levy enables the authority to raise contributions towards the cost of policing the late night economy. The levy is payable by the holders of any premises licence between midnight and 0600 hours.

13.2 The Home Office have issued guidance on the process and matters that should be considered when the authority considers that it is appropriate to introduce a night time levy. Any application for a late night levy must be approved by full Council.

## 14. TEMPORARY EVENT NOTICES

- 14.1 Whilst the Act requires 10 working days' notice to be given of the temporary event (exclusive of the day which the event is to start and the day on which the notice is given), the Council would wish applicants to make contact with the Licensing Authority at an early stage before a formal application is made. This is particularly important for large events and will enable responsible authorities to consider proposals. Early consideration will allow issues and the licensing objectives to be addressed and may avoid objections from the police and/or the Environmental Health Department..
- 14.2 Section 100 of the Act states that the organiser of a Temporary Event must give the Authority notice of the proposed event. Section 104 of the Act states that a copy of the notice must also be provided to the Police and Environmental Health.
- 14.3 Applicants should be aware that the serving on the Council of a Temporary Event Notice does not remove their obligations under other legislation. Where necessary, permissions should be sought from the appropriate body. The Council expects that applicants understand their obligations in respect of:
- Planning permissions
  - Health and safety
  - Noise pollution
  - The erection of temporary structures
  - Road closures
  - The use of pyrotechnics
  - Anti-social behaviour
- 14.4 Applicants intending to sell alcohol should be aware that it is an offence to supply alcohol to minors or persons who are drunk. Also that the Police have powers to close down events without notice on the grounds of disorder, the likelihood of disorder or because of public nuisance caused by noise.
- 14.5 Applicants should be aware that a limit of less than 500 persons at any one time applies to temporary events and failure to comply with this limit may lead to prosecution. Where appropriate, organisers are strongly recommended to employ means of recording the number of persons entering and leaving the premises.
- 14.6 The attention of applicant is drawn to the fact police will expect to see a completed Music Promotion / Event Risk Assessment Scheme (Form 696 & 696A). If the event involves live or DJ music and is open to the public or section of the public
- 14.7 Section 107 of the Act states that a personal licence holder may hold up to 50 Temporary Events each year and a person who is not a personal licence holder may hold up to 5 such events. Each Temporary Event may last for up to 168 hours and an individual premises may hold up to 12 such events per year so long as the total number of days used for these events does not exceed 21 per calendar year.
- 14.8 Late Temporary Events Notices
- 14.8.1 Late notices can be given no later than 5 working days but no earlier than 9 working days before the event in relation to which the notice is given. If there is an objection from either the police or Environmental Health, the event will not go ahead and a counter notice will be issued. The number of late notices that can be given in any one calendar year is limited to 10 for personal licence holders and two for a non-personal licence holders. These count towards the total number of temporary event notices (see 12.7)

## 15. OPERATING SCHEDULES

### 15.1 Protection of Children from Harm

15.1.1 This is defined by the Council as the means by which children will be protected from harm by the effective management and operation of the licensed activities. The Council will consider harm to include all damaging, detrimental or injurious effects on children and will be concerned to protect children from physical, moral or psychological harm. The issues addressed could include, where relevant:

- Restrictions on access by children, whether accompanied or not, to the whole or any part of the premises, including times when children may not be present and/or whether such restriction relates to specific age groups.
- Provision of any adult supervision
- Methods employed for the prevention of unlawful supply, consumption, and use of alcohol, drugs and other products
- Whether the premises and licensee will adopt a [Challenge 21 scheme](#), whereby anyone thought to be under 21, who wish to purchase alcohol, staff will ask for identification or the “[No ID No Sale](#)” scheme for retailers.
- Whether a notice giving details of any restrictions relating to access by children is displayed.
- The provision of unbreakable drinking “glasses” for children (especially relevant for premises with play areas and/or including outdoor areas).
- The provision of suitable safe child seating (stable high chairs with straps in dining areas etc.)
- Provision for child friendly lavatories (low urinals, smaller w.c; low wash basins and provision of nappy changing facilities etc.)
- Arrangements for the inspection of play areas and/or equipment on licensed premises.
- Any instructions to be issued to staff about action to be taken in the event of concerns for the welfare of children in the care of intoxicated parents on licensed premises.
- Any other relevant issues relating to protecting children from harm.

15.1.2 Where regulated entertainment is specifically presented for children, the Council require their safety to be specifically addressed in the Operating Schedule to include:

- Numbers and locations of supervising adults. Supervising adults should remain in the area(s) occupied by children, in the vicinity of each exit. The minimum number of attendants on duty should be a minimum of one member of staff per 50 children;
- Supervision of other areas of the premises during performances;
- Arrangements for entry and departure from the premises;
- Whether supervising adults employed or deployed by the organiser will be required to provide a current (less than 3 years old) disclosure from the Criminal Records Bureau and to renew this every 3 years or whether other staff selection procedures will prevent the employment and deployment of adults who are not fit and proper persons to supervise children.

### 15.2 Public Safety



15.2.1 This is defined by the Council as the means by which public safety will be promoted by the effective management and operation of the licensed activities. The issues addressed could include, where relevant:

- Arrangements to ensure the safety of users in the event of fire or other emergency.
- The safety of audiences and spectators.
- The safety of performers.
- The adequacy of transportation arrangements to ensure that customers may safely travel to and from the premises avoiding concentrations of people unable to access transport in a timely manner.
- Confirmation of arrangements of advertising of taxis and mini-cabs solely relate to those licensed by recognised licensed authority.
- Whether free water is provided for example at dance venues where persons may suffer dehydration.
- Where door supervision staff are employed, whether a record of staff on duty and an incident report will be maintained.
- Any other relevant public safety issue

## 15.3 Prevention of Nuisance

15.3.1 This means by which nuisance will be prevented by the effective management and operation of the licensed activities. The issues addressed could include, where relevant:

- Noise emanating from the premises included extended areas such as beer garden and smoking areas, including whether noise suppression and/or cut-off devices will be used.
- Noise, anti-social behaviour and other disturbances caused by persons leaving the premises.
- Urination in public places in the vicinity of the premises (including the adequacy of lavatories provided at the premises).
- Congregation of persons from the premises whether consuming alcohol or not
- Noise from vehicles driven by, delivering or collecting customers.
- Where more than one licensable activity is permitted whether different times of finishing will apply (e.g. serving alcohol ceases at a specific period before musical entertainment finishes).
- Whether there will be a drinking up time before the premises close.
- Whether there will be a terminal hour or specific period before closure after which there will be no further admissions or readmissions to the premises.
- Litter.
- Light pollution.
- Any proposed fireworks.
- Whether the arrangements to dispose of refuse from the premises is conducted at a reasonable hour.
- Any other relevant issues relating to nuisance.

## 15.4 Prevention of Crime and Disorder

15.4.1 This means by which crime and disorder will be prevented by the effective management and operation of the licensed activities. The issues addressed could include, where relevant:

- Crime prevention design, including appropriate lighting of exterior areas (applicants are reminded that planning and or building control permission may be needed for some alterations to premises).
- The amount of seating that is provided and seat/table ratio to drinking area.
- Door supervision, including screening for weapons and drugs.
- Other measures to control violent, drunken or abusive behaviour, including exclusion of trouble makers and refusal to sell to those who are or appear to be drunk or under age and in appropriate circumstances, the use of toughened and/or polycarbonate glasses and the refusal to supply drinks over the counter in glass bottles.
- Combating drug dealing and abuse
- Methods to discourage drinking in public places in the vicinity of the premises.
- In premises seeking to sell alcohol for consumption off the premises, whether displayed stock will be in the view of staff at all times and/or covered by CCTV and whether spirits will be kept behind the counter.
- Methods to discourage and prevent, in so far as possible, the handling and distribution of stolen, counterfeit or other illegal goods by customers and staff.
- Whether Pubwatch radio or other means of communication will be used.
- How the management of the premises will avoid irresponsible drinks promotions.
- Any other relevant issues relating to the prevention of crime and disorder

## 16. CONDITIONS

16.1 The Act sets out mandatory conditions which must be attached in respect of the supply of alcohol, exhibition of films and door supervision.

The Guidance issued under Section 182 of the Act provides pools of Model conditions as annexes.

16.2 Where necessary for the promotion of the licensing objectives, the Council will attach conditions which are consistent with the operating schedule for the premises in clubs and types of premises or, following a hearing, any other conditions attached to licences or certificates will be tailored to the individual style and characteristics of the particular premises and events concerned.

16.3 The Council recognises that the drug use of patrons is a problem which may exist. The Council expects licensees to take all reasonable steps to prevent controlled drugs coming into, or being consumed on their premises. Whilst the possession of controlled drugs is a criminal offence, it is also recognised that special conditions will need to be imposed for certain types of venues to help prevent the sale and consumption of drugs and to create a safer environment for those who may have taken them. For more information please see the home office safer clubbing guide.

## 17. ADMINISTRATION, DELEGATION & EXERCISE OF FUNCTIONS

17.1 The Council is involved in a wide range of licensing decisions and functions and has established a Licensing Committee to administer them.

17.2 Appreciating the need to provide a speedy, efficient and cost effective service to all parties involved in the licensing process, the Council has delegated certain decisions and functions to its Licensing Committee, Sub-Committees and officers.

- 17.3 The grant of non-contentious applications, including for an example, those licenses and certificates where no representations have been made, has been delegated to Council officers.
- 17.4 The table in Appendix 1 sets out agreed delegation of decisions and functions to the Licensing Committee, Sub Committee and officers. This form of delegation is without prejudice to officers referring an application to a Sub-Committee, or a Sub-Committee to the Licensing Committee, if considered appropriate in the circumstances of any particular case.
- 17.5 The Council will maintain a Licensing Register containing the information required by statute and keep it available for inspection.

## **18 Licence Suspensions**

- 18.1 This is a power introduced as part of the amendments brought about by the Police Reform and Social Responsibility Act 2011. This power of suspension has been given to local authorities in relation to non payment of annual fees for a premises licence/club premises certificate.
- 18.2 A single request for payment will be sent and the licensing Authority will then take measures to suspend the licence if payment is not received within 28 days.
- 18.3 The regulations state that the premises licence holder will be given notice of a suspension at least 2 working days before the suspension is to take place. The council must then suspend the premises licences/club premises certificate should the outstanding annual fees remain unpaid.
- 18.4 The licence will be reinstated once full payment of all outstanding annual fees have been received.

## Appendix 1 – TABLE OF DELEGATED FUNCTIONS

Matter to be dealt with	Licensing Committee	Licensing Sub - Committee	Officers
Application for a personal licence			All cases
Application for a personal licence with unspent relevant convictions		If a Police objection notice is received	
Application for a premises licence/club premises certificate		If a valid representation is made	If no valid representations are made
Application for a provisional statement		If a valid representation is made	If no valid representations are made
Application to vary a premises licence/club premises certificate		If a valid representation is made	If no valid representations are made
Application to vary a designated premises supervisor		If a Police representation is received	All other cases
Request to be removed as designated premises supervisor			All cases
Application to transfer a premises licence		If a Police representation is received	All other cases
Application for interim Authorities		If a Police representation is received	All other cases
Application to review a premises licence/club premises certificate		All Cases	
Decision on whether a representation is irrelevant frivolous, vexatious etc.			All cases
Decision to make objection when local authority is consultee and not the relevant authority considering the application		All Cases	
Determination of an objection to a temporary event notice		All Cases	
Decision on whether a minor variation application is valid, the need to go out to consultation and determination			All cases
Power to suspend a premises licence (S.55A (1))			All Cases

LA2003) or club premises certificate (S.92A (1) LA2003) for non payment of annual fees			
Determination of application to vary a premises licence at community premises to include alternative licence condition		If a Police objection is received	All other cases
Power to specify the date on which suspension takes effect. This must be at least 2 working days after the day the Authority gives notice			All Cases
Fulfil the function of the responsible authority for the Licensing Authority under the Licensing Act 2003			All Cases



## Appendix 2 - Licensing Policy 2013 – 2018 Consultation

### Summary of Proposed Changes

Reference	Area of Change	Proposal
Introduction 1.3	Preceding Published Policy Date – Remove 2008	January 2011
Introduction 1.3	Policy Review Period	Policy is to be in force for a period of 5 years from January 2014
Scope 1.4.2	Remove Guidance issued by the Secretary of State for Culture, Media and Sport under section 182 Licensing Act 2003	The latest Guidance is issued by the Home Office on behalf of the Secretary of State rather than the Department of Culture Media and Sport.
Scope 1.4.2	Inclusion of new pieces of legislation	<ul style="list-style-type: none"> <li>• Police Reform and Social Responsibilities Act 2011</li> <li>• Live Music Act 2012</li> </ul>
Scope 1.4.4	Inclusion of the power to suspend a premises licence/club premises certificate	<p>This is a power brought as part of the amendments brought about by the Police Reform and Social Responsibility Act 2011. The council must suspend premises licences and club premises certificates on the non-payment of annual fees. The regulations state that the premises licence holder will be given notice of a suspension that is at least 2 working days before the suspension is to take place.</p> <p>A single request for payment will be sent and the licensing Authority will then take measures to suspend the licence if payment is not received within 28 days. Income recovery procedures will be commenced along with enforcement visits to ensure that the suspension is maintained until payment or licence surrendered</p>
Scope 1.4.4	Deletion some licensable activities	
Objectives 2.2	Additional text inserted	

Objectives 2.3 – 2.7	Insert due to change in legislation	Licensing authorities (LAs) have been made responsible authorities in their own right under the Licensing Act 2003 giving them greater powers and flexibility. This gives stronger powers to, for example, remove licences from, or refuse to grant licences to, premises that are causing problems without having to wait for the police or another responsible authority (section 103 of the PRSR Act).
Policy Considerations 3.5	Change in wording following legislation change	'Necessary' has been replaced with 'appropriate' in relation to the steps a licensing authority may take when determining applications / requests for review.
Integrating Strategies & Avoiding Duplication 4.4	Further information relating to Planning	As outlined at paragraph 13.56 of the Consolidated Guidance issued under Section 182 of the Licensing Act 2003 (October 2012 version), there are also circumstances when as a condition of planning permission a terminal hour has been set for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant MUST observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law.
Public Safety 7.5	Deletion of text	Model pool of conditions
Health Considerations for Licensing 7.6	Insertion due to change in legislation	Health bodies have been made responsible authorities so that they are automatically notified about new premises applications and can make representations, although these must be relevant to the existing statutory licensing objectives (Section 104).
Risk Assessment 6.3	Delete due to the change in legislation	Licensing authorities (LAs) have been made responsible authorities in their own right under the Licensing Act 2003 giving them greater powers and flexibility. This gives stronger powers to, for example, remove licences from, or refuse to grant licences to, premises that are causing problems without having to wait for the police or another responsible authority (section 103 of the PRSR Act).
Crime & Disorder/Anti Social Behaviour 9.2	Deletion of text	Model pool of conditions



Nuisance 10.3	Deletion of text	Model pool of conditions
Live Music, Dancing & Theatre 10.5.5	Changes in the legislation	<p>From 1st October 2012, the Live Music Act 2012 amends the Licensing Act 2003 by partially deregulating the performance of live music and removing regulation about the provision of entertainment facilities.</p> <p>In brief, the changes are:</p> <ol style="list-style-type: none"> <li>1. <b>unamplified live music</b> between 8am and 11pm in <b>all venues</b> is no longer licensable;</li> <li>2. <b>amplified live music</b> between 8am and 11pm before audiences of no more than <b>200 persons</b> on <b>alcohol licensed premises</b> is no longer licensable;</li> <li>3. <b>amplified live music</b> between 8am and 11pm before audiences of no more than <b>200 persons</b> in <b>workplaces not otherwise licensed under the 2003 Act</b> (or licensed only for the provision of late night refreshment) is no longer licensable;</li> <li>4. the licensing requirement for the provision of entertainment facilities is removed;</li> <li>5. the exemption for live music integral to a performance of morris dancing or dancing of a similar type is widened, so that the exemption applies to live or recorded music instead of unamplified live music.</li> </ol> <p>1 and 2 above are subject to the right of the licensing authority to impose conditions about live music following a review of a premises licence or club premises certificate relating to premises authorised to supply alcohol for consumption on the premises.</p>
Early Morning Restriction Orders 12	Addition due to change in legislation	<p>The power for licensing authorities to introduce an EMRO is specified in sections 172A to 172E of the 2003 Act which was amended by Section 119 of the Police Reform and Social Responsibility Act 2011. These provisions came into force on 31st October 2012.</p> <p>Regulations prescribing the requirements in relation to the process for making an early morning restriction order (EMRO) were brought in force on 31st October 2012.</p> <p>Guidance has been introduced in relation to:</p> <ul style="list-style-type: none"> <li>• the EMRO process</li> <li>• the evidence base</li> <li>• introducing an EMRO</li> </ul>

		<ul style="list-style-type: none"> <li>• advertising an EMRO</li> <li>• dealing with representations</li> <li>• hearings implementation</li> <li>• imitations</li> <li>• enforcement</li> </ul> <p>The legislation gives licensing authorities discretion to restrict sales of alcohol by introducing an EMRO to restrict the sale or supply of alcohol to tackle high levels of alcohol related crime and disorder, nuisance and anti-social behaviour. The order may be applied to the whole or part of the licensing authority area and if relevant on specific days and at specific times. The licensing authority must be satisfied that such an order would be appropriate to promote the licensing objectives. The only exemptions relating to EMROs are New Years Eve and the provision of alcohol to residents in premises with overnight accommodation by means of mini bars and room service. The decision to implement an EMRO should be evidence based and licensing authorities may wish to outline in the policy the grounds which they will take into consideration when considering implementation of an EMRO. This should include consideration of the potential burden imposed as well as the potential benefits. The Licensing Authority reserves the right to introduce an EMRO if it so desires and consultation and evidence from responsible authorities demonstrates the need. The function of making, varying or revoking an EMRO is specifically excluded from the statutory delegation of functions to the Licensing Committee.</p> <p>This is a new provision open to the Council and it may wish to consider consulting on this issue at a later date. Initial views are sought from stakeholders during this consultation.</p>
Late night levy consideration 13	Addition due to change in legislation	<p>Addition: The legislative provisions relating to the late night levy are not part of the Licensing Act 2003 but are contained in Sections 125 to 139 of the Police Reform and Social Responsibility Act 2011. The provisions came into force on 31st October 2012.</p> <p>Regulations have been brought into force setting out the way in which the levy must be applied and administered, and arrangements for expenses, exemptions and reductions.</p> <p>Guidance has also been introduced in relation to:</p> <ul style="list-style-type: none"> <li>• implementing the levy and the consultation process</li> <li>• the design of the levy</li> <li>• exemptions from the levy</li> <li>• reductions in levy charges</li> </ul>

		<ul style="list-style-type: none"> <li>• how revenue raised from the levy may be spent</li> <li>• the levy charges</li> <li>• the levy collection process</li> <li>•</li> </ul> <p>With regard to exemptions, the licensing authority will have discretion whether to exempt certain premises or not. Licensing Authorities also have discretion whether to reduce the amount of the levy by 30% for premises which participate in business-led best practice schemes. Any revenue from the levy must be split between the licensing authority and the Police, with at least 70% of the 'net' levy (after expenses) paid to the Police. The Late Night Levy Guidance, at paragraph 1.40 suggests that licensing authorities may wish to use existing partnership arrangements with the Police to ensure that the police intentions for the share of the levy revenue paid to them are genuine.</p> <p>These new powers enable licensing authorities to charge a levy in relation to persons who are licensed to sell or supply alcohol late at night as a means of raising a contribution towards the costs of policing the night-time economy. It is a 'local' power that licensing authorities can choose whether or not to exercise.</p> <p>This is a new provision open to the Council and it may wish to consider consulting on this issue at a later date. Initial</p>
<p>Temporary Event Notices 14</p>	<p>New legislation</p>	<p>The Police and Environmental Health Officers are now able to object to TENS where they consider that the proposed activities are likely to undermine a licensing objective.</p> <p>Conditions may be applied to TENS if the Authority considers it appropriate for the promotion of the licensing objectives to do so, providing the conditions are also imposed on a premises licence or club premises certificate that has effect in respect of the same premises, or any part of the same premises, as the temporary event notice, and the conditions would not be inconsistent with the carrying out of the licensable activities under the temporary event notice.</p> <p>Time limits relating to TENS have been relaxed, including the duration of activities which has increased from 96 hours to 168 hours.</p>
<p>Licence Suspensions 18</p>	<p>Delete due to the change in legislation</p>	<p>Licensing authorities (LAs) have been made responsible authorities in their own right under the Licensing Act 2003 giving them greater powers and flexibility. This gives stronger powers to, for example, remove licences from, or refuse to grant licences to, premises that are causing problems without having to wait for the police or another responsible authority (section 103 of the</p>

		PRSR Act).
Table of delegation	Update for new powers	<p>Officers in all cases</p> <ul style="list-style-type: none"> <li>• power to suspend a premises licence (S.55A (1) LA2003) or club premises certificate (S.92A (1) LA2003) for non payment of annual fees</li> <li>• power to specify the date on which suspension takes effect. This must be at least 2 working days</li> <li>• power to impose existing conditions on a premises licence, club premises certificate, and Temporary Event Notice where all parties agree that a Hearing is unnecessary – see S.106A LA2003 power to make representations as responsible authority Advice and Guidance Additional guidance</li> </ul>

Interested Parties		The term 'interested parties' has been replaced by 'any other person' meaning that anyone can voice objections regardless of geographic vicinity, however any such objection must relate to one or more of the licensing objectives.
<b>Notification of applications will be the responsibility of the Licensing Authority</b>		The Secretary of State has been required to make changes to the Licensing Act Regulations 2005 requiring the Licensing Authority to advertise applications 'in a manner which is prescribed and is likely to bring the application to the attention of the persons who are likely to be affected by it'.
<b>Determination of applications</b>		'Necessary' has been replaced with 'appropriate' in relation to the steps a licensing authority may take when determining applications / requests for review.
<b>Sanctions for persistently selling alcohol to children</b>		<ul style="list-style-type: none"> <li>• The fine for persistent underage sales has doubled from £10,000 to £20,000, and the new legislation makes it easier to shut down businesses found to be persistently selling alcohol to those under 18. The Government will not tolerate sales of alcohol to children. The fine for persistent underage sales has been doubled to £20,000 and it is now easier to shut down businesses found guilty. The new legislation increases the period of voluntary closure, as an alternative to a fine, from 48 to 336 hours (Section 118 of the PRSR Act).</li> </ul>
		<ul style="list-style-type: none"> <li>• <a href="#">Local residents</a> now have a greater say – the 'vicinity test' has been scrapped so now anyone can make representations about licensing decisions regardless of whether they live close to the premises concerned (Section 105 -108 of the PRSR Act).</li> </ul>
		As outlined at paragraph 13.56 of the Consolidated Guidance issued under Section 182 of the Licensing Act 2003 (October 2012 version), there are also circumstances when as a condition of planning permission a terminal hour has been set for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant <b>MUST</b> observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law.

