



DRAFT

LICENSING POLICY

(The Licensing Act 2003)

Awarded for excellence



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INDEX

<u>Section</u>	<u>Pages</u>
Executive Summary	1 – 3
1 Introduction	4 – 5
2 Other Policies, Objectives and Guidance	6 – 8
3 Determinations	9 – 10
4 Conditions	11 – 12
5 Films	13
6 Licensing Hours	14
7 Cumulative Impact of Licensing on the Amenity of Particular Areas	15 – 16
8 Children	17 – 18
9 Premises Licence	19 – 23
10 Club Premises Certificate	24 – 25
11 Personal Licence	26 – 27
12 Temporary Event Notices	28 – 29
13 Provisional Statement	30
14 Consultation	31
15 Complaints Against Licensed Premises	32 – 33
16 Enforcement Policy	34
17 Administration Exercise and Delegation	35 – 36
18 Policy Consultation	37
19 Further Information	38

<u>Appendix</u>		<u>Pages</u>
A	Definitions	39 – 44
B	List of Consultees	45 – 47
C	Pool of Conditions relating to the Prevention of Crime and Disorder	48 – 51
D	Pool of Conditions relating to Public Safety	52 – 55
E	Pool of Conditions relating to Theatres, Cinemas, Concert Halls and Similar Places (Promotion of Public Safety)	56 – 59
F	Pool of Conditions relating to Prevention of Public Nuisance	60 – 61
G	Pool of Conditions relating to Protection of Children from Harm	62 – 66
H	Special Policy with Regard to Cumulative Impact in Stourbridge Town Centre	67 – 69
I	Other Policies, Legislation, Case-law and Guidance Sources	70 – 72

Executive Summary

Dudley Metropolitan Borough Council is responsible for the licensing of licensable activities under the Licensing Act 2003.

This document sets out the policies that the Council will apply when making decisions upon applications for:

- The sale by retail of alcohol
- The supply of alcohol by or on behalf of a club to, or to the order of a member of the club
- The provision of late night refreshment (the supply of hot food or drink from a premises between 11.00pm and 5.00am)
- The provision of regulated entertainment

Regulated entertainment requires a licence when it is performed in front of an audience and includes the following:

Performance of a play

Exhibition of a film

Indoor sporting event

Boxing or wrestling entertainment (indoors and outdoors)

Performance of live music (not incidental music, i.e. a piano in a restaurant)

Playing of recorded music (not incidental music, i.e., simultaneous reception and playing of a television programme)

Performance of dance

Provisions of facilities for dancing

Provision of facilities for making music

Entertainment of a similar description to the performance of live music, the playing of recorded music and the performance of dance.

This policy shall apply in respect of new consents, renewals, transfers and variations to the following:

Premises Licence

Club Premises Certificates

Personal Licences

Temporary Event Notices

The Act makes provision for this policy to be the subject of consultation and the list of consultees is attached as Appendix B. The Council will review this policy at least every three years and consult on any proposed revisions.

The Act sets out four main licensing objectives which the Council has a duty to promote in determining applications:

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

Each of the objectives is considered to be of equal importance.

This Policy and the Council's functions as Licensing Authority seek to achieve control of premises, qualifying clubs and temporary events within the terms of the Act. Terms and conditions will focus on achieving the Licensing Objectives with reference to:-

- matters within the control of individual licensees
- the specific premises and the places used
- the vicinity of those premises and places
- the direct impact of the activity taking place at the licensed premises on public who live, work and carry out normal activity in the area concerned

Licensing is not a mechanism for the general control of anti-social behaviour by individuals beyond the direct control of the licensee of the premises concerned. In this respect the Council recognises that there are a number of other mechanisms available for addressing issues of unruly behaviour e.g. drunk and disorderly conduct that can occur away from licensed premises including:-

- planning controls
- measures to create a safe and clean environment in partnership with local businesses and other departments of the Council
- powers of the Council to designate parts of the Borough as places where alcohol may not be consumed publicly
- police enforcement of the normal law concerning disorder and anti-social behaviour including issuing fixed penalty notices
- the prosecution of any Personal Licence Holder or member of staff at such premises who is selling alcohol to people who are drunk, or under age
- the confiscation of alcohol from adults and children in designated areas police powers to close down instantly for up to 24 hours any licensed premises or temporary events on grounds of disorder, the likelihood of disorder or excessive noise emanating 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 in question
- closure of premises for up to 24 hours by an authorised environmental health officer under Sections 40 and 41 of the Anti-social Behaviour Act 2003.

The objective of the licensing process is to allow the continuation of retail sales of alcohol, the provision of regulated entertainment and the provision of late night refreshment in a way which ensures compliance with the Act, public safety and which is neither to the detriment of residents, nor gives rise to loss of amenity. It is the Council's wish to aid well run and managed premises with license holders demonstrating sensitivity to the impact of the premises on their neighbours and the local area.

The Council recognises that the licensed entertainment business sector and community licensed facilities in the Borough contribute to the local economy and social infrastructure. The Council wishes to encourage licensees to provide a wide range of entertainment activities throughout their opening hours and to promote live music, dance, theatre etc., for the wider cultural benefit. They are a factor in maintaining a thriving and sustainable community, which is one of the Council's aims.

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

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

We will monitor the impact of licensing on regulated entertainment in the Borough, particularly on live music and dancing. If there is evidence that licensing requirements deter such activities, we will consider how to prevent it, and if necessary will change this Policy.

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

The Council may seek in its own name premises licences for appropriate public spaces within the Borough. This will make it easier for people to organise suitable cultural events. We will consider any request for permission to use such public spaces for cultural activities.

The Borough is a mixed commercial and residential area, whose amenity the Council has a duty to protect. One of the Council's aims is to promote safer and stronger communities. These factors will be taken into account where applications will increase the concentration of entertainment uses, and or, lengthen hours of operation in a way that would materially impact on the local area.

This policy will set out the general approach the Council will take when it considers applications for licences. It will not undermine the right of any individual to apply for a variety of permissions and to have any such application considered on its individual merits. Nor will it override the right of any "interested party" to make representations on an application or seek a review of a licence where provision has been made for them to do so in the Act. However, the Council will disregard any representations, which are regarded as irrelevant, frivolous and/or vexatious.

This Policy has been prepared to assist the Council in reaching a decision on applications, setting out those matters that will normally be taken into account. This policy also seeks to provide clarity for applicants, objectors, residents and other occupiers of property.

1.0 Introduction

1.1 The Metropolitan Borough of Dudley is a conurbation situated on the western edge of the West Midlands and includes part of the Black Country industrial region. The Local Authority provides services to approximately 305300 residents.

1.2 The Metropolitan Borough Council of Dudley ("the Licensing Authority") is responsible for the licensing of licensable activities under the Licensing Act 2003 ("the Act") in accordance with Part 1 section 1.

This document sets out the policies that the Licensing Authority will apply when making decisions upon applications for:

- **The sale by retail of alcohol**
- **The supply of alcohol by or on behalf of a club to, or to the order of a member of the club**
- **The provision of late night refreshment** (the supply of hot food or drink from a premises between 11.00pm and 05.00am)
- **The provision of regulated entertainment**

Regulated entertainment requires a licence when it is performed in front of an audience and includes the following:

Performance of a play

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Playing of recorded music (not incidental music, i.e., simultaneous reception and playing of a television programme)

Performance of dance

Provisions of facilities for making music

Entertainment of a similar description to the performance of live music, the playing of recorded music and the performance of dance.

1.3 This policy shall apply in respect of new consents, renewals, transfers and variations to the following:-

Premises Licence

Club Premises Certificates

Personal Licences

Temporary Event Notices

1.4 The Act makes provision for this policy to be the subject of consultation and the list of the consultees is attached as Appendix B. The Licensing Authority will review this policy at least every three years and consult on any proposed revisions.

The Act sets out four main licensing objectives which the Licensing Authority has a duty to promote in determining applications:-

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

Each of the objectives is considered to be of equal importance.

- 1.5 This policy and the Metropolitan Borough Council of Dudley's functions as Licensing Authority seek to achieve control of premises, qualifying clubs and temporary events within the terms of the Act. Terms and conditions will focus on achieving the Licensing Objectives with reference to:-

- Matters within the control of individual licensees
- The specific premises and the places used
- The vicinity of those premises and places
- The direct impact of the activity taking place at the licensed premises on public who live, work and carry out normal activity in the area concerned.

2.0 Other Policies Objectives and Guidance

- 2.1 Other statutory requirements may apply to the provision of any regulated activities at a premises and the responsibility for compliance lies with the licence holder. For example if the activity involves the preparation and/or sale of food then it is the responsibility of the applicant to ensure that all appropriate Food Safety legal requirements are met. It would be expected that a licensee would have registered the premises as a food business with the Licensing Authority. It is not a requirement of any licence decision to address these matters. However, it is a good reflection of the responsible licensee that they conform to all relevant legislation.
- 2.2 Many of the specific licensing requirements relate to matters potentially affecting public safety. In addition to these licensing requirements there are wider duties on all businesses (whatever their legal status and regardless of whether a licence is needed) to protect the health and safety of employees (and the self employed) as well as the public. Some of these duties are deliberately wide, generalised and all encompassing e.g. main duties under Section 2, 3, & 4 of the Health & Safety at Work etc. Act 1974, and others are very specific e.g. requirements under the Control of Substances Hazardous to Health Regulations 2002, and do not apply in all circumstances. Some of these duties are “absolute” under law and have to be complied with, without exception. Thus these Health & Safety duties tend to include all specific safety requirements under licensing requirements for the public on the premises and extend them to cover the safety of others e.g. staff, contractors, passers by etc. Thus there is considerable overlap between the licensing regime and the wider health & safety regimes.

The Licensing Authority is committed to ensuring that the safety of persons visiting licensed premises is not compromised. Members of the public visiting licensed premises have a right to expect that due consideration has been taken of their needs with respect to public safety.

The applicant will be expected to carry out a thorough risk assessment for public safety prior to application. The actions resulting from a risk assessment should be included in the Operating Schedule for premises with respect to addressing the licensing objective of public safety. Guidance will be issued to assist applicants decide what should be considered in their risk assessments and included in their Operating Schedules. The list will not be exhaustive and applicants are encouraged to include other matters that they consider relevant to the individual circumstances of their premises.

The Licensing Authority will have particular regard to representations from its environmental health officers as well as from the Fire Service and the Police to determine if measures proposed are sufficient to ensure the safety of the public. Where actions are detailed in the Operating Schedule are not deemed to be comprehensive and in accordance with guidance issued then the responsible authorities for health and safety can make representations. The Licensing Authority will not seek to duplicate responsibilities already held under other statutes, but where safety issues are either unique to the premises or the licensing objectives they should be addressed.

- 2.3 All applicants for Premises Licences and Club Premises Certificates and those intending to hold Temporary Events are reminded that planning permission will normally be required for such uses and such planning consents may carry conditions with which they are expected to comply or action may be taken under the relevant planning legislation. In general, planning consents authorise a broad type of use of a premises, whereas licences are granted for a particular type of activity. A planning permission for an entertainment use, for example may cover a number of activities that can have a wide range of different impacts in the locality.

The precise nature of the impact of the specified activities proposed by a prospective licence will also be considered when an application is made for a Premises Licence.

Licensing applications should not be seen as a re-run of the planning application process and there is a clear separation of the planning and licensing regimes to avoid duplication and inefficiency. The Licensing and Safety Committee will ensure however that the Development Control Committee is advised of the situation regarding licensed premises in the borough including the general impact of alcohol related crime and disorder and any proposals to introduce a saturation policy to assist the Development Control Committee in its decision making process. The purpose of a saturation policy is to minimise the cumulative impact of licensed premises where it can be shown that the density of premises selling alcohol and the concentration of drinkers is such that it is resulting in anti-social behaviour, noise, or crime and disorder. This conflict may be the result of the late night demand on local resources, for example the queuing for fast food outlets, public transport, etc. The Licensing Authority however will not take *need* into account when considering an application, as this is a commercial decision and a matter for planning control and the market.

- 2.4 The Unitary Development Plan (UDP) is a collection of documents and associated information on the use of land throughout the whole of the Dudley Borough. It takes the form of a written statement and a plan showing the whole Borough (proposals map). The UDP sets out both broad and detailed policies that offer clear advice to the public, developers and Council officers on what sort of development would be appropriate in a given location. It does this through identifying on the proposals map various different types of land use, such as open land or industrial areas, and linking these areas to policies designed to govern them. The UDP forms the basis of all planning decisions throughout the Dudley Borough.

<http://www.dudley.gov.uk/council--democracy/performance-matters-in-dudley/performance-pact/council-plan-20072010>

Planning decisions on proposals to build on land, or change its use, should not be arbitrary. They must be considered against clearly set out criteria. The statutory development plan provides the primary basis for this consideration, but decisions must also take into account other material considerations, including the government's national and regional planning guidance and material representations from interested parties. The development plan, therefore, provides an essential framework for planning decisions, and enables the whole community to be fully involved in their shaping, through the public participation process.

- 2.5 The Licensing Authority will seek to achieve integration with relevant strategies and their aims in determining applications and will do so through relevant consultation of this policy and individual applications.
- 2.6 The Human Rights Act 1998 incorporates the European Convention on Human Rights and makes it unlawful for a Local Authority to act in a way that is incompatible with a Convention Right. The Licensing Authority will have particular regard to the following relevant provisions of the European Convention on Human Rights:
- Article 6 that in determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law;
 - Article 8 that everyone has the right to respect for their home and private life; and
 - Article 1 of the First Protocol that every person is entitled to the peaceful enjoyment of their possessions, including for example the possession of a licence.

- 2.7 The Disability Discrimination Act 1995 introduced measures to tackle discrimination encountered by disabled people in the areas of employment, access to goods, facilities and services and the management, buying or renting of land or property. For service providers, such as licensees;
- Since December 1996 it has been unlawful to treat disabled people less favourably than other people for a reason related to their disability;
 - Since October 1999 reasonable adjustments should be made for disabled people, such as providing extra help or making changes to the way they provide their services; and
 - Since Oct 2004 reasonable adjustments should be made to the physical features of their premises which are open to the public, such as Licensed Premises.
- 2.8 The Licensing Authority has published its Race Equality Scheme in which it sets out how it aims to address race equality issues in the Borough. When considering licence applications the Licensing Authority is required to assess and consult on the likely impact of the application on the race equality policy.
- 2.9 **The Licensing Authority's Crime & Disorder Strategy**
The Licensing Officer is a member of the Joint Activities Group and works with partner agencies to target problem premises and formulate strategies to reduce alcohol related crime in the Borough.
- 2.10 **Tourism & Employment**
The Licensing Authority already has a Black Country Visitor Economy Strategy and Economic Strategy which address the issues of the local tourist economy. These strategies are currently under review and will be consolidated into a Community Strategy. Arrangements will be made, to keep the Committee apprised of the local tourist economy, and the Cultural Strategy for Dudley. Where appropriate the Committee will also be advised of the employment situation and the need for any new investment in a particular area.
- 2.11 **The Health Act 2006 – Workplace Smoking Ban**
The ban on smoking in all enclosed workplaces and public spaces came into force on the 1st July 2007. The ban includes smoking in pubs, restaurants and members' clubs where bar or other staff are employed. In this context "enclosed" will mean anywhere with more than 50% of wall and ceiling space in-filled.
- 2.12 There are a number of other local and national policies, strategies responsibilities, and guidance documents which have been taken into account when formulating this policy. A list of these policies, legislation, case law and guidance can be found at Appendix I to this policy.

3.0 Determinations

- 3.1 When determining applications the Licensing Authority will work within the framework of this Policy which has been prepared having regard to guidance issued by the Department of Culture, Media and Sport (DCMS) www.culture.gov.uk
- 3.2 Each licence application will be considered on its own merits in the context of the four licensing objectives, and unless relevant representations are received from responsible authorities or interested parties, there is no provision for a licensing authority to impose conditions on a licence other than that mandatory conditions or those proposed within the application.
- 3.3 The provisions for determination of Club Premises Certificates will be the same as those for Premises Licences.
- 3.4 This policy shall apply in respect of new consents, renewals, transfers and variations to the following:
Premises Licence
Club Premises Certificates
Personal Licences
Temporary Event Notices
- 3.5 Premises must be constructed or adapted in such a way that it is deemed safe and appropriate to the nature of the activities to be licensed. Premises in the course of construction, alteration, extension, etc. can be granted a Provisional Statement pending completion to the required standard and compliance with all other requirements. An applicant will be able to make application for a premises licence where the exact specification of the building is known, including all matters to be included, into the Operating Schedule. This in turn will be enough for responsible Authorities and interested parties to base a decision on as to whether or not to make a relevant representation.
- 3.6 The following list contains examples of measures and guidance that might be taken into account by the Licensing Authority when considering Licensing applications and operating schedules.
- The steps the Applicant has taken or proposes to take to prevent public nuisance. Such steps may include the installation of sound proofing, air conditioning, acoustic lobbies, sound limitation devices, parking provision, notices at exits and in the car park.
 - The likelihood of any public disorder, violence or other alcohol related crime arising if a licence were to be granted. The British Beer and Pub Association good practice on managing safety in pubs can be found at www.beerandpub.com
 - Consider the use of special effects (e.g., lasers, smoke generators, foam parties, etc) and the measures needed to ensure public safety.
 - Applicants will be required, when appropriate, within their Operating Schedules to specify the dispersal measures the venue will take at the end of the trading session to minimise the potential for disorder and disturbance as customers leave the premises.

A number of policy documents which will assist those operating in the night-time economy can be found at <http://www.noctisuk.org>

- 3.7 If there is any representation by a responsible Authority or interested party to an application for a premises licence the matter will be referred to a Licensing Sub-Committee for determination, in the absence of lack of agreement between the parties.

4.0 Conditions

4.1 A suitable individual who is also a Personal Licence holder must be nominated as a Designated Premises Supervisor responsible for the day to day management of the premises at any time when it is open for the carrying out the sale of alcohol.

4.2 Upon grant of a licence, the Act sets out mandatory conditions, which may be attached in certain circumstances, and in addition to these, special conditions may be attached. These conditions will be appropriate to the nature of the activities specified in the submitted Operating Schedule for the premises and shall reflect the four licensing objectives. Any special condition will normally be drawn from a Pool of Conditions (see Appendices C, D, E and F), which will be compiled to meet the circumstances of the proposed activities. However to avoid duplication with other statutory regimes as far as possible the Licensing Authority will not attach conditions on a licence unless they are considered necessary for the promotion of the Licensing Objectives. Conditions will generally be considered unnecessary if they are already adequately covered by other legislation. Conditions imposed will be in consultation as appropriate with the relevant authorities.

Where the responsible Authorities and interested parties do not raise any representations about the application made to the Licensing Authority, it is the duty of the Licensing Authority to grant the licence or certificate subject only to conditions that are consistent with the Operating Schedule or Club Operations Schedule and any mandatory conditions prescribed in the 2003 Act itself.

Failure to comply with the Licensing Authority's conditions could amount to a criminal offence, with conviction punishable by a fine of up to £20,000 or 6 months imprisonment or both.

4.3 Where representations have been received from a responsible authority(s) and the representation upheld by the Licensing Committee, any conditions to be attached to licences and certificates will be tailored to the individual style and characteristics of the premises and events concerned and will relate to matters within the control of the licensee, the premises themselves, the immediate vicinity and which are necessary to meet the licensing objectives. For example conditions may be imposed to prevent unnecessary noise and disturbance to local residents by way of limited hours and/or restrictions on sound levels. Conditions may also be imposed requiring licensees to display signs at all exits of premises reminding customers to leave the premises quietly and to respect the rights of nearby residents.

In addition conditions may be attached requesting premises serving customers from take aways and fast food outlets from 11.00 pm to provide litter bins in the vicinity of the premises in order to prevent the accumulation of litter from its customers.

4.4 It shall be the Licensing Authority's policy that premises will comply with the Licensing Authority's Pool of Conditions (relate to Appendices C, D, E, F) that will be determined in each case in consultation with other relevant authorities.

The above will be based on representations received from relevant authorities and interested parties.

The Licensing Authority may also consider that certain premises require strict supervision for the purpose of promoting the reduction of crime and disorder. In such cases, the Licensing Authority may impose a condition that door supervisors must be present at the premises either at all times or such times as certain licensable activities are being carried out.

- 4.5 In any case Licensees shall keep a record of all door supervisors/security personnel employed at the premises, together with an incident report book. Both books shall be available for inspection by an authorised officer of the Licensing Authority or a Police Officer.

5.0 Films

- 5.1 No film shall be exhibited at licensed premises which is likely to lead to disorder and/or stir up hatred or incite violence towards any section of the public on grounds of colour, race or ethnic or national origin, disability, religious beliefs, sexual orientation or gender.

If a licence holder is notified by the Licensing Authority that a particular film in the opinion of the Licensing Authority falls into that category and may not be shown, its decision shall be final in that respect.

- 5.2 In connection with the film exhibition, conditions will specify that immediately before each exhibition at the premises of a film (other than a current newsreel) 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 a certificate of the Board, or, as regards a trailer advertising a film, of the statement approved by the Board indicating the category of the film. Conditions may also require notices to be displayed both inside and outside the premises so that persons entering can readily read them and be aware of a category attached to any film or trailer.
- 5.3 No film shall be available to the public without being classified which must be displayed and the film if it is unclassified must be given to the Licensing Authority at least 28 days before screening for classification.
- 5.4 Where videos are shown on Licensed Premises they should be suitable for children if children are permitted in the Operating Schedule.
- 5.5 The admission of children to any film exhibition shall be restricted in accordance with the recommendations given to films by the British Board of Film Classification or by the Licensing Authority.

6.0 Licensing Hours

- 6.1 In making decisions that relate to the hours for which a premises is licensed consideration will be given to the individual merits of the application in conjunction with the licensing objectives. The presumption will be to grant the hours requested unless there are objections to those hours raised by responsible authorities or interested parties on the basis of the licensing objectives.
- 6.2 It is hoped that varied licensing hours will minimise concentrations of customers leaving licensed premises simultaneously. This will help reduce the potential for disorder at fast food outlets, taxi ranks and other sources of transport.
- 6.3 In relation to shops and other retail outlets supplying alcohol for consumption off the premises, the Guidance to the 2003 Act establishes the principle that allows sales of alcohol at all times while such premises are open for business.
- 6.4 In making decisions in respect of hours, consideration will be given to representations made by residents and businesses in the vicinity of the premises, their representatives, the police as well as the applicant and other agencies as appropriate.
- 6.5 Fixed trading hours will not be set for particular geographical areas. However account will be taken of any guidelines that are adopted in respect of licensing hours. It should be stressed that each case will be decided on its own merits based on whether the licensing objectives can be met. Stricter conditions however are likely to apply where the premises are situated in mainly residential areas to minimise disturbance to local residents. Any further guidelines will be incorporated into this Policy and will be the subject of further consultation prior to implementation.
- 6.6 Limitations on operating hours may be imposed as appropriate, for example, following police representations in the case of isolated shops known to be a focus of disorder, disturbance or for people engaging in anti-social behaviour, including pressurising shop staff to make unlawful sales.
- 6.7 **Shops, store and supermarkets**
Shops, stores and supermarkets should be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are very good reasons for restricting those hours. Accordingly if the law permits the shop to open for 24 hours or limits such opening, i.e. on Sundays the Licensing Authority will generally permit the sale of alcohol during those hours.

7.0 Cumulative Impact of Licensing on the Amenity of Particular Areas

7.1 The Licensing Authority recognises that the cumulative effect of licensed premises may result in an increase in numbers of people either walking through or congregating in streets or cause adverse effects on amenity and this in turn may have a number of undesirable consequences, for example:

- An increase in crime against both property and persons;
- An increase in noise causing disturbance to residents;
- Traffic congestion and/or parking difficulties;
- Littering and fouling.

7.2 The Licensing Authority will take into account:

- The character of the surrounding area;
- The potential and real impact of the licence on the surrounding area, both individually and cumulatively with existing licences;
- The nature and character of the proposed operation; and
- Any other relevant considerations

7.3 Where there is evidence that a particular area of the Borough is suffering adverse effects arising from a concentration of licensed premises, or that residential areas are under stress, this will be taken into account in determining any further applications or variations to existing licences for premises within the area identified. The onus will be on the objectors to provide evidence to back up any assertion that the addition of the premises in question would produce the cumulative impact claimed.

The Licensing Authority may consider a specific saturation policy if this proves necessary.

The Licensing Authority in considering whether to adopt a special saturation policy will take the following steps:

- identify serious and chronic concern from a responsible authority or representatives from residents or local businesses concerning nuisance and/or disorder;
- assess the causes;
- where it can be demonstrated that disorder and nuisance is arising as a result of customers of licensed premises, identify the area from which problems are arising and the boundaries of that area; and
- adopt a special policy about future licence applications from that area.

7.4 There are other mechanisms both within and outside of the licensing regime to address the bad and unlawful behaviour of a minority of consumers once they are away from licensed premises. These include :-

- Planning controls
- Positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the local authority.

- The provision of CCTV surveillance in town centres, ample taxi ranks, revision of public conveniences open late at night, street cleaning and litter patrols.
- Powers of local authorities to designate parts of the local authority area as places where alcohol may not be consumed publicly.
- Police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices.
- The prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk.
- The confiscation of alcohol from adults and children in designated areas.
- Police powers to close down instantly for up to 24 hours any licensed premises or temporary event on grounds of disorder, the likelihood of disorder or noise emanating from premises causing a nuisance.
- The power of the police, other responsible authorities or a local resident or business to seek a review of the licence or certificate in question.
- Other local initiatives that similarly address these problems.

- 7.5 The Council approved the introduction of a Special Policy regarding Cumulative Impact in Stourbridge Town Centre on the 16th October 2006. (See Appendix H for details of Policy and Designated Area of Stourbridge).
- 7.6 Following the introduction of the Special Policy regarding Cumulative Impact the council introduced a scheme to close Stourbridge High Street to all vehicles except Hackney Carriage and emergency vehicles between midnight and 4.00 am, together with the appointment of taxi marshals. This scheme aids the dispersal of people at the end of the evening, allows the police and emergency vehicles easy access to the High Street and has helped to reduce alcohol related crime in the area. It is kept under regular review by a multi-agency group which includes the police and the Licensing Authority.
- 7.7 The Special Policy regarding the Cumulative Impact in Stourbridge High Street has been kept under review. The police violent crime figures have seen significant reductions since the introduction of the policy.

8.0 Children

- 8.1 The Licensing Authority will carry out its responsibilities so as to promote the licensing objective for the protection of children from harm.
- 8.2 Licences will be sought from a wide variety of premises including theatres, cinemas, restaurants, concert halls, cafes, late night take-aways, pubs, bars and nightclubs. It is not possible for a licensing policy to anticipate every situation where children are at risk. The Licensing Authority will not therefore impose general conditions that apply to all premises, but will consider how the licensing objectives can be best promoted in each particular case.
- 8.3 The Licensing Authority will not seek to limit the access of children to licensed premises unless it is necessary for the prevention of physical, moral or psychological harm. The Licensing Authority will not therefore impose general conditions that apply to all premises, but will consider how the licensing objectives can best be promoted in each individual case.
- 8.4 The Licensing Authority will not impose a right of access to children. This will remain a matter for the discretion of the licensee it is anticipated that the issue of access to children will be addressed in the Operating Schedule.
- 8.5 The range of options which may be considered for limiting the access of children where it is necessary for the prevention of harm to children include:
- limitations on the hours when children may be present;
 - limitations excluding the presence of children under certain ages when particular specified activities are taking place;
 - limitations on the parts of premises to which children might be given access;
 - age limitations (below 18);
 - requirements for accompanying adults (include for example a combination of requirements which provide that children under a particular age must be accompanied by an adult);and
 - full exclusion of those people under 18 from the premises when any licensable activities are taking place.
- 8.6 Licensees will be expected to prevent children from viewing films that are unsuitable because of the age classification of the film that has been imposed by the British Board of Film Classification or other film classification board approved by the Licensing Authority.
- 8.7 The Licensing Authority will expect that where a significant number of unaccompanied children will be present during a public entertainment event, the licensee will ensure that an adequate number of adult staff are present to control the access, egress and safety in and around the premises. The number of staff required should be assessed by the licensee, taking into account the number of children to be present, the type of entertainment, the characteristics of the premises and any other relevant factor.

- 8.8 Anyone intending to provide staff for the supervision of activities to under 18's will be required to carry out enhanced criminal record checks on all persons involved servicing such activities, this includes all staff at cinemas, subject to advice of Childrens' Services Directorate/Area Child Protection Committee. These checks should be entered into a register which should be kept on the premises at all times and made available to the Police or authorised Licensing Authority Officer on request. Staff shall only be appointed who have been subject to a check and are found to be suitable, if in doubt the applicant should liaise directly with the Police.
- 8.9 The Licensing Authority will specifically require the Operating Schedule to address issues relating to children. In such cases applications will be served on the Childrens' Services Directorate for their consideration and expert opinion. Applicants will also be advised to contact Childrens' Services directly should they wish to seek advice prior to submitting their application.
- 8.10 Premises that sell alcohol should have due regard to Proof of Age Schemes which supports the PASS accreditation system, Citizen Card, Connexions, Young Scot and Validate UK. In addition, the Portman Group operates on behalf of the alcohol industry a code of practice on the naming, packaging and promotion of alcoholic drinks. This code seeks to ensure that drinks are marketed in a socially responsible manner and only to those over 18 years of age.
- 8.11 Where there are restrictions (whether imposed by statute or by the Licensing Authority) on the sale or supply of goods or the provision of services or the showing of films or other entertainment to children below a certain age then the licensee will be required to demonstrate that they have in place a system for verifying the age of the children intended to be supplied with such goods, services or entertainment. Training must be given to all persons who might be in a position to refuse such children. Such training must include recognition of age, seeking proof of age, verifying the authenticity of proof of age cards, and handling refusals.

9.0 Premises Licence

9.1 Application

Any person aged over 18 years, a business or partnership may apply for a premises licence. The application must be accompanied by :

- the required fee
- an operating schedule
- a scale plan of the premises 1cm:100cm to which the application relates in the prescribed form and,
- if the premises involves the supply of alcohol, a form of consent from the individual who is to be specified as the designated premises supervisor
- application to be advertised in the manner prescribed by the Licensing Authority (see Guidance 8.43 and 8.44 and Regulations 25 and 26 of the Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulation 2005).

9.2 Operating Schedule

An operating schedule should include information to enable the Licensing Authority or any interested party to assess the steps taken by the applicant to promote the Licensing Objectives. For example it will include a description of the style and character of the business to be conducted on the premises.

When addressing the Crime & Disorder; Public Nuisance; Protection of Children; and Public Safety Licensing Objectives, the applicant should initially identify any particular issues (having regard to their particular type of premises and or activities), which are likely to adversely affect the promotion of each objective. Such steps as are required to deal with these identified issues should be included within the applicants Operating Schedule.

Premises where alcohol is to be sold for consumption on the premises it would be valuable to know the extent of seating, the type of activities available on the premises whether licensable under the 2003 Act or not. If there is to be dancing on the premises the operating schedule should describe the type of dancing, if this will include striptease or lap dancing, if the dancing will include members of the public, by professional performers or both and in what setting.

Other examples of information required in the Operating Schedule are:-

- Relevant licensable activities to be conducted on the premises
- Times/days of the week including holiday periods or different times of the year, the activities are to take place.
- Any other times the premises is open to the public
- Where the licence is required for a limited period, that period
- If the activities include the supply of alcohol, the name and address of the designated premises supervisor
- If alcohol is to be supplied, if it is to be consumed on/off the premises or both
- The steps the applicant proposes to promote the Licensing Objectives e.g. leaving a licensed premises quietly, public transport for customers leaving the premises. Also, in considering the steps to be taken to promote the licensing objectives the applicant should give consideration to the pool of model conditions attached to this statement of licensing policy.

- The applicant will be expected to undertake a thorough risk assessment with regard to the licensing objectives when preparing their applications. Applicants must refer to the guidance on risk assessments produced by the Environmental Health Division of the Council. Conditions of Licence may be added on the advice of Environmental Health where operating schedules do not adequately address the risk assessment.

9.3 Small Venues Providing Dancing and Amplified or Non-amplified Music

These are;

- A Premises Licence or Club Premises Certificate authorises the supply of alcohol for consumption on the premises and the provision of music entertainment (live music and dancing) and
- The relevant premises are used primarily for the consumption of alcohol on the premises, and
- The premises have a capacity of up to 200 persons

Any conditions relating to the provision of music entertainment imposed on the Licence by the Licensing Authority, other than those set out by the Licence or Certificate which are consistent with the Operating Schedule, will be suspended except where they were imposed as being necessary for public safety or the prevention of crime and disorder.

In addition,

Then, between the hours of 8.00am and midnight, if the premises are being used for the provision of unamplified live music but no other description of Regulated Entertainment, any conditions imposed on the Licence by the Licensing Authority, again other than those which are consistent with the Operating Schedule, which relate to the provision of that music entertainment will be suspended.

9.4 Wholesale of Alcohol

The wholesale of alcohol to the public is now a licensable activity under the 2003 Act. Therefore there will be a need for a Premises Licence and a Designated Premises Supervisor who holds a Personal Licence where such transactions take place.

9.5 Internet and mail order sales

A premises licence will be required for the warehouse/storage facility of the alcohol, however, the call centre where the order was placed would not be licensable.

9.6 Regulated Entertainment

This will require a Premises Licence.

9.7 Late Night Refreshment

The provision of hot food and/or hot drink for consumption either on or off the premises is licensable under the 2003 Act from the hours of 11.00pm and until 05.00am

Some premises are exempt from this licensing requirement:

- clubs, serving hot food and hot drink only to their members
- hotels, or comparable premises, serving hot food and hot drink only to those who will be staying at the hotel that night
- premises serving hot food and hot drink only to their own employees
- premises serving hot food and hot drink only to guests of those falling in the categories outlined above.

9.8 Restaurants and Cafes

Restaurants and cafes which sell hot food or drink between the hours of 11pm to 5 am will need a Premises Licence. Restaurants and cafes will also need a Premises Licence if they sell alcohol at any time during the day or night.

9.9 Casinos and Bingo Clubs

Casinos and bingo clubs are the subject of separate legislation with regard to the licensing of gaming – the Gaming Act 1968. The Gambling Act 2005 will replace the 1968 Act in April 2007, initially with a transitional period followed by full implementation in September 2007. When granting, varying or reviewing licences authorising the sale of alcohol for consumption on such premises and/or the provision of regulated entertainment and/or late night refreshment at such premises the Licensing Authority should not duplicate any conditions imposed by virtue of such legislation. Where applicants wish to carry on activities licensable under the 2003 Act, they will need to prepare and submit an operating schedule, but in detailing the steps to be taken in promoting the four licensing objectives the applicant may refer to the statutory conditions in respect of his gaming licence where relevant. In addition, any conditions which are attached to premises licences should not prevent the holder from complying with the requirements of the 1968 Act and from September 2007, the Gambling Act 2005 and its supporting regulations.

9.10 Garages

Normally the sale of alcohol from a garage will be prohibited. However, where it is shown that the main activity of the premises is not that of a garage each case will be judged on the individual circumstances of the application.

9.11 Vehicles and Moveable Structures

The sale of alcohol or the carrying out of other licensable activities from vehicles/movable structures may only be carried out from a premises or site which holds a Premises Licence. It should also be noted that the provision of any entertainment or entertainment facilities on premises consisting of or forming part of any vehicle while it is in motion and not permanently or temporarily parked is not to be regarded as a regulated entertainment for the purposes of the 2003 Act. For example, a band performing on a moving float in a parade would not require a premises licence if performances only take place while the vehicle is in motion.

9.12 Vessels and Ships

Vessels or ships are licensable by the Licensing Authority where they are usually moored.

9.13 Sports Grounds

Premises subject to the Safety at Sports Ground Act, the safety shall take precedence over conditions imposed or activities permitted by the premises licence during those times the Safety Certificate applies.

9.14 Vending Machines

Premises selling hot food by a vending machine will need to apply for a Premises Licence where the activity take place between 11.00 pm and 5.00 am.

Licensed Premises are expected to site any cigarette vending machines in accordance with the National Association of Cigarette Vending Machines Code of Practice, where such premises allow access to under 16's. In particular, cigarette vending machines will need to be positioned to allow supervision from the bar area.

9.15 **Sexual Entertainment Venues**

The Licensing Authority has provisionally adopted the amended Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 on the 27th May 2010. This will be considered by full Council on the 19th July, 2010 with a view for implementation from 1st September, 2010.

Accordingly, if premises offer the following forms of entertainment on more than 11 occasions within a twelve-month period or such entertainments last longer than 24 hours they will require a Sexual Entertainment Venue Licence.

- Lap Dancing
- Pole Dancing
- Table Dancing
- Strip Shows
- Peep Shows
- Live Sex Shows

If such premises wish to sell alcohol and carry on other licensable activities they will require to be licensed under the 2003 Act in addition to requiring a Sexual Entertainments Venue Licence.

Additional information in relation to Sexual Entertainments Venue Licences may be found on the licensing web site at <http://www.dudley.gov.uk/business/licences-registrations-and-permits/other-licences/sex-establishments-licence>

9.16 **Gaming Machines** (see Appendix A - Definitions)

The Gambling Act 2005 introduced a new system of regulation for the gambling industry. The formal implementation date for the Act was the 1st September 2007 with a transition phase for the processing of licences between 30th April 2007 to the 31st July 2007.

The Gambling Act 2005, Section 282 provides an automatic entitlement to make available two gaming machines (of category C or D) for use in alcohol licensed premises. If authorisation is sought for more than two machines, the applicant will be required to attend a hearing of the Licensing and Safety Sub-Committee to support the application. All plans submitted with applications for premises licences must set out the siting of each Amusement with Prizes machine.

There is unlikely to be the need for a hearing where the application is for renewal of the existing permit for more than two machines or where the application is for the grant of an Amusements with Prizes permit at premises which already have an existing permit for more than two machines, and where that number is not increased.

Details of the Council's Gambling Policy and guidance to the Gambling Act 2005 can be found at <http://www.dudley.gov.uk/business/licences-and-street-trading/gambling-act-2005>

The following table defines categories of machines:-

Category of Machine	Maximum Stake	Maximum Prize
A	Unlimited	Unlimited
B1	£2	£4,000
B2	£1	£500
B3	£1	£500
B4	£1	£250
C	50p	£25
D	10p or 30p when non-monetary prize	£5 cash or £8 non-monetary prize

10.0 Club Premises Certificate

10.1 Application

In order for Qualifying Clubs to supply alcohol and provide other licensable activities on Club premises, a Club Premises Certificate is required, and there is no requirement to specify a Designated Premises Supervisor.

10.2 Club Premises Certificates will be issued to **Qualifying Clubs** formerly Registered Members Clubs. To be eligible for a Club Premises Certificate the club/organisation members must have joined together for a particular social, sporting or political purpose and then have combined to purchase alcohol in bulk as members of the organisation for supply to members and their guests. Qualifying conditions are specified in Section 61 of the Act and the Licensing Authority must be satisfied that these conditions have been met, including evidence to support that the club is non-profit making and that there is a minimum of 48 hours delay between application and acceptance of new members.

10.3 The club must be established and conducted in 'good faith' (this involves consideration of details such as club finances).

10.4 Any member of a club over 18 years of age may apply for a Club Premises Certificate and applications must be accompanied by:-

- Completed application form
- The required fee
- An operating schedule
- A scale plan of the premises to which the application relates in the prescribed form
- A copy of the Club rules
- A copy of notice to be advertised in the prescribed form

10.5 Operating Schedule

The Licensing Authority will require the Club to produce an Operating Schedule which should include the following:

- The qualifying club activities to which the application relates;
- The proposed hours of those activities and any other times during which it is proposed that the premises are to be open to the public;
- Where the relevant Qualifying Club activities include the supply of alcohol, whether the supplies are for consumption on and/or off premises;
- Information to enable the Licensing Authority or any interested party to assess the steps taken by the applicant to promote the Licensing Objectives (for example, the arrangements for door security to promote the prevention of crime and disorder).

10.6 Where a Club intends to admit the general public to a Regulated Entertainment event then a Premises Licence or a Temporary Events Notice is required. Where alcohol is sold and there is a Premises Licence, then there will also be a requirement to obtain a Personal Licence. These Temporary Event Notices are subject to certain restrictions i.e. 12 occasions per year, must not aggregate more than 15 days, be no longer than 96 hours in duration or have more than 499 people attending.

10.7 If an applicant wishes to vary a Club Premises Certificate, the Licensing Authority require the application to be processed in the same manner as for a Premises Licence.

10.8 The Licensing Authority will require the Club Secretary's contact details to be readily available in the event of an emergency.

10.9 **Club Gaming Permits**

Under Section 271 of the Gambling Act, members' clubs and miners' welfare institutes (but not commercial clubs) can apply to the Licensing Authority for the grant of a Club Gaming Permit which will authorise them to provide gaming machines, equal chance gaming and games of chance.

Club Gaming permits allow the provision of no more than three gaming machines. These may be from categories B4, C or D (see 9.16).

10.10 **Club Machine Permits**

If a club does not wish to have the full range of facilities permitted by a club gaming permit or if they are a commercial club not permitted to provide non-gaming machines, they may apply to the Licensing Authority for a Club Machine permit. This will authorise the holder to have up to three gaming machines of categories B4, C and D (see 9.16).

11.0 Personal Licences

- 11.1 The Licensing Authority will grant a personal licence providing the following criteria is met:
- a. The applicant is over 18
 - b. The required fee
 - c. The applicant possesses a relevant licensing qualification
 - d. The applicant has not forfeited a personal licence in the previous five years beginning with the day the application was made
 - e. The applicant has not been convicted of any relevant offence, or foreign offence as defined in the Act.
 - f. The Police have not given an objection notice about the grant of a Personal Licence following notification of any unspent relevant offence or foreign offence;
 - g. The application has been submitted correctly.
- 11.2 In order to substantiate whether or not an applicant has a conviction for an unspent relevant Offence or foreign offence, applicants will be required to produce a current Criminal Record Bureau certificate, which should be copied to the Police along with the application. The Licensing Authority will consult with the Police regarding any relevant offences or foreign offence as listed in schedule 4 of the Licensing Act 2003 and schedule C of the Guidance made by the applicant.
- A relevant offence or a foreign offence will be disregarded if it is spent for the purposes of the Rehabilitation of Offenders Act 1974.
- 11.3 If a representation is made by the Police to an application the matter will be referred to by the Licensing Sub-Committee.
- 11.4 The refusal of the application will be the normal course where there are relevant offences unless there are, in the opinion of the Licensing Authority, exceptional and compelling circumstances that justify granting the application.
- 11.5 The Licensing Authority will liaise closely with the Police when an applicant is found to have an unspent conviction for a relevant offence as defined in the Act. Where an applicant for a personal licence has an unspent criminal conviction for a relevant offence, the police may interview the applicant should the police be minded to object to the grant of the licence.
- 11.6 The Police will interview all personal licence holders transferring to Dudley Borough.
- 11.7 The Personal Licence holder has a duty to inform the Licensing Authority of any new relevant convictions.
- 11.8 Every supply of alcohol must be made under the authority of a personal licence holder. Authorisation does not imply direct supervision by a personal licence holder. However the personal licence holder should give specific written authorisations to individuals that they are authorising to retail alcohol. This should include:-
- Clear identification of the person(s) authorised to sell alcohol at any particular premises;
 - The acts which may be carried out by the person being authorised;
 - The arrangements for the personal licence holder to monitor the activity of the individual that they have authorised on a reasonably regular basis.

- 11.9 The Licensing Authority will require one of the Personal Licence holders to be a Designated Premises Supervisor. The main purpose being to ensure that there is always one specified individual who can be readily identified at the premises. Thus it will be clear who is in charge of the day-to-day running of the business.
- 11.10 Where the Designated Premises Supervisor is not available at the premises for whatever reason, the Licensing Authority will expect an individual to be nominated as a point of contact who will have details of where the Designated Premises Supervisor can be contacted.
- 11.11 The Premises Licence will specify the name of the Designated Premises Supervisor. It is the responsibility of the Premises Licence holder to notify the Licensing Authority immediately of any change of Designated Premises Supervisor.
- 11.12 Where a Personal Licence holder is convicted by a court for a relevant offence, the Court will advise the Licensing Authority accordingly. On receipt of such notification, the Licensing Authority will contact the holder within 14 days requesting return of the licence so that the necessary action can be taken. Licensees are required to let the Licensing Authority know of any relevant convictions.

12.0 Temporary Event Notices

- 12.1 The Act provides for certain occasions when licensable activities at small scale events (for no more than 499 people at a time and lasting for no more than 96 hours) do not need a licence but do need to provide advance notice to the police and the Licensing Authority. The police can only object to a Temporary Event Notice if the event is likely to undermine the crime prevention objective.
- 12.2 Where a Premises Licence is needed for a short period, a Temporary Event Notice may be required. Temporary Event Notices are subject to various conditions and limitations which concern the following:-
- a. The duration is limited for a period of up to 96 hours
 - b. They cannot involve the presence of more than 499 people at any one time
 - c. The same premises can be used for up to 12 occasions in a calendar year, but the aggregate number of days must not exceed 15
 - d. A Personal Licence holder is limited to 50 per year
 - e. A person not holding a Personal Licence is limited to 5 per year
- 12.3 If the above conditions are not fulfilled, a temporary event at which licensable activities are to take place would require a Premises Licence.
- 12.4 The law states that at least ten working days notice must be given to the Police and the Licensing Authority prior to the date of the event the less time that is given will increase the likelihood of the police objecting. The Licensing Authority recommends that at least 28 days notice be given to hold such events to allow consideration of the application and full guidance to be given to organisers to run their event in a proper manner and to pass on any relevant local information. The organisers may find it useful to refer to "Guide to Health, Safety & Welfare at Pop Concerts and Similar Events. It is strongly recommended that organisers consult with Dudley Council Safety Advisory Group. This group is made up of a number of experts within the Council and should be able to advise on most areas of Health and Safety in respect of licensable events.
- Safety Advisory Group recommendations for all events held on council or publicly owned land or the highway is 3 months notice for small events and 6 months for larger events
- 12.5 In the event of a relevant representation from the Police, the Licensing Authority will hold a hearing not less than 24 hours before the event is due to take place.
- 12.6 It should be noted that for events concerning more than 499 people a Premises Licence will be required for a limited period. Where the sale of alcohol is involved there must be a Designated Premises Supervisor specified on the application who must be a Personal Licence holder.
- 12.7 Much larger crowds may be attracted to large scale Temporary Events and the risks to public safety and to crime and disorder as well as public nuisance may be considerable. The Licensing Authority should be given early notice of such major events to discuss Operating Schedules with the organiser prior to a formal application being submitted. It will be required that public safety, crime and disorder as well as public nuisance it is for that reason that organisers should refer to the following documents:-

- 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 07176 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.streetartnetwork.org/pages/publications

13.0 Provisional Statement

- 13.1 Applicants will need to apply for a Provisional Statement where premises are being constructed or extended or substantially changed structurally in circumstances where it is proposed to carry out a licensable activity but where the exact specification of the building has not yet been finalised.
- 13.2 Applicants for a provisional statement will need to complete the appropriate application form to be determined by the regulations. An application must be accompanied by a Schedule of Works which will include:-
- A statement made by or on behalf of the applicant including particulars of the premises to which the application relates and of the licensable activities of which the premises are to be used.
 - Plans of the work being or about to be done at the premises.
 - Such other information as may be prescribed.
- A copy of the application must also be served on the Police.
- 13.3 The licence will not become effective until the Licensing Authority stipulates the effective start date.
- 13.4 Applications for a Provisional Statement shall be dealt with in the same way as a Premises Licence.
- 13.5 The applicant will be required to state the days and hours during which they wish to be authorised to carry on licensable activities. The licence will be determined on such terms unless, following the making of relevant representations, the Licensing Authority considers it necessary to reject the application or vary those terms for the purposes of the Licensing Objectives.

14.0 Consultation

- 14.1 This section of the policy outlines the licensing consultation process. The aim of consultation is to provide the opportunity for all parts of the community to be involved in the licensing process.
- 14.2 The applicant will be required to advertise a premises licence application for the grant of variation of a licence. Application procedures and public consultation required for each type of licence will be in accordance with the Act.
- 14.3 Types of consultation normally undertaken by the applicant and the Licensing Authority will include:-
- Statutory Authorities - Applicant
 - Requiring the display of a notice of the application on the premises - Applicant
 - Advertising in local newspapers - Applicant
 - Notification on the Councils website – Licensing Authority
 - Notice to Ward Members and also those Ward Members of Wards on or near the site boundary – Licensing Authority
 - Notice to neighbouring Councils on or near the site boundary – Licensing Authority
- 14.4 **Appeals**
Where an applicant is aggrieved by a condition, decision or relevant representation from a responsible authority or relevant person, there is a right of appeal. This appeal must be lodged within a period of 21 days from the day on which the applicant was notified by the Licensing Authority of the decision and must be made to the Magistrates Court.
- 14.5 In respect of Personal Licences, refusal to issue or revocation - appeals must be made to the Magistrates Court in the area where the licence was issued.
- 14.6 Appeals in relation to all other licences must be made to the Magistrates Court where the premises or event is situated.

15.0 Complaints Against Licensed Premises

- 15.1 Complaints relating to the activities carried out at licensed premises of any description will be referred to the Licensing Authority's Licensing Section. In the first instance, complainants will be encouraged to raise the complaint directly with the licensee or business concerned.

It is recognised that complaints with regard to the under age sale of alcohol are likely to be made to the Police or Trading Standards Division in the first instance. These complaints will be investigated and the Licensing Section notified of the outcome of the investigation/prosecution in order that appropriate action can then be taken with regard to the licence.

- 15.2 The Licensing Authority where practicable will seek to facilitate mediation between applicants, relevant statutory agencies and occupiers of nearby premises, local residents groups, community or interested groups where significant issues have arisen relating to a licence application. The Licensing Authority, where possible, will facilitate mediation through:
- Identification of potential issues for other relevant statutory agencies particularly regarding the safety and amenity of local residents.
 - Negotiation of, if possible, potential conditions to reflect resolutions of mediation forums.

- 15.3 This process if used will not override the right of any interested party to ask that the Licensing Authority consider their valid objections or for any licence holder to decline to participate in a mediation meeting.

- 15.4 At any stage, following the grant of a premises licence, a responsible authority, or an interested party (e.g. local residents, local organisations and councillors) may ask the licensing authority to review the licence because of a matter arising at the premises in connection with any of the four licensing objectives. The licensing officers may not initiate their own reviews of premises licences.

15.5 Review of Licensed Premises

The Licensing Authority will disregard any representations which are irrelevant, frivolous and/or vexatious (i.e. representations that are made without foundation).

- 15.6 The 2003 Act provides a range of power for the licensing authority on determining a review that it may exercise where it considers them necessary for the promotion of the licensing objectives
- Issue an informal warning and/or to recommend improvement within a particular period of time;
 - To modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition);
 - To exclude a licensable activity from the scope of the licence;
 - To remove the designated premises supervisor;
 - To suspend the licence for a period not exceeding 3 months;
 - To revoke the licence.

When crime prevention licensing objective is being undermined it is expected that revocation of the licence – even in the first instance – will be seriously considered.

- 15.7 A senior Police Officer may, under section 161 of the Licensing Act 2003 close a premises in the interest of Public Safety for up to 24 hours on the grounds of likely or imminent disorder on or in the vicinity of the premises. Premises may also be closed if a public nuisance is being caused by Noise from the premises.
- 15.8 A review of the licence will also take place within 28 days of any action taken by the Environmental Health Division under sections 40-41 of the Anti Social Behaviour Act of 2003 (Power to close premises covered by a Premises Licence or a Temporary Event Notice for 24 hours if there is a public nuisance caused by noise coming from the premises).

16.0 Enforcement Policy

- 16.1 The Licensing Authority has a Joint Enforcement Protocol which is available at the Licensing Office at 5 Ednam Road, Dudley, DY1 1HL
- 16.2 The enforcement policy with regard to offences against licensing legislation will consider whether to commence a prosecution; issue a formal caution; or take no further action based upon the evidence provided in accordance with the Attorney-General's Guide to Crown Prosecutions.
- 16.3 The Licensing Authority will seek to work actively with the Police, Fire and any other relevant authority to enforce the licensing legislation. It expects the police to share information about licensees and licensed premises under the Crime and Disorder Act 1998 and its common law powers, to consult closely with the Licensing Authority when any enforcement action may be required and expects the police to continue using their powers under criminal law.
- 16.4 The Licensing Authority will employ licensing enforcement officers to investigate allegations of unlicensed activities and to ensure that licence conditions are complied with.
- 16.5 The Local Authority will from time to time carry out test purchasing exercises to establish whether the law it enforces is being adhered to. Where appropriate this will involve the use of under age children to test compliance with the law relating to age restricted sales and supply. Any such exercise using children will have regard to the Home Office/LACORS guidance on best practice (LACORS are the Local Authorities Co-ordinators of Regulatory Services).
- 16.6 The Licensing Authority will carry out its responsibilities for enforcement so as to promote the 4 licensing objectives and will aim to ensure enforcement is fair, open, reasonable, consistent and proportionate in accordance with the Hampton report and Guidance issued under the Licensing Act 2003 (laid before Parliament on 28th June 2007):-
- No inspection should take place without a reason.
 - The Licensing Authority recognises that a key element of their activity will be to allow or even encourage, economic progress and only to intervene when there is a clear case for protection.
 - Enforcement will be targeted to agree problem and high risk premises while providing a lighter touch for low risk well run premises.

17.0 Administration, Exercise and Delegation

- 17.1 The Licensing Authority is involved in a wide range of licensing decisions and functions and has established a Licensing and Safety Committee to administer them. The powers under the Act also allow for delegation of powers/functions to Licensing sub-committees or to one or more officers.
- 17.2 Appreciating the need to provide a speedy, efficient and cost effective service to all parties involved in the licensing process, the Licensing Authority has taken advantage of these powers and has established four Licensing Sub-Committees.
- 17.3 Many of the decisions and functions are largely administrative in nature such as the grant of non-contentious applications, including for example those licences and certificates where no representations have been made. These will be delegated to Licensing Authority officers. All such matters dealt with by officers will be reported for information to the next Licensing and Safety Committee meeting.
- 17.4 Applications where there are relevant representations will be dealt with by a Licensing Sub-Committee – unless such representations are considered irrelevant, frivolous or vexatious or unless the Licensing Authority, the applicant and everyone who has made representations agrees that a hearing is not necessary (usually after successful mediation).
- 17.5 The table given in 17.10 below sets out the agreed delegation of decisions and functions of the Licensing and Safety Committee, sub-committees, and officers. The various delegations include delegation to impose appropriate conditions.
- 17.6 This scheme of delegation is without prejudice to the right of relevant parties to refer an application to a Licensing sub-committee or the full Licensing and Safety Committee if considered appropriate in the circumstances of any particular case.
- 17.7 Unless there are compelling reasons to the contrary, the Licensing Authority will require the Licensing and Safety Committee or any of its sub-committees to meet in public – although Members can retire into private session to consider their decision.
- 17.8 ‘Relevant representations’ are representations as defined by Section 18 of the Act:
- a. about the likely effect of the Premises Licence on the promotion of the licensing objectives
 - b. made by an interested party or a responsible Authority, have not been withdrawn and, in the case of representations made by an interested party they are not in the Licensing Authority’s opinion irrelevant, frivolous or vexatious.
- 17.9 ‘An Interested Party’ means any of the following as defined by Section 13 of the Act:
- a. A person living in the vicinity of the premises;
 - b. A body representing persons who live in that vicinity;
 - c. A person involved in a business in that vicinity; or
 - d. A body representing persons involved in such business.
 - e. Elected Members of the Council

17.10 Delegation of functions:

Matter to be dealt with	Full Licensing Committee	Licensing Sub-committee	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 Premises Licence / Club Premises Certificate		If a relevant representation made	If no relevant representation made
Application to vary Designated Premises Supervisor		If a Police objection	All other cases
Request to be removed as Designated Premises Supervisor			All cases
Application for Transfer of Premises Licence		If a Police objection	All other cases
Application for Interim Authorities		If a Police objection	All other cases
Application to review Premises Licence / Club Premises Certificate		All cases	
Decision on whether a complaint is irrelevant frivolous vexatious etc			All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application		All cases	
Determination of a Police objection to a Temporary Event Notice		All cases	

18.0 Policy Consultation & Review

18.1 This Policy was published on 7th January 2008.

18.2 This Policy came into effect on the 7th February 2008 and will remain in force for not more than 3 years, during that time it will be subject to periodic review and further consultation.

18.3 In developing this policy the Licensing Authority consulted widely to ascertain an appropriate licensing framework for its area. The bodies consulted included those specified in Section 3 of the Government Guidance;

- The police
- The fire authority
- Current licence holders
- Representatives of the local licensing trade
- Representatives of local businesses and residents

18.4 In addition the Licensing Authority will consult:

- Representatives of the local strategic partnership
- Licensing solicitors
- West Midlands Ambulance Service

18.5 Monitoring and Review of Policy

The police, fire authority and other consultees (see Appendix B) are encouraged to report to the Licensing Authority annually on the operation of the licensing function.

18.6 The Licensing Authority is also required to take into account any guidance issued by the Secretary of State. Following consultation, any revisions to this Policy shall be published.

19.0 Further information

Further information about the Licensing Act 2003 and the Council's licensing policy can be obtained from:

Licensing Section
5 Ednam Road
Dudley
West Midlands
DY1 1HL

Tel: 01384 815326
Fax: 01384 815325
Email: licensing.legal@dudley.gov.uk
Website: www.dudley.gov.uk

Information is also available from

- (1) Department for Media, Culture and Sport,
2-4 Cockspur Street
LONDON
SW1Y 5DH

Tel: 020-7211 6200
Email: Enquiries@culture.gov.uk
Website: www.culture.gov.uk

- (2) The Local Government Licensing Forum
Website: www.lglf.org

The draft is also made available for inspection/comment on the Council's web-site.

www.dudley.gov.uk

Public Information

The Register of Premises Licenses and Personal Licence holders will be available for inspection by appointment during normal office hours following implementation of the Policy and full implementation of the Licensing Act 2003.

Appendix A

Definitions

In this Policy, the following definitions are included to provide an explanation of certain terms included in the Act and therefore in the Policy. In some cases they are an abbreviation of what is stated in the Licensing Act 2003 or an interpretation of those terms. For a full definition of the terms used, the reader must refer to the Licensing Act 2003.

Appeals

Appeals against decisions of the licensing authority are to the magistrates' court for the area in which the premises are situated. The appeal must be lodged within 21 days of being notified of the Licensing Authority's decision. On appeal a magistrates' court may, dismiss the appeal; substitute its own decision; remit the case to the licensing authority with directions; and make an order for costs.

Authorised Persons

"Authorised Persons" are specified people who have statutory duties in relation to the inspection of premises, e.g. licensing officers, police, fire, health & safety, environmental health.

Closure Order

New powers for the police and courts to close premises. The 2003 Act significantly extends the existing powers of the police to see court orders in a geographical area that is experiencing or likely to experience disorder or to close down instantly individual licensed premises that are disorderly, likely to become disorderly or are causing noise nuisance.

Club Gaming Permits

A club gaming permit is a permit issued by a licensing authority authorising the provision of facilities for gaming.

Applicants are advised to consult Section 271 of the Act for further conditions and regulations within the definition, each application being considered on its own merits in line with this Section of the Act.

Club Machine Permits

A lower level permit, this can provide restricted facilities to the club gaming permit, full details of which can be found in Section 273 of the Gambling Act.

Club Premises Certificate

A certificate which licences a qualifying club for the sale/supply of alcohol. It can be granted to members clubs which comply with specific conditions e.g. membership rules, run by club committees, profits go to members not an owner etc. Club premises certificates replace registration under the Licensing Act 1964. The law for members clubs has changed relatively little under the 2003 Act. There is no time limit on the duration of the certificate but it may be withdrawn, surrendered or suspended.

Conditions

A premises licence may be granted subject to different conditions, and these may be in respect of different parts of the premises and different licensable activities. There is no power to impose conditions on a personal licence. Secretary of State's guidance provides *"The only conditions which should be imposed on a premises licence or club premises certificate are those which are necessary for the promotion of the licensing objectives. Accordingly, if the existing law already places certain statutory responsibilities on an employer or operator of premises, it cannot be necessary to impose the same or similar duties on the premises licence holder"*. Conditions must be proportional and tailored to size, style, characteristics and activities taking place at the premises concerned.

Designated Premises Supervisor

The person in the case of premises selling alcohol, who will normally have been given the day to day responsibility for running the premises by the holder of the Premises Licence or will be the Premises Licence holder themselves (who must also be a Personal Licence holder).

Gaming Machines (formerly Amusement with Prizes)

A 'gaming machine' means a machine, which is designed or adapted for use of individuals to gamble (whether or not it can also be used for other purposes).

With the large variety of machines now available, applicants are advised to consult Section 235 of the Act to establish the type of machine they operate or propose to operate, and also if appropriate, establish which of the categories, as per Section 9.15 of the Authority's Licensing Policy, the machines fall into.

Interested Parties

"Interested Parties are persons living in the vicinity of the premises; a body representing such persons; a person involved in business in the vicinity; or a body representing businesses in the vicinity.

Interim Authority Notices

Where a premises licence lapses due to death, incapacity or insolvency etc. of the holder, specified persons can within 7 days serve an interim authority notice on the licensing authority. This revives the licence, subject to police objection, for a period of up to 2 months so the premises can continue trading. This is the equivalent to "interim authorities" and "protection orders" under the Licensing Act 1964.

Late Night Refreshment

The supply of hot food and/or drink to members of the public (whether for consumption on or off the premises) between the hours of 11.00pm and 5.00am.

Licensable Activities

- The sale by retail of alcohol.
- The supply of alcohol by or on behalf of a club, or to the order of a member of the club.
- The provision of Regulated Entertainment.
- The provision of Late Night Refreshment.

Licensing Authority

Dudley Metropolitan Borough Council.

Licensing Objectives

The objectives of licensing set out in the Act:

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

The Licensing Authority must carry out its functions under the Act with a view to promoting the licensing objectives.

Licensed Premises

Includes club premises and events unless the context otherwise requires.

Mandatory Conditions

Conditions that the Act requires are imposed on a premises licence, club premises certificate or personal licence.

Objection Notice

A procedure whereby the police can object to the grant of a personal licence on the grounds there where having regard to convictions of the applicant for relevant offences, the grant would undermine the crime prevention objective.

Operating Schedule

A document containing a statement of the following matters (and any others that may be prescribed):-

- Steps taken by the Licence holder to tackle the four licensing objectives.
- The Licensable Activities to be conducted on the premises.
- The times during which the Licensable Activities are to take place and any other times when premises are open to the public.
- Where the licence is required only for a limited period, that period.
- Where the Licensable Activities include the supply of alcohol, the name and address of the individual to be specified as the Designated Premises Supervisor.

Personal Licence

A licence granted to an individual and authorises that person to supply alcohol or authorise the supply of alcohol in accordance with a premises licence. The licence lasts for 10 years and can be renewed. It ceases to have effect when revoked, forfeited, surrendered or suspended. A personal licence holder is not required where the premises concerned does not supply alcohol as one of its licensable activities. A personal licence holder is also not required for the supply of alcohol in a club which holds a club premises certificate. Only the police can object to the grant of a personal licence (there is no equivalent to relevant representations as for premises licences).

Premises Licence

A licence granted in respect of any premises, which authorises the premises to be used for one or more licensable activities, has effect until revoked, surrendered or on the death, insolvency etc of the holder. Applications are dealt with by the local authority licensing committee in the area where the premises are situated.

Provisional Statement

A procedure by which the licensing authority can give a statement approving for licensing purposes proposals for a premises being built or in the course of being constructed. Equivalent to a “provisional grant” under the Licensing Act 1964. Where a provisional statement is made, subject to limited exceptions, the full licence must normally be granted once the premises are completed.

Qualifying Club

Club Premises Certificates will be issued to **Qualifying Clubs** formerly Registered Members Clubs. To be eligible for a Club Premises Certificate the club/organisation members must have joined together for a particular social, sporting or political purpose and then have combined to purchase alcohol in bulk as members of the organisation for supply to members and their guests. Qualifying conditions are specified in Section 61 of the Act and the Licensing Authority must be satisfied that these conditions have been met, including evidence to support that the club is non-profit making and that there is a minimum of 48 hours delay between application and acceptance of new members. The club must be established and conducted in 'good faith' (this involves consideration of details such as club finances).

Regulated Entertainment

- A performance of a film.
- An exhibition of a film.
- An indoor sporting event.
- A boxing or wrestling entertainment.
- A performance of live music.
- Any playing of recorded music.
- A performance of dance.
- Entertainment of a similar description to that falling within the performance of live music, the playing of recorded music and the performance of dance.
- (or entertainment of a similar description falling within the last three of the categories listed above), where the entertainment takes place in the presence of and for the purposes of entertaining that audience or spectators.

Relevant Offences

The 2003 Act does not use the term “objections”. Instead authorised persons, interested parties and responsible authorities may be able to make relevant representations about an application for a licence. Representations must relate to the licensing objectives and where made by an interested party must not be frivolous or vexatious. When considering an application from an interested party or responsible authority the local authority need only consider relevant representations. The making of relevant representations engages the licensing authorities discretion to take “steps” consistent with the licensing objectives when considering the application.

Responsible Authorities

“Responsible Authorities” include the police, fire, enforcing authority for health and safety, planning authority, environmental health, bodies responsible for child protection and other specified authorities. Only these groups can make representations about an application for a premises licence.

Responsible Authority

- The Chief Officer of Police in the area where the premises are situated.
- The Fire Authority in the area where the premises are situated.
- The enforcing authority for Health and Safety at Work.
- The local Planning Authority.
- The local authority responsible for minimising or preventing the risk of pollution of the environment or of harm to human health.
- The body representing matters relating to the protection of children from harm.
- In relation to a vessel, a navigation authority, the Environment Agency, or the British Waterways Board.

Review of Licence

Where a premises licence is in force an interested party or responsible authority may apply to the Licensing Authority for it to be reviewed. The Licensing Authority must hold a hearing to review the licence and as a result must take any necessary steps to promote the licensing objectives, such as modification of conditions; exclusion of licensable activities; removal of the premises supervisor; suspension of the licence for up to three months; or the revocation of the licence.

Statement of Licensing Policy

Each licensing authority must every three years determine and publish a statement of licensing policy. There is a requirement to consult on the policy and keep it under review.

Supervisor

Responsible for supervision of the premises e.g. the day-to-day manager. Any premises where alcohol is supplied as a licensable activity must have a designated premises supervisor.

Temporary Event Notice

A permitted Temporary Activity involving one or more Licensable Activities subject to the following various conditions and limitations:-

- Duration – they are limited to events lasting for up to 96 hours.
- Scale – they cannot involve the presence of more than 499 people at any one time.
- Use of the same premises – the same premises cannot be used on more than 12 occasions in a calendar year, but are subject to the overall aggregate of 15 days irrespective of the number of occasions on which they have been used.
- The number of notices given by one individual within a given period of time – a Personal Licence holder is limited to 50 notices in one year, and any other person to five notices in a similar period.
- (If these conditions are not fulfilled, the Temporary Event would require a Premises Licence if it were currently unlicensed for the activity involved).

Transfer

A procedure where an application can be made to transfer the premises licence into a new name e.g. if a premises licence holder sells his premises an application may be made to transfer the premises licence to the new owner.

Appendix B

List of Consultees

Pub Companies

Wolverhampton & Dudley – Union Pub Company
Pathfinder Pubs
Avebury Taverns
Punch Taverns
Enterprise Inns
Innspired Pubs
Pubmaster
Mitchells & Butlers
Pyramid Group
Holdens Brewery
The Spirit Group
Unique Pub Company
Bathams
Scottish & Newcastle
Wetherspoons
S A Brains
Whitbread – Brewsters, Brewers Fayre, Pizza Huts
Greene King
Laurel Pub Company
Burtonwood
Wizard Inns
Hardys & Hanson
SFI Group

Trade Organisations

Association of Licensed Multiple Retailers
Licensed Victuallers Association
B.E.D.A.. (Bar Entertainment and Dance Association)
The Portman Group
Bargain Booze Stores
British Retail Consortium
British Hospitality Association
C.A.M.R.A
National Association of Kebab Shops
Leisure Management Association
C.I.U. (Club Institute Union)
Association of Convenience Stores
British Institute of Innkeeping
National Pubwatch
British Beer and Pub Association

Solicitors and Other Court Users

Berwin Leighton Paisner
Blake Laphorne Linnell
Blount Macnamara
Bond Pearce (inc Cartwrights)
Cavan Martin Associates
Challinors Lyon Clark
DLA
Dransfields
Elliott & Allen
Emjay Agency
Gamestec Leisure Limited
Hagens
Halliwell Landau
Hammonds
Heatons
Icelands Foods Plc
Inncourt
John Cordingley Consultancy
John Gaunt & Partners
Lanyon Bowdler
Licensed Trade Legal Services
Lockett & Co
Morgan Cole
Needham & James
Osborne Clarke
Poppleston Allen
Portwood Services Plc
Premier Automatic Machines Limited
Recaf Equipment Limited
Rees Page
Sanders & Co
Shoosmiths
Somerfield Stores Limited
Talbots
Trent Licensing Consultants
Waldrons
Wells Connor & Co
White & Billingham
William Wright & Son
Winckworth Sherwood
Young & Pearce

Art Organisations

Equity
Arts Council
National Operatic & Dramatic Association
Cinema Exhibitors Association
Musicians Union

Hotel/Leisure Groups

De Vere Hotels
Copthorne Hotels
Fitness First
Next Generation Clubs
Megabowl
Rank Organisation
Top Notch Health Clubs

Off Licences

Threshers
Bottoms Up
Drinks Cabins
Victoria Wine

Supermarkets

Tesco
Sainsbury
Asda
Somerfield

Other

Police
All licensed premises
Neighbourhood Watch DMBC
Chamber of Commerce
All responsible authorities

Appendix C

Conditions Relating to the Prevention of Crime and Disorder

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.

Pagers provide two-way communication, allowing licence holders, managers, designated premises supervisors and clubs to report incidents to the police, and 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 for public houses, bars and nightclubs operating in city and town centre leisure areas with a high density of licensed premises. These conditions may also be appropriate and necessary in other areas.

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

- the text/pager equipment is kept in working order at all times;
- the pager link is 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;
- any police instructions/directions are complied with whenever given; and
- 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 individuals excluded by Court bans or by the licence holder;
- searching and excluding those suspected of carrying illegal drugs, or carrying offensive weapons; and
- maintaining orderly queuing outside venues.

Where the presence of door supervisors conducting security activities is 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 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 given body searches).

Door supervisors also have a role to play in ensuring public safety (see Part 2) and the prevention of public nuisance (see Part 4).

Bottle bans

Glass bottles may be used as weapons to inflict serious harm during incidents of disorder. A condition can prevent sales of drinks in glass bottles for consumption on the premises. This should be expressed in clear terms and include the following elements:

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

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

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

Bottle bans may also be a relevant necessary measure to promote public safety (see Part 2).

Plastic containers and toughened glass

Glasses containing drinks may be used as weapons and in untoughened form, can cause very serious injuries. Where necessary, consideration should, therefore, be given to conditions requiring the use of safer alternatives which inflict less severe injuries. Location and style of the venue and the activities carried on there are 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 plastic containers or toughened glass may be a necessary condition during the televising of live sporting events, such as international football matches, when there may be high states of excitement and emotion fuelled by alcohol.

The use of plastic or paper drinks containers and toughened glass may also be relevant as measures necessary to promote public safety (see Part 2).

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. This is lawful where premises are licensed for the sale of alcohol for consumption off the premises. However, consideration should be given to a condition preventing customers from taking

alcoholic and other drinks from the premises in open containers (e.g. glasses and opened bottles) for example, by requiring the use of bottle bins on the premises. 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 taking open containers from the premises may also be relevant necessary measures to prevent public nuisance (see Part 4).

CCTV

The presence of CCTV cameras can be an important means of deterring and detecting crime at an 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.

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 during particular sports events. 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.

Restrictions on drinking areas may also be relevant necessary measures to prevent public nuisance (see Part 4).

Capacity limits

Capacity limits are most commonly made a condition of a licence on public safety grounds (see Part 2), but should also be considered for licensed premises or clubs where overcrowding may lead to disorder and violence. If such a condition is considered necessary, door supervisors may be needed to ensure that the numbers are appropriately controlled (see above).

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 the commission of these criminal offences, licensed premises should have in place an age verification policy. This requires the production of “proof of age” before sales are made. The Secretary of State 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. While age verification policies may refer directly to PASS accredited proof of age cards, they should also allow for the production of other proof which bears a photograph, the individual's date of birth and a holographic mark, such as photo-driving licences, National Identity Cards, some student cards and passports.

Since many adults in England and Wales do not currently carry any proof of age, the wording of any condition will require careful thought. For example, many premises have adopted the “Challenge 25”, “Challenge 21” or other similar initiatives. Under these initiative those premises selling or supplying alcohol require sight of evidence of age from any person appearing to be under the specified age and who is attempting to buy alcohol.

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 display 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 customer 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

Licensing authorities should not attach standardised blanket conditions promoting fixed prices for alcoholic drinks to premises licences or club premises certificates in an area as this is likely to breach competition law. It is also likely to be unlawful for licensing authorities or police officers to promote voluntary arrangements of this kind as this can risk creating cartels. Discounting at individual premises may be permissible provided it is consistent with the licensing objectives.

Irresponsible promotions are addressed through mandatory licensing conditions (see Section 10). Licensing authorities are reminded that there may be a judgement needed on whether a specific promotion is responsible or irresponsible. It is, therefore, vital that they consider these matters objectively in the context of the licensing objectives and before pursuing any form of restrictions at all, take their own legal advice.

Signage

It may be necessary for the normal hours at which licensable activities are permitted to take place under the terms of the premises licence or club premises certificate to be displayed on or immediately outside the premises so that it is clear if breaches of these terms 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 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 call High Volume Vertical Drinking establishments (HVVDs), are premises which have exceptionally high capacities, used primarily or exclusively for the sale and consumption of alcohol, and little or not seating for patrons.

Where necessary and appropriate, conditions can be attached to licences for these premises which require adherence to:

- a prescribed capacity;
- an appropriate ratio of tables and chairs to customers based on the capacity; and
- the presence of security staff holding the appropriate SIA licence or exemption (see paragraphs 10.58-10.64) to control entry for the purpose of compliance with the capacity limit.

Appendix D

Conditions Relating to Public Safety

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 Regulatory Reform (Fire Safety) Order, 2005 to undertake risk assessments. Employers should assess the risks, including risks from fire, and take measures necessary to avoid and control them. Conditions enforcing these requirements are, therefore, unnecessary.

From the 1st October, 2006 the Regulatory Reform (Fire Safety) Order, 2005 replaced previous fire safety legislation. Licensing authorities should note that under article 43 of the Regulatory Reform (Fire Safety) Order, 2005 any conditions imposed by the licensing authority that relate to any requirements or prohibitions that are or could be imposed by the Order have no effect. This means that licensing authorities should not seek to impose fire safety conditions where the Order applies. See Chapter 2 for more detail about the Order.

General

Additional matters relating to cinemas and theatres are considered in Part 3. It should also be recognised that special issues may arise in connection with outdoor and large scale events.

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

- Model National and Standard Conditions for Places of Public Entertainment and Associated Guidance ISBN 1 904031 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:
<http://www.streetartnetwork.org/pages/publications>
- 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)

In most premises existing legislation will provide adequately for the safety of the public or club members and guests. However, where this is not the case, consideration might be given to the following conditions.

Safety Checks

- Safety checks are carried out before the admission of the public
- Details of such checks are kept in a log-book.

Escape routes

- Exits are kept unobstructed, with non-slippery and even surfaces, free of trip hazards and clearly identified
- Where chairs and tables are provided in restaurants and other premises, internal gangways are kept unobstructed
- All exits doors are easily openable without the use of a key, card, code or similar means
- Doors at such exits are regularly checked to ensure that they function satisfactorily and a record of the check kept.
- Any removable security fastenings are removed whenever the premises are open to the public or occupied by staff
- The edges of the treads of steps and stairways are maintained so as to be conspicuous.

Disabled people

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

Lighting

- 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.
- 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.

Curtains, hangings, decorations and upholstery

- Curtains, hangings and temporary decorations are arranged so as not to obstruct exits
- Temporary decorations are not used without prior notification to the licensing authority; relevant responsible authority.

Capacity limits

- Arrangements are made to ensure that any capacity limit imposed under the premises licence or club premises certificate is 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

Access for emergency vehicles

- Access for emergency vehicles is kept clear and free from obstructions.

First aid

- 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.

Temporary electrical installations

- Temporary electrical wiring and distribution systems are not provided without notification to the licensing authority at least ten days before commencement of the work and/or prior inspection by a suitably 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 should ensure that temporary electrical installations are only undertaken by competent qualified persons, for example, employed by the television company.

Indoor sports entertainments

- 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
- Any ring is constructed and supported by a competent person and inspected by a competent authority

- 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).

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. Further details and guidance are given in Part 3.

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 to delete the relevant public safety condition. The applicant will need to propose how they intend to take alternative steps to promote the public safety objective in a new operating schedule reflecting the proposed alteration to the premises. The application for variation will enable the responsible authorities with expertise in safety matters to consider whether the proposal is acceptable.

Other measures

Other measures previously mentioned in relation to the Prevention of Crime and Disorder may also be relevant as necessary to promote public safety. These might include the provision of door supervisors, bottle bans, and requirements to use plastic or toughened glass containers (see Part 1 for further detail).

Appendix E

Theatres, Cinemas, Concert Halls and Similar Places (Promotion of Public Safety)

In addition to the points in Part 2, there are particular public safety matters which should be considered in connection with theatres and cinemas.

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:

Number of members of the audience present on a floor	Minimum number of attendants required to be present on that floor
1 – 100	One
101 – 250	Two
251 – 500	Three
501 – 750	Four
751 – 1000	Five
And one additional attendant for each additional 250 persons (or part thereof)	

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

Seating

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

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; or
 - (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;

- 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. In these cases, the licensing authority should notify the fire and rescue authority, who will exercise their inspection and enforcement powers under the Regulatory Reform (Fire Safety) Order, 2005.

Further guidance can be found in the following publications:

- HSE Guide 'The radiation safety of lasers used for display purposes' (HS(G) 95);
- 'Smoke and vapour effects used in entertainment' (HSE Entertainment Sheet No. 3);
- 'Special or visual effects involving explosives or pyrotechnics used in film and television production' (HSE Entertainment Sheet No. 16);
- 'Electrical safety for entertainers' (HSE INDG 247);
- 'Theatre Essentials' - Guidance booklet produced by the Association of British Theatre Technicians 8.

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 is necessary and a certificate concerning the condition of the ceilings forwarded to the licensing authority.

Premises used for film exhibitions

Attendants – premises without a staff alerting system

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

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

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

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

Minimum lighting

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

Appendix F

Conditions relating to Prevention of Public Nuisance

It should be noted that provisions of the Environmental Protection Act 1990 and the Noise Act 1996 and the Clean Neighbourhoods and Environment Act 2005 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.

Hours

The hours during which the premises are permitted to be open to the public or to members and their guests can be restricted 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 arbitrarily fixed closing times. However, there is no general presumption in favour of lengthening licensing hours and the four licensing objectives should be paramount considerations at all 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. Or the playing of recorded music might only be permitted after a certain time where conditions have been attached to the licence or certificate to ensure that any potential nuisance is satisfactorily prevented.

Restrictions might also 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.

In premises where existing legislation does not provide adequately for the prevention of public nuisance, consideration might be given to the following conditions.

Noise and vibration

In determining which conditions are necessary and appropriate, licensing authorities should be aware of the need to avoid unnecessary or disproportionate measures that could deter the holding of events that are valuable to the community, such as live music. Noise limiters, for example, are very expensive to purchase and install and are likely to be a considerable burden for smaller venues. The following conditions may be considered:

- Noise or vibration does not emanate from the premises so as to cause a nuisance to nearby properties. This might be achieved by one or more of the following conditions:
 - A simple requirement to keep doors and windows at the premises closed;
 - Limiting live music to a particular area of the building;

- Moving the location and direction of speakers away from external walls or walls that abut private premises;
 - Installation of acoustic curtains;
 - Fitting of rubber seals to doorways;
 - Installation of rubber speaker mounts;
 - Requiring the licensee to take measures to ensure that music will not be audible above background level at the nearest noise sensitive location;
 - Require licensee to undertake routine monitoring to ensure external levels of music are not excessive and take appropriate action where necessary;
 - Noise limiters on amplification equipment used at the premises (if other measures have been unsuccessful).
- 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

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

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.

Other measures

Other measures previously mentioned in relation to the Prevention of Crime and Disorder may also be relevant as necessary to prevent public nuisance. These might include the provision of door supervisors, open containers not to be taken from the premises, and restrictions on drinking areas (see Part 1 for further detail).

Appendix G

Conditions relating to the Protection of Children from Harm

An operating schedule or club operating schedule should indicate any decision for the premises to exclude children completely. This 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.

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.

The Secretary of State recommends (unless there are circumstances justifying the contrary) that:

- for any premises with known associations (having been presented with evidence) with or likely to give rise to:-
 - heavy or binge or underage drinking;
 - drugs;
 - significant gambling; or
 - any activity or entertainment (whether regulated entertainment or not) of a clearly adult or sexual nature;
- there should be a strong presumption against permitting any access at all for children under 18 years.
- For any premises, not serving alcohol for consumption on the premises, but where the public are allowed on the premises after 11.00 pm 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 under the above circumstances, should when preparing new operating schedules or club operating schedules or variations of those schedules:

- 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 the Secretary of State recommends that, 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.

Age Restrictions – specific

Whilst it may be appropriate to allow children unrestricted access at particular times and when certain activities are not taking place, licensing authorities will need to consider:

- the hours of day during which age restrictions should and should not apply. For example, the fact that adult entertainment may be presented at premises after 8.00pm does not mean that it would be necessary to impose age restrictions for earlier parts of the day;
- types of event or activity that are unlikely to require age restrictions, 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:
 - during “Happy Hours” or on drinks promotion nights;
 - during activities outlined in the first bullet point in the first paragraph above.

Age restrictions – cinemas

The British Board of Film Classification classifies films in accordance with its published Guidelines which are based on extensive research into public opinion and professional advice. The Secretary of State therefore recommends that licensing authorities should not duplicate this effort by choosing to classify films themselves. The classifications recommended by the Board should be those normally applied unless there are very good local reasons for a licensing authority to adopt this role. Licensing authorities should note that the provisions of the 2003 Act enable them to specify the Board in the licence or certificate and, in relation to individual films, to notify the holder or club that it will make a recommendation for that particular film.

Licensing authorities should be aware that the BBFC currently classifies films 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.

Licensing authorities should note that these classifications may be subject to occasional change and consult the BBFC’s website at www.bbfc.co.uk before applying relevant conditions.

The Secretary of State considers that, in addition to the mandatory condition imposed by Section 20, conditions restricting the admission of children to film exhibitions should include 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;
- 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;

- 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 an age restrictive category no person appearing to be under the age specified shall be admitted to any part of the programme; where a programme includes a film recommended by the licensing authority as falling into a category requiring any persons under a specified age to be accompanied by an adult no person appearing to be under the age specified shall be admitted to any part of the programme unaccompanied by an adult, and the licence holder shall display in a conspicuous position a notice clearly stating the relevant age restrictions and requirements. For example:

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 be restricted normally unless it is necessary to promote 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 should 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 during any emergency (see Part 3).

Performances especially for children

Where performances are presented especially for unaccompanied children in theatres and cinemas licensing authorities will also wish to consider conditions to specify that:-

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

Licensing authorities should also consider whether or not standing should be allowed. For example, there may be reduced risk for children in the stalls than at other levels or areas in the building.

Children in performances

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

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 Part 1 in connection with the prevention of crime and disorder. However, 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.

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.

Since many adults in England and Wales do not currently carry any proof of age, the wording of any condition will require careful thought. For example, many premises have adopted the “Challenge 25”, “Challenge 21” or other similar initiatives. Under the “Challenge 25” or “Challenge 21” initiatives those premises selling or supplying alcohol require sight of evidence of age from any person appearing to be under the age of 25 or 21 and who is attempting to buy alcohol. Making this a licensing condition would be ensure that most minors - even those looking older - would need to produce appropriate proof of age before making such a purchase.

Appendix H

Special Policy with Regard to Cumulative Impact in Stourbridge Town Centre

Special Policy Regarding Cumulative Impact

The Council may take into account the existence of a saturation of premises in one area may have. The cumulative impact of new licences in a particular area becoming saturated with premises of a certain type, making it a focal point for large groups of people together, and thereby creating exceptional problems of disorder and nuisance over and above the impact from the individual premises themselves. The Council will therefore consider representations from any responsible authority or interested party based on the impact on the licensing objectives if a particular application were to be granted. The onus will be on the person making the representation to provide evidence to support the assertion that the addition of the premises would have the suggested impact on the licensing objectives.

Further, the Council may adopt a special policy regarding cumulative impact where it considers that a significant concentration of licensed premises will or is having an impact on the licensing objectives and granting of further licences in the area would add to this impact. When adopting such a special policy, reference to the steps outlined in paragraph 3.18 of the Licensing Act Guidance shall be made.

Any special policy regarding cumulative impact is not absolute and where licences are unlikely to add to the cumulative impact on the licensing objectives or the Council does not receive any representations, the licence will be granted.

A special policy regarding cumulative impact will not be used to try and revoke an existing licence or certificate when representations are made about the way the premises is being operated. Representations would be considered and determined in respect of the four licensing objectives. However the special policy may be a justification to refuse an application to vary a licence or certificate.

The Council recognises the difference between cumulative impact and commercial need of premises in an area. Need is a matter for the Council's Development Control Committee and market forces, and is not a matter for the Council to consider as part of its licensing function.

The Council will not operate a quota of any description, including any special policy, which would pre-determine an application. Each application will be considered on its individual merits. Proper regard will be given to the contrasting styles and individual characteristics of the premises concerned and the differing impact they will have on the local community.

Dudley Metropolitan Borough Council's Special Policy

As a consequence of the number of late night premises within Stourbridge Town Centre, within the Ring Road together with that corner of the Ring Road from the Picture House to the Ring Road and Foster Street East area of Dudley Metropolitan Borough Council, the Council and the Police have adopted many special measures to deal with the crime and disorder and anti-social behaviour in that particular area. Measures have included additional police manpower, particularly at weekends; to increase the police presence in the area and the introduction of CCTV. Pubwatch organisations involving licence holders being encouraged to improve working relationships and to reduce competitive prices, drinks promotions and happy hours.

The Council therefore is adopting a special policy, if representations are made, of refusing licence applications in the above-mentioned Stourbridge Town Centre area, if, by granting them, they would contribute to the cumulative impact on Stourbridge that the Licensing Authority wishes to mitigate.

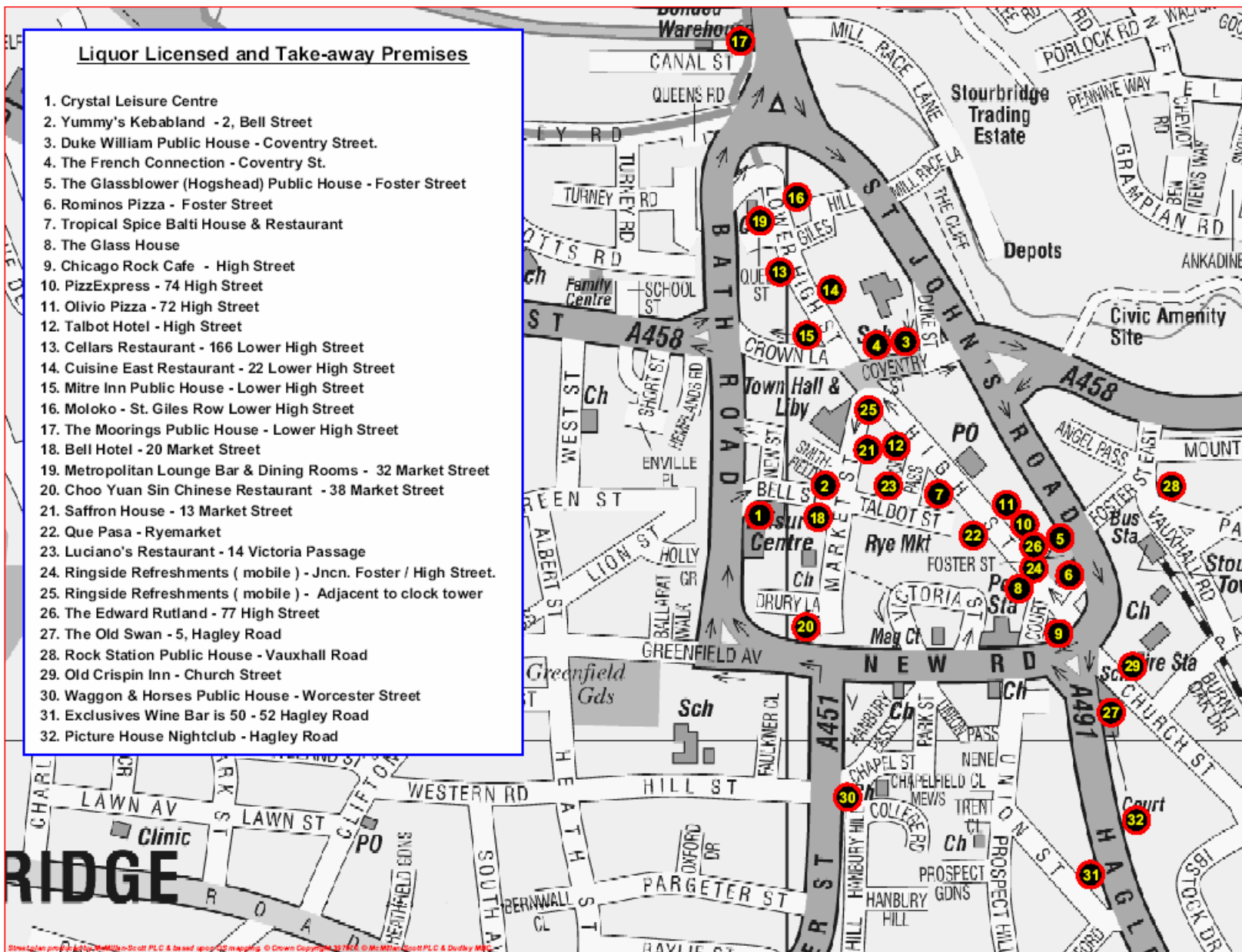
If an application for a licence for this area is requested, the Council will expect the applicant to demonstrate in their Operating Schedule, the steps to be taken to prevent problems of nuisance and public safety, and the steps to be taken to promote the reduction of crime and disorder. The Council will consider the individual merits of any application, and where it feels to grant the application would be unlikely to add significantly to the cumulative impact in light of the licensing objectives, the Council will grant the application.

The Council recognises that if no representations are made regarding an application for a licence in an area where a special policy exists, the Council must and will grant the licence.

The Policy will be subject to a 3 year review.

Liquor Licensed and Take-away Premises

1. Crystal Leisure Centre
2. Yummy's Kebabland - 2, Bell Street
3. Duke William Public House - Coventry Street.
4. The French Connection - Coventry St.
5. The Glassblower (Hogshead) Public House - Foster Street
6. Rominos Pizza - Foster Street
7. Tropical Spice Balti House & Restaurant
8. The Glass House
9. Chicago Rock Cafe - High Street
10. PizzExpress - 74 High Street
11. Olivio Pizza - 72 High Street
12. Talbot Hotel - High Street
13. Cellars Restaurant - 166 Lower High Street
14. Cuisine East Restaurant - 22 Lower High Street
15. Mitre Inn Public House - Lower High Street
16. Moloko - St. Giles Row Lower High Street
17. The Moorings Public House - Lower High Street
18. Bell Hotel - 20 Market Street
19. Metropolitan Lounge Bar & Dining Rooms - 32 Market Street
20. Choo Yuan Sin Chinese Restaurant - 38 Market Street
21. Saffron House - 13 Market Street
22. Que Pasa - Ryemarket
23. Luciano's Restaurant - 14 Victoria Passage
24. Ringside Refreshments (mobile) - Jcn. Foster / High Street.
25. Ringside Refreshments (mobile) - Adjacent to clock tower
26. The Edward Rutland - 77 High Street
27. The Old Swan - 5, Hagley Road
28. Rock Station Public House - Vauxhall Road
29. Old Crispin Inn - Church Street
30. Waggon & Horses Public House - Worcester Street
31. Exclusives Wine Bar is 50 - 52 Hagley Road
32. Picture House Nightclub - Hagley Road



Stourbridge Town Centre : Liquor Licensed and Take-away Premises

Premises designated No 9 on the above map is now known as Wetherspoons.

APPENDIX I

Other policies, legislation, case-law and guidance sources

Strategies and Policies

Alcohol Harm Reduction Strategy
Best Bar None
British Beer and Pub Association Partnerships Initiative
Council's own Enforcement Policy
Compliance Code
Community Safety Strategy
Crime & Disorder Reduction Strategy
Cultural and Tourism Strategies including promotion of live music and community events
Drugs and Alcohol Strategy
Home Office: Selling Alcohol Responsibly: Good Practice Examples from the Alcohol Retail and Hospitality Industries
Local Transport Plan
National and local Pubwatch schemes
Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks
Purple Flag (ATCM)
Safer Socialising

Related Legislation

Policing and Crime Act 2009
Anti Social Behaviour Act 2003
Crime and Disorder Act 1998
Crime and Security Act 2010
Criminal Justice and Police Act 2001
Race Relations Act 1976 as amended by the Race Relations (Amendment) Act 2000
The Clean Neighbourhoods and Environment Act 2005
The Health Act 2006
Violent Crime Reduction Act 2006

Relevant Case Law regarding Policy Statements

Limits of licensing policy:

BBPA & Others v Canterbury City Council [2005] EWHC 1318 (Admin)

“Strict” licensing policies and exceptions to policy:

R (Westminster City Council) v Middlesex Crown Court and Chorion plc [2002] LLR 538u

Cumulative impact policies and hours:

R (JD Wetherspoon plc) v Guildford Borough Council [2006] EWHC 815 (Admin)

Duplication and conditions:

R (on the application of Bristol Council) v Bristol Magistrates' Court [2009] EWHC 625 (Admin)

Extra-statutory notification by the licensing authority:

R (on the application of Albert Court Residents Association and others) v Westminster City Council [2010] EWHC 393 (Admin)

The prevention of crime and disorder: ambit of the objective

Bassetlaw District Council, R (on the application of) v Worksop Magistrates' Court [2008]

Guidance Documents

Home Office 'Practical Guide for Preventing and Dealing with Alcohol Related Problems
Home Office Safer Clubbing Guide

Home Office Alcohol Disorder Zone Guidance

Home Office Designated Public Place Order (DPPO) Guidance

DCMS s182 Guidance

LACORS/TSI Code of Practice on Test Purchasing

The Event Safety Guide (to be updated in 2011)

Licensing large scale events (music festivals etc.)

Managing Crowds Safely

5 Steps to Risk Assessment

The Guide to Safety at Sports Grounds

Safety Guidance for Street Arts, Carnivals, Processions and Large-scale Performances

UK BIDS: Business Improvement Districts (national BIDS advisory service)

BIS Code of Practice on Consultation

The Plain English Campaign

Useful References (organisations)

Association of Convenience Stores (ACS)

<http://www.thelocalshop.com/tls/index.asp>

Association of Licensed Multiple Retailers (ALMR)

<http://www.almr.org.uk/>

Association of Town Centre Managers (ACTM and Purple Flag)

<http://www.atcm.org>

British Beer and Pub Association (BBPA)

<http://www.beerandpub.com/>

British Board of Film Classification (BBFC)

www.bbfc.co.uk

British Institute of Inn Keeping (BII)

<http://www.bii.org/>

British Retail Consortium (BRC)

<http://www.brc.org.uk/default.asp>

Circus Arts Forum

www.circusarts.org.uk

Cinema Exhibitors' Association (CEA)

<http://www.cinemauk.org.uk/>

Department for Culture, Media and Sport (see links to the Licensing Act, 2003, Explanatory Notes, Guidance and Regulations)

www.culture.gov.uk

Equity

<http://www.equity.org.uk/>

Independent Street Arts Network

www.streetartsnetwork.org.uk

Institute of Licensing (IOL)

<http://www.instituteoflicensing.org/>

Justices Clerks' Society Good Practice Guide, Licensing
www.jc-society.co.uk

LACORS
<http://www.lacors.gov.uk>

Licensed Victuallers Associations (LVAs)
<http://www.flva.co.uk>

National Association of Local Government Arts Officers
<http://www.nalgao.org/>

National Pub Watch
<http://www.nationalpubwatch.org.uk/index.php>

NOCTIS
<http://www.noctisuk.org/>

The Portman Group
www.portman.org.uk