

A large, faint, circular seal is centered in the background. It contains the text "CHARTER" at the top and "MARK" at the bottom, with a central illustration of a group of people.

# LICENSING POLICY

**(The Licensing Act 2003)**

Awarded for excellence

## INDEX

<u>Section</u>	<u>Please note that the Index will be amended once the finalised document is published</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	10 – 11
5	Films	11
6	Licensing Hours	12
7	Cumulative Impact of Licensing on the Amenity of Particular Areas	13 – 14
8	Children	15 – 16
9	Premises Licence	17 – 20
10	Club Premises Certificate	21 – 22
11	Personal Licence	23 – 24
12	Temporary Event Notices	25 – 26
13	Provisional Statement	27
14	Consultation	28
15	Complaints Against Licensed Premises	29
16	Enforcement Policy	30 – 32
17	Administration Exercise and Delegation	33 – 34
18	Policy Consultation	35
19	Further Information	36

<b><u>Appendix</u></b>		<b><u>Pages</u></b>
<b>A</b>	<b>Definitions</b>	<b>37 – 42</b>
<b>B</b>	<b>List of Consultees</b>	<b>43 – 45</b>
<b>C</b>	<b>Pool of Conditions relating to the Prevention of Crime and Disorder</b>	<b>46 – 51</b>
<b>D</b>	<b>Pool of Conditions relating to Public Safety</b>	<b>52 – 57</b>
<b>E</b>	<b>Pool of Conditions relating to Theatres, Cinemas, Concert Halls and Similar Places (Promotion of Public Safety)</b>	<b>58 – 61</b>
<b>F</b>	<b>Pool of Conditions relating to Prevention of Public Nuisance</b>	<b>62 – 63</b>
<b>G</b>	<b>Pool of Conditions relating to Protection of Children from Harm</b>	<b>64 – 68</b>
<b>H</b>	<b>Special Policy with Regard to Cumulative Impact in Stourbridge Town Centre</b>	<b>69 – 71</b>

## **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.

\* *This passage is recommended by LACORS for inclusion in the Licensing Policy.*

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 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**

**Exhibition of a film**

**Indoor sporting event**

**Boxing or wrestling entertainment (indoors and outdoors)**

**Performance of live music (not incidental music, i.e. 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 making music**

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

1.2 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**

1.3 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.

1.4 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.  
[www.dudley.gov.uk/council/plan\\_app/udp/content.htm](http://www.dudley.gov.uk/council/plan_app/udp/content.htm)

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. Development Control may object if the relevant Planning Permission has not been sought.
- 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
  - From 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 **Government's Drinking Strategy**  
In June 2007 the Government published its Alcohol Harm Reduction Strategy 'Safe. Sensible. Social. The Next Steps in the National Alcohol Strategy'. This strategy outlines a co-ordinated and concerted approach to support a change in the drinking culture and outlines how a wide range of government departments have a role in supporting this important work. It shows how local communities, the police, local authorities, the NHS, voluntary organisations, the alcohol industry, the wider business community and the media all have a vital role to play.
- 2.10 **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.
- 2.11 **Safer Clubbing – Guidance for licensing authorities, club managers and promoters**  
When applicants complete their operating schedule they should consider the advice contained in the Home Office booklet – Safer Clubbing.
- 2.12 **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.
- 2.13 **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.

### 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](http://www.culture.gov.uk)

3.2 The provisions for determination of Club Premises Certificates will be the same as those for Premises Licences.

3.3 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**

3.4 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.

3.5 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 combating violence in licensed premises can be found at [www.beerandpub.com](http://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.

An extract from the Bar, Entertainment and Dance Association's Dispersal Policy can be found within the document Social Responsibility for the Production of Alcoholic Drinks in the UK at [www.beerandpub.com](http://www.beerandpub.com)

3.6 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 or any conditions as to delivery times etc. consideration will be given to the Licensing Objectives of the prevention of Crime and Disorder and the prevention of Public Nuisance. Each case will be decided on its individual merits.
- 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 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).



- 7.5 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.

**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 to protect children from harm. The Licensing Authority will judge the merits of each separate application before deciding whether to impose conditions limiting access to children. The following are some examples of premises or applicants that will raise concern;
- where there have been convictions for serving alcohol to minors or with a reputation for underage drinking
  - with a known association with drug taking or dealing
  - where there is a strong element of gambling on the premises
  - where entertainment of an adult or sexual nature is commonly provided
- 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 available to limit the access of children to licensed premises that may be imposed by the Licensing Authority include:
- Limitations on the hours where children may be present;
  - Age limitations
  - Exclusions when certain activities are taking place;
  - Requirements for an accompanying adult;
  - In exceptional cases, exclusion of people under 18 from the premises or parts thereof 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/moveable 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 **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.

Existing Section 34 permits will continue to have effect after 1st September 2007 as if it were a licensed premises gaming machine permit issued under the new Act.

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-consultation>

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.
- Guidance 10.51 to 10.53.

- 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](http://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.

Where mediation is not practicable or fails the Licensing Authority may arrange for a hearing to review the licence or application.

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

15.5 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.

15.6 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.
- 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 Licensing 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.

**16.7 Relevant Offences**

- 16.7.1 An offence under the Licensing Act 2003
- 16.7.2 An offence under any of the following enactment's:-
- Schedule 12 to the London Government Act 1963 (c.33) (public entertainment licensing)
  - The Licensing Act 1964 (c.26)
  - The Private Places of Entertainment (Licensing) Act 1967 (c.19)
  - Section 13 of the Theatres Act 1968 (c54)

- The Late Night Refreshment Houses Act 1969 (c.53)
  - Section 6 of, or Schedule 1 to, the Local Government (Miscellaneous Provisions) Act 1982 (c.30)
  - The Licensing (Occasional Permissions) Act 1983 (c.24)
  - The Cinemas Act 1985
  - The London Local Authorities Act 1990 (c.vii)
- 16.7.3 An offence under the Firearms Act 1968 (c.27).
- 16.7.4 An offence under section 1 of the Trade Descriptions Act 1968 (c.29) (false trade description) in circumstances where the goods in question are or include alcohol.
- 16.7.5 An offence under any of the following provisions of the Theft Act 1968 (c.60):-
- Section 1 (theft)
  - Section 8 (robbery)
  - Section 9 (burglary)
  - Section 10 (aggravated burglary)
  - Section 11 (removal of articles from places open to the public)
  - Section 12a (aggravated vehicle-taking), in circumstances where subsection (2) (b) of that section applies and the accident caused the death of any person
  - Section 13 (abstracting of electricity)
  - Section 15 (obtaining property by deception)
  - Section 15A (obtaining a money transfer by deception)
  - Section 16 (obtaining pecuniary advantage by deception)
  - Section 17 (false accounting)
  - Section 19 (false statements by company directors etc.)
  - Section 20 (suppression, etc. of documents)
  - Section 21 (blackmail)
  - Section 22 (handling stolen goods)
  - Section 24A (dishonestly retaining a wrongful credit)
  - Section 25 (going equipped for stealing etc.)
- 16.7.6 An offence under section 7 (2) of the Gaming Act 1968 (c.65) (allowing child to take part in gaming on premises licensed for the sale of alcohol). *This offence is subject to revision under the provisions of the new Gambling Act 2005; the transition period of which commences on 30th April 2007.*
- 16.7.7 An offence under any of the following provision of the Misuse of Drugs Act 1971 (c.38):-
- Section 4 (2) (production of a controlled drug)
  - Section 4 (3) (supply of a controlled drug)
  - Section 5 (3) (possession of a controlled drug with intent to supply)
  - Section 8 (permitting activities to take place on premises)
- 16.7.8 An offence under either of the following provision of the Theft Act 1978 (c.31):-
- Section 1 (obtaining services by deception)
  - Section 2 (evasion of liability by deception)

- 16.7.9 An offence under either of the following provisions of the Customs and Excise Management Act 1979 (c.2):-
- Section 170 (disregarding subsection (1) (a)) (fraudulent evasion of duty etc.)
  - Section 170B (taking preparatory steps for evasion of duty)
- 16.7.10 An offence under either of the following provisions of the Tobacco Products Duty Act 1979 (c.7):-
- Section 8G (possession and sale of unmarked tobacco)
  - Section 8H (use of premises for the sale of unmarked tobacco)
- 16.7.11 An offence under the Forgery and Counterfeiting Act 1981 (c.45) (other than an offence under section 18 or 19 of that Act)
- 16.7.12 An offence under the Firearms (Amendment) Act 1988 (c.45)
- 16.7.13 An offence under any of the following provisions of the Copyright, Designs and Patents Act 1988 (c.48):-
- Section 107 (1) (d) (iii) (public exhibition in the course of a business of article infringing copyright)
  - Section 107 (3) (infringement of copyright by public performance of work etc.)
  - Section 198 (2) (broadcast etc. of recording of performance made without sufficient consent)
  - Section 297 (1) (fraudulent reception of transmission)
  - Section 297A (1) (supply etc. of unauthorised decoder)
- 16.7.14 An offence under any of the following provisions of the Road Traffic Act 1988 (c.52):-
- Section 3A (causing death by careless driving while under the influence of drink or drugs)
  - Section 4 (driving etc. a vehicle when under the influence of drink or drugs)
  - Section 5 (driving etc. a vehicle with alcohol concentration above prescribed limit)
- 16.7.15 An offence under either of the following provision of the Food Safety Act 1990 (c.16) in circumstances where the food in question includes alcohol:-
- Section 14 (selling food or drink not of the nature, substance or quality demanded)
  - Section 15 (falsely describing or presenting food or drink)
- 16.7.16 An offence under section 92 (1) or (2) of the Trade Marks Act 1994 (c.26) (unauthorised use of trademark, etc. in relation to goods) in circumstances where the goods in question are or include alcohol.
- 16.7.17 An offence under the Firearms (Amendment) Act 1997 (c.5)
- 16.7.18 A sexual offence within the meaning of section 161 (2) of the Powers of Criminal Courts (Sentencing) Act 2000 (c.6)
- 16.7.19 A violent offence within the meaning of section 161 (3) of that Act
- 16.7.20 An offence under section 3 of the Private Security Industry Act 2001 (c.12) (engaging in certain activities relating to security without a licence)

**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 five 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.

**17.10 Delegation of functions:**

<b>Matter to be dealt with</b>	<b>Full Licensing Committee</b>	<b>Licensing Sub-committee</b>	<b>Officers</b>
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 2005.

18.2 This Policy came into effect on the 7th February 2005 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](mailto:licensing.legal@dudley.gov.uk)  
Website: [www.dudley.gov.uk](http://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](mailto:Enquiries@culture.gov.uk)  
Website: [www.culture.gov.uk](http://www.culture.gov.uk)

- (2) The Local Government Licensing Forum  
Website: [www.lglf.org](http://www.lglf.org)

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

**[www.dudley.gov.uk](http://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 area 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

## **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  
Popleston Allen  
Portwood Services Plc  
Premier Automatic Machines Limited  
Recaf Equipment Limited  
Rees Page  
Sanders & Co  
Shoosmiths  
Somersfield 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  
Sommerfield



## Appendix C

### Pool of Conditions Relating to the Prevention of Crime and Disorder

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

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

Conditions enforcing these arrangements are therefore unnecessary.

#### **‘General’**

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

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

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

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

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

### **‘Text/Radio pagers’**

Text and radio pagers connecting premises licence holders, designated premises supervisors, managers of premises and clubs to the local police can provide for rapid response by the police to situations of disorder which may be endangering the customers and staff on the premises.

Such pagers provide two-way communication, both enabling licence holders, managers, designated premises supervisors and clubs to report incidents to the police, and enabling the police to warn those operating a large number of other premises of potential trouble-makers or individuals suspected of criminal behaviour who are about in a particular area. Pager systems can also be used by licence holders, door supervisors, managers, designated premises supervisors and clubs to warn each other of the presence in an area of such people.

The Secretary of State recommends that text or radio pagers should be considered appropriate necessary conditions for public houses, bars and nightclubs operating in city and town centre leisure areas with a high density of licensed premises. Following individual consideration of the particular circumstances of the venue, such conditions may also be appropriate and necessary in other areas for the prevention of crime and disorder.

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

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

### **‘Door supervisors’**

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

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

Where door supervisors conducting security activities are to be a condition of a licence, which means that they would have to be registered with the Security Industry Authority, conditions may also need to deal with the number of such supervisors, the displaying of name badges, the carrying of proof of registration, where and at what times they should be stationed on the premises, and whether at least

one female supervisor should be available (for example, if female customers are to be the subject of body searches). Door supervisors also have a role to play in ensuring public safety (see Annex E).

### **‘Bottle bans’**

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

It is recommended that a condition requiring that no sales of beverages in glass bottles for consumption on the premises 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.

### **‘Plastic containers and toughened glass’**

Glasses containing drinks may be used as weapons during incidents of disorder and in untoughened form, can cause very serious injuries. Consideration could therefore be given to conditions requiring either the use of plastic containers or toughened glass which inflicts less severe injuries where considered necessary. Location and style of the venue and the activities carried on there would be particularly important in assessing whether a condition is necessary. For example, the use of glass containers on the terraces of some outdoor sports grounds may obviously be of concern, and similar concerns may also apply to indoor sports events such as boxing matches. Similarly, the use of such plastic containers or toughened glass during the televising of live sporting events, such as international football matches, when high states of excitement and emotion fuelled by alcohol might arise, may be a necessary condition.

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

### **‘CCTV’**

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

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

### **‘Open containers not to be taken from the premises’**

Drinks purchased in licensed premises or clubs may be taken from those premises for consumption elsewhere. Where premises are licensed for the sale of alcohol for consumption off the premises that would be entirely lawful. However, consideration should be given to a condition preventing the taking of alcoholic and other drinks from the premises in open containers (e.g. glasses and opened bottles). This may again be necessary to prevent the use of these containers as offensive weapons in surrounding streets after individuals have left the premises.

### **‘Restrictions on drinking areas’**

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

### **‘Capacity limits’**

Although most commonly made a condition of a licence on public safety grounds, consideration should also be given to conditions which set capacity limits for licensed premises or clubs where it may be necessary to prevent overcrowding which can lead to disorder and violence. Where such a condition is considered necessary, consideration should also be given to whether door supervisors would be needed to ensure that the numbers are appropriately controlled.

### **‘Proof of age cards’**

It is unlawful for children under 18 to attempt to buy alcohol just as it is unlawful to sell or supply alcohol to them. To prevent such crimes, it may be necessary to require a policy to be applied at certain licensed premises requiring the production of “proof of age” before such sales are made. This should not be limited to recognised “proof of age” cards, but allow for the production of other proof, such as photodriving licences, and passports. 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, and where appropriate and necessary, conditions may refer directly to PASS accredited proof of age cards, photo-driving licences and passports.

It should be noted that many adults in England and Wales do not currently carry any proof of age. This means that the wording of any condition will require careful thought. For example, the requirement might be to ensure sight of evidence of age from any person appearing to those selling or supplying alcohol to be under the age of 18 and who is attempting to buy alcohol. This would ensure that most minors – even those looking older – would need to produce proof of age appropriately before making such a purchase. Under such an arrangement only a minority of adults might be affected, but for the majority there would be no disruption to their normal activity, for example, when shopping in a supermarket.

### **‘Crime prevention notices’**

It may be necessary at some premises for notices to be displayed which warn customers of the prevalence of crime which may target them. Some premises may be reluctant to volunteer the display of such notices for commercial reasons. For example, in certain areas, a condition attached to a premises

licence or club premises certificate might require the displaying of notices at the premises which warn customers about the need to be aware of pickpockets or bag snatchers, and to guard their property. Similarly, it may be necessary for notices to be displayed which advise customers not to leave bags unattended because of concerns about terrorism. Consideration could be given to a condition requiring a notice to display the name of a contact for customers if they wish to report concerns.

### **‘Drinks promotions’**

Standardised conditions should not be attached to premises licences or club premises certificates which promote fixed prices for alcoholic drinks. It is also likely to be unlawful for licensing authorities or police officers to promote voluntary arrangements of this kind. This can risk creating cartels. Using conditions to control the prices of alcoholic drinks in an area may also breach competition law. Conditions tailored to the individual circumstances of particular premises which address **irresponsible** drinks promotions may be permissible provided they are necessary for the promotion of the licensing objectives, but licensing authorities should take their own legal advice before a licence or certificate is granted in that form. Judgements may be subjective, and on occasions, there will be a very fine line between responsible and irresponsible promotions but an even greater distinction to whether the promotion in question can be subject to the imposition of a condition. It is therefore vital that such matters are considered objectively in the context of the licensing objectives and with the benefit of appropriate legal advice.

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

The Licensing Authority supports the introduction of a Police Protocol to be agreed with all Licensees whose premises are open beyond midnight with capacity levels of beyond 200, setting out the parameters of responsible drinks promotions. This will establish areas of good practice with the trade and contribute significantly to a reduction in Crime and Disorder and Anti Social Behaviour in and around premises.

### **‘Signage’**

It may be necessary for the normal hours under the terms of the premises licence or club premises certificate at which licensable activities are permitted to take place to be displayed in a prominent position so that it is clear if breaches of the terms of the licence or certificate are taking place on or in the premises. Licensees are also invited to display the licence in a frame so that it remains clean and tidy and easy to view.

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

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

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

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

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

## Appendix D

### Pool of Conditions Relating to Public Safety

It should be noted that conditions relating to public safety should be those which are unnecessary, in the particular circumstances of any individual premises or club premises, and should not duplicate other requirements of the law. Equally, the attachment of conditions to a premises licence or club premises certificate will not in any way relieve employers of the statutory duty to comply with the requirements of other legislation including the Health and Safety at Work Act 1974, associated regulation and especially the requirements under the Management of Health and Safety at Work Regulations 1999 and the Fire Precautions (Workplace) Regulations 1977 to undertake risk assessments. Employers should assess the risks, including risks from fire, and take measures necessary to avoid and control these risks. Conditions enforcing those requirements would therefore be unnecessary.

#### ‘General’

When applicants for premises licences or club premises certificates are preparing their operating schedules or club operating schedules, responsible authorities are considering such applications and licensing authorities are considering applications following the receipt of relevant representations from a responsible authority or interested party, the following options should be considered as measures that, if necessary, would promote public safety. Additional matters relating to cinemas and theatres are considered in Annex F. It should also be recognised that special issues may arise in connection with outdoor and large scale events.

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

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

In addition, to considering the points made in this Annex, 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:
- [www.streetartsnetwork.org.uk/pages/publications.htm](http://www.streetartsnetwork.org.uk/pages/publications.htm)

- The London District Surveyors Association's "Technical Standards for Places of Public Entertainment" ISBN 0 9531229 2 1

The following British Standards should also be considered:

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

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

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

#### **'Disabled people'**

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

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

#### **'Escape routes'**

It may be necessary to include conditions relating to the maintenance of all escape routes and exits including external exits. These might be expressed in terms of the need to ensure that such exits are kept unobstructed, in good order with non-slippery and even surfaces, free of trip hazards and clearly identified. In restaurants and other premises where chairs and tables are provided this might also include ensuring that internal gangways are kept unobstructed.

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

- all exits doors are easily 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;
- all fire doors are maintained effectively self-closing and shall not be held open other than by approved devices (for example, electromagnetic releases operated by smoke detectors);
- fire resisting doors to ducts, service shafts, and cupboards shall be kept locked shut; and
- the edges of the treads of steps and stairways are maintained so as to be conspicuous.

#### **‘Safety checks’**

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

- safety checks are carried out before the admission of the public; and
- details of such checks are kept in a Log-book.

#### **‘Curtains, hangings, decorations and upholstery’**

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

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

#### **‘Accommodation limits’**

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

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

### **‘Fire action notices’**

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

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

### **‘Outbreaks of fire’**

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

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

### **‘Loss of water’**

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

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

### **‘Access for emergency vehicles’**

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

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

### **‘First aid’**

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

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

### **‘Lighting’**

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

- in the absence of adequate daylight, the lighting in any area accessible to the public, members or guests shall be fully in operation when they are present;
- fire safety signs are adequately illuminated;

- emergency lighting is not altered;
- emergency lighting batteries are fully charged before the admission of the public, members or guests; and
- in the event of the failure of normal lighting, where the emergency lighting battery has a capacity of one hour, arrangements are in place to ensure that the public, members or guests leave the premises within 20 minutes unless within that time normal lighting has been restored and the battery is being re-charged; and, if the emergency lighting battery has a capacity of three hours, the appropriate period by the end of which the public should have left the premises is one hour.

#### **‘Temporary electrical installations’**

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

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

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

#### **‘Indoor sports entertainments’**

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

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

**‘Alterations to the premises’**

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

**‘Special effects’**

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

Specials effects which should be considered include:

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

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

## Appendix E

### Pool of Conditions relating to Theatres, Cinemas, Concert Halls and Similar Places (Promotion of Public Safety)

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

#### Premises used for closely seated audiences

##### ‘Attendants’

- a) The number of attendants on each floor in a closely seated auditorium should be as set out on the table below:

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 hinder the prompt discharge of their duties in the event of an emergency or entail their absence from that floor or auditorium where they are on duty.
- c) Any attendant shall be readily identifiable to the audience (but this need not entail the wearing of a uniform).
- d) The premises shall not be used for a closely seated audience except in accordance with seating plan(s), a copy of which is available at the premises and shall be shown to any authorised person on request.
- e) No article shall be attached to the back of any seat which would reduce the clear width of 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.

**‘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 (see HSE Guide The Radiation Safety of lasers used for display purposes [HS(G)95] and BS EN 60825: Safety of laser products);
- explosives and highly flammable substances.

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

**‘Scenery’**

Any scenery should be maintained flame-retardant.

**‘Safety curtain’**

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

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

**‘Ceilings’**

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

**‘Seating’**

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

**Premises used for film exhibitions**

**‘Attendants – premises without a staff alerting system’**

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

<b>Number of members of the audience present on the premises</b>	<b>Minimum number of attendants required to be on duty</b>
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:

<b>Number of members of the audience present on the premises</b>	<b>Minimum number of attendants required to be on duty</b>	<b>Minimum number of other staff on the premises who are available to assist in the event of an emergency</b>
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 his response in an emergency situation; or
- (iii) a member of staff whose usual location when on duty is more than 60 metres from the location to which he is required to go on being alerted to an emergency situation.

c) Attendants shall as far as reasonably practicable be evenly distributed throughout all parts of the premises to which the public have access and keep under observation all parts of the premises to which the audience have access.

d) The staff alerting system shall be maintained in working order.

**‘Minimum lighting’**

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

**‘Flammable films’**

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



## Appendix F

### Pool of Conditions relating to Prevention of Public Nuisance

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

#### **‘General’**

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

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

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

#### **‘Hours’**

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

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

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

**‘Noise and vibration’**

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

- noise or vibration does not emanate from the premises so as to cause a nuisance to nearby properties. This might be achieved by a simple requirement to keep doors and windows at the premises closed, or to use noise limiters on amplification equipment used at the premises;
- prominent, clear and legible notices are displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly;
- the use of explosives, pyrotechnics and fireworks of a similar nature which could cause disturbance in surrounding areas are restricted; and
- the placing of refuse – such as bottles – into receptacles outside the premises takes place at times that will minimise the disturbance to nearby properties.

**‘Noxious smells’**

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

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

**‘Light pollution’**

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

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

## Appendix G

### Pool of Conditions relating to Protection of Children from Harm

It should be noted that it is unlawful under the 2003 Act to permit unaccompanied children under the age of 16 to be present on premises exclusively or primarily used for supply of alcohol for consumption on those premises under the authorisation of a premises licence, club premises certificate or a temporary event notice when open for the purposes of being used for the supply of alcohol for consumption there. In addition, it is an offence to permit the presence of children under 16 who are not accompanied by an adult between midnight and 5 am at all premises supply alcohol for consumption on those premises under the authorisation of any premises licence, club premises certificate or temporary event notice. Conditions duplicating these provisions are, therefore, unnecessary.

#### **‘Access for children to licensed premises – in general’**

Restrictions on the access of children under 18 to premises where licensable activities are being carried on should be made where it is necessary to protect children from harm. Precise policy and details will be a matter for individual licensing authorities. Conditions attached to premises licences and club premises certificates may reflect the concerns of responsible authorities and interested parties who have made representations but only where the licensing authority considers it necessary to protect children from harm. Whilst applications in relation to premises licences and club premises certificates must be judged by licensing authorities on their individual merits and characteristics, 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. Applicants wishing to allow access for children to premises where these associations may be relevant, when preparing operating schedules or club operating schedules or variations of those schedules for the purposes of obtaining or varying a premises licence or club premises certificate should:

- explain their reasons; and
- outline in detail the steps that they intend to take to protect children from harm on such premises.
- for any premises, not serving alcohol for consumption on the premises, but where the public are allowed on the premises after 11.00pm in the evening, there should be a presumption against the presence of children under the age of 12 unaccompanied by adults after that time. Applicants wishing to allow access when preparing operating schedules or variations of those schedules or club operating schedules for the purposes of obtaining or varying a premises licence or club premises certificate should:
  - explain their reasons; and
  - outline in detail the steps that they intend to take to protect children from harm on such premises.

- in any other case, subject to the premises licence holder's or club's discretion, the expectation would be for unrestricted access for children subject to the terms of the 2003 Act. An operating schedule or club operating schedule should indicate any decision for the premises to exclude children completely, which would mean there would be no need to detail in the operating schedule steps that the applicant proposes to take to promote the protection of children from harm. Otherwise, where entry is to be permitted, the operating schedule should outline the steps to be taken to promote the protection of children from harm while on the premises.

### **'Age Restrictions – specific'**

Under the 2003 Act a wide variety of licensable activities could take place at various types of premises and at different times of the day and night. Whilst it may be appropriate to allow children unrestricted access at particular times and when certain activities are not taking place, licensing authorities following relevant representations made by responsible authorities and interested parties will need to consider a range of conditions that are to be tailored to the particular premises and their activities where these are necessary. Licensing authorities are expected 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 in respect of which no age restrictions may be needed, for example;
  - family entertainment; or
  - non-alcohol events for young age groups, such as under 18s dances,
- Similarly, 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 Secretary of State considers that, in addition to the mandatory condition imposed by virtue of section 20, requiring the admission of children to films to be restricted in accordance with recommendations given either by a body designated under section 4 of the Video Recordings Act 1984 or by the licensing authority itself, conditions restricting the admission of children to film exhibitions should include:

- a condition that where the licensing authority itself is to make recommendations on the admission of children to films, the cinema or venue operator must submit any film to the authority that it intends to exhibit 28 days before it is proposed to show it. This is to allow the authority time to classify it so that the premises licence holder is able to adhere to any age restrictions then imposed;

- a condition that when films are classified, by either the film classification body as specified in the licence or the licensing authority, they should be classified in the following way:
  - U – Universal. Suitable for audiences aged four years and over
  - PG – Parental Guidance. Some scenes may be unsuitable for young children.
  - 12A – Passed only for viewing by persons aged 12 years or older or persons younger than 12 when accompanied by an adult.
  - 15 – Passed only for viewing by persons aged 15 years and over.
  - 18 – Passed only for viewing by persons aged 18 years and over.
- that conditions specify that immediately before each exhibition at the premises of a film passed by the British Board of Film Classification there shall be exhibited on screen for at least five seconds in such a manner as to be easily read by all persons in the auditorium a reproduction of the certificate of the Board or, as regards a trailer advertising a film, of the statement approved by the Board indicating the classification of the film;
- a condition that when a licensing authority has made a recommendation on the restriction of admission of children to a film, notices are required to be displayed both inside and outside the premises so that persons entering can readily be made aware of the classification attached to any film or trailer. Such a condition might be expressed in the following terms:

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

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

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

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

### **‘Theatres’**

The admission of children to theatres, as with other licensed premises, is not expected to normally be restricted unless it is necessary to promote the licensing objective of the protection of children from harm. However, theatres may be the venue for a wide range of activities. The admission of children to the performance of a play is expected to normally be left to the discretion of the licence holder and no condition restricting the access of children to plays should be attached. However, theatres may also present entertainment including, for example, variety shows, incorporating adult entertainment. A condition restricting the admission of children in such circumstances may be necessary. Entertainment may also be presented at theatres specifically for children (see below).

Licensing authorities are also expected to consider whether a condition should be attached to a premises licence which requires the presence of a sufficient number of adult staff on the premises to ensure the well being of children present on the premises during any emergency (See Annex F).

### **‘Performances especially for children’**

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

- an attendant to be stationed in the area(s) occupied by the children, in the vicinity of each exit, provided that on each level occupied by children the minimum number of attendants on duty should be one attendant per 50 children or part thereof.
- Licensing authorities are expected, having regard to any representations made by responsible authorities on the issue, to also consider whether or not standing should be allowed. For example, there may be reduced risk for children in the stalls than at other levels or areas in the building.

### **‘Children in performances’**

There are many productions each year that are one-off shows where the cast is made up almost entirely of children. They may be taking part as individuals or as part of a drama club, stage school or school group. The age of those involved may range from 5 to 18. The Children (Performances) Regulations 1968 as amended set out requirements for children performing in a show. Licensing authorities should familiarise themselves with the requirements of these Regulations and not duplicate any of these requirements. However, if it is necessary to consider imposing conditions, in addition to these requirements, for the promotion of the protection of children from harm then the licensing authority should consider the matters outlined below.

**Venue** – the backstage facilities should be large enough to accommodate safely the number of children taking part in any performance.

**Fire safety** – all chaperones and production crew on the show should receive instruction on the fire procedures applicable to the venue prior to the arrival of the children.

**Special effects** – it may be inappropriate to use certain special effects, including smoke, dry ice, rapid pulsating or flashing lights, which may trigger adverse reactions especially with regard to children.

**Care of children** – theatres, concert halls and similar places are places of work and may contain a lot of potentially dangerous equipment. It is therefore important that children performing at such premises are kept under adult supervision at all times including transfer from stage to dressing room and anywhere else on the premises. It is also important that the children can be accounted for at all times in case of an evacuation or emergency.

### **‘The Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks’**

The Portman Group operates, on behalf of the alcohol industry, a Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks. The Code seeks to ensure that drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years old or older. Complaints about products under the Code are considered by an Independent Complaints Panel and the Panel’s

decisions are published on the Portman Group's website, in the trade press and in an annual report. If a product's packaging or point-of-sale advertising is found to be in breach of the Code, the Portman Group may issue a Retailer Alert Bulletin to notify retailers of the decision and ask them not to replenish stocks of any such product or to display such point-of-sale material, until the decision has been complied with. The Code is an important mechanism in protecting children from harm because it addresses the naming, marketing and promotion of alcohol products sold in licensed premises in a manner which may appeal to or attract minors.

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

### **'Proof of Age cards'**

Proof of age cards are discussed under Annex D in connection with the prevention of crime and disorder. However, where necessary and appropriate, a requirement for the production of proof of age cards before any sale of alcohol is made could be attached to any premises licence or club premises certificate for the protection of children from harm. Any such requirement should not be limited to recognised "proof of age" cards, but allow for the production of other proof, such as photo-driving licences and passports. The Secretary of State strongly supports the PASS accreditation system (see paragraph 12.8 of the Guidance) which aims to approve and accredit various proof of age schemes that are in existence. This ensures that such schemes maintain high standards, particularly in the area of integrity and security, and where appropriate and necessary, conditions may refer directly to PASS accredited proof of age cards, photo-driving licences, student cards and passports. As for conditions relating to crime and disorder, it should be noted that many adults in England and Wales do not currently carry any proof of age. This means that the wording of any condition will require careful thought. For example, the requirement might be to ensure sight of evidence of age from any person appearing to those engaged in selling or supplying alcohol to be under the age of 18 and who is attempting to buy alcohol. This would ensure that most minors – even those looking older – would need to produce proof of age appropriately before making such a purchase. Under such an arrangement only a minority of adults might be affected, but for the majority there would be no disruption to their normal activity, for example, when shopping in a supermarket.

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

## Appendix 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.

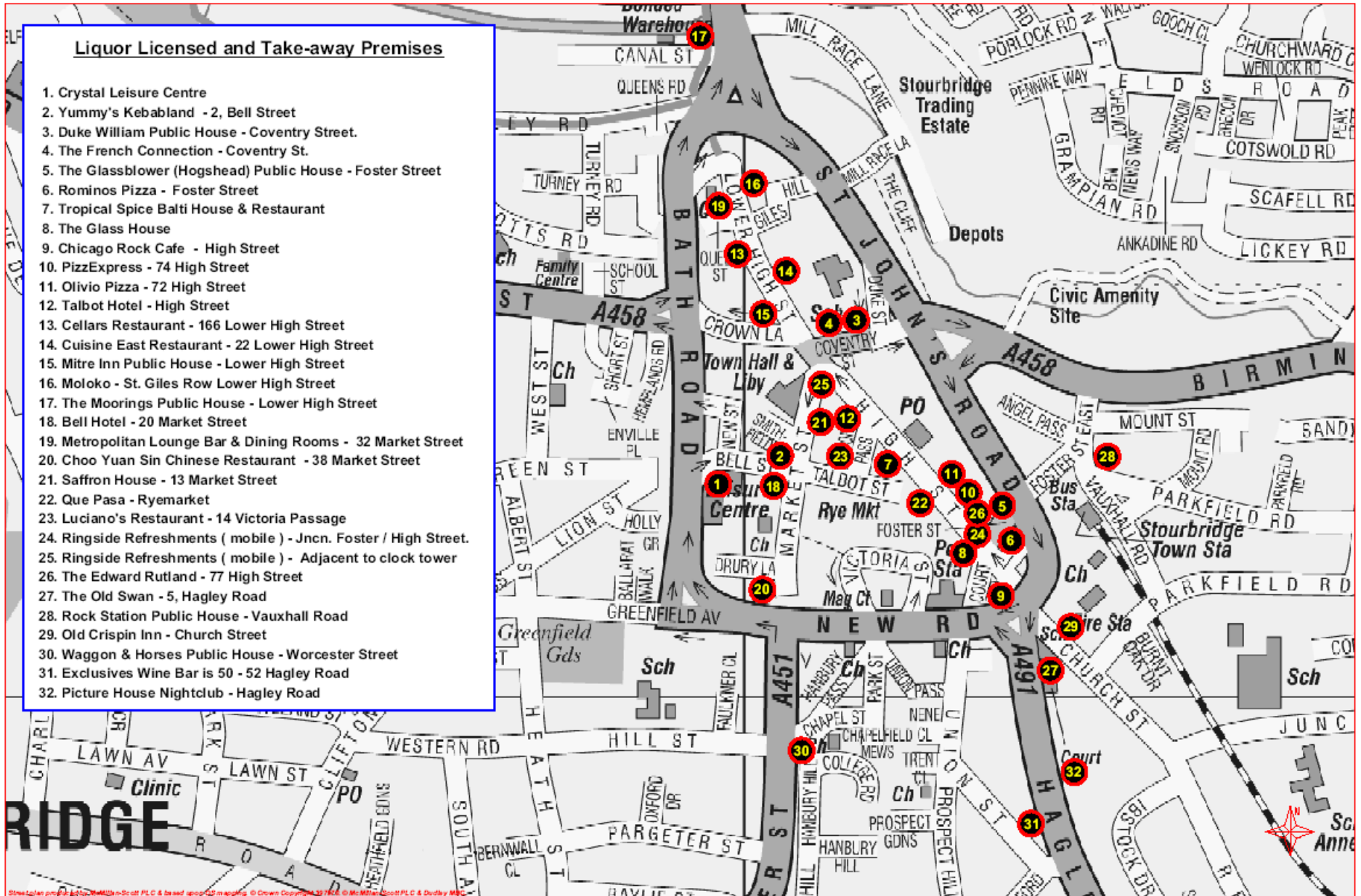


The Council therefore is adopting a special policy, if representations are made, of refusing licence applications in the above-mentioned Stourbridge Town Centre area, if, by granting them, they would contribute to the cumulative impact on Stourbridge that the Licensing Authority wishes to mitigate.

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.



**Stourbridge Town Centre : Liquor Licensed and Take-away Premises**