

# **Licensing Act 2003**

## **Statement of Licensing Policy**

**2019 – 2024**

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## Definitions

appeal	means an application to a court to reverse a decision of the Licensing Authority
application	means a completed application form, accompanying documents and fee
certificate	means a club premises certificate for a qualifying club
designated premises supervisor (DPS)	a designated premises supervisor is the person named on the premises licence. Any premises where alcohol is supplied under a premises licence must have a DPS. The DPS will not necessarily be the premises licence holder, although they can be. It is expected that they will be the point of contact for the premises at all times for responsible authorities if problems occur at the premises and will have day to day control. Any application for a premises licence must also include a form of consent given by the individual who the applicant wishes to have named in the premises licence as the DPS.
district	the area covered by St Albans District Council.
refuse/refusal	we decide not to give something, usually a licence or certificate.
hot food or drink	means food or drink <b>supplied</b> on or from any premises, is "hot" for the purposes of Schedule 2 to the Act if the food or drink, or any part of it:  before it is supplied, is heated on the premises or elsewhere for the purpose of enabling it to be consumed at a temperature above the ambient air temperature and, at the time of supply, is above that temperature, <b>or</b>  after it is supplied, may be heated on the premises for the purpose of enabling it to be consumed at a temperature above the ambient air temperature.  it is the time you supply the customer with hot food or drink that is relevant for this licensable activity. You must ensure hot drink and food is <b>bought and served</b> before the terminal hour on your licence.

Joint Agency Group (JAG) The Crime and Disorder Act 1998 requires certain agencies to work together to reduce crime, disorder and anti-social behaviour. Therefore, in every area throughout the country these public agencies have formed partnerships. Current Community Safety Partnership Strategy has identified 5 priorities listed below:

1. To establish an effective response to local and emerging county drug markets, providing support to vulnerable younger people,

tackling modern slavery, using social housing and enforcement powers to disrupt activity.

2. To develop an effective multi agency approach to fly-tipping.
3. To focus on local crimes of concern, namely fraud (cyber and face-to-face), robbery, dwelling burglary, car crime and shoplifting, to limit further increases.
4. To engage more effectively with the relevant agencies to support those with mental health problems and other residents who may be affected by the issues involved.
5. To establish relevant and meaningful data collection and information sharing in relation to local offenders, allowing agencies to correctly identify, engage and support them to reduce the local re-offending rate.

late night refreshment	is a licensable activity between 23:00 and 05:00 hours. It is defined as the provision of hot food or hot drink to members of the public, or a section of the public on or from any premises, whether for consumption on or off the premises.
licensable activities	as defined in section 1 of the Licensing Act 2003 <ul style="list-style-type: none"><li>• the sale by retail of alcohol</li><li>• the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club</li><li>• the provision of regulated entertainment</li><li>• the provision of late night refreshment;</li></ul>
licence	means premises licence or personal licence
licensing objectives	as defined in section 4 of the Licensing Act 2003
mandatory conditions	means conditions automatically imposed on licences or certificates by s19 of the Licensing Act 2003.
operating schedule	the schedule in the premises application that shows how you will promote the four licensing objectives
personal licence	a personal licence is required when a premises intends to sell alcohol and will be issued by the Licensing Authority for the area in which you live.
premises	means any place including an open space, a vehicle, vessel or moveable structure
premises licence	a business wanting to carry out licensable activities will need a premises licence.
qualifying club	as defined in section 61 of the Licensing Act 2003
regulated entertainment	is a licensable activity defined as: A performance of a play

An exhibition of 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 last three where the entertainment takes place in the present of an audience and is provided for the purpose, or for purposes which include the purpose, of entertaining that audience. Any reference to an audience includes a reference to spectators. This definition is subject to Part 3 of Schedule 1 to the Licensing Act 2003 (interpretation).

responsible authority	as defined in section 13 of the Licensing Act 2003
review	an application to review a premises licences or club premises certificate where they are not operating so as to promote the licensing objectives
revoke	to take away a licence or certificate permanently.
Safety Advisory Group (SAG)	a group consisting of various agencies including police, fire, ambulance, emergency planning, leisure services and environmental health which meets to discuss and advise on outdoor events.
SIA	the Security Industry Authority responsible for registering door supervisors.
suspend	to take away a licence or certificate temporarily.
Temporary Event (TEN)	allows licensable activities to be carried out on a temporary basis
We	St Albans City & District Council acting in its capacity as Licensing Authority, through the Licensing Committee, sub committees and its officers.

## Executive Summary

St Albans City & District Council reviewed its Statement of Licensing Policy in 2018 after conducting an extensive consultation process as set out in 25.0. The Licensing Policy would statutorily require a review every 5 years.

We have considered the Home Office Guidance issued under section 182 of the Licensing Act (April 2018) in preparing the policy. There is a continued emphasis on partnership working between the Police, the Environmental Health Authority and the Licensing Authority.

We hope that organisations and individuals will use the policy when they make licensing applications and that the public and responsible authorities will use it when responding to licensing applications.

The licensing policy must be formally reviewed and published every five years (section 5 Licensing Act 2003). This review of the policy must be subject to the consultation process again. In addition section 5(4) of the Act provides that the licensing authority must keep its policy under review during each five year period and make appropriate revisions. Again, any revisions must be subject to consultation. Where a special policy relating to cumulative impact, early morning restriction orders or late night levy has been adopted this should be reviewed regularly, and again at least every five years, to assess whether it is needed any longer, or indeed needs expanding (see paragraph 14.20 onwards of the s182 Guidance). It is also important to review any cumulative impact policy to ensure that it has had the intended effect. Licensing authorities are advised to consider the most appropriate time to revise the policy considering the needs of business and balancing that with regulation. We have set out a definition page to explain the terminology we use in this document and this can be found on Pages 3-5 of this policy.

This policy was considered and approved by the Licensing and Regulatory Committee on 23<sup>rd</sup> October 2018 and was adopted by Full Council on 5<sup>th</sup> December 2018.

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## 1.0 Purpose and Scope of the Licensing Policy

- 1.1 The Licensing Act 2003 imposes a statutory duty upon district councils to produce, develop and review a licensing policy. Our Licensing Policy Statement first came into effect on 7<sup>th</sup> February 2005. The Policy was last revised in 2018 and should be revised every five years.
- 1.2 The aim of the policy is to secure the safety and amenity of residential communities whilst facilitating a sustainable entertainment and cultural environment. We recognise both the needs of residents for a safe and healthy environment to live and work and the importance of well-run entertainment premises to the local economy and vibrancy of the district. In addition commercial occupiers have an expectation of an environment that is attractive and sustainable for their businesses.
- 1.3 We are committed to partnership working with the police, fire service, local businesses, licensing trade, health boards, residents and others to achieve this aim.
- 1.4 The Licensing Authority has established protocols with Hertfordshire Constabulary, Trading Standards and the Fire Authority on enforcement issues to ensure an efficient deployment of Police and council officers.

1.5 We would encourage membership of a “Watch” scheme, e.g. Pubwatch, St Albans Business Crime Partnership (St Albans BCP) We would encourage all businesses to invest in staff training and maintain written records of the training.

1.6 This policy provides information and guidance to licence applicants, objectors and any person on our approach to the Licensing Act. Each application will be considered on its own merits. We will consider this licensing policy in making our decision.

1.7 The Licensing Act provides that we have a duty to carry out its functions under the Act with a view to promoting the licensing objectives:

- The prevention of crime and disorder
- Public safety
- Prevention of public nuisance
- Protection of children from harm

1.8 This Policy relates to those licensable activities identified by the Licensing Act, which are:

- **The sale of alcohol by retail**
- **The supply of alcohol to club members and their guests**
- **The provision of regulated entertainment**
- **Late night refreshment**

1.9 “**Regulated entertainment**” is defined as any of the following which takes place in the presence of an audience for the entertainment of that audience and are provided for members of the public or a section of the public or exclusively for the members of a qualifying club and/or their guests or for consideration and with a view to profit:

A performance of a play

An exhibition of a film

An indoor sporting event

Boxing or wrestling

A performance of live music

Playing of recorded music

1.10 There are certain exemptions from this definition which are set out in the Act:

“**Late night refreshment**” is defined under the Act as the supply of hot food or drink to the public or a section of the public on or from any premises whether for the consumption on or off the premises (mobile units included) between 11pm and 5am.

1.11 We expect all applicants for premises licences and club premises certificates to specify the means by which they will promote the four licensing objectives. The application must include an

operating schedule addressing the licensing objectives, in particular with regard to the type of premises, the licensable activities to be provided, the operational procedures, the nature of the location and the needs of the local community. An applicant may volunteer any measure as a step he or she intends to take to promote the licensing objectives. The measures are likely to be incorporated into the licence as conditions and become enforceable under the law.

- 1.12 Where considered appropriate and necessary for the promotion of the Licensing Objectives, the licensing authority may consider attaching conditions. We may consider the [Institute of Licensing Model Pool of Conditions](#) and the [Guidance under Section 182 of the Licensing Act 2003](#)
- 1.13 The operating schedule should contain a dispersal policy if applicable, which sets out the steps which will be taken at the end of the trading session to minimise the potential for disorder and disturbance as customers leave the premise. The policy could include measures to disperse customers over an extended period and ensure customers leave the venue in an orderly fashion and without bottles or glasses.
- 1.14 Certain temporary events are not required to be licensed but can be notified to the Licensing Authority using the Temporary Event Notice procedure. However, depending on the nature and location of such events, these can have serious crime and disorder implications. Organisers of these events are advised to submit their notification 10 working days prior to the event to enable the application to be processed. The Council operates a Safety Advisory Group and Temporary Event Notices may be required to be considered by the Group.
- 1.15 Special occasions such as Bank Holidays, birthday parties and private functions in relation to public houses will usually be dealt with by way of a Temporary Event Notice, unless detailed in the operating schedule.
- 1.16 Whenever security operatives are employed at licensed premises to carry out any security function they must be licensed by the Security Industry Authority (SIA). Competent and professional door supervisors are key to public safety at licensed premises and the provision of door supervisors is an action point for the leisure industry to consider in the Home Office Alcohol Harm Reduction Strategy for England.
- 1.17 If a premises licence holder directly employs security operatives he/she will need to be licensed by the SIA as a supervisor/manager. You should ensure that there are measures in place so you can check the SIA register of licensed door supervisors to ensure your premises and customers are only protected by door supervisors with a SIA licence.
- 1.18 We have got premises licences for appropriate public spaces within the district in our own name. We hold licences for St Peter's Street and the major parks i.e. Verulamium Park, Clarence Park and Rothamsted Park.

## **2.0 St Albans City & District Council**

- 2.1 St Albans City & District Council is situated in the centre of the County of Hertfordshire and is 20 miles from central London with excellent train routes directly into the City. Hertfordshire is the most densely populated county in the UK and St Albans City & District reflects the county trend. The District covers 16,000 hectares, the most populated area in the District is the city of St Albans but there are other significant populations at Harpenden, Wheathampstead, Colney Heath, London Colney and Redbourn. St Albans is Hertfordshire's oldest town, a modern city shaped by over 2000 years of human occupation. The town first appeared as Verlamion. After the Roman conquest of Britain in AD 43, it developed as Verulamium and became one of the largest towns in Roman Britain.



- 2.2 In 1877 it received a Royal Charter giving the town City status and the Abbey Church became a Cathedral. The 20th century has seen St Albans continue to develop as a commuter town while maintaining a distinctive character. The district is now encircled by the M1, M25 and A1 motorways and continues to attract commuters and tourists.
- 2.3 The Council area has a population of 147,000 (Office of National Statistics, Census 2011). The District is one of the least deprived in the country and is ranked 286st (out of 326) on the deprivation index (Department of Communities and Local Government, Index of Local Deprivation 2010). St Albans City & District has a reputation as being an affluent, prosperous and highly qualified area and house prices are among the highest in the UK. The Council area is semi-rural comprising of twenty wards and covers 62 square miles.
- 2.4 The City and District of St Albans is acknowledged for its rich and unique history and as a very attractive location in which to live and work as well as for visitors and tourists. The District has excellent transport links by road and rail and has a thriving local economy in which premises licensed for the sale of alcohol play a prominent part.
- 2.5 The Council recognises that licensed premises are a major contributor to the attractiveness and commercial vibrancy of the district. They attract tourists and visitors, make for vibrant town centres and communities and are a major employer. Without being exhaustive, in considering any licence application the Council will take into account the following factors:
- The positive impact of the proposal in attracting visitors
  - The positive impact on enhancing the attractiveness of the wider area
  - The jobs created
- 2.6 Our vision and commitments provide the over-riding direction for our work and help us to play our part in delivering the District's Sustainable Community Strategy, produced by the Strategic Partnership.

## **Vision and Outcomes**

2.7 The four outcomes we want to see locally are:

- A thriving community;
- A great place to live and work;
- A vibrant economy; and
- A cost effective council.

## **3.0 Duplication**

3.1 We are committed to avoiding duplication with other regulatory regimes and the control measures contained in any conditions sought are already provided for in other legislation, they cannot be imposed in the context of licensing law. It is not intended to duplicate existing legislation and regulatory regimes that already places obligations on employers and operators e.g.

- (a) The Gambling Act 2005
- (b) The Environmental Protection Act 1990
- (c) The Noise Act 1986
- (d) The Clean Neighbourhoods and Environmental Act 2005
- (e) The Regulatory Reform (Fire Safety) Order 2005
- (f) Health and Safety (First-Aid) Regulations 1981
- (g) The Equality Act 2010
- (h) Town and Country Planning Act 1990 (as amended)

## 4.0 Live Music Act and Deregulation Act 2015

- 4.1 The Live Music Act came into force on 1<sup>st</sup> October 2012 and is designed to encourage more performances of 'live' music. The Act removes the licensing requirements for:
- amplified 'live' music between 8am and 11pm before audiences of no more than 500 people on premises authorised to sell alcohol for consumption on the premises
  - amplified 'live' music between 8am and 11pm before audiences of no more than 500 people in workplaces not otherwise licensed under the 2003 Act (or licensed only for the provision of late night refreshment)
  - unamplified 'live' music between 8am and 11pm in all venues
  - the provision of entertainment facilities
- 4.2 Where licensable activities continue to take place on premises, any licence conditions relating to 'live' music will be suspended for the period of time that the premises operate under the Live Music Act. The premises licence will continue to have those conditions on it and they will apply when the premises operate outside the terms of the Live Music Act.
- 4.3 When we consider an application for a review, we can impose new conditions or reinstate existing conditions so those conditions relating to live music do apply at all times. We can impose appropriate conditions relating to live music at a review but not at any other time.
- 4.4 We will consider whether an activity constitutes 'the provision of regulated entertainment' in each case and consider each case on its own merits. We would encourage organisers to check with us as to whether we consider a performance is live music before making arrangements.
- 4.5 Provision of facilities for making music and dancing - The Act removes the need to licence entertainment facilities such as dance floors and pianos etc. that are made available for use by the public.
- 4.6 The Legislative Reform (Entertainment Licensing) Order 2014 and Deregulation Act 2015 deregulated some of the licensable activities under the 2003 Act in addition to the deregulation created by the Live Music Act 2012.
- 4.7 As a result, the following activities are no longer licensable between the hours of 08.00 and 23.00 on any day:
- Performances of plays up to an audience of 500 people;
  - Exhibitions of dance up to an audience of 500 people;
  - Indoor sport up to an audience of 1000 people;
  - 'Not for profit' film exhibitions up to an audience of 500;
  - Playing of recorded music up to an audience of 500 on premises authorised to sell alcohol;
  - Playing of recorded music in a church hall, community hall, or other similar community premises, that is not licensed to sell alcohol, up to an audience of 500 people and the organiser gets consent from the person responsible for the premises;
  - Playing of recorded music at a non-residential premises of a local authority, a school or a hospital up to an audience of 500 people and the organiser gets consent from the local authority or the school or the health care provider for the hospital.
- 4.8 Boxing and Wrestling (with exception for Greco-Roman and freestyle forms of wrestling), Combined Fighting Sports and Adult Entertainment remains a licensable activity irrespective of audience numbers and the time of the event.

4.9 In general terms, the new policy builds upon the partial deregulation brought in by the Live Music Act, extending the range of entertainment activities covered and, in some cases, the maximum audience size allowed. There are also certain exemptions in relation to community venues such as council run halls, schools, hospitals and nurseries.

4.10 Where further deregulation of schedule 1 of the Licensing Act has reduced the regulatory controls on some regulated entertainment activities, the Licensing Authority will expect licensees to ensure that no nuisance or disturbance is caused to local residents and businesses when providing the deregulated activities.

#### **Other Licences:**

4.11 If you have music playing in your premises, music DVDs or you wish to show a film then the following licences may be required:

- PRS (Performing Rights Society) - where you play recorded music
- VPL (Video Performance Licence) - if you show music DVDs without making a charge
- PVSL (Public Video Screening Licence) - allows films to be shown in the background and for you to use your own videos or DVDs
- Single Titles Screening Licence - this is a one off licence to show a film where you are able to advertise the screening and charge an entrance fee
- PPL (Public Performance Licence) - where you play recorded music publicly.

4.12 Under UK copyright law, a venue wishing to play a film in public will generally require the consent (licence) of the copyright owner before doing so. If you are playing films outside your home, you will need to obtain a licence to do so. You must ensure you are showing your films within the law and are screening films legitimately.

## **5.0 General**

5.1 We will normally grant permits for gaming machines (Category D) authorising up to 4 machines. Further details relating to the Gambling Act 2005 can be found in St Albans District Council's Gambling Policy.

5.2 The design, character and layout of licensed premises will influence how easily a premises is able to meet the four licensing objectives.

**Character** – Applications that include provision for amplified music, dance floors, pool tables and gaming machines indicate a certain character and target audience with consequences for the licensing objectives. A small scale, traditional style, well run community public house with a mixed or older age customer base is likely to fulfil the licensing objectives with ease.

**Design** – Good aspects of traditional pub design including room divisions can help attract a more mixed age and varied range of customers who are unlikely to pose any risk to the licensing objectives.

**Layout** – The provision of adequate seating and tables is important in encouraging a mixed age customer base and avoiding overcrowding. The absence of seating and tables may also lead to the faster consumption of alcohol.

## 6.0 Objectives

6.1 The Licensing Act provides that we have a duty to carry out our functions under the Act with a view to promoting the licensing objectives, and each objective is of equal importance:

- The prevention of crime and disorder
- Public safety
- Prevention of public nuisance
- Protection of children from harm

6.2 In addition, the legislation also supports a number of other key aims and purposes. We consider these important and they are principal aims for everyone involved in licensing.

They include:

- Protecting the public and local residents from crime, antisocial behaviour and noise nuisance caused by irresponsible licensed premises;
- Recognising the important role which pubs and other licensed premises play in our local communities by minimising the regulatory burden on business, encouraging innovation and supporting responsible premises;
- Providing a regulatory framework for alcohol which reflects the needs of local communities about the most appropriate licensing strategies for their local area;
- Encouraging greater community involvement in licensing decisions and giving local residents the opportunity to have their say regarding licensing decisions that may impact upon them.

For the purposes of the Act, the following are licensable activities:

- 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 regulated entertainment;
- The provision of late night refreshment.

6.3 The Act provides for four different types of authorisation to regulate the provision of these activities:

**Personal licences** – to sell or authorise the sale of alcohol from premises in respect of which there is a premises licence

**Premises Licences** – to use a premises for licensable activities a premises is defined in the 2003 Act as a vehicle, vessel or moveable structure or any place or a part of any premises.

**Club Premises Certificates** – to allow a qualifying club to engage in qualifying club activities

**Temporary Event Notices** – to carry out licensable activities at a temporary event

6.4 Nothing in this Policy will:

- prevent any person from applying for any permission and we will consider each application on its individual merits
- prevent any person from making representations on any application or applying for a review of a licence or certificate under the 2003 Act.

- 6.5 Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises. Therefore, conditions will not normally impose obligations on the licence holder where it is beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned.
- 6.6 The 'protection of children from harm' licensing objective should be considered in relation to the safeguarding of children and young people in its widest sense. This can also apply to vulnerable adults.
- 6.7 The protection of children from harm requires children and young people to be protected from physical, psychological and moral harm. This includes the issues of the risk of child sex exploitation, vulnerability and anti-social behaviour around licensed premises. In many licensed premises such as hot food takeaways, restaurants, sports venues and off licences young people can enter without an adult, in some licensed premises young people can be employed and these factors and risks should be considered in any application in order to ensure they are protected from any harm.
- 6.8 As a licence holder you can help to ensure staff are aware of safeguarding issues by:
- Identifying and managing any risks at your premises by considering if young people have access to the premises and what is the purpose of that access;
  - Ensuring that staff are aware who and where to report concerns or suspicions;
  - Provide awareness training to all members of your staff on a regular basis on safeguarding issues which may include:
    - Being alert to the possibility of child abuse and neglect;
    - Recognising suspicious, abusive or potentially abusive event or set of circumstances;
    - Knowing who to raise concerns with – which staff member in the premises;
    - Being competent in taking the appropriate immediate or emergency action;
    - Knowing how to make a referral to the appropriate Organisation and/or the Police.

Applicants are encouraged to visit the HSCB website for advice [www.hertssafeguarding.org.uk](http://www.hertssafeguarding.org.uk)

## 7.0 Responsible Authorities

### The Licensing Authority as a responsible authority

- 7.1 We, as the licensing authority, are now included within the prescribed list of Responsible Authorities for the Licensing Act 2003 as set out in the list on page 35 of this Policy. As a responsible authority, we will not make representations on behalf of other parties such as residents, local councillors or local community groups, as they already have the ability to make representations about licensing applications.
- 7.2 We consider that our role as the licensing authority is to ensure that the conditions attached to a licence or certificate are clear, proportionate and enforceable. Therefore we will use our role as a responsible authority to make representations when conditions do not meet this requirement. Where a licence or certificate holder has previously failed to comply with conditions on their permission, we will make representations where we consider the grant of the variation will undermine the licensing objectives.
- 7.3 Where we make a representation it will be submitted by an officer who has not been a part of the administrative process of the application.

- 7.4 Each responsible authority will be treated as an expert in their respective field. We expect all responsible authorities to ensure that their representations are full and complete referring to evidence in support of any claims or assertions made in the representation.
- 7.5 We will expect a responsible authority to make their representation within the 28 days as fully as possible. If the responsible authority wishes to add further detail they can do so providing the representation meets the requirements of the Act and Premises Licence Regulations when submitted.
- 7.6 You should read the [S182 Guidance](#) on representations.

### **Health as a responsible authority**

- 7.7 First-tier local authority Directors of Public Health are now responsible authorities with the ability to make representations against licensing applications.
- 7.8 There is no licensing objective relating to health therefore any representations made by the Public Health Board must consider the promotion of the four licensing objectives.

## **8.0 Licensing**

- 8.1 We will expect businesses to show that they have considered dispersal. We consider it important to avoid large concentrations of customers leaving premises simultaneously or to show how this has been addressed in your operating schedule. This helps to reduce friction at late night food outlets, taxi ranks and other sources of transport, which can lead to disorder and disturbance.
- 8.2 Licensing hours should not inhibit the development of a thriving safe night-time local economy which is important for investment and employment locally and attractive to domestic and international tourists. We will expect you to consider whether conditions are necessary for applications in areas which have denser residential accommodation.
- 8.3 We will consider individual applications on their own merits. Fixed predetermined closing times for particular areas will not form part of the policy. Restriction on trading hours will be considered only where necessary to meet the licensing objectives. There will be a presumption to grant the hours requested unless there are objections to those hours raised by responsible authorities or the public on the basis of the licensing objectives.
- 8.4 The commercial demand for additional premises licences (as distinct from cumulative impact) will not be a matter for us as the licensing authority. These are matters for the local planning authority and market demand.
- 8.5 We will normally expect to grant shops, stores and supermarkets permission to provide sales of alcohol for consumption off the premises at any time when the premises is open, unless there are good reasons for restricting those hours. It may be appropriate for us to restrict the sale of alcohol where we have received representations about crime and disorder issues, e.g. street drinkers.
- 8.6 We recognise that flexible licensing hours for the sale of alcohol can help to ensure that concentrations of customers leaving premises simultaneously are avoided. Unreasonable, repetitive, frivolous and vexatious representations will be disregarded. Representations from competitors that suggest restriction on hours because further facilities for the sale of alcohol are not “needed” will be disregarded.
- 8.7 We will not take ‘need’ into account when considering an application.

## 9.0 Strategies and Partnership working

9.1 There is a continued emphasis on working between the Police, the Environmental Health Authority and the Licensing Authority.

### Equal Opportunities

9.2 The Equality Act 2010 places a legal obligation on public authorities to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; to advance equality of opportunity; and to foster good relations, between persons who share a relevant protected characteristic and persons who do not share it. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

9.3 We will therefore consider this responsibility when imposing conditions on licences so as to ensure that they could not directly or indirectly lead to discrimination.

### Pre-application considerations

9.4 The licensing process does not always allow applicants to fully explain their proposals, leading the public and responsible authorities to misunderstand what is being proposed. This can lead to representations being made and it is only at the licensing hearing that it becomes clear what is being proposed. We would strongly encourage applicants to hold pre-application discussions with us, responsible authorities and local residents or businesses before submitting applications.

9.5 We will work in partnership with the nominated responsible authorities, (see the list of responsible authorities on page 35), the Police and Crime Commissioner, Directors of Public Health, and our partners within the Community Safety Partnership to promote the objectives of the Licensing Act and other local and national strategies and initiatives.

9.6 The licensing authority will consider each application on its own merits.

9.7 PubWatch has been developed to enhance the security of customers and staff for all types of premises so that they can safely enjoy the facilities offered by the Trade. We take an active part in the scheme and will work with all licence holders to continue to promote a safe and vibrant district.

9.8 We will support the use of the PASS schemes in conjunction with Trading Standards.

9.9 We must have regard to the **Crime & Disorder Act 1998** and the likely effect of the exercise of our functions. We will do all that we can to prevent crime and disorder in our area. We will have particular regard to the likely impact of licensing on related crime and disorder in the district particularly when considering the location, impact, operation and management of all proposed licence/certificate applications, renewals and variations of conditions.

9.10 The Anti-Social Behaviour Crime and Policing Act 2014 is designed to provide local authorities and the police with a wider, more flexible range of powers to meeting existing responsibilities and respond to the needs of their communities. The Act provides powers and sanctions to deal with serious anti-social behaviour including the immediate closure of licensed premises causing a public noise nuisance.

9.11 Care will be taken to ensure that where there is an overlap between the licensing regime and other statutory regulatory systems, duplication will be avoided and control exercised through the most appropriate system.

- 9.12 **Planning** permission is usually required for the establishment of new premises and the change of use of premises. Planning permissions that are relevant to licensed premises include:
- A retail shop, licensed for the sale of liquor for example (A1)
  - A use for the sale of food or drink for consumption on the premises (A3)
  - A use as a public house, wine bar or other drinking establishment (A4)
  - A hotel that has a restaurant or bar (C1)
  - A use for the sale of hot food for consumption off the premises (A5)
  - Assembly and leisure uses, including cinemas, concert and indoor/outdoor sports and recreation (D2)
  - A hotel that has a restaurant or bar included in its authorised use (C)
- 9.13 All premises that have a premises licence or club certificate must also have authorised planning permission. They must also comply with all conditions of that planning permission, or be deemed permitted development pursuant to the Town and Country Planning (General Permitted Development) (England) Order (2015).
- 9.14 Under the current use classes Order, planning permission is generally required if the use of existing premises changes use class. For example, planning permission would be required for a change from a shop (A1) to a restaurant (A3) or bar (A4). When applying for planning permission we, acting as local planning authority, will consider the potential impact from the proposed use within the context of the local development plan and relevant government guidance. Planning permission is not required if the use of existing premises changes to a use within the same use class.
- 9.15 The Licensing and Planning regimes are separate and distinct regulatory functions. Any restrictions on the planning permission are not relevant to the determination under the Licensing Act. However, we would recommend that applicants discuss any restrictions on their permission with the Local Planning Authority. The Local Planning Authority encourages applicants to seek pre-application advice.
- 9.16 The **Health and Safety at Work Act 1974** (and other relevant statutory provisions) impose duties on employers, employees and persons in control of premises to prevent where possible or minimise the risk of injury or ill health to people affected by work activities or the condition of the premises. Local authorities are the enforcing authority for the majority of premises on which licensable activities are carried out, with the Health and Safety Executive being responsible for some other premises.
- 9.17 There are general duties, for example risk assessment under the Management of Health and Safety at Work Regulations 1992, but these may not adequately cover specific issues which arise from licensable activities such as the provision of regulated entertainment. Licensing objectives overlap with health and safety requirements in so far as the licensing objective for public safety requires businesses to consider risks on their premises.
- 9.18 The **Environmental Protection Act 1990** places a duty on local authorities to investigate complaints of nuisance which include noise, and take enforcement action where a statutory nuisance exists. The Licensing Act provides the power for the police to temporarily close licensed premises to prevent nuisance to the public as a result of disorder from the premises. The Anti-Social Behaviour Crime and Policing Act gives Environmental Health Officers and the police powers to close noisy premises. Joint working procedures or protocols between Environmental Health Officers, police and licensing staff will ensure that these control measures are properly used to protect the local environment.



- 9.19 Local Authorities have powers to require owners/occupiers of premises to keep the area adjacent to their street frontages free from **litter**. Notices may be issued under section 93 of the Environmental Protection Act 1990 and the Environmental Compliance Officers would normally exercise these powers.
- 9.20 Where a premises conforms to current **fire safety** standards the Licensing Authority need not attach conditions to any licence or certificate. We work with fire authorities to ensure that the public is properly protected. We only add conditions to the premises licence or certificate where it is necessary to promote the licensing objectives.
- 9.21 The **Equalities Act 2010** 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.
- 9.22 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 Council will have particular regard to the following relevant provisions of the European Convention on Human Rights:
- Article 1 - of the First Protocol that every person is entitled to the peaceful enjoyment of his or her possessions, including for example the possession of a licence
  - Article 6 - that in the 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 home and private life
- 9.23 We have adopted a policy that there can be no **sexual entertainment** venues in the district. This resolution was made by the council on 15<sup>th</sup> September 2010 under the Local Government (Miscellaneous Provisions) Act 1982, as amended by the Policing and Crime Act 2009.
- 9.24 The [Regulators' Code](#) under the Legislative and Regulatory Reform Act 2006 should be considered as part of the Licensing process. The Code came into statutory effect on 6 April 2014 and the GOV.UK website described it as providing "[a clear, flexible and principles-based framework for how regulators should engage with those they regulate](#)".

## 10.0 Cumulative Impact

10.1 We do not currently have any cumulative impact zones in the district. However, we recognise that the cumulative impact of the number, type and density of licensed premises in a given area may lead to serious problems of nuisance and disorder outside and some distance from the premises. Responsible authorities or members of the public can make representations that an area has become saturated with premises making it a focal point for groups of people to gather creating exceptional problems of disorder and nuisance beyond the impact from the individual premises. In those circumstances we would consider whether there is evidence to support the implementation of a cumulative impact zone.

10.2 Other mechanisms are available to deal with cumulative effect. For example:

- Planning controls

- Partnership working with the Police, the Trade and others to create effective dispersal strategies such as CCTV surveillance, ample taxi ranks, public conveniences, street cleaning and litter patrols
- Police enforcement concerning disorder and anti-social behaviour including the issuing of fixed penalty notices
- The prosecution of personal licence holders or members of staff who sell alcohol to people who are drunk
- Designated places where alcohol consumption can be restricted if necessary to prevent disorder [Public Space Protection Orders can be used (PSPO)]
- Police powers to close for up to 24 hours any licensed premises or temporary event on grounds of disorder, the likelihood of disorder or noise emanating from the premise causing nuisance
- the power of the police, other responsible authority, or a member of the public to seek a review of the licence in question

## 11.0 Early Morning Restriction Orders (EMRO)

- 11.1 The power for licensing authorities to introduce an EMRO is specified in sections 172A to 172E of the 2003 Act which was amended by Section 119 of the Police Reform and Social Responsibility Act 2011. These provisions came into force on 3<sup>rd</sup> October 2012.
- 11.2 Regulations prescribing the requirements in relation to the process for making an early morning restriction order (EMRO) were brought in force on 3<sup>rd</sup> October 2012.<sup>1</sup>

Guidance<sup>2</sup> has been introduced in relation to:

- the EMRO process
- the evidence base
- introducing an EMRO
- advertising an EMRO
- dealing with representations
- hearings
- implementation
- limitations
- enforcement

- 11.3 The legislation gives licensing authorities discretion to restrict sales of alcohol by introducing an EMRO to restrict the sale or supply of alcohol to tackle high levels of alcohol related crime and disorder, nuisance and anti-social behaviour. The order may be applied to the whole or part of the licensing authority area and if relevant on specific days and at specific times. We must be satisfied that such an order would be appropriate to promote the licensing objectives.
- 11.4 The only exemptions relating to EMROs are New Year's Eve and the provision of alcohol to residents in premises with overnight accommodation by means of mini bars and room service. The decision to implement an EMRO should be evidence based and we will outline the grounds

<sup>1</sup> <http://www.legislation.gov.uk/ukxi/2012/2551/made/data.pdf>

<sup>2</sup> <https://www.gov.uk/government/publications/early-morning-alcohol-restriction-orders>

which we will take into consideration when considering implementation of an EMRO. This will include consideration of the potential burden imposed as well as the potential benefits.

11.5 We will consider amending references to hearings in our policy to reflect any procedural changes outlined in regulations. We may also include a map or maps of proposed EMRO areas. The function of making, varying or revoking an EMRO is specifically excluded from the delegation of functions so that it cannot be delegated to the Licensing Committee. The decision will be made by Full Council.

11.6 EMRO can only be imposed between midnight and 06:00 hours.

## 12.0 Making an application – what you should consider

12.1 All the relevant information about how to make an application is available on the council website. A [full list of responsible authorities](#) and their appropriate contact details together with all relevant application forms and guidance are all available on the council's website.

Online applications can be made through the council's website using the government's [GOV.UK](#) portal.

### Premises Licences and Club Premises Certificates

12.2 A premises licence or club premises certificate is required where regulated activities are regularly taking place. An application for a premises licence or club premises certificate must be made in the prescribed manner and include a scale plan of the premises and the relevant fee. Applications for a club premises certificate should include a copy of the club rules. The application forms for premises licences and club premises certificates (new and variations) require the applicant to set out in their operating schedule the additional steps they will take to promote the four licensing objectives. Any information contained within the operating schedule will be converted into enforceable conditions on the licence and this will occur even where there is no hearing.

### Advertising

12.3 Applicants must comply with the Licensing Act 2003 Regulations when advertising their applications for a premises licence, club premises certificate or variation. This means displaying a brief summary of the application on a blue A4 sized notice immediately on or outside the premises from the day after the day the application is submitted to us continually for 28 days. If the application is made electronically we will notify the responsible authorities, otherwise you must copy it to all responsible authorities. A notice must also be published in a local newspaper circulating in the area in which the premises are situated. This must appear in the newspaper on at least one occasion within 10 working days of submitting the application to us. Please use [our guidance](#) to ensure you meet the requirements.

12.4 If the details contained in the notice are incorrect or you fail to display the notice continually at your premises we may require you to extend the consultation period.

12.5 Details of all new applications, variations and reviews are set out on the council's website together with agendas for hearings.

### Plans

12.6 Where appropriate, the plan for the premises should be included as part of the application and a copy sent to the responsible authorities. Plans do not need to be to any particular scale, but they

must be in a format which is 'clear and legible' in all material respects and will usually be at least a scale of 1:100. They must be clear and provide sufficient detail for us to be able to determine the application.

12.7 There is no requirement for plans to be professionally drawn as long as they clearly show all the prescribed information:

- (a) the extent of the boundary of the building, if relevant, and any external and internal walls of the building and, if different, the perimeter of the premises;
- (b) the location of points of access to and egress from the premises;
- (c) if different from (b), the location of escape routes from the premises;
- (d) in a case where the premises is used for more than one existing licensable activity the area within the premises used for each activity;
- (e) in a case where an existing licensable activity relates to the supply of alcohol, the location or locations on the premises which is or are used for consumption of alcohol;
- (f) fixed structures (including furniture) or similar objects temporarily in a fixed location which may impact on the ability of individuals on the premises to use exits or escape routes without impediment;
- (g) in a case where the premises includes a stage or raised area, the location and height of each stage or area relative to the floor;
- (h) in a case where the premises includes any steps, stairs, elevators or lifts, the location of the steps, stairs, elevators or lifts;
- (i) in a case where the premises includes any room or rooms containing public conveniences, the location of the room or rooms;
- (j) the location and type of any fire safety and any other safety equipment; and
- (k) the location of a kitchen, if any, on the premises.

## **Beer Gardens**

12.8 You will want to consider whether you might want to use a garden or other outdoor space as a location from which alcohol will be consumed. You should consider how your beer garden will operate when you prepare your plan. If you intend to sell drinks from an outside bar, you must ensure you incorporate the garden on the plan. You should read the s182 Guidance on [beer gardens](#) at paragraphs 8.35 to 8.37.

## **Serving Applications on Responsible Authorities**

12.9 New applications or applications to vary premises licences or club premises certificates must be made to us in writing with copies and any supporting documentation to be served on each of the responsible authorities. This can be carried out either electronically or by post.

## **Public Register**

12.10 We are required to produce a [public register](#) containing details of the applications that have been made and this can be found on our [website](#).

## **Vicinity**

12.11 The Police Reform and Social Responsibility Act 2011 amended the Licensing Act 2003 to mean that any person may make a representation about a premises licence or club premises certificate application. They no longer need to establish that they live or work near to the premises. The representation must, however, be relevant to at least one of the licensing objective and must not be frivolous or vexatious.

12.12 In making a decision as to what weight to attach to a relevant representation, we may consider whether the individual is likely to be directly affected by disorder or disturbance occurring or potentially occurring on those premises or immediately outside the premises. In other words, it is the impact of issues relating to the four licensing objectives that is the key consideration. However, each representation will be judged on its own merit.

### **Deliveries of alcohol**

12.13 Steps should be in place to ensure that any designated premises supervisors (and members of staff involved with the delivery of alcohol) to residential addresses are made fully aware of their responsibilities to ensure that no alcohol is sold or delivered to persons under the age of 18. Any delivery of alcohol to anybody who appears to be under the age of 25 will trigger a request for evidence of proof of age. If proof is not provided, or if there is any doubt about the I.D., the delivery of alcohol should be refused.

### **Late Night Refreshment**

12.14 The Deregulation Act 2015 inserted paragraph 2A of Schedule 2 to the 2003 Act gives licensing authorities power to exempt premises, in certain circumstances, from the requirement to have a licence to provide late night refreshment. The provision allows licensing authorities such as us to choose to apply an exemption specifically where we consider it will be helpful to businesses, and there are no issues such as antisocial behaviour.

12.15 The provisions allow a relevant licensing authority to exempt the supply of late night refreshment if it takes place:

- on or from premises which are wholly situated in a designated area;
- on or from premises which are of a designated description; or
- during a designated period (beginning no earlier than 23.00 and ending no later than 05.00).

For more information about this provision, you should read the s182 Guidance (paragraphs 3.21 to 3.33).

12.16 We have not implemented this provision so there are no exemptions to the requirement to be licensed to carry out late night refreshment in this District.

## **13.0 Late night levy**

13.1 The late night levy does not fall within the Licensing Act. However, in the future we may consider a levy and therefore we have set out some details about late night levies.

13.2 The legislative provisions relating to the late night levy are not part of the Licensing Act 2003 but are contained in sections 125 to 139 of the Police Reform and Social Responsibility Act 2011. The provisions came into force on 31<sup>st</sup> October 2012.

13.3 There are also Regulations in force setting out the way in which the levy must be applied; they way it will be administered, as well as arrangements for expenses, exemptions and reductions. There is also Guidance which sets out:

- implementing the levy and the consultation process
- the design of the levy
- exemptions from the levy
- reductions in levy charges
- how revenue raised from the levy may be spent
- the levy charges
- the levy collection process

- 13.4 We will have discretion as to whether we exempt certain premises but these can only be the types of premises set out in paragraphs 1.23 to 1.33 of the Guidance on the Late Night Levy. We also have discretion whether to reduce the amount of the levy by 30% for premises which participate in business-led best practice schemes [Guidance on the Late Night Levy, paragraphs 1.34 to 1.38].
- 13.5 Any revenue from the levy must be split between us, as the licensing authority, and the Police, with at least 70% of the 'net' levy (after expenses) paid to the Police. The Late Night Levy Guidance suggests at paragraph 1.41 that we may wish to use existing partnership arrangements with the Police to ensure that the police intentions for the share of the levy revenue paid to them are genuine.
- 13.6 These new powers enable us to charge a levy in relation to persons who are licensed to sell or supply alcohol late at night as a means of raising a contribution towards the costs of policing the night-time economy. It is a 'local' power that we can choose whether or not to exercise. Any decision to introduce, vary or cease the requirement for a levy has to be made by the full council. Other decisions in relation to how the levy is administered may be subject to delegation.

**We do not anticipate introducing a late night levy at present. However we intend to continue partnership working with premises licence holders who operate venues with the longest opening hours so that they can contribute towards funding for initiatives to help dispersal e.g. taxi marshals.**

## 14.0 General Enforcement Statement

- 14.1 All decisions and enforcement action taken by us will have regard to the relevant provisions of the Licensing Act 2003, s182 Guidance, the enforcement policy of the Council and to the Regulators Compliance Code.
- 14.2 We will establish and maintain both proactive and reactive enforcement protocols with the local police and other enforcement agencies. Protocols will provide for the proportionate targeting of agreed problem and high-risk licensed activities needing greater attention and a corresponding lighter touch for well run, lower risk premises in the area.
- 14.3 We believe that proportionate but vigorous enforcement will be a key element in ensuring the successful implementation of the licensing regime and that the four licensing objectives are met. We intend to use our powers under the Licensing Act 2003 and other relevant legislation to ensure a proper balance is struck between the interests of the licensed trade and of the wider community.
- 14.4 We will use a graduated form of response expected to resolving issues of non-compliance, including an action plan, although we recognise that in serious cases a prosecution or a review application will be the appropriate action.

## 15.0 Children

- 15.1 The Licensing Act 2003 does not prevent children having free access to premises selling alcohol for consumption on those premises including cafes, pubs, night clubs, hotels, theatres, cinemas, restaurants, village halls, schools and colleges. The Act requires children under 16 to be accompanied at all times on premises such as pubs and bars. Children under 16 can be unaccompanied in restaurants, cafes and other premises (where the main purpose of the premises is not the sale of alcohol) up to midnight and then again after 05:00 hours. Outside of

these provisions, we will not seek to limit the access of children to any premises unless it is necessary for the prevention of physical or psychological harm. In all other cases it will be left to the discretion of the premises licence holder, club certificate holder or other relevant person.

15.2 Each application will be considered on its own merits. Where there are matters that give rise to serious concerns and suitable conditions cannot address those concerns we will consider refusing an application.

15.3 Examples which may give rise to concerns in respect of children include:

- Where there have been convictions for serving alcohol to children
- Where there is a reputation for underage drinking
- Where there is a strong element of gambling on the premises
- Where entertainment is provided of a sexual nature

### **Age Verification**

15.4 It is unlawful for children under 18 to attempt to buy alcohol, just as it is unlawful to sell or supply alcohol to them. The mandatory conditions require all premises selling or supplying alcohol to have an age verification scheme in place.

15.5 The mandatory condition on all premises licensed to sell alcohol requires them to have adequate age verification systems in place. This could be through the use of a Challenge 25 scheme i.e. 'challenging anyone who looks under 25 to prove their age by use of an approved means of identification'; such a scheme to be advertised and enforced on the premises.

15.6 Licensees should be able to demonstrate that their staff receive regular and adequate training on the law and practice relating to age restricted sales (including challenging purchasers and checking identification). Any training you provide to prevent the sale of alcohol to underage people should be recorded in a properly documented training log.

15.7 The following are examples of identification used:

- Passport
- Photo-card driving licence
- PASS card

### **Conditions relating to children/under 18s**

15.8 We will not impose any conditions that specifically require the access of children to be permitted to a premises. Where no conditions or restrictions are imposed, the issue of access for children still remains a matter of the discretion of individual premises. You will have the mandatory age verification condition on your licence.

15.9 Where a premises is used for film exhibitions, we will expect the premises to restrict access in line with any certificate granted by the British Board of Film Classification or the Council itself. You should consider the section on Film Licensing in this Policy.

15.10 The Safeguarding Board are the responsible authority for advising on protecting children from harm and you should consider the section on Safeguarding at paragraph 6.8.

15.11 Additionally, when a retailer refuses the sale of alcohol this should be recorded in a 'refused sales log/book'. This log/book should contain the date and time of the incident, a description of

the customer, the name of the staff member who refused the sale, and the reason the sale was refused. These documents should be kept available for inspection by a police officer or authorised officer of the licensing authority.

## 16.0 Conditions

- 16.1 Licensing is about the regulation of licensed premises, qualifying members' clubs and temporary events. We may only impose conditions on premises licences and club premises certificates when we are considering an application for grant, variation or review and then only in two circumstances: firstly where the applicant volunteers them as part of their operating schedule; and secondly on receipt of relevant representations from potentially affected members of the public or responsible authorities, which the licensing authority accepts as being relevant.
- 16.2 The Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010 SI 2010/860 introduced new mandatory conditions as part of a revision to s.19 of the Act in 2010. The Council will not be re-issuing all existing licences so as to include these conditions as the s.182 Guidance has confirmed at paragraph 10.53 that this is not necessary. The conditions will apply automatically to all premises licences and club premises certificates that authorise the sale or supply of alcohol for consumption on the premises. Only condition 4 of SI 2010/860 will apply to premises licensed for the sale or supply of alcohol for consumption off the premises.
- 16.3 Condition 1 of SI 2010/860 refers to 'irresponsible drinking promotions' in relation to the retail sale of alcohol for consumption on the premises. When we consider this issue, we will have regard to the s182 Guidance and the Home Office publication [Selling Alcohol Responsibly: The New Mandatory Licensing Conditions, dated April 2010](#). Whilst the Home Office publication makes it clear that certain promotions will no longer be permissible, such as 'all you can drink for £10', the Licensing Authority will consider the merits of each promotion, whilst being mindful that for a promotion to be considered irresponsible, it must be a promotion that carries significant risk of leading or contributing to crime and disorder, prevention of public safety, causes a public nuisance or exposes children to harm.
- 16.4 The s182 Guidance contains a model pool of conditions. You are not required to use these conditions but you may find it helpful to do so. Conditions will only be attached to premises licences or club premises certificates where they are reasonable, proportionate, enforceable and relevant to the premises. They should focus on matters within the control of the individual licence holder or premises user (for temporary event notices). **Conditions will be tailored to the type of operation and specific characteristics of the individual premises.**
- 16.5 Where no representations have been received, we must grant the authorisation as set out in the application.  
Any conditions should be:
- clear
  - enforceable
  - evidenced
  - proportionate
  - relevant
  - be expressed in plain language capable of being understood by those expected to comply with them.
- 16.6 If you are a **community premises** such as a church or village halls you can now apply to remove the mandatory conditions in section 19(2) and (3) of the Licensing Act 2003. These conditions stated that you must have a designated premises supervisor (DPS) who is a personal licence holder to authorise every supply of alcohol. This can be removed and replaced with a requirement for a management committee responsible for the supply of alcohol. A management



committee of a community, church or village hall can apply for the removal of the conditions from an existing licence, or apply for a licence that does not include these conditions. There are three types of application that can be made:

- an application to replace the requirement to have a DPS with the alternative licence condition for an existing premises licence to supply alcohol.
- a new application for a premises licence including the supply of alcohol under the alternative licence condition.
- an application to vary an existing premises licence to add the supply of alcohol under the alternative licence condition

16.7 You should read the [Community Premises Guidance](#).

## 17.0 Film Licensing

17.1 We have outlined here our general approach to classifying films on request. Before release, the British Board of Film Classification (BBFC) examines and age rates films. However, we are the classification body for films shown in the District and as such, we have the right to issue film classifications to films upon request. Films may be shown in any premises (for example cinemas) when permitted by the premises licence.

17.2 The purpose of a film classification is to protect children from unsuitable and harmful content and to give consumers information they might need about a particular film.

17.3 If you wish to request a film classification from us, you must submit an application in writing within 20 working days of the first screening date. If the film(s) is not submitted correctly within 20 working days, there can be no guarantee that it will be classified before the first screening date. We may agree to accept applications received outside of 20 working days but you will be expected to explain the delay.

17.4 You must also submit a full copy of the film on DVD in a format that can be viewed without the need for specialist equipment or computer software. If a DVD cannot be submitted with the application, you must arrange for us to view the film at a suitable time and venue.

17.5 If the film to be classified is either partly or entirely in a foreign language, then there must be a subtitled track for all non-English speaking sections. We reserve the right to employ an independent interpreter, at your cost, to verify the accuracy of the subtitles if there is any doubt that the subtitles are a true account of the words spoken.

17.6 The Business Compliance Manager, and a Business Compliance Officer, and if necessary the Regulatory Solicitor, will view the film or DVD all the way through and recommend an age rating and insight to each one. We will apply the standards and criteria contained in the BBFC Classification Guidelines. We will record our reasons and provide you with a copy.

## 18.0 Making a representation

18.1 Responsible authorities and 'any other person' may make representations on applications for premises licences or club premises certificates, or variations of such licences. The representation must be relevant to at least one of the four licensing objectives and relate to the specific premises. Only the police can make a representation to the transfer of a premises licence, variation of a Designated Premises Supervisor or a personal licence. Both Environmental Health and the Police can object to a Temporary Event Notice (TEN) under any of the licensing objectives.

18.2 Representations must be made in writing and must be received by us within the statutory consultation period (28 days). We do not have to consider any representations received after the end of consultation but we have discretion to consider late representations [[Belfast City Council v Miss Behavin' Limited \(2007\)](#)]. We do not normally consider late representations so you are encouraged to submit your representations as soon as possible and in any event within the 28 day consultation period.

18.3 Representations about an application may be in support of the application or objecting to the application. We have a template available [here](#).

## 19.0 Licence Reviews

19.1 Any responsible authority or other party may make an application for review in respect of any licence or certificate where one or more of the licensing objectives are not being promoted. Anyone seeking to apply for the review of a licence is advised to contact the Licensing Team for advice on the application process.

19.2 With the exception of applications for review from responsible authorities, we will not normally consider more than one application in any 12 month period for the review of a licence on the same or similar grounds.

19.3 We have delegated the function of determining whether requests for reviews should be rejected on the grounds that they are frivolous, vexatious or repetitive to designated officers.

19.4 We would recommend that anyone applying for a review consider the [S182 Guidance](#) at Chapter 11.

## 20.0 Minor Variations

20.1 You can apply to vary the terms of your premises licence or club premises certificate through the Minor Variation process. The test for whether a proposed variation is 'minor' is whether it could impact adversely on any of the four licensing objectives. Such changes could include:

- small changes to the structure or layout of a premises,
- removals or additional conditions,
- the addition of permission for late night refreshment or regulated entertainment
- some changes to opening hours

20.2 Variations to extend licensing hours for the sale or supply of alcohol between the hours of 23:00 and 07:00 or to increase the amount of time on any day during which alcohol may be sold or supplied must be made as a full variation.

20.3 You must display a white notice on the premises in accordance with regulation for a period of '10 working days'. The application must be on the prescribed form with a plan, if applicable.

20.4 You are not required to advertise the variation in a newspaper or copy it to all responsible authorities and it attracts a lower fee than for a full variation.

20.5 We must consider whether the variation could impact adversely on the licensing objectives and if so, we can consult any of the responsible authorities we deem necessary. Decisions on Minor Variations are delegated to licensing officers at this authority as recommended by the Government.

20.6 We normally consider extensions to bar areas or adding additional bar areas as increasing the provision for the sale of alcohol and therefore you should use a full variation application.

## 21.0 Failure to pay Annual Fees - Licence Suspensions

21.1 The Police Reform and Social Responsibility Act 2011 amended the Licensing Act 2003 to allow us to suspend licences and certificates. We **must** suspend premises licences or club premises certificates when the annual fee is not paid.

21.2 Where an annual fee is not paid we will write to tell you that you have a period of 21 days from the date the fee became due to pay the outstanding fees. The period of 21 days exists so as to allow for resolution as to a dispute, or as a result of an error. After this period the licence or certificate will be suspended. We will not send any further warning letters.

21.3 We will write to the licence holder advising you of the suspension and tell you the date on which the suspension will take effect. This will be 2 days after the day the notice is given.

21.4 Where a licence is suspended this means that no licensable activities can be provided at the premises until the suspension is lifted. We will conduct enforcement visits to premises where a licence has been suspended and will take the appropriate action in accordance with our enforcement policy.

21.5 We will also notify Hertfordshire Constabulary and the relevant responsible authorities as defined under the Act.

21.6 The lifting of a suspension will only take place from the day on which we receive the payment of the outstanding fee/fees. In all instances, we shall confirm that the suspension has been lifted in writing the following working day after the payment has been received. Notification will also be provided to Hertfordshire Constabulary, and the relevant responsible authorities as notified at the time the suspension notice was given.

**Please note it is a criminal offence under section 136 of the Licensing Act 2003 to carry out or attempt to carry out licensable activities without permission i.e. once your premises licence or club premises certificate are suspended.**

## 22.0 Temporary Event Notices

22.1 A temporary event notice [TEN] is a quick way to obtain temporary permission to carry out licensable activities. A TEN is required to be given for the use of a premises or an area for one or more licensable activities which may involve the sale of alcohol, regulated entertainment or late night refreshment (LNR) which are not authorised by a Premises Licence or Club Premises Certificate.

22.2 TENs are often given for premises not currently covered by a premises licence or club premises certificate. They can also be used to extend the hours of premises or clubs that currently have permissions. TENs can be used by individuals to authorise relatively smallscale ad hoc events held in or on any premises involving no more than 499 people at any one time, including any staff, organisers or performers and lasting for no more than 168 hours (7 days).

22.3 A maximum of fifteen TENs can be submitted each calendar year for any premises. One premises can operate its business under TENs for a maximum of 21 days in a calendar year.

- 22.4 The most important aspect of the system of permitted temporary activities is that no authorisation as such is required for these events from the Licensing Authority. The process involves notification of an event to the Licensing Authority, the Police and the Environmental Health Authority. Only the Police and Environmental Health may object to prevent such an event from taking place. In this circumstance the Licensing Authority will either modify the notice in agreement with all parties or serve a Counter Notice which means the event cannot take place. For more information please see Chapter 7 in the [s182 Guidance](#).
- 22.5 The Licensing Authority may serve a Counter Notice, if the limit on numbers of events is exceeded. Otherwise, the Licensing Authority is only required to issue a timely acknowledgement.
- 22.6 The limits set out above apply to the standard TEN and the late TEN.
- 22.7 For a **Standard TEN**, the premises user must submit the TEN, no later than 10 clear working days before the day on which the event is to start. In calculating the 10 clear working days you should exclude the day the notice is served and the first the day of the event. Please remember that Bank Holidays are not working days for these purposes. The standard TEN should have with it the [prescribed fee](#). You should also send a copy on the same day to the Police and another to Environmental Health Authority. The Police and/or Environmental Health may submit an objection notice if they consider that by allowing the event to take place at least one licensing objective would not be met.
- 22.8 Where the Police or Environmental Health object they will serve an objection notice on you. You can then discuss the event and agree modifications to address their concerns. If no agreement is reached, we will hold a hearing to consider the objection.
- 22.9 Where an objection is received and the TEN is in connection with licensed premises, the Licensing Sub Committee may impose one or more of the existing licence conditions. Conditions can **only** be imposed on the TEN where they already exist on the premises licence or the club premises certificate. The Act requires the conditions to be appropriate for the promotion of the licensing objectives **and** not inconsistent with the carrying out of the licensable activities.
- 22.10 There are also '**Late**' **TENs** which can be served **between** 9 and 5 clear working days before the day on which the event is to start and not including the day of the event. In calculating the clear working days you should exclude the day the notice is served and the first the day of the event. Please remember that Bank Holidays are not working days for these purposes. If there is an objection from either the Police or Environmental Health, the event will not go ahead because there is no ability to hold a hearing or agree modifications.
- 22.11 The Council have an established 'Safety Advisory Group' (SAG) comprising of representatives from the emergency services and other statutory agencies. This Group advise and coordinate planning for public events in the district whether or not a premises licence or a temporary event notice is needed. Anyone planning for a large event should discuss it with the licensing officer, who will refer the event to SAG if necessary.

*We recommend that you provide as much notice as possible for any event you intend to hold under a TEN. You should ensure that you provide as much specific detail about the nature of your event as is possible on the TEN.*

## Large events and events attended by over 5,000 persons

- 22.12 Organisers of large events are strongly advised to contact the Council's Community Services Team for advice at the earliest opportunity when planning events. Where necessary, the advice of the 'Safety Advisory Group' can be obtained, or discussions held with the Police and Environmental Health to avoid any unnecessary objections being made that may arise from misunderstandings or confusion as to what is being proposed.
- 22.13 Organisers of festivals or concerts who require a temporary time limited premises licence are strongly advised to contact the Licensing Authority and Community Services at least 6 months prior to the event taking place. Whilst a premises licence could be granted after 28 days of the application being served, applicants should be aware that the processing time for an application that has received relevant representations can be up to 2 months. Organisers should also have early discussions with responsible authorities such as the Police, Environmental Health and Fire Protection.

## 23.0 Personal Licences

- 23.1 An individual who wishes to be a designated premises supervisor (DPS) will need to obtain a personal licence. This gives the individual the ability to authorise the sale of alcohol in accordance with the terms of the premises licence.
- 23.2 An application for a personal licence is made by an individual to the Licensing Authority for the area in which the applicant normally lives at the time they apply. Thereafter, this Licensing Authority becomes the "Relevant Licensing Authority" for that licence, even though the licence holder may move out of the area or gain employment elsewhere.
- 23.3 Completed application forms must be sent to us with the following:
- the [relevant fee](#)
  - an original or a certified copy of the licensing qualification
  - the Disclosure certificate
  - a declaration in respect of criminal convictions for relevant or foreign offences
  - two recent passport sized photographs should be submitted. One of which is endorsed with a statement verifying the likeness of the photograph to the applicant by a solicitor, notary, person of standing in the community or any individual with a professional qualification.
  - copies of a document or documents which demonstrate the applicant's right to work in the UK.
- 23.4 The Licensing Authority will grant a personal licence if it appears that:
- the applicant is over 18;
  - the applicant possesses a relevant licensing qualification;
  - the applicant has not forfeited a personal licence in the previous five years beginning with the day the application was made;
  - the applicant has not been convicted of any relevant offence as defined in the Act;
  - the appropriate fee has been paid.
- 23.5 Where you have relevant unspent convictions for a relevant, or foreign or immigration offence or has been required to pay an immigration penalty, we will supply a copy of your application to the Hertfordshire Constabulary. The police can object to the application on crime prevention grounds, and they will serve you a notice if they want to object. You are entitled to a hearing before the Licensing Sub-Committee where you can bring with you evidence to support your application.

- 23.6 If your application is refused, you will be entitled to appeal to the Magistrates' Court against the decision. If your application is granted despite a police representation, the Chief Officer of Police is entitled to appeal against the Licensing Authority's determination. We will therefore record full reasons for any decision that the Committee make.
- 23.7 Once you are a personal licence holder you have a duty to notify the Licensing Authority that granted your licence of any changes to your personal details i.e. change of address or name. If you are charged with any relevant offence you have a duty to inform the court that you hold a personal licence. You must notify us if you lose your licence or if it is stolen.
- 23.8 There is now no requirement to renew your licence. As a result a personal licence will no longer have an expiry date. Once granted it will remain in force unless it is revoked or suspended.
- 23.9 From 6 April 2017 we have the power to revoke or suspend personal licences where we have become aware of a relevant conviction, foreign offence or civil penalties for immigration matters. In making our decision the Licensing Authority will have regard to the crime prevention objective.
- 23.10 The Immigration Act 2016 requires that personal licences may only be granted to individuals if they have provided evidence of their lawful immigration status, and proven their eligibility to undertake work relating to the carrying on of licensable activity in line with the requirements of the legislation and guidance. Licences issued after 6 April 2017 automatically lapse if and when the licence holder's lawful leave or permission to work ends.

### **Designated Premises Supervisor**

- 23.11 A 'designated premises supervisor' (DPS) is a specified individual who has been given day to day responsibility for running the premises. You must ensure that the licensing objectives are promoted and that you comply with your licence conditions.
- 23.12 When you are not at the premises for a period of time e.g. during a holiday, you should nominate and brief a competent, authorised person to carry out your duties in your absence. We would advise you to put this in writing and notify the Licensing Authority and the Police.
- 23.13 The police may object to a DPS where, in exceptional circumstances, they believe that the appointment would undermine the "crime prevention" objective. Where the police object we must arrange for a hearing to consider the application. Either party then has a further right of appeal at the Magistrates' Court if they disagree with the determination of the Licensing Sub-Committee.

## **24.0 Delegation and Decision Making**

- 24.1 One of the major principles underlying the Licensing Act 2003 is that the licensing functions contained within the Act should be delegated to an appropriate level so as to ensure speedy, efficient and cost effective service delivery.
- 24.2 We are committed to the principle of delegating its powers to ensure that these objectives are met and has arranged for its licensing functions to be discharged accordance with the Guidance issued by the Secretary of State (Appendix A).
- 24.3 The Act itself creates a presumption that applications will be granted unless a representation is received. Where a function is delegated to an officer that officer will be responsible for liaising between the applicant; the public objectors and the responsible authorities to ensure that any licence granted is subject to the appropriate conditions. Where representations are made then the licensing officer will once again liaise with the applicant; the public objectors and the

responsible authorities to see if an agreement is possible to overcome the objections without the need for the matter to go before the Sub-Committee. Where representations are raised which cannot be settled the matter will be referred through to the Sub Committee for determination. Contested licensing applications are formal in nature, however the Sub Committee will try to keep the proceedings as informal as possible. However, some degree of formality is needed to ensure that all parties receive a fair hearing. The procedure is designed to ensure that all parties are able to express their views openly and fairly.

24.4 The Sub-Committee procedure is inquisitorial rather than adversarial and, whilst applicants, public objectors, and responsible authorities are entitled to bring legal representation with them if they wish, this is by no means a requirement to do so.

24.5 The Sub- Committee usually meets in public; it does have power to hear certain applicants in private. The Sub-Committee, will always reach its decision in private. As a matter of good practice, a public announcement of the decision is usually made at the end of the Hearing.

24.6 The Sub-Committee will determine each case on its individual merits whilst taking into consideration the terms of this Policy document. Where the Sub- Committee determines that it is appropriate to attach conditions to the licence/certificate it will ensure that those conditions are focused on the direct impact of the activities taking place at the premises concerned on members of the public in the area concerned. Such conditions will be proportionate to the activity to be controlled and will only be imposed in the interests of the licensing objectives.

## 25.0 Consultation

25.1 In developing this policy we have consulted widely to ascertain an appropriate licensing framework for our area. The consultees include those specified in Section 5(3) and in paragraph 29 of the Part 4 of Schedule 8 to the 2003 Act.

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

25.2 Representatives of local businesses and residents. In addition the Council has consulted:

- Representatives of the local strategic partnership
- Licensing solicitors
- Parish councils
- Ambulance service
- Council officers
- Residents Associations
- District Councillors
- Schools/Churches/Colleges
- British Institute of Innkeeping
- CAMRA
- Public Health Board
- Live Music Forum
- St Albans Youth Council
- St Albans BID

## 26.0 Monitoring and Review

- 26.1 The police, fire authority and other consultees will be encouraged to report to the Council regularly on the operation of the licensing function.
- 26.2 Licensing will report any relevant issues to the Licensing & Regulatory Committee sitting as the Licensing Committee. Reports may include:
- Statistics on the several forms of licences
  - A breakdown of the number of licences.
  - A breakdown of the outcome of any appeals
  - A breakdown of licences by reference to their terminal hour
  - An outline of enforcement activity undertaken
  - The outcome of any prosecutions
  - Details of any premises closed temporarily
  - Proposals to amend the Licensing Policy in the light of experience
  - Details of any reviews
  - Relevant case law



## Table of Delegated Functions

Matter to be Dealt With	Full Committee	Sub Committee	Officers
Application for personal licence		If a police objection	If no objection
Application for personal licence, with unspent convictions		If a police objection	If no objection
Application for premises licence/club premises certificate		If a relevant representation received	If no relevant representation received
Application for provisional statement		If a relevant representation received	If no relevant representation received
Application to vary premises licence/club premises certificate		If a relevant representation received	If no relevant representation received
Application for minor variation premises licence/club premises certificate			All cases
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 Authority		If a police objection	All other cases
Application to review premises licence/club premises certificate		All cases	
Decision on whether a representation is irrelevant, frivolous, vexatious etc			All cases
Decision to object when local authority is a consultee and not relevant authority considering the application		All cases	
Determination of a police and/or environmental health authority objection to a temporary event notice		All cases	
Decision as to whether or not a club is established in good			All cases

faith			
Making a representation on behalf of the Licensing Authority acting as a responsible authority or applying for a review as a responsible authority			All cases

## Responsible Authorities

Organisation	Location	Contact	Tel. No./ Email
Fire Authority	Hertfordshire Fire & Rescue Service Fire Protection Mundells MU103 Welwyn Garden City AL7 1FT	Fire Protection Manager	01707 292310 Administration.cfs@hertfordshire.gov.uk
Police Authority	Hertfordshire Constabulary Civic Centre St Peters Street St Albans AL1 3JE	Licensing Officer	01707 806343 rhea.hosey@herts.pnn.police.uk
Environmental Health  Health & Safety at work	Regulatory Services St Albans City and District Council Civic Centre St Peters Street St Albans Herts AL1 3JE	Regulatory Services Manager	Tel: 01727 819406 Email: <a href="mailto:environmental@stalbans.gov.uk">environmental@stalbans.gov.uk</a> Website: <a href="http://www.stalbans.gov.uk">www.stalbans.gov.uk</a>
Licensing Authority	Regulatory Services St Albans City and District Council Civic Centre St Peters Street St Albans Herts AL1 3JE	Business Compliance Manager	Tel: 01727 819406 Email: <a href="mailto:licensing@stalbans.gov.uk">licensing@stalbans.gov.uk</a> Website: <a href="http://www.stalbans.gov.uk">www.stalbans.gov.uk</a>
Safeguarding Children Board	Hertfordshire Safeguarding Children Board Room 127 County Hall Pegs Lane Hertford Herts SG13 8DE	HSCB Business Manager	Tel: 01992 588757 Email: <a href="mailto:admin.lscb@hertfordshire.gov.uk">admin.lscb@hertfordshire.gov.uk</a>
Trading Standards	Hertfordshire Trading Standards Mundells Welwyn Garden City Herts AL7 1FT	Chief Trading Standards Officer	Tel: 01707 292429 Email: <a href="mailto:tradingstandards@hertscc.gov.uk">tradingstandards@hertscc.gov.uk</a>

Planning Authority	Planning St Albans City and District Council Civic Centre St Peters Street St Albans Herts AL1 3JE	Planning Enforcement Officer	Tel: 01727 866100 Email: <a href="mailto:planning@stalbans.gov.uk">planning@stalbans.gov.uk</a>
Public Health	Health Improvement Manager Community Safety and Offender Health Herts County Council Farnham House Six Hills Way Stevenage SG1 2ST	Dawn Morrish	01438 845903 publichealth@hertfordshire.gov.uk

Pre-application discussions or other licensing queries please contact: The Licensing Team, St Albans City & District Council, St Peter's Street, St Albans, AL1 3JE  
Tel: 01727 819406 Email [licensing@stalbans.gov.uk](mailto:licensing@stalbans.gov.uk)