

WEALDEN DISTRICT COUNCIL

'STATEMENT OF LICENSING POLICY'

JANUARY 2008

1. Introduction

- 1.1 Wealden District Council is the licensing authority under the Licensing Act 2003 and is responsible for granting premises licences, club premises certificates, temporary events notices and personal licences in the District in respect of the sale and/or supply of alcohol and the provision of regulated entertainment and late night refreshment. References throughout the document to the "Council" may also be taken to refer to the "Licensing Authority" as appropriate.
- 1.2 The District is predominantly rural in nature with a number of larger towns and villages. The sale of alcohol and the provision of entertainment are largely based around the main centres of population, with some shops, pubs and clubs scattered throughout the rural areas. The District does not have the concentration of licensed premises normally associated with larger town or city centres. In general terms, these licensed premises contribute to the local economy and assist with both tourism and cultural development. There are relatively few premises that cause noise or other nuisance or contribute to crime and disorder. This is perhaps a reflection of the success of past control measures used by the various enforcement agencies.

2. The Policy

- 2.1 The Licensing Act 2003 requires that the Council carries out its various licensing functions so as to promote the following four licensing objectives:
- the prevention of crime and disorder;
 - public safety;
 - the prevention of public nuisance;
 - the protection of children from harm.
- 2.2 The 2003 Act further requires that the Council publishes a 'Statement of Licensing Policy' that sets out the policies the Council will generally apply to promote the licensing objectives when making decisions on applications made under the Act.
- 2.3 This 'Statement of Licensing Policy' has been prepared in accordance with the provisions of the Licensing Act 2003 and the Guidance issued under Section 182 of the Act. Whilst the Council will have full regard for both the Guidance and its own Statement of Licensing Policy, in determining individual licence applications, it may depart from either if there is good reason to do so.

3. Consultation

- 3.1 There are a number of groups who have a stake in the entertainment and leisure industry, including providers, customers, residents and enforcers, all of whom have views and concerns that require consideration as part of the licensing function.

- 3.2 Before publishing its first Statement of Licensing Policy, in January 2005, the Council consulted with Sussex Police, the East Sussex Fire and Rescue Authority and bodies representing local holders of premises licences, club premises certificates, personal licences, businesses and residents in the District. In addition the draft Policy was published upon the Council's website to enable the public to view and comment on the document.
- 3.3 The Licensing Act 2003 requires Wealden District Council, as the licensing authority, to carry out a formal review, consultation and republication of its Statement of Licensing Policy every three years. The current policy was subject to further consultation, during September and October 2007, and sets out the principles that will generally apply to promote the licensing objectives when making decisions on applications for the next three years. The Policy will remain in force for a period of not more than 3 years and will be subject to review and further consultation prior to 5th January 2011.
- 3.4 Any comments upon the Council's Statement of Licensing Policy should be directed in writing to the Head of Environmental Protection, Wealden District Council, Council Offices, Vicarage Lane, Hailsham, East Sussex BN27 2AX or by e-mail at licensingandpollution@wealden.gov.uk All other enquiries relating to licensing matters should be directed to the Licensing Officers at the same address, by telephoning 01323 443322 or by fax on 01323 443330. Further licensing information can be found on the Council's website at www.wealden.gov.uk

4. Main Principles

- 4.1 Nothing in the 'Statement of Policy' will:
- undermine the rights of any person to apply under the 2003 Act for a variety of permissions and have the application considered on its individual merits; and/or
 - over-ride the right of any person or body to make representations on any application or seek a review of a licence or certificate where they are permitted to do so under the 2003 Act.
- [Note: certain 'responsible authorities' are required to be sent copies of applications for premises licences as shown at Appendix A of this Policy]
- 4.2 Licensing is about the control of licensed premises, qualifying clubs and temporary events within the terms of the 2003 Act, and conditions will be attached to licences, certificates and permissions, as appropriate, that will cover matters which are within the control of individual licensees.
- 4.3 The aim of the policy is to strike a balance between securing the safety and amenity of residential communities and members of the public working or engaged in normal activity in and around the district and encouraging a sustainable entertainment and culture industry.
- 4.4 The Council acknowledges that the licensing function cannot be used for the general control of anti-social behaviour by individuals once they are beyond the direct control of the licensee of any premises concerned. The control of such anti-social behaviour away from licensed premises, qualifying clubs and temporary events is primarily a matter for the Police.

4.5 In this respect, the Council recognises that, apart from the licensing function, there are a number of other mechanisms available for addressing issues of unruly behaviour that can occur away from licensed premises, including:

- planning controls;
- ongoing measures to create a safe and clean environment in these areas in partnership with local businesses, the Local Strategic Partnership and other Council Services;
- regular liaison with Sussex Police on law enforcement issues regarding disorder and anti-social behaviour, including the issue of fixed penalty notices and prosecution of those selling alcohol to people who are drunk;
- instantly closing down licensed premises or temporary events on the grounds of disorder, or likelihood of disorder or excessive noise from the premises;
- designation of parts of the District as places where alcohol may not be consumed publicly;
- the power of the police, any other responsible authority or a local resident or business to seek a review of the licence or certificate.

4.6 The Council is currently addressing many of these issues through the Safer Wealden Partnership, in line with the strategic objectives for crime and disorder reduction within the District.

5. Crime And Disorder

5.1 Licensed premises, especially those offering late night/early morning entertainment, alcohol and refreshment for large numbers of people, can be a source of crime and disorder problems.

5.2 The Council will expect Operating Schedules to satisfactorily address these issues from the design of the premises through to the daily operation of the business, including, where appropriate, any implications for staff safety and security.

5.3 Applicants are recommended to seek independent advice, as well as taking into account, as appropriate, local planning and transport policies and tourism, cultural and crime prevention strategies, when preparing their plans and Operating Schedules.

5.4 In addition to the requirements for the Council to promote the licensing objectives, it also has a duty under Section 17 of the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in the District.

5.5 In appropriate circumstances, the Council will attach Conditions to licences and permissions to deter and prevent crime and disorder both inside and immediately outside the premises, and these may include Conditions drawn from the Model Pool of Conditions relating to Crime and Disorder, (Annex D of the Guidance – reproduced at Appendix B). Any such conditions imposed may be tailored to the individual premises and the type of activities expected to take place there.

CUMULATIVE IMPACT

- 5.6 The Council will not take into account 'need' (i.e. the commercial demand for premises offering a particular type of licensable activity) when considering an application, as this is a matter for planning control and market forces. However, it recognises that the 'cumulative impact' of the number, type and density of licensed premises in a given area, may lead to serious problems of disturbance and disorder outside and some distance from the premises. The cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for consideration by the Council.
- 5.7 Representations may be received from a responsible authority / interested party that an area has become saturated with premises making it a focal point for large groups of people to gather and circulate away from the licensed premises themselves, creating exceptional problems of disorder and disturbance over and above the impact from the individual premises.
- 5.8 In these circumstances, the Council may consider that the imposition of conditions is unlikely to address these problems and may consider the adoption of a special policy of refusing new premises licences or club premises certificates because the area is saturated with licensed premises and the granting of any more would undermine one or more of the licensing objectives.
- 5.9 The Council will take the following steps when considering whether to adopt a special saturation policy:
- identification of concern from a responsible authority or representatives of residents about crime and disorder or public nuisance;
 - where it can be demonstrated that disorder and disturbance is arising as a result of customers from licensed premises, identifying the area from which problems are arising and the boundaries of that area;
 - consulting with relevant bodies and assessing the causes of any particular problems;
 - adopting and publishing a policy about future licence applications from that area.
- 5.10 The Council will consider representations based both on the promotion of the licensing objectives and on the impact of the grant of the particular application. Objectors will be required to provide evidence to back up any assertion that the application in question would produce the cumulative impact claimed, taking into account that the impact will be different for premises with different styles and characteristics.
- 5.11 Quotas, (i.e. a defined numerical limit upon the number of premises in a defined area), will not be imposed in any circumstances, but the overall impact will be assessed and this may have an impact on the number of licensed premises in any given area.
- 5.12 The Council will review any special saturation policies at least every three years to see whether they have had the effect intended, and whether they are still needed.

- 5.13 The Council will not use such policies solely:
- as the grounds for removing a licence when representations are received about problems with existing licensed premises, or,
 - to refuse modifications to a licence, except where the modifications are directly relevant to the policy, for example where the application is for a significant increase in the capacity limits or operating hours.
- 5.14 The Council recognises that the diversity of premises selling alcohol, serving food and providing entertainment covers a wide range of contrasting styles and characteristics and will have full regard to those differences and the differing impact these will have on the local community.
- 5.15 It therefore also recognises that, within this policy, it may be able to approve licences that are unlikely to add significantly to the saturation, and will consider the circumstances of each individual application.
- 5.16 During the first 3 years of this Policy, no particular circumstances have arisen and, at the present time, it is not considered that any of the Council's area warrants consideration of a special saturation policy.

6. Public Safety

- 6.1 The 2003 Act covers a wide range of premises that require licensing, including, cinemas, concert halls, theatres, nightclubs, public houses, cafes/restaurants, shops and fast food outlets/takeaways.
- 6.2 Each of these types of premises present a mixture of risks, with many common to most premises and others unique to specific operations. It is essential that premises are constructed or adapted and operated so as to acknowledge and safeguard occupants against these risks.
- 6.3 The Council will expect Operating Schedules to satisfactorily address these issues and applicants are advised to seek appropriate advice before preparing their plans and Schedules.
- 6.4 In appropriate circumstances, the Council will attach Conditions to licences and permissions to promote safety, and these may include Conditions drawn from the Model Pool of Conditions relating to Public Safety, (Annexes E and F of the Guidance – reproduced at Appendices C and D). Any such conditions imposed may be tailored to the individual premises and the type of activities expected to take place there.

7. Prevention Of Nuisance

- 7.1 Licensed premises, especially those operating late at night and in the early hours of the morning, can cause a range of nuisances impacting on people living, working or sleeping in the vicinity of the premises.
- 7.2 The concerns mainly relate to noise nuisance, light pollution and noxious smells. Due regard will be taken by the Council on the impact these may have and the Council will expect Operating Schedules to satisfactorily address these issues.

Applicants may wish to seek independent advice before submitting their plans and Schedules.

- 7.3 In appropriate circumstances, the Council will attach Conditions to licences and permissions to prevent public nuisance, and these may include Conditions drawn from the Model Pool of Conditions relating to Public Nuisance, (Annex G of the Guidance – reproduced at Appendix E). Any such conditions imposed may be tailored to the individual premises and the type of activities expected to take place there.

8. Prevention of Harm to Children

ACCESS TO LICENSED PREMISES

- 8.1 The wide range of premises that require licensing means that children can be expected to visit many of these, often on their own, for food and/or entertainment.
- 8.2 While the 2003 Act does not prohibit children from having free access to any licensed premises, the Council recognises that limitations may have to be considered where it appears necessary to protect children from harm. No statement of policy can properly anticipate every issue of concern that could arise in respect of children with regard to individual premises and as such, general rules will be avoided. Consideration of the individual merits of each application will be used in judging such matters.
- 8.3 The Council will consult with the East Sussex Local Safeguarding Children Board on any application that indicates there may be concerns over access for children and will have regard to its own Child Protection and Safeguarding Procedures.
- 8.4 The Council will judge the merits of each separate application before deciding whether to impose conditions limiting the access of children to individual premises. The following are examples of premises that will raise concern:
- where there have been convictions of members of the current staff at the premises for serving alcohol to minors or with a reputation for underage drinking;
 - those with a known association with drug taking or dealing;
 - where there is a strong element of gambling on the premises (but not the simple presence of a small number of cash prize gaming machines);
 - where entertainment or services of an adult or sexual nature are commonly provided;
 - where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.
- 8.5 The Council will consider any of the following options when dealing with a licence application where limiting the access of children is considered necessary to prevent harm:
- limitations on the hours when children may be present;
 - limitations on ages below 18 years;
 - limitations or exclusion of children when certain activities are taking place;
 - limitations on the parts of premises to which children are given access;

- requirements for accompanying adults;
- full exclusion of people under 18 years from the premises when any licensable activities are taking place.

- 8.6 The Council will not impose conditions requiring the admission of children to any premises. Where no licensing restriction is necessary this will be left to the discretion of the individual licensee.
- 8.7 The 2003 Act details a number of offences designed to protect children in licensed premises and the Council will work closely with Sussex Police and local Trading Standards officers to ensure the appropriate enforcement of the law, especially relating to the sale and supply of alcohol to children.
- 8.8 The Portman Group operates, on behalf of the alcohol industry, a Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks. The Code seeks to ensure that drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years old or older. Complaints about products under the Code are considered by an Independent Complaints Panel and the Panel's decisions are published on the Portman Group's website, in the trade press and in an annual report. If a product's packaging or point-of-sale advertising is found to be in breach of the Code, the Portman Group may issue a Retailer Alert Bulletin to notify retailers of the decision and ask them not to replenish stocks of any such product or to display such point-of-sale material, until the decision has been complied with. The Code is an important weapon in protecting children from harm because it addresses the naming, marketing and promotion of alcohol products sold in licensed premises in a manner which may appeal to or attract minors. The Council commends the Code to licensees and licence applicants.

ACCESS TO CINEMAS

- 8.9 Films cover a vast range of subjects, some of which deal with adult themes and/or contain, for example, scenes of horror or violence that may be considered unsuitable for children within certain age groups.
- 8.10 In order to prevent children from seeing such films, the Council will impose conditions requiring licensees to restrict children from viewing age-restricted films classified according to the recommendations of the British Board of Film Classification (BBFC). The Council will expect licensees or clubs to include in their Operating Schedules arrangements for restricting children from viewing age-restricted films classified according to the recommendations of the British Board of Film Classification.

CHILDREN AND PUBLIC ENTERTAINMENT

- 8.11 Many children go to see and/or take part in an entertainment arranged especially for them, for example children's film shows and dance or drama school productions, and additional arrangements may be required to safeguard them while at the premises.
- 8.12 Where a regulated entertainment is specially presented for children, the Council will consider the need to place a requirement for a specified number of adults to be

present at the places of public entertainment to control the access and egress of children and to ensure their safety. The number of adults required will need to be calculated on the basis of a risk assessment by the applicant and will need to take into consideration the size of the venue, the number and ages of the children present, the type of activity involved and any requirements included in the Children's Acts. [As a minimum, the Council would normally expect at least one adult for every 50 children present.] The Council will expect the submitted Operating Schedules to satisfactorily address this issue.

- 8.13 In appropriate circumstances, the Council will attach Conditions to licences and permissions to prevent harm to children, and these may include Conditions drawn from the Model Pool of Conditions relating to the Protection of Children from Harm, (Annex H of the Guidance – reproduced at Appendix F). Any such conditions imposed may be tailored to the individual premises and the type of activities expected to take place there.

9. Licensing Hours

- 9.1 Fixed and artificially early closing times may promote, in the case of sales of alcohol, rapid binge drinking close to closing times and are considered by some to be a key cause of disorder and disturbance when large numbers of customers are required to leave premises simultaneously. The Council recognises that more flexible licensing hours for the sale of alcohol should avoid large numbers of people leaving premises at the same time, which in turn could reduce the friction at late night fast food outlets and taxi ranks and other sources of transport that can lead to disorder and disturbance.
- 9.2 Fixed trading hours within designated areas, (known as 'zoning'), will not be set as this could lead to significant movements of people across boundaries, at particular times, seeking premises opening later, with the attendant concentration of disturbance and noise. This would treat residents in one area less favourably than those in another, as well as causing the peaks of disorder and disturbance the Act is trying to avoid.
- 9.3 The Council will deal with the issue of licensing hours having due regard to the individual merits of each application. However, in appropriate circumstances, consideration will be given to imposing stricter conditions to assist with noise control, especially where premises are situated in mainly residential areas. Accordingly, all residents living in the vicinity of licensed premises have the equal right to make representations concerning applications for premises licences and hours of trading and to have those representations given equal weight regardless of the area of the District in which they live.

SHOPS, STORES AND SUPERMARKETS

- 9.4 The Council will generally consider licensing shops, stores and supermarkets to sell alcohol for consumption off the premises at any times they are lawfully open for trading.
- 9.5 However, in appropriate circumstances, it may consider there are good reasons for restricting those hours, for example, where police representation is made in

respect of isolated premises known to be the focus of disorder and disturbance, because youths gather there and engage in anti-social behaviour, including pressurising shop staff to make unlawful sales of alcohol.

- 9.6 In determining an application for a premises licence and the hours at which the premises might provide licensable activities to the public, it is not for the Council to consider such matters as the rights of the workers employed on the premises who may be asked to work longer hours. Existing protections under the Working Time Regulations, and under the normal laws of contract, make it unlawful for one party to a contract of employment to vary its terms and conditions without the other's consent, which can therefore be expected to provide adequate protection against abuse.

10. Integrating Strategies and Avoiding Duplication

- 10.1 The main principles of this policy are as follows:-
- to reduce crime and disorder;
 - to encourage tourism;
 - to reduce alcohol misuse;
 - to encourage self-sufficient rural communities;
 - to protect children from harm;
 - public safety; and
 - the prevention of public nuisance.
- 10.2 There are many stakeholders in the leisure industry, covering a wide range of disciplines. Many are involved, directly or indirectly, in the promotion of the licensing objectives, particularly those relating to the prevention of crime and disorder and public nuisance.
- 10.3 Although not directly related, many strategies deal in part with the licensing function, and the Council will ensure proper liaison with other groups for the integration of local crime prevention, planning, transport, tourism, race equality and cultural strategies.
- 10.4 The Council acknowledges and will take account of the principles of the Government's "Alcohol Harm Reduction Strategy for England" and the revised Alcohol Strategy published in June 2007 entitled "Safe. Sensible. Social", in setting its policy for licensing matters and in consideration of individual licence applications. The Council also acknowledges its responsibilities in respect of Equal Opportunities and Human Rights legislation.
- 10.5 The Council recognises that there should be a clear separation of the planning and licensing regimes and that a licence application should not be a re-run of a planning application, to avoid duplication and inefficiency. It may be appropriate for the planning process to be informed, from time to time, on the situation regarding licensed premises in the District.
- 10.6 Because of the special rural nature of much of the Wealden District, the Council will take careful account of the circumstances of each application and will particularly consider the community benefits that might arise, where these are not outweighed by any adverse impact.

- 10.7 The Council recognises the need to avoid so far as possible duplication with other regulatory regimes. However, some regulations do not cover the unique circumstances of certain entertainments and, in appropriate circumstances, the Council will attach Conditions to premises licences and club premises certificates where these are necessary for the promotion of the licensing objectives and are not already provided for in any other legislation. Any such conditions imposed may be tailored to the individual premises and the type of activities expected to take place there.

11. Standard Conditions

- 11.1 Conditions attached to licences or certificates will be tailored to the individual style and characteristics of the particular premises and events concerned.
- 11.2 However, where considered appropriate, and necessary for the promotion of the Licensing Objectives, the Council will consider attaching Conditions drawn from the relevant Model Pool of Conditions.
- 11.3 Specific conditions may be attached to premises licences or Certificates issued to club premises to reflect local crime prevention strategies. Such conditions, taken from the Model Pool of Conditions, may include
- the use of closed circuit television cameras;
 - the provision and use of 'stamped' shatterproof drinking receptacles;
 - drugs and weapons search policy;
 - the use of registered door supervisors;
 - specialised lighting requirements;
 - hours of opening;
 - a requirement for premises supervisors to be present.
- 11.4 The licensing authority cannot attach blanket or standard conditions under the Licensing Act, except where there are valid objections to a licence on the grounds of one of the licensing objectives, i.e. crime and disorder, public safety, public nuisance and the protection of children. The licensing authority can only attach a condition where an objection is upheld following a hearing.

12. Enforcement

- 12.1 Once licensed, it is essential that premises are maintained and operated so as to ensure the continued promotion of the licensing objectives and compliance with the specific requirements of the 2003 Act and the Council will make arrangements to monitor premises and take appropriate enforcement action to ensure this. Inspections of premises will be on a risk assessed basis, to be undertaken when and if judged necessary.
- 12.2 The Council is working closely with Sussex Police to establish protocols to deal with enforcement matters and, if necessary, on the need for the swift and safe dispersal of people from town centres, to avoid concentrations which can produce disorder and disturbance. These will need to secure an efficient deployment of Police and Council Officers engaged in enforcing licensing law and inspecting licensed premises, in order to ensure that resources are targeted at problem and

high risk premises. Liaison is also being maintained with those other inspecting agencies outlined in section 14 below.

- 12.3 The licensing authority accepts the principles contained within the Hampton Report, in relation to enforcement inspections, which include the following:
- No inspection should take place without a reason;
 - Regulators should recognise that a key element of their activity will be to allow or even encourage, economic progress and only to intervene when there is a clear case for protection.

13. Live Music, Dancing and Theatre

- 13.1 In implementing its cultural strategy, the Council recognises the need to encourage and promote live music, dance and theatre for the wider cultural benefit of the community generally and particularly for children. This includes more traditional entertainments like circus and street arts.
- 13.2 When considering applications for such events and the imposition of conditions on licences or certificates, the Council will carefully balance the cultural needs with the necessity of promoting the licensing objectives.
- 13.3 Consideration will be given to the particular characteristics of any event, including the type, scale and duration of the proposed entertainment, especially where only limited disturbance may be caused.

14. Other Regulatory Regimes

- 14.1 This policy will attempt to avoid duplication with other regulatory regimes wherever possible. The following notes are made with regard to specific regimes:
- (1) Health and Safety: licensed premises will normally have been visited by the Council's Food and Health and Safety inspection staff with regard to health and safety enforcement at the premises. Certain premises will not fall under this regime and will be the subject of health and safety enforcement by the Health and Safety Executive (HSE). This regime places a range of general and specific duties on employees, employers, operators of venues and members of the public. Matters arising out of the Health and Safety at Work etc Act 1974 and associated Regulations should not be the subject of conditions unless they are necessary for the promotion of the licensing objectives. It should be noted that such regulations will not always cover the unique circumstances that arise in connection with entertainment and may include exemptions on the assumption that licensing controls will provide the necessary coverage.
 - (2) Fire Safety: premises and their operators will also be under general duties under current fire safety regimes, including the Regulatory Reform (Fire Safety) Order 2005, and the same comments as above apply.
 - (3) Food Hygiene: premises selling alcohol and/or premises engaged in a food business will be registered with the Council and subject to risk-based food hygiene inspections at regular intervals.
 - (4) Noise: statutory and public nuisances are dealt with by the Council's Pollution Control Officers under the Environmental Protection Act 1990 and

associated legislation. Noise arising from commercial premises may often fall under this regime.

- (5) Trading Standards: dealing with a range of issues, including under-age sales and test purchasing, substitution and adulteration of spirits, date-marking of food, pricing of drink, food and accommodation, together with relevant weights and measures matters. Also involved with promoting a recognised Proof of Age scheme.

15. Administration, Exercise and Delegation Of Functions

- 15.1 The Council will be involved in a wide range of licensing decisions and functions and has established a Licensing Committee to administer them. The Licensing Committee will not be involved in taking planning decisions and the grant of planning consent will not automatically lead to a grant of a licence application.
- 15.2 Appreciating the need to provide a speedy, efficient and cost-effective service to all parties involved in the licensing process, the Licensing Committee will delegate certain decisions and functions and will establish Sub-Committees to deal with them.
- 15.3 Further, with many of the decisions and functions being purely administrative in nature, the grant of non-contentious applications, including for example, those licences and certificates where no representations have been made, has been delegated to the Head of Environmental Protection (HEP).
- 15.4 The following Table sets out the agreed delegation of decisions and functions to the Licensing Committee, Sub-Committees and HEP.
- 15.5 This form of delegations is without prejudice to HEP referring an application to a Sub-Committee, or a Sub-Committee to Full Committee, if considered appropriate in the circumstances of any particular case.
- 15.6 Any member of the Licensing Committee or Sub-Committee must declare an interest in any application made for their ward (or an adjoining ward, where appropriate) and take no part in the decision.
- 15.7 A ward member can only make representations against an application for the grant, variation or review of the premises licence if they have been specifically requested to do so by an 'interested party' as defined in the Act. Their 'representative' role as a ward Councillor does not automatically entitle them to be consulted or to be asked to speak for or against an application. Representatives of the Town or Parish may make representations and may be invited to speak at a meeting of the Sub-Committee at the discretion of the Chairman.
- 15.8 The Council acknowledges that certain time limits are laid down within the legislation in respect of notification and for the determination of licence applications. However, in the case of Temporary Event Notifications, where a statutory period of only 10 working days is required to be given, the Council would prefer that at least 28 days notice be given by applicants, to enable the full impact of such events to be assessed and for any Police objection to be considered by the Sub-Committee.

TABLE OF DELEGATIONS OF LICENSING FUNCTIONS

MATTER TO BE DEALT WITH	FULL COMMITTEE	SUB-COMMITTEE	HEP
Application for personal licence		If a police objection made	If no objection made
Application for personal licence, with unspent convictions		All cases	
Application for premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application for provisional statement		If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application to vary designated personal licence holder		If a police objection	All other cases
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If a police objection	All other cases
Application for interim authorities		If a police objection	All other cases
Application to review premises licence/club premises certificate		All cases	
Decision on whether a complaint is irrelevant, frivolous, vexatious, etc			All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application		All cases	
Determination of a police objection to a temporary event notice		All cases	

Details of Responsible Authorities

The following are those 'responsible authorities' that must be notified of applications, by means of a copy of the application provided to them by the applicant, and are entitled to make representations to the Council in relation to an application for the grant, variation or review of a premises licence:

The Chief Officer of Sussex Police, c/o Police Station, Crowborough Hill, Crowborough, East Sussex TN6 2DA.

East Sussex Fire and Rescue Service, Fire Safety Unit, Uckfield Fire Station, Bell Farm Road, Uckfield, East Sussex TN22 1BA.

East Sussex Local Safeguarding Children Board, c/o Social Services, P.O. Box 5, County Hall, St Anne's Crescent, Lewes, East Sussex BN7 1SW.

The local enforcing authority for the purposes of the Health and Safety at Work etc Act 1974 – either the Health and Safety Executive, Phoenix House, 23-25 Cantelupe Road, East Grinstead, West Sussex RH19 3BE or the Food and Health & Safety Service, Wealden District Council, Council Offices, Vicarage Lane, Hailsham, East Sussex BN27 2AX

East Sussex Trading Standards, St Mary's House, 52 St Leonard's Road, Eastbourne, East Sussex BN21 3UU

The local planning authority – Wealden District Council, Council Offices, Pine Grove, Crowborough, East Sussex TN6 1DH

The local environmental health agency – Wealden District Council, Council Offices, Vicarage Lane, Hailsham, East Sussex BN27 2AX

Adjoining licensing authorities (where part of the premises are situated in an adjoining area).

The Council will also notify relevant Town and Parish Councils of applications within their wards. In addition, Ward Members will be notified, as soon as practicable, about events being planned in their community.

Annex D

Conditions relating to the prevention of crime and disorder

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

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

Conditions enforcing these arrangements are therefore unnecessary.

General

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

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

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

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

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

Text/Radio pagers

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

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

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

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

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

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

Door supervisors

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

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

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

Bottle bans

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

It is recommended that a condition requiring that no sales of beverages in glass bottles for consumption on the premises should be expressed in clear terms and include the following elements:

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

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

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

Plastic containers and toughened glass

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

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

CCTV

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

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

Open containers not to be taken from the premises

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

Restrictions on drinking areas

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

Capacity limits

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

Proof of age cards

It is unlawful for children under 18 to attempt to buy alcohol just as it is unlawful to sell or supply alcohol to them. To prevent such crimes, it may be necessary to require a policy to be applied at certain licensed premises requiring the production of “proof of age” before such sales are made. This should not be limited to recognised “proof of age” cards, but allow for the production of other proof, such as photo-driving licences, student cards and passports. The Secretary of State strongly supports the PASS accreditation system (see paragraph 12.8 of the Guidance) which aims to approve and accredit various proof of age schemes that are in existence. This ensures that such schemes maintain high standards, particularly in the area of integrity and security, and where appropriate and necessary, conditions may refer directly to PASS accredited proof of age cards, photo-driving licences and passports.

It should be noted that many adults in England and Wales do not currently carry any proof of age. This means that the wording of any condition will require careful thought.

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

Crime prevention notices

It may be necessary at some premises for notices to be displayed which warn customers of the prevalence of crime which may target them. Some premises may be reluctant to volunteer the display of such notices for commercial reasons. For example, in certain areas, a condition attached to a premises licence or club premises certificate might require the displaying of notices at the premises which warn customers about the need to be aware of pickpockets or bag snatchers, and to guard their property. Similarly, it may be necessary for notices to be displayed which advise customers not to leave bags unattended because of concerns about terrorism. Consideration could be given to a condition requiring a notice to display the name of a contact for customers if they wish to report concerns.

Drinks promotions

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

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

Signage

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

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

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

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

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

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

Annex E

Conditions relating to public safety (including fire safety)

It should be noted that conditions relating to public safety should be those which are necessary, in the particular circumstances of any individual premises or club premises, and should not duplicate other requirements of the law. Equally, the attachment of conditions to a premises licence or club premises certificate will not in any way relieve employers of the statutory duty to comply with the requirements of other legislation including the Health and Safety at Work etc Act 1974, associated regulations and especially the requirements under the Management of Health and Safety at Work Regulations 1999 and the Regulatory Reform (Fire Safety) Order 2005 to undertake risk assessments. Employers should assess the risks, including risks from fire, and take measures necessary to avoid and control these risks. Conditions enforcing those requirements would therefore be unnecessary.

General

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

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

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

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

- Model National and Standard Conditions for Places of Public Entertainment and Associated Guidance ISBN 1 904031 11 0 (Entertainment Technology Press – ABTT Publications)
- The Event Safety Guide – A guide to health, safety and welfare at music and similar events (HSE 1999) (“The Purple Book”) ISBN 0 7176 2453 6
- Managing Crowds Safely (HSE 2000) ISBN 0 7176 1834 X
- Steps to Risk Assessment: Case Studies (HSE 1998) ISBN 07176 15804
- The Guide to Safety at Sports Grounds (The Stationery Office, 1997) (“The Green Guide”) ISBN 0 11 300095 2
- Safety Guidance for Street Arts, Carnival, Processions and Large Scale Performances published by the Independent Street Arts Network, copies of which may be obtained through: www.streetartsnetwork.org/pages/publications
- The London District Surveyors Association’s “Technical Standards for Places of Public Entertainment” ISBN 0 9531229 2 1
- Fire Safety Risk Assessment – Guide to Small and Medium Places of Assembly ISBN – 13:978 1 85112 820 4
- Fire Safety Risk Assessment – Guide to Large Places of Assembly ISBN – 13:978 1 85112 821 1

- Fire Safety Risk Assessment – Guide to Theatres, Cinemas and like premises ISBN – 13:978 1 85112 822 8
- Fire Safety Risk Assessment – Guide to Open Air Events and Venues ISBN – 13:978 1 85112 823 5

The following British Standards should also be considered:

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

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

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

Disabled people

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

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

Escape routes

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

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

- all exits doors are easily openable without the use of a key, card, code or similar means;
- doors at such exits are regularly checked to ensure that they function satisfactorily and a record of the check kept;
- any removable security fastenings are removed whenever the premises are open to the public or occupied by staff;
- all fire doors are maintained effectively self-closing and shall not be held open other than by approved devices (for example, electromagnetic releases operated by smoke detectors);
- fire resisting doors to ducts, service shafts, and cupboards shall be kept locked shut; and
- the edges of the treads of steps and stairways are maintained so as to be conspicuous.

Safety checks

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

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

Curtains, hangings, decorations and upholstery

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

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

Accommodation limits

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

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

Fire action notices

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

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

Outbreaks of fire

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

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

Loss of water

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

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

Access for emergency vehicles

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

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

First aid

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

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

Lighting

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

- in the absence of adequate daylight, the lighting in any area accessible to the public, members or guests shall be fully in operation when they are present;
- fire safety signs are adequately illuminated;
- emergency lighting is not altered;
- emergency lighting batteries are fully charged before the admission of the public, members or guests; and
- in the event of the failure of normal lighting, where the emergency lighting battery has a capacity of one hour, arrangements are in place to ensure that the public, members or guests leave the premises within 20 minutes unless within that time normal lighting has been restored and the battery is being re-charged; and, if the emergency lighting battery has a capacity of three hours, the appropriate period by the end of which the public should have left the premises is one hour.

Temporary electrical installations

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

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

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

temporary electrical installations are only undertaken by competent qualified persons, for example, employed by the television company.

Indoor sports entertainments

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

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

Alterations to the premises

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

Special effects

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

Special effects which should be considered include:

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

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

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

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

Premises used for closely seated audiences**Attendants**

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

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

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

Standing and sitting in gangways etc

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

Drinks

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

Balcony Fronts

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

Special effects

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

Specials effects include:

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

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

Scenery

Any scenery should be maintained flame-retardant.

Safety curtain

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

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

Ceilings

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

Seating

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

Premises used for film exhibitions

Attendants - premises without a staff alerting system

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

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

Attendants – premises with a staff alerting system

(a) Where premises are equipped with a staff alerting system the number of attendants present should be as set out in the table below:

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

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

Minimum lighting

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

Flammable films

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

Annex G

Conditions relating to the prevention of public nuisance

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

General

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

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

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

Hours

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

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

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

Noise and vibration

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

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

Noxious smells

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

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

Light pollution

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

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

Appendix F

Annex H

Conditions relating to the protection of children from harm

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

Access for children to licensed premises - in general

Restrictions on the access of children under 18 to premises where licensable activities are being carried on should be made where it is necessary to protect children from harm. Precise policy and details will be a matter for individual licensing authorities. Conditions attached to premises licences and club premises certificates may reflect the concerns of responsible authorities and interested parties who have made representations but only where the licensing authority considers it necessary to protect children from harm. Whilst applications in relation to premises licences and club premises certificates must be judged by licensing authorities on their individual merits and characteristics, the Secretary of State recommends (unless there are circumstances justifying the contrary) that:

- for any premises with known associations (having been presented with evidence) with or likely to give rise to heavy or binge or underage drinking, drugs, significant gambling, or any activity or entertainment (whether regulated entertainment or not) of a clearly adult or sexual nature, there should be a strong presumption against permitting any access at all for children under 18 years. Applicants wishing to allow access for children to premises where these associations may be relevant, when preparing operating schedules or club operating schedules or variations of those schedules for the purposes of obtaining or varying a premises licence or club premises certificate should:
 - explain their reasons; and
 - outline in detail the steps that they intend to take to protect children from harm on such premises.
- for any premises, not serving alcohol for consumption on the premises, but where the public are allowed on the premises after 11.00pm in the evening, there should be a presumption against the presence of children under the age of 12 unaccompanied by adults after that time. Applicants wishing to allow access when preparing operating schedules or variations of those schedules or club operating schedules for the purposes of obtaining or varying a premises licence or club premises certificate should:
 - explain their reasons; and
 - outline in detail the steps that they intend to take to protect children from harm on such premises.
- in any other case, subject to the premises licence holder's or club's discretion, the expectation would be for unrestricted access for children subject to the terms of the 2003 Act. An operating schedule or club operating schedule should indicate any decision for the premises to exclude children completely, which would mean there would be no need to detail in the operating schedule steps that the applicant proposes to take to promote the protection of children from

Childcare facilities should be located on the same level as the parents or guardians or on the route to the final exit. This is important as it avoids parents traveling against the normal direction of escape when any alarm is raised.

Age Restrictions - specific

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

- the hours of day during which age restrictions should and should not apply. For example, the fact that adult entertainment may be presented at premises after 8.00pm does not mean that it would be necessary to impose age restrictions for earlier parts of the day;
- types of event or activity in respect of which no age restrictions may be needed, for example;
 - family entertainment; or
 - non-alcohol events for young age groups, such as under 18s dances,
- Similarly, types of event or activity which give rise to a more acute need for age restrictions than normal, for example;
 - during “Happy Hours” or on drinks promotion nights;
 - during activities outlined in paragraph 1 above.

Age restrictions – cinemas

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

- a condition that where the licensing authority itself is to make recommendations on the admission of children to films, the cinema or venue operator must submit any film to the authority that it intends to exhibit 28 days before it is proposed to show it. This is to allow the authority time to classify it so that the premises licence holder is able to adhere to any age restrictions then imposed;
- a condition that when films are classified, by either the film classification body as specified in the licence or the licensing authority, they should be classified in the following way:
 - U Universal – suitable for audiences aged four years and over
 - PG – Parental Guidance. Some scenes may be unsuitable for young children.
 - 12A – Passed only for viewing by persons aged 12 years or older or persons younger than 12 when accompanied by an adult.
 - 15 – Passed only for viewing by persons aged 15 years and over.
 - 18 – Passed only for viewing by persons aged 18 years and over.
- that conditions specify that immediately before each exhibition at the premises of a film passed by the British Board of Film Classification there shall be exhibited on screen for at least five seconds in such a manner as to be easily read by all persons in the auditorium a reproduction of the certificate of the Board or, as regards a trailer advertising a film, of the statement approved by the Board indicating the classification of the film;
- a condition that when a licensing authority has made a recommendation on the restriction of admission of children to a film, notices are required to be displayed both inside and outside the premises so that persons entering can readily be made aware of the classification attached to any film or trailer. Such a condition might be expressed in the following terms:

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

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

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

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

Theatres

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

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

Performances especially for children

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

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

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

Children in performances

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

- **Venue** – the backstage facilities should be large enough to accommodate safely the number of children taking part in any performance.
- **Fire safety** – all chaperones and production crew on the show should receive instruction on the fire procedures applicable to the venue prior to the arrival of the children.

- **Special effects** – it may be inappropriate to use certain special effects, including smoke, dry ice, rapid pulsating or flashing lights, which may trigger adverse reactions especially with regard to children.
- **Care of children** – theatres, concert halls and similar places are places of work and may contain a lot of potentially dangerous equipment. It is therefore important that children performing at such premises are kept under adult supervision at all times including transfer from stage to dressing room and anywhere else on the premises. It is also important that the children can be accounted for at all times in case of an evacuation or emergency.

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

The Portman Group operates, on behalf of the alcohol industry, a Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks. The Code seeks to ensure that drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years old or older. Complaints about products under the Code are considered by an Independent Complaints Panel and the Panel's decisions are published on the Portman Group's website, in the trade press and in an annual report. If a product's packaging or point-of-sale advertising is found to be in breach of the Code, the Portman Group may issue a Retailer Alert Bulletin to notify retailers of the decision and ask them not to replenish stocks of any such product or to display such point-of-sale material, until the decision has been complied with. The Code is an important mechanism in protecting children from harm because it addresses the naming, marketing and promotion of alcohol products sold in licensed premises in a manner which may appeal to or attract minors.

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

Proof of Age cards

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

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