

# **LICENSING ACT 2003**

## **DARTFORD BOROUGH COUNCIL**

### **STATEMENT OF LICENSING POLICY**

**07 January 2011 - 06 January 2014**

**DARTFORD BOROUGH COUNCIL**  
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# DARTFORD BOROUGH COUNCIL

## STATEMENT OF LICENSING POLICY

### 1.0 INTRODUCTION

1.1 Dartford Borough 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 Borough in respect of the sale and/or supply of alcohol. The Licensing Authority also licences the provision of regulated entertainment and late night refreshment.

1.2 The 2003 Act requires the Licensing Authority to carry out its various licensing functions so as to promote the following four licensing objectives each of which is considered to be of equal importance:

- **the prevention of crime and disorder**
- **public safety**
- **the prevention of public nuisance**
- **the protection of children from harm**

1.3 The 2003 Act further requires that the Licensing Authority publish a 'Statement of Licensing Policy' that sets out the policies they will generally apply to promote the licensing objectives when making decisions on applications made under the Act.

1.4 The aims of this Statement of licensing policy are in line with the four licensing objectives and:

- a. help build and maintain a fair and prosperous society that properly balances the rights of individuals and their communities
- b. integrate its aims and objectives with other initiatives, policies plus strategies that will:

encourage people, especially young people, to participate in leisure and cultural activities.

reduce crime and disorder

encourage visitors to the borough

continue to develop the daytime economy and encourage an early evening and night time economy which is viable and sustainable

reduce alcohol misuse, especially under-age drinking.

encourage employment

encourage the self sufficiency of local communities

reduce the burden of unnecessary regulation on business

continue to value live music in licensed premises

- 1.5 This 'Statement of Licensing Policy' has been prepared in accordance with the provisions of the 2003 Act and having regard to the Guidance issued under Section 182 of the Act. Where it is necessary to depart from the guidance, either in this policy or at any other time, The Licensing Authority will give clear and cogent reasons for doing so. The Licensing Authority shall endeavour to work with other local authorities (particularly where licensing authorities' boundaries meet) to ensure that a consistent approach is taken in licensing matters whilst respecting the differing needs of individual communities.
- 1.6 When considering applications, the Licensing Authority will have regard to this Policy, the Licensing Act 2003, particularly the Licensing Objectives and Guidance issued under Section 182 of the Act, and any supporting regulations that may from time to time be made. It will also seek proper integration with local crime prevention, planning, transport, employment and cultural strategies. To this end, the Licensing Committee will provide reports to the Developmental Control Board (Planning Committee) on the situation regarding licensed premises in the area. The Licensing Authority will monitor the impact of licensing on the provision of regulated entertainment particularly live music and dancing.
- 1.7 The Policy does not 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, as well as against the relevant policy and statutory framework. It does not override the right of any person to make representations on any application or seek a review of a licence or certificate where they are permitted to do so under the 2003 Act. In formulating this policy the Licensing Authority has had regard to the provisions of the Human Rights Act 1998. This Act places a duty on public authorities to protect the rights of individuals in a variety of circumstances, and to balance those rights against the rights of persons trading in licensable activities and to achieve proportionality. The Licensing Authority has also had regard to the Race Relations Act 1976 as amended by The Race Relations (Amendment) Act 2000, and to the Disability Discrimination Act 1995.
- 1.8 Applicants and those making representation in respect of applications to the Licensing Authority have a right of appeal to the Magistrates' Court against the decisions of the Licensing Authority.
- 1.9 The Licensing Authority recognises the aspirations of the legislation that longer licensing hours with regard to the sale of alcohol are important to ensure that the concentration of customers leaving premises simultaneously are avoided. However, there is no general presumption in favour of lengthening licensing hours and the four licensing objectives will be paramount considerations at all times. Where there are objections to an application and the Licensing Authority believes that changing the licensing hours would undermine the licensing objectives, they may reject the application or grant it with appropriate conditions and/or different hours from those requested.
- 1.10 The Licensing Authority may not impose any conditions unless its discretion has been engaged following receipt of relevant representations and it has been satisfied at a hearing of the necessity to impose conditions. It may then only impose conditions that are necessary to promote one or more of the four licensing objectives. A hearing is not required where an application has been lawfully made and no responsible authority or interested party has made a representation. In these cases, the Licensing Authority must grant the application in the terms sought, subject only to conditions which are consistent with the operating schedule and relevant mandatory conditions in the Act.

The object of licensing is to maintain appropriate control of licensed premises, qualifying clubs, temporary events and the people who manage them or hold

personal licences within the terms of the 2003 Act. Where any party makes relevant representations, the Licensing Authority will seek to make objective judgements as to whether conditions may need to be attached to a licence or certificate to secure achievement of the licensing objectives. Any such conditions will primarily focus on the direct impact of the activities taking place at licensed premises on those attending the premises and members of the public living, working or otherwise engaged in normal activity in the vicinity and will cover issues that are reasonably within the control of individual licensees.

1.11 When considering any conditions, the Licensing Authority acknowledges that the licensing function is not the only mechanism for the general control of the anti-social behaviour of individuals once they are outside the vicinity of licensed premises and beyond the control of the licensee of any premises concerned. Therefore, other mechanisms may be utilised, where appropriate, to tackle unruly or unlawful behaviour of patrons when beyond the control of premises. These include:

- Partnership working with the Kent Police (and other agencies as appropriate) to promote enforcement of the law concerning disorder and antisocial behaviour, including the issuing of fixed penalty notices
- Powers to designate parts of the area as places where alcohol may not be consumed publicly (does not include beer gardens or premise frontages).
- Partnership working with businesses, transport operators and other parts of the Council to create a safe and clean environment.

As part of its overall policy the Licensing Authority expects every holder of a licence or Temporary Event Notice to be responsible for minimising the impact of their activities and anti-social behaviour by their patrons within the immediate vicinity of their premises.

A key aim of the licensing policy is to maintain a safe and family friendly environment in the Local Authority Area. It may be that conditions that would be relevant in the town centres may not be appropriate in rural areas – but each application will be considered on its merits.

Further, when the Licensing Authority is considering any application as a result of representations, it will avoid duplication with other regulatory regimes, (e.g. health and safety at work, environmental protection, disability discrimination, the Regulatory Reform (Fire Safety) Order so far as possible. The licensing regime is not intended to be used to achieve outcomes that can be achieved by other legislation. In particular, its licensing functions will be discharged separately from its functions as the Local Planning Authority.

### **Licences and planning permission**

1.12 The use of any licensed premises or places may be subject to planning controls. There are several key differences between licensing and planning control.

Licensing is concerned with the fitness of the operator and detailed issues concerning the operation and management of the premises that are not addressed by the planning process which relates to the use of the premises.

It will be expected in general that the grant or variation of planning permission would be resolved before a licence application is made. The licensing committee may refuse to grant a licence following representations from the local planning authority if the:

- (1) activity sought to be licensed would amount to an unlawful use of the premises;

- (2) hours being sought exceed those authorised by any planning permission.

It will be for the applicant to demonstrate any special circumstances to justify a departure from this policy in the face of representations from the local planning authority.

- 1.13 With the exception of the approval and review of its Licensing Policy, decisions on licensing matters will be taken in accordance with a published and approved scheme of delegation aimed at underlining the principles of timely, efficient and effective decision-making.

### **Cumulative impact of a concentration of licensed premises**

- 1.14 "Cumulative impact" is not mentioned specifically in the 2003 Act but means the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. For example, the potential impact on crime and disorder or public nuisances on a town centre of a large concentration of licensed premises in that part of the local authority area. The cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for the local authority to consider in its policy.

- 1.15 Where, after considering the available evidence and consulting the Statutory Authorities listed in section 5(3) of the 2003 Act and any others, the Licensing Authority is satisfied that it is appropriate and necessary to include an approach to cumulative impact in the licensing policy statement, it will indicate in the policy that it is adopting a special provision of refusing new licences whenever it receives relevant representations about the cumulative impact on the licensing objectives from responsible authorities and interested parties which it concludes after hearing those representations should lead to refusal.

- 1.16 There will be an evidential basis for the decision to include special provisions relating to cumulative impact within the policy. For example, the Community Safety Partnership (or CDRP) will often have collated information that demonstrates cumulative impact as part of their general role on anti-social behaviour; and crime prevent strategies may have already identified cumulative impact as a local problem. Similarly, environmental health officers may be able to demonstrate concentrations of valid complaints relating to noise disturbance.

- 1.17 In summary, the steps to be followed in considering whether to adopt special provisions within the policy are:

- identification of concern about crime and disorder or public nuisance;
- consideration of whether it can be demonstrated that crime and disorder and nuisance are arising and are caused by the customers of licensed premises, and if so identifying the area from which problems are arising and the boundaries of that area; or that the risk factors are such that the area is reaching a point where a cumulative impact is imminent;
- consultation with those specified by section 5(3) of the 2003 Act as part of the general consultation required in respect of the whole policy;
- subject to that consultation, inclusion of special provisions about future premises licence or club premises certificate applications from that area within the terms of the licensing policy;
- publication of the special provisions as part of the policy required by the 2003 Act.

- 1.18 The effect of adopting special provisions of this kind is to create a rebuttable presumption that applications for new premises licences or club premises certificates

or material variations will normally be refused, if relevant representations to that effect are received, unless it can be demonstrated that the operation of the premises involved will not add to the cumulative impact already being experienced. Applicants would need to address the special provisions issues in their operating schedules in order to rebut such a presumption. However, special provisions must stress that this presumption does not relieve responsible authorities or interested parties of the need to make a relevant representation before the local authority may lawfully consider giving effect to its special provisions. If no representation is received, it would remain the case that any application must be granted in terms that are consistent with the operating schedule submitted. However, responsible authorities, such as the police, or interested parties, can make a written representation maintaining that it is necessary to refuse the application for the promotion of the prevention of crime and disorder and referring to information that had been before the local authority when it developed its policy.

- 1.19 If adopted, special provisions will be reviewed regularly to assess whether they are needed any longer or need expanding. While special provisions are in existence, applicants will need to demonstrate why the operation of the premises would not add to the cumulative impact being experienced.
- 1.20 The absence of special provisions does not prevent any responsible authority or interested party making representations on a new application for the grant of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives.
- 1.21 The Licensing Authority 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. The Licensing Authority will not consider representations for a saturation policy based purely on the numbers of a specific type of business located in a defined area.
- 1.22 It therefore recognises that, within this policy, it may be able to approve licences that are unlikely to add significantly to the problems arising from saturation, and will consider the circumstances of each individual application.

### **Advice and Guidance**

- 1.23 The Licensing Authority recognises the valuable cultural, social and business importance that premises and events requiring a licence under the Licensing Act provide and welcomes the diversity of activities that are provided by licence holders. For this reason, pre-application discussions will be encouraged to assist applicants to develop their operating schedule to the standards the Licensing Authority will normally expect. The Council, Kent Police and/or Kent Fire and Rescue Service will offer as much advice and guidance to applicants, as resources permit.
- 1.24 The Licensing Authority will also seek to liaise with applicants and/or mediate between applicants and others who may make representations, to achieve a satisfactory outcome for all involved wherever possible and where resources permit. Where an applicant considers that representations may be likely or probable, it is recommended that the applicant discuss the proposal with the Licensing Authority and those from whom they think representations are likely prior to submitting their application. Once an application has been lodged, there are statutory timescales imposed upon the application and determination process, which restrict the opportunity for such discussions, liaison and mediation.

## Consultation

- 1.25 There are a number of groups who have a stake in the leisure industry, including businesses, customers, residents and regulators, all of whom have views and concerns that require consideration as part of the licensing function and promotion of the licensing objectives.
- 1.26 In developing this Policy Statement, the Licensing Authority consulted widely. Along with the statutory consultees (the Chief Police Officer for the District and the Kent & Medway Towns Fire and Rescue Authority) and the Dartford and Gravesham Community Safety Partnership, the views of existing licence holders, businesses, voluntary groups and residents were also taken into account. Due consideration was given to the views of all those who responded to that consultation process.
- 1.27 This Policy Statement takes effect on 7<sup>th</sup> January 2011 and will remain in force for a period of 3 years until 6<sup>th</sup> January 2014. It will be subject to regular review by the Council's Licensing Committee. This may lead to Interim Provisions within the three year period which would then be published in a revised policy statement. There will be further consultation prior to the tri-annual renewal of the policy.

### 1.28 **Reviews of Premises Licences**

Where possible and appropriate the Licensing Authority, Kent Police and/or Kent Fire & Rescue Service will give early warning to licence holders of any concerns about problems identified at premises and of the need for improvement.

No more than one review will normally be permitted within any 12 month period on substantially similar grounds except in exceptional and compelling circumstances or where it arises following a closure order.

Responsible authorities and/or residents living in the vicinity can trigger a review of a premises licence but an evidentiary basis would be required to be presented to the Licensing Authority. They will disregard any representations which are irrelevant, frivolous and/or vexatious.

### 1.29 **Enforcement**

The Council delivers a wide range of enforcement services aimed at safeguarding the environment and the community and at providing a 'level playing field' on which businesses can fairly trade. The administration and enforcement of the licensing regime is one of these services. The Council has adopted the principals of the Regulators' Compliance Code designed to ensure effective and efficient public protection services. Specifically, the Council is committed to accord with the principles of good enforcement practice by carrying out its' regulatory functions in a fair, open and consistent manner.

- 1.30 The Regulators' Compliance Code is based on the principles that businesses should:

- receive clear explanations from enforcers of what they need to do and by when;
- have opportunities to resolve differences before enforcement action is taken - unless immediate action is needed;
- receive an explanation of their rights of appeal

- 1.31 The Licensing Authority recognises the interests of both individual citizens and the requirements of businesses and will work closely with partners to assist licence holders to comply with the law and the four licensing objectives it seeks to promote. However, proportionate but firm action will be taken against those who commit serious offences or persistently break the law. The Council has set clear standards

of service and performance that the public and businesses can expect. In particular, a licensing enforcement policy has been created that explains how the Council will undertake its role as Licensing Authority and how the principles of effective enforcement will be achieved. This policy is freely available from the Corporate Complaints Officer as are details of the Council's corporate complaints procedures. These documents can also be viewed on the Council's website: [www.dartford.gov.uk](http://www.dartford.gov.uk)

- 1.32 The Council has established protocols with Kent Police, Kent & Medway Towns Fire and Rescue Authority and Kent County Council Trading Standards on enforcement issues. These protocols provide for the targeting of resources towards high-risk premises and activities that require greater attention, while providing a lighter touch in respect of low risk premises that are well operated.
- 1.33 The principle of using a scoring scheme based on risk factors will normally prevail and proactive inspections will usually be undertaken in accordance with a priority inspection scheme. This should ensure that resources are more effectively allocated to higher risk or 'problem premises'. Monitoring visits will also take place in around premises. (See Appendix 'C')

## **2.0 LICENSING OBJECTIVES**

- 2.1 The following sections set out the Licensing Authority's Policy relating specifically to the four licensing objectives:

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

\*The responsible authority for the protection of children from harm is:  
North Kent Social Services, St Lawrence House, 48a West Hill, Dartford,  
Kent, DA1 2HG.

The Licensing Authority may attach relevant Conditions to licences where representations are received or volunteered by the applicant and they are considered necessary and proportionate for the promotion of the licensing objectives. They will be tailored to the individual style and characteristics of the particular premises and events concerned. These Conditions will be drawn from the relevant Model Pools of Conditions set out in Appendices D-H of the Guidance issued under S182 of the Licensing Act 2003. It may be necessary to impose Conditions not in the Model Pool when appropriate. Each case will be considered on its merits.

- 2.2 Each section relating to the objectives lists the factors that would influence the achievement of that objective but, because of the wide variety of premises and activities to which this policy applies, the lists provided are not exhaustive. Applicants know their premises best and will be encouraged to address all aspects relevant to the individual style and characteristics of their premises and events.
- 2.3 Further, in each section, a list of possible control measures is provided, to be of assistance to applicants, but again is not intended to be an exhaustive list. Many control measures achieve more than one objective but have not necessarily been listed under each objective. Applicants should only consider any control measures deemed necessary in their operating schedule.
- 2.4 The Licensing Authority recommends the selection of control measures, referred to in 2.3 above, to be based upon a risk assessment of the premises, events, activities and the customers expected to attend (e.g. their age, number, etc.). Whilst the

Licensing Authority may not require such risk assessments to be documented, (other than where required by other legislation), it considers such documentation to be good practice and a useful tool in the instruction and training of staff. It is also a sound basis for review by the licence holder, in the event of an application for variation or a response to changing circumstances/conditions at the premises being required.

- 2.5 The Licensing Authority considers the effective and responsible management of the premises, instruction, training and supervision of staff and the adoption of best practice to be amongst the most essential control measures for the achievement of all the licensing objectives.

### **3.0 PREVENTION OF CRIME AND DISORDER**

- 3.1 Dartford Borough Council is committed to further improving the quality of life for the people of the Borough by continuing to reduce crime and the fear of crime. The Licensing Authority will also consult and involve the Dartford and Gravesham Crime and Disorder Reduction Partnership in decision making in order to maximise the effectiveness of reducing crime, misuse of drugs and the fear of crime.

- 3.2 Section 17 of the Crime and Disorder Act 1998 introduced a wide range of measures for preventing crime and disorder and imposed a duty on Dartford Borough Council, Kent Police, Kent County Council and others to consider crime and disorder reduction in the exercise of all their duties. The Licensing Act 2003 reinforces this duty for local authorities.

- 3.3 The promotion of the licensing objective, to prevent crime and disorder, places a responsibility on licence holders to become key partners in achieving this objective. Applicants will be encouraged to demonstrate in their operating schedule, when necessary, that suitable and sufficient measures have been identified and will be implemented and maintained to reduce or prevent crime and disorder on and in the vicinity of their premises, relevant to the individual style and characteristics of their premises and events.

- 3.4 When addressing the issue of crime and disorder, the applicant may consider the following factors that impact on crime and disorder. These might include:

- Underage drinking
- Drunkenness on premises
- Public drunkenness
- Drugs
- Violent behaviour
- Anti-social behaviour

- 3.5 The following examples of control measures are given to assist applicants when preparing their operating schedule, having regard to their particular type of premises and/or activities:

- Effective and responsible management of premises
- Training and supervision of staff
- Adoption of best practice guidance (e.g. Safer Clubbing, the National Alcohol Harm Reduction Strategy Toolkit and other voluntary codes of practice, including those relating to drinks promotions e.g. The Point of Sale Promotions published by BBPA)
- Acceptance of accredited 'proof of age' cards for example "PASS Card" promoted by Kent Trading Standards and Kent Police and/or 'new type' driving licences with photographs, passports, an official identity card issued by H M Forces.
- Provision of effective CCTV in and around premises

- Employment of Security Industry Authority licensed Door Supervisors.
  - Provision of toughened or plastic glasses
  - Provision of secure deposit boxes for confiscated items ('sin bins')
  - Provision of litterbins and other security measures, such as lighting, outside premises
  - Membership of the Dartford Town Against Crime (D-TAC) Partnership.
- 3.6 Within the operating schedule for premises from which alcohol will be sold, a Designated Premises Supervisor (DPS) must be identified and named. The Licensing Authority will normally expect the DPS to have been given day-to-day responsibility for running the premises by the premises licence holder. In exceptional circumstances, the police may object to the designation of a new premises supervisor where they believe that such appointment would undermine the crime prevention objective.
- 3.7 Certain temporary events are not required to be licensed but must be notified to the Licensing Authority and Police using the Temporary Event Notice procedure. However, depending on the nature and location of such events, these can have serious crime and disorder implications. Organisers of these events are encouraged to submit their notification as soon as reasonably practicable and at least 10 working days before the event to enable the police and the Licensing Authority to work with them to identify and reduce the risk of crime and disorder. Organisers may find the following documents helpful:
- 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 0 7176 1580 4.
  - The Guide to Safety at Sports Grounds (The Stationary Office 1997) ("The Green Guide") ISBN 0 11 300095 2.
  - Safety Guidance for Street Arts, Carnivals, Processions and Large Scale Performances, published by the independent Street Arts Network, copies of which may be obtained through:[www.streetartnetwork.org/pages/publications](http://www.streetartnetwork.org/pages/publications).
- 3.8 Where the Licensing Authority has given notice in writing to the holder of the premises licence prohibiting the exhibition of a film on the grounds that it contains matter, which, if exhibited, would be likely to:
- Encourage or incite crime or lead to disorder, or
  - Stir up hatred or incite violence towards any section of the public on grounds of colour, race or ethnic or racial origin, disability, religious beliefs, sexual orientation or gender

The Licensing Authority will expect that the film shall not be exhibited in the premises except with the consent in writing of the Authority and in accordance with any conditions attached to such consent.

The Licensing Authority will require all films to comply with the British Board of Film Classification (BBFC) guidelines.

#### **4.0 PUBLIC SAFETY**

- 4.1 The Licensing Authority is committed to ensuring that the safety of any person visiting or working in licensed premises is not compromised. To this end, applicants will be encouraged to demonstrate in their operating schedule, when necessary, that suitable and sufficient measures have been identified and will be implemented and maintained to ensure public safety, relevant to the individual style and characteristics of their premises and events.

4.2 When addressing the issue of public safety, the applicant may consider the following factors that impact on the standards of public safety. These may include:

- The occupancy capacity of the premises
- The age, design and layout of the premises, including means of escape in the event of fire
- The nature of the licensable activities to be provided, in particular the sale or supply of alcohol, and including whether those activities are of a temporary or permanent nature
- The hours of operation noting the difference between opening hours and the hours of licensable activities ("drinking up time").
- Customer profile (e.g. age, disability)
- The use of special effects such as lasers, pyrotechnics, smoke machines, foam machines, strobe lighting etc.

4.3 The following examples of control measures are given to assist applicants when preparing their operating schedule, having regard to their particular type of premises and/or activities:

- Suitable and sufficient risk assessments
- Effective and responsible management of premises
- Provision of a sufficient number of people employed or engaged to secure the safety of the premises and patrons
- Appropriate instruction, training and supervision of those employed or engaged to secure the safety of the premises and patrons
- Adoption of best practice guidance
- Provision of effective CCTV in and around premises
- Provision of toughened or plastic glasses
- Implementation of crowd management measures
- Regular testing (and certification where appropriate) of procedures, appliances, systems etc. pertinent to safety

## **5.0 PREVENTION OF PUBLIC NUISANCE**

5.1 Licensed premises have a significant potential to adversely impact on communities through public nuisances that arise from their operation. The Licensing Authority wishes to proactively maintain and protect the amenity of residents and other businesses from the potential consequence of the operation of licensed premises whilst recognising the valuable cultural, social and business importance that such premises provide.

5.2 The Licensing Authority intends to interpret 'public nuisance' in its widest sense, and takes it to include such issues as noise, light, odour, litter and anti-social behaviour, where these matters impact on those living, working or otherwise engaged in normal activity in an area. Licensees and Certificate holders should take reasonable steps to prevent the occurrence of crime and disorder and public nuisance immediately outside their premises, for example on the pavement, in a beer garden or in a smoking shelter, where and to the extent that these matters are within their control.

5.3 Applicants need to clearly understand that when representations are received the Licensing Authority will pay particular attention whether or not to impose stricter conditions, including controls on licensing hours, where licensed premises are in residential areas with a view to protecting the quality of life of residential occupiers.

5.4 In the case of shops, stores, supermarkets and garages selling alcohol, they should normally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are good reasons,

based on the licensing objectives, for restricting those hours. For example, a limitation may be appropriate following Police representations in the case of some shops known to be a focus of disorder and disturbance because youths gather there.

5.5 Applicants will be encouraged to demonstrate in their operating schedule, when necessary, that suitable and sufficient measures have been identified and will be implemented and maintained to prevent public nuisance, relevant to the individual style and characteristics of their premises and events.

5.6 When addressing the issue of prevention of public nuisance, the applicant may consider the following factors that impact on the likelihood of public nuisance. These may include:

- The location of premises and proximity to residential and other noise sensitive premises, such as hospitals, hospices, schools, nurseries and places of worship
- The hours of operation, particularly if between 23.00 and 07.00
- The nature of activities to be provided, including whether those activities are of a temporary or permanent nature and whether they are to be held inside or outside premises
- The design and layout of premises and in particular the presence of noise limiting features
- The occupancy capacity of the premises
- The availability of public transport
- Last admission time
- The steps the applicant has taken or proposes to take to ensure that staff leave the premises quietly
- The steps the applicant has taken or proposes to take to prevent disturbance by patrons arriving or leaving the premises
- Whether routes to and from the premises, on foot or by car or service or delivery vehicles, pass residential premises.
- Whether other measures have been taken or are proposed such as the use of CCTV or the employment of SIA registered Door Supervisors.
- The arrangements made or proposed for parking by patrons, and the effect of this parking on local residents.
- The likelihood of any violence, disorder or policing problems arising if a licence were granted.
- Whether taxis and private hire vehicles serving the premises are likely to disturb local residents.
- The siting of external lighting, including security lighting that is installed inappropriately.
- Whether the premises would result in increased refuse storage or disposal problems or additional litter in the vicinity of the premise and any measures or proposed measures to deal with this.
- The history of previous nuisance complaints proved against the premises, particularly where statutory notices have been served on the present licensees.

5.7 The following examples of control measures are given to assist applicants when preparing their operating schedule, having regard to their particular type of premises and/or activities:

- Effective and responsible management of premises
- Appropriate instruction, training and supervision of those employed or engaged to prevent incidents of public nuisance
- Control of operating hours for all or parts (e.g. garden areas) of premises, including such matters as deliveries

- Adoption of best practice guidance (e.g. Good Practice Guide on the Control of Noise from Pubs and Clubs, produced by Institute of Acoustics or "Licensed Property: Noise Control" available from [www.beerandpub.com](http://www.beerandpub.com)).
- Installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices
- Management of people, including staff, and traffic (and resulting queues) arriving and leaving premises
- Liaison with public transport providers
- Siting of external lighting, including security lighting
- Management arrangements for collection and disposal of litter
- Effective ventilation systems to prevent nuisance from odour

## **6.0 PROTECTION OF CHILDREN FROM HARM**

- 6.1 Applicants will be encouraged to demonstrate in their operating schedule, when necessary, that suitable and sufficient measures have been identified and will be implemented and maintained to protect children from harm, relevant to the individual style and characteristics of their premises and events. The Local Authority commends the Portman Group Code of Practice on the naming and packaging of alcoholic drinks.
- 6.2 The protection of children from harm is an important issue. It is hoped that family friendly premises will thrive, but the risk of harm to children remains a paramount consideration when determining applications. The Licensing Authority will work actively with the Police and other bodies in enforcing licensing legislation where there are concerns regarding under-age sales and/or drinking.
- 6.3 The relaxation in the Licensing Act giving accompanied children greater access to licensed premises is seen as a positive step, which may bring about a social change in family friendly leisure. Clearly, this relaxation places additional responsibilities upon licence holders. However, it is recognised that parents and others accompanying children also have responsibilities.
- 6.4 The protection of children from harm includes the protection of children from moral, psychological and physical harm and, in relation to the exhibition of films, or the transmission of programmes by video or DVD. This includes the protection of children from exposure to strong language, sexual imagery and sexual expletives. In certain circumstances children are more vulnerable and their needs will require special consideration. This vulnerability includes their susceptibility to suggestion, peer group influences, inappropriate example, the unpredictability of their age and the lack of understanding of danger.
- 6.5 Whilst children may be adequately protected from harm by the action taken to protect adults, they may also need special consideration and no policy can anticipate every situation. When addressing the issue of protecting children from harm, the applicant may consider the following factors that impact on harm to children. These may include the potential for children to:
- Purchase, acquire or consume alcohol
  - Be exposed to drugs, drug taking or drug dealing
  - Be exposed to gambling
  - Be exposed to activities of an adult or sexual nature
  - Be exposed to incidents of violence or disorder
  - Be exposed to environmental pollution such as noise or smoke
  - Be exposed to special hazards such as falls from a height

- 6.6 The following examples of control measures are given to assist applicants when preparing their operating schedule, having regard to their particular type of premises and/or activities:
- Effective and responsible management of premises
  - Provision of a sufficient number of people employed or engaged to secure the protection of children from harm
  - Appropriate instruction, training and supervision of those employed or engaged to secure the protection of children from harm
  - Limitations on the hours when children may be present, in all or parts of the premises
  - Limitations or exclusions by age when certain activities are taking place
  - Imposition of requirements for children to be accompanied by an adult
  - Acceptance of accredited 'proof of age' cards for example "PASS Card" promoted by Kent Trading Standards and Kent Police and/or 'new type' driving licences with photographs, passport, an official identity card issued by HM Forces or by a EU country bearing the photograph and date of birth of bearer
  - The placing of machines to comply with the codes of practice under the Gambling Act 2005 so that they can be properly supervised.
- 6.7 In the case of film exhibitions, the Licensing Authority will expect licensees to implement measures that restrict children from viewing age-restricted films classified according to the recommendations of the BBFC or the Authority. In the case of a film exhibition that has not been classified, the Licensing Authority will expect the licensee to certify to the Authority that an assessment of the suitability of the film for exhibition to children in accordance with the BBFC Guidelines has been carried out and that this has been confirmed by the Authority in writing prior to public viewing.
- 6.8 Where regulated entertainment is provided the Licensing Authority will require the presence of an adequate number of adult staff to control the access and egress of children and to protect them from harm whilst on the premises (see Annex 'H' of Guidance). Where children are present as performers, the Authority will normally require an adequate number of adult staff to be responsible for the child performers.
- 6.9 The Licensing Authority will rarely impose complete bans on access to children. In exceptional circumstances conditions restricting access or excluding children completely may be considered necessary. Those conditions may restrict children from entering all or part of licensed premises:
- (1) at certain times of the day or
  - (2) when certain licensable activities are taking place or
  - (3) to which children aged under 16 years should have access only when supervised by an adult or
  - (4) to which unsupervised children under 16 will be permitted access
- 6.10 Examples of premises where these conditions may be considered include where:
- (1) there have been convictions for serving alcohol to minors or where there is some evidence of under-age drinking
  - (2) there is a known association with drug taking or dealing
  - (3) there is a strong element of gambling on the premises
  - (4) entertainment of an adult or sexual nature is commonly provided
  - (5) there is a presumption that children under 18 should not be allowed (e.g. to nightclubs, except where under 18 discos are being held)
  - (6) licensable activities are taking place during times when children under 16 may be expected to be attending compulsory full-time education.

## **7.0 ADMINISTRATION, EXERCISE & DELEGATION**

- 7.1 The Licensing Authority is involved in a wide range of licensing decisions and functions and has established a Licensing Committee to administer them. The powers under the Act also allow for delegation of powers/functions to Licensing Sub-Committees or to one or more officers.
- 7.2 Appreciating the need to provide a speedy, efficient and cost effective service to all parties involved in the licensing process, the Council has taken advantage of these powers and has established a Licensing Sub-Committee(s).
- 7.3 Many of the decisions and functions are largely administrative in nature such as the grant of non-contentious applications, including for example those licences and certificates where no representations have been made. These will be delegated to Council officers. All such matters dealt with by officers will be reported for information to the next Licensing Committee meeting.
- 7.4 Applications where there are relevant representations will be dealt with by the Licensing Committee/Sub-Committee - unless such representations are considered irrelevant, frivolous or vexatious, or unless the Authority, the applicant and everyone who has made representations agrees that a hearing is not necessary (usually after successful mediation).
- 7.5 The table given at 7.10 sets out the agreed delegation of decisions and functions of the Licensing Committee, Sub-Committees and officers. The various delegations include delegation to impose appropriate conditions.
- 7.6 This scheme of delegations is without prejudice to the right of interested parties to refer an application to a Licensing Sub-Committee or the full Licensing Committee if considered appropriate in the circumstances of any particular case.
- 7.7 Unless there are compelling reasons to the contrary, the Licensing Authority will require the Licensing Committee or any of its Sub-Committees to meet in public - although Members can retire into private session to consider their decision.
- 7.8 'Relevant representations' are representations as defined by Section 18 of the Act:
- a. about the likely effect of the Premises Licence on the promotion of the licensing objectives.
  - b. made by an interested party or a responsible Authority, have not been withdrawn and, in the case of representations made by an interested party they are not in the Licensing Authority's opinion irrelevant, frivolous or vexatious.
- 7.9 'An Interested Party' means any of the following as defined by Section 13 of the Act:
- a. A person living in the vicinity of the premises;
  - b. A body representing persons who live in that vicinity;
  - c. A person involved in a business in that vicinity; or
  - d. A body representing persons involved in such business.
  - e. A Councillor of the Licensing Authority for the area in which the premises is situated.

## 7.10 Delegation of Functions:

Matter to be dealt with	Full Licensing Committee	Licensing Sub-committee	Officers
Approval of Policy & Delegation of Authority	Full Committee		
Application for Personal Licence		If a Police objection	If no objection made
Application for Personal Licence with unspent convictions		All cases	
Application for Premises Licence/Club Premises Certificate		If a relevant representation made	If no relevant representation made
Application for Provisional Statement		If a relevant representation made	If no relevant representation made
Application to vary Premises Licence/Club Premises Certificate		If a relevant representation made	If no relevant representation made
Application for a Minor Variation			All cases
Application to vary Designated Premises Supervisor		If a Police objection	All other cases
Request to be removed as Designated Premises Supervisor			All cases
Application for Transfer of Premises Licence		If a Police objection	All other cases
Application for Interim authorities'		If a Police objection	All other cases
Application to review Premises Licence/Club Premises Certificate		All cases	
Decision on whether a complaint is relevant, 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	

## **Appendix A - Definitions**

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

### **'Appeals'**

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

### **'Authorised Persons'**

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

### **'Interested Parties'**

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

### **'Responsible Authorities'**

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

### **'Closure Order'**

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

### **'Club Premises Certificate'**

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

### **'Conditions'**

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

### **'Designated Premises Supervisor'**

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

### **'Interim Authority Notices'**

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

### **'Late Night Refreshment'**

The supply of hot food and/or drink to members of the public (whether for consumption on or off the premises) between the hours of 11.00pm and 05.00am.

### **'Licensable Activities'**

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

### **'Licensing Authority'**

Dartford Borough Council.

### **'Licensing Objectives'**

The objectives of licensing set out in the 2003 Act:

- The prevention of crime and disorder.
- Public Safety.
- The prevention of public nuisance.
- The protection of children from harm.

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

### **'Licensed Premises'**

Includes club premises and events unless the context otherwise requires.

### **'Mandatory Conditions'**

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

### **'Objection Notice'**

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

### **'Operating Schedule'**

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

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

### **'Personal Licence'**

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

### **'Premises Licence'**

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

### **'Provisional Statement'**

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

### **'Qualifying Club'**

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

### **'Regulated Entertainment'**

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

- A performance of a play.
- An exhibition of a film.
- An indoor sporting event.
- A boxing or wrestling entertainment (indoors or outdoors).
- A performance of live music (not incidental music, i.e. a piano in a restaurant).
- Any playing of recorded music.
- A performance of dance.
- Provisions of facilities for dancing.
- Provision of facilities for making music.
- Entertainment of a similar description to the performance of live music, the playing of recorded music and the performance of dance.

### **'Relevant Representations'**

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

### **'Review of Licence'**

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

### **'Responsible Authority'**

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

### **'Statement of Licensing Policy'**

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

### **'Supervisor'**

Responsible for supervision of the premises e.g. the day to day manager. Any premises where alcohol is supplied as a licensable activity must have a Designated Premises Supervisor.

### **'Temporary Event Notice'**

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

- Duration - they are limited to events lasting up to 96 hours.
- Scale - they cannot involve the presence of more than 499 people at any one time.
- Use of the same premises - the same premises cannot be used on more than 12 occasions in a calendar year, but are subject to the overall aggregate of 15 days irrespective of the number of occasions on which they have been used.
- The number of notices by one individual within a given period of time - a Personal Licence holder is limited to 50 notices in one year and any other person to 5 notices in a similar period.

If these conditions are not fulfilled, the Temporary Event would require a Premises Licence if it were currently unlicensed for the activity involved.

### **'Transfer'**

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

## **Appendix B - Further Information & Contacts**

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

Licensing Section  
Dartford Borough Council  
Civic Centre  
Home Gardens  
Dartford  
Kent  
DA1 1DR

Tel: 01322 343024  
Fax: 01322 343607  
Email: [licensing@dartford.gov.uk](mailto:licensing@dartford.gov.uk)  
Website: [www.dartford.gov.uk](http://www.dartford.gov.uk)

Information is also available from:

Department for Media, Culture & Sport (Guidance to the Act)  
2-4 Cockspur Street  
London  
SW1Y 5DH

Tel: 020 7211 6200  
Email: [Enquiries@culture.gov.uk](mailto:Enquiries@culture.gov.uk)  
Website: [www.culture.gov.uk](http://www.culture.gov.uk)

HMSO (The Licensing Act 2003)  
Website: [www.hmso.gov.uk](http://www.hmso.gov.uk)

### **Responsible Authorities:**

North Kent Police Station  
Licensing Section  
Thames Way  
Northfleet  
Dartford  
Kent  
DA11 8BD

Kent Fire & Rescue Service  
Fire Safety Office  
Dartford Fire Station  
Watling Street  
Dartford  
Kent  
DA2 6EG

Tel: 01474 366345  
Fax: 01474 366369  
Email: [paul.diment@kent.pnn.police.uk](mailto:paul.diment@kent.pnn.police.uk)

Tel: 01322 278729  
Fax: 01322 227962  
Email: [Dartford.firesafety@kent.fire-uk.org](mailto:Dartford.firesafety@kent.fire-uk.org)

Health & Safety/Environmental Health/Planning  
Dartford Borough Council  
Civic Centre  
Home Gardens  
Dartford  
Kent  
DA1 1DR

Tel: 01322 343434  
Fax: 01322 343422  
Email: [environmental.admin@dartford.gov.uk](mailto:environmental.admin@dartford.gov.uk) (H & S/Environmental)  
[planning.admin@dartford.gov.uk](mailto:planning.admin@dartford.gov.uk) (Planning)

Area Manager  
North Kent Social Services  
St Lawrence House  
48a West Hill  
Dartford  
Kent  
DA1 2HG

Tel: 01322 277744  
Fax: 01322 289343  
Email:

KCC Trading Standards  
Legal & Licensing Department  
1<sup>st</sup> Floor, Invicta House  
Maidstone  
Kent  
ME14 1XX

Tel: 01732 525291  
Email: [ts.licensing@kent.gov.uk](mailto:ts.licensing@kent.gov.uk)

#### **OTHER USEFUL CONTACTS:**

The British Institute of Inn-keeping  
(BII)  
Wessex House  
80 Park Street  
Camberley  
Surrey  
GU15 3PT

Tel: 01276 684449  
Fax: 01276 23045  
Website: [www.bii.org.uk](http://www.bii.org.uk)

British Beer & Pub Association  
(BBPA)  
Market Towers  
1 Nine Elms Lane  
London. SW8 5NQ  
SW8 5NQ

Tel: 020 7627 9191  
Fax: 020 7627 9123  
Website: [www.beerandpub.com](http://www.beerandpub.com)

The Portman Group  
7-10 Chandos Street  
Cavendish Square  
London  
W1G 9DQ

Tel: 020 79073700  
Website: [www.portman-group.org.uk](http://www.portman-group.org.uk)

Security Industry Authority  
(S.I.A.)  
PO Box 9  
Newcastle Upon Tyne  
NE82 6YX

Tel: 08702 430100  
Fax: 08702 430125  
Web: [www.the-sia.org.uk](http://www.the-sia.org.uk)

Bar, Entertainment & Dance  
Association (BEDA)  
5 Waterloo Road  
Stockport  
Cheshire  
SK1 3BD

Tel: 01614 290012  
Fax: 01614 297214  
Website: [www.beda.gov.uk](http://www.beda.gov.uk)

Alcohol Concern  
Waterbridge House  
32-36 Loman Street  
London  
SE1 0EE

Tel: 020 7928 7377  
Web: [www.alcoholconcern.org.uk](http://www.alcoholconcern.org.uk)

## **Appendix C - Licensing Enforcement Policy**

### **1. Aim**

This Policy is intended to fairly and firmly enforce the law in a consistent and transparent way, and in accordance with the four licensing objectives:-

- Prevention of crime and disorder.
- Public Safety.
- Prevention of public nuisance.
- Protection of children from harm.

The Council will assist and advise wherever appropriate, but proportionate action will be taken against those who breach the provisions of the legislation.

The Council has adopted the provisions of the Regulators' Compliance Code; this enforcement policy helps to promote efficient and effective approaches to regulatory inspection and enforcement, which improve regulatory outcomes without imposing unnecessary burdens. This is in accordance with the Regulators' Compliance Code.

In certain instances we may conclude that a provision in the Code is either not relevant or is outweighed by another provision. We will ensure that any decision to depart from the Code will be properly reasoned, based on material evidence and documented.

### **2. Liaison with regulatory agencies.**

The Council will work actively with the Police and other bodies (Fire and Rescue Service, Customs and Excise, Trading Standards, Child Protection, Health and Safety Executive, Security Industry Authority, Crown Prosecution Service, etc), in enforcing the licensing legislation. This will necessitate the sharing of information in relation to those persons involved in licensing and relevant premises based on the requirements of the Licensing Act 2003, Criminal Justice and Police Act 1994, Crime and Disorder Act 1998, the Violent Crime Reduction Act 2006 and other relevant legislation.

There are various statutory provisions that enable the Council to exchange relevant information with other bodies. These provisions will be used as appropriate.

This enforcement policy in no way restricts other regulatory bodies from carrying out enforcement under their own regulatory powers.

### **3. Licensing Visits.**

Council Officers will make licensing visits to premises, and may on occasion be accompanied primarily by Police and or other regulatory agencies.

Both the Council and the other relevant agencies firmly believe that working with business is the primary method to achieve the licensing objectives, but will take appropriate enforcement action if necessary.

The visiting regime for premises is not decided solely on a risk assessment basis. The Council will, as part of its' proactive stance, make regular visits to and in the vicinity of licensed premises in order to assess the impact of their operation on residents and other businesses in the area.

There will be a presumption that visits will take place when various crime and disorder and other indicators show that there are potential problems developing in relation to specific premises or areas.

The Council will monitor patron movement to, from and between premises and the provision and accessibility of transport to assist dispersal of persons away from licensed premises. The information gained from these monitoring exercises will inform the development of the Councils' Licensing Policy Statement.

#### **4. Consistency.**

The Council and its officers will act in a fair and consistent manner. Council Officers whilst exercising their professional judgement in individual cases will do so within a framework based on consistency and fairness in action.

There will be specific circumstances when the Council will share an enforcement role with the Police or other agencies. When this occurs the same degree of consistency and fairness will be applied.

#### **5. Proportionality.**

The Council, Police and other enforcement agencies will, as far as the law allows and where co-operation is given, work with business/licensees to enable them to meet their legal obligations without undue cost.

The Council will take into account the cost of compliance by ensuring that any enforcement or remedial action required is proportionate to the risks. However clear breaches of the legislation may attract prosecution and/or recommendation for review of the licence where it is deemed to be in the public interest.

#### **6. Enforcement Action/Options.**

- i. The initial contact between Council and Business/Licensees will normally be informal, with the provision of advice, guidance and support.
- ii. Enforcement action can include the following progressive approach to achieve compliance:
  - Verbal advice - which may be documented
  - Written advice
  - Verbal warning - which may be documented
  - Written warning
  - Statutory Notice
  - Formal Caution
  - Prosecution

The individual circumstances of the breach of the legislation will determine the level of enforcement.

In the case of a premises licence the Council or the Police may ask for a review.

All actions will be considered in accordance with the requirements of the Human Rights Act 1998 and considered on its individual merits.

On conviction of a relevant offence Magistrates may endorse, suspend or revoke a Personal Licence.

Council Officers, Police or Crown Prosecutors may, relating to such a conviction remind the Magistrates' of their powers to endorse, suspend or revoke a Personal Licence.

- iii. When prosecution is being considered, the relevant enforcement bodies will on a case by case basis decide which is the lead authority to prosecute the offence. Regard will be taken of the Code of Practice made under Section 10 Prosecution of Offences Act 1985 and issued by the Crown Prosecution Service. Due consideration will be given to any

guidance and/or advice issued by Government, Local Authority Association and other professional and technical bodies. Statements will be provided as regard to evidence from one agency to another as necessary.

Before deciding whether to prosecute the following factors will be considered:-

- The seriousness of the alleged offence.
- The history of the business/person concerned.
- The willingness of the business/individual to prevent a reoccurrence of the problem and the level of co-operation with Council Officers, Police and/or other agencies.
- Whether it is in the public interest to prosecute.
- The realistic prospect of conviction.
- Whether any other action (including a formal caution) would be appropriate.
- The views of any complainant and other parties with an interest in a prosecution.

The Council takes a proactive stance towards the proper regulation of, and enforcement of the provisions of this legislation.

The Council will normally take a lead on issues including:-

- Noise.
- Production and display of relevant licences and documents.
- Unauthorised licensable activities in relation to the provision of regulated entertainment.
- Breaches of conditions of premises licences.
- Breaches of requirements under Temporary Events Notices.
- Exposing and keeping of alcohol on premises for unauthorised sale.

Other breaches of the Act will be dealt with either directly or jointly as indicated above. The Council will give full co-operation to any other agency in carrying out their investigations.