

## 2. The licensing objectives

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### CRIME AND DISORDER

- 2.1 The steps any licence holder or club might take to prevent crime and disorder are as varied as the premises or clubs where licensable activities may be carried on. Licensing authorities should therefore look to the police as the main source of advice on these matters. They should also seek to involve the local CDRP, as recommended in paragraph 1.21 of this Guidance.
- 2.2 The Government's expectation is that the police will have a key role in undertaking the following tasks:
- developing a constructive working relationship with licensing authority licensing officers and bodies such as the local authority social services department, the Area Child Protection Committee or another competent body;
  - developing a constructive working relationship with designated premises supervisors and other managers of premises, including premises providing late night refreshment;
  - advising, where necessary, on the development of a venue drug policy;
  - developing a constructive working relationship with the Security Industry Authority including joint visits and enforcement action where appropriate;
  - agreeing the protocols for actions taken by door supervisors in relation to illegal drugs or violent behaviour, particularly when police officers should be called immediately;
  - advising on and approving search procedures and the storage procedures for confiscated drugs;
  - gathering and sharing intelligence on drug dealing and use with partner organisations and local venues;
  - advising on the installation and monitoring of security devices such as CCTV;
  - advising on the provision of safe and accessible transport home in consultation with community safety colleagues, local transport authorities and transport operators;
  - working with venue owners and managers to resolve drug-related problems and problems of disorder, drunkenness and anti-social behaviour; and
  - advising on the protection of employees on licensed premises who may be targets for attacks and reprisals.
- 2.3 The Security Industry Authority also plays an important role in preventing crime and disorder by ensuring that door supervisors are properly licensed and, in partnership with police and other agencies, that security companies are not being used as fronts for serious and organised criminal activity and that door supervisors are properly licensed. This may include making specific enquiries or visiting premises through intelligence led operations in conjunction with the police, local authorities and other partner agencies. In the exercise of their functions licensing authorities should seek to co-operate with the SIA as far as possible and consider adding relevant conditions to licences where necessary and appropriate.
- 2.4 The essential purpose of the licence or certificate in this context is to regulate behaviour on premises and access to them where this relates to licensable activities and the licensing objectives. Conditions attached to licences cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff or agents, but can directly impact on the behaviour of customers on, or in the immediate vicinity of, the premises as they seek to enter or leave.

- 2.5 Licence conditions should not replicate licensing offences that are set out in the 2003 Act. For example, a condition that states that a licence holder shall not permit drunkenness and disorderly behaviour on his premises would be superfluous because this is already a criminal offence. A condition that states that a licence holder shall not permit the sale of controlled drugs on the premises would be similarly superfluous.
- 2.6 Conditions are best targeted on deterrence and preventing crime and disorder. For example, where there is good reason to suppose that disorder may take place, the presence of closed-circuit television cameras both inside and immediately outside the premises can actively deter disorder, nuisance and anti-social behaviour and crime generally. Some licensees may wish to have cameras on their premises for the protection of their own staff and for the prevention of crime directed against the business itself or its customers. But any condition may require a broader approach, and it may be necessary to ensure that the precise location of cameras is set out on plans to ensure that certain areas are properly covered and there is no subsequent dispute over the terms of the condition.
- 2.7 Similarly, the provision of requirements for door supervision may be necessary to ensure that people who are drunk or drug dealers or carrying firearms do not enter the premises, reducing the potential for crime and disorder, and that the police are kept informed.
- 2.8 Text and radio pagers allow premises licence holders, designated premises supervisors and managers of premises and clubs to communicate instantly with the local police and facilitate a rapid response to any disorder which may be endangering the customers and staff on the premises. 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.
- 2.9 Some conditions primarily focused on the prevention of crime and disorder will also promote other licensing objectives. For example, a condition requiring that all glasses used on the premises for the sale of alcoholic drinks should be made of plastic or toughened glass or not allowing bottles to pass across a bar may be necessary to prevent violence by denying assailants suitable weapons, but may also benefit public safety by minimising the injury done to victims when such assaults take place (for example, facial injuries resulting from broken glass).
- 2.10 A condition must also be capable of being met. For example, while beer glasses may be available in toughened glass, wine glasses may not. Licensing authorities should carefully consider conditions of this kind to ensure that they are not only necessary but both practical and achievable.
- 2.11 Similarly, although most commonly made a condition of a licence on public safety grounds, licensing authorities should also consider conditions which set capacity limits for licensed premises or clubs where it may be necessary to prevent overcrowding likely to lead to disorder and violence. If such a condition is considered necessary, the licensing authority should consider whether door supervisors are needed to control numbers.

- 2.12 In the context of crime and disorder and public safety, the preservation of order on premises may give rise to genuine concerns about the competency of the management team charged with the maintenance of order. This may occur, for example, on premises where there are very large numbers of people and alcohol is supplied for consumption, or in premises where there are public order problems.
- 2.13 The designated premises supervisor is the key person who will usually be charged with day to day management of the premises by the premises licence holder, including the prevention of disorder. However, conditions relating to the management competency of designated premises supervisors should not normally be attached to premises licences. A condition of this kind could only be justified as necessary in rare circumstances where it could be demonstrated that in the circumstances associated with particular premises, poor management competency could give rise to issues of crime and disorder and public safety.
- 2.14 It will normally be the responsibility of the premises licence holder as an employer, and not the licensing authority, to ensure that the managers appointed at the premises are competent and appropriately trained and licensing authorities must ensure that they do not stray outside their powers and duties under the 2003 Act. This is important to ensure the portability of the personal licence and the offences set out in the 2003 Act ensure, for example, that the prevention of disorder is in sharp focus for all such managers, licence holders and clubs.
- 2.15 Communications between the managers of the premises and the police can also be crucial in preventing crime and disorder. Involvement by operators and managers in voluntary schemes and initiatives may be particularly valuable. Conditions requiring dedicated text or pager links between management teams and local police stations can provide early warning of disorder and also can be used to inform other licence holders that a problem has arisen in the area generally. For example, where a gang of youths is causing problems in one public house and their eviction will only result in them going on elsewhere to cause problems on other premises, there is advantage in communication links between the police and other licensed premises and clubs.
- 2.16 However, while this may be necessary and effective in certain parts of licensing authority areas, it may be less effective or even unnecessary in others. Police views on such matters should be given considerable weight and licensing authorities must remember that only necessary conditions, which are within the control of the licence holder or club, may be imposed.
- 2.17 The Indecent Displays Act 1981 prohibits the public display of indecent matter, subject to certain exceptions. It should not therefore be necessary for any conditions to be attached to licences or certificates concerning such displays in or outside the premises involved. For example, the display of advertising material on or immediately outside such premises is regulated by this legislation. Similarly, while conditions relating to public safety in respect of dancing may be necessary in certain

circumstances, the laws governing indecency and obscenity are adequate to control adult entertainment involving striptease and lap-dancing which goes beyond what is lawful. Accordingly, conditions relating to the content of such entertainment which have no relevance to crime and disorder, public safety, public nuisance or the protection of children from harm could not be justified. In this context, however, it should be noted that it is in order for conditions relating to the exclusion of minors or the safety of performers to be included in premises licence or club premises certificate conditions where necessary. The Local Government (Miscellaneous Provisions) Act 1982 insofar as its adoptive provisions relate to sex establishments – sex shops, sex cinemas and in London sex encounter establishments – also remains in force.

- 2.18 Guidance to the police on powers to close premises (formerly Chapter 11 of this Guidance) can now be found on the DCMS website at [www.culture.gov.uk](http://www.culture.gov.uk).

## PUBLIC SAFETY

- 2.19 Licensing authorities and responsible authorities should note that the public safety objective is concerned with the physical safety of the people using the relevant premises and not with public health, which is dealt with in other legislation. There will of course be occasions when a public safety condition could incidentally benefit health, but it should not be the purpose of the condition as this would be ultra vires the 2003 Act. Accordingly, conditions should not be imposed on a premises licence or club premises certificate which relate to cleanliness or hygiene.
- 2.20 From 1 October 2006 the Regulatory Reform (Fire Safety) Order 2005 ('the Fire Safety Order') replaced previous fire safety legislation. As such any fire certificate issued under the Fire Precautions Act 1971 will have ceased to have effect. Licensing authorities should note that under article 43 of the Fire Safety Order any conditions imposed by the licensing authority that relate to any requirements or prohibitions that are or could be imposed by the Order automatically cease to have effect, without the need to vary the licence. This means that licensing authorities should not seek to impose fire safety conditions where the Order applies.
- 2.21 The exception to this will be in cases where the licensing authority and the enforcing authority for the fire safety order are one and the same body. For example, designated sports-grounds and stands where local authorities enforce the fire safety order. In such circumstances fire safety conditions should not be set in new licences, but conditions in existing licences will remain in force and be enforceable by the licensing authority.
- 2.22 The Fire Safety Order applies in England and Wales. It covers 'general fire precautions' and other fire safety duties which are needed to protect 'relevant persons' in case of fire in and around 'most premises'. The Order requires fire precautions to be put in place 'where necessary' and to the extent that it is reasonable and practicable in the circumstances of the case.
- 2.23 Responsibility for complying with the Order rests with the 'responsible person', which may be the employer, or any other person or people who may have control of the premises. Each responsible person must carry out a fire risk

assessment which must focus on the safety in case of fire for all 'relevant persons'. The fire risk assessment is intended to identify risks that can be removed or reduced and to decide the nature and extent of the general fire precautions that need to be taken including, where necessary, capacity limits.

2.24 The local fire and rescue authority will enforce the Order in most premises and have the power to inspect the premises to check the responsible person is complying with their duties under the Order. They will look for evidence that the responsible person has carried out a suitable fire risk assessment and acted upon the significant findings of that assessment. If the enforcing authority is dissatisfied with the outcome of a fire risk assessment or the action taken, they may issue an enforcement notice that requires the responsible person to make certain improvements or, in extreme cases, issue a prohibition notice that restricts the use of all or part of the premises until improvements are made.

2.25 Further information and guidance about the Order and fire safety legislation is available from the Communities and Local Government website [www.communities.gov.uk/fire](http://www.communities.gov.uk/fire).

2.26 Where there is a requirement in other legislation for premises open to the public or for employers to possess certificates attesting to the safety or satisfactory nature of certain equipment or fixtures on the premises, it would be unnecessary for a licensing condition to require possession of such a certificate. However, it would be permissible to require as a condition of a licence or certificate, if necessary, checks on this equipment to be conducted at specified intervals and for evidence of these checks to be retained by the

premises licence holder or club provided this does not duplicate or gold-plate a requirement in other legislation. Similarly, it would be permissible for licensing authorities, if they receive relevant representations from responsible authorities or interested parties, to attach conditions which require equipment of particular standards to be maintained on the premises. Responsible authorities – such as health and safety authorities – should therefore make clear their expectations in this respects to enable prospective licence holders or clubs to prepare effective operating schedules and club operating schedules.

2.27 "Safe capacities" should only be imposed where necessary for the promotion of public safety or the prevention of disorder on the relevant premises. For example, if a capacity has been imposed through other legislation, it would be unnecessary to reproduce it in a premises licence. Indeed, it would also be wrong to lay down conditions which conflict with other legal requirements. However, if no safe capacity has been imposed through other legislation, a responsible authority may consider it necessary for a new capacity to be attached to the premises which would apply at any material time when the licensable activities are taking place and make representations to that effect. For example, in certain circumstances, capacity limits may be necessary in preventing disorder, as overcrowded venues can increase the risks of crowds becoming frustrated and hostile.

2.28 As noted above, a capacity limit should not be imposed as a condition of the licence on fire safety grounds (unless the licensing authority and the enforcing authority for fire safety purposes are the same) since, under article 43 of the Fire Safety Order, it would have no effect and so would not be enforceable.

2.29 The special provisions made for dancing, amplified and unamplified music in section 177 of the 2003 Act apply only to premises with a "permitted capacity" of not more than 200 persons. In this context, the capacity must be where the fire and rescue authority has made a recommendation on the capacity of the premises under the Fire Safety Order. For any application for a premises licence or club premises certificate for premises without an existing permitted capacity where the applicant wishes to take advantage of the special provisions set out in section 177 of the 2003 Act, the applicant should conduct their own risk assessment as to the appropriate capacity of the premises. They should send their recommendation to the fire and rescue authority who will consider it and then decide what the "permitted capacity" of those premises should be.

2.30 Whilst the Cinematograph (Safety) Regulations 1955 (S.I. 1995/1129) which contained a significant number of regulations in respect of fire safety provision at cinemas, no longer apply, applicants taking advantage of the "grandfather rights" pursuant to Schedule 8 to the 2003 Act will have been subject to conditions which re-state those regulations in their new premises licence or club premises certificate. Any holders of a converted licence seeking to remove these conditions and reduce the regulatory burden on them (to the extent to which that can be done while still promoting the licensing objectives), would need to apply to vary their converted licences or certificates. When considering variation applications or applications for new licences, licensing authorities and responsible authorities should recognise the need for steps to be taken to assure public safety at these premises in the absence of the 1995 Regulations.

2.31 Public safety includes the safety of performers appearing at any premises.

## PUBLIC NUISANCE

2.32 The 2003 Act requires licensing authorities (following receipt of relevant representations) and responsible authorities, through representations, to make judgements about what constitutes public nuisance and what is necessary to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on impacts of the licensable activities at the specific premises on persons living and working (including doing business) in the vicinity that are disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.

2.33 Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It is important to remember that the prevention of public nuisance could therefore include low-level nuisance perhaps affecting a few people living locally as well as major disturbance affecting the whole community. It may also include in appropriate circumstances the reduction of the living and working amenity and environment of interested parties (as defined in the 2003 Act) in the vicinity of licensed premises.<sup>2</sup>

2.34 Conditions relating to noise nuisance will normally concern steps necessary to control the levels of noise emanating from premises. This might be achieved by a simple measure such as ensuring that doors and windows are

<sup>2</sup> It should also be noted in this context that it remains an offence under the 2003 Act to sell or supply alcohol to a person who is drunk. This is particularly important because of the nuisance and anti-social behaviour which can be provoked after leaving licensed premises.