

LICENSING POLICIES

- 1.9 Section 5 of the Act requires a licensing authority to prepare and publish a statement of its licensing policy every three years. The policy must be published before the authority carries out any licensing function in relation to applications made under the Act.
- 1.10 However, making a statement is a licensing function and as such the authority must have regard to the Secretary of State's Guidance when making and publishing its policy. A licensing authority may depart from its own policy if the individual circumstances of any case merit such a decision in the interests of the promotion of the licensing objectives. But once again, it is important that they should be able to give full reasons for departing from their published statement of licensing policy. Where revisions to this Guidance are issued by the Secretary of State, there may be a period of time when the local policy statement is inconsistent with the Guidance, for example, during any consultation by the licensing authority. In these circumstances, the licensing authority should have regard, and give appropriate weight, to the Guidance and its own licensing policy statement.

LICENSABLE ACTIVITIES

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

Licensable activities

- The sale by retail of alcohol.
- The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club.
- The provision of regulated entertainment.
- The provision of late night refreshment.

- 1.12 Further explanation of these terms is provided in Chapter 3.

AUTHORISATIONS

- 1.13 The Act provides for four different types of authorisation, as follows:

Authorisations

- Personal licences – to sell or supply alcohol and/or authorise the sale/supply.
- Premises Licences – to use a premises for licensable activities.
- Club Premises Certificates – to allow a qualifying club to engage in qualifying club activities as set out in Section 1 of the Act.
- Temporary Event Notices – to carry out licensable activities at a temporary event.

GENERAL PRINCIPLES

- 1.14 If an application for a premises licence or club premises certificate has been made lawfully and there have been no representations from responsible authorities or interested parties, the licensing authority must grant the application, subject only to conditions that are consistent with the operating schedule and relevant mandatory conditions.

Each application on its own merits

- 1.15 Each application must be considered on its own merits and any conditions attached to licences and certificates must be tailored to the individual style and characteristics of the premises and events concerned. This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises where there is no need for such conditions. Standardised conditions should be avoided and indeed, may be unlawful where they cannot be shown to be necessary for the promotion of the licensing objectives in any individual case.

Avoiding duplication of other legal requirements

- 1.16 The licensing authority should only impose conditions on a premises licence or club premises certificate which are necessary and proportionate for the promotion of the licensing objectives. If other 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 or club. It is only where additional and supplementary measures are necessary to promote the licensing objectives that necessary, proportionate conditions will need to be attached to a licence.

Hours of opening

- 1.17 The Government strongly believes that, prior to the introduction of the Licensing Act 2003, fixed and artificially early closing times (established under the Licensing Act 1964) were one of the key causes of rapid binge

drinking prior to closing times; and one of the causes of disorder and disturbance when large numbers of customers were required to leave the premises simultaneously.

- 1.18 The aim through the promotion of the licensing objectives should be to reduce the potential for concentrations and achieve a slower dispersal of people from licensed premises through flexible opening times. Arbitrary restrictions that would undermine the principle of flexibility should therefore be avoided.
- 1.19 The four licensing objectives should be paramount considerations at all times and licensing authorities should always consider the individual merits of a case.

Partnership working

- 1.20 Licensing functions under the Act are only one means of promoting the delivery of the objectives described. They can make a substantial contribution in relation to licensed premises, but are not the panacea for all community problems.
- 1.21 Licensing authorities should work with all partners to deliver the licensing objectives, including responsible authorities, the licensed trade, local people and businesses, town centre managers, Crime and Disorder Reduction Partnerships, performers and local transport authorities and operators. For example, local businesses and a local authority may develop a Business Improvement District (BID), a partnership arrangement to take forward schemes that are of benefit to the community in that area, subject to the agreement of business rate payers.

1.22 The private sector, local residents and community groups in particular have an equally vital role to play in promoting the licensing objectives in partnership with public bodies. The Secretary of State strongly recommends that licensing authorities form licensing liaison groups and forums that bring together all the interested parties on a regular basis to monitor developments and propose possible solutions to any problems that may arise. The Secretary of State also recommends that licensing authorities should hold well publicised open meetings where local people and businesses can give their views on how well they feel the licensing objectives are being met.

RELATED LEGISLATION AND STRATEGIES

1.23 The Licensing Act is part of a wider Government strategy to tackle crime, disorder and anti-social behaviour and reduce alcohol harm. Licensing authorities should develop effective strategies with the police, and the other enforcement agencies as appropriate, for the management of the night-time economy. Central to this would be the enforcement of the law relating to the sales of alcohol to drunk and underage people and drunkenness or disorder on, or in the immediate vicinity of licensed premises. Targeted enforcement of this kind, in line with the recommendations in the 'Hampton' report¹ should have a positive impact on the immediate vicinity of the licensed premises concerned.

1.24 Local authorities are also empowered under section 13 of the the Criminal Justice and Police Act 2001 to make 'designated public place orders' (DPPOs) to control the consumption of alcohol in a public place outside of licensed premises.

1.25 In addition there is nothing to prevent the police, licensing authorities and the hospitality industry reaching agreement about best practice in areas where problems are likely to arise.

1.26 Licensing law is not the primary mechanism for the general control of individuals once they are away from a licensed premises and therefore beyond the direct control of individual licensees or certificate holders. However, 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 (once the smoking ban comes into force) in a smoking shelter, where and to the extent that these matters are within their control.

1.27 In addition, when considering a new premises licence or following reviews that have identified problems with a particular premises, licensing authorities may consider imposing conditions as appropriate, such as preventing customers from taking open containers outside the premises or installing CCTV. However, any conditions imposed must not be aspirational and must be within the control of the licensee. For example, a condition may require a premises to adopt a particular dispersal policy, but a licensee cannot force customers to abide by it.

¹ 'Reducing administrative burdens: effective inspection and enforcement' by Philip Hampton. March 2003

Crime and Disorder Act 1998

- 1.28 All local authorities must fulfil their obligations under section 17 of the Crime and Disorder Act 1998 when carrying out their functions as licensing authorities under the 2003 Act.
- 1.29 Section 17 is aimed at giving the vital work of crime and disorder reduction a focus across the wide range of local services and putting it at the heart of local decision-making. It places a duty on certain key authorities, including local authorities and police and fire and rescue authorities to do all they reasonably can to prevent crime and disorder in their area.
- 1.30 The Government believes that licensing authorities should, as a matter of good practice, involve Crime and Disorder Reduction Partnerships (CDRPs) in decision-making in order to ensure that statements of licensing policy include effective strategies that take full account of crime and disorder implications.

Alcohol Harm Reduction Strategy

- 1.31 Licensing authorities should familiarise themselves with the relevant government's alcohol harm reduction strategy. In England this is *Safe. Sensible. Social. The next steps in the National Alcohol Strategy* published in June 2007 and in Wales the Welsh Assembly published *Tackling Substance Misuse in Wales: A Partnership Approach* in September 2000, which is currently being further developed. Licensing authorities should ensure that their licensing policies complement the relevant strategy, and subsequent measures, where these may help to promote one or more of the licensing objectives.

The Anti-Social Behaviour Act 2003

- 1.32 Licensing authorities need to be aware of new powers that will be available to local authorities under sections 40 and 41 of the Anti Social Behaviour Act 2003. The Act provides that if the noise from any licensed premises is causing a public nuisance, an authorised environmental health officer would have the power to issue a closure order effective for up to 24 hours. Under this provision, it is for the Chief Executive of the local authority to delegate their power to environmental health officers within their authority. If after receiving a closure order the premises remain open, the person responsible may upon summary conviction receive a fine of up to £20,000 or imprisonment for a term not exceeding three months, or both. This complements the police powers under Part 8 of the 2003 Act to close licensed premises for temporary periods.

Violent Crime Reduction Act 2006

- 1.33 The Violent Crime Reduction Act 2006 received Royal Assent on 8 November 2006. The Act introduces new measures to ensure that police and local communities have the powers they need to tackle guns, knives and alcohol-related violence. Relevant measures include:
 - (from 3 May 2007) an amendment to the Licensing Act to introduce a new offence of persistently selling alcohol to children. The offence will be committed if, on three or more different occasions in a period of three consecutive months, alcohol is unlawfully sold to a minor on the same premises

- new powers for local authorities and the police to designate Alcohol Disorder Zones (ADZs) as a last resort to tackle alcohol related crime and disorder. The designation of an area as an ADZ will empower local authorities to charge licensees for additional enforcement activity affecting all licensed premises within the zone. The earliest date for commencement of ADZs is 1 October 2007. On commencement, relevant guidance and regulations will be placed on the Home Office website (www.homeoffice.gov.uk).

- an amendment to the Licensing Act which will enable licensing authorities, on the application of a senior police officer in cases of serious crime and disorder, to attach interim conditions to licences pending a full review. The earliest date for commencement of these powers is 1 October 2007.

LACORS Practical Guide to Test Purchasing

- 1.34 Licensing authorities should also familiarise themselves with the LACORS Practical Guide to Test Purchasing insofar as it relates to the test purchasing of alcohol by trading standards officers. LACORS continues to fulfil an important co-ordinating role in advising and informing licensing authorities about the requirements of the 2003 Act. LACORS' website may be viewed at www.lacors.gov.uk.
- 1.35 Details of other relevant industry initiatives can be found at Annex E.

The Health Act 2006 – workplace smoking ban

- 1.36 The ban on smoking in all enclosed workplaces and public spaces will come into force on 1 July 2007. The ban will include smoking in pubs, restaurants and members' clubs where bar or other staff are employed. In this context 'enclosed' will mean anywhere with more than 50% of wall and ceiling space infilled.

The Clean Neighbourhoods and Environment Act 2005

- 1.37 This provides local authorities with an additional power to issue a fixed penalty notice to any licensed premises emitting noise that exceeds the permitted level between the hours of 11pm and 7am.

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2. The licensing objectives

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

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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.

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.
- 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.²

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

² 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.

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kept closed after a particular time in the evening to more sophisticated measures like the installation of acoustic curtains or rubber speaker mounts. Any conditions necessary to promote the prevention of public nuisance should be tailored to the style and characteristics of the specific premises. Licensing authorities should be aware of the need to avoid unnecessary or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are very expensive to purchase and install and are likely to be a considerable burden for smaller venues.

- 2.35 As with all conditions, it will be clear that conditions relating to noise nuisance may not be necessary in certain circumstances where the provisions of the Environmental Protection Act 1990, the Noise Act 1996, or the Clean Neighbourhoods and Environment Act 2005 adequately protect those living in the vicinity of the premises. But as stated earlier in this Guidance, the approach of licensing authorities and responsible authorities should be one of prevention and when their powers are engaged, licensing authorities should be aware of the fact that other legislation may not adequately cover concerns raised in relevant representations and additional conditions may be necessary.
- 2.36 Where applications have given rise to representations, any necessary and appropriate conditions should normally focus on the most sensitive periods. For example, music noise from premises usually occurs from mid-evening until either late evening or early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. In certain circumstances, conditions

relating to noise in the immediate vicinity of the premises may also prove necessary to address any disturbance anticipated as customers enter and leave.

- 2.37 Measures to control light pollution will also require careful thought. Bright lighting outside premises considered necessary to prevent crime and disorder may itself give rise to light pollution for some neighbours. Applicants, licensing authorities and responsible authorities will need to balance these issues.
- 2.38 In the context of preventing public nuisance, it is again essential that conditions are focused on measures within the direct control of the licence holder or club. Conditions relating to public nuisance caused by the anti-social behaviour of customers once they are beyond the control of the licence holder, club or premises management cannot be justified and will not serve to promote the licensing objectives.
- 2.39 Beyond the vicinity of the premises, these are matters for personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area and to respect the rights of people living nearby to a peaceful night.
- 2.40 The cumulative effects of litter in the vicinity of premises carrying on licensable activities can cause public nuisance. For example, it may be appropriate and necessary for a condition of

a licence to require premises serving customers from take-aways and fast food outlets from 11.00pm to provide litter bins in the vicinity of the premises in order to prevent the accumulation of litter. Such conditions may be necessary and appropriate in circumstances where customers late at night may have been consuming alcohol and be inclined to carelessness and anti-social behaviour.

PROTECTION OF CHILDREN FROM HARM

2.41 The protection of children from harm includes the protection of children from moral, psychological and physical harm, and this would include the protection of children from too early an exposure to strong language and sexual expletives, for example, in the context of film exhibitions or where adult entertainment is provided.

2.42 However, in the context of many licensed premises such as pubs, restaurants, café bars and hotels, it should be noted that the Secretary of State recommends that the development of family-friendly environments should not be frustrated by overly restrictive conditions in relation to children.

2.43 The Secretary of State intends that the admission of children to premises holding a premises licence or club premises certificate should normally be freely allowed without restricting conditions unless the 2003 Act itself imposes such a restriction or there are good reasons to restrict entry or to exclude children completely. Licensing authorities, the police and other authorised persons should focus on enforcing the law concerning the consumption of alcohol by minors.

2.44 Conditions relating to the access of children which are necessary to protect them from harm are self evidently of great importance. As mentioned in connection with statements of licensing policy in Chapter 13 of this Guidance, issues will arise about the access of children in connection with premises:

- where adult entertainment is provided;
- where there have been convictions of the current management for serving alcohol to minors or with a reputation for allowing underage drinking (other than in the context of the exemption in the 2003 Act relating to 16 and 17 year olds consuming beer, wine and cider in the company of adults during a table meal);
- where requirements for proof of age cards or other age identification to combat the purchase of alcohol by minors is not the norm;
- with a known association with drug taking or dealing;
- where there is a strong element of gambling on the premises (but not small numbers of cash prize machines);
- where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.

2.45 It is also possible that activities, such as adult entertainment, may take place at certain times on premises but not at other times. For example, premises may operate as a café bar during the day providing meals for families but also provide entertainment with a sexual content after 8.00pm. Such trading practices should be obvious from the operating schedule or club operating schedule provided with the relevant application allowing the framing of an appropriate, time-limited condition.

- 2.46 Similarly, gambling may take place in part of a leisure centre but not in other parts of those premises. This means that the access of children will need to be carefully considered by applicants, licensing authorities and responsible authorities. In many respects, it should be possible to rely on the discretion and common sense of licence and certificate holders. However, licensing authorities and responsible authorities should still expect applicants when preparing an operating schedule or club operating schedule to state their intention to exercise discretion and where they are necessary, to set out the steps to be taken to protect children from harm when on the premises.
- 2.47 Conditions, where they are necessary, should reflect the licensable activities taking place on the premises and can include:
- where alcohol is sold, requirements for the production of proof of age cards or other age identification before sales are made, to ensure that sales are not made to individuals under 18 years (whether the age limit is 18 or 16 as in the case of the consumption of beer, wine and cider in the company of adults during a table meal);
 - limitations on the hours when children may be present;
 - limitations on the presence of children under certain ages when particular specified activities are taking place;
 - limitations on the parts of the premises to which children may have access;
 - age limitations (below 18);
 - limitations or exclusions when certain activities are taking place;
 - requirements for accompanying adult (including for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult); and
 - full exclusion of people under 18 from the premises when any licensable activities are taking place
- 2.48 The Secretary of State considers that representations made by the child protection bodies and the police in respect of individual applications should be given considerable weight when they address necessary issues regarding the admission of children.
- 2.49 The 2003 Act provides that where a premises licence or club premises certificate authorises the exhibition of a film, it must include a condition 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 specified in the licence (the British Board of Film Classification is currently the only body which has been so designated) or by the licensing authority itself. Further details are given in Chapter 10.
- 2.50 The admission of children to theatres, as with other licensed premises, should not normally be restricted. However, theatres may present a range of diverse activities. The admission of children to the performance of a play should normally be at the discretion of the licence holder and no condition restricting their access to plays should be attached. However, theatres may also present a wide range of entertainment including, for example, variety shows incorporating adult entertainment. A condition restricting the admission of children in such circumstances may be necessary. Entertainments may also be presented at theatres specifically for children. It may be necessary to consider whether a condition



SOUTH DERBYSHIRE DISTRICT COUNCIL

Licensing Act 2003

Representation by an Interested Party

Note: Please be aware that this form may be viewed by the Applicant or by a representative of the Applicant. It may also be read out in public at the sub-committee hearing.

Before completing this form please read Guidance Note - *Representations by Interested Parties*. Details of where this can be obtained are set out to the bottom of this form.

An interested party can make representations against a relevant licence application. Representations may be made on behalf of the above by a representative e.g. MP, solicitor, or a friend.

Please indicate in which capacity you are making this representation by ticking a box below:

- A person living in the vicinity of the premises ☐
- A body representing a person in the vicinity of the premises ☐
- A person involved in a business in the vicinity of the premises ☐
- A body representing a business in the vicinity of the premises ☒

Representations are only relevant to an application if they relate to at least one of the four **Licensing Objectives** listed below:

1. **The Prevention of Crime and Disorder**
2. **Public Safety**
3. **Prevention of Public Nuisance**
4. **The Protection of Children from Harm**

Representations may be made at any time during a period of 28 consecutive days starting on the day after the application was given to the Licensing Authority.

In the case of a closure order issued by the Police, representations may be made during the seven days that follow relevant notice being given to the Local Authority by the Magistrates Court, starting on the day after the day the notice was received.

51.

Please enter your contact details below: -

| | |
|-----------|--|
| Name: | JOHN MILLS (POLLUTION CONTROL OFFICER) |
| Address: | SOUTH DERBYSHIRE DISTRICT COUNCIL, CIVIC OFFICES, SWADLINCOTE. |
| Postcode: | DE11 0AH. |
| Tel: | 01283 595903. |
| E-mail: | John.mills@south-derby.gov.uk. |

Please confirm name and address of person or business affected in the vicinity, if different from the address given above: i.e. this could be a shop premise in the vicinity but you do not live at the shop premises.

| | |
|-----------|--|
| Name: | Mrs Chetwyn |
| Address: | 1 Melbourne View, Station Road, Melbourne. |
| Postcode: | DE73 8BR. |

Address of premises in application causing concern, which you wish to make a representation about

| | |
|----------------------|-----------------------|
| Name of Applicant: | Mrs Sally Warrenner. |
| Address of Premises | Melbourne View Hotel. |
| Application Details: | Licence variation. |

Please give details of your representation in the box below. Indicate which of the Licensing Objectives your representation refers to by ticking the relevant box/es:

- The Prevention of Crime and Disorder
- Public Safety
- Prevention of Public Nuisance
- The Protection of Children from Harm

| |
|-------------------------------------|
| <input type="checkbox"/> |
| <input type="checkbox"/> |
| <input checked="" type="checkbox"/> |
| <input type="checkbox"/> |

Details of representation.....

The Pollution Control section of Environmental Health at South Derbyshire District Council wish to make a representation with regards to the likelihood for this variation to cause a nuisance to the occupants of the adjacent property.

Officers from this Authority have experienced significant levels of noise from the applicants premises, sufficient to cause sleep disturbance and general nuisance to neighbours.

We are concerned that an application requesting outdoor entertainment, consisting of live and recorded music and dancing until midnight, up to 365 days a year, without significant noise control measures in place, would cause public nuisance to neighbours if permitted.

There are no noise control measures referred to within the application which address this issue sufficiently, and therefore we are of the opinion

Representation continued.....

that the application fails to address the prevention of public nuisance objective as defined under the Licensing Act 2003.

If possible please suggest alterations to the application that would resolve the problem mentioned above, again paying attention to the licensing objectives

Whilst we are willing to try to work with the applicant to resolve this issue, the very nature of the activities proposed make it very difficult to effectively control noise sufficiently to prevent public nuisance from outdoor events where the noise receiver is so close to the noise source.

Whilst a sound limiting device would control noise levels arising from amplified sound, the vocal/instrumental element of live music would still be clearly audible next door, and would be quite likely to cause a nuisance.

To prevent public nuisance it is likely that any alteration to the application would need to involve at the very least the relocation of the music and dancing activities either indoors, or to

Continued.....

a location significantly further from the neighbouring property, and the provision of a professionally installed sand limiting device.

Once the Licensing Section has received this form you will receive a written acknowledgement and you may be contacted to discuss the issue prior to any referral to a sub-committee hearing.

Please tick this box if you consent to any notice of any hearing being sent to you to the e-mail address provided by you above. ☒

Please tick this box if you do not intend to attend or be represented at any hearing. ☐

If you wish to withdraw any representations you may do so confirming this in writing to the address given below, providing you do so no later than 24 hours before the any hearing, or otherwise orally at the hearing.

Signed: John Mills

PRINT NAME: John Mills

Date: 1st July 2011

Please return this form to the following address:

South Derbyshire District Council
PO Box 6927
Civic Offices
SWADLINCOTE
DE11 0AH



62.5m

Melbourne
View





SOUTH DERBYSHIRE DISTRICT COUNCIL

Licensing Act 2003

Representation by an Interested Party

Note: Please be aware that this form may be viewed by the Applicant or by a representative of the Applicant. It may also be read out in public at the sub-committee hearing.

Before completing this form please read Guidance Note - *Representations by Interested Parties*. Details of where this can be obtained are set out to the bottom of this form.

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Please indicate in which capacity you are making this representation by ticking a box below:

- A person living in the vicinity of the premises ☒
- A body representing a person in the vicinity of the premises ☐
- A person involved in a business in the vicinity of the premises ☒
- A body representing a business in the vicinity of the premises ☐

Representations are only relevant to an application if they relate to at least one of the four **Licensing Objectives** listed below:

-
1. ~~The Prevention of Crime and Disorder~~
 2. **Public Safety**
 3. **Prevention of Public Nuisance**
 4. **The Protection of Children from Harm**

Representations may be made at any time during a period of 28 consecutive days starting on the day after the application was given to the Licensing Authority.

In the case of a closure order issued by the Police, representations may be made during the seven days that follow relevant notice being given to the Local Authority by the Magistrates Court, starting on the day after the day the notice was received.

Please enter your contact details below: -

| | |
|-----------|--|
| Name: | C BAYLIS |
| Address: | BERWIN LEIGHTON PARTNER SOLICITORS ADELAIDE HOUSE LONDON |
| Postcode: | EC4R 9HA. |
| Tel: | 0203 400 2326 |
| E-mail: | |

Please confirm name and address of person or business affected in the vicinity, if different from the address given above: i.e. this could be a shop premise in the vicinity but you do not live at the shop premises.

| | |
|-----------|---|
| Name: | ANNE & CHARLES CHEWMAN |
| Address: | RAMSLEY FIELD APARTMENTS MELBOURNE VIEW MELBOURNE |
| Postcode: | DE73 8BR |

Address of premises in application causing concern, which you wish to make a representation about

| | |
|----------------------|---|
| Name of Applicant: | UNKNOWN |
| Address of Premises | MELBOURNE VIEW HOTEL RAMSLEY FIELDS MELBOURNE |
| Application Details: | VARIATION OF PREMISES LICENCE |

Please give details of your representation in the box below. Indicate which of the Licensing Objectives your representation refers to by ticking the relevant box/es:

- The Prevention of Crime and Disorder
- Public Safety
- Prevention of Public Nuisance
- The Protection of Children from Harm

| |
|-------------------------------------|
| <input type="checkbox"/> |
| <input type="checkbox"/> |
| <input checked="" type="checkbox"/> |
| <input type="checkbox"/> |

Representation continued.....

If possible please suggest alterations to the application that would resolve the problem mentioned above, again paying attention to the licensing objectives

APPROPRIATE CONDITIONS WOULD BE

- ① ALL MUSIC AND REGULATED ENTERTAINMENT TO TAKE PLACE INSIDE THE PREMISES.
- ② NO NOISE FROM REGULATED ENTERTAINMENT TO BE AUDIBLE IN RAMSLEY FIELD APARTMENTS, MELBOURNE VIEW.
- ③ ALL DOORS AND WINDOWS TO BE KEPT CLOSED DURING REGULATED ENTERTAINMENT EXCEPT FOR ACCESS AND EGRESS.

Details of representation.....

CONTAINED IN LETTER DATED
28/6/11

Date 28 June 2011
our ref CAB
your ref
ddl 020 3400 2326
e-mail

South Derbyshire District Council
Licensing Section
Civic Offices
Civic Way
Swadlincote
Derbyshire
DE11 0AH

Dear Sirs

Melbourne View Hotel, Ramsley Fields, Melbourne - premises licence variation

We are instructed on behalf of Mrs Anne Chetwyn, the proprietor of Ramsley Field Apartments, Melbourne View, Melbourne, DE73 8BR and her son Charles who also resides at the premises and takes an active part in the business.

We are instructed to lodge a representation on behalf of our clients against the grant of the proposed variation in relation to the public nuisance licensing objective.

Our clients operate a business immediately adjacent to the applicant's premises and also reside there.

For a significant period of time our clients have suffered from the effects of excessive music noise from these premises when they conduct functions and receptions at their premises.

The first problems surfaced when marquees were erected on the applicants' property in August 2008. They have continued since that time. We will produce records of problems arising from excessive music noise at any future hearing.

As a result of these continued problems, our clients have made formal complaints to the noise team at the District Council. We understand that the noise team has carried out noise monitoring at the premises and is considering the issue of a noise abatement notice.

Our clients' business is also suffering as a result of this noise. Complaints have been received from guests staying at our clients premises. We enclose copies of their complaints.

Most recently, on 25 June last, our clients were forced to call the police to attend the premises at 20.45 hours as a result of excessive noise from a DJ. After the police left, the noise continued until midnight. We can only assume a Temporary Event Notice had been given to the Council for this event.

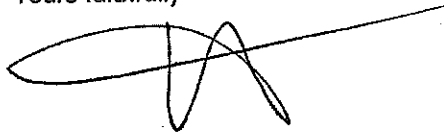
64.

to
date
page 2

Error! No text of specified style in document.

Please notify us of the proposed date for hearing of this application.

Yours faithfully

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke extending to the right.

BERWIN LEIGHTON PAISNER LLP

gm\17227915.1

Craig Baylis

From: Ann Chetwyn [ann.chetwyn@erewash.gov.uk]
Sent: 28 June 2011 09:28
To: Craig Baylis
Subject: FW: Noise Investigation - Melbourne View Hotel - 14th August 2010

----- Original Message -----

From: Martin Lane
To: chetwyn708@btinternet.com
Sent: Tuesday, August 17, 2010 11:25 PM
Subject: FW: Noise Investigation - Melbourne View Hotel - 14th August 2010

Anne,

Here is the email; please don't hesitate to call if you feel we can help.

My mobile number if Sue needs to speak is 07796 690 732

Regards

Martin Lane

From: malane55@hotmail.co.uk
To: sue.pailing@south-derbys.gov.uk
Subject: Noise Investigation - Melbourne View Hotel - 14th August 2010
Date: Tue, 17 Aug 2010 11:43:14 +0000

Sue,

Please excuse this unsolicited email.

I was staying at Ramsley Field Apartments on Friday & Saturday. If I am able, I would like to support Mrs. Chetwyn, and your investigation.

The rehearsal/warmup session started at about 19.00 and lasted for about 30 minutes - this appeared significantly louder than the performance that started at around 20.00.

The performance continued at the same volume level until about 22.00 - throughout, the sound was intrusive & disruptive, particularly the incessant beat of a drum.

Each song/number was interspersed with what I can only describe as barely intelligible announcements about the ensuing song/number.

Rather difficult to recall the time, but I was woken later by the start of the last session of live music.

It never ceases to amaze, as to why in such a small environment, so called rock musicians feel the need to play at levels akin to those at the NEC or other stadia.

In summary, Yes it was loud, Yes it was annoying, yes it was inappropriate for the environment it which it took place.

If you feel I can help in anyway, please do get in touch.

Regards

67.

28/06/2011

Martin Lane
Winchester

_____ Information from ESET NOD32 Antivirus, version of virus signature database 5374 (20100817)

The message was checked by ESET NOD32 Antivirus.

<http://www.eset.com>

_____ Information from ESET NOD32 Antivirus, version of virus signature database 6243 (20110627)

The message was checked by ESET NOD32 Antivirus.

<http://www.eset.com>

The opinions expressed in this e-mail are those of the author and do not necessarily represent the opinions of Erewash Borough Council.

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The recipient should check this e-mail and any attachments for the presence of viruses. Erewash Borough Council accepts no liability for any loss or damage caused by the use of this e-mail or attachments.

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Erewash Borough Council, Ilkeston Town Hall, Wharncliffe Road, Ilkeston, Derbyshire. DE7 5RP.

www.erewash.gov.uk

69.

Craig Baylis

From: Ann Chetwyn [ann.chetwyn@erewash.gov.uk]
Sent: 28 June 2011 09:27
To: Craig Baylis
Subject: FW: disturbed night

----- Original Message -----

From: <info@sasengineering.co.uk>
To: "chetwyn" <chetwyn708@btinternet.com>
Sent: Thursday, June 16, 2011 7:13 PM
Subject: disturbed night

> To whom it may concern
> Mrs Ann Chetwyn has contacted me as a guest who stayed at Ramsley Fields
> last
> September when I was attending a meeting at Donington Park. I had reason
> to
> complain in the morning as I had endured a very poor night due to the
> noisy
> music played from a party or event held locally. I was very disappointed
> that I
> had such a bad night as it is not what you expect when you book into a
> rural
> environment. I understand the music was coming from a marquee or tent of
> some
> sort which had little chance of containing the sound. I resorted to ear
> plugs in
> the end but these did not help much as they are not comfortable to sleep
> in. I
> felt sorry that Mrs Chetwyn could not be held responsible and is bound to
> loose
> business if this happens to many people.
> Yours sincerely
> Tim Cousins
>
>
> _____ Information from ESET NOD32 Antivirus, version of virus
> signature database 6213 (20110616) _____
>
> The message was checked by ESET NOD32 Antivirus.
>
> <http://www.eset.com>
>
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_____ Information from ESET NOD32 Antivirus, version of virus signature database 6243 (20110627) _____

The message was checked by ESET NOD32 Antivirus.

<http://www.eset.com>

Craig Baylis

From: Ann Chetwyn [ann.chetwyn@erewash.gov.uk]
Sent: 28 June 2011 09:27
To: Craig Baylis
Subject: FW: your neighbour noise problem

----- Original Message -----

From: Christopher Tate
To: Chetwyn708@btinternet.com
Sent: Saturday, June 18, 2011 6:09 PM
Subject: your neighbour noise problem

Hello there

You called the Masters Racing offices asking for some support on the question of the noise in the adjacent hotel/wedding facility

We stayed with you in May 2009 with a great deal to work to do over long days up at the track – the only thing the team ever wants is a comfortable bed, a good bathroom, a nice breakfast and silence so one can sleep

You were able to supply all but the last lot; and I did even go down to the wedding party at about 1 am and ask politely if they could keep it down, but the alcohol was in full control by then and the people I spoke to had missed their appointments at charm school

There is little more to say, apart from the fact that we have not used your B&B facility again because of the likelihood of more noisy weddings and or parties on any given weekend, and it's too much of a risk when our role is related to keeping people racing safe and alive – cant be sleeping on the job after two or three poor sleeping nights

I do hope that the local authority will consider this as a suitable witness to add to your objections to any extension of their licence

Kind regards

Christopher Tate
Director 2004-2010
Masters Racing
Milton Keynes, UK.

_____ Information from ESET NOD32 Antivirus, version of virus signature database 6220 (20110618) _____

The message was checked by ESET NOD32 Antivirus.

<http://www.eset.com>

_____ Information from ESET NOD32 Antivirus, version of virus signature database 6243

73.

28/06/2011

