

**TITLE OF REPORT: LICENSING ACT 2003  
PROPOSED STATEMENT OF LICENSING POLICY 2008-10**

REPORT OF THE STRATEGIC DIRECTOR OF FINANCIAL AND REGULATORY SERVICES

**1. PURPOSE OF REPORT**

- 1.1 The purpose of this report is to summarise the responses to the public consultation in respect of the Council's Statement of Licensing Policy.
- 1.2 The Licensing and Appeals Committee, having considered this report, can make a recommendation to Council in respect of the Policy.

**2. FORWARD PLAN**

- 2.1 This report contains a recommendation on a key decision that was first notified in the Forward Plan in October 2007.

**3. BACKGROUND**

- 3.1 The responsibility for the licensing of the retail sale of alcohol, the supply of alcohol to members and guests in members clubs, the provision of regulated entertainment and the provision of late night refreshment was transferred to local authorities on 24<sup>th</sup> November 2005 by way of the Licensing Act 2003.
- 3.2 In preparation for this new responsibility, local authorities had to publish a Statement of Licensing Policy by 7<sup>th</sup> January 2005 in accordance with Section 5 of the Act.
- 3.3 It is a requirement under Section 5 of the Act that this Policy is kept under regular review and that the Policy is formally reviewed and published every three years.
- 3.4 The Statement of Licensing Policy seeks to strike a balance between the interests of licence holders and residents in the promotion of the four licensing objectives defined by the Act. It outlines the Council's expectations of licence holders in promoting the licensing objectives, whilst advising on the Council's obligations under the Act.
- 3.5 In administering the Licensing Act 2003, the local authority are deemed to also be the Licensing Authority.

**4. APPROACH TO THE STATEMENT OF LICENSING POLICY**

- 4.1 The development of the Statement of Licensing Policy has been based upon a consultation process undertaken by the Licensing and Enforcement Team, with consideration to the recommended national policy template published by LACORS (Local Authorities Coordinators of Regulatory Services) and the Guidance issued by the Secretary of State under Section 182 of the Act.
- 4.2 The consultation process was undertaken between Monday 18<sup>th</sup> June 2007 and Friday 7<sup>th</sup> September 2007. A policy consultation page was created on

the Council's website including the current policy and an explanation of the process for making a representation.

4.3 A letter advising of the consultation process was sent to each of the following consultees:

- Hertfordshire Constabulary
- Hertfordshire Fire & Rescue Service
- Hertfordshire Trading Standards
- Hertfordshire Safeguarding Children Board
- NHDC Environmental Protection Team
- NHDC Environmental Health Team
- NHDC Building Control Team
- NHDC Planning Team
- All current premises licence holders, club premises certificate holders and personal licence holders
- Town Centre Managers
- NHDC Councillors
- Town Pubwatch / Shopwatch Schemes
- Neighbourhood Policing Panels
- Parish / Town Councils
- Local MP's
- Local Trade Associations

4.4 It was felt that due to the extensive consultation exercise undertaken for the initial policy and the fact that the policy appeared to be working well, no significant changes should be proposed.

## **5. LEGAL IMPLICATIONS**

5.1 The Act requires the Licensing Authority to publish a three year Statement of Licensing Policy by 7<sup>th</sup> January 2005 and at three yearly intervals thereafter.

5.2 In preparing the Statement of Licensing Policy, the Council must consult:

- the chief officer of police for the licensing authority's area,
- the fire authority for that area,
- such persons as the licensing authority considers to be representative of holders of premises licences issued by that authority,
- such persons as the licensing authority considers to be representative of holders of club premises certificates issued by that authority,
- such persons as the licensing authority considers to be representative of holders of personal licences issued by that authority, and
- such other persons as the licensing authority considers to be representative of businesses and residents in its area

5.3 Section 4 of the Licensing Act 2003 states that in carrying out its licensing functions, a licensing authority must have regard to its Statement of Licensing Policy and any guidance issued by the Secretary of State under Section 182.

5.4 The Guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003 states that in determining applications a licensing authority may depart from its own policy if the individual circumstances of the case merit such a decision, however, they should give full reasons in their decision for such a departure.

5.5 The Statement of Licensing Policy should make it clear that each application will:

- be determined on its own merits,
- only have necessary, reasonable, proportionate and enforceable conditions imposed if relevant representations are received in relation to the licensing objectives,
- be granted as applied for, save conditions volunteered in the operating schedule, if no relevant representations are received

5.6 It is important to be aware that there is case law in respect of a successful Judicial Review of the Statement of Licensing Policy of Canterbury City Council by the British Beer & Pub Association and others. (BBPA and others V Canterbury City Council, 25/06/2005). Mr Justice Richards made it clear that local policies should not:

*“prescribe or dictate the contents of an application, or give the impression that the Council will assess, and exercise substantive discretionary powers in relation to, all applications and not just to those that come through for a decision under section 18(3).....”*

*The licensing authority has no power at all to lay down the contents of an application and has no power to assess an application, or to exercise substantive discretionary powers in relation to it, unless there are relevant representations and the decision making function under section 18(3) is engaged.*

*If a policy creates a different impression, and in particular if it misleads an applicant into believing that he must meet certain requirements in relation to his application and that he lacks the freedom accorded to him by the Act and Regulations, the policy is contrary to the legislative scheme and is unlawful.....”*

## **6. FINANCIAL AND HUMAN RESOURCE IMPLICATIONS**

6.1 The Government has indicated that they expect the centrally set fees of the Licensing Act 2003 to cover the cost to the Council of administering the licensing regime.

6.2 This Statement of Licensing Policy will not place any new financial or human resource implications on the Council.

## **7. CONSULTATION WITH EXTERNAL AND INTERNAL STAKEHOLDERS**

7.1 The Licensing Authority have consulted with all statutory consultees as defined by the Act and listed in 5.2 above.

7.2 The full list of consultees is contained in 4.3 above.

7.3 The current Statement of Licensing Policy, as used for the consultation, is available on the Council’s website. A hard copy can be forwarded on request.

7.4 A schedule of comments received and the action taken in respect of these comments is attached as **Appendix A of this report**.

7.5 The proposed new Statement of Licensing Policy, incorporating amendments, is attached as **Appendix B of this report**.

## **8. RECOMMENDATIONS**

- 8.1 That the proposed Statement of Licensing Policy in respect of the Licensing Act 2003, as attached at Appendix B to the report incorporating the results of the public consultation exercise, be supported by the Licensing and Appeals Committee.
- 8.2 That the Licensing and Appeals Committee recommend the adoption of the Statement of Licensing Policy to Council

## **9. REASONS FOR RECOMMENDATIONS**

- 9.1 Licensing Authorities are required to publish a Statement of Licensing Policy every three years in accordance with Section 5 of the Licensing Act 2003. A new policy must be published by 7<sup>th</sup> January 2008.

## **10. ALTERNATIVE OPTIONS CONSIDERED**

- 10.1 There are no alternative options other than a Statement of Licensing Policy that may differ in content and extent. The proposed Statement of Licensing Policy, whilst comprehensive, aims to strike a balance between the minimum legal requirements and being overly prescriptive and open to challenge.

## **11. APPENDICES**

- 11.1 Appendix A – Schedule of comments received during the consultation, including recommendations
- 11.2 Appendix B – Proposed Statement of Licensing Policy

## **12. CONTACT OFFICERS**

- 12.1 Andy Godman, Head of Housing and Environmental Health, 01462 474293
- 12.2 Giovanna Silverio, Licensing and Enforcement Manager, 01462 474478
- 12.3 Steve Cobb (Report Author)  
Licensing and Enforcement Officer, 01462 474833

## **13. BACKGROUND PAPERS**

- 13.1 Licensing Act 2003
- 13.2 Guidance issued by Secretary of State under Section 182 of the Act

<b>Summary of Responses to Statement of Licensing Policy</b>
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<b>Consultee</b>	<b>Observations (inc. Section )</b>	<b>Comment / Action Taken</b>	<b>Amendments to Licensing Policy</b>
Royston Town Council	Policy doesn't address the increased public nuisance due to outdoor smoking areas	Cannot include standardised requirements; each application must be considered on it's own merits	None
	More focus needed on protecting residents	Policy adequately reflects the legislation in respect of the promotion of the licensing objectives	None
Lilley Parish Council	No objections to the policy		None
Sandon Parish Council	Concerns that to ensure flexibility for premises such as Sandon Sports Club a 7 day midday to midnight licence was sought. Could such a licence be restricted to being used on a limited number of occasions per year, or could TEN's be made cheaper to remove the need for a premises licence ?	The licensing process is designed to build in flexibility for applicants. Restrictions can be imposed by way of condition if necessary to promote the licensing objectives. Fees for TEN's are set by statute.	None
Mrs S Shelly	General comments on the need for a consultation when the main problem is legislation that the Council cannot change		None
Cllr Lorna Kercher	Can the policy address the problem of pubs applying for TEN's as an ancillary to a nearby premises licence, for example during Rhythms of the World ?	Any person is entitled to apply for a TEN and only the police can object on the crime prevention objective. Policy would be ultra vires if it were to restrict this entitlement.	None
Putteridge Bury	Policy doesn't address the needs of those who work in the licensed trade; could there be a fifth licensing objective which takes into account the livelihood of those in the trade ?	Policy adequately reflects the legislation in respect of the promotion of the licensing objectives. Licensing objectives are defined within the legislation and cannot be amended.	None
Steve Cobb (NHDC Licensing Officer)	Various cosmetic changes (such as contact details, formatting and adoption date)	All changes necessary	Policy amended
	1.2 Clarification needed that retail sale includes internet and mail order sales	Change recommended by LACORS	Paragraph amended
	1.3 Reference to applications being determined by reference to our policy needs to be extended to include reference to National Guidance	This is a requirement of the Act	Paragraph amended
	2.2 Need to emphasise the importance of the licensing objectives as the main consideration when determining an application	Latest National Guidance emphasises this point	Paragraph amended
	4.2 Redefine this section to reflect the latest National Guidance		Paragraph amended
	4.3 Redefine this section to reflect the latest National Guidance		Paragraph amended
	Need to add a paragraph defining the Council's interpretation of 'vicinity'	Change recommended by LACORS	Para 4.4 added

<b>Summary of Responses to Statement of Licensing Policy</b>
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Consultee	Observations (inc. Section )	Comment / Action Taken	Amendments to Licensing Policy
Steve Cobb (NHDC Licensing Officer)	Need to update our 'off sales' policy to reflect the latest National Guidance	Change recommended by LACORS	Para 7.4 added
	Need to state that the Council cannot make representations or impose conditions if no representations are received	Change recommended by LACORS	Para 4.5 added
	5.1 Redefine the paragraph about conditions to state that standard conditions will be avoided and conditions will not be disproportionate or over burdensome	Latest National Guidance emphasises this point	Paragraph amended
	Need to state our current view on a special cumulative impact policy		Para 6.9 added
	7.1 Need to update paragraph to reflect the latest National Guidance		Paragraph amended
	7.3 Need to emphasise the need to determine each application on it's own merits	Latest National Guidance emphasises this point	Paragraph amended
	8.5 Need to state our policy in respect of films without a BBFC classification	Change recommended by LACORS	Paragraph amended
	9.2 Need to include a reference to smoking shelters		Paragraph amended
	Need to include a reference to unnecessary noise conditions in small venues	Latest National Guidance emphasises this point	Para 9.4 added
	Need to amend our policy to reflect the latest National Guidance in respect of noise nuisance conditions	Latest National Guidance emphasises this point	Para 9.5 added
	Need to include a reference to the licensing of NHDC owned public spaces	Change recommended by LACORS	Para 10.4 added
	11.1 Need to amend to reflect the latest National Guidance's definition of public safety	Change recommended by LACORS	Paragraph amended
	Need to include a reference to the new Fire Safety Order in terms of public safety	Latest National Guidance emphasises this point	Paras 11.2 / 11.3 added
	Need to include a reference to avoiding capacity figures unless exceptional circumstances	Latest National Guidance emphasises this point	Paras 11.4 / 11.5 added
	Need to add a reference to the Council's risk-rating based scheme of inspections	Change recommended by LACORS	Para 14.3 added
	Need to add a section clearly defining the Council's interpretation of working days under the TEN's legislation. In addition, include a reference to the Council's Safety Advisory Team when planning events	Change recommended by LACORS	Section 17 added
	Need to include a reference to community events and how adjacent licensed premises should assist with the licensing objectives	Experience of Rhythms of the World 2007 suggests that this would be useful.	Section 18 added
Need to include a section explaining the review procedure and how the council will work with partner agencies and licence holders wherever possible in the event of problems	Change recommended by LACORS	Section 19 added	

<b>Summary of Responses to Statement of Licensing Policy</b>
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<b>Consultee</b>	<b>Observations (inc. Section )</b>	<b>Comment / Action Taken</b>	<b>Amendments to Licensing Policy</b>
Steve Cobb (NHDC Licensing Officer)	Need to include a section on the expected requirements for applications including the provision of adult entertainment	Policy needs to include this section, should an application for adult entertainment be received	Section 20 added

# **NORTH HERTFORDSHIRE DISTRICT COUNCIL**

## **STATEMENT OF LICENSING POLICY**

(adopted by Full Council on 29 November 2007)

as required by

## **THE LICENSING ACT 2003**

For further information please contact:

Licensing and Enforcement Team  
North Hertfordshire District Council  
Gernon Road  
Letchworth Garden City  
SG6 3JF

Tel: 01462 474000  
Fax: 01462 474396  
Email: [licensing@north-herts.gov.uk](mailto:licensing@north-herts.gov.uk)  
Web: [www.north-herts.gov.uk](http://www.north-herts.gov.uk)

Any questions can be made to the above Team in writing or to the email address quoted above.

18th September 2007

# NORTH HERTFORDSHIRE DISTRICT COUNCIL

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## Statement of Licensing Policy

This Licensing Policy Statement was adopted by the Council on 29 November 2007 and is effective from 7 January 2008.

### **1. Introduction**

1.1 This Licensing Policy Statement ("The Policy") has been produced in accordance with the Licensing Act 2003 ("The Act") and has been drafted with regard to the Department of Culture Media and Sport Guidance issued on 28 June 2007. Its purpose is to give guidance to North Hertfordshire District Council ("The Council") when carrying out its functions and responsibilities under the Act.

1.2 This Policy applies to all those licensable activities identified as falling within the provisions of the Act , namely:

- Retail sale of alcohol (including via the internet or mail order).
- Supply of alcohol by or on behalf of a club member, or the order of a member of a club.
- The provision of late night refreshment, which includes the supply of hot food and/or drink on or from any premises between 11pm and 5am to members of the public.
- The provision of 'regulated entertainment', as defined by the Act, which may include:
  1. A performance of a play
  2. An exhibition of a film
  3. An indoor sporting event
  4. Boxing or wrestling entertainment (indoor or outdoor)
  5. A performance of live music
  6. Any playing of recorded music
  7. A performance of dance
  8. Provision of facilities for making music
  9. Entertainment of a similar description to that falling within the performance of live music, the playing of recorded music and the performance of dance

1.3 Each licence application will be decided by reference to this Policy, the National Guidance issued by the Secretary of State and to the individual circumstances of the particular application. The Council may depart from the Policy where the individual circumstances of any application merit such a decision in the interests of the promotion of the Licensing Objectives. Full reasons will be given for decisions taken by the Council when undertaking its licensing functions.

## **2. The Licensing Objectives**

- 2.1 The Council has a duty under the Act to carry out its functions and responsibilities with a view to promoting the 'Licensing Objectives' which are as follows:
- the prevention of crime and disorder;
  - public safety;
  - the prevention of public nuisance; and
  - the protection of children from harm.
- 2.2 Each licensing objective has equal importance. The Council are aware that there are no other licensing objectives, so the four objectives mentioned in 2.1 above are paramount considerations at all times.
- 2.3 The Council recognises that the exercise of its licensing functions are only one of a number of means of securing the above objectives. The exercise, by the Council, of its licensing functions should not be seen as a panacea for all problems within the community. The Council will continue to work in partnership with other people and organisations towards the promotion of the Licensing Objectives.
- 2.4 The Council will carry out its licensing functions in the promotion of the Licensing Objectives and, in addition, will support the stated aims of the Act which are as follows:
- the introduction of better and more proportionate regulation to give businesses greater freedom and flexibility to meet their customers' expectations;
  - greater choice for consumers, including tourists, about where, when and how, they spend their leisure time;
  - the encouragement of more family friendly premises where younger children can be free to go with the family;
  - the further development within communities of our rich culture of live music, dancing and theatre, both in rural areas and in our towns;
  - the regeneration of areas that need the increased investment and employment opportunities that a thriving and safe night-time economy can bring; and
  - the necessary protection of local residents, whose lives can be blighted by disturbance and anti-social behaviour associated with the behaviour of some people visiting places of entertainment.

## **3. Consultation and Review**

- 3.1 In preparing and reviewing this Policy the Council has consulted with:
- The Police;
  - The Fire Authority;
  - persons/bodies representing local holders of premises licences;
  - persons/bodies representing local businesses;
  - persons bodies representing local residents;
  - Strategic Partners;
  - The North Herts Community Safety Partnership;

- Neighbouring Councils
  - Town/Parish Councils; and
  - other representatives of the wider community.
- 3.2 Appropriate weight has been given to the views of all those consulted prior to the adoption of this Policy.
- 3.3 The Council will keep this Policy under review and continue to work in partnership with neighbouring local authorities, local Police, local businesses and local people, towards the promotion of the Licensing Objectives. The Policy will also be integrated with the community, rural and town centre development briefs and strategies.
- 3.4 The Council will publish its Policy every three years and it will be kept under review in the intervening period. The Council may make such revisions as it considers appropriate, for instance in the light of feedback from the local community on whether the Licensing Objectives are being met.

#### **4. Regulating Licensing**

- 4.1 Licensing is about regulating the carrying on of licensable activities on licensed premises, by qualifying clubs and at temporary events within the terms of the Act. The Council may attach conditions to licences issued under the Act and these must be focussed on matters which are within the control of the individual licence holders and others in possession of relevant authorisations.
- 4.2 The Council recognises that 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 the licensee(s) or certificate holder(s). Beyond the vicinity of the premises, an individual who engages in anti-social behaviour is accountable under law in their own right. Nonetheless, it is a key aspect of such control and licensing law will always be part of a holistic approach to the management of the evening and night-time economy in North Hertfordshire.
- 4.3 In addressing these matters the Council will primarily focus on the direct impact of the activities taking place on, or in the immediate vicinity of, the licensed premises on members of the public living, working or otherwise engaged in activities in the vicinity.
- 4.4 The Council do not consider that the term “vicinity” can be generically defined and will consider its definition in the specific circumstances of each application. To be considered in the vicinity of a premises, an interested party must be able to demonstrate a causal link to activities on or in the immediate vicinity of the premises in relation to the licensing objectives. For example, an interested party may be able to hear music from the premises within their property or they may see patrons leaving the premises and causing a nuisance near their property.
- 4.5 The Council recognise that unless relevant representations are received from responsible authorities or interested parties, there is no provision for a licensing authority to impose conditions on a licence other than those

volunteered by the applicant as part of the operating schedule included in the application. In addition, there is no provision for a licensing authority itself to make representations. If no relevant representations are received in respect of an application, the licensing authority must issue the licence on the terms sought.

## **5. Licence Conditions**

- 5.1 The Council recognise that 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 activities concerned. This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises. Standardised conditions must be avoided and will only be lawful where they are deemed necessary to promote the licensing objectives in response to relevant representations.
- 5.2 Conditions will only be imposed when they are necessary for the promotion of the Licensing Objectives and will focus upon matters within the control of the individual licensee such as the premises, places or events being used for licensable activities. Conditions are likely to be focused towards the direct impact of those activities on persons living, working or otherwise engaged in activities in the vicinity.
- 5.3 Where appropriate the Council will draw upon the pool of model conditions issued under the Act. A copy of the current pool of model conditions can be found on the Council's website at [www.north-herts.gov.uk](http://www.north-herts.gov.uk). The pool of model conditions relate to:
- the prevention of crime and disorder;
  - public safety (including fire safety);
  - the promotion of public safety in theatres, cinemas, concert halls and similar places;
  - the prevention of public nuisance; and
  - the protection of children from harm.
- 5.4 Any conditions drawn from the pool of model conditions will be tailored to the individual premises and events concerned and determined at the time the application is being considered.

## **6. Cumulative Impact**

- 6.1 'Cumulative Impact' means the potential impact on the promotion of the Licensing Objectives of a significant number of licensed premises concentrated in one area. An example of this impact would be the increase in crime and disorder or public nuisance in a town centre resulting from a large concentration of licensed premises in one area over and above the impact of the individual premises themselves.
- 6.2 The Cumulative Impact of a licensed premises on the promotion of the Licensing Objectives is a matter which the Council can properly consider in developing its Licensing Policy Statement.

- 6.3 The Council recognises that there is a difference between the commercial need and the Cumulative Impact of premises in an area. Commercial need is the commercial demand for another pub or restaurant or hotel and is a matter for planning consideration and market forces. It does not form part of this Licensing Policy Statement.
- 6.4 The Council will not operate a quota of any kind, nor will it seek to impose general limitations on trading hours in particular areas.
- 6.5 In considering issues of Cumulative Impact the Council will be mindful that, in addition to the licensing functions, there are a number of other mechanisms, both within and outside the licensing regime, for addressing nuisance and disorder. These include:
- planning controls;
  - ongoing measures to provide a safer and cleaner environment in partnership with local businesses, transport operators and others;
  - the provision of CCTV;
  - the provision of sufficient taxi ranks and transport facilities;
  - the power to designate parts of the District as places where alcohol may not be consumed publicly;
  - the confiscation of alcohol in designated areas;
  - Police law enforcement with regard to disorder and anti-social behaviour;
  - Police powers to close premises for a period of up to 24 hours on grounds of disorder or imminent disorder, or public nuisance;
  - the powers of the Police, local businesses or residents to seek a review of the licence or certificate; and
  - enforcement action against those selling alcohol to people who are drunk.
- 6.6 The Council will also address the issue of crime and disorder through the District Community Safety Partnership in line with strategic objectives for crime and disorder reduction within the District. The success of these measures in reducing nuisance and disorder will be subject to ongoing review.

#### **6.7 'Special Policies' relating to cumulative impact**

Where, after considering the available evidence and consulting relevant people and organisations, the Council is satisfied that it is appropriate to introduce an approach to Cumulative Impact, it may introduce a Special Policy to combat the Cumulative Impact of licensed premises in a particular area.

Where such a policy is implemented in respect of any particular area it would create a presumption that new licence applications should be refused, where relevant representations are received, unless it could be shown that the new premises would not increase the Cumulative Impact already being experienced in that area.

In determining whether to introduce a Special Policy the Council will take the following steps:

- identify evidence of concerns about the crime and disorder or public nuisance;
- consider whether it can be demonstrated that the crime and disorder or public nuisance are arising and are being caused by customers of licensed premises and, if so,
  - identify the area from which the problems are arising and the boundaries of that area; or
  - that the risk factors are such that the area is reaching a point when a Cumulative Impact is imminent;
- undertake consultation as required; and
- where a Special Policy is adopted by the Council, publish the Special Policy as part of this Licensing Policy Statement.

6.8 As with any other application under the Act the Council will take account of all the relevant circumstances surrounding any application and may depart from the Policy where the individual circumstances merit such a decision in the interests of the promotion of the Licensing Objectives. No Special Policy for a specific area will be absolute, each application will be considered on its own merits.

6.9 The Council do not consider it necessary at this time to have any Special Policies in relation to cumulative impact.

## **7. Licensing Hours**

7.1 The Council recognises that fixed and artificially early closing times previously established under the Licensing Act 1964 were one of the main 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 premises simultaneously. These concentrations of people leaving can result in friction at places such as late night food outlets, taxi ranks and other sources of transport. The aim through the promotion of the licensing objectives will be to reduce the potential for concentrations and achieve a slower dispersal of people from licensed premises through flexible opening times. The Council recognise that arbitrary restrictions would undermine the principle of flexibility and should be avoided. The licensing objectives will be the paramount consideration at all times.

7.2. The Council also recognises that licensing hours should not inhibit the development of a thriving and safe evening and night time economy, which is important for local investment, employment and tourism. The Council will not seek to restrict the trading hours of any particular premises unless this is necessary to promote one or more of the Licensing Objectives.

7.3 The Council has no intention to introduce the zoning of licensing hours. Experience in other areas has shown that this can lead to significant movement of people across boundaries in search of premises opening later and places greater pressure on town centres than is necessary. In addition, the Council recognise that zoning of licensing hours would undermine the principle of determining each application on its own merits.

7.4 With regards to shops, stores and supermarkets that provide sales of alcohol for consumption off the premises, the Council would normally expect to grant

the sale of alcohol at any time the premises is open to the public, unless representations give good reason to restrict the hours in relation to the licensing objectives.

## **8. Children and Licensed Premises**

- 8.1 The Council recognises the diversity of premises that will be licensed under the Act. The premises will include theatres, cinemas, restaurants, pubs, nightclubs, cafes, take-away shops, community halls and schools. The Council will not ordinarily seek to limit the access by children to any premises will not be limited unless it is considered necessary for the prevention of physical, moral or psychological harm to them.
- 8.2 When deciding whether to limit access by children to premises, the Council will judge each application on its individual merits.
- 8.3 Premises where concern for the protection of children may arise, include:
- where entertainment of an adult or sexual nature are commonly provided;
  - where there is a strong element of gambling on the premises;
  - where there is a known association with drug taking or dealing;
  - where current staff members have been convicted for serving alcohol to minors;
  - where there is evidence of underage drinking; and
  - where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.
- 8.4 There are a range of alternatives which the Council may consider for limiting the access of children, which include:
- a limit on the hours when children may be present;
  - a limitation or exclusion when certain activities are taking place;
  - the requirement to be accompanied by an adult;
  - limited access to parts of the premises; and
  - full exclusion of those people under 18 from the premises when any licensable activities are taking place.
- 8.5 Any licensed premises used for film exhibitions will be subject to conditions restricting children from viewing age restricted films in accordance with recommendations given by the British Board of Film Classification. Where a BBFC classification does not exist, the Council will classify the film in accordance with BBFC guidelines.
- 8.6 Conditions requiring the admission of children to premises cannot be attached to licences or certificates. Where no restriction or limitation is imposed the issue of access will remain a matter of discretion of the individual licensee or club or holder of a temporary event notice.
- 8.7 The Council recognises the Hertfordshire Area Child Protection Committee as being competent to advise on matters relating to the protection of children from harm.

- 8.8 The Council supports the Portman Group Code of Practice on the naming, packaging and promotion of alcoholic drinks. Alcohol should be packaged and promoted in a socially responsible manner so as not to encourage drinking amongst those who are under 18 years old. A copy of the Code can be found at [www.portman-group.co.uk](http://www.portman-group.co.uk).

## **9. The Prevention of Public Nuisance**

- 9.1 Licensed premises may have significant potential to impact adversely on communities through public nuisances that arise from their operation. The Council interprets 'Public Nuisance' in its widest sense and takes it to include such things as noise, light, odour, litter and anti-social behaviour, where these matters impact on those living, working or otherwise engaged in activities in the vicinity of a particular premises.
- 9.2 The Council may impose conditions on licences to prevent unnecessary Public Nuisance to local residents. The conditions may include:
- sound proofing requirements;
  - restrictions on times when music or other licensable activities may take place;
  - technical restrictions on sound levels at the premises, by the use of sound limiting devices;
  - limiting the hours of regulated entertainment;
  - limiting the hours of open-air entertainment and the use of outdoor areas, gardens, patios, and smoking shelters; or
  - requiring the display of signs both inside and outside the premises reminding customers to leave the premises quietly and to respect the rights of nearby residents.
- 9.3 The following examples of control measures are given to assist applicants when preparing their Operating Schedules, having regard to their particular type of premises and/or activities. These are not exhaustive but include:
- effective and responsible management of the premises;
  - appropriate instruction, training and supervision of those employed or engaged to prevent incidents of Public Nuisance;
  - adoption of best practice guidance such as the Good Practice Guide on the Control of Noise from Pubs and Clubs, produced by the Institute of Acoustics; Safer Clubbing and the National Alcohol Harm Reduction Strategy Toolkit;
  - management of arrangements for the collection and disposal of litter; and
  - effective ventilation systems.
- 9.4 Conditions relating to noise nuisance will normally concern steps necessary to control the levels of noise emanating from premises. The Council are aware of the need to avoid unnecessary or disproportionate measures that could deter valuable community activities such as live music. Conditions that are likely to be a significant financial burden will be avoided, where possible, for smaller venues.
- 9.5 The Council recognise 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. That said, the approach of the Council will be one of prevention and will consider each application on its own merits.

## **10. Live Music, Dancing and Theatre**

- 10.1 The Council recognises the need to encourage and promote live music, dancing and theatre for the wider cultural benefit of the community.
- 10.2 Only necessary, proportionate and reasonable licensing conditions will be imposed on relevant licences so as not to discourage the promotion of entertainment. Conditions will relate to the promotion of the Licensing Objectives.
- 10.3 The Council will avoid any measure which deters live music, dancing and theatre by imposing indirect costs of a substantial nature.
- 10.4 The Council will seek to encourage cultural and community events by licensing its own public spaces. The following public spaces are currently licensed for regulated entertainment:

Butts Close, Hitchin  
Howard Gardens, Letchworth  
Broadway Gardens, Letchworth

## **11. Fire Safety and Capacity**

- 11.1 The Council recognise 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.
- 11.2 From 1<sup>st</sup> October 2006, the Regulatory Reform (Fire Safety) Order 2005 replaced previous fire safety legislation. Article 43 of this Order states that any licensing authority conditions that could be imposed by the Order would automatically cease to have effect. The Council will not, therefore, seek to impose fire safety conditions where the Order applies.
- 11.3 Responsibility for complying with the Order rests with the 'responsible person', which may be the licence holder, employer, or any other person who may have control of the premises.
- 11.4 "Safe capacities" should only be imposed on licences where necessary for the promotion of public safety or the prevention of disorder. If a capacity has been imposed through other legislation it would be unnecessary to reproduce it as a licence condition. It would also be wrong to impose conditions that conflict with other legislation. If no safe capacity has been imposed by other legislation, however, a responsible authority may consider it necessary for a new capacity to be attached. For example, a capacity limit may be necessary to prevent disorder as overcrowded premises can increase the risk of crowds becoming frustrated and hostile.

- 11.5 Ordinarily, a capacity limit should not be imposed as a condition of the licence on fire safety grounds since, due to Article 43 of the Regulatory Reform (Fire Safety) Order 2005, it would have no effect and so would not be enforceable.

## **12. Door Supervisors**

- 12.1 All persons employed at licensed premises to carry out any security activity must be licensed with the Security Industry Authority.
- 12.2 Conditions may be imposed on premises licences requiring supervision by door supervisors in order to reduce crime and disorder or public nuisance. The conditions may provide that door supervisors must be employed at the premises at all times or at such times when certain licensable activities are being carried out.

## **13. Drugs**

- 13.1 The Council recognises that drug use is more prevalent in a dance and nightclub environment. Conditions may be imposed to control the use and consumption of drugs and alcohol and to create a safer environment for patrons that may have taken them. When imposing conditions, the Council will have regard to the publication "Safer Clubbing" issued by the Home Office and may seek advice from the local Drugs Action Team and the Police.

## **14. Enforcement**

- 14.1 The Council has established enforcement protocols with the Police and other enforcing authorities. The enforcement protocols focus upon agreed problem and high risk premises that fall short of the Licensing Objectives while providing a lighter touch to low risk premises that are shown to be well managed and maintained.
- 14.2 Enforcement action will be taken in accordance with the Council's Environmental Health Enforcement Policy. Enforcement action will follow the five guiding principles of consistency, transparency, proportionality, fairness and objectivity. A copy of the Environmental Health Enforcement Policy can be found on the Council's website at [www.north-herts.gov.uk](http://www.north-herts.gov.uk).
- 14.3 Programmed inspections of all licensed premises will be undertaken in accordance with a risk-rating system. This will ensure that enforcement is proportionate and targeted at higher risk premises which require greater attention, thus allowing a lighter touch in relation to lower risk premises.

## **15. Integrating Strategies and the Avoidance of Duplication**

- 15.1 The Council through consultation will endeavour to secure integration with local crime prevention, planning, transport, tourism, cultural and community strategies.

- 15.2 The Council may give due consideration to wider strategic issues when dealing with applications. The Council's Licensing and Appeals Committee may receive reports, when appropriate, on the:
- needs of the local tourist economy;
  - cultural strategies for the area;
  - employment situation and the need for local investment; and
  - planning considerations that may affect licensed premises.
- 15.3 The Council recognises that licensing applications should not be seen as a re-run of the planning application process and that there should be a clear separation between the planning and licensing regimes to avoid duplication and inefficiency.
- 15.4 In order to avoid duplication with other regulatory regimes the Council will not, as far as reasonably possible, attach conditions to licences unless they are in promotion of the Licensing Objectives and inadequately covered by other legislation. Conditions will generally be considered unnecessary if they are already adequately covered by other legislation.

## **16. The Licensing Process**

- 16.1 The powers of the Council under the Act will be carried out by the Licensing and Appeals Committee, by a Sub-Committee of the Licensing and Appeals Committee, or by one or more officers acting under delegated authority.
- 16.2 It is considered that many of the functions will be largely administrative with no perceived areas of contention. In the interests of efficiency most functions will be carried out by officers with delegated authority.
- 16.3 The Licensing and Appeals Committee consists of 14 Members of the Council. The Committee may delegate its powers to a Sub-Committee of the Licensing and Appeals Committee consisting of 3 Members. The Licensing and Appeals Committee, or its Sub-Committee, will deal with all applications and applications to vary when relevant representations are received from a responsible authority or interested party.
- 16.4 When determining applications the Council will have regard to this Statement of Licensing Policy and any Guidance issued by the Department of Culture, Media and Sport. If relevant representations are made, the Licensing and Appeals Committee or its Sub-Committee, will balance its decision against the wider benefits to the community.
- 16.5 The Council expects individual applicants to address the Licensing Objectives in their Operational Plan having regard to:
- the type of premises;
  - the licensable activities to be provided;
  - the operational procedures;
  - the nature of the location;
  - the needs of the local community; and
  - this Statement of Licensing Policy.

## **17. Temporary Event Notices**

- 17.1 A temporary event notice must be given in duplicate to the licensing authority with the appropriate fee and to the Licensing Department at Hitchin Police Station with a minimum of ten working days notice.
- 17.2 The ten working days do not include Saturdays, Sundays, Public Holidays, the day of the event, and the first working day that the Council receive the notice. If the ten working days notice is not given to both the Council and the police, the law prevents the temporary event notice from being authorised; the Council have no discretion in the matter.
- 17.3 The vast majority of these events will not present any problems, for example special occasions in a pub or community hall or charitable fundraising events. A temporary event notice is a light-touch approach to these events as only the police can raise objections on the grounds of crime and disorder.
- 17.4 For anything other than small-scale events, the Council recommends at least two month's notice to ensure that the event can be properly planned. This is only a recommendation, as the law only requires a period of ten working days notice.
- 17.5 The Council has established a Safety Advisory Team consisting of the emergency services and other strategic partner agencies to advise and co-ordinate planning for public events. Event organisers are encouraged to use this Team as part of their event planning process and the Council strongly advise that initial contact is made at the earliest opportunity.

## **18. Community Events**

- 18.1 The Council will seek to encourage cultural and community events in the District.
- 18.2 The Council recognise that conditions cannot be imposed on licences in relation to cultural or community events taking place in the District, however, all relevant licence holders would be expected to assist with the promotion of the licensing objectives in such circumstances. For example, if a large scale community event was taking place in a town, other licensed premises would be expected to assist wherever practicable, i.e. off licences could employ door supervisors to control underage access to alcohol and pubs could supply alcohol in plastic containers.

## **19. Reviews**

- 19.1 Any interested party or responsible authority have the right to ask the Council for a review of a premises licence or club premises certificate, using a Government prescribed application form, if they believe that one or more of the four licensing objectives are not being met.
- 19.2 In determining whether or not an application for a review is relevant, the Council will have due regard to the Secretary of State's Guidance in relation

to frivolous, vexatious or repetitious.

- 19.3 At a review hearing, the options available to the Sub-Committee are:
- a) to modify the conditions of the licence,
  - b) to exclude a licensable activity from the scope of the licence,
  - c) to remove the designated premises supervisor,
  - d) to suspend the licence for a period not exceeding three months, or
  - e) to revoke the licence
- 19.4 The Council recognise that the licensing authority itself cannot initiate the review process. The licensing authority's role will be to administer the process and determine the application at a hearing where an evidential-basis for the allegations made will need to be submitted.
- 19.5 The Council recognise the importance of partnership working between the licensing authority, licence holders, responsible authorities and interested parties in achieving the promotion of the licensing objectives. The Council will endeavour to give licence holders an early warning of any potential problems at premises in order to resolve them informally where possible.
- 19.6 When a review is requested in circumstances where the crime prevention objective is not being met, revocation of the licence may be considered as the first step if the seriousness of the evidence is such that the other options may prove inadequate.

## **20. Adult Entertainment**

- 20.1 Whilst the Council recognise that standard conditions cannot be applied in respect of licence applications, it considers that special circumstances apply to applications for adult entertainment in relation to the licensing objectives.
- 20.2 Applications will be expected to suitably address issues such as:
- i) external displays of indecent material,
  - ii) changing facilities for performers,
  - iii) restrictions on performer / audience contact
  - iv) recordings of performances
  - v) age, welfare and security of performers
- 20.3 Licence holders will be expected to ensure that the premises are conducted in a decent and orderly manner at all times. In particular, the licence holder will be expected to take whatever steps are necessary to ensure that none of the following take place:
- i) indecent behaviour including sexual intercourse,
  - ii) the offer of any sexual or other indecent service for reward, or
  - iii) any acts of violence against persons or property and/or the attempt or threat of such acts likely to cause a breach of the peace

## 21. Delegation of Function

21.1 The delegation of licensing functions are as follows:

<b><u>Matter to be dealt with</u></b>	<b><u>Full Committee (14 Councillors)</u></b>	<b><u>Sub Committee (3 Councillors)</u></b>	<b><u>Officers</u></b>
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 to vary designated premises supervisor		If a Police objection	All other cases
Request to be removed as designated premises supervisor			All cases

<b><u>Matter to be dealt with</u></b>	<b><u>Full Committee (14 Councillors)</u></b>	<b><u>Sub Committee (3 Councillors)</u></b>	<b><u>Officers</u></b>
Application for transfer of premises licence		If a Police objection	All other cases
Applications for Interim Authorities		If Police objection	All other cases
Application to review premises licence/club certificate		All cases	
Decision on whether a complaint is irrelevant frivolous vexatious etc			All cases
Decision to object when Local Authority is a consultee and not the relevant authority considering the application			All cases
Determination of a Police representation to a temporary event notice		All cases	