

**NORTH HERTFORDSHIRE DISTRICT COUNCIL**

**STATEMENT OF LICENSING  
POLICY**

as required by

**THE LICENSING ACT 2003**

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## INDEX

## Page Number

### **PART A**      **BACKGROUND**

- |    |                                     |       |
|----|-------------------------------------|-------|
| 1. | Introduction                        | 3     |
| 2. | Consultation and Review             | 3 - 4 |
| 3. | The Purpose of the Licensing Policy | 4 - 5 |

### **PART B**      **LICENSING AUTHORITY**

- |     |                                  |         |
|-----|----------------------------------|---------|
| 4.  | The Licensing Process            | 5       |
| 5.  | Determining Applications         | 6 - 7   |
| 6.  | Flexible Licensing Hours         | 7 - 8   |
| 7.  | Prevention of Crime and Disorder | 8 - 9   |
| 8.  | Public Safety                    | 9       |
| 9.  | Prevention of Public Nuisance    | 10 - 11 |
| 10. | Protection of Children from Harm | 11 - 12 |
| 11. | Cumulative Impact                | 12 - 14 |
| 12. | Licence Conditions               | 14 - 15 |
| 13. | Mandatory Conditions             | 15 - 16 |
| 14. | Live Music, Dancing and Theatre  | 16      |
| 15. | Garages                          | 16 - 18 |
| 16. | Adult Entertainment              | 18 - 19 |
| 17. | Large Scale Events               | 19 - 24 |
| 18. | Minor Variations                 | 24      |
| 19. | Full Variations                  | 25      |
| 20. | Reviews                          | 25 - 26 |
| 21. | Enforcement                      | 26      |
| 22. | Temporary Event Notices          | 26 - 27 |

### **PART C**      **LOCAL AUTHORITY**

- |     |                                    |         |
|-----|------------------------------------|---------|
| 23. | The Council's Vision for Licensing | 27 - 29 |
|-----|------------------------------------|---------|

### **PART D**      **GENERAL**

- |     |   |         |
|-----|---|---------|
| 24. | Integrating Strategies and the Avoidance of Duplication | 29      |
| 25. | Delegation of Function                                  | 30 - 31 |
| 26. | Further Information                                     | 31 - 32 |

## **PART A: BACKGROUND**

### **1. Introduction**

- 1.1 This Licensing Policy Statement ("The Policy") has been produced in accordance with section 5 of the Licensing Act 2003 ("the Act") and has been drafted with regard to the Department of Culture Media and Sport Guidance ("the Guidance") issued in March 2010. Its purpose is to give guidance to North Hertfordshire District Council ("the Council") when carrying out its functions and responsibilities as the licensing authority under the Act for North Hertfordshire.
- 1.2 Since the coming into force of the Act on 24<sup>th</sup> November 2005, the consolidation of previous licensing regimes has simplified the application process for many businesses and has removed unnecessary 'red tape'.
- 1.3 The Act provides more flexibility for local businesses as North Hertfordshire has seen a significant increase in the number of venues offering regulated entertainment, in particular live music.
- 1.4 Where premises have caused problems to local residents in relation to anti-social behaviour, police-led reviews have successfully addressed the issues. Equally, Trading Standards working in conjunction with the police have successfully addressed issues in relation to underage sales at off licences.

### **2. Consultation and Review**

- 2.1 In preparing and reviewing this Policy the Council has consulted with:
- The Police;
  - The Fire Authority;
  - Other Responsible Authorities under the Licensing Act 2003;
  - NHDC Area Committees;
  - NHDC Community Safety;
  - NHDC Community Development;
  - NHDC Legal Services;
  - Neighbouring Councils in Hertfordshire and Bedfordshire;
  - Town Centre Managers;
  - Chamber of Commerce;
  - Existing premises licence/club premises certificate holders;
  - NHDC Councillors; and
  - Residents of North Hertfordshire via internet consultation and public libraries.
- 2.2 Appropriate weight has been given to the views of all those consulted prior to the adoption of this Policy.
- 2.3 The Council will keep this Policy under review and continue to work in partnership with neighbouring local authorities (through the Herts & Beds Licensing Group), local Police, responsible authorities, local businesses and local people, towards the promotion of the Licensing Objectives. The Policy will also be integrated with other appropriate Council strategies and plans.

- 2.4 The Council will publish its Policy every three years in accordance with the Act (or other such period in the light of a legislative change) 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.
- 2.5 The Council is aware that whilst this Policy is being reviewed the Government is currently reviewing the Licensing Act 2003 and has undertaken a recent consultation on proposed changes to the licensing regime. When/if these changes in legislation come into force, the Policy will be reviewed in accordance with paragraph 2.4 above.

### **3. The Purpose of the Licensing Policy**

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

- (i) Retail sale of alcohol (including via the internet or mail order).
- (ii) Supply of alcohol by or on behalf of a club member, or the order of a member of a club.
- (iii) 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.
- (iv) The provision of 'regulated entertainment', whether indoors or outdoors (with the exception of indoor sporting events), as defined by the Act which may include:
  - (a) a performance of a play
  - (b) an exhibition of a film
  - (c) an indoor sporting event
  - (d) boxing or wrestling entertainment
  - (e) a performance of live music
  - (f) any playing of recorded music
  - (g) a performance of dance
  - (h) entertainment of a similar description to that falling within the performance of live music, the playing of recorded music and the performance of dance
  - (i) provision of facilities for making music
  - (j) provision of facilities for dancing
  - (k) entertainment of a similar description to that falling within the provision of facilities for making music or for dancing

- 3.2 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:

- (i) the prevention of crime and disorder (see section 7);
- (ii) public safety (see section 8);
- (iii) the prevention of public nuisance (see section 9); and
- (iv) the protection of children from harm (see section 10).

- 3.3 Each licensing objective has equal importance and are of paramount consideration at all times.

## **PART B: LICENSING AUTHORITY**

In this section all references to “the Council” refer to North Hertfordshire District Council acting in its role as the licensing authority.

### **4. The Licensing Process**

- 4.1 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. Further details of the delegation of powers are contained within the Council's Constitution, available at [www.north-herts.gov.uk](http://www.north-herts.gov.uk)
- 4.2 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. The principles contained within this paragraph of the Policy are consistent with general good decision making principles.
- 4.3 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 where relevant representations are received from a responsible authority or interested party.
- 4.4 When determining applications the Council will have regard to this Statement of Licensing Policy, relevant legislation 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 all other factors for and against the application.
- 4.5 The Council expects individual applicants to address the Licensing Objectives in their Operational Plan having regard to:
- (i) the type of premises;
  - (ii) the licensable activities to be provided, in particular the times that each of the licensable activities are to be provided;
  - (iii) the operational procedures;
  - (iv) the nature of the location;
  - (v) the potential effect of the proposed activities on the licensing objectives in the vicinity, for example the likely noise disturbance to nearby noise sensitive premises;
  - (vi) the needs of the local community; and
  - (vii) this Statement of Licensing Policy.
- 4.6 The Council recognises, however, that in the absence of relevant representations, the application must be granted as applied for subject only to mandatory conditions and conditions consistent with the operating schedule supplied with the application.

## **5. Determining Applications**

- 5.1 Each licence application will be decided by reference to this Policy, the National Guidance issued by the Secretary of State, relevant legislation 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.
- 5.2 The Act makes it clear that unless relevant representations are received, the application must be granted subject only to the mandatory conditions and conditions consistent with those offered in the operating schedule accompanying the application.
- 5.3 The Council acknowledge that there is no provision for the licensing authority to make representations nor should they seek to solicit or influence any representation.
- 5.4 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 or working within the vicinity. The Council are aware of the National Guidance in relation to assessing vicinity, in particular paragraph 8.6, however vicinity will be assessed on a case by case basis taking into account all relevant factors. As an example, a churchwarden or member of the Church Parochial Council would ordinarily be considered to be working in the vicinity, providing the church is deemed to be in the vicinity of the premises, however a churchgoer would not.
- 5.5 Having considered paragraph 8.94 of the Guidance ("notification of applications"), the Council will not distribute details of any application to residents within the vicinity. Such an approach is not a statutory requirement and the Council believe that the subjective issue of 'the vicinity' could be seen to be prejudged by such a circular and is confident that adequate local consultation can be undertaken by Ward members in their role as an interested party. Although the Council have taken this view, there is nothing to prevent the applicant from distributing details of their application if they choose to.
- 5.6 The Council acknowledges that the licensing process can only seek to control measures within the direct control of the licensee and 'in the vicinity' of the premises. The Council does not consider that the term 'vicinity' can be generically defined and will consider its definition relative to the specific circumstances of each application. Generally, to be considered to be 'in the vicinity' of a premises, an interested party will need to demonstrate a causal link between the problems or likely problems caused at the premises, 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 immediately outside the premises.
- 5.7 The Council recognises that the exercise of its licensing functions are only one of a number of means of securing the above Licensing Objectives. The exercise, by the Council, of its licensing functions should not be seen as a

panacea for all problems within the community. The Guidance states at paragraph 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 in a smoking shelter, where and to the extent that these matters are within their control.*

- 5.8 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. The Council will continue to work in partnership with other people, organisations and other Council Departments, including the responsible authorities, towards the promotion of the Licensing Objectives.
- 5.9 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:
- (i) 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.
  - (ii) the introduction of better and more proportionate regulation to give businesses greater freedom and flexibility to meet their customers' expectations;
  - (iii) greater choice for consumers, including tourists, about where, when and how, they spend their leisure time;
  - (iv) the encouragement of more family friendly premises where younger children can be free to go with the family;
  - (v) the further development within communities of our rich culture of live music, dancing and theatre, both in rural areas and in our towns; and
  - (vi) the regeneration of areas that need the increased investment and employment opportunities that a thriving and safe night-time economy can bring.
- 5.10 In seeking to promote the above stated aims, the Council will support local and national schemes designed at raising and/or maintaining high standards in licensed premises such as 'Challenge 21', 'Challenge 25', Pubwatch and 'Safer Pubs and Clubs'. The Council will work with the licence holders to achieve these goals offering advice and support either through trade forums or trade newsletters.

## **6. Flexible Licensing Hours**

- 6.1 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.

- 6.2 The Council recognises that arbitrary restrictions would undermine the principle of flexibility and should be avoided; the Licensing Objectives will be the paramount consideration at all times.
- 6.3 Generally, when the Council's discretion is engaged, the presumption will be to grant the hours requested unless there are representations raised by responsible authorities and/or interested parties that demonstrate an adverse effect or likely effect on the Licensing Objectives.
- 6.4 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.
- 6.5 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 recognises that zoning of licensing hours would undermine the principle of determining each application on its own merits.
- 6.6 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.
- 6.7 The Council are aware of the *R v Guildford Borough Council [2006] EWHC 815 (Admin)* case that held that it was possible for a policy to presume against longer licensing hours where there was evidence that it was necessary in terms of the Licensing Objectives to do so. The Council have no evidence that suggests such an approach would be appropriate, however, the situation will be kept under review and the Council would consider amending the Policy accordingly if necessary.

## **7. Prevention of Crime and Disorder**

### **7.1 Door Supervisors**

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



## 7.2 Controlled Substances

- 7.2.1 The Council recognises the risk of controlled substance use in dance and nightclub environments. Conditions may be imposed to prevent the use and consumption of controlled substances, including 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.

## 8. **Public Safety**

- 8.1 The Council recognises 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.

### 8.2 Fire Safety

- 8.2.1 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.
- 8.2.2 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.

### 8.3 Capacity

- 8.3.1 “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.
- 8.3.2 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.
- 8.3.3 In the case of premises that converted an existing public entertainment licence during the transitional period, all conditions were transferred to the new licence as embedded restrictions unless a subsequent application was made to remove them. The public entertainment condition restricting capacity was not specifically imposed for fire safety reasons and therefore remains on the licence as a current condition.

## **9. 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. Ordinarily, the Council's Environmental Protection Team, in their role as a responsible authority, would take the lead in respect of nuisance issues.

9.2 Where there is evidence of public nuisance and its powers are engaged the Council may impose conditions on licences to prevent unnecessary Public Nuisance to local residents. The conditions may include, but are not limited to:

- (i) sound proofing requirements;
- (ii) keeping doors and windows closed after a specific time;
- (iii) restrictions on times when music or other licensable activities may take place;
- (iv) technical restrictions on sound levels at the premises, by the use of sound limiting devices;
- (v) limiting the hours of regulated entertainment;
- (vi) limiting the hours of open-air entertainment and the use of outdoor areas, gardens, patios, and smoking shelters; or
- (vii) 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:

- (i) effective and responsible management of the premises;
- (ii) appropriate instruction, training and supervision of those employed or engaged to prevent incidents of Public Nuisance;
- (iii) 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, or Code of Practice for Outdoor Events produced by the Noise Council;
- (iv) fully assess the potential for public nuisance on the locality. This may involve a competent noise consultant undertaking a detailed noise survey/assessment of the premises, etc;
- (v) management of arrangements for the collection and disposal of litter; and
- (vi) effective ventilation / extract systems.

The Council encourages applicants to seek early engagement with the Environmental Protection Team when preparing an operating schedule.

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 may be avoided for smaller venues and community premises, where it is appropriate to do so.

- 9.5 The Council recognises 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. Protection of Children from Harm**

- 10.1 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 unless it is considered necessary for the prevention of physical, moral or psychological harm to them.

- 10.2 When deciding whether to limit access by children to premises, the Council will judge each application on its individual merits.

- 10.3 Premises where concern for the protection of children may arise, include:

- (i) where entertainment of an adult or sexual nature are commonly provided;
- (ii) where there is a strong element of gambling on the premises;
- (iii) where there is a known association with drug taking or dealing;
- (iv) where current staff members have been convicted for serving alcohol to minors;
- (v) where there is evidence of underage drinking; or
- (vi) where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.

- 10.4 There are a range of alternatives which the Council may consider for limiting the access of children, which include:

- (i) a limit on the hours when children may be present;
- (ii) a limitation or exclusion when certain activities are taking place;
- (iii) the requirement to be accompanied by an adult;
- (iv) limited access to parts of the premises; and
- (v) full exclusion of those people under 18 from the premises when any licensable activities are taking place.

- 10.5 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.

- 10.6 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.

- 10.7 The Council recognises the Hertfordshire Safeguarding Children Board as being competent to advise on matters relating to the protection of children from harm.
- 10.8 The Council supports voluntary Codes of Practice such as “Challenge 21”, “Challenge 25” or “PASS” (or other similar) accredited systems as relevant at any given time. The Council will particularly promote the use of the Validate photographic identification card promoted by Hertfordshire County Council. 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 these Codes can be found at [www.beerandpub.com](http://www.beerandpub.com).

## **11. Cumulative Impact**

- 11.1 ‘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.
- 11.2 The Cumulative Impact of licensed premises on the promotion of the Licensing Objectives is a matter which the Council can properly consider in developing its Licensing Policy Statement.
- 11.3 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 licensed premises and is a matter for planning consideration and market forces. It does not form part of this Licensing Policy Statement.
- 11.4 The Council will not operate a quota of any kind, nor will it ordinarily seek to impose general limitations on trading hours in particular areas.
- 11.5 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:
- (i) planning controls;
  - (ii) positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the local authority;
  - (iii) the provision of CCTV surveillance in town centres, ample taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols;
  - (iv) powers of local authorities to designate parts of the local authority area as places where alcohol may not be consumed publicly;
  - (v) police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices;
  - (vi) the prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk;
  - (vii) the confiscation of alcohol from adults in designated areas;
  - (viii) the confiscation of alcohol from children;

- (ix) police powers to close down instantly for up to 24 hours any licensed premises or temporary event on grounds of disorder, the likelihood of disorder or noise emanating from the premises causing a nuisance;
- (x) the power of the Police, other responsible authorities or a local resident or business to seek a review of the licence or certificate in question; and
- (xi) other local initiatives that similarly address these problems.

11.6 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.

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

11.7.1 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.

11.7.2 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.

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

- (i) identify evidence of concerns about the crime and disorder or public nuisance;
- (ii) 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;
- (iii) undertake consultation as required; and
- (iv) where a Special Policy is adopted by the Council, publish the Special Policy as part of this Licensing Policy Statement.

11.8 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 Special 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.

11.9 In considering the effect of an application on any Special Policy relating to cumulative impact, or on cumulative impact as a general issue, an interested party will still need to meet the requirements of being deemed to be 'in the vicinity'. An interested party would not be considered to be relevant if they

failed to meet this requirement but submitted a representation concerning their general concerns with an area as a whole and the impact of a new premises. Interested Parties may wish to consider other avenues for addressing general issues.

## **12. Licence Conditions**

- 12.1 The Council recognises 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. A standardised approach to imposing conditions must be avoided and will only be lawful where they are deemed necessary to promote the Licensing Objectives in response to relevant representations.
- 12.2 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.
- 12.3 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 Government's website at [www.culture.gov.uk](http://www.culture.gov.uk). The pool of model conditions relate to:
- (i) the prevention of crime and disorder;
  - (ii) public safety (including fire safety);
  - (iii) the promotion of public safety in theatres, cinemas, concert halls and similar places;
  - (iv) the prevention of public nuisance; and
  - (v) the protection of children from harm.
- 12.4 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.
- 12.5 To ensure consistency, fairness and transparency the Council will supplement the pool of model conditions with some suggested condition wording in relation to various issues that may arise, for example CCTV, age-check, noise reduction measures. In cases where conditions are deemed necessary for the promotion of the Licensing Objectives, model condition wording can be considered and, if necessary, amended to suit the requirements of the specific application.
- 12.6 The Council acknowledge that this list of model condition wording must not fetter the discretion of the decision maker but must instead be used solely to ensure consistency of approach where the particular circumstances of an application merit the imposition of a condition.
- 12.7 The Council, based on the legislation and existing licensing case law, interpret Section O of the application, hours premises open to the public, as part of the operating schedule. These hours, therefore, form conditions of the

licence operating schedule and restrict the hours during which members of the public can be on the licensed premises irrespective of whether licensable activities are taking place. Applicants are advised to consider any necessary 'drinking-up time' or wind-down period at the end of normal licensable activities when completing this section of the application.

### **13. Mandatory Conditions**

- 13.1 The Council are aware that there are mandatory conditions that apply to all premises licences and separate mandatory conditions that apply to all club premises certificates.
- 13.2 Section 19 of the Act contains a mandatory condition for premises licences whereby there can be no sale of alcohol without a designated premises supervisor named on the licence or where the designated premises supervisor does not hold a valid personal licence, and where every sale of alcohol must be made or authorised by a personal licence holder.
- 13.3 The Council do not expect the designated premises supervisor to be available at the premises at all times, however, they would expect him/her to exercise control over day-to-day management of the premises. In the absence of the designated premises supervisor, a senior member of staff should be authorised, preferably in writing, to deputise for the designated premises supervisor and the deputy's role should be made known to all staff members.
- 13.4 At a review of a premises where relevant representations are received in relation to ineffective management of the premises when alcohol is available to the public, the Council will consider, in addition to its options detailed within section 19.3 of this Policy, requiring a personal licence holder to be present at all times whilst alcohol is being supplied.
- 13.5 Section 20 of the Act contains a mandatory condition for premises licences restricting access for children to all exhibitions of films in accordance with a film classification body. The Council recognise the British Board of Film Classification as the appropriate film classification body and the classifications awarded by this body will ordinarily apply in respect of this condition.
- 13.6 Where a British Board of Film Classification certification does not exist, or the Council have advised that it wishes to exercise its discretion, the film will be classified by the Council, in its role as the licensing authority, and the subsequent classification awarded by the Council will apply in respect of this condition. The Council will base any classification it awards on the guidelines issued by the British Board of Film Classification.
- 13.7 The Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010 SI 2010/860 introduced new mandatory conditions as part of section 19 of the Act with effect from 6<sup>th</sup> April 2010 and 1<sup>st</sup> October 2010. The Council will not be re-issuing all existing licences to include these conditions as the Guidance has confirmed at paragraph 10.53 that this is not necessary; the conditions will apply automatically to all premises licences and club premises certificates that authorise the sale or supply of alcohol for consumption on the premises. It is the licence / certificate holders' responsibility to be aware of, and comply with, the mandatory conditions.

- 13.8 Condition 1 of SI 2010/860 refers to 'irresponsible promotions' in relation to the sale of alcohol. In considering this subjective issue, the Council will have regard to the Guidance issued by DCMS and the Home Office publication 'Selling Alcohol Responsibly: The New Mandatory Licensing Conditions' dated April 2010 (or as subsequently updated).
- 13.9 Whilst the Home Office document makes clear that certain promotions will no longer be permitted, for example 'women drink for free' or 'all you can drink for £10', other grey areas remain. The Council will consider the merits of each individual promotion in conjunction with the DCMS and Home Office Guidance, however, is particularly mindful of the fact that to be irresponsible the promotion must be one which *"carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children"*. Licence holders are encouraged to seek advice from the Council's licensing team.
- 13.10 In the case of a review of an existing licence or certificate where there is evidence that an irresponsible alcohol promotion is contributing to an adverse effect on the Licensing Objectives, the Council will consider this as evidence of the ineffectiveness of the management of the premises

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

- 14.1 The Council recognises the need to encourage and promote live music, dancing and theatre for the wider cultural benefit of the community.
- 14.2 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.
- 14.3 The Council will ordinarily avoid any measure which deters live music, dancing and theatre by imposing indirect costs of a substantial nature (for example, noise limiting devices for smaller or community premises). The Council acknowledges, however, that on occasions the imposition of necessary conditions with cost implications may be the only alternative to refusing an application where there is sufficient evidence in relation to the Licensing Objectives.

#### **15. Garages**

- 15.1 Section 176 of the Act prohibits the sale or supply of alcohol from premises that are used primarily as a garage, or are part of premises used primarily as a garage. Premises are used as a garage if they are used for one or more of the following:
- (i) the retailing of petrol;
  - (ii) the retailing of derv;
  - (iii) the sale of motor vehicles; and
  - (iv) the maintenance of motor vehicles.
- 15.2 The Council will judge 'primary use' on the basis endorsed by the courts in *R (on the application of) Murco Petroleum Limited v Bristol City Council* [2010] EWHC 1992 (Admin), and any subsequent cases, which is the intensity of customer usage. For example, if a rural garage shop is used more intensely



by customers purchasing other products (non-garage) than by customers either purchasing the products or services listed in paragraph 14.1 above (garage) or by customers purchasing a combination of the two (non-garage and garage), then the premises may be eligible to apply for a premises licence to authorise the sale or supply of alcohol.

15.3 Paragraph 5.25 of the Guidance states:

*'where there is insufficient evidence to establish primary use, it is for the licensing authority to decide whether to grant the licence and deal with any issues through enforcement action or to defer granting the licence until the primary use issue can be resolved to their satisfaction'.*

The Council are of the opinion that to grant a licence that would not have effect would be irresponsible and may create a legitimate expectation on behalf of the applicant that the sale or supply of alcohol was permitted. The Council will not, therefore, grant a licence until such time as the primary use issue has been resolved to their satisfaction.

15.4 The Council encourage applicants to submit all necessary evidence to resolve this issue with the application so that a decision can be made at the end of the consultation period. The Council encourage applicants to submit both footfall and turnover figures under the three separate headings of 'fuel', 'shop' and 'mixed'. The figures for footfall and turnover should ideally be for the same trading period and the Council encourage figures covering a period of at least three months.

15.5 An application will not be accepted by the Council as a duly made, valid application unless it is accompanied by sufficient evidence to satisfy the Council that the premises is capable of not being an excluded premises. On such occasions, the application will be returned as invalid with guidance as to the information required to allow the application to be duly made.

15.6 If representations are received and a hearing is held, the Council will determine the application in the normal way and if minded to grant, will grant with effect from such time as the primary use issue is resolved to the Council's satisfaction. If there is insufficient information for the Council to be able to determine the issue of primary use, the Council will adjourn the hearing to a prescribed date with directions to the applicant as to the additional information requested.

15.7 The Council acknowledge that there will be occasions when the data necessary to resolve the primary use question will be unavailable, for example in the case of a brand new premises. In order to reassure responsible authorities and interested parties who may have raised concerns, the sub-committee may wish to grant the licence with the following condition:

*The data that the premises licence holder produces to satisfy themselves that they are not an excluded premises shall be submitted to the licensing authority via the licensing officer on a quarterly basis.*

15.8 In order to assist applicants in avoiding unlawful sales when the premises is an excluded premises, and to assist the Council with its enforcement function, a sub-committee may consider imposing the condition listed in paragraph

15.7 above on any application where the particular circumstances of the application deem such a condition to be necessary.

15.9 Where no representations are received, the application will be granted subject only to mandatory conditions and conditions consistent with the operating schedule supplied with the application.

15.10 In accordance with section 176 of the Act, a licence would cease to have effect at any time when the primary use of the premises was such that it became an excluded premises. A letter advising the applicant of the implications of section 176 of the Act will be issued with all granted licences reminding the licence holder that it is their responsibility to continually monitor the issue of primary use at their premises.

## **16. Adult Entertainment**

16.1 Whilst the Council recognises 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.

16.2 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
- vi) age of audience members

16.3 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 in public,
- 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

16.4 The Council has adopted the requirements of the Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 that requires a premises to obtain a Sexual Entertainment Venue (SEV) licence if it provides adult entertainment that includes:

*any live performance; or  
any live display of nudity;*

*which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means).*

providing that:

*there have not been more than eleven occasions on which relevant*

*entertainment has been so provided which fall (wholly or partly) within the period of 12 months ending with that time;*

*no such occasion has lasted for more than 24 hours; and*

*no such occasion has begun within the period of one month beginning with the end of any previous occasion on which relevant entertainment has been so provided (whether or not that previous occasion falls within the 12 month period ).*

- 16.5 Where a SEV licence is required, the Council will not seek to duplicate its requirements or impose any licence conditions adequately dealt with under the SEV licensing legislation. (see the Council's Sex Establishment Policy available at [www.north-herts.gov.uk](http://www.north-herts.gov.uk))
- 16.6 Where an application for a licence under the Licensing Act 2003 is received and there are no details within section N adult entertainment, or a comment such as 'none' is entered, a licensing condition consistent with this part of the operating schedule would be imposed on the licence as follows:

*No adult entertainment will be permitted on this premises unless under the authorisation of a Sexual Entertainment Venue licence.*

## **17. Large Scale Events**

### **17.1 General**

- 17.1.1 This section of the Policy deals with events with an intended capacity of five hundred and above. Capacities below that figure can be dealt with ordinarily by way of a temporary event notice which applies a 'light touch' approach to licensing, however, this does not preclude an application for a premises licence/club premises certificate.
- 17.1.2 For clarity, this section of the Policy does not apply where licensable activities are proposed to take place solely within permanent buildings that are used solely or regularly for such licensable purposes.
- 17.1.3 The Council acknowledge that unless its discretion is engaged by means of relevant representations, the application must be granted as applied for subject only to mandatory conditions or conditions consistent with the operating schedule supplied as part of the application.
- 17.1.4 This section details the method of determination used by the Council once its discretion has been engaged and a hearing takes place.
- 17.1.5 The Council will take this general approach to the determination of all applications for the grant of a premises licence or club premises certificate, that are made for events that are occasional in nature and/ or that are medium or large in scale as defined in this section of the Policy.
- 17.1.6 The Council will also have regard to this section for all applications made to vary or review licences or certificates. As variation or review applications can often be less complex than the initial application for the grant of a licence/certificate, the Council will determine whether this section applies based on the individual merits of the variation being sought. Applicants are

advised to contact the licensing team so that early discussions on this matter can commence.

17.2 Authorisation under a premises licence / club premises certificate.

17.2.1 This section of the Policy relates only to applications for licences / certificates where these are to be used to support occasional events for capacities of fifteen thousand persons and above (including staff and performers). Occasional events could be authorised by either a one-off, a time-specific, or a permanent licence / certificate.

17.2.2 These events have significant potential to considerably undermine the promotion of the Licensing Objectives, due to their sheer size, complexity and the potential implications for the planning of a safe event. The Council believe that this risk can only be adequately mitigated by the early submission of an up to date and detailed operating schedule that is specific to the proposed event on each separate occasion.

17.2.3 The Council acknowledge that it is inherent in the Licensing Act 2003 that responsible authorities and interested parties should be given the opportunity to make representations related to the nature of the individual event which is planned. The potential for adverse effects on the promotion of the Licensing Objectives can vary significantly between events, even when similar events are held on a regular basis. It would support the promotion of the Licensing Objectives that responsible authorities and interested parties be given a meaningful role in the determination of a licence application of each event.

17.2.4 Additionally, the Council's Enforcement Policy may be less effective because of the short duration and occasional nature of these events. The Council's incremental and proportionate response to problems arising may not be as effective in resolving issues on an occasional and irregular basis, particularly with changing event personnel. This paragraph should not be construed as meaning that the Enforcement Policy does not apply, or will not be applied, to such events.

17.2.5 Whilst the Council acknowledge the applicant's right to submit a one-off or time specific licence / certificate application, it encourages applicants to submit an application for a permanent licence / certificate. This provides the applicant with the flexibility of a licence that would allow the submission of an up to date and detailed operating schedule on each occasion the event is to be held, but safeguards the rights of responsible authorities and interested parties to hold the licence / certificate holder to account by way of an application for a review.

17.2.6 Sites for large occasional events are not usually purpose built for the variety of licensable activities that can take place, therefore, there is considerable work involved before, during and after such events in planning and organising the event as well as co-ordinating and ensuring the full involvement of all the emergency services to ensure a safe and well managed event. The Council believe that this can only be adequately achieved by the full and ongoing involvement of the licensing authority and responsible authorities in liaising with the applicant, whilst they are compiling the operating schedule for each individual event.

- 17.2.7 For these reasons, the Council consider that where an applicant attempts to submit an operating schedule that may refer to a series of events, potentially over a period of years, the detail and relevance of this important document is likely to be critically diluted. This may lead to an adverse effect on the promotion of the Licensing Objectives, as well as precluding the applicant from the flexibility offered by paragraph 17.2.5 above.
- 17.2.8 The Council acknowledge that it is under a statutory obligation to administer and enforce the licensing regime to promote the Licensing Objectives. The organiser of an event, however, has additional and fundamentally different considerations in planning, organising and managing their event including financial concerns (the amount of profit made for either charitable or private gain) and satisfying the demands of those attending the event (for example, music sound levels to meet the expectations of the audience). These considerations and other matters can conflict with the priorities of the Council in terms of the promotion of the Licensing Objectives.
- 17.2.9 Whilst the Council can only consider the application before them based on the individual merits of the case, the Act allows an application for the transfer of any such licence / certificate. In these circumstances, only the police may object and then only in respect of the prevention of crime and disorder objective. This clearly does not permit consideration of the potential impact of the new management structure upon the other equally important Licensing Objectives. This is of particular concern to the Council given the high level of organisational and management skills required in connection with providing such events. Additionally, the Council are aware that a review application is not necessarily suitable to mitigate such a high risk due to the length of time required to hold a review and the burden of proof required in making the case.
- 17.2.10 Whilst the ability to request a review has the potential to deal with problems arising on a licence / certificate, the Council recognise that the aim of the Act is to prevent problems arising at the outset, rather than merely reacting to actual or anticipated problems later.
- 17.2.11 The Council have therefore adopted the following policy that will apply to these events when relevant representations have been made and the application is referred to a Licensing and Appeals Sub-Committee for determination:
- (i) In respect of an application for a one-off, time-specific or permanent licence / certificate for the holding of occasional events with a capacity of fifteen thousand (15,000) persons and above (including staff and performers), the Council will consider, amongst other matters, whether the operating schedule:
    - (a) defines the events proposed with sufficient certainty to enable responsible authorities and the Council itself to adequately consider the risks to the Licensing Objectives arising from the event; and
    - (b) defines the measures proposed to avert those risks with sufficient certainty to enable responsible authorities and the Council itself to make a balanced judgment as to whether the measures will be sufficient to mitigate those risks.

- (ii) The Council will generally require a high degree of certainty before deciding that the operating schedule fulfils this requirement, but will decide that matter on the individual merits of each case.
- (iii) In cases where the Council determines that the operating schedule is not drafted with sufficient certainty, the application will normally be refused, save in exceptional circumstances. It is unlikely that the circumstances will be considered exceptional unless the applicants give assurances that the licensing objectives will be met despite the lack of certainty in the operating schedule and therefore in the conditions of the licence.
- (iv) In cases where the Council determines that the operating schedule is drafted with sufficient certainty, then in determining the application, the Council will consider any relevant risks arising from the temporary nature of the events proposed in the application.

### 17.3 Minimum periods of notice that should be provided by an applicant prior to the intended use of such a licence

17.3.1 This section of the Policy relates only to applications for licences / certificates where these are to be used to support occasional events for capacities of fifteen thousand persons and above (including staff and performers). Occasional events could be authorised by either a one-off, a time-specific, or a permanent licence / certificate.

17.3.2 The Council requires the following minimum periods in order to process applications for large scale events. The Council encourages the submission of applications as early as possible.

Maximum capacity at any one time (inc. staff and performers)	Minimum Notice Period for Application
500 - 900	2 months
1000 – 4999	3 months
5000 – 14999	4 months
15000 – 19999	5 months
20000 +	6 months

Note: the starting point of two months is based on the minimum amount of time needed for an application to be considered allowing for the prescribed consultation period and a Hearing if necessary.

Where relevant representations have been made and the application is referred to a Licensing and Appeals Sub-Committee for determination, the Council will generally refuse all such applications that are not submitted, and duly made, in accordance with the minimum notice periods prior to the event, except in exceptional circumstances.

17.3.3 The Council's reasons for this policy principle are the following:

- (i) These events have significant potential to considerably undermine the promotion of the Licensing Objectives due to the numbers of people attending, the sometimes temporary nature of facilities and, most importantly, the variety and complexity of matters that may be relevant to the planning and organising of such events. The Council believe

that these potentially adverse impacts can only be mitigated in a full and proper manner by an applicant engaging with the licensing process at an appropriate time before the event.

- (ii) Furthermore, where less notice is provided there may be insufficient time for the licensing process to run its full course, namely there may be insufficient time prior to a proposed event for any party to appeal a decision of the Council. It is clear that such cases can be complex and controversial, potentially involving considerable court time on appeal; this may create a situation where for any aggrieved party to an application to engage in the appeal process becomes effectively impossible due to time constraints before a proposed event.
- (iii) Alternatively, an appeal decision may be made that due to its proximity to an event either does not:
  - (a) deter some of those hoping to attend from still doing so (where the application has been refused) which could potentially adversely impact upon the Licensing Objectives; or
  - (b) where an application has been granted, the resources spent on such an appeal may have adversely affected the promotion of an event or undermined the planning and management of it.
- (iv) If less notice is given by an applicant, he may have insufficient time to respond fully to representations that may have been submitted. This is particularly relevant where responsible authorities and/ or interested parties take the view that an application is lacking in detail and substance, and where the licensing process becomes drawn out in the lead up to the proposed event. This can lead to pressures on an organiser in the crucial lead up time to an event itself.

**17.4 Issues that an applicant should address in the operating schedule for such applications.**

**17.4.1** This section of the Policy relates only to applications for licences / certificates where these are to be used to support occasional events for capacities of fifteen thousand persons and above (including staff and performers). Occasional events could be authorised by either a one-off, a time-specific, or a permanent licence / certificate.

**17.4.2** The Council are aware that responsible authorities, and sometimes interested parties, often engage with applicants prior to submission of an application until sometimes after an event has taken place. This concept is referred to in the Statutory Guidance, as it would assist in promoting the Licensing Objectives by fostering a partnership approach. The Council support this concept, but with an additional caveat.

- (i) Prior to such engagement, applicants are expected to consider, and to make reference in their applications to, relevant technical advice from professionals that they involve in the planning of the event, relevant national guidance (for example, The Event Safety Guide) and any further guidance recommended by the Council as part of this policy.

17.4.3 The Council's reasons for this policy principle are the following:

- (i) The demands on the responsible authorities can be disproportionate to their resources, particularly in light of the Council's Policy of encouraging cultural activities such as music, dancing and theatre. This might place undue pressure on such bodies, undermining the level of scrutiny of such applications.
- (ii) It must be considered that the legal responsibilities connected to holding such events rests primarily with the organiser and land owner. Where an application does not contain reference to such guidance and expertise, statutory bodies may be placed in an untenable position where they may be open to litigation due to the level of input/ advice they may have provided, and by implication may have taken an inappropriate degree of legal responsibility / liability in connection with the event. The Council believe it is pertinent, therefore, to attempt to avoid such a problem arising.
- (iii) Where an applicant does not consider such advice and guidance before making an application this can place responsible authorities and/or interested parties in a difficult position due to the fact that many aspects of an application may be lacking and it may not allow full and proper consideration of the proposals during the consultation period. . This may undermine their full and proper consideration of an application.

**18. Minor Variations**

- 18.1 The Council is aware of the administrative burden and cost of making an application to vary a licence or certificate for changes that are unlikely to have an impact on the Licensing Objectives or attract representations, for example amending the layout plan of a premises to remove internal partition walls or to remove/amend a condition that is no longer effective or necessary.
- 18.2 The Council will determine whether an application meets the criteria of a minor variation application on a case by case basis by having due regard to the Statutory Guidance which specifically excludes certain circumstances. Pre-application advice on what constitutes a minor variation will be provided where requested.
- 18.3 Evidentially, the Council will require representations to be of the same standard and substance as those required for a full variation. Having initially determined that the application is unlikely to have an impact on the Licensing Objectives, and so meets the minor variation process criteria, the Council will not refuse an application based purely on an opinion from a responsible authority or interested party that is not supported by appropriate evidence.
- 18.4 Whilst the Council acknowledge that conditions cannot be imposed as a result of a minor variation application, it is aware that the applicants can include operating schedule conditions as part of their proposed variation. The Council encourages discussions between the applicant and the responsible authorities or interested parties in order that the application can include measures that would address any potential concerns and avoid representations.



## **19. Full Variations**

- 19.1 Where a licence/certificate holder wishes to amend an existing licence/certificate but the amendments fall outside the scope of a minor variation, a full variation will be required.
- 19.2 Full variations will be required in all instances to:
- (i) extend licensing hours for the sale or supply of alcohol for consumption on or off the premises between the hours of 23:00hrs and 07:00hrs; or
  - (ii) increase the amount of time on any day during which alcohol may be sold or supplied for consumption on or off the premises.
- 19.3 A full variation cannot be applied for if a licence/certificate holder wishes to add the sale or supply of alcohol to the licence/certificate. In this instance, a new application will be required.
- 19.4 The process of applying for, and the determination of, full variations is almost identical to that of a new application. There is no requirement, however, to submit a plan unless one would be necessary in order to understand the application, for example a change to the plan or the addition of licensable activities in certain areas.

## **20. Reviews**

- 20.1 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.
- 20.2 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 whether an application is frivolous, vexatious or repetitious. A representation by a responsible authority cannot be deemed as frivolous, vexatious or repetitious.
- 20.3 At a review hearing, the options available to the Sub-Committee are:
- (i) to modify the conditions of the licence,
  - (ii) to exclude a licensable activity from the scope of the licence,
  - (iii) to remove the designated premises supervisor,
  - (iv) to suspend the licence for a period not exceeding three months, or
  - (v) to revoke the licence
- 20.4 The Council recognises 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 evidence supporting the allegations made will need to be submitted.
- 20.5 The Council recognises 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.

- 20.6 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.

## **21. Enforcement**

- 21.1 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 meeting the Licensing Objectives while providing a lighter touch to low risk premises that are shown to be well managed and maintained.
- 21.2 Enforcement action will be taken in accordance with the Council's Housing and Public Protection Services Enforcement Policy. Enforcement action will follow the five guiding principles of consistency, transparency, proportionality, fairness and objectivity. A copy of the Housing and Public Protection Services Enforcement Policy can be found on the Council's website at [www.north-herts.gov.uk](http://www.north-herts.gov.uk).
- 21.3 Programmed inspections of all licensed premises will be undertaken by the licensing authority in accordance with a risk-rating system using self-assessment methods where appropriate. 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.
- 21.4 The Council will consider the use of Closure Notices under section 19 of the Criminal Justice and Police Act 2001 as a method of enforcing licence conditions. This procedure clearly identifies the actions a licence holder needs to take to rectify the situation within a set period of time and the consequences of not doing so.
- 21.5 Reviews of existing premises licences/club premises certificates may also be used by responsible authorities and interested parties as a means of enforcement (see section 20 Reviews).

## **22. Temporary Event Notices**

- 22.1 A temporary event notice must be given in duplicate to the main offices of the licensing authority with the appropriate fee and to the Police Licensing Department at Stevenage Police Station with a minimum of ten working days notice.
- 22.2 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 legislation prevents the temporary event notice from being authorised; the Council have no discretion in the matter.
- 22.3 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.

- 22.4 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 legislation only requires a period of ten working days notice.
- 22.5 The Council has established a Safety Advisory Team consisting of relevant Council Officials, the emergency services and other strategic partner agencies to give advice to organisers of 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.
- 22.6 The Council acknowledges that conditions cannot be attached to temporary event notices, however, is aware that licensed premises can, and often do, enter into informal arrangements with the police in order to ensure that the crime and disorder objective is met.
- 22.7 For events of national significance, for example the football world cup, the Council encourage co-operation between licence holders and the police in order to ensure the prevention of crime and disorder objective is met. Voluntary agreements to employ additional door staff or to use plastic drinking vessels are two such examples. Where a police objection to a temporary event notice has been received in such circumstances, the Council are likely to issue a Counter Notice preventing the event from taking place where voluntary agreements have been sought by the police but not entered into by the applicant.

### **PART C: LOCAL AUTHORITY**

In this section all references to "the Council" refer to North Hertfordshire District Council acting in its role as the local authority.

#### **23. The Council's Vision for Licensing**

- 23.1 By virtue of section 3 of the Act, the Council act as the licensing authority for the purposes of the Licensing Act 2003. As the licensing authority, the Council must undertake its statutory function in respect of the licensing regime in accordance with the current legislation, with regard to the Statutory Guidance and with regard to its Statement of Licensing Policy.
- 23.2 In its role as the local authority, the Council performs its other statutory functions including the provision of responsible authorities for the purposes of the Licensing Act 2003.
- 23.3 These dual roles of the Council are two entirely separate functions and must not be confused. Whilst the licensing authority must act in accordance with paragraph 23.1 above in terms of decision making under the Act, the Council may have strategic priorities which it seeks to achieve in its role as the local authority.
- 23.4 This section of the Policy highlights the strategic aims of the local authority which the Council are seeking to achieve for North Hertfordshire. This section in no way fetters the decision-making of the licensing authority but it seeks to outline the Council's vision for licensing in North Hertfordshire.

## 23.5 Cultural Strategy

23.5.1 The Council will seek to encourage cultural and community events in the District.

23.5.2 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

23.5.3 The Council will also encourage Town Centre Managers to obtain premises licences for public spaces to further encourage cultural and community events by removing the need for community organisations to obtain a temporary event notice.

23.5.4 The Council will seek to promote the option for community premises to extend their licence to include the sale of alcohol without the need for a designated premises supervisor (a personal licence holder). Whilst the management committee members would assume joint and equal liability for the sale of alcohol, effective management would negate unnecessary risk and would allow community facilities to extend their letting capabilities currently restricted to twelve alcohol events (temporary event notices) per calendar year. This option would remove the opportunity for a free premises licence covering entertainment only as is often the case now, however, the Council believe that the annual cost of the licence could be more than offset by the increased letting opportunities.

23.5.5 The Council recognises that conditions cannot be imposed on existing licences in relation to cultural or community events taking place in the District, however, all relevant licence holders would be encouraged 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 encouraged 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.

23.5.6 At a review hearing, if it was deemed necessary based on the available evidence, the Council may consider imposing similar conditions on premises in locations where cultural and community events occur.

23.5.7 Wherever possible, the Council will monitor the impact of the licensing regime on the provision of regulated entertainment for community and cultural events, in particular live music and dancing. The Council will endeavour to assist with resolving these issues through advice and education, and by providing feedback through any national consultation process.

## 23.6 Minor Variations

23.6.1 It is the Council's opinion that this process would be ideally suited to the addition of live music to licensed premises providing that the proposed activity would not adversely effect the Licensing Objectives, for example the ability for a restaurant or a rural pub to have occasional small scale entertainment that

would be of cultural benefit to the community.

#### 23.7 Temporary Event Notices

23.7.1 In promotion of its Cultural Strategy, the Council wishes to encourage the use of temporary event notices as a light touch approach to the licensing of community and cultural events.

23.7.2 The Council recognises that the cultural diversity of North Hertfordshire and its large geographical area, encompassing many villages, gives rise to many cultural and community events. The organisers of these events, however, may be new to the licensing regime or have limited experience of licensing requirements. The Council will promote temporary event notice workshops throughout the District in conjunction with the Area Committees and Parish/Town Councils to assist organisers in understanding their responsibilities and the licensing requirements associated with such events.

### **PART D: GENERAL**

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

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

24.2 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:

- (i) needs of the local tourist economy;
- (ii) cultural strategies for the area;
- (iii) employment situation and the need for local investment; and
- (iv) planning considerations that may affect licensed premises.

24.3 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.

24.4 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.

24.5 Notwithstanding the above, it is the responsibility of the applicants to ensure that they have all necessary consents, whether statutory or otherwise.

24.6 The decision of one statutory authority ( for example, the Licensing Authority or the Planning Authority) is no indication of the likely decision of the other. Indeed, statutory authorities may make representations to each other under each Authority's legislation.

## 25. Delegation of Function

25.1 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
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	

<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>
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	
Application for a minor variation			All cases (whether representations or not)
Determination of whether a representation is relevant			All cases
Withdrawal of a club premises certificate under section 90 of the Act		All cases	

## **26. Further Information**

- 26.1 Application forms, details of application fees and further guidance on the application process can be obtained from the Council's website [www.north-herts.gov.uk](http://www.north-herts.gov.uk) or the Government website [www.culture.gov.uk](http://www.culture.gov.uk)
- 26.2 The Council would encourage applicants to enter into informal discussions with responsible authorities, and interested parties where appropriate, to try to resolve any potential problems prior to submitting an application. Additionally, the Council would encourage discussions between all parties during the consultation period, when likely representations become known, in order to avoid unnecessary hearings. The Council, however, acknowledge the right of any responsible authority or interested party to lodge a representation and proceed to a hearing.
- 26.3 The Council would encourage applicants, particularly for large events, to request pre-application an event specific Safety Advisory Group meeting to discuss the content of the operating schedule. The Council's Schedule of Fees and Charges provides for the first three hours of such a consultation to be provided free of charge; beyond the initial three hours, the Council may charge for officer time. Arrangements for a Safety Advisory Group meeting can be made with a licensing officer.

- 26.4 The contact details for the responsible authorities at the time of writing are as follows. The Council recommend, however, that applicants check the Council's website [www.north-herts.gov.uk](http://www.north-herts.gov.uk) which will contain any updated version of this list:

*The Licensing Officer*

*Licensing Department, Stevenage Police Station, Lytton Way, Stevenage, SG1 1HF*

*Community Fire Safety North*

*Hertfordshire Fire & Rescue, Longfield, Hitchin Road, Stevenage, SG1 4AE*

*Hertfordshire County Council*

*Community Information Trading Standards, Mundells, Welwyn Garden City, AL7 1FT*

*Commercial Manager, Food, Health & Safety,*

*North Hertfordshire District Council, Council Offices, Gernon Road, Letchworth, SG6 3JF*

*Environmental Protection Manager,*

*North Hertfordshire District Council, Council Offices, Gernon Road, Letchworth, SG6 3JF*

*Head of Development and Building Control*

*North Hertfordshire District Council, Council Offices, Gernon Road, Letchworth, SG6 3JF*

*Safeguarding Children Manager,*

*Hertfordshire Safeguarding Children Board, Room 173, County Hall, Hertford, SG13 8DF*

- 26.5 For further assistance, please contact:

Licensing & Enforcement

North Hertfordshire District Council

Council Offices

Gernon Road

Letchworth Garden City

Hertfordshire

SG6 3JF

01462 474000

[licensing@north-herts.gov.uk](mailto:licensing@north-herts.gov.uk)