



**The Licensing Act 2003**

**Herefordshire Council:  
Statement of Licensing  
Policy 2020/2025**



**Environmental Health  
& Trading Standards**

**COMING INTO EFFECT 11<sup>th</sup> December 2020**

**LICENSING SECTION**

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## CONTENTS

<b>Forward</b>	<b>Foreword By Councillor Alan Seldon Chair Of Licensing Committee</b>	
<b>1</b>	<b>Introduction</b>	<b>1 – 3</b>
<b>2</b>	<b>Scope of this Policy</b>	<b>4 – 5</b>
<b>3</b>	<b>Policy Consultation and Review</b>	<b>6</b>
<b>4</b>	<b>Determinations of Applications</b>	<b>7</b>
<b>5</b>	<b>Administration, Exercise and Delegation</b>	<b>8 – 10</b>
<b>6</b>	<b>Responsible Authorities, Any other person and Representations</b>	<b>11 – 15</b>
	<b>6.6 Relevant Representation</b>	<b>12 – 13</b>
<b>7</b>	<b>Application Consultation</b>	<b>16 – 20</b>
<b>8</b>	<b>Premises Licence</b>	<b>21 – 28</b>
	<b>8.1 New Applications</b>	<b>21 – 24</b>
	<b>8.12 Variations to existing Premises Licences</b>	<b>24</b>
	<b>8.16 Designated Premises Supervisor</b>	<b>24</b>
	<b>8.20 Wholesale of Alcohol</b>	<b>25</b>
	<b>8.15 Internet and mail order sales</b>	<b>25</b>
	<b>8.22 Delivery Services</b>	<b>25</b>
	<b>8.23 Regulated Entertainment</b>	<b>26</b>
	<b>8.24 Late Night Refreshment</b>	<b>26</b>
	<b>8.25 Bingo Clubs</b>	<b>27</b>
	<b>8.26 Petrol Stations</b>	<b>27</b>
	<b>8.27 Vehicles and Moveable Structures</b>	<b>27</b>

	8.28	Vessels and Ships	27
	8.29	Sports Grounds	27
	8.30	Hotel Mini Bars	28
9		Club Premises Certificates	29
10		Provisional Statements	30
11		Conditions on Premises Licences and Club Premises Certificates	31
12		Film Classification	31 – 33
13		Hours of Licensed Activities	34 – 35
14		Personal Licences	36
15		Temporary Event Notices	37 – 38
16		Appeals	39
17		Reviews and Complaints About Licensed Premises	40 – 43
	17.5	Failed Test Purchases	41
	17.8	Premises Persistently Selling	41
	17.9	Crime and Disorder	42
	17.10	Reviews launched by members of the public	42
18		Enforcement Policy	44
19		Prevention Of Crime and Disorder	45 – 55
	19.1	General	45

	<b>19.5</b>	<b>Training</b>	<b>46</b>
	<b>19.10</b>	<b>Designated premises supervisor (DPS)</b>	<b>46</b>
	<b>19.11</b>	<b>Risk Assessment for the Police</b>	<b>47</b>
	<b>19.13</b>	<b>Behaviour of Customers Outside Licensed Premises</b>	<b>47</b>
	<b>19.15</b>	<b>Door Supervisors</b>	<b>48</b>
	<b>19.18</b>	<b>Incident Report Book</b>	<b>48</b>
	<b>19.19</b>	<b>Radios</b>	<b>48</b>
	<b>19.24</b>	<b>HAND Scheme</b>	<b>50</b>
	<b>19.25</b>	<b>The use of glass in licensed premises</b>	<b>50</b>
	<b>19.30</b>	<b>CCTV</b>	<b>51</b>
	<b>19.34</b>	<b>Open containers not to be taken from the premises</b>	<b>52</b>
	<b>19.35</b>	<b>Capacity limits</b>	<b>52</b>
	<b>19.38</b>	<b>Proof of age cards</b>	<b>53</b>
	<b>19.39</b>	<b>Crime prevention notices</b>	<b>53</b>
	<b>19.40</b>	<b>Signage</b>	<b>53</b>
	<b>19.42</b>	<b>High Volume Vertical Drinking</b>	<b>53</b>
	<b>19.44</b>	<b>Premises in the vicinity of Hereford Football Club</b>	<b>54</b>
	<b>19.46</b>	<b>Adult Entertainment &amp; Services</b>	<b>55</b>
<b>20</b>		<b>Public Safety</b>	<b>56 – 62</b>
	<b>20.1</b>	<b>General</b>	<b>56 – 57</b>
	<b>20.6</b>	<b>Night Clubs</b>	<b>57</b>
	<b>20.10</b>	<b>Safety Advisor Group</b>	<b>58</b>
	<b>20.12</b>	<b>Escape Routes</b>	<b>58</b>
	<b>20.13</b>	<b>Safety Checks</b>	<b>58</b>
	<b>20.14</b>	<b>Capacity limits</b>	<b>59</b>
	<b>20.15</b>	<b>Emergency action notices</b>	<b>59</b>
	<b>20.16</b>	<b>Access for emergency vehicles</b>	<b>59</b>
	<b>20.17</b>	<b>First Aid</b>	<b>59</b>
	<b>20.18</b>	<b>Lighting</b>	<b>59</b>
	<b>20.19</b>	<b>Temporary electrical installations</b>	<b>60</b>
	<b>20.20</b>	<b>Indoor sporting events</b>	<b>60</b>

	<b>20.21</b>	<b>Alterations to the premises</b>	<b>61</b>
	<b>20.22</b>	<b>Special effects</b>	<b>61</b>
	<b>20.23</b>	<b>Theatres, cinemas, concert halls and similar places</b>	<b>62</b>
<b>21</b>		<b>Prevention of Public Nuisance</b>	<b>63 – 67</b>
	<b>21.1</b>	<b>General</b>	<b>63</b>
	<b>21.5</b>	<b>Planning</b>	<b>64</b>
	<b>21.15</b>	<b>Management and control of customers</b>	<b>65</b>
	<b>21.16</b>	<b>Hours</b>	<b>65</b>
	<b>21.18</b>	<b>Noise and vibration</b>	<b>66</b>
	<b>21.19</b>	<b>Litter</b>	<b>66</b>
	<b>21.20</b>	<b>Noxious smells</b>	<b>67</b>
	<b>22.21</b>	<b>Light Pollution</b>	<b>67</b>
<b>23</b>		<b>The Protection of Children from Harm</b>	<b>68 – 78</b>
	<b>22.1</b>	<b>General</b>	<b>68</b>
	<b>22.15</b>	<b>Adult Entertainment Services</b>	<b>71</b>
	<b>22.18</b>	<b>Access for children to licensed premises – in general</b>	<b>73</b>
	<b>22.19</b>	<b>Exhibition of Films</b>	<b>74</b>
	<b>22.22</b>	<b>Theatres</b>	<b>75</b>
	<b>22.24</b>	<b>Performances especially for children</b>	<b>76</b>
	<b>22.27</b>	<b>Children in performances</b>	<b>76</b>
	<b>22.28</b>	<b>Challenge 25</b>	<b>77</b>
<b>23</b>		<b>Information Sharing</b>	<b>79</b>
	<b>23.1</b>	<b>Licensing Act 2003</b>	<b>79</b>
	<b>23.2</b>	<b>Data Protection Act</b>	<b>79</b>
	<b>23.4</b>	<b>Requests for Information</b>	<b>79</b>
<b>24</b>		<b>Other references &amp; Guidance</b>	<b>80</b>
<b>25</b>		<b>Other Policies and Objectives</b>	<b>82 - 85</b>
	<b>25.4</b>	<b>The Human Rights Act 1988</b>	<b>83</b>

<b>25.5</b>	<b>The Equality Act 2010</b>	<b>83</b>
<b>25.6</b>	<b>Herefordshire Council's Equality Policy</b>	<b>84</b>
<b>25.7</b>	<b>Herefordshire's Community Safety Strategy</b>	<b>84</b>
<b>25.8</b>	<b>Fire Protocol</b>	<b>84</b>
<b>25.9</b>	<b>Planning Permissions</b>	<b>85</b>
	<b>Index</b>	<b>86</b>

## **FOREWORD BY COUNCILLOR ALAN SELDON, CHAIR OF THE LICENSING COMMITTEE**

This is the fifth Statement of Licensing Policy produced by the Herefordshire Council as the Licensing Authority under the Licensing Act 2003. It is a legal requirement that this policy should be reviewed at least every five years or more frequently if required.

Over the preceding four policies the Act has continued to evolve and in some respect matters have become clearer whilst in others what appeared to be clear has been diluted through challenges through the legal system. We have seen an attempt by government to try and re-balance the Act though bringing about changes in the legislation. Further change has been brought about through de-regulation of those licensable activities, which are low risk such as live and recorded music to small audiences. It is encouraging to see that Hereford City and the market towns are still considered to be safe environments in which to socialise. I cannot help but feel that this has been achieved through the hard work of the various partnerships which are in place which are supported by the police and the Licensing Authority who endeavour to achieve the right balance in respect of all matters.

The scope of this Policy covers the following:

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

The purpose of the Statement is to set out the policies and procedures that Herefordshire Council will apply in relation to its functions under the Act, most particularly regarding applications for new licences, applications to vary existing licences, applications to review licences and Temporary Event Notices.

Everything Herefordshire Council does is underpinned by the requirement to promote the four licensing objectives. These four fundamental objectives are:

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

All parties have a duty to promote these objectives and we will continue to work closely with statutory responsible authorities, licence holders, their staff, Security Industry Authority (SIA) door staff and any other person to include members of the public. The Policy highlights the need for those operating licensed premises to be aware of the effect their premises may have on local residents and to make every effort to minimise anything that adversely affects residents' quality of life.

We will expect anyone appearing in front of a Licensing Sub-Committee to be fully aware of the terms of this policy in order to show that they too, are fulfilling their statutory duty to promote the licensing objectives.

In particular, in reviewing its Licensing Policy Herefordshire Council considered whether there was still a need for a Cumulative Impact Policy in relation to Hereford City. In essence it was felt that prior to the COVID pandemic there was, but as premises are now struggling it appears the need no longer exists. However, should it be shown there is a need for such a policy in the future, it could be reintroduced.

We recognise the very positive contribution that well managed premises can make to Herefordshire Council's wider objectives through contributing to the economy and helping to tackle crime and disorder.

I cannot over emphasise the need for all parties to work together to achieve a balance in respect of all matters surrounding licensable activities, in the hope that the right balance can be achieved between the needs of business and of local residents. Indeed, experience has shown

that if parties communicate well, amicable solutions may be found to nearly all matters that have been in dispute. Certainly that is my aim and that of the sub- committee.

This Statement will be widely circulated and will be available at all times and will be published on the Council's website.

*Section 1: Summary of Introduction*

*This explains that this Policy has been prepared in accordance with guidance, who the Licensing Authority is and what the aim of the Licensing Authority is.*

## **1. INTRODUCTION**

This Statement of Licensing Policy has been prepared in accordance with the provisions of the Licensing Act 2003 (the Act) and guidance issued under Section 182 of the Act by the Home Office.

The licensing authority is the 'The County of Herefordshire District *Council*' which shall be referred to as "Herefordshire Council".

Herefordshire Council (in its role as Licensing Authority) is responsible for the licensing of regulated activities under the Licensing Act 2003. This document sets out the principles that the Licensing Authority will apply when making decisions.

The Licensing Authority's aim is for the licensing process to allow the retail sale/supply of alcohol, the provision of regulated entertainment and the provision of late night refreshment, in a way which ensures compliance with the objectives of the Act, which is not to the detriment of residents, nor gives rise to loss of amenity.

It is the Licensing Authority's aim to facilitate this through the licensing process by well run and managed premises. It is expected that licence holders will demonstrate and take action to ensure that the use of their premises will not be to the detriment of any of the licensing objectives. Whilst licensing may not be considered a mechanism for the general control of anti-social behaviour by individuals beyond the direct control of the Premises Licence holder or Club Premises Certificate holder, it is recognised that issues such as anti-social behaviour may be as the direct result of the operation of the premises. Apart from the licensing process, there are a

number of other mechanisms which could be used to address issues of unruly behaviour. Such mechanisms may include:-

- planning controls;
- 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, including best practise schemes such as Best Bar None, Pubwatch or BIDs;
- Community Protection Notices;
- the provision of CCTV surveillance in town centres, taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols;
- powers of local authorities to designate parts of the local authority area as places where alcohol may not be consumed publicly;
- the confiscation of alcohol from adults and children in designated areas;
- police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices;
- prosecution for the offence of selling alcohol to a person who is drunk (or allowing such a sale);
- police powers to close down instantly for up to 24 hours (extendable to 48 hours) any licensed premises on the grounds of disorder, the likelihood of disorder, or noise emanating from the premises causing a nuisance;
- the power of the police, other responsible authorities or other persons to seek a review of a licence or certificate;
- Early Morning Alcohol Restriction Orders (EMROs)
- late night levy
- under-age test purchasing

However, this Licensing Authority realises that the above measures may not be sufficient to deal with the promotion of the licensing objectives in relation to a particular licensed premises and may look to the Licensing Act to achieve this.

The Licensing Authority recognises that the licensed entertainment business sector and community licensed facilities in Herefordshire contribute to the local economy and social infrastructure, but that this has to be balanced with the impact of such activities on the licensing objectives. The Licensing Authority wishes to encourage licensees to provide a wide range of entertainment activities throughout their opening hours and to promote live music, dance, theatre etc. for the wider cultural benefit. They are a factor in supporting an economy which builds on the county's strengths and resources, which is one of Herefordshire Council's aims.

Herefordshire is a mixed commercial and residential area, with many areas lying in tranquil rural surroundings, whose amenity Herefordshire Council has a duty to protect, and one of Herefordshire Council's aims is to protect and enhance our environment and keep Herefordshire a great place to live. These factors may be taken into account in relation to applications that may have a material impact on a vicinity.

This policy will set out the general approach that the Licensing Authority will take when it considers opposed applications or notices. It will not undermine the right of any individual to apply for a variety of permissions nor undermine the right to have any such application considered on its individual merits. Nor will it override the right of any 'responsible authority' or 'any other person' to make relevant representations on an application or seek a review of a licence where provision has been made for them to do so in the Act.

This Policy has been prepared to assist the Licensing Authority in reaching a decision on applications or notices, setting out those matters that will normally be taken into account. It also seeks to provide information for applicants, residents, businesses in the county and the responsible authorities, of the Licensing Authorities expectations.

Every opposed application will be determined on its own merits following the Licensing Sub- committee having considered all the evidence, both written and oral, in relation to the application.

The Licensing Authority consider the police to be their main source of advice on matters relating to the promotion of the crime and disorder licensing objective.

It is not the purpose of this Policy to reiterate the specific provisions of the Act or the Regulations made thereunder or reiterate the legal complexities of the legislation, unless it is considered appropriate to do so.

*Section 2: Summary of Scope of Policy*

*This section explains what the Policy covers*

## **2 SCOPE OF THIS POLICY**

The County of Herefordshire District Council is the Licensing Authority responsible for the authorising of licensable activities, the issue of personal licences, and other matters set out in the Licensing Act 2003 (“the Act”) in the county. This document sets out the principles that the Licensing Authority will apply when making decisions upon applications, notices and other authorisations relating to:

- The sale by retail of alcohol
- The supply of alcohol by or on behalf of a club to, or to the order of a member of the club
- Regulated entertainment
- The provision of late night refreshment being the supply of hot food or drink from a premises (other than a premise with a Club Premise Certificate or other lawfully exempt premises) between 11.00 pm and 05.00 am.

Regulated entertainment in certain circumstances may require a licence or authorisation (unless exempted by the Act or due to de-regulation) when it is performed in front of an audience and includes the following:

- Performance of a play
- Exhibition of a film
- Indoor sporting event
- Boxing or wrestling entertainment (indoors and outdoors)
- Performance of live music
- Playing of recorded music
- Performance of dance
- Entertainment of a similar description to the performance of live music and/or the playing of recorded music and/or the performance of dance.

The Act sets out four main licensing objectives which the Licensing Authority has a duty to promote in determining applications:-

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

Each of the objectives is considered to be of equal importance.

This Policy shall apply in respect of any new consents, renewals, transfers, variations, reviews and such other notices or authorisations that may be required in relation to:-

- Premises Licence
- Club Premises Certificates
- Provisional Statements

And where appropriate:-

- Personal Licences
- Temporary Event Notices
- Such other applications, authorisations or notices (e.g. interim authorities) as are required under the Act.

*Section 3: Summary of Policy Consultation and Review*

*This section states who was consulted and when the policy will be reviewed.*

### **3 POLICY CONSULTATION AND REVIEW**

This Policy will take effect from 11<sup>th</sup> December 2020 and will be subject to a 5 yearly review or sooner if necessary.

In developing its policy the Licensing Authority has consulted widely to ascertain an appropriate licensing framework for its area. The bodies consulted included those specified in Section 5(3) of the Act i.e; -

- the chief officer of police for West Mercia;
- Hereford & Worcester fire and rescue authority;
- local premises licence holders;
- local club premises certificate holders;
- local personal licence holders; and
- Hereford BID
- Herefordshire Against Night-time Disorder (HAND)
- Parish & Town Councils

Public consultation has also taken place through the Herefordshire Council Web site.

In addition, the authority has consulted:

- Children and Families Safeguarding
- Hereford & Worcester Ambulance Service
- Wye Valley NHS Trust
- Herefordshire Safeguarding Board Director of Public Health for Herefordshire

Comments were invited and all comments received via this consultation process were considered by the Licensing Authority.

The Licensing Authority has also taken into account the guidance issued by the Home Office under section 182 of the Act regarding licensing policies.

*Section 4: Summary of Determinations of Applications*

*This section explains how applications will be determined and explains that the Authority can depart from this policy when it considers it correct and appropriate.*

#### **4.0 DETERMINATIONS OF APPLICATIONS**

When determining applications, authorisations and notices that have attracted relevant representations, this Licensing Authority will normally work within the framework of this Policy and also take into account the Guidance issued by the Home Office under section 182 of the Act. However, this Licensing Authority reserves the right to depart from this Policy and the Guidance whenever it considers it correct and appropriate to do so.

If, during the period of this Policy, new Guidance is issued by the Government such Guidance will be taken into account by the Licensing Authority even if it is not yet referred to in the Policy.

When an application has not attracted relevant representations, the Licensing Authority is compelled under the provisions of the Act to automatically grant the application without regard to this Policy. The only exceptions to this are applications for:

- The review of a Premises Licence or Club Premises Certificate;
- A minor variation of a Premises Licence or Club Premises Certificate;
- An application for the mandatory alcohol condition requiring a Designated Premises Supervisor in respect of a premises licence to be dispensed with for a community premises

All opposed applications will be determined by the Licensing Authority's Licensing Sub-committee.

*Section 5: Summary of Administration, Exercise and Delegation*

*This section sets out how decisions are made and who will make the decision.*

## **5 ADMINISTRATION, EXERCISE AND DELEGATION**

### **5.1 Licensing decisions and functions**

The Licensing Authority is involved in a wide range of licensing decisions and functions and has established a Licensing Sub-committee to administer them. The powers under the Act also allows for delegation of powers/functions to one or more officers.

As many of the decisions will be largely administrative it is anticipated that in the interests of speed, efficiency, and cost effectiveness on many occasions they will be made by officers. The appropriate licensing sub-committee will receive regular reports on decisions made by officers so that they maintain an overview of the general situation. The Licensing Sub-committee has power to grant licences and permissions includes the power to vary, refuse, suspend or revoke such licences or permission and the power to impose conditions. The terms of delegation of licensing functions are set out below.

<b>Matter to be dealt with</b>	<b>Sub Committee</b>	<b>Officers</b>
Application for personal licence	If the police object	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 premise licence holder	If the police object	All other cases
Request to be removed as designated premise licence holder		All cases
Application for transfer of premises licence	If the police object	All other cases
Applications for Interim Authorities	If the police object	All other cases
Application to review premises licence/club premises certificate	All cases	
Decision on whether a complaint is irrelevant frivolous vexations etc.		All cases
Decision to object when local authority is a consultee and not the lead authority	All cases	
Determination of a police or Environmental Health representation to a temporary event notice	All cases	
Determination of application to vary premises licence at community premises to include alternative licence conditions	If the police object	All other cases
Decision whether to consult other responsible authorities on a minor variation		All cases
Determination of a Minor Variation		All cases

**5.2** Applications where there are relevant representations will be dealt with by the Licensing Sub-committee, unless:

(a) such representations are from 'any other person' and are considered to be irrelevant, frivolous or vexatious, or

(b) the Licensing Authority, the applicant and everyone who has made relevant representations agrees that a hearing is not necessary

With regard to point (b) above, the Licensing Authority reserves the right to disagree that a hearing is not necessary.

**5.3** If a Licensing Sub-Committee hearing is required under the Act in respect of an application, the hearing will be in public unless there are compelling reasons for it to be heard otherwise. When a hearing is held in public, the Licensing Sub-committee can retire into private session to consider their decision. Opposed applications for personal licences will normally be held in a private session.

**5.4** Where a police request is made that a hearing in relation to an expedited review, will provide information which may affect the outcome of natural justice, then such hearing may be held in private.

**5.5** Where a matter is appearing before the Licensing Sub-committee and an applicant decides to amend their application prior to the hearing then the Committee clerk should be informed prior to the commencement of the hearing so that the Licensing Sub-committee are afforded the necessary time to consider it.

*Section 6: Summary of Responsible Authorities, and any other Person and Representations*

*This section sets out who the responsible authorities are and how members of the public can make representation. It also gives guidance in respect of making a relevant representation.*

## **6. RESPONSIBLE AUTHORITIES, ANY OTHER PERSON AND REPRESENTATIONS**

**6.1** The Act sets out the responsible authorities that can make representations about licence applications, or who can apply for a review of an existing licence. In Herefordshire these are:

- West Mercia Police
- Hereford and Worcester Fire and Rescue
- Herefordshire Council Environmental Health (Commercial)
- Herefordshire Council Environmental Health (Pollution)
- Herefordshire Council Trading Standards
- Herefordshire Council Safeguarding and Vulnerable Team
- Herefordshire Council Planning Department
- Health and Safety Executive
- Wye Valley NHS Trust
- Public Health
- Herefordshire Council Licensing Team
- And any other body or person that may be prescribed by regulations at a later date.

A current list of responsible authorities and their addresses can be obtained from Herefordshire Council's Licensing Team.

**6.2** Representations can be made by any other person. Any person may also apply for a review of a Premises Licence or a Club Premises Certificate.

**6.3** The responsible authorities and any other person can make representations about:

- Applications for a new Premises Licence
- Applications for the variation of an existing Premises Licence
- Applications for a new Club Premises Certificate
- Applications for the variations of an existing Club Premises Certificate
- Applications for a Provisional Statement
- Review applications

**6.4** All representations must be ‘relevant’, for example they must be about the likely effect of the grant of an application on the promotion of one or more of the licensing objectives of:

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

Where a representation is made by a person who is not a responsible authority, the Licensing Authority may reject representations that it considers to be irrelevant, frivolous, vexatious or repetitious.

**6.5** It is important to note that responsible authorities or any other person may make representations on any of the four licensing objectives (for example the Fire Brigade could make representations about crime at a premises or Trading Standards on the basis of public nuisance).

### **6.6 Relevant Representation**

A representation is “relevant” if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives and the steps proposed by the applicant to promote the licensing objectives are considered to be inadequate. In other words, representations should relate to the impact of licensable activities carried on from premises on the licensing objectives. For representations in relation to variations to be relevant, they should be confined to the subject matter of the variation. There is no requirement for a responsible authority or other person to

produce a recorded history of problems at premises to support their representations, and in fact this would not be possible for new premises.

**6.7** The case *R (Hope and Glory Public House Ltd) v City of Westminster Magistrates Court* [2011] EWCA Civ 31 established the fact that a representation made in relation to public nuisance must be more than a private nuisance and that a single person is incapable in law of constituting "the public" for the purposes of satisfying the test of "public nuisance" pertinent to the licensing objective.

**6.8** Furthermore, where only one public representation is received in respect of the public nuisance licensing objective, then this too will be deemed not to be relevant on the grounds that it is a private nuisance. However, in such a circumstance the licensing service will refer a single complainant to the environmental health service for investigation as a potential statutory nuisance.

**6.9** Applications for the review of an existing Premises Licence or Club Premises Certificate can be made by a responsible authorities or any other person but the reason for the calling of the review must address one or more of the four licensing objectives.

**6.10** Only the Police can make representations about applications for:

- Transfers of premises licences,
- Variations to change the Designated Premises Supervisors at a premises,
- Applications for personal licences and,
- Interim authority notices

In above cases, the representations from the Police have to be restricted to the licensing objective of the prevention of crime and disorder.

**6.11** The police or an Environmental Health Officer may make representation about a Temporary Event Notice.

**6.12** All representations must be received by the Licensing Authority within the statutory deadlines set out in either the Act or the Regulations made under the Act. The Licensing Authority cannot legally accept any late representations. In the cases of applications for new Premises Licences/Club Premises Certificate and variations, the deadline for receipt of any representation and the address that they must be sent to will be shown on a notice(s) displayed at the premises and in a notice placed in a local newspaper by the applicant.

**6.13** When considering applications for new, or variations (under sections 34 and 84 of the Act) to existing Premises Licences /Club Premises Certificates the responsible authorities and any other person should consider the adequacy of any measures, intended by the applicant, to deal with any potential for public nuisance, crime and disorder, public safety, and the protection of children from harm. Any such proposed measures should be included in the application form submitted to the Licensing Authority by the applicant. If any responsible authority or any other person is not satisfied with any of the proposed measures they may make representations against the application to the Licensing Authority.

**6.14** Applications for 'minor' variations under section 41A or section 86A of the Act do not have to include details of the steps that the applicant intends to take to promote the licensing objectives. Nor can the Licensing Authority convert any intended steps that may be included in the application into additional licence conditions, unless they are offered within the application as conditions. It is recommended that:

- Applicants take this into account when applying for a 'minor' variation in relation to the receipt of any representations against the applications, and
- The responsible authorities and any other person also take this into account when considering whether the application will have any effect on the licensing objectives.

NB: It is important for applicants, responsible authorities and any other person to note that the Licensing Authority may only grant this type of

application in its entirety or they must completely refuse it. Any agreements (e.g. concerning additional conditions) made between the applicant and those making representations are of no effect under the Act and cannot be taken into account when the Licensing Authority makes its determination on the application.

- 6.15** The Licensing Authority will not remove any personal details from representation made by members of the public, unless either requested in writing to do so, or if the Licensing Authority feel that by disclosing the person's details, natural justice may be affected.

## *Section 7: Summary of Application Consultation*

*This section explains the application process and the procedures which should be followed to make a successful application.*

### **7 APPLICATION CONSULTATION**

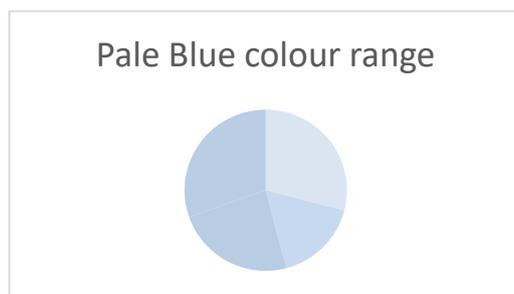
- 7.1** The aim of consultation is to provide the opportunity for any other person to be involved in the licensing process. The consultation procedure required for each type of application is prescribed within the Act and Regulations made there under.
- 7.2** The Act itself is sometimes confusing and misleading. To overcome problems associated with different types of applications the Licensing Authority has put in place various processes.
- 7.3** An application for a new/variation to a premises licence or a new/variation to a club premises certificate requires the applicant to advertise on the premises (during the consultation period). The act also requires an applicant to advertise in a local newspaper or where there is not a local newspaper a publication which is circulated in the immediate vicinity of the premises.
- 7.4** The act also requires that the applicant satisfies the Licensing Authority that they have complied with the legislation in respect of the notices, the requirements for which are laid out in the regulations.
- 7.5** No licence will be issued until the Licensing Authority is in receipt of the newspaper advert. The onus is on the applicant to supply this prior to the end of the consultation period. Any delay by the applicant will result in a delay in issuing the licence.
- 7.6** In respect of the notices to be displayed at the premises, again the onus is on the applicant to demonstrate to the Licensing Authority that the regulations have been complied with. The Licensing Authority requires evidence to demonstrate that the notices have been in place for the required time and in the correct locations. Whilst the method of evidencing

compliance rests with the applicant, photographic evidence will only be accepted if it correctly dated within the required period. It is suggested that evidence should be dated on the first, last and at weekly periods throughout the period. This evidence will not be checked until the 28 day consultation period has concluded as the authority must be satisfied that the requirement includes the full period.

**7.7** Where an applicant decides to amend their application prior to the end of the consultation period then the Licensing Authority requires the applicant to amend the site notice and their application form to reflect this.

**7.8** Prior to the consultation process, the applicant should inform the Licensing Authority where they propose to place the notices so that the Licensing Authority are satisfied that members of the public will see them. For the avoidance of doubt, a clear location map/plan should show the proposed locations of notices, particularly for those premises which require additional notices, due to the size of the premises being applied for.

**7.9** In accordance with the guidance the Licensing Authority reserves the right to conduct random and unannounced visits to premises to confirm that notices have been clearly displayed on pale blue paper and include relevant and accurate information. Pale blue is defined within the chart below:



**7.10** The consultation period commences on the day after a **completed** application was given to the Licensing Authority. (Completed means that no information is missing from the application or the plan and the correct fee and required documents have been received).

**7.11** The term used within the act is 'was given' to the Licensing Authority. An application is only given to the Licensing Authority when it is received by them. Sometimes an application will be delayed by post and where this

occurs the terms under the Interpretation Act 1978 will be applied which states that a letter sent by first class mail is deemed to be delivered on the second working day after posting. (For example: Where an application is posted on a Tuesday then it is deemed delivered not on Wednesday but on Thursday. For this reason the Licensing Authority will keep all envelopes used to post applications).

**7.12** The Licensing Authority will also confirm in writing to the applicant the date that the 28 day period will start and the date which must appear in an advertisement.

**7.13** To avoid additional cost, applicants are advised not to advertise in a local newspaper until such time as they have been informed by the Licensing Authority that the application has been accepted.

**7.14** Where an application is submitted and found to be defective, the Licensing Authority will always try and contact the applicant by phone to advise of the deficiency and the required action. However, it may not always be possible to speak to the applicant. Where this has not been possible the Licensing Authority will return the application together with a written explanation of what action is required to make the application complete.

**7.15** Only once an application is complete can the consultation period commence.

**7.16** There is no discretion over the application process under the Act and applicants should therefore consult the regulations which cover the application process [The Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005].

**7.17** Where an application is found to be defective after the consultation period has started the applicant will be informed. The applicant can then either wait for the end of the consultation period in which case their application will not be determined or can withdraw the application.

- 7.18** Any further application submitted will attract the full fee and no refunds will be given.
- 7.19** An event organiser can give notification to the Licensing Authority, the Environmental Health Officer and the Police of an event where there will be less than 500 people by way of a Temporary Event Notice (TEN), but this notice must be made no later than 10 working days before the event. This period does not include the day the application is received nor the day on which the event is to start; there no discretion available to shorten this notice period.
- 7.20** It is also possible to apply for a Temporary Event Notice up to 5 days prior to the event (Late Temporary Event Notice). However, this can be a risky process because if either the police or the Environmental Health Officer object, where they feel that the Licensing Objectives may not be promoted, the notice is automatically refused.
- 7.21** The Police or Environmental Health Officer may object to the event taking place or agree a modification of the temporary event notice. Notice may be given in advance of the minimum requirement and this is encouraged. The police have a preferred contact point for the submission of TENs which is The Licensing Unit, West Mercia Constabulary, Bath Street, Hereford, HR1 2HT, Tel: 0300 333 3000.They will also accept service by email to: [licensing.herefordshire@westmercia.pnn.police.uk](mailto:licensing.herefordshire@westmercia.pnn.police.uk)
- 7.22** Where a TEN is given and found to be defective or for some reason the event does not take place, no refund will be given. The Licensing Authority will not permit a TEN to be moved to different date.
- 7.23** The Licensing Authority recommends that Applicants who intend to hold large one-off events to consider making application for a premises licence at least 3 months prior to the event, to allow sufficient time for the licence to be determined. Although the earlier the better.

- 7.24** The Licensing Authority will make copies of applications for a new/variation of a premises licence or club premises certificate available for inspection by the public, by publishing them on the website.
- 7.25** The authority also have a public register for TEN's and other licences issued under the Act.

## *Section 8: Summary of premises Licences*

*This section explains that new applications should contain sufficient details and gives guidance in respect of matters which should be considered when making an application. It also covers applications made in relation to variations to premises licences, change of DPS, Wholesale of Alcohol, Internet and mail order sales, Regulated Entertainment, Late Night Refreshment, Bingo Clubs, Petrol Stations, Vehicles and Moveable Structures, Vessels and Ships, Sports Grounds and Hotel Mini Bars*

## **8 PREMISES LICENCES**

### **8.1 New Applications**

It is expected that prior to making an application an applicant will contact the responsible authorities before submitting their operating schedule with their application.

**8.2** The applicant should also make contact with local residents who may be affected by the application before formulating their applications so that dialogue can be begun before the statutory time limits come into effect after submission of an application.

**8.3** The application form should include sufficient information to enable the Licensing Authority, any other person and any responsible authority to determine the extent to which their proposed steps are appropriate to promote the licensing objectives in the local area and are expected to make it clear why the steps they are proposing are appropriate for the premises. A description of the business to be conducted on the premises must also be included in the application form.

**8.4** The Licensing Authority requires applicants, to obtain sufficient information to enable them to demonstrate, when setting out the steps they propose to take to promote the licensing objectives, that they understand:

- the layout of the local area and physically environment crime and disorder hotspots, proximity to residential premises and proximity to areas where children may congregate;

- any risk posed to the local area by the applicant's proposed licensable activities; and
- any local initiatives (for example, local crime reduction initiatives or voluntary schemes including local taxi-marshalling schemes, street pastors and other schemes) which may help to mitigate potential risks.

**8.5** Where an application is made for live or recorded music, on a premises licence, an applicant is required to state the maximum capacity of the premises, as this is relevant in respect of whether the activity applied for is licensable and whether conditions may be required to promote the licensing objectives.

**8.6** In addition to the requirements under the legislation in respect of plans, the Licensing Authority requires applicants to show on their plan the location of CCTV cameras (where fitted) and the area of coverage.

**8.7** Where alcohol is to be sold for consumption on the premises it would be helpful to know the extent of seating and the type of activities available on the premises whether licensable under the Act or not.

**8.8** Full details of information required in the application form include:-

- Relevant licensable activities to be conducted on the premises
- Times/days of the week including holiday periods or different times of the year that the activities are to take place.
- Any other times when the premises is open to the public
- Where the licence is required for a limited period, that period
- If the activities include the supply of alcohol, the name and address of the designated premises supervisor
- If alcohol is to be supplied, if it is to be consumed on/off the premises or both
- If adult entertainment or services of any description (whether licensable or not) are to be provided at the premises, full details must be given

- The steps the applicant proposes to promote the Licensing Objectives particularly the steps to be taken to protect children from harm when on the premises.
- The applicant will be expected to undertake a thorough risk assessment with regard to each of the Licensing Objectives when preparing their applications and specify the steps that they will take to promote the Licensing Objectives.

**8.9** Applicants are recommended to acquaint themselves with:

- The contents of this Policy dealing with the four licensing objectives
- The Guidance issued by the Home Office under section 182 of the Act and other guidance available on Government websites
- Herefordshire Council 'Pool of Model Conditions'.

**8.10** The Licensing Authority will expect Operating Schedules to satisfactorily address the issues of the Licensing Objectives, from the design of the premises through to the daily operation of the business.

**8.11** Particular consideration will be given to the following:

- Safety arrangements e.g. premises must be constructed or adapted in such a way that they are safe and appropriate and have a safe capacity assessment etc.
- The steps that will be taken to prevent the underage sale of alcohol
- The steps the applicant has taken or proposes to take to prevent public nuisance. Such steps may include the management of customers' behaviour, installation of sound proofing, air conditioning, acoustic lobbies, sound limitation devices, parking provision, notices at exits and in the car park.
- What measures will be taken to prevent disorder and nuisance and to also secure public safety e.g. the use of CCTV, the employment of registered door supervisors, means of access/exit, types of drinking utensils used such as glass, plastic (ideally recyclable), no bottles etc.

- The measures proposed to prevent the consumption or supply of illegal drugs, possession of offensive weapons including any search procedures and entry policies.
- The likelihood of any public disorder, violence or other alcohol related crime arising if a licence were to be granted.

### **8.12 Variations to existing Premises Licences**

The holder of an existing Premises licence may apply for a variation of the licence (e.g. to change the licensed hours or activities) under either section 34 of the Act ('full variations') or in the case of 'minor' variations under section 41A of the Act. For a 'full' variation the applicant is expected to complete the application form with the steps they intend to take to promote the licensing objectives.

**8.13** The Licensing Authority expects an applicant for a variation to look at the current conditions attached to their premises licence to establish whether the licence is still fit for purpose. Any conditions on the existing licence should meet the following and are:

- appropriate for the promotion of the licensing objectives
- enforceable
- unequivocal/unambiguous
- proportionate and
- do not duplicate other statutory provisions

**8.14** Where they do not meet these criteria the applicant is expected to offer conditions which do. A model pool of conditions can be found on our website at <http://www.herefordshire.gov.uk/docs/Conditions.doc>

**8.15** In addition, the applicant is also expected to consider and cover all of the requirements shown above under new applications.

### **8.16 Designated Premises Supervisor**

Where a premises sells alcohol, a Personal Licence holder will be identified in the Premises Licence as the Designated Premises Supervisor for the

premises. This is to ensure that there is always one specified individual who can be readily identified for the day to day running of the premises.

**8.17** Where the Designated Premises Supervisor is not available for a significant period of time (e.g. on holiday) they should nominate in writing somebody who is authorised to act on behalf Designated Premises Supervisor, as a point of contact.

**8.18** It is expected that there shall be on site, a written authorisation, from either the Designated Premises Supervisor or a Personal Licence Holder allowing other members of staff to sell alcohol on their behalf. This is to meet with the mandatory condition.

**8.19** Community premises can apply to have the requirement for a Designated Premises Supervisor removed from their premises licence.

#### **8.20 Wholesale of Alcohol**

The wholesale of alcohol to the public is a licensable activity under the Act and a Premises Licence and a Designated Premises Supervisor will be needed where such transactions take place.

#### **8.21 Internet and mail order sales**

A Premises Licence will be required for the warehouse/storage facility of the alcohol, when the alcohol is delivered/dispached from that place to the public. However, the call centre where the order was placed would not be licensable. The Operating Schedule must include procedures for ensuring that sales of alcohol are not made to persons under the statutory age limit (currently 18 years of age).

#### **8.22 Delivery Services**

Persons who run premises providing 'alcohol delivery services' should notify the Licensing Authority that they are operating such a service in their Operating Schedule. This ensures that the Licensing Authority can properly consider what conditions are appropriate. Premises with an existing premises

licence, which choose to operate such a service in addition to their existing licensable activities, should contact the Licensing Authority for its view on whether this form of alcohol sale is already permitted or whether an application to vary the licence will be required.

### **8.23 Regulated Entertainment**

Regulated entertainment will require (subject to certain exemptions) a Premises Licence, a Club Premises certificate or a Temporary Event Notice.

The forms of regulated entertainment are: -

Performance of a play

Exhibition of a film

Indoor sporting event

Boxing or wrestling entertainment (indoors and outdoors)

Performance of live music

Playing of recorded music

Performance of dance

Entertainment of a similar description to the performance of live music and/or the playing of recorded music and/or the performance of dance.

### **8.24 Late Night Refreshment**

The provision of hot food and/or hot drink for consumption either on or off the premises is licensable under the Act from the hours of 11.00 pm and until 5.00 am.

Some premises are exempt from this licensing requirement:

- clubs, serving hot food and hot drink only to their members
- hotels, or comparable premises, serving hot food and hot drink only to those who will be staying at the hotel that night
- premises serving hot food and hot drink only to their own employees
- premises serving hot food and hot drink only to guests of those falling in the categories outlined above.

### **8.25 Bingo Clubs**

Where activities which are licensable under the Act are carried out in Bingo Clubs the conditions imposed will apply alongside those conditions imposed under the Gambling Act 2005.

### **8.26 Petrol Stations**

There are restrictions of the sale of alcohol from petrol stations. The Licensing Authority requires an applicant to demonstrate the primary use of the premises in order to establish whether the premises licence should be granted or rejected. For existing premises an applicant will be required to supply the data to demonstrate that the primary use of the premises is not a garage. Each case will be judged on the individual circumstances of the application.

### **8.27 Vehicles and Moveable Structures**

The sale of alcohol or the carrying out of other licensable activities from vehicles/moveable structures may only be carried out from a premises or site which holds a Premises Licence. It should also be noted that the provision of any entertainment or entertainment facilities on premises consisting of or forming part of any vehicle whilst it is in motion and not permanently or temporarily parked is not to be regarded as a regulated entertainment for the purposes of the Act. For example, a band performing on a moving float in a parade would not require a premises licence if performances only take place while the vehicle is in motion.

### **8.28 Vessels and Ships**

Vessels or ships are licensable by the licensing authority where they are usually moored.

### **8.29 Sports Grounds**

On premises that are subject to the Safety at Sports Ground Act 1975 requirements, the Safety Certificate issued for the premises will normally take precedence over the licence conditions relating to safety whilst the premises is in use under the Safety Certificate.

### **8.30 Hotel Mini Bars**

Hotels that have mini bars in their rooms will have to ensure and demonstrate that they have put adequate measures in place to ensure that alcohol cannot be obtained by underage persons.

*Section 9: Summary of Club Premises Certificates*

*This section deals with the application for Club Premises Certificates and the rules in relation to Clubs.*

**9 CLUB PREMISES CERTIFICATES**

- 9.1** A 'Qualifying Club' may apply for a Premises Certificate. The Act stipulates the requirements of a 'Qualifying Club' are as specified in Sections 61-64 of the Act. The club/organisation members must have joined together for a particular social, sporting or political purpose and then have combined to purchase alcohol in bulk as members of the organisation for supply to members and their guests. The Licensing Authority must be satisfied these conditions have been met, including evidence to support that any gain from its activities is applied for the benefit of the club and its members and that there is a minimum of 48 hours delay between application and the acceptance of new members. The Club must have a minimum of 25 members.
- 9.2.** In order for Qualifying Clubs to supply alcohol and provide other licensable activities on Club premises, a Club Premises Certificate is required, and there is no requirement to specify a Designated Premises Supervisor as there are technically no retail sales of alcohol.
- 9.3** The Licensing Authority will require the Club Secretary's current contact details to be readily available.
- 9.4** The procedures, guidance and this Policy in relation to Club Premise Certificates are identical to that for Premises Licences.

*Section 10: Summary of Provisional Statements*

*This section deals with the application for a Provisional Statement.*

**10. PROVISIONAL STATEMENTS**

**10.1** Applicants may need to apply for a Provisional Statement where premises are being constructed, extended or substantially changed structurally for the purpose of licensable activities.

**10.2** This Policy applies to Provisional Statements in exactly the same way as to Premises Licences. Before premises with a Provisional Statement may be used for Licensable Activities an application must be made and granted for a Premises Licence or Club Premises Certificate.

**10.3** If representations are received in respect of an application for a Provisional Statement, conditions may be imposed on the Provisional Statement in the same manner as if it were a Premises Licence or the application may be refused by the Licensing Authority.

*Section 11: Summary of Conditions on Premises Licences and Club Premises Certificates*

*This section explains about the mandatory conditions and the power to attach further conditions.*

**11 CONDITIONS ON PREMISES LICENCES AND CLUB PREMISES CERTIFICATES**

**11.1** The Act sets out mandatory conditions that are applicable to Premises Licences and Club Premises Certificates according to the activities that they are authorised for.

**11.2** The Licensing Authority may impose additional conditions as a result of representations against a licence. Each case will be on its own merits and any additional conditions will be appropriate to the nature of the activities and hours applied for and shall reflect the four licensing objectives. Conditions will generally be considered unnecessary if they are already adequately covered by other legislation. When no representations have been received against an application, the Licensing Authority reserves the right to convert the steps that an applicant has put into their application, into licence conditions whenever such conditions are appropriate to the Licensing Objectives. The Licensing Authority will normally take these from their model pool of conditions which can be found on our website (<http://www.herefordshire.gov.uk/docs/Conditions.doc>).

**11.3** The additional conditions that may be attached to licences and certificates upon consideration of relevant representations will be tailored to the individual circumstances and characteristics of the premises and events concerned to meet the Licensing Objectives. For example, conditions may be imposed to prevent unnecessary noise and disturbance to local residents by way of limited hours and/or restrictions on sound levels.

**11.4** Apart from being able to impose additional conditions, the Licensing Authority has the power to refuse applications in their entirety.

*Section 12: Summary of Film Classification*

*This section explains that, other than in exceptional circumstances, the Licensing Authority will expect films to have a British Board of Film Classification.*

**12 FILM CLASSIFICATION**

**12.1** The admission of children to any film exhibition shall be restricted in accordance with the classification given to that film by the British Board of Film Classification (or in exceptional circumstances this Licensing Authority). No person under the age of 18 shall be admitted to any film that has not been classified by the British Board of Film Classification (or in exceptional circumstances this Licensing Authority).

**12.2** This Licensing Authority agrees with the recommendation of the Secretary of State that licensing authorities should not duplicate the role of the British Board of Film Classification by choosing to classify films themselves. The classifications recommended by the British Board of Film Classification for any film will be applied by this Licensing Authority unless there are exceptional reasons for this Licensing Authority to adopt the role of film classifier and classify or re-classify any particular film. The decision as to whether to classify or re-classify any particular film will be at the absolute discretion of the Licensing Authority.

**12.3** If the Licensing Authority is concerned about the classification given by the British Board of Film Classification to a particular film, it may give notice to the holders of Premises Licences that the film may not be exhibited until it has been viewed and classified by the Licensing Authority. In such circumstances the Licensing Authority will view and classify the film as a matter of urgency.

**12.4** Licence conditions may specify that immediately before each exhibition at the premises of a film (other than a current newsreel) passed by the British Board of Film Classification, there shall be exhibited on screen for at least five seconds in such a manner as to be easily read by all persons in the

auditorium a reproduction of a certificate of the Board, or, as regards a trailer advertising a film, of the statement approved by the Board indicating the category of the film. Conditions may also require notices to be displayed both inside and outside the premises so that persons entering can readily read them and be aware of a category attached to any film or trailer.

- 12.5** Where any video works are shown on premises with a licence (e.g. in pubs) they should be suitable for the age group of the children present, having regard to the official age classification of the work given by the British Board of Film Classification.

*Section 13: Summary of Hours of Licensed Activities*

*This section sets out how applicants are advised to apply for the hours which they will use and how they must have consideration to the impact they may have on the Licensing Objectives. Where appropriate following representation, the Licensing Authority may curtail the hours applied for.*

**13 HOURS OF LICENSED ACTIVITIES**

- 13.1** Applicants are advised, prior to making an application, to carefully consider the licensed hours that they require and the impact these hours may have on any of the Licensing Objectives. They should include details in the application form of the steps that they propose to take to ensure the proposed licensed hours do not cause problems in relation to the licensing objectives.
- 13.2** In making decisions that relate to the hours for which a premises is licensed or any conditions as to delivery times, the Licensing Authority will give consideration to how the applicant will achieve the Licensing Objectives and the representations made against such hours.
- 13.3** Each case will be decided on its own merits based on whether the Licensing Objectives can be met. Stricter conditions, including limiting licensed hours, are likely to apply to premises when the applicant is unable to demonstrate that the hours required would not be detrimental to the Licensing Objectives.
- 13.4** Limitations on operating hours may be imposed as appropriate upon consideration of representations for example, in the case of premises known to be a focus of disorder, nuisance, disturbance or people engaging in anti-social behaviour.
- 13.5** In relation to shops and other retail outlets supplying alcohol for consumption off the premises, whilst the general policy will be to allow sales of alcohol at all times that the premises is open for business, this Licensing Authority recognises that any particular application may have to be refused

or hours may have to be restricted in order for the licensing objectives to be achieved.

- 13.6** Each case will be decided on its own merits based on whether the Licensing Objectives can be met. Stricter conditions including limiting licensed hours are likely to apply where the premises are situated in mainly residential areas to minimise disturbance to local residents.

*Section 14: Summary of Personal Licences*

*This section deals with the application process in respect of personal licences and states that, other than in exceptional circumstances, the Licensing Authority will uphold any representation made by the police.*

**14 PERSONAL LICENCES**

- 14.1** Personal licences allow a person to sell alcohol and authorise another person to sell alcohol on their behalf. The place where the sale takes place must have a premises licence and a Designated Premises Supervisor.
- 14.2** The Licensing Authority has to grant a personal licence whenever the application meets the statutory requirements. The only exemption is when an applicant has an unspent relevant conviction for any relevant offence, or foreign offence as defined in Schedule 4 the Act.
- 14.3** In order to substantiate whether or not an applicant has a conviction for an unspent relevant offence or foreign offence, applicants will be required to produce a current Disclosure and Barring Service (DBS) Check. A declaration is also required stating that an applicant has no relevant convictions for any relevant offences stipulated in schedule 4 of the Act.
- 14.4** The Licensing Authority will liaise closely with the Police when an applicant is found to have an unspent conviction for a relevant offence as defined in the Act. Where an applicant for a personal licence has an unspent criminal conviction for a relevant offence, the Police may object to the grant of the licence.
- 14.5** If an objection to an application is made by the Police, the matter will be referred to the Licensing Sub-committee for a decision. The refusal of the application will be the normal course of action, unless there are, in the opinion of the Licensing Authority, exceptional and compelling circumstances that justify granting the application.

*Section 15: Summary of Temporary Events Notices*

*This section deals with Temporary Event Notices and their application process.*

## **15 TEMPORARY EVENT NOTICES**

**15.1** A Temporary Event Notice (TEN) must be submitted to the Licensing Authority when a person wishes to provide licensable activities at an event and;

- the premises does not have the benefit of a Premises Licence or Club Premises Certificate, or
- the premises does not have an appropriate Premises Licence or Club Premises Certificate for the event, or
- they do not wish to use any existing Premises Licence or Club Premises Certificate for the event

**15.2** There are limitations and strict procedures for TENs. There are 2 types of TENs, a 'standard TEN' and a 'late TEN'. Both the Police and Environmental Health can object to a TEN under any of the four licensing objectives.

A 'Standard TEN' is one which is given at least 10 working days before the event.

A 'Late TEN' is one which is given between 9 and 5 working days before the event.

**15.3** The following is applicable to all TENS.

- a. The period for service of the notice excludes the working day on which the notice is received by the Licensing Authority and Police and the day of the event. Applicants should note that it is unlawful for the Licensing Authority to accept a TEN outside of this time.
- b. The number of people attending the event cannot exceed 499 at any one time.
- c. The duration of the event must not exceed 168 hours (7 days).
- d. The same premises cannot be used for more than 12 occasions per calendar year and the aggregate number of days must not exceed 21 days.

- e. A Personal Licence holder may only submit a maximum of 50 TENS per year.
- f. A person who does not hold a Personal Licence is limited to 5 TENS per year.
- g. A Personal Licence holder can only apply for 10 'Late TENS' per year and 5 for non-personal licence holders.

**15.4** Where a 'Standard TEN' is applied for and the premises is covered by a Premises Licence and when the Police or the Environmental Health Officer have objected to the TEN, then in these circumstances they can request that the current conditions as shown on the Premises Licence be placed on the TEN.

**15.5** Where there is no Premises Licence and the Police or EHO object then the decision in respect of whether the event goes ahead will rest with the Licensing Sub-committee as the TEN cannot be conditioned.

**15.6** Where an objection notice is issued for a 'Late TEN' then the Licensing Authority must issue a counter notice which stops the TEN.

**15.7** Where an objection is made, in relation to a 'standard TEN', the Licensing Sub-committee will decide whether or not a Counter Notice should be issued to cancel the TEN after hearing the representations and evidence from either the Police or Environmental Health Officer and the giver of the TEN.

**15.8** The Police or Environmental Health Officer have a period of 3 working days to issue an objection notice if they consider the crime prevention objective will be undermined.

*Section 16: Summary of Appeals*

*This section advises of the right to appeal decisions.*

**16 APPEALS**

The Act sets out the rights of the different parties to an application to appeal to the Magistrates Court against certain decisions of the Licensing Authority. Such parties will be formally advised of their rights of appeal after the Licensing Authority reaches its decision.

*Section 17: Summary of Reviews and Complaints about Licensed Premises*

*This section explains who can call for a review of a premises licence and that The Licensing Authority will have expected the premises licence holder to have been consulted prior to the review being called. This section also deals with the action that the authority will take in respect of test purchases.*

**17 REVIEWS AND COMPLAINTS ABOUT LICENSED PREMISES.**

**17.1** Reviews represent a key protection for the community. Where the Licensing Authority considers action necessary under its statutory powers it will take appropriate steps to support the Licensing Objectives.

**17.2** If a premises has an existing Premises Licence or Club Premises Certificate, a responsible authority or any other party may apply to the Licensing Authority for a review of a Premises Licence or Club Premises Certificate. Once a review application has been lodged with the Licensing Authority, any other responsible authority or any other party may make representations (within the legal deadline) to the Licensing Authority in relation to the premises. The Licence Holder of the premises may make representations against the review application. Review applications and subsequent representations can only be made on the grounds of one or more of the licensing objectives.

**17.3** Review applications will be heard by the Licensing Authority's Licensing Sub-Committee, who will determine the outcome of the Premises Licence/Club Premises Certificate after hearing and considering the application and the representations for and against it. Each case will be decided on its own merits, and the Licensing Authority may take several courses of action (e.g. take no action, revoke the licence, suspend the licence, reduce the licensed hours, remove the DPS, remove any of the licensable activities or amend the conditions attached to the licence) in accordance with the Act.

**17.4** The Licensing Sub-committee may decide to suspend a Premises Licence/Club Premises Certificate for a short period of time as a means of deterring the holder from allowing the problems that gave rise to the review to happen again.

#### **17.5 Failed Test Purchases**

Where a premises fails a test purchase then, other than in exceptional circumstances, the Premises Licence will be reviewed. During the course of any review the Licensing Authority will look at the cause of the failure. Where during the first review it is found that the training of staff at the premises is inadequate, the Licensing Authority may look at placing a condition on the licence in respect of staff training and will consider suspending the licence to allow sufficient time to enable staff to be trained. When a further test purchase is failed the Licensing Authority will consider revoking the licence in order to promote the Licensing Objective of the 'protection of children from harm'.

**17.6** Other than in exceptional circumstances, in partnership with the Police and Trading Standards, persons who sell to under-age persons will normally be dealt with by means of a Fixed Penalty Notice unless that person is the holder of a Personal Licence.

**17.7** Where that person holds a Personal Licence the Licensing Authority will normally look towards prosecuting that person through the Court, in accordance with Local Authority's Prosecution Policy for the offence. The court will be asked to consider either the suspension or revocation of the Personal Licence.

#### **17.8 Premises Persistently Selling**

In line with the existing legislation, the Licensing Authority or the Police will look at prosecuting those premises which persistently sell to under age persons. Persistently selling is defined by the legislation as 2 sales within a 3 month period.

## **17.9 Crime and Disorder**

In most cases reviews under the crime and disorder objective will be launched by the Police. In such cases the Licensing Authority will expect the Police to have engaged with the Premises Licence Holder and/or DPS to try and resolve issues at the premises. Where all best efforts have failed to address the issues then it is right and proper that the matter should be referred to the Licensing Authority to resolve. In most cases, but not exclusively, the Licensing Authority will look at attaching conditions in relation to the use of SIA registered door staff and/or restricting the hours of operation.

## **17.10 Reviews launched by members of the public**

The Licensing Authority will expect members of the public to bring to the attention of the licensed premises, at an early stage, any issues they have in relation to those premises so that the premises have an opportunity to address the issues.

**17.11** Where a member of the public is uncomfortable with doing this then they should contact their local elected Councillor who will be able to address the issues with the premises on their behalf in the first instance.

**17.12** Where these methods have been tried and failed then the issues should be reported to the responsible authorities, to afford them the opportunity to work in partnership with the premises, the person(s) raising the issue and themselves to address the problems at the premises prior to a review being launched.

**17.13** Members of the public will be expected to produce evidence supporting their reason for calling the review. This evidence should show the time and date of the incidents which have occurred together with the outcome.

**17.14** It must be stressed that the Licensing Authority may reject applications or representations from members of the public for a review or representations, if the Licensing Authority considers them to be frivolous, vexatious or

repetitious. In the case of being repetitious this means that, in the opinion of the Licensing Authority, a reasonable period of time has not lapsed since an earlier representation or review application.

**17.15** Other than in exceptional circumstances the Licensing Authority will not permit more than one review originating from a person, other than a responsible authority, in relation to a particular premises, on similar grounds, unless 12 months have passed since the previous review. This is to give the premises an opportunity to address the issues.

**17.16** Members of the public may also make a complaint against premises regardless of whether they have previously made representations or called for a review of an existing licence. The complaints may in the first instance be made to the Licensing Team who will forward it to the relevant responsible authority (e.g. In the case of crime the complaint will be forwarded to the Police).

*Section 18: Summary of Enforcement Policy*

*This section draws attention to the fact that an enforcement policy does exist as well as what it includes.*

**18 ENFORCEMENT POLICY**

**18.1** The Licensing Authority has an enforcement policy based around the principles of consistency, transparency and proportionality set out in the Department of Trade and Industry's Enforcement Concordat and which also takes into account the Attorney-General's Guidelines to Crown Prosecutors for bringing prosecutions. A proportionate response will be made where offences against licensing legislation are found or where licence conditions have been contravened.

**18.2** It is essential that licensed premises operate in accordance with the Act and especially within their licensed hours and licence conditions. Part of the Licensing Authority's role is to monitor premises and take appropriate action. This may be independently or alongside the police and/or other Responsible Authorities to ensure the licensing objectives are promoted. Protocols have been established with the Police on enforcement issues to provide an efficient and effective deployment of local authority and Police staff. Joint visits are commonly undertaken to inspect licensed premises and enforce licensing legislation.

**18.3** To protect young people, Herefordshire Council should routinely undertake test purchasing to ensure the law is being adhered to. It should be noted the Licensing Authority supports the use of the Challenge 25 Policy and recommends this should be included as part of an applicant's operating schedule in any Premises Licence or Club Premises Certificate application. Please contact Trading Standards for further details.

## Section 19: Summary of Prevention of Crime and Disorder

*This section seeks to address the issue of promoting the licensing objective of the prevention of crime and disorder. It advises that applicants should consider the advice given in these pages when making application and should also take it into account. Where appropriate, the applicant should make reference to these issues within their application. Where it is felt appropriate, the Licensing Authority may address some or all of these issues in the decision making process.*

### **19 PREVENTION OF CRIME AND DISORDER**

#### **19.1 General**

When applicants for Premises Licences or Club Premises Certificates are preparing their application forms or when responsible authorities or any other party are considering such applications the following matters may be considered as control measures towards the promotion of the prevention of crime and disorder. The Licensing Authority when considering applications following the receipt of any relevant representations may also take such matters into account in reaching its decision on the application.

**19.2** Whether these options may be necessary in the individual circumstances of any premises will depend on a range of factors including the nature and style of the venue, the activities being conducted there, the location of the premises and the anticipated clientele of the business involved.

**19.3** Appropriate conditions for the Premise Licence or Club Premises Certificate will also depend on local knowledge of the premises. The following measures should not be regarded as standard conditions to be automatically imposed in all cases. They are designed to provide a range of possible conditions drawn from experience relating to differing situations and to offer guidance.

**19.4** Any individual preparing an operating schedule is at liberty to volunteer any measure, such as those described below, as a step he or she intends to take to promote the licensing objectives. When incorporated into the

Premises Licence or Club Premises Certificate as a condition, they become enforceable under the law and a breach of such a condition could give rise to prosecution and/or a review of the licence or certificate.

### **19.5 Training**

The Licensing Authority acknowledges that training and good management play a key part in preventing alcohol and drug related crime.

**19.6** The Licensing Authority recommends that all licensees of on-licensed premises attend training programmes which will raise their awareness of the issues relating to drugs, violence in licensed premises and deals with conflict resolution.

**19.7** Suitable training should be extended to all bar staff and door staff so that drug dealers and troublemakers will be deterred from using licensed premises.

**19.8** Premises Licence and Club Premises Certificate holders are also encouraged to attend training programmes to help identify children at risk and issues of basic child protection.

**19.9** The Licensing Authority has found that failures caused by staff members can be attributed to the lack of training given to them and therefore expect all staff to have received some training in relation to under age sales, awareness surrounding drug use and also conflict resolution.

### **19.10 Designated premises supervisor (DPS)**

It is expected that the Designated Premises Supervisor will spend a significant amount of time on the premises. When not on the premises it will be essential that the DPS is contactable, particularly should problems arise with the premises.

### **19.11 Risk Assessment for the Police**

The Police may, on the grounds of the prevention of crime and disorder, make representations against certain applications for the provision of music requesting that licence conditions be imposed requiring:

- the licence holder to complete and submit to the Police when appropriate an 'Event Risk Assessment Form' 14 days prior to the event. This form will allow the licence holders, the managers of premises, promoters of music events, event security and the Police to work in partnership to identify and minimise any risk of serious violent crime happening at a proposed event, and
- for a debrief form to be submitted to them 3 days after the event has taken place.

**19.12** This Licensing Authority will consider the recommendations of the Police and any representations from the applicant concerning the nature of the premises, the music entertainment and its clientele in deciding whether such conditions should be imposed.

### **19.13 Behaviour of Customers Outside Licensed Premises**

One of the main sources of complaint regarding licensed premises relates to the activities and behaviour of customers outside the boundaries of licensed premises. Both Premise Licence and Club Premise Certificate holders must take reasonable steps to prevent such behaviour having a negative impact on the vicinity of the premises which should include the dispersal of customers away from the premise. In addition license and certificate holders should consider identifying and refusing to admit problem customers.

**19.14** Particular regard should be given to premises where customers congregate outside to smoke or congregate in periods of fine weather. Regard should also be given where customers do not disperse quickly when leaving the premises, particularly late at night in residential areas.

### **19.15 Door Supervisors**

Conditions relating to the provision of door supervisors and security teams may be valuable in:

- preventing the admission and ensuring the departure from the premises of the drunk and disorderly, without causing further disorder;
- keeping out excluded individuals (subject to court bans or imposed by the licence holder);
- searching and excluding those suspected of carrying illegal drugs, or carrying offensive weapons;
- maintaining orderly queuing outside of venues prone to such queuing,
- ensuring public safety

**19.16** Conditions may also be needed to deal with the number of such supervisors, where and at what times they should be on duty on the premises, and whether at least one female supervisor should be available (for example, if female customers are to be the subject of body searches).

**19.17** Any persons employed at licensed premises to carry out any security activity must (unless exempted by law) be licensed with the SIA.

### **19.18 Incident Report Book**

Where appropriate the Licensing Authority will require an incident report book to be kept at the premises. This should include any decision to refuse access, any attempt to make an underage purchase, any incident of crime and disorder in or about the premises, incidents of fire and fire alarm activations etc. This book shall be available for inspection by an authorised officer of the Herefordshire Council or a Police Officer.

### **19.19 Radios**

Herefordshire Council is currently operating a radio communication system in parts of the county which allows easy and instant contact to be made between licensees and Herefordshire's CCTV Control Centre.

**19.20** The Control Centre has a direct link with the West Mercia Police. This system will connect premises licence holders, designated premises supervisors, managers of premises and clubs to the local police and can provide for rapid response by the Police or Herefordshire Council to situations of disorder which may be endangering the customers and staff on the premises.

**19.21** Such communication systems provide two-way communication, enabling licence holders, managers, designated premises supervisors and clubs to report incidents to the police, and enabling the police to warn those operating a large number of other premises of potential trouble-makers or individuals suspected of criminal behaviour that are about in a particular area. Radios can also be used by licence holders, door supervisors, managers, designated premises supervisors and clubs to warn each other of the presence in an area of such people.

**19.22** The Secretary of State recommends that radios should be considered appropriate necessary conditions for public houses, bars and nightclubs operating in city and town centre leisure areas with a high density of licensed premises. Following individual consideration of the particular circumstances of the venue, such conditions may also be appropriate in other areas for the prevention of crime and disorder.

**19.23** It is recommended that a condition requiring the communication links where available should include the following requirements: the radio equipment is kept in working order at all times;

- the radio link be activated, made available to and monitored by the Designated Premises Supervisor or a responsible member of staff at all times that the premises are open to the public;
- any instructions/directions given by the Police/an Authorised Person are complied with whenever given; and
- all instances of crime and disorder are reported via the communication link by the Designated Premises Supervisor or a responsible member of staff to an agreed contact point.

### **19.24 HAND Scheme**

The HAND scheme (Herefordshire Against Night time Disorder) operates in Hereford City and some of the other market towns. The scheme is run by the Licensees for the Licensees and is intended to reduce crime and disorder in licensed premises, by identify those members of the public who cause trouble and barring them from all premises who are members of the scheme. The scheme involves not just alcohol premises but takeaways as well and is fully supported by the Police and the Licensing Authority who often attend their meetings as guests.

### **19.25 The use of glass in licensed premises**

Glass bottles may be used as weapons inflicting more serious harm during incidents of disorder. A condition can be applied to a licence to prevent sales of drinks in glass bottles for consumption on the premises.

**19.26** It is recommended that a condition requiring that no sales of beverages in glass bottles for consumption at particular premises should be expressed in clear terms and includes the following elements:

- no glass bottles containing beverages of any kind, whether open or sealed, shall be given to customers on the premises whether at the bar or by staff service away from the bar;
- no customers carrying open or sealed bottles shall be admitted to the premises at any time that the premises are open to the public

**19.27** In appropriate circumstances, the condition could in exceptions be as follows:

- bottles containing wine may be sold for consumption with a table meal by customers who are seated in an area set aside from the main bar area for the consumption of food.

**19.28** Glasses containing drinks may be used as weapons during incidents of disorder and in non-toughened form can cause very serious injuries. Consideration could therefore be given to conditions, where appropriate, requiring either the use of polypropylene containers or toughened glass

(meeting weights and measure legislation) which inflicts less severe injuries. Location and style of the venue and the activities carried on there would be particularly important in assessing whether a condition is appropriate. The use of such polypropylene containers or toughened glass during the televising of live sporting events, such as international football matches, when high states of excitement and emotion fuelled by alcohol might arise, may be an appropriate condition.

**19.29** It should be noted that the use of polypropylene or paper drinks containers and toughened glass may also be relevant as measures necessary to promote public safety.

### **19.30 CCTV**

The presence of CCTV cameras can be an important means of deterring and detecting crime at and immediately outside licensed premises.

**19.31** Conditions should not just consider a requirement to have CCTV on the premises but also the precise location of each camera, the requirement to maintain cameras in working order and to retain recordings for an appropriate period of time (recommended 1 month).

**19.32** Applicants are recommended to seek the advice of the Police with regard to the installation of CCTV systems for crime prevention purposes.

**19.33** The Licensing Authority and the Police have agreed that a CCTV must conform with the following:

- CCTV will be provided in the form of a recordable system, capable of providing pictures of EVIDENTIAL QUALITY in all lighting conditions particularly facial recognition.
- Cameras shall encompass all ingress and egress to the premises, fire exits and all areas where the sale/ supply of alcohol occurs.
- A monitor showing live CCTV recordings shall be installed in the premises where it can be clearly seen by members of the public entering the premises

- Equipment must be maintained in good working order , be correctly time and date stamped, recordings must be kept in date order, numbered sequentially and kept for a period of 31 days and handed to Police or an Authorised Person on demand.
- The Premises Licence Holder must ensure at all times a DPS or appointed member of staff is capable and competent at downloading CCTV footage on to a recordable/reviewable device, to the Police/Authorised Person on demand.
- The Recording equipment and tapes/discs/hard drive shall be kept in a secure environment under the control of the DPS or other responsible named individual.
- An operational daily log report must be maintained and endorsed by signature, indicating the system has been checked and is compliant, in the event of any failings actions taken are to be recorded. In the event of technical failure of the CCTV equipment the Premises Licence holder/DPS must report the failure to the Police on contact number 0300 333 3000 immediately .

#### **19.34 Open containers not to be taken from the premises**

A condition preventing the taking of alcoholic and other drinks from the premises in open containers (e.g. glasses and opened bottles) may be imposed on a particular premise. This condition may be necessary to prevent the potential for crime and disorder or for public nuisance.

#### **19.35 Capacity limits**

A condition may be imposed to set a maximum capacity limit on licensed premises or any parts thereof to ensure public safety and the prevention of crime and disorder. Where premises are particularly overcrowded this has been shown to increase the risk of conflict between customers.

**19.36** Where such a condition is considered necessary, consideration should also be given to whether door supervisors would be needed to ensure that the numbers are appropriately controlled.

**19.37** The capacity for the premises is likely to be in line with the Fire Risk Assessment which all licensed premises are required to have.

#### **19.38 Proof of age cards**

It is unlawful for children under 18 to attempt to buy alcohol just as it is unlawful to sell or supply alcohol to them. To prevent such crimes, it may be necessary for a “proof of age” scheme to be in place at a premises. Please see the section ‘The prevention of harm to children’ concerning the ‘Challenge 25’ proof of age scheme.

#### **19.39 Crime prevention notices**

It may be necessary at some premises for notices to be displayed which warn customers of the prevalence of crime which may target them. For example, in certain areas, it may be necessary for notices to be displayed which advise customers not to leave bags unattended because of concerns about terrorism.

#### **19.40 Signage**

It may be necessary for any restrictions on the admission of children to be displayed on or immediately outside the premises so that the consequences of breaches of these conditions would also be clear and to deter those who might seek admission in breach of those conditions.

**19.41** It may also be necessary for a condition to be imposed stipulating notices to be displayed on the premises requesting patrons to leave the vicinity showing consideration to local residents.

#### **19.42 High Volume Vertical Drinking**

Large capacity “vertical drinking” premises, sometimes called High Volume Vertical Drinking establishments (HVVDs), are premises with exceptionally high capacities, used primarily or exclusively for the sale and consumption of alcohol, and have little or no seating for patrons.

**19.43** Where necessary and appropriate, conditions can be attached to Premises Licences for the promotion of the prevention of crime and disorder at such premises (if not volunteered by the venue operator and following representations on such grounds) which require adherence to:

- a prescribed capacity;
- an appropriate ratio of tables and chairs to customers based on the capacity; and
- the presence of SIA registered security teams to control entry for the purpose of compliance with the capacity limit.

**19.44 Premises in the vicinity of Hereford Football Club**

It is recommended by the Police that applications for the supply of alcohol within a two kilometre radius of Hereford Football Club or in any other area which Police intelligence shows that football supporters congregate should include in their application form that on match days the following will apply:-

*For premises licensed for the supply of alcohol for consumption on the premises:*

- Drinks shall only be supplied in polypropylene or toughened glass vessels and all bottled drinks shall be poured into such drinking vessels before being handed to the customer.
- SIA registered door staff shall be employed to control the entry and exits to the premises and to prevent the taking of alcohol off the premises (e.g. for consumption on the adjoining foot-way)
- If so instructed by a Police Inspector the premises shall be closed if it is considered that violence and/or disorder may take place.

*For premises licensed for the supply of alcohol for consumption off the premises:*

- SIA registered door staff shall be employed to control the entry and exits to the premises
- If so instructed by a Police Inspector the premises shall be closed if it is considered that violence and/or disorder may take place.

**19.45** Failure to include the above matters in an application form may result in representations being made by the Police on the grounds of crime and disorder.

#### **19.46 Adult Entertainment & Services**

Where no indication is made within the application form that adult entertainment and/or services are to be provided, the Licensing Authority will add the following condition to the licence: -

- No adult entertainment or services or activities must take place at the premises (Adult Entertainment includes, but is not restricted to, such entertainment or services which would generally include topless bar staff, striptease, lap-table, or pole-dancing, performances involving feigned violence or horrific incidents, feigned or actual sexual acts or fetishism, or entertainment involving strong and offensive language).

**19.47** Where it is indicated within the application form that adult entertainment and/or services are to be provided it is essential that the applicant carry out a full risk assessment on the licensing objectives of crime and disorder and the protection of children from harm.

**19.48** Herefordshire Council, as the Licensing Authority, has adopted Section 27 of the Policing and Crime Act 2009, which came into force in England on 6 April 2010, which has reclassified lap dancing, striptease and pole dancing as 'Sexual Entertainment Venues' requiring a new licence for which a fee is payable.

**19.49** However the Local Government (Miscellaneous Provisions) Act 1982 does make certain exceptions (principally in relation to premises which do not host more than 11 such events).

**19.50** For premises providing adult entertainment the Licensing Authority will expect appropriate conditions, as shown within the 'model pool of conditions' to be offered to promote the licensing objectives.

## *Section 20: Summary of Public Safety*

*This section seeks to address the issue of promoting the licensing objective of public safety. It advises that applicants should consider the advice given in these pages when making an application and should take it into account. Where appropriate the applicant should make reference to these issues within their application. Where it is felt appropriate the Licensing Authority may address some or all of these issues in the decision making process.*

## **20 PUBLIC SAFETY**

### **20.1 General**

Risk assessments should be carried out on an individual basis and should show the measures the applicant considers appropriate to reduce the risk. The risk should be on a range of factors including the nature and style of the venue, the activities being conducted there, the location of the premises, the anticipated clientele of the business involved and the competency of the management and staff at the premises.

**20.2** The Licensing Authority will expect all relevant premises to produce a risk assessment and for outdoor events an Event Management Plan.

**20.3** Any individual preparing an operating schedule or club operating schedule is at liberty to volunteer any measure, such as those described below, as a step he or she intends to take to promote the licensing objectives. When incorporated into the licence or certificate as a condition, they become enforceable under the law and a breach of such a condition could give rise to review and or prosecution.

**20.4** It should be noted that conditions relating to public safety should be those which are appropriate, in the particular circumstances of any individual premises or club premises, and should not duplicate other legal requirements. Equally, the attachment of conditions to a premises licence or club premises certificate will not in any way relieve employers of the statutory duty to comply with the requirements of other legislation including

the Health and Safety at Work etc. Act 1974, associated regulations and especially the requirements under the Management of Health and Safety at Work Regulations 1999 and the Regulatory Reform (Fire Safety) Order 2005 to undertake risk assessments. Employers should assess the risks, including risks from fire, and take measures necessary to avoid and control these risks. Conditions enforcing those requirements would therefore be unnecessary.

**20.5** Where existing legislation and regulations do not (in the opinion of the Licensing Authority) adequately cover public safety issues the following matters should be taken into consideration.

**20.6 Night Clubs**

Club owners and promoters will be expected to have consulted with all Responsible Authorities prior to preparing their operating schedule.

**20.7** In order to minimise disputes and the necessity for hearings, it would be sensible for applicants to consult with all Responsible Authorities when operating schedules are being prepared.

**20.8** Conditions may be imposed in accordance with operating schedules to protect public safety including where justified:-

- (a) provision of CCTV and panic buttons.
- (b) use of shatterproof glasses and/or toughened glass or plastic bottles
- (c) use of security personnel, such as door supervisors, licensed by the SIA
- (d) requirement of a minimum of a SIA registered door supervisor for every 100 customers in nightclubs and large city centre pubs or as indicated by risk assessment.
- (e) occupancy capacity conditions will be applied where appropriate.
- (f) the provision of designated and suitably trained first aiders.

**20.9** In determining applications for new licences or extensions in hours or terminal hours of licensed premises, regard will be had to late night public transport availability and location of taxi ranks to aid dispersal of customers.

### **20.10 Safety Advisory Group**

Where appropriate, licence holders or their authorised representatives will attend Herefordshire Council's Safety Advisory Group and similar meetings prior to large events and shall be part of Event Liaison Teams during such events. Due regard shall be had to relevant guidance and publications including, for example: HSE publications "Event Safety Guide" and "Managing Crowds Safely".

**20.11** The Licensing Authority will often request a condition be placed on a licence, for large outdoor events, requiring the premises licence holder to submit a draft Event Management Plan (EMP) 3 months prior to the event to Herefordshire Council's Safety Advisory Group for evaluation and then a final EMP a fortnight before.

### **20.12 Escape routes**

It may be necessary for public safety to include conditions relating to the maintenance of all escape routes and exits including external exits. These might be expressed in terms of the need to ensure that such exits are kept unobstructed, in good order with non-slippery and even surfaces, free of trip hazards and clearly identified. In restaurants and other premises where chairs and tables are provided this might also include ensuring gangways are kept unobstructed.

- all emergency exit doors can be easily opened without the use of a key, card, code or similar means;
- doors at such exits are regularly checked to ensure that they function satisfactorily and a record of the check kept;
- any removable security fastenings are removed whenever the premises are open to the public or occupied by staff;
- where necessary the edges of the treads of steps and stairways are to be conspicuous from the rest of the stair treads.

### **20.13 Safety Checks**

Consideration might also be given to conditions that ensure that:

- safety checks are carried out before the admission of the public; and

- details of such checks are kept in a Log-book.

#### **20.14 Capacity limits**

Consideration might also be given to conditions that ensure that:

- arrangements are made to ensure that any capacity limit imposed under the Fire Risk Assessment are not exceeded; and
- the Premises Licence holder, a club official, manager or Designated Premises Supervisor should be aware of the number of people on the premises and required to inform any authorised person on request.

#### **20.15 Emergency action notices**

Consideration might also be given to conditions that ensure that notices detailing the actions to be taken in the event of emergencies, including how the emergency services should be summoned, are prominently displayed and protected from damage and deterioration.

#### **20.16 Access for emergency vehicles**

Consideration might also be given to a condition that ensures that access for emergency vehicles is kept clear and free from obstruction.

#### **20.17 First Aid**

Consideration might also be given to conditions that ensure that:

- adequate and appropriate supply of first aid equipment and materials is available on the premises;
- A suitable area is identified that can be used for treatment
- if necessary, at least one suitably trained first-aider shall be on duty when the public are present; and if more than one suitably trained first-aider that their respective duties are clearly defined.
- It should be noted that providers of medical cover at events should be registered and regulated by the Care Quality Commission (CQC) 03000 61617, enquiries@cqc.org.uk

#### **20.18 Lighting**

Consideration might also be given to conditions that ensure that:

- in the absence of adequate daylight, the lighting in any area accessible to the public, members or guests shall be fully in operation when they are present;
- emergency lighting is not altered;
- emergency lighting and signage are in working order before the admission of the public, members or guests; and
- in the event of the failure of normal lighting, where the emergency lighting battery has a capacity of one hour, arrangements are in place to ensure that the public, members or guests leave the premises within 20 minutes unless within that time normal lighting has been restored and the battery is being re-charged; and, if the emergency lighting battery has a capacity of three hours, the appropriate period by the end of which the public should have left the premises is one hour.

### **20.19 Temporary electrical installations**

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- temporary electrical wiring and distribution systems are not provided without prior inspection by a suitable qualified electrician
- temporary electrical wiring and distribution systems shall comply with the appropriate standards where they have not been installed by a competent person, temporary electrical wiring and distribution systems are inspected and certified by a competent person before they are put to use.

### **20.20 Indoor sporting events**

Subject to the type of sports provided and the appropriate risk assessments, consideration may be given to conditions to ensure that:

- an appropriately qualified medical practitioner is present throughout a sports entertainment involving boxing, wrestling, judo karate or other sports entertainment of a similar nature;

- where a ring is involved, it is constructed and signed off by a competent person and accepted as suitable by a competent authority and any material used to form the skirt around the ring is flame-retardant;
- at any wrestling or other entertainment of a similar nature members of the public do not occupy any seat within 2.5 metres of the ring; and
- at water sports entertainments, staff adequately trained in rescue and life safety procedures are stationed and remain within the vicinity of the water at all material times (see also Managing Health and Safety in Swimming Pools (4<sup>th</sup> Edition) published by the Health and Safety Executive).

### **20.21 Alterations to the premises**

Premises should not be altered in such a way as to make it impossible to comply with any licensing condition. Licence holders wishing to carry out alterations to their premises should see the advice of the Licensing Team as to the correct licensing procedure. Alterations may mean that an application for a new licence or a variation or minor variation to the existing licence is required.

### **20.22 Special effects**

The use of special effects in venues of all kinds can present significant risks. Any special effects or mechanical installation should be arranged and stored so as to minimise any risk to the safety of the audience, the performers and staff.

Special effects which should be considered include:

- dry ice machines and cryogenic fog;
- smoke machines and fog generators
- pyrotechnics, including fireworks;
- real flame;
- firearms;
- motor vehicles;
- strobe lighting;
- lasers;

- explosives and highly flammable substances; and
- foam or similar product.

On the first occasion of their use prior notification shall be given to the Licensing Authority and must meet with their approval.

### **20.23 Theatres, cinemas, concert halls and similar places**

There are particular matters in the context of public safety which should be considered in connection with theatres and cinemas. The principle remains that conditions must be necessary and should be established through risk assessment and standardised conditions should be avoided. The points below are for consideration and do not represent a mandatory list.

- Attendants: must be sufficient in numbers taking into consideration the other safety measures, the design of the premises and the profile of the persons attending (e.g. performances attracting primarily children). Attendants shall as far as reasonably practicable be evenly distributed throughout all parts of the premises to which the public have access and keep under observation all parts of the premises to which the audience have access.
- Standing and sitting in gangways etc. persons should not be allowed to:
  - sit in a gangway;
  - stand in a gangway, except for access to and from their seat.
  - stand or sit in front of any exit;
  - stand or sit on any staircase including any landings; or
  - stand to view the performance except in areas designated in the premises licence or club premises certificate
- Drinks: No drinks (alcohol or other drinks) shall be sold to or be consumed by a closely seated audience except in plastic and paper containers.
- Flammable films; No flammable films should be allowed on the premises without the prior approval of the Fire Authority.

## *Section 21: Summary of Public Nuisance*

*This section addresses the issue of promoting the licensing objective of the prevention of public nuisance. It advises that applicants should consider the advice given in these pages when making application and should take it into account. Where appropriate the applicant should make reference to these issues within their application. Where it is felt appropriate the Licensing Authority may address some or all of these issues in the decision making process.*

## **21 PREVENTION OF PUBLIC NUISANCE**

### **21.1 General**

Public nuisance includes any noise generated as a result of the activities at the premises including the behaviour of customers whilst arriving, leaving or at the premises. This may include noise from customers' cars arriving, car stereo systems, car horns, vocal noise from customers, or those that transport customers to and from the venue, revving engines, litter and the obstruction of public highway. The area where such problems could occur may extend beyond the immediate vicinity of the premises.

**21.2** When applicants for Premises Licences or Club Premises Certificates are preparing their operating schedules, the matters dealt with in this annex should be carefully considered as a means to prevent public nuisance.

**21.3** Whether or not any risk assessment shows them to be necessary in the individual circumstances of any premises will depend on a range of factors including the nature and style of the venue, the activities being conducted there, the location of the premises and the anticipated clientele of the business involved.

**21.4** Necessary conditions for Premises Licences and Club Premises Certificates will also depend on local knowledge of the premises.

## **21.5 Planning**

All applicants for Premises Licences, Club Premises Certificates and Provisional Statements are reminded that planning permission will normally be required for such uses. Such planning consents may carry conditions with which applicants are expected to comply otherwise action may be taken under the relevant planning legislation.

**21.6** In general, planning consents authorise a broad type of use of a premises, whereas licences are granted for a particular type of activity. A planning permission for an entertainment use, for example may cover a number of activities that can have a wide range of different impacts in the locality.

**21.7** Licensing applications must not be seen as a re-run of the planning application process and there is a clear separation of the planning and licensing regimes to avoid duplication and inefficiency.

**21.8** In determining applications for new and varied licences, regard will be had to following factors: the location of premises, the type and construction of the building, the likelihood of nuisance and disturbance to the amenity of nearby residents by reason of noise from within the premises as a result of people entering or leaving the premises or from individuals or groups of customers gathered outside (e.g. in order to smoke).

**21.9** Applications for new licences or for the extension in size of licensed premises should not normally be granted if the premises will use amplified or live music and operate within or abutting premises containing residential accommodation except that accommodation occupied by staff of the licensed premises. A condition may be imposed on new licences that entertainment noise shall be inaudible in any residence.

**21.10** Installation of sound limiting equipment and sound insulation may be required to minimise disturbance to the amenity of nearby residents by reason of noise from the licensed premises.

**21.11** Generally permitted temporary activities in the open air including tents and marquees should have a maximum closure hour of 11.00 pm. Earlier hours may be imposed in sensitive open spaces or near residential areas.

**21.12** In determining applications for new licences or extensions in hours or terminal hours of licensed premises, regard will be had to late night public transport availability and location of taxi ranks to aid dispersal of customers.

**21.13** Regard will be had to any history or likelihood of nuisance. Generally, favourable consideration will be given to applications for later hours in the city centre and on busy main roads. Powers may be exercised to impose conditions as to hours of opening in order to avoid unreasonable disturbance to residents of the neighbourhood.

**21.14** Reasonable controls are available to all premises operators to minimise the impact of noise from customers outside. Herefordshire Council's Environmental Health Department has issued guidance on a number of steps that can be taken in this respect which are endorsed by this policy.

#### **21.15 Management and control of customers**

Procedures should be put in place to manage the behaviour of customers in so far as it may contribute to public nuisance. These measures may include; management of people who arrive and leave the premises, the placing of signage reminding patrons to arrive and leave quietly, the consideration of arranging a dedicated taxi service, the quick dispersal of customers away from the premises when leaving, and when drinking outside is permitted, to take into consideration the potential of public nuisance.

#### **21.16 Hours**

The hours during which the licensable activities are permitted at premises by the conditions of a Premises Licence or a Club Premises Certificate are set for the prevention of public nuisance. But this must be balanced by the

potential impact on disorder which results from artificially fixed closing times. For example where the premises are in a predominately residential area the potential for public nuisance is greater.

**21.17** Restrictions could be necessary on the times when certain licensable activities take place even though the premises may be open to the public at such times. For example, the playing of recorded music after a certain time might be prohibited, even though other licensable activities are permitted to continue. But also where an external area is permitted to have licensed activity, for example a beer garden, it may be appropriate to cease that activity earlier than the terminal hour of the rest of the premises.

### **21.18 Noise and vibration**

In certain premises where existing legislation does not provide adequately for the prevention of public nuisance, consideration might be given to conditions that ensure that:

- Noise or vibration does not emanate from the premises so as to cause a nuisance to nearby properties. This might be achieved by a simple requirement to keep doors and windows at the premises closed, or to use noise limiters on amplification equipment used at the premises;
- Prominent, clear and legible notices are displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly;
- The use of explosives, pyrotechnics and fireworks of a similar nature which could cause disturbance in surrounding areas are restricted; and
- The placing of refuse – such as bottles – into receptacles outside the premises takes place at times that will minimise the disturbance to nearby properties.

### **21.19 Litter**

Premises that provide food and /or drink for consumption off the premises could create public nuisance in the form of their patrons causing litter (i.e. food wrappings/containers and drink containers) in the vicinity of the premises and the wider area. Applicants for licences allowing the

provision of late night refreshment and the sale of alcohol for consumption off the premises are recommended to consider the problems that litter caused by their operation will cause and the steps that they will take to prevent such nuisance in the vicinity of their premises. The steps that they could take (and include in their application form) include:

1. the provision of waste receptacles outside the premises,
2. notices asking customers to dispose of their rubbish responsibly and not to create litter problems, and
3. the licence holder arranging for the picking up and disposal of litter from their premises or the vicinity of the premises or associated with them.

### **21.20 Noxious smells**

In certain premises where existing legislation does not provide adequately for the prevention of public nuisance, consideration might be given to conditions that ensure that noxious smells do not cause a nuisance to nearby properties and that premises are properly ventilated.

### **21.21 Light pollution**

In certain premises where existing legislation does not provide adequately for the prevention of public nuisance, consideration might be given to conditions that ensure that flashing lights or particularly bright lights on or outside licensed premises do not cause a nuisance to nearby properties.

*Section 22: Summary of the Protection of Children from Harm*

*This section seeks to address the issue of promoting the licensing objective of the protection of children from harm. It advises that applicants should consider the advice given in this Policy when making an application and where appropriate, the applicant should make reference to these principles within their application. Where it is felt appropriate the Licensing Authority may address some or all of these issues in the decision making process.*

## **22 THE PROTECTION OF CHILDREN FROM HARM**

### **22.1 General**

The Licensing Authority will have specific regard to the licensing objective to protect children from harm. This objective includes the protection of children from moral, psychological and physical harm.

**22.2** It is anticipated that Premises Licences will be sought in respect of a wide variety of premises including theatres, cinemas, restaurants, concert halls, cafes, late night takeaways, pubs, bars and nightclubs. It is not possible within this licensing policy to anticipate every situation where children may be at risk. The Licensing Authority will not therefore impose general conditions that apply to all premises, but will expect applicants to offer their own measures within the operating schedule to meet all of the licensing objectives.

**22.3** It is the Licensing Authority's expectation that all staff responsible for the sale of intoxicating liquor receive information and advice on the licensing laws relating to children and young persons in licensed premises. Licensed premises staff are required to take all reasonable steps to prevent under age sales.

**22.4** To reduce alcohol-induced problematic behaviour by under 18 year olds, to prevent underage purchase and to assist in the protection of children from harm, the Licensing Authority supports the following measures:-

- (a) Police should exercise powers (Confiscation of Alcohol (Young Persons) Act 1997) to remove alcohol from young people on the street

- (b) Police and trading standards should implement test purchasing to reduce on and off licence sales to under 18 year olds and carry out age challenges to reduce underage drinking in pubs and licensed venues.
- (c) Further take-up of proof of age schemes will be promoted
- (d) In-house, mystery shopper type schemes operated by local businesses will be supported
- (e) Providers of events for unaccompanied children should consider whether staff at such events need to be DBS checked

**22.5** The Licensing Authority will not seek to require that access to any premises is given to children at all times – under normal circumstances this will be left to the discretion of the Premises Licence Holder. The following areas give rise to concern in respect of children, who will normally be excluded from premises:-

- where there have been convictions for serving alcohol to minors or with a reputation for underage drinking;
- with a known association with drug taking or dealing;
- where there is a strong element of gambling on the premises;
- where entertainment or services of an adult or sexual nature are provided
- where premises are used primarily or exclusively for the sale and consumption of alcohol and there is little or no seating for patrons

Options may include:-

- limitations on the hours when children may be present;
- age limitations
- limitations or exclusions when certain activities are taking place;
- requirements for an accompanying adult;
- full exclusion of people under 18.

**22.6** It is anticipated that the issue of access to children will be addressed in the Operating Schedule.

- 22.7** The Act makes it an offence to permit children under the age of 16 who are not accompanied by an adult to be present on premises being used exclusively or primarily for the supply of alcohol for consumption on those premises under the authorisation of a Premises Licence, Club Premises Certificate or where that activity is carried on under the authority of a TEN. In addition, it is an offence to permit the presence of children under 16 who are not accompanied by an adult between the hours of midnight and 05.00 am at other premises supplying alcohol for consumption on the premises under the authority of any Premises Licence, Club Premises Certificate or TEN. Outside of these hours, the Act does not prevent the admission of unaccompanied children to a wide variety of premises where the consumption of alcohol is not the exclusive or primary activity at those venues.
- 22.8** Licensees are expected to have effective steps to prevent children from viewing films or video works that are unsuitable due to the age classification of the film that has been imposed by the British Board of Film Classification or the Licensing Authority.
- 22.9** The Licensing Authority will expect that where a significant number of unaccompanied children will be present during a public entertainment event, the licensee will ensure that an adequate number of adult staff are present to control the access, egress and safety in and around the premises. The number of staff required should be assessed by the licensee, taking into account the number of children to be present, the type of entertainment, the characteristics of the premises and any other relevant factor.
- 22.10** Anyone intending to provide staff for the supervision of activities to under 18s will be required to carry out enhanced DBS check on all persons involved in such activities.
- 22.11** These checks should be entered into a register which should be kept on the premises at all times and made available to the Police or Authorised Officer

on request. Staff shall only be appointed who have been subject to a check and are found to be suitable, if in doubt the applicant should liaise directly with the Police.

**22.12** The Licensing Authority will specifically require the Operating Schedule to address issues relating to children. Applicants are advised to contact Herefordshire Council's Children's Services directly to seek advice prior to submitting their application.

**22.13** Where there are restrictions (whether imposed by statute or by the Licensing Authority) on the sale or supply of goods or the provision of services or the showing of films or other entertainment to children below a certain age then the licensee will be required to demonstrate that they have in place a system for verifying the age of the children intended to be supplied with such goods, services or entertainment. Training must be given to all persons who might be in a position to refuse such children. Such training must include

- recognition of age,
- seeking proof of age,
- verifying the authenticity of proof of age cards, and
- handling refusals and the recording of such refusals.

**22.14** Premises that sell alcohol should have due regard to proof of age schemes, and this Licensing Authority recommends that the Challenge 25 Policy be used (for further details contact Trading Standards). See section 22.28 below for recommended conditions relating to 'Challenge 25'. It should also be noted that there are restrictions on Gambling Activities that children and vulnerable are allowed to access.

**22.15 Adult Entertainment Services:**

Applicants for licenses should take into account whether entertainment or services of an adult or sexual nature are to be provided at the premises. Whilst it is not possible to give an exhaustive list of such entertainment or services, it would include topless bar staff, striptease, lap/table/pole

dancing, performances involving feigned violence or horrific incidents, feigned or actual sex acts or fetishism, or entertainment involving strong and offensive language.

**22.16** It may be necessary to prohibit or limit the access of children to premises where adult entertainment or services are to be provided.

**22.17** Measures that can be contained in applicants Operating Schedules include:

- . Limitations on the hours when children may be present
- . The prohibition of children under certain ages from the premises when adult entertainment and services are being provided, or when any licensable activity is taking place.
- . Limitations on the parts of the premises to which children have access
- . Age limitations (below 18),
- . Requirements for accompanying adults (including for example a requirement that children under a particular age must be accompanied by an adult).
- . No display or advertising of the adult entertainment or services outside the premises or in the vicinity of the premises, and
- . That it will be impossible to see or hear the adult entertainments or services from outside of the premises, or from outside of the defined area within the premises where the activities are taking place. Whilst each particular application involving adult entertainment or services will be decided on its own particular merits, this Licensing Authority may (for the protection of children) take into account in its determination of the application the following factors:
  - . The proximity of the premises to any recognised schools, centres or establishments for the education, training or care of young persons,
  - . The proximity of the premises to leisure centres used for sporting and similar activities by young persons,
  - . The proximity of the premises to any youth club or similar establishment, and

- The proximity of the premises to recognised community, welfare, health and similar establishments used specifically or to a large extent by young persons,

Note: the proximity will be determined on each individual application at the informed discretion of an officer of the Licensing Authority.

### **22.18 Access for children to licensed premises – in general:**

Conditions attached to Premises Licences and Club Premises Certificates may reflect the concerns of responsible authorities and any other person who have made representations but only where the Licensing Authority considers it necessary to protect children from harm. Applications in relation to Premises Licences and Club Premises Certificates must be judged by the Licensing Authority on their individual merits. However there are certain factors which would cause the Licensing Authority to consider conditioning the access of children to the premises. This is where there is:

- for any premises with known associations (having been presented with evidence) with or likely to give rise to heavy or binge or underage drinking, drugs, significant gambling, or
- any activity or entertainment (whether regulated entertainment or not) of a clearly adult or sexual nature, there should be a strong presumption against permitting any access at all for children under 18 years. Applicants wishing to allow access for children to premises where these associations may be relevant, when preparing Operating Schedules or Club Operating Schedules or variations of those schedules for the purposes of obtaining or varying a Premises Licence or Club Premises Certificate should:
  - ~ explain their reasons; and
  - ~ outline in detail the steps that they intend to take to protect children from harm on such premises.
- for any premises, not serving alcohol for consumption on the premises, but where the public are allowed on the premises after 11.00 pm in the evening, there should be a presumption against the presence of children under the age of 12 unaccompanied by adults after that time. Applicants wishing to allow access when preparing

Operating Schedules or variations of those schedules or club Operating Schedules for the purposes of obtaining or varying a Premises Licence or Club Premises Certificate should:

- explain their reasons; and
- outline in detail the steps that they intend to take to protect children from harm on such premises.
- In any other case, subject to the Premises Licence holder's or club's discretion, the expectation would be for unrestricted access for children subject to the terms of the Act. An Operating Schedule or Club Operating Schedule should indicate any decision for the premises to exclude children completely, which would mean there would be no need to detail in the Operating Schedule steps that the applicant proposes to take to promote the protection of children from harm. Otherwise, where entry is to be permitted, the Operating Schedule should outline the steps necessary to be taken to promote the protection of children from harm while on the premises.

## **22.19 Exhibition of Films**

It is a mandatory condition on licences authorising the exhibition of films that no person under the age of 18 shall be allowed admission to the exhibition unless the film has been classified as being suitable for their age. The current film classifications are:

- |                          |  |
|--------------------------|--|
| - U - Universal.         | Suitable for audiences aged four years and over.   |
| - PG- Parental Guidance. | Some scenes may be unsuitable for young children.  |
| - 12A-                   | Passed only for viewing by persons aged 12 years or older or persons younger than 12 when accompanied by an adult. |
| - 15 -                   | Passed only for viewing by persons aged 15 years and over.   |
| - 18 -                   | Passed only for viewing by persons aged 18 years and over.   |

**22.20** Applicants for licences are expected to demonstrate in their application form the steps that they will take to ensure the age classifications are complied with and that no underage person is allowed to view a film contrary to its classification. Such steps should include an age identification scheme, whereby persons are required to prove their age.

**22.21** Additional steps should include the steps that:

- before each exhibition at the premises of a film passed by the British Board of Film Classification there shall be exhibited on screen for at least five seconds in such a manner as to be easily read by all persons in the auditorium a reproduction of the certificate of the Board or, as regards a trailer advertising film, of the statement approved by the Board indicating the classification of the film;
- The age classification of the film shall be displayed both inside and outside the premises, and
- a condition that when a Licensing Authority has made a recommendation of the restriction of admission of children to a film, notices are required to be displayed both inside and outside the premises so that persons entering can readily be made aware of the classification attached to any film or trailer.

### **22.22 Theatres**

The admission of children to theatres, as with other licensed premises, is not expected to normally be restricted unless it is necessary to promote the licensing objective of the protection of children from harm. However, theatres may be the venue for a wide range of activities. The admission of children to the performance of a play is expected to normally be left to the discretion of the licence holder and no condition restricting the access of children to plays will normally be imposed.

**22.23** However, theatres may also present entertainment including, for example, variety shows, incorporating adult entertainment. A condition restricting the admission of children in such circumstances may be necessary.

#### **22.24 Performances especially for children**

Entertainment may also be presented at cinemas and theatres specifically for children, and the Licensing Authority is expected to consider whether a licence condition should be imposed that requires the presence of a sufficient number of adult staff on the premises to ensure the well-being of children present on the premises during any emergency .

**22.25** Where performances are presented especially for unaccompanied children in theatres and cinemas conditions will require:

- an attendant to be stationed in the area(s) occupied by the children, in the vicinity of each exit, provided that on each level occupied by children the minimum number of attendants on duty should be one attendant per 50 children or part thereof.

**22.26** The Licensing Authority is expected, having regard to any representations made by responsible authorities on the issue, to also consider whether or not standing should be allowed. For example, there may be reduced risk for children in the stalls than at other levels or areas in the building.

#### **22.27 Children in performances**

They are many productions each year that are one-off shows where the cast is made up almost entirely of children. They may be taking part as individuals or as part of a drama club, stage school or school group. The age of those involved may range from 5 to 18. The Children (Performances) Regulations 1968 (as amended) sets out requirements for children performing in a show. The Licensing Authority should familiarise itself with the requirements of these Regulations and not duplicate any of these requirements. However, if it is necessary to consider imposing conditions in addition to these requirements, then the Licensing Authority may consider the matters outlined below.

- Venue – the backstage facilities should be large enough to accommodate safely the number of children taking part in any performance.

- Fire safety – all chaperones and production crew on the show should receive instruction on the fire procedures applicable to the venue prior to the arrival of the children.
- Special effects - it may be inappropriate to use certain special effects, including smoke, dry ice, rapid pulsating or flashing lights, which may trigger adverse reactions especially with regard to children.
- Care of children – theatres, concert halls and similar places are places of work and may contain a lot of potentially dangerous equipment. It is therefore important that children performing at such premises are kept under adult supervision at all times including transfer from stage to dressing room and anywhere else on the premises. It is also important that the children can be accounted for at all times in case of an evacuation or emergency.

#### **22.28 'Challenge 25'**

It is unlawful to sell or supply alcohol to persons under the age of 18. Following test purchases operations within the county, it has been established that Challenge 21 has little effect. The Licensing Authority therefore requires premises within the County to operate a 'Challenge 25' policy, other than in exceptional circumstances.

**22.29** Licensees should note the concern of the Licensing Authority that drink related disorder will often involve under 18's. Appropriate forms of identification are currently considered to be those recommended by Police, trading standards officers and their partners in the Joint Tasking Group (passport or photo driving licence or an ID card containing a PASS Hologram).

**22.30** The recommended conditions are:

1. The premises shall operate a Challenge 25 Policy. Such policy shall be written down and kept at the premises. The policy shall be produced on demand of an authorised person' (as defined by Section 13 of the Licensing Act 2003) or the Police or an authorised trading standards Officer of Herefordshire Council. Prominent, clear and legible signage (in not less than 32 font bold) shall also be displayed

at all entrances to the premises as well as at, at least one location behind any bar advertising the scheme operated.

2. A written register of refusals will be kept including a description of the people who have been unable to provide required Identification to prove their age. Such records shall be kept for a period of 12 months and will be collected on a daily basis by the Designated Premises Supervisor and produced to the Police or an 'authorised person' (as defined by Section 13 of the Licensing Act 2003) or an authorised trading standards Officer of Herefordshire Council on demand.
3. The Licensee to prominently display notices advising customers of the "Challenge 25" policy.  
The following proofs of age are the only ones to be accepted:
  - . UK Photo Driving licence
  - . Passport
  - . PASS Hologram
4. All bar staff engaged in the sale of alcohol to be trained in responsible alcohol retailing to the minimum standard of BIIAB level 1 or any other training package equivalent to BIIAB level within one month of the date that this condition appears on this licence. (Where there are existing staff this training shall be completed within 3 months of the date that this condition first appears on the licence). Training records shall be kept on the premises and shall be produced to the police or an 'authorised person' (as defined by Section 13 of the Licensing Act 2003) or an authorised trading standards Officer of Herefordshire Council on demand.

*Section 23: Summary of Information Sharing*

*Information will be shared between partners and other government agencies. Members of the public, who make a justifiable request for information, will be provided with such information, except personal details or those of a commercially sensitive nature.*

**23. INFORMATION SHARING**

**23.1 Licensing Act 2003**

In accordance with Section 185 of the Act the Licensing Authority and the responsible authorities will share information with each other for the purposes of facilitating the exercise of the authority's functions under this Act.

**23.2 Data Protection Act**

Information provided on application forms which was required to process applications and/or to administer the service. It may have contained personal data about the applicant or other person. As the data controller of that information, Herefordshire Council will process that personal data in accordance with the provisions of the Data Protection Act 1998.

**23.3** Where necessary we may share this personal data with partner organisations for the protection of public funds administered which may include the prevention or detection of fraud and auditing purposes.

**23.4 Requests for Information**

The Licensing Authority will provide information contained within Part A of the Premises Licence, whenever reasonably requested to do so. However it is under no duty to reveal any such details as would be excluded in a response to a request made under the Freedom of Information Act.

*Section 24: Summary of Other References & Guidance*

*This section provides details of where further information can be found.*

## **24 OTHER REFERENCES & GUIDANCE**

Applicants are recommended prior to making an application to have regard and to take into consideration in their application the following documents (as appropriate to their premises and the activities that will be provided):-

- The Guidance and information on licensing provided on the website of the Home Office <https://www.gov.uk/alcohol-licensing>
- Technical Standards for Places of Entertainment <http://www.technical-standards-for-places-of-entertainment.co.uk/>
- Metropolitan Police: I need help – tackling knife crime <https://www.met.police.uk/cp/crime-prevention/skc/stop-knife-crime/i-need-help/>
- BIS Guidance on Age Restricted products [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/913507/13-537-code-of-practice-age-restricted-products.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/913507/13-537-code-of-practice-age-restricted-products.pdf)
- Guidance issued by the SIA in connection with door supervisors etc. [http://www.sia.homeoffice.gov.uk/Documents/licensing/sia\\_get\\_licensed.pdf](http://www.sia.homeoffice.gov.uk/Documents/licensing/sia_get_licensed.pdf)
- The Event Safety Guide: A Guide to Health, Safety and Welfare at Music and Similar Events' - <https://www.hse.gov.uk/event-safety/>
- Managing Crowds Safely HSE <https://www.hse.gov.uk/pubns/indg142.htm>
- 'Carrying out risk assessments': <https://www.hse.gov.uk/simple-health-safety/risk/index.htm>
- 'The Guide to Safety at Sports Grounds' ("The Green Guide") <https://sgsa.org.uk/greenguide/>
- 'Safety Guidance for Street Arts, Carnivals, Processions and Large-Scale Outdoor Performances' Independent Street Arts Network

(ISAN) available from:

<http://www.streetartsnetwork.org.uk/pages/publications.htm>

- Fire safety law and guidance documents for business.

<https://www.gov.uk/government/collections/fire-safety-law-and-guidance-documents-for-business>

*Section 25: Summary of Other Policies and Objectives*

*This section details other policies which may be associated with licensing of premises.*

**25 OTHER POLICIES AND OBJECTIVES**

**25.1** Other statutory obligations which fall outside the requirements of the Act may apply to the provision of any regulated activities at a premises and the responsibility for compliance lies with the licence holder. For example if the activity involves the preparation and/or sale of food then it is the responsibility of the applicant to ensure that all appropriate Food Safety legal requirements are met, or if alcohol is sold the full weights and measures requirements are met. It would be expected that a licensee would have registered the premises as a food business with Herefordshire Council. Such registration is not a Licensing requirement however businesses are expected to comply with all relevant legislation.

**25.2** Many of the specific licensing requirements relate to matters potentially affecting public safety. In addition to these licensing requirements there are wider duties on all business (whatever their legal status and regardless of whether a licence is needed) to protect the health and safety of employees (and the self-employed) as well as the public. Some of these duties are deliberately wide, generalised and all-encompassing e.g. main duties under Section 2, 3, & 4 of the Health & Safety at Work etc. Act 1974, others are very specific e.g. requirements under the Control of Substances Hazardous to Health Regulations 2002, and do not apply in all circumstances. Some of these duties are absolute under law and have to be complied with, without exception e.g. hoists and lifting equipment must be examined by a competent person at prescribed intervals. These Health & Safety duties tend to include all specific safety requirements under licensing requirements for the public on the premises and extend them to cover the safety of others e.g. staff, contractors, passers-by etc. Thus there is considerable overlap between the licensing regime and the wider health & safety regimes.

**25.3** The Licensing Authority will seek to achieve integration with relevant strategies and their aims in determining applications and will do so through relevant consultation of this policy and individual applications. Planning may make representations in connection with a licensing application if an application has an adverse impact on any the four objectives.

#### **25.4 The Human Rights Act 1998**

The Human Rights Act 1998 incorporates the European Convention on Human Rights and makes it unlawful for a Local Authority to act in a way that is incompatible with a Convention Right. Herefordshire Council will have particular regard to the following relevant provisions of the European Convention on Human Rights:

- Article 1 of the First Protocol that every person is entitled to the peaceful enjoyment of their property, including for example the possession of a licence.
- Article 6 that in determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law;
- Article 8 that everyone has the right to respect for their home and private life;

#### **25.5 The Equality Act 2010**

The Equality Act 2010 (the EQu Act) protects people from unlawful discrimination in the provision of services and public functions, employment, premises, education and associations. Its broad purpose is to integrate consideration of equality and good relations into the day-to-day business of public authorities. The EQu Act brought into law the public sector equality duty which requires that, when exercising public functions, public service providers must have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and any other conduct prohibited by the EQu Act

- advance equality of opportunity between people who share a protected characteristic and people who do not share it
- foster good relations between people who share a protected characteristic and people who do not share it

There are similar equality requirements for private businesses detailed in the EQu Act (e.g. prohibition of discrimination against people based on their protected characteristics), and businesses are expected to fully comply with this legislation.

### **25.6 Herefordshire Council's Equality Policy**

Herefordshire Council's Equality Policy is a public statement of the council's commitment to equality, and compliance with the EQu Act 2010. Herefordshire Council aim to integrate consideration of equality and good relations into our day-to-day business, and therefore any breaches of the EQu Act by licensed premises will be treated seriously.

### **25.7 Herefordshire's Community Safety Strategy**

Herefordshire's Community Safety Strategy will play a part in achieving some if not all of the objectives in reducing crime and disorder. In addition to this Anti-Social Behaviour Strategy will focus on the first stage of the challenge, which is to make sure that the Herefordshire Council's efforts and relevant resources are working together effectively to reduce anti-social behaviour across the county. As such, these developments will form Herefordshire Council's position and contribution to the wider multi-agency strategy that will be produced under the Herefordshire Community Safety Partnership. The drive to deal with underage drinking and the impact that it has on anti-social behaviour will be managed through as part of this strategy.

### **25.8 Fire Protocol**

Hereford & Worcester Fire and Rescue Service have extensive experience when dealing with licensing applications, particularly in

respect of outside events and are happy to offer guidance where necessary.

## **25.9 Planning Permissions**

All applicants for Premises Licences, Club Premises Certificates and Provisional Statements are reminded that planning permission will normally be required for such uses. Planning permission may carry conditions with which applicants are expected to comply otherwise action may be taken under the relevant planning legislation. In general, planning permission authorises a broad use of a premises, whereas licences are granted for a particular type of activity. A planning permission for an entertainment use, for example may cover a number of activities that can have a wide range of different impacts in the locality.

**25.10** Licensing applications must not be seen as a re-run of the planning application process and there is a clear separation of the planning and licensing regimes to avoid duplication and inefficiency. The Licensing Sub-committee will ensure that the Planning Committee is advised of the situation regarding licensed premises in the Herefordshire including the general impact of alcohol related crime and disorder and any proposals to introduce a saturation policy to assist them in its decision making process.

**25.11** The Licensing Authority however will not take demand into account when considering a licensing application as this is a commercial decision and a matter for planning control and the market.

**25.12** The potential impact of hot food takeaways, restaurants, pubs and clubs on the local environment and the amenity of the surrounding areas, particularly if proposed on a site that is adjacent to residential properties has to be carefully considered. Consideration also has to be given to the important role that leisure and entertainment uses can play in the regeneration of the economy for Herefordshire.

## INDEX

<b>Access for children to licensed premises – in general</b>	<b>73</b>
<b>Access for emergency vehicles</b>	<b>59</b>
<b>Administration, Exercise and Delegation</b>	<b>8</b>
<b>Adult Entertainment &amp; Services</b>	<b>55</b>
<b>Adult Entertainment Services</b>	<b>71</b>
<b>Alterations to the premises</b>	<b>61</b>
<b>Appeals</b>	<b>39</b>
<b>Application Consultation</b>	<b>16</b>
<b>Behaviour of Customers Outside Licensed Premises</b>	<b>47</b>
<b>Bingo Clubs</b>	<b>27</b>
<b>Capacity limits</b>	<b>52</b>
<b>Capacity limits</b>	<b>59</b>
<b>CCTV</b>	<b>51</b>
<b>Challenge 25</b>	<b>77</b>
<b>Children in performances</b>	<b>76</b>
<b>Club Premises Certificates</b>	<b>29</b>
<b>Conditions on Premises Licences and Club Premises Certificates</b>	<b>31</b>
<b>Crime and Disorder</b>	<b>42</b>
<b>Crime prevention notices</b>	<b>53</b>
<b>Data Protection Act</b>	<b>79</b>
<b>Delivery Services</b>	<b>25</b>
<b>Designated Premises Supervisor</b>	<b>24</b>
<b>Designated premises supervisor (DPS)</b>	<b>46</b>
<b>Door Supervisors</b>	<b>48</b>
<b>Emergency action notices</b>	<b>59</b>
<b>Enforcement Policy</b>	<b>44</b>
<b>Escape Routes</b>	<b>58</b>
<b>Exhibition of Films</b>	<b>74</b>
<b>Failed Test Purchases</b>	<b>41</b>
<b>Film Classification</b>	<b>31</b>
<b>Fire Protocol</b>	<b>84</b>
<b>First Aid</b>	<b>59</b>
<b>HAND Scheme</b>	<b>50</b>
<b>Herefordshire Council's Equality Policy</b>	<b>84</b>
<b>Herefordshire's Community Safety Strategy</b>	<b>84</b>
<b>High Volume Vertical Drinking</b>	<b>53</b>
<b>Hotel Mini Bars</b>	<b>28</b>
<b>Hours</b>	<b>65</b>
<b>Hours of Licensed Activities</b>	<b>34</b>
<b>Incident Report Book</b>	<b>48</b>

<b>Indoor sporting events</b>	<b>60</b>
<b>Information Sharing</b>	<b>79</b>
<b>Internet and mail order sales</b>	<b>25</b>
<b>Introduction</b>	<b>1</b>
<b>Late Night Refreshment</b>	<b>26</b>
<b>Licensing Act 2003</b>	<b>79</b>
<b>Light Pollution</b>	<b>67</b>
<b>Lighting</b>	<b>59</b>
<b>Litter</b>	<b>66</b>
<b>Management and control of customers</b>	<b>65</b>
<b>New Applications</b>	<b>21</b>
<b>Night Clubs</b>	<b>57</b>
<b>Noise and vibration</b>	<b>66</b>
<b>Noxious smells</b>	<b>67</b>
<b>Open containers not to be taken from the premises</b>	<b>52</b>
<b>Other Policies and Objectives</b>	<b>82</b>
<b>Other references &amp; Guidance</b>	<b>80</b>
<b>Performances especially for children</b>	<b>76</b>
<b>Personal Licences</b>	<b>36</b>
<b>Petrol Stations</b>	<b>27</b>
<b>Planning</b>	<b>64</b>
<b>Planning Permissions</b>	<b>85</b>
<b>Policy Consultation and Review</b>	<b>6</b>
<b>Premises in the vicinity of Hereford Football Club</b>	<b>54</b>
<b>Premises Licence</b>	<b>21</b>
<b>Premises Persistently Selling</b>	<b>41</b>
<b>Prevention Of Crime and Disorder</b>	<b>45</b>
<b>Prevention of Public Nuisance</b>	<b>63</b>
<b>Proof of age cards</b>	<b>53</b>
<b>Provisional Statements</b>	<b>30</b>
<b>Public Safety</b>	<b>56</b>
<b>Radios</b>	<b>48</b>
<b>Regulated Entertainment</b>	<b>26</b>
<b>Relevant Representation</b>	<b>12</b>
<b>Requests for Information</b>	<b>79</b>
<b>Responsible Authorities, Any other person and Representations</b>	<b>11</b>
<b>Reviews and Complaints About Licensed Premises</b>	<b>40</b>
<b>Reviews launched by members of the public</b>	<b>42</b>
<b>Risk Assessment for the Police</b>	<b>47</b>
<b>Safety Advisor Group</b>	<b>58</b>
<b>Safety Checks</b>	<b>58</b>
<b>Scope of this Policy</b>	<b>4</b>
<b>Signage</b>	<b>53</b>
<b>Special effects</b>	<b>61</b>

<b>Sports Grounds</b>	<b>27</b>
<b>Temporary electrical installations</b>	<b>60</b>
<b>Temporary Event Notices</b>	<b>37</b>
<b>The Equality Act 2010</b>	<b>83</b>
<b>The Human Rights Act 1988</b>	<b>83</b>
<b>The Protection of Children from Harm</b>	<b>68</b>
<b>The use of glass in licensed premises</b>	<b>50</b>
<b>Theatres</b>	<b>75</b>
<b>Theatres, cinemas, concert halls and similar places</b>	<b>62</b>
<b>Training</b>	<b>46</b>
<b>Variations to existing Premises Licences</b>	<b>24</b>
<b>Vehicles and Moveable Structures</b>	<b>27</b>
<b>Vessels and Ships</b>	<b>27</b>
<b>Wholesale of Alcohol</b>	<b>25</b>