



LICENSING ACT 2003

LICENSING POLICY

[Consultation Draft October 2004]

WINCHESTER CITY COUNCIL

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The document which follows is a consultation draft document produced by Winchester City Council in accordance with its duties under the Licensing Act 2003.

Under Section 5 of the Act, the Council is required to determine its policy with respect to licensing functions and publish a statement of that policy. The statement must be published before a date to be set by the Secretary of State, must be kept under review and a new policy published every three years.

Before publishing its first statement of licensing policy, the Council must consult:-

- The Chief Officer of Police for the Winchester area;
- The Fire Authority for the Winchester Area;
- Representatives of existing licence holders (i.e. justices licences, public entertainment licences, club registration certificates and late night refreshment houses);
- Representatives of businesses in the Winchester area;
- Representatives of residents in the Winchester area

The City Council has decided to carry out this consultation by producing this document and inviting comments on it. It has been based on a format developed by a working group of officers from District Councils across Hampshire, although it has been adapted to deal with the circumstances which are pertinent to Winchester District.

The draft policy is a draft document. It may be changed in the light of comments received, prior to adoption by the City Council.

The draft consultation policy was approved for consultation purposes by the Licensing and Regulation Committee on 5 October 2004. The consultation period will run from 6 October 2004 until 15 November 2004. It is intended to report the outcome of the consultation process to the Licensing and Regulation Committee on 14 December 2004, with the policy being adopted by full Council on 5 January 2005.

All comments on the draft policy are welcomed. It will be noted that the draft policy proposes a "special saturation policy" where a policy of refusing applications for new licences or major variations to existing licences would be adopted. The proposed area is Jewry Street and High Street (from Jewry Street to the Westgate). Comments are invited on whether such a policy should, or should not, be adopted, and whether such a policy should be adopted for other areas (see paragraphs 2.18-2.28).

The draft policy has been published on the Council's website and copies have been sent to the following:-

- Chief Constable, Hampshire Police;
- Hampshire Fire and Rescue Authority;
- British Institute of Innkeeping;

- Winchester Pubwatch;
- Winchester City Centre Partnership;
- The Community Safety Partnership;
- North Hampshire Chamber of Commerce and Industry;
- Portsmouth and South East Hampshire Chamber of Commerce and Industry;
- Residents Associations in the Winchester District;
- Parish and Town Councils in the Winchester District;
- Organisations who have specifically requested a copy of the draft policy

Letters have been sent to all known premises which have existing licences, summarising the policy and inviting comments on it.

Public notices have been placed in local newspapers circulating in the area.

Two meetings have been arranged, to explain the new licensing system and introduce the policy. These will be open to the public and trade alike. The meetings will take place as follows:-

- 7.00pm, Tuesday 12 October 2004 in the Conference Chamber, Winchester Guildhall
- 7.00pm, Thursday 4 November 2004, Houghton Room, Wickham Community Centre.

Further information on the requirements of a Licensing Policy are set out in Section 3 of the Guidance issued by the Secretary of State, available on the DCMS website at

http://www.culture.gov.uk/alcohol_and_entertainment/default.htm.

Comments on the draft policy may be submitted to the Council, by no later than Friday 15 November 2004, as follows:-

- Via the Council's website (www.winchester.gov.uk/licensing)
- By email (licensing@winchester.gov.uk)
- By post to Licensing and Registration Manager, Winchester City Council, City Offices, Colebrook Street, Winchester, Hants, SP23 9LJ

Anyone wishing to make representations is encouraged to use the form at the end of this document.

Please note that anonymous or telephone representations cannot be accepted.

CONTENTS

- Part 1 Background**
- Part 2 Introduction**
- Part 3 Types of licence, certificate and notice**
- Part 4 Licensing Policies & Matters for
Consideration by Applicants**
- **Section A: Prevention of Crime &
Disorder**
 - **Section B: Public Safety**
 - **Section C: Prevention of Public
Nuisance**
 - **Section D: Protection of Children**

Appendices

Glossary

**WINCHESTER CITY COUNCIL
LICENSING ACT 2003
SECTION 5**

**Statement of Licensing Policy
2004 - 2007**

A licensing policy as determined by the Council in respect of its licensing functions for the three year period commencing 7 January 2005 is set out in this statement of licensing policy. During the three year period the policy will be kept under review and the Council will make such revisions to it, at such times, as it considers appropriate. Further licensing statements will be published every three years hereafter.

In this statement “the Council” means Winchester City Council. The City Council is the Licensing Authority for the purposes of the Act and the associated Guidance and Regulations. Accordingly, unless otherwise stated, references to “the Council” are references to the Licensing Authority.¹

PART 1 : BACKGROUND

- 1.1 Winchester District is situated in the County of Hampshire and has a large number of licensed premises and events for which licences are required. These provide leisure and entertainment opportunities for residents and visitors which are an essential part of vibrant and active communities. They contribute to the local economy and provide significant employment. The purpose of this policy is to strike a balance between obtaining all the benefits provided by licensed premises and events and ensuring that their less welcome impact is properly controlled and balanced against other community interests.
- 1.2 There are approximately 500 licensed premises in the District where alcohol is sold or entertainment provided on a regular or occasional basis. These premises include:
- public houses and nightclubs
 - off licences (including supermarkets selling alcohol)
 - businesses offering hot food between 2300 and 0500
 - hotels, guest houses, restaurants and other places that sell alcohol
 - private members clubs and social clubs
 - theatres and venues for amateur dramatic groups
 - cinemas
 - premises where indoor sporting events take place

The main concentration of licensed premises is in Winchester City Centre. Prior to the introduction of the Licensing Act 2003, there are approximately 10 premises with public entertainment licences and special hours certificates allowing late night opening. Six premises open until 12.00 Midnight on Mondays, Tuesdays and Wednesdays. On Thursdays, 3 open until Midnight and 5 until 1.00am. The latest opening hours are on Friday nights, when 3 premises open until 2.00am. A further 3 open until 1.00am, and 3 until Midnight.

5 premises open until 1.00am on Saturday evenings, with a further 3 premises open until Midnight. No premises open later than 11.00 on Sundays.

¹ British Beer and Pub Association

Other Legislation

- 1.3 As well as being the Licensing Authority under the Licensing Act 2003, Winchester City Council is responsible for a number of other statutory functions which are interrelated to the licensing function. These include its role as a local planning authority determining planning applications, the environmental health function, and the building control service which is provided.
- 1.4 Prior to submitting an application to the Licensing Authority the Applicant should ensure that there is appropriate current Planning Permission for the hours and activities for which application is being made.
- 1.5 The Council recognizes that there should be a clear separation of the planning and licensing systems and licensing applications will be viewed independently of planning applications. To achieve this, close liaison will be maintained between the Licensing and Regulation Committee and the Planning Development Control Committee ("L & R" and "PDC"). Licensing applications are not a re-run of the planning application and should not cut across planning decisions (whether these are taken by planning officers under delegated powers, the PDC Committee or an inspector following an appeals against the decision of the PDC Committee). The L & R Committee, where appropriate, will provide reports to the PDC Committee on the situation regarding licensed premises in the area including the general impact of alcohol-related crime and disorder.
- 1.6 The Council has a duty under Section 17 of the Crime and Disorder Act 1998, to exercise its various functions with due regard to the likely effect of the exercise of those functions and to do all that it reasonably can to prevent crime and disorder in its area. In addition, it is a member of the Community Safety Partnership, which will also have a key role in the review of this Licensing Policy and the successful operation of the licensing system.
- 1.7 Furthermore premises must comply with all other relevant legislation, e.g.
 - Food Safety Act 1990 (Food Hygiene)
 - Health & Safety at Work etc Act 1974 (Risk Assessments for work practices and fire safety)
 - Disability Discrimination Act 1995
 - Building Regulations
- 1.8 The Council will seek to avoid duplication with other regulatory regimes as far as possible. However, if other regulations do not cover the unique circumstances that arise in connection with, for example, entertainment at specified premises then additional controls will be imposed.
- 1.9 Winchester District is an attractive area, with historic towns and villages, as well as beautiful countryside. It attracts visitors from around the world, as well as students who choose to study at the City's academic institutions. Many commute into the District to work each day, whilst a large proportion of residents commute to London and the surrounding areas.
- 1.10 The City Council wishes to ensure that the District continues to be a prosperous and attractive place in which to live or work, or to visit. It recognises that the provision of licensable activities can have an adverse impact, such as crime and disorder, and public nuisance. The Licensing Policy, and the administration of licensing under the Licensing Act, will play a key role in ensuring that an appropriate balance is drawn between the interests of those people wishing to provide and enjoy licensable activities and those who might be affected by such provision and enjoyment.

- 1.11 The Council notes the strong arguments in favour of controlling or banning smoking in public places and further notes calls for national legislation on the issue. Applicants are strongly encouraged to consider the Public Places Charter on Smoking (www.airinitiative.com) and review their policies on smoking in the light of the Charter and public concern on the effects of smoking. The Council strongly encourages operators to provide a tobacco smoke-free environment throughout their public premises.²

PART 2 : INTRODUCTION

2.1 Winchester City Council ("the Council") is the Licensing Authority pursuant to the Licensing Act 2003 ("the Act") and is responsible for considering all applications for licensable activities, as defined in section 1 of the Act. The purpose of licensing is to regulate the carrying on of licensable activities on licensed premises, by qualifying clubs and at temporary events. Licensable activities, identified by the Act, include:

- Retail sale of alcohol
- Supply of hot food or drink from premises between 2300 and 0500 hours
- Supply of alcohol to club members
- Provision of entertainment listed below (known as "regulated entertainment") to the public or club members or with a view to profit:
 - Film exhibitions
 - Performances of a play
 - Indoor sporting events
 - Boxing or wrestling entertainment
 - Live music performances
 - Playing of recorded music
 - Dance performances
 - Provision of facilities for making music
 - Provision of facilities for dancing

2.2 There are a number of exceptions and details of these are set out in Sections 173 to 175 of the Act.

2.3 This Statement of Licensing Policy has been prepared in accordance with the provisions of the Act and the Guidance issued under Section 182 of the Act.

2.4 The Policy will be kept under review and where any amendments are considered necessary these will only be made after consultation has taken place in accordance with Section 5(3) of the Act. Proper weight shall be given to the views of all those consulted. Those to be consulted will include:

- The Chief Officer of Police for Hampshire
- The Chief Officer of Hampshire Fire and Rescue Service
- Bodies representing local holders of premises licences
- Bodies representing local holders of club premises certificates

² Cllr B. Lipscomb

- Bodies representing local holders of personal licences
 - Bodies representing businesses and residents in the Council's area
 - The relevant Area Child Protection Teams
 - Any other bodies the Council deems appropriate
- 2.5 The Council recognises that the best means of promoting the licensing objectives (see 2.8 below) is through the co-operation and partnership of local authorities, the Police, local business, performers, local people and those involved in child protection. The local Community Safety Partnership will be used as part of this partnership approach.
- 2.6 The Council will believes that good liaison with operators of licensed premises can assist the promotion of the licensing objectives, by encouraging operators to adopt good practice (such as holding regular meetings with local residents). It will work with existing local groups of operators (where these exist) and will encourage the formation of new groups where appropriate.
- 2.7 The Council will always take the Licensing Policy into account in its decision making, but it may depart from the Policy in appropriate circumstances. Similarly, the Council will have regard to the Secretary of State's Guidance issued under the Licensing Act, but may depart from this Guidance if it is considered appropriate. Where this occurs, reasons will be given as part of the decision.

Licensing Objectives

- 2.8 When dealing with licensing matters the Council will promote and have regard to the four licensing objectives set out in the Act. These are:
- The prevention of crime and disorder;
 - Public safety;
 - The prevention of public nuisance; and
 - The protection of children from harm.
- 2.9 The Council's primary focus is the direct impact of activities taking place at licensed premises on members of the public who are living, working or engaged in normal activity in the vicinity of the premises/place concerned. It will consider any demonstrable link between particular licensed premises and reported problems of nuisance and anti-social behaviour, although the Council recognises that licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from that premises/place and, therefore, beyond the direct control of the individual, business or club holding the licence or certificate concerned. However, as the Government's Guidance notes, the Policy is a key aspect of such control, and licensing laws will always be part of a holistic approach to the management of the evening and night-time economy in the City Centre.
- 2.10 Accordingly, any conditions attached to the licence/certificate will centre on the premises and places being used for licensable activities and the vicinity of those premises and places. Whether or not an instance can be regarded as being in the vicinity of licensed premises or places is a question of fact and will depend on the particular circumstances of the case.

- 2.11 The availability of Police resources to deal with crime and disorder problems arising from the operation of licensed premises will be taken into account when considering applications.

Integration of Strategies

- 2.12 As indicated in Section 1 of this Policy, the Council has clear objectives to promote tourism, the cultural diversity of the District and local employment; the Council recognises that licensed premises provide a valuable contribution to these objectives.

- 2.13 The Council will ensure at all times that it takes into account the views of relevant stakeholders and that there is proper integration of between the Licensing Policy and relevant strategies including:-

- The Community Strategy;
- The Community Safety Strategy;
- The Cultural Strategy;
- The Tourism Strategy;
- The Social Inclusion Strategy;
- The Local Plan;
- local crime prevention strategies
- transport strategies
- Winchester Drug and Alcohol Reference Group³

Integration will be achieved by a variety of methods, including consultation and input into the various strategies by relevant Portfolio Holders and officers, liaison with major partners and reports to relevant committees and other bodies.

- 2.14 The Council will work closely with the Police on issues of enforcement. Where appropriate, neighbouring authorities and Town and Parish councils will also be consulted.

- 2.15 In deciding applications, the Council will always take into account relevant representations from local residents and businesses and responsible authorities. It will also take into consideration the following (insofar as they are relevant to the licensing objectives):

- The requirements of the local tourist economy;
- The cultural strategy for the District, and the Council's wish to encourage and promote live music, dancing and theatre to the wider cultural benefit of its community and visitors;
- The employment situation in the District and the need for investment and employment where appropriate.

- 2.16 There are many stakeholders in the leisure industry. Many are involved, directly or indirectly, in the promotion of the licensing objectives, particularly those relating to the prevention of crime and disorder and public nuisance.

- 2.17 Conditions attached to premises licences and club premises certificates will, so far as possible, reflect the Community Safety Strategy and local crime prevention strategies.

Cumulative Effect of a number of Licensed Premises in one area

³ Health Promotion Service

- 2.18 The Council is concerned about the concentration of licensed premises in central Winchester, and the resultant demands which are placed on the police, who have to deal with problems of crime and disorder and public nuisance which can arise in connection with such premises, especially when premises are open late at night. It would be particularly concerned about the increased demands on the resources of the police the local authority and providers of transport and health services if there was to be a substantial increase in the number of licensed premises in central Winchester, and applicants for new premises would be expected to deal with these concerns in their submitted operating schedules. The Council has particular concerns about Jewry Street and parts of Upper High Street, and paragraph 2.23 below sets out a special saturation policy in respect of these areas.
- 2.19 The Council will not take 'need' (i.e. the commercial demand for another pub, restaurant, etc) into account when considering an application, as this is a matter for planning development control and the market. However, it recognises that the cumulative impact of the number, type and density of licensed premises in a given area, may lead to serious problems of nuisance and disorder both in the vicinity of and at some distance from the premises.
- 2.20 Representations may be received from a responsible authority/interested party that an area has become saturated with premises making it a focal point for large groups of people to gather and circulate, away from the licensed premises themselves. This concentration of premises may be creating exceptional problems of disorder and nuisance over and above the impact from the individual premises.
- 2.21 In these circumstances, the Council may consider that the imposition of conditions is unlikely to address these problems and may consider the adoption of a special policy of refusing new premises licences or club premises certificates if it believes that the area is saturated with such premises and the granting of any more would undermine one of the licensing objectives.
- 2.22 Jewry Street, Winchester, is a main thoroughfare in the Town Centre, situated on the one-way system. There have been complaints about nuisance in the past and a considerable number of crime and disorder incidents regularly take place in the area. The Council is concerned at the level of crime and disorder and nuisance in this location, much of which is attributable to customers leaving, and moving between, the various late night premises which provide alcohol and/or entertainment along the street.
- 2.23 The Council therefore considers that in view of the nature and size of the street and the number of licensed premises in the street (together with the adjacent part of High Street from Jewry Street to the Westgate), a special saturation policy should be adopted for Jewry Street and High Street (from Jewry Street to the Westgate), Winchester, whereby new applications (or variations involving significant changes to premises e.g. increased capacity) for premises licences or club premises certificates would normally be refused, if relevant representations are made to that effect, unless it can be demonstrated that the operation of the premises involved will not add to the cumulative impact already being experienced.**
- 2.24 The Government's Guidance provides that such a special saturation policy cannot apply to applications to extend the hours of an existing premises, and such applications would be considered purely on the merits of the application and in the light of any relevant representations received. Guidance on the Council's approach to applications seeking extended hours is set out in paragraph 2.33 below. However, the Council will always seek to promote best practice in licensing matters and, accordingly, encourages existing licensees to promote its aims in reducing Crime &

Disorder problems in this area. The Council will, therefore, give considerable weight to such problems when considering review applications.

2.25 When deciding whether to adopt a special saturation policy for other areas the Council will consider:

- whether serious concerns have been identified by a responsible authority or significant representations from residents have been received about the levels of nuisance and disorder;
- whether it can be demonstrated that disorder and nuisance is arising as a result of customers from licensed premises in an identified specific area;
- whether taking all relevant matters into account a policy about future licence applications from that area should be adopted.

2.26 The Council also recognises that, within this policy, it may be able to approve licences that are unlikely to add significantly to the saturation (by reason of their character or method of operation) and it will consider the circumstances of each individual application in each case.

2.27 *This draft policy proposes a “special saturation policy” for Jewry Street and parts of High Street. However, as part of the initial consultation process, respondents may wish to indicate whether (or not) they agree that such a policy should be adopted and/or whether there are any other areas which they consider should also be the subject of such a policy. They should set out their reasons, evidence and extent of any proposed additional areas, in accordance with paragraphs 2.23 & 2.25 above. In any event, the Council does have reservations about the scope for a substantial increase in the number of licensed premises in central Winchester, for the reasons given above, and this policy makes this clear.*

2.28 The Council will review the need for a special saturation policy from time to time, in accordance with the Government’s Guidance. Notwithstanding the absence of a special saturation policy, responsible authorities and interested parties may still make representations on the impact which new premises may have on the licensing objectives. The Council’s approach to applications for late hours set out below in paragraph 2.32 [licensing hours] is also relevant.

Other Controls on Anti-social Behaviour

2.29 Other mechanisms exist to control the anti-social behaviour of a minority of consumers who behave badly and unlawfully after leaving licensed premises etc. These controls 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
- Power of local authorities to designate parts of the local authority area as being places where alcohol may not to be consumed publicly (see below)
- Police enforcement of normal law concerning disorder and anti-social behaviour including the issuing of fixed penalty notices and anti-social behaviour orders

- The prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk
- The confiscation of alcohol from adults and children in designated areas
- Police powers to close down instantly for up to 24 hours any licensed premises or temporary events on grounds of disorder, the likelihood of disorder or excessive noise emanating from the premises
- The power of the Police and other responsible authorities or a local resident or business to seek a review of the licence or certificate in question

Drinking on the Streets

- 2.30 Orders made by the Council under the Police and Criminal Justice Act 2001 to control the drinking of alcohol in the streets will be regularly reviewed as part of the licensing policy review.⁴
- 2.31 Following a successful application for a review of a licence, the Council may decide to investigate whether an Order under the Police and Criminal Justice Act 2001 should be made to control the drinking of alcohol in public spaces in the area surrounding the premises concerned.

Licensing Hours

- 2.32 With regard to licensing hours consideration will be given to the individual merits of an application. The Guidance issued under the Licensing Act 2003 indicated that the Government's view is that longer licensing hours relating to the sale of alcohol are important to ensure that concentrations of customers leaving premises simultaneously are avoided. It is hoped that longer hours will also result in a reduction in "binge drinking" at the end of an evening. This is necessary to reduce friction at late night food outlets, taxi ranks and other sources of transport which can lead to problems of disorder and disturbance.
- 2.33 The Council recognises the concerns which residents and businesses may have about extended opening hours, and the fear that these may have an adverse impact on crime and disorder, and public nuisance (two of the licensing objectives). Although these concerns may arise anywhere in the District, they are most likely to be found in the urban areas, particularly central Winchester. These problems may (amongst other things) impact on the police and other agencies, as well as local residents. The Council accepts that such concerns are legitimate issues to be considered as part of the licensing process. Therefore, the Council will seek to ensure that where longer opening hours are sought by applicants, or where applicants seek to open new licensed premises, the potential detrimental effects are properly considered and addressed by applicants in their operating schedules. Accordingly, where applications are submitted to extend the hours of opening of premises, and in the case of new premises seeking to open between 23.00 and 08.00, applicants will be expected to either demonstrate that these hours of operation will have no adverse effect on the achievement of the licensing objectives, or set out the steps which they propose to take to secure these objectives.

⁴ Draft Policy note – the City Council are presently consulting on a proposal to designate certain areas of Winchester Town Centre where a Police officer may require a person to a) stop drinking alcohol, and/or b) surrender such alcohol to the officer.

- 2.34 In accordance with the Government's Guidance, this Licensing Policy makes it clear that in areas of denser residential accommodation, stricter conditions relating to noise control will be imposed.

Standardised Conditions

- 2.35 The Council will impose conditions to reflect applicants' operating schedules in all cases. Where a hearing is held following relevant representations, and ⁵the Council believes it to be appropriate and necessary, in order to promote any of the licensing objectives, it will consider attaching further conditions to licences. Conditions attached to licences will, as far as possible, be tailored to the individual style and characteristics of the premises and licensable activities concerned. Disproportionate and over burdensome conditions on premises will not be imposed. Standardised conditions will be avoided, where possible. Any conditions which are imposed will be tailored to the specific premises and the specific application⁶ (see further Ministerial Guidance Paragraphs 7.4 and 7.5).^{7 8 9}

Live Music, Dancing and Theatre

- 2.36 The Council recognises that as part of implementing any cultural strategy as may from time to time apply, proper account will need to be taken to encourage and promote live music, dancing and theatre for the wider cultural benefit of the community. Conditions to be imposed on relevant licences will not discourage the promotion of such entertainment but will relate solely to the promotion of the licensing objectives.

Enforcement

- 2.37 The Council will establish protocols with the local Police on enforcement issues. This will enable the more efficient deployment of local authority staff and Police Officers who are commonly engaged in enforcing licensing law and the inspection of licensed premises. The aim of the protocol will be to target agreed problem and high risk premises which require greater attention while providing a lighter touch in respect of low risk premises which are well run.

Closure

- 2.38 The Police may seek a court order to:-
- (a) close down for up to 24 hours premises in a geographical area that is experiencing or likely to experience disorder;
 - (b) close down instantly for up to 24 hours individual licensed premises that are disorderly, likely to become disorderly or are causing nuisance as a result of noise from the premises.

Following information from the Police regarding such closures the Council will usually hold a Review Hearing, as described below.

Objections/Review Hearings

⁵ Greene King

⁶ George Gale and Co.

⁷ Greene King

⁸ Berwin Leighton Paisner

⁹ British Beer and Pub Association

- 2.39 (Except in the case of applications submitted during the transitional period, seeking to convert an existing licence on the same terms), interested parties may make representations to the Council as Licensing Authority on any application for grant, variation or for the review of a Premises Licence. Interested parties are defined as:-
- (a) A person living in the vicinity of the premises in question;
 - (b) A body representing persons living in the vicinity;
 - (c) A person involved in a business in the vicinity of the premises;
 - (d) A body representing persons involved in such a business

The Council expects that, where possible, such representations should be made in writing.

In the absence of relevant representations applications **must** be granted subject only to any applicable mandatory conditions and such conditions which are consistent with the applicant's Operating Schedule.¹⁰

- 2.40 The Council can only review a licence where it is alleged that the licensing objectives are not being met. The Council will hold a review hearing to consider the merits of an application or licence where the representation is considered relevant. In order to be relevant it must relate to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives. Review hearings will be heard by a panel of three City Councillors. Applicants and objectors will be informed of the hearing and invited to attend such hearings to present their arguments. Hearings will be held at an appropriate frequency so as to allow such matters to be dealt with promptly and efficiently.
- 2.41 The Council will however make every effort to consult with the applicant and objector to resolve any issues as appropriate.
- 2.42 Where the Council find that a representation is not relevant, or is frivolous or vexacious, the person making the representation may challenge this finding by way of a judicial review in the Courts.
- 2.43 Following a Review Hearing the Council may :-
- (a) modify the conditions of the licence;
 - (b) exclude a licensable activity from the scope of the licence;
 - (c) remove the designated premises supervisor;
 - (d) suspend the licence for a period (not exceeding three months); or
 - (e) revoke the licence

Offences

- 2.44 The Act sets out a number of offences, proceedings for which may be instigated by the following:-
- (a) The Council (as Licensing Authority)
 - (b) The Director of Public Prosecutions
 - (c) In the case of an offence under section 146 or 147 (sale of alcohol to children), by Hampshire County Council (the local weights and measures authority).

Any action instigated by the Council will be carried out in accordance with any relevant enforcement policies for the time being in force.

¹⁰ Berwin Leighton Paisner

Appeals

- 2.45 Within the Licensing Act 2003 there is provision for appeals in connection with decisions made by the Council for aggrieved parties (including as appropriate, the applicant, the Police, responsible authorities and interested parties who made relevant representations. Other than in the case of personal licences, an appeal has to be made to the Magistrates Court..
- 2.46 The rights of appeal and reasons for the decision(s) taken by the Council will be provided to all parties concerned with any Licensing decision which might give rise to such an appeal under the terms of the Act. Any reasons given will address the extent to which the decision was made with regard to the Council's statement of licensing policy, statutory guidance, regulations and the Act itself.
- 2.47 The Council reserves the right to make comprehensive records of any hearing held in connection with its licensing functions under the Act. This extends to the recording of hearings.

Equal opportunities & Race Equality

- 2.48 Subject to the general requirements of the Act, the Council will promote equality of opportunity. In such respects, nothing within this statement of licensing policy shall undermine the right of any individual to apply for any of the licences and/or authorisations provided for under the terms of the Act.
- 2.49 No applicant and/or licence holder shall receive less favourable treatment on the grounds of sex, sexual orientation, disability, marital status, colour, race or ethnic origin. No applicant and/or licence holder shall be disadvantaged by conditions or requirements which are not relevant to their application and/or their licence, the promotion of the four licensing objectives and this statement of licensing policy.
- 2.50 Subject to the general requirements of the Act, nothing within this statement of licensing policy shall undermine the right of any person to make representation(s) on an application or seek a review of an existing licence or certificate where provision has been made for them to do so under the Act.

Data Protection

- 2.51 The Council may use the information submitted on any application form for any licence(s) and/or permission(s) provided for under the terms of the Act for the purpose of its statutory function(s) in its capacity as the relevant Licensing Authority.
- 2.52 The Council may disclose all such information to its agents or service providers. The Licensing Authority may also share this information with other Council Services (Departments).
- 2.53 All applicants have the right to ask for a copy of the information that the Council holds about them (for which a fee may be charged) and to correct any inaccuracies held.
- 2.54 By making application to the Council for any licence and/or permission under the terms of the Act all applicants consent to the Council processing sensitive personal data about them where this is necessary.
- 2.55 The Act requires the Council however to keep a register of:-

- (a) A record of each Premises Licence, Club Premises Certificate and Personal Licence issued by it;
- (b) A record of each temporary event Notice received by it ;
- (c) Details of various applications and notices received by the Council (as set out in Schedule 3 of the Act); and
- (d) Such other information as may be prescribed.

Any person is permitted to obtain a copy of this information from the Council.

Transitional Matters¹¹

- 2.56 Part 1 of Schedule 8 of the Licensing Act 2003 sets out arrangements for a "Transitional Period" to allow for the smooth transition from the existing licensing regime to the new arrangements under the above act. This period will start on the First Appointed Day, 7th February 2005 and end on the Second Appointed Day (which is yet to be announced).
- 2.57 Licences granted during the transitional period will not take effect until the Second Appointed Day. Until that date, licensees should ensure that any activities which they carry out are properly licensed under the existing legislation (e.g. a current justices on-licence will be required for the sale of alcohol and a public entertainment licence will be needed for any public entertainment being provided). Existing licences should therefore be renewed at the appropriate time to remain in force until the Second Appointed Day.

Delegation of functions

- 2.58 In the interests of speed and efficiency the Council will, where possible, delegate licensing decisions and functions to officers. However, if the matter to be decided is controversial in any way (e.g. where relevant representations are received) or the determination of the matter under delegated powers is precluded by law then it will be decided by a Sub- Committee of the Licensing and Regulation Committee. Appendix A sets out the Council's scheme of delegation in respect of Licensing Matters.

¹¹ This section of the Policy will be deleted on the first Review of the Policy, as it will only relate to matters during the transitional period.

PART 3 : TYPES OF LICENCES, CERTIFICATES AND NOTICES

Personal licences

- 3.1 A personal licence will be granted to any applicant, aged 18 or over, who possesses a relevant qualification or is a person of a prescribed description as determined by the Department of Culture, Media and Sport. A licence will not be granted to any applicant who has forfeited a personal licence in the five year period ending with the date of the application
- 3.2 The Police may oppose an application if an applicant has a relevant unspent conviction or a conviction for a comparable offence in a foreign jurisdiction.
- 3.3 Applicants who meet the statutory criteria in terms of age, qualifications and non-forfeiture, as mentioned above, will be granted a licence (subject to any Police objections being received). Applications that do not meet those criteria will be rejected.
- 3.4 If a Police objection is received the application will be determined by a Sub-Committee of the L & R Committee, at a hearing where all representations which are relevant to the grant or refusal of the licence will be taken into account. Matters to be considered may include the nature of any offences, the time since their commission and any mitigating circumstances. The Act requires the Council to reject an application if it considers it is necessary in the interests of crime prevention to do so and, where there is a Police objection, the normal course of events will be refusal unless there are exceptional and compelling reasons to grant the application.

There will be no need for a hearing if the applicant, Council and Chief Officer of Police agree that a hearing is not necessary.
- 3.5 Except in the case of a "conversion" application under the "grandfather rights" transitional provisions in the Licensing Act 2003, the Council requires every application for a personal licence to be accompanied with a standard criminal record disclosure form from the Criminal Records Bureau. This will assist the Council in determining whether the applicant has any relevant unspent convictions.
- 3.6 During the first part of the transitional period, between 7 February 2005 and 6 August 2005¹², applicants seeking to take advantage of "grandfather rights" must also send a copy of the application, accompanied by a copy of the existing licence(s) to the Police within 48 hours of the application being made.
- 3.7 Applicants should also produce a signed statement confirming that they have not been convicted outside of England and Wales of a relevant offence or equivalent offence (spent convictions excluded). Applicants should be warned that the making of a false declaration for the purpose of obtaining a licence is a criminal offence for which they will be prosecuted.
- 3.8 Only the Courts may revoke a Personal Licence, following a conviction for a relevant offence. The Council expects a high standard from Personal Licence holders operating in the District and will promote such standards at all licensed premises. It will work with the Police and other licensing authorities to ensure that appropriate action is taken by the Courts where these standards have not been met.

Temporary Event Notices

¹² This is the expected timetable, although it may be altered by Regulations.

- 3.9 Temporary events involving relevant licensable activities may be held if certain criteria are fulfilled (these criteria include an audience capacity of less than 500 people attending and a maximum event period of 96 hours). However, the Council actively encourages persons organising such events ("premises users") to have due regard to any concerns of occupiers of premises adjacent to the proposed venue where the temporary event is due to take place.
- 3.10 When a temporary event is proposed, notice of the event, together with the relevant fee, must be served on the Council at least 10 working days before the event. The Council encourages premises users to serve notice on the Council as far as possible in advance of the proposed event. However, in order to allow the Police to make a proper assessment of the situation, notices should not be served earlier than six months ahead of the event.
- 3.11 The premises user must also serve a copy of the notice on the local Chief Officer of Police no later than 10 working days before the day on which the event specified in the temporary event notice begins.
- 3.12 On receipt of a temporary event notice the Council will issue an acknowledgement notice in accordance with the requirements of the Act, unless a counter notice has been served under Section 107 of the Act. Counter notices under this Section relate to circumstances where the limits permitted under the Act for the service of temporary events notices are exceeded.
- 3.13 If the Chief Officer of Police is satisfied that allowing the premises to be used in accordance with the notice will undermine the crime prevention objective he/she must serve an objection notice, stating his/her reasons, on both the Council and the premises user within 48 hours of receiving the temporary event notice.
- 3.14 If the Council receives an objection notice it will hold a hearing to consider the objections (unless the Council, Police and premises user agree that a hearing is unnecessary) and will give the premises user a counter notice under Section 105 of the Act if it considers it necessary for the promotion of the crime prevention objective to do so.

Club Premises Certificates

- 3.15 The Council acknowledges that private premises to which public access is restricted and where alcohol is supplied, other than for profit, give rise to different issues for licensing law than those presented by commercial enterprises selling direct to the public. The Council encourages clubs to take advantage of the benefits offered to such premises such as the absence of a requirement for a Personal Licence Holder ("PLH") or Designated Premises Supervisor ("DPS").
- 3.16 The Council will consider applications for premises licences if the Club decides that it wishes to offer its facilities commercially for use by the general public but the applicant should remember that the appropriate planning consent should be sought prior to the application for a premises licence being submitted.
- 3.17 When a premises has the benefit of a Club Premises Certificate, an application may be made to allow those running the premises to supply alcohol for consumption off the premises. Such supply will only be allowed during the hours that the premises are open for supply of alcohol to its members on the premises. Any such permission that is granted will be subject to conditions that any alcohol supplied will be in a sealed container and will only be supplied to members.

Premises Licences

- 3.18 A premises licence is required for any premises which is used for one or more licensable activity as defined in 2.1 above. "Premises" includes any "place" and public areas such as parks, squares and streets will be included in this definition. This means that if licensable events will be taking place in such areas (such as the annual Hat Fair), the areas will need to be licensed. The City Council will be seeking licences for such areas, to assist organisers of such events. Those who may apply for licences are defined in Section 16 of the Act.
- 3.19 As recommended in the statutory Guidance, applicants for new premises licences (or major variations to premises licences) should undertake a thorough risk assessment with regard to the licensing objectives, which should then be used to prepare the required operating schedule¹³.
- 3.20 The requirements in relation to applications for premises licences are set out in Section 17 of the Act and the Council will not be able to consider applications which do not comply with those requirements. This Section requires that applications must be accompanied by:
- an operating schedule that demonstrates that the licensed premises can comply with the Council's licensing policy and promotes the 4 licensing objectives. The operating schedule must be adequate and appropriate for the type, location and opening hours of the particular premises. The licensing policies and matters for consideration by applicants, as detailed in Part 4 of this Policy, need to be considered carefully and measures included in the operating schedule, where necessary, showing how compliance with those policies will be achieved. Where an operating schedule does not include a measure which (under the Policy) the Council would expect to see included, a justification should be provided in the operating schedule.
 - a plan of the premises to which the application relates in the prescribed form details of the relevant premises supervisor and appropriate consent.
 - the appropriate fee.

Note : fee levels and prescribed forms may be viewed on the websites of the Department of Culture Media and Sport (www.culture.gov.uk) and the Council (www.winchester.gov.uk/licensing), or can be obtained from the Council's Licensing Section.¹⁴

- 3.21 Premises Licences will include the mandatory conditions which must be imposed in accordance with the Licensing Act 2003¹⁵. In addition, conditions reflecting the operating schedule will be imposed. Where representations are received and a hearing is held, the Council may also impose other conditions it considers necessary as a result of those relevant representations.¹⁶
- 3.22 Applications for major variations (including combined applications submitted during the Transition Period to convert an existing licence and vary e.g. hours or activities) will need to include an operating schedule which deals with the issues relating to the

¹³ Berwin Leighton Paisner

¹⁴ Draft policy note - at the date of publishing the draft policy for consultation, the fee levels have not been fixed by the Government

¹⁵ These are a) that no alcohol is supplied where there is no duly licensed Designated Premises Supervisor for the premises, b) that alcohol is only supplied by or with the authority of a personal licence holder, c) that admission of children to films must be in restricted (usually in accordance with the film's certificate), and d) that where individuals are required on premises to carry out security activities, they are licensed by the Security Industry Authority.

¹⁶ British Beer and Pub Association

licensing objectives, insofar as these are affected by the variation sought. Representations following such applications can only address the variation, and not the licence which would otherwise result from the conversion application alone.¹⁷

¹⁷ Berwin Leighton Paisner

PART 4 : LICENSING POLICIES & MATTERS FOR CONSIDERATION BY APPLICANTS

This Part sets out the matters which applicants should have regard to, by reference to each of the Licensing Objectives. In submitting operating schedules, applicants should set out control measures which they propose to put in place, which will address the relevant issues as they apply to their application.

Applicants are encouraged to informally consult the Police, the City Council's Environmental Health and Building Control Sections and other relevant bodies, before preparing operating schedules, in order to ensure that, so far as possible, any issues which such consultees might raise can be dealt with before the application is submitted.

Applicants should deal in their Operating Schedule with each of the four licensing objectives, and state the measures they propose to deal with these objectives. Where a suggested measure mentioned in this Policy is clearly not relevant in respect of particular premises or activities, responsible authorities are less likely to make representations if applicants indicate in their operating schedule why they have not included such measures.

The lists of possible measures are not to be regarded as absolute requirements or as "check lists" and will not be used by the Licensing Authority to create standard conditions.¹⁸
¹⁹

Section A : Prevention of Crime and Disorder

A. Matters for consideration by applicants.

A.1 Applicants should have regard to the following matters when writing their operating schedules and are advised to consult Hampshire Police before submitting their application. If the Council receives a representation, additional conditions may be imposed at the Hearing that determines the application.

A.2 It should be noted in particular that it is unlawful under the 2003 Act:

- To sell or supply alcohol to a person who is drunk
- To sell or supply alcohol to a person who is under 18 years of age
- To knowingly allow disorderly conduct on licensed premises
- For the holder of a premises licence or a designated premises supervisor to knowingly keep or to allow to be kept on licensed premises any goods that have been imported without payment of duty or which have otherwise been unlawfully imported
- To allow the presence of children under 16 who are not accompanied by an adult between midnight and 05:00 hrs at any premises licensed for the sale of alcohol for consumption on the premises and at any time in premises used exclusively or primarily for the sale and consumption of alcohol

Conditions enforcing these arrangements are therefore unnecessary.

A.3 When applicants for premises licences or club premises certificates are preparing their operating schedules or club operating schedules, when responsible authorities are considering such applications and when the Council is considering applications, following receipt of any relevant representations from a responsible authority or interested party, the measures laid down in Section A should be considered as practices which, if necessary, may promote the prevention of crime and disorder.

¹⁸ Berwin Leighton Paisner

¹⁹ British Beer and Pub Association

A.4 Whether or not any risk assessment shows these measures 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. It should also be borne in mind that club premises operate under their own codes of discipline to ensure the good order and behaviour of members.

A.5 Whether it is necessary to impose conditions on the licence or certificate will also depend on local knowledge of the premises.

20

A.6 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 licence or certificate as a condition, they become enforceable under the law and a breach of such a condition could give rise to prosecution.

GENERAL

Under no circumstances should the following measures be regarded as standard conditions to be automatically imposed in all cases. They are designed to provide a range of conditions drawn from experience relating to differing situations and to offer guidance.²¹

The Applicant must indicate in the operating schedule the steps he/she proposes to prevent crime and disorder. For premises open between 2300 and 0800, and as appropriate for all other premises (depending on the specific premises and business being carried out), the Council would expect operating schedules to have been considered and include arrangements for the measures set out below (unless the applicant can justify why such measures should not be required):

- Use of CCTV both within and outside the premises in accordance with the code of practice issued by the Information Commissioner from time to time e.g. warning signs
- Measures to prevent the bringing onto the premises of offensive weapons
- Procedures for risk assessing promotions and events such as "happy hours" including the potential to cause crime and disorder and plans for minimising such risks
- Measures to prevent the use or supply of illegal drugs
- Employment of door supervisors licensed by the Security Industry Authority and other appropriately trained staff
- Participation in an appropriate Watch Scheme or other body designed to ensure effective liaison with the local community
- Proof of Age schemes
- Controls on bottles, glasses and containers
- Capacity limits
- Notices and signage, including a prominent sign giving the name of the personal licence holder designated as being in charge of the premises at the relevant time.
- No admissions after a specified time
- A personal licence holder to be on duty at the premises during opening hours

Reason

Prevention of crime and disorder is one of the four licensing objectives of the Licensing Act 2003. It is important that Applicants identify measures taken to address this objective in their operating schedule.

²⁰ Moved to top of "general" – Goerge Gale and Co.

²¹ George Gale and Co.

Irresponsible Drinks Promotions.

The Council considers that the BBPA's 'Guidelines on On-Trade Promotions' should be encouraged locally to reduce irresponsible drinks promotions, and will take a licensee's adherence, or otherwise, to these guidelines into account when reviewing premises licences.

Drugs/Alcohol Abuse

The Council will expect licensees to have adequate management practices in place, as well as suitable training for staff, to ensure that sales are not made to persons under the age of 18, or to persons who may supply to persons under that age. These practices also need to be in place to ensure that sales are not made to persons who are drunk, or in circumstances where it is likely that the sale of alcohol may result in crime and disorder.

The Government has published its Alcohol Harm Reduction Strategy and intends to produce a code of good practice drawn up jointly between Government and the industry. Once issued the Council will strongly encourage all retailers of alcohol to sign up to this code and receive accreditation, as it is envisaged that adherence to the code could be taken into account when there is a relevant representation made against a premises and licence removal is being considered.

The Council will also expect licensees to be aware of the misuse of drugs and take all reasonable steps to prevent the entry of drugs into licensed premises, to take appropriate steps to prevent drugs being supplied within the premises and to take practical measures to prevent tragedies as a result of drug misuse. The BIIAB National Certificate for Licensees (Drug Awareness) qualification is an appropriate method of demonstrating such awareness.²²

In particular the Council will expect licensees of venues likely to be affected by alcohol or drug abuse to be familiar with the contents of Chapter 4 (drug awareness) of the BIIAB Level 2 National Certificate for Entertainment Licensees and to be following the recommendations of that handbook.

The Council will also expect the relevant licensees to be following the recommendations of the book "Safer Clubbing" issued by the Home Office (ISBN 1840827807)

Reason

Drug and alcohol abuse are problems associated with licensable premises. Conditions are required to assist operators of such premises to meet both the crime and disorder and the prevention of public nuisance objectives.

Shops Stores and Supermarkets.

The Council will generally consider licensing shops, stores and supermarkets to sell alcohol for consumption off the premises at any times they are open for shopping. However, shops must have adequate management practices to ensure that sales are not made to under 18 year olds and persons where there are grounds to believe that the sale will result in crime and disorder.

However, if there are good reasons for restricting those hours, for example, where Police representations made in respect of shops known to be the focus of disorder and disturbance, then restriction of hours will be considered.

Operating Schedules should indicate how the applicant will ensure that only staff aged over 18 year sell alcohol (or that any staff under 18 year old are closely supervised doing so).

²² Tim Hoare, St James Tavern

Schedules should also indicate what steps will be taken to avoid staff being intimidated into selling alcohol to children or young people.

The Council therefore encourages shops to follow the existing good practice in the licensing trade by ensuring that CCTV is in operation on their premises at points of sale.

Reason

The sale of alcohol from premises other than pubs or clubs throughout the day is integral to the Act. It is however necessary to ensure that suitable regimes are in place to prevent the sale of alcohol to persons under 18 years of age and to persons who are drunk. Controls will meet the need to address the potential for crime and disorder problems that such sales can present. In addition the controls required will also address the requirement under the Act to protect children from harm.

Additional matters which should be considered by applicants are shown in Appendix B of this Policy

Section B : Public Safety

B. Matters to be considered by Applicants

B.1 Where an applicant identifies an issue with regard to public safety (including fire safety) which is not covered by existing legislation, the applicant should indicate in their operating schedule the steps which will be taken to ensure public safety.²³ When writing the operating schedule, due regard should be taken of the requirements of relevant legislation to secure adequate public safety, in particular those requirements prescribed in the Health and Safety at Work etc Act, Management of Health and Safety at Work Regulations and The Fire Regulations.

The main guidance bibliography is listed in Appendix C to this Policy.

B.2 Following receipt of an application, a responsible authority may make representations to the Council, if it considers that adequate provision for public safety has not been made or has not been demonstrated within the application.

B.3 When preparing their Operating Schedule, Applicants should consider the following matters and take them into account, and make reference to them in their Operating Schedule as appropriate^{24 25}(unless the Applicant can demonstrate that, taking into account the Public Safety objective, such measures are either unnecessary, or can be fulfilled by other different measures specified in the Operating Schedule)²⁶:

- The date when the last Health and Safety and the specific Fire Safety risk assessments of the premises were carried out, along with any identified significant findings.
- A summary of any proposed changes or improvements to remedy the significant findings, with the date of their implementation.
- Occupancy limits may not be necessary, depending on the individual premises and the activities carried out. Applicants should consider (as part of the preparation of the operating schedule) whether a control on occupancy is necessary. If they conclude it is necessary, appropriate arrangements should be proposed in operating schedules to limit and control occupancy of the premises.²⁷
- A copy of the emergency plan
- A single line scaled plan or architect's drawing, showing the general layout of the premises, fire safety provisions, including escape routes from the premises to a place of ultimate safety with any significant features
- Supporting evidence demonstrating adequate maintenance of fire safety provisions and systems. e.g. current servicing certificates.

Conditions will be imposed which reflect the proposals set out in the operating schedule and any breach of these conditions may give rise to prosecution.

B.4 The Council will expect effective arrangements to secure adequate public safety at all times. When preparing the operating schedule, applicants should take into account the areas listed below and any others which are identified from either of the Health and Safety and the specific Fire Safety risk assessments of the premises.

- Adequate provision for the safety of persons with special needs
- Adequate provision of safe ingress and egress to the premises at all times when in use

²³ Berwin Leighton Paisner

²⁴ George Gale and Co.

²⁵ British Beer and Pub Association

²⁶ Berwin Leighton Paisner

²⁷ British Beer and Pub Association

- Safe occupancy levels to be determined and suitable arrangements to ensure they are not exceeded
- Adequate means of escape in case of fire
- Adequate warning in case of fire
- Adequate provision for fire fighting
- Adequate levels of both normal and emergency lighting
- Suitable and adequate fire and safety notices
- Adequate levels of ventilation.
- Adequate provision for summoning the emergency services
- Suitable levels of non combustible or flame retarded finishes for the premise construction, wall and ceiling coverings, drapes and contents
- Adequate arrangements for the maintenance of safety equipment and systems.
- Adequate levels of training to staff members
- Suitable recording of maintenance, tests and training.
- Testing of electrical wiring and systems
- Suitable access for emergency vehicles
- Adequate arrangements for the provision of first aid equipment
- Adequate safety for indoor Sports Entertainment
- Adequate numbers of attendants and marshals
- Adequate arrangements for the safe use and storage of equipment used for special effects

Reason

The safety of the public at licensed premises is paramount and is one of the four licensing objectives.

Additional matters which should be considered by applicants are shown in Appendix C of this Policy

Section C: The Prevention of Public Nuisance

C. Matters to be considered by Applicants

- C.1 It should be noted that provisions of the Environmental Protection Act 1990 and the Noise Act 1996 provide some protection to the general public from the effects of noise nuisance. In addition, the provisions of Part 8 of the Licensing Act 2003 enable a senior Police officer to close down instantly, for up to 24 hours, licensed premises (and premises carrying on temporary permitted activities under a temporary event notice) that are causing nuisance resulting from noise emanating from the premises. These matters should be considered before deciding whether or not conditions are necessary for the prevention of public nuisance as defined in guidance issued under Section 182 of the Licensing Act 2003.

Matters to be considered by Applicants

- C.2 Applicants are advised to consult the Team Leader (Environmental Protection) at Winchester City Council before submitting their application, if they have any questions concerning the issues set out in this Section.
- C.3 When addressing public nuisance applicants should initially identify any particular issues (having regard to their particular type of premises and/or activities) which are likely to adversely affect the promotion of the objective to prevent public nuisance. Such steps as are required to deal with these identified issues should be included within the applicant's Operating Schedule. They should also²⁸ have regard to the following matters when writing their operating schedules. If the Council receives a representation at the Hearing that determines the application, additional conditions may be imposed.

Noise Controls

Stricter conditions with regard to noise control will be expected in areas of the District, which have denser residential accommodation or low levels of background noise but this will not limit opening hours without regard to the individual merits of any application.

The operating schedule must have regard to the nature of the area where the premises are situated, the type of premises concerned, the licensable activities to be provided, operational procedures and the needs of the local community. The Council will expect the schedule to demonstrate how it is intended that the premises will be "good neighbours" both to residents and to other venues and businesses and should have regard to guidance contained in the Good Practice Guide on the Control of Noise from Pubs and Clubs, March 2003 (produced by the Institute of Acoustics) and where appropriate, the Code of Practice on Environmental Noise Control at Concerts (produced by the former Noise Council).

(1) Noise from Regulated Entertainment

Other than in exceptional circumstances the Licensing Authority expects that noise associated with regulated entertainment which takes place between the hours of 23:00 – 09:00 or takes place on a regular basis at any time should be controlled to such a level that the noise will be inaudible at all times inside all noise sensitive properties in the vicinity of the licensed premises.

Where applicable, the applicant will be expected to adequately demonstrate that compliance with the inaudibility criteria will be achieved. Accordingly, the applicant may be required to

²⁸ Berwin Leighton Paisner

appoint a competent noise control consultant to carry out acoustic tests of the premises under worst-case conditions and identify suitable additional noise control measures required to meet the inaudibility criteria.

Except where there is no issue with noise, or where the applicant proposes appropriate alternative measures, the Council will expect the applicant ²⁹to identify any areas of sound leakage from the premises and include in the operating schedule measures for addressing any areas so identified, such as:

- Keeping doors and windows closed and providing adequate mechanical ventilation
- Reducing sound levels and installing a sound limiting device to prevent sound exceeding the appropriate level
- Installing soundproofing measures to contain sound and vibration

In all cases the Council will expect the applicant to propose practical steps as to how disturbance to local residents will be prevented and the following general issues should be covered in the operating schedule:

- The establishment of an appropriate noise assessment procedure
- The establishment of monitoring systems to demonstrate compliance with noise policies and with any specific noise restrictions
- The establishment of an internal communications procedure for dealing with noise issues
- The establishment of methods for logging and responding to noise complaints within appropriate time limits
- The provision of general advice and training on noise control to employees

(2) Plant and Machinery

Fixed plant and machinery such as refrigeration equipment, air conditioning plant and cooking extraction systems, if not properly located designed, constructed and maintained can cause noise disturbance. The noise produced may not be a problem during the early evening but may cause disturbance to local residents later at night when they are trying to sleep, i.e. after 23:00. The total noise energy (L_{Aeq}), background noise (L_{A90}) and tonal content of the noise are important. Premises which will be operating such plant and machinery should demonstrate in their operating schedules that airborne and structure-borne noise produced will not cause disturbance to local residents and this could include measures such as switching off fans and ventilation not required for public areas at 23:00.

Reason

The licensable activities represent a potential at some venues for enhanced noise levels. Conditions specifically designed to reduce the nuisance that such events may cause to others are therefore required.

(3) Noise from Patrons

The Council will expect popular venues (including take-aways), which attract queues, to formulate a system to avoid disturbance to residents. This can sometimes be achieved by simply ensuring that the direction of the queue is as far away as possible from residential accommodation.

However, excessive noise and/or disorder require more rigorous action. It is important that queues formed later in the evening are supervised to keep noise to a minimum. This action

²⁹ Berwin Leighton Paisner

can also help stop drug dealers from passing on drugs during the queuing process but the primary purpose is to prevent noise and disturbance. Door supervisors will generally carry out this role, but they must be given clear instructions as to their duties and responsibilities where necessary they should be adequately supervised.

In terms of patrons leaving the premises particularly late at night (after 2300) or early in the morning the Council will expect the applicant to have included in the operating schedule such practical steps as:

- Erecting prominent notices at the exits to premises asking customers to leave quietly and not to slam car doors
- At appropriate times making loudspeaker announcements within the premises to the same effect
- Instructing door staff to ask customers leaving the premises to leave the area quietly
- Reducing the volume of music towards the end of the evening and where appropriate playing quieter, more soothing music as the evening winds down
- Giving free sweets or chocolate to customers as they leave
- Where appropriate considering car jockey schemes
- Availability of licensed taxis or private hire vehicles to take patrons from the premises

Anti Social Behaviour

It is self evident that the risk of disturbance to local residents is greater when licensable activities continue late at night and into the early hours of the morning. For example the risk of resident's sleep being disturbed by patrons leaving licensed premises is obviously greater at 0200hrs than at 2300hrs.

The policy of the Council is to strike a fair balance between the benefits to a community of a licensed venue and the risk of disturbance to local residents. Consequently in sensitive areas, and following relevant representations, the Council may restrict the hours of operation, as an alternative to extensive sound insulation and noise control measures.

Premises open between 2300 and 09:00 will be expected to have:

- (a) ³⁰an operating schedule agreed with the Council that indicates the applicant is taking appropriate steps to comply with the licensing objective of preventing public nuisance.

Exceptions may be made where it can be demonstrated that:

- (a) the licensable activities would not be likely to cause adverse impact especially on local residents and that, if there is a potential to cause adverse impact, appropriate measures will be put in place to prevent it;
- (b) there will not be any increase in the cumulative adverse impact from these or similar activities, on an adjacent residential area; and

31

Reason

Special conditions may be required to address disturbances on licensable premise and their immediate vicinity brought about by the behaviour of patrons that cause nuisance to others.

³⁰ British Beer and Pub Association

³¹ British Beer and Pub Association

Street Furniture

The Beer gardens of public houses and particularly rural public houses are an asset to the premises. Similarly, the provision of tables and chairs outside the premises either on the highway or on private land can enhance the attractiveness of the venue. It can have the benefit of encouraging a continental style café culture. However, late at night these same tables and chairs can contribute to noise problems. This is because they can encourage patrons and passers by to loiter rather than disperse. In certain locations they have been taken over by gangs of noisy youths, and also have the potential to be used as weapons in violent situations.

The leaving of tables and chairs on the public highway will need the consent of the City Council under the Highways Act 1980. Consents issued under this legislation will require the tables and chairs to be removed outside hours permitted in the consent. On private land consent may not be required, but the operating schedule must adequately address crime and disorder and public nuisance issues. Where a potential for problems of this nature is present, operating schedules should indicate how the adverse impact would be avoided, which may include proposals for removing the tables and chairs before certain times, or otherwise effectively limiting or preventing their use outside certain hours. In predominantly commercial areas such as shopping centres the Council will normally allow hours of operation of 0800 to 2300. At the conclusion of these hours the Council will expect the removal of these tables and chairs

There should be no loud speakers outside the building unless agreed by the Council for a specific event or the announcement of food orders³² and the operating schedule must include measures to control noise e.g. hours of use, if near residential premises.

If these hours lead to adverse impacts on the safety and amenity of local residents they may be reduced on review unless appropriate measures have been agreed with the Council to mitigate these impacts.

Reason

A policy is required to balance between providing refreshment in the open air and avoiding nuisance to others. The need to control street furniture also impacts on the public safety and the crime and disorder requirements as the abuse of street furniture must be considered.

Sanitary Accommodation

Premises must have sufficient toilet provision for males and females, adequately signed, located, maintained and kept clean. In certain circumstances applicants may wish to erect notices on the premises suggesting customers may wish to avail themselves of the toilet facilities before leaving the premises.

Reason

To prevent the nuisance of people urinating or defecating in public places having visited licensed premises that have inadequate sanitary accommodation.

Exterior Lighting

Exterior lighting and security lighting must be positioned to avoid disturbing neighbouring residential property.

³² British Beer and Pub Association

Reason

Prevent the potential for nuisance due to bright lights shining into neighbouring properties.

Additional matters which should be considered by applicants are shown in Appendix D of this Licensing Policy

D. Section D: Protection of Children

Matters to be considered by Applicants

- D.1 When addressing the protection of children applicants should initially identify any particular issues (having regard to their particular type of premises and/or activities) which are likely to cause concern in relation to children. Such steps as are required to deal with these identified issues should be included within the applicant's Operating Schedule. They should also have³³ regard to the following matters when writing their operating schedules and are advised to consult the Area Child Protection Team, (Corinium House, 10-14 Andover Road, Winchester S023 7BX Tel 01962 869313 for Winchester, The Health Centre, Civic Way, Osborn Rd, Fareham PO16 7EP Tel 0845 600 45 55 for the south of the District.
- D.2 If the Council receive a representation, at the Hearing that determines the application, additional conditions may be imposed.
- D.3 It should be noted that it is unlawful under the 2003 Act to permit unaccompanied children under the age of 16 to be present on
- (a) premises exclusively or primarily used for supply of alcohol for consumption on those premises under the authorisation of a premises licence, club premises certificate or a temporary event notice when open for the purposes of being used for the supply of alcohol for consumption there; or
 - (b) in between midnight and 0500hrs at all premises supplying alcohol for consumption on those premises under the authorisation of any premises licence, club premises certificate or temporary event notice.

Conditions duplicating these provisions are therefore unnecessary.

ADULT ENTERTAINMENT

Where the activities proposed under the licence include those of a sex related nature (e.g. topless waitresses, striptease, table dancing etc) the Council will take into account the increased risk to the licensing objectives.

NOTE: For the sake of convenience the term "striptease" in this part of the policy should be taken to refer to any entertainment or service involving exposure of private parts or the sexual stimulation of patrons.

Where such entertainment is provided the operating schedule must include conditions designed to ensure that children are not admitted to and cannot witness these activities and to prevent crime and disorder problems. For example:

The area proposed for striptease shall:

- (a) be in a position where the performance cannot be seen from the street;
- (b) be in a designated area of the premises with segregation from the audience;
- (c) be in a position where the performers will have direct access to the dressing room without passing through or in close proximity to the audience.

³³ Berwin Leighton Paisner

Whilst striptease entertainment is taking place no person under the age of 18 shall be on the licensed premises and a clear notice shall be displayed at each entrance to the premises in a prominent position, so that it can be easily read by persons entering the premises, in the following terms:

“NO PERSON UNDER 18 WILL BE ADMITTED”

To prevent the possibility of children seeing unsuitable advertisements, unless the advertisement has been previously agreed by the Council, the policy of the Council will be to attach a condition to the effect that “Except with the consent of the Council there shall be no external advertising of the striptease entertainment either at the premises or in its immediate vicinity.”

Reason

These policies are designed to further the licensing objective of protecting children by preventing them being exposed to unsuitable material or acts. They are also designed to further the crime prevention and prevention of nuisance objectives by recognising the increased risk of nuisance or illegal activities such as performers offering “extras” to customers or the plying for trade by prostitutes.

Additional Controls

The Council will take strong measures to protect children from harm. In particular, it will ensure that strenuous efforts are made to reduce unlawful drinking of alcohol by children and young people under the age of 18. Examples of premises where the introduction of additional controls are likely to be necessary are:

- Where there have been convictions for serving alcohol to a minor or with a reputation for under-age drinking
- Where the premises or the activities being provided are likely to attract to children and young people seeking to unlawfully drink alcohol
- With a known association with drug taking or dealing
- Where there is a strong element of gambling on the premises
- Where entertainment of an adult or sexual nature is provided

In such circumstances, while it may sometimes be necessary to impose a complete prohibition, although this would only be imposed rarely. The Council would normally require:

- Limitations on the hours when children may be present
- Age limitations below 18
- Limitations or exclusions when certain activities are taking place
- Requirements for accompanying adults
- Full exclusion of people under 18 from the premises when any licensable activities are taking place.

Where there is provision of entertainment specifically for children (e.g. a children’s disco) the Council will require the presence of sufficient adults to control the access and egress of the children and assure their safety.

Reason

These policies are designed to allow flexibility for the licensee, to ensure that where appropriate licensed premises are “user friendly” for children but to ensure they are adequately protected.

Children & Cinemas

The Council expects licensees to include in their operating schedule arrangements for restricting children from viewing age restricted films classified according to the recommendations of the British Board of Film Classification.

Where the exhibition of films is permitted the authority will expect the age restrictions of the British Board of Film Classification (BBFC) in respect of the films to be exhibited to be complied with. Only in exceptional cases will variations of this general rule be granted by the Council and then only with appropriate safeguards.

In relation to specialist Film Festivals where it is desired to show films not classified by the BBFC the Council will, provided adequate notice has been given, classify the films concerned. To achieve consistency and the protection of children the Council will use the guidelines published by the BBFC.

Reason

To prevent children from viewing unsuitable films.

Children and Regulated Entertainment

It is expected that adult staff will be at places of public entertainment to control the access and egress of children and to protect them from harm. This requirement also applies to children present at an event as performers, in which case, for every ten children there must be one supervising adult present at all times.

Children and Purchase of Alcohol

The Council will actively encourage licensees to keep registers of refused sales (refusals/challenge books) where sales of alcohol and any other age-restricted goods have been refused for any reason. Keeping such records will help to demonstrate that responsibilities for checking ages of purchasers are being taken seriously. Refusals/challenge books should be kept on the licensed premises and be made available for inspection by the Licensing Officer, Trading Standards or the Police.³⁴

Additional matters which should be considered by applicants are shown in Appendix E of this Policy.

³⁴ Hampshire Trading Standards

SCHEME OF DELEGATION

Matter to be dealt with	Sub-Committee	City Secretary and Solicitor
Application for personal licence	If a Police objection made	If no objection made or the applicant, Council and Police all agree a hearing is not necessary.
Application for personal licence with unspent convictions	All cases	
Application for premises licence/club premises certificate	If a relevant representation made	If no relevant representation made
Application for provisional statement	If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate	If a relevant representation made	If no relevant representation made
Application to vary Designated Premises Supervisor	If a Police objection	All other cases
Request to be removed as Designated Premises Supervisor		All cases
Application for transfer of premises licence	If a Police objection	All other cases
Application for interim authorities	If a Police objection	All other cases
Application to review premises/club premises certificate	All cases	
Decision on whether a complaint is irrelevant, frivolous, vexacious, etc		All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application	All cases	
Determination of a Police objection to a temporary event notice	All cases	
In cases where the Magistrates' Court has determined the licence on appeal		All cases

Prevention of Crime and Disorder

Measures which should be considered

Electronic Communication Devices

Electronic communication devices such as radios or text pagers connecting premises licence holders, designated premises supervisors, managers of premises clubs to the local Police can provide for rapid response by the Police to situations of disorder which may be endangering the customers or staff on the premises.

Such devices provide two-way communication, enabling licence holders, managers, designated premises supervisors and clubs to report incidents to the Police and also enabling the Police to warn a large number of other premises of potential trouble-makers or individuals suspected of criminal behaviour who are about in a particular area. Radios or pager systems 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.

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

Where door supervisors conducting security activities are to be a condition of a licence, which means that they would have to be registered with the Security Industry Authority, conditions may also need to deal with a number of such supervisors, the displaying of name badges, the carrying of proof of registration, where and at what times they should be stationed on the premises and whether at least one female should be available (for example, if female customers are to be the subject of body searches).

Door supervisors also have a role to play in ensuring public safety.

Bottle Bans

Bottles may be used as weapons inflicting more serious harm during incidents of disorder. A condition can prevent sales of drinks in their bottles for consumption on the premises. However, many women consider that drinking from bottles to be safer as it is easier for them to prevent the spiking of drinks with drugs in bottles the openings of which may be readily covered. These issues, therefore, need to be carefully balanced.

Plastic Containers and Toughened Glass

Glasses containing drinks may be used as weapons during incidents of disorder and can cause very serious injuries. Consideration should therefore be given to conditions requiring either the use of plastic containers or toughened glass that 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 necessary. For example, the use of glass containers on the terraces of outdoor sports grounds may obviously be of concern, but similar concerns may also apply to indoor sports events such as boxing matches. Similarly, the use of such plastic 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 a necessary condition.

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

CCTV

The presence of CCTV cameras can be an important means of deterring and detecting crime at and immediately outside licensed premises. Operating schedules should state the precise siting of each camera, the arrangements which will be put in place to maintain cameras in working order and the proposed retention period for such tapes.

The Police should provide individuals conducting risk assessments when preparing operating schedules with advice on the use of CCTV to prevent crime.

Open Containers Not to be Taken From the Premises

Drinks purchased in licensed premises or clubs may be taken from those premises for consumption elsewhere. Where premises are licensed for the sale of alcohol for consumption off the premises that would be entirely lawful. However, consideration should be given to preventing the taking of alcoholic and other drinks from the premises in open containers (e.g. glasses and opened bottles). This may again be necessary to prevent the use of these containers as offensive weapons in surrounding streets after individuals have left the premises.

Restrictions of Drinking Areas

It may be necessary to restrict the areas where alcoholic drinks may be consumed in premises after they have been purchased from the bar. An example would be at a sports ground where the police consider it necessary to prevent the consumption of alcohol on the terracing of sports grounds during particular sports events. Operating Schedules should not only specify these areas, but also indicate the circumstances in which the ban would apply and times at which it should be enforced.

Capacity Limits

Operating Schedules may need to set capacity limits for licensed premises or clubs where it may be necessary to prevent overcrowding which can lead to disorder and violence. 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 and in such cases, the numbers of such door supervisors required.

Proof of Age

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 to require a policy to be applied at certain licensed premises requiring the production of "proof of age" before such sales are made. This should not be limited to recognised "proof of age" cards, but allow for the production of other proof, such as photo-driving licences and passports.

Crime Prevention Notices

It may be necessary at some premises for notices to be displayed warning customers of the prevalence of crime that may affect them. For example, in certain areas, a condition attached to a premises licence or club premises certificate might require the displaying of notices at the premises advising customers about the need to be vigilant of unattended bags because of concerns about terrorism.

Signage

It may be necessary for the normal hours under the terms of the premises licence or club premises certificate at which licensable activities are permitted to take place to be displayed on or immediately outside the premises so that it is clear when breaches of the terms of the licence or certificate are taking place.

Similarly, 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.

It will often be important for the Police, authorised officers and members of the public to know the name of the person who is in charge of the premises when they are open for trading. In appropriate circumstances, a condition may be imposed requiring the name of the duty manager or other responsible person in charge to be displayed.

Reference: Home office guide – Design out crime

Public Safety

The following bibliography provides suitable information and guidance to assist applicants to determine the appropriate provisions and standards required for public safety.

Model National and Standard Conditions for Places of Public Entertainment and Associated Guidance ISBN 1 904031 11 0 (Entertainment Technology Press – ABTT Publications)

BS: 5588 Part 6: 1991. “Code of practice for places of assembly”

Approved document B to the Building Regulations.

Guide to Fire Precautions in Existing Places of Entertainment ISBN 0 11 340907 9 (HMSO 1990)

Fire safety, “An Employers Guide” ISBN 0 11 341229 0

Fire Safety Manual – Volume 3: Part A: Section 1 “Licensing of Community Premises – Inspection Policy

Sample conditions of licence/Local Authority Regulations relating to Entertainment – fire safety reference material.

DCOL 14/1995 – Technical Standards for marquees and large tents provided for exhibitions and entertainment.

HSG 195 – The Event Safety Guide, a guide to health, safety and welfare at music and similar events (HSE 1999) (“The Purple Book”) ISBN 0 7176 2453 6

HSE/Home Office “Guide to Health Safety and Welfare at Pop Concerts and similar events.

Managing Crowds Safely (HSE 2000) ISBN 0 7176 1834 X

5 Steps to Risk Assessment: Case Studies (HSE 1998) ISBN 07176 15804

The Guide to Safety at Sports Grounds (The Stationary Office 1997) (“The Green Guide”) ISBN 0 11 300095 2

Safety Guidance for Street Arts, Carnival, Processions and Large Scale Performances published by the independent Street Arts Network, copies of which may be obtained through www.streetartsnetwork.org/pages/publication

Additional assistance on fire safety related matters can be found by visiting Hampshire Fire and Rescue Service web site: www.hantsfire.gov.uk

Additional Measures to be considered

1. Disabled People

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

- When disabled people are present, adequate arrangements exist to enable their safe evacuation in the event of an emergency; and
- Disabled people on the premises are made aware of those arrangements.

2. Escape routes

It may be necessary 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 that internal gangways are kept unobstructed.

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:

- All exits doors are easily open able 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 security fastenings are removed prior to the premises being open to the public;
- All fire doors are maintained effectively self-closing and shall not be held open
- Fire resisting doors to ducts, service shafts and cupboards shall be kept locked shut
- The edges of the treads of steps and stairways are maintained so as to be conspicuous
- Adequate handrails to staircases and changes of floor level

3. Safety checks

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:

- Safety checks are carried out before the admission of the public; and
- Details of such checks are kept in a log - book.

4. Curtains, hangings, decorations and upholstery

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:

- Hangings, curtains and temporary decorations are maintained in a flame-retardant condition; and
- Any upholstered seating meets on a continuous basis the pass criteria for smouldering ignition source 0, flaming ignition source 1 and crib ignition source 5 when tested in accordance with Part 5 of BS 5852:1990; and
- Curtains, hangings and temporary decorations are arranged so as not to obstruct exits, fire safety signs or fire-fighting equipment; and
- Any temporary decorations which may be used from time to time must be specified in the operating schedule. Any decorations that are not so specified must not be used without the express consent of the Council.

5. Accommodation limits

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:

- Arrangements are made to ensure that any capacity limit imposed under the premises licence or club premises certificate is not exceeded; and
- The personal 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 of these details on request.

6. Fire action notices

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:

- Notices detailing the actions to be taken in the event of fire or other emergencies, including how the fire brigade should be summoned, are prominently displayed and protected from damage and deterioration.

7. Outbreaks of fire

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:

- The fire brigade must be called at once to any outbreak of fire, however slight and the details recorded in a Fire Log-book.

8. Loss of water

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:

- The local Fire Control centre are notified as soon as possible if the water supply to any hydrant, hose reel, sprinkler, drencher or other fire extinguishing installation is cut off or restricted.

9. Access for emergency vehicles

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:

- Access for emergency vehicles is kept clear and free from obstruction.

10. First aid

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:

- Adequate and appropriate supplies of first aid equipment and materials are available on the premises.
- 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.

11. Lighting

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:

- 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.
- Fire safety signs are adequately illuminated.
- Emergency lighting is not to be altered without the consent of the Council.
- Emergency lighting batteries are fully charged before the admission of the public, members or guests.
- In the event of the failure of normal lighting, where the emergency lighting battery has a capacity of an 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.

12. 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 notification to the Council at least ten days before commencement of the work.
- Temporary electrical wiring and distribution systems shall comply with the recommendations of BS 7671 or where applicable BS 7909.
- Temporary electrical wiring and distribution systems are inspected and certified by a competent qualified person before they are put to use.

13. Ventilation

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:

- Where the ventilation system is designed to maintain positive air pressure within part of the premises, that pressure is maintained whenever the public, member or guests are present in that part of the premises.
- Ventilation ducts are kept clean.
- Air filters are periodically cleaned and replaced to maintain a satisfactory air supply.

14. Indoor Sports Entertainment

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:

- If necessary, 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 supported to the satisfaction of the Council and any material used to form the skirt around the ring is flame-retardant.
- At any wrestling or other entertainments of a similar nature members of the public do not occupy any seat within 2.5 metres of the ring.
- 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 issued jointly by the Health and Safety Commission and Sport England).

15. Theatres and Cinemas (Promotion of Public Safety)

There are particular matters in the context of public safety and fire 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.

Premises used for Closely Seated Audiences

Attendants

- (a) The number of attendants on each floor in a closely seated auditorium should be as set out in the table below:

Number of members of the audience present on a floor	Minimum number of attendants required to be present on that floor
1 - 100	One
101 - 250	Two
251 - 500	Three
501 - 750	Four
751 - 1000	Five
And one additional attendant for each additional 250 persons (or part thereof)	

- (b) Attendants shall not be engaged in any duties that would hinder the prompt discharge of their duties in the event of an emergency or entail their absence from that floor or auditorium where they are on duty.
- (c) Any attendant shall be readily identifiable to the audience (but this need not entail the wearing of a uniform).
- (d) The premises shall not be used for a closely seated audience except in accordance with seating plan(s), a copy of which is available at the premises and shall be shown to any authorised person on request.
- (e) No article shall be attached to the back of any seat which would reduce the clear width of seat ways or cause a tripping hazard or obstruction.
- (f) A copy of any certificate relating to the design, construction and loading of any temporary seating shall be kept available at the premises and shall be shown to any authorised person on request.

Standing and Sitting in Gangways etc

- (a) Sitting on floors shall not be permitted except where authorised in the premises licence or club premises certificate.
- (b) Waiting or standing shall not be permitted except in areas designated in the premises licence or club premises certificate.
- (c) In no circumstances shall anyone be permitted to -
 - (i) sit in any gangway
 - (ii) Stand or sit in front of any exit; or
 - (iii) Stand or sit on any staircase including any landings.

Drinks

Except as authorised by the premises licence or club premises certificate, no drinks shall be sold to or be consumed by a closely seated audience except in plastic and paper containers.

Balcony Fronts

Clothing or other objects shall not be placed over balcony rails or upon balcony fronts.

Special effects

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. Advance warning of any special effects should be given.

Special effects include:

- Dry ice machines and cryogenic fog
- Smoke machines and fog generators
- Pyrotechnics, including fireworks
- Real flame
- Firearms
- Motor vehicles
- Strobe lighting
- Lasers (see HSE Guide The Radiation Safety of lasers used for display purposes [HS(G)95] and BS EN 60825: Safety of laser products)
- explosives and highly flammable substances

- In certain circumstances, it may be necessary to require that certain special effects are only used with the prior consent of the Council.

Scenery

Any scenery should be maintained flame-retardant.

Safety curtain

Where a safety curtain is necessary, it should be arranged so as to protect the audience from the effects of a fire or smoke on stage for sufficient time to enable the safe evacuation of the auditorium.

Where a stage with a proscenium arch is not equipped with a safety curtain, any curtains provided between the stage and the auditorium should be heavy weight and be made of non-combustible material or inherently or durably treated flame-retarded fabric.

Ceilings

All ceilings in those parts of the premises to which the audience are admitted should be inspected by a suitably qualified person every five years and a structural safety certificate concerning the condition of the ceilings forwarded to the Council.

Seating

Where potential audience exceeds 250 all seats in the auditorium should, except in boxes accommodating not more than 8 persons, be either securely fixed to the floor or battened together in lengths of not fewer than four or more than twelve.

Premises used for Film Exhibitions

Attendants - premises without a staff alerting system

Where the premises are not equipped with a staff alerting system the number of attendants present should be as set out in the table below:

Number of members of the audience present on the premises	Minimum number of attendants required to be on duty
1 - 250	Two
And one additional attendant for each additional 250 members of the audience present (or part thereof)	
Where there are more than 150 members of an audience in any auditorium or on any floor	At least one attendant shall be present in any auditorium or on any floor

Attendants - with a staff alerting system

- (a) Where premises are equipped with a staff alerting system the number of attendants present should be as set out in the table below:

Number of members of the audience present on the premises	Minimum number of attendants required to be on duty	Minimum number of staff on the premises who are available to assist in the event of an emergency
1 - 500	Two	One
501 - 1000	Three	Two
1001 - 1500	Four	Four

1501 or more	Five plus one for every 500 (or part thereof) persons over 2000 on the premises	Five plus one for every 500 (or part thereof) persons over 2000 on the premises
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- (b) staff shall not be considered as being available to assist in the event of an emergency if they are:
- (i) the holder of the premises licence or the manager on duty at the premises; or
 - (ii) a member of staff whose normal duties or responsibilities are likely to significantly affect or delay his response in an emergency situation; or
 - (iii) a member of staff whose usual location when on duty is more than 60 metres from the location to which he is required to go on being alerted to an emergency situation.
- (c) 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.
- (d) The staff alerting system shall be maintained in working order.

Minimum Lighting

The level of lighting in the auditorium should be as great as possible consistent with the effective presentation of the film; and the level of illumination maintained in the auditorium during the showing of films would normally be regarded as satisfactory if it complies with the standards specified in BS CP 1007 (Maintained Lighting for Cinemas).

Flammable films

No flammable films should be allowed on the premises without the consent of the Council.

THE PREVENTION OF PUBLIC NUISANCE

Additional matters to be considered

1. Nature of Activities

Operating Schedules should set out the type of licensable activities which are planned for the premises and assess the potential public nuisance which could arise as a result of such activities. The Operating Schedule should then set out the physical works and other measures proposed to mitigate or avoid such effects.

2. Proximity to Residential Premises

The location of the premises should be described in relation to nearby residential premises (usually by way of a map at an appropriate scale) and again the impact on these premises should be assessed and appropriate mitigation/avoidance measures set out.

3. Management of Premises

The Operating Schedule should explain how the premises will be run to prevent public nuisance. Measures proposed could include door staff being provided to manage queues, etc.

4. Hours

The hours during which the premises are permitted to be open to the public or to members and their guests can be restricted (other than where they are protected by the transitional provisions of the Licensing Act 2003) by the conditions of a premises licence or a club premises certificate for the prevention of public nuisance. This must be balanced by the potential impact on disorder that results from artificially early fixed closing times.

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.

Restrictions might be necessary on the parts of premises that might be used for certain licensable activities at certain times. For example, while the provision of regulated entertainment might be permitted while the premises is open to the public or members and their guests, regulated entertainment might not be permitted in a garden area of the premises after a certain time.

5. Noise and vibration

In certain premises where 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 the occupants of 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.
- Prohibit certain rooms from being used for purposes that create noise.
- The use of explosives, pyrotechnics and fireworks of a similar nature, which could cause disturbance in surrounding area are restricted.
- The placing of refuse - such as bottles - into receptacles outside the premises takes place at times that will minimise the disturbance to nearby properties.

6. 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 from licensed premises are not permitted so as to cause a nuisance to nearby properties and the premises are properly vented.

7. Light pollution

Flashing or particularly bright lights on or outside licensed premises should not cause a nuisance to nearby properties. Any such condition needs to be balanced against the benefits to the prevention of crime and disorder of bright lighting in certain places.

THE PROTECTION OF CHILDREN

Additional matters to be considered

Access for children to licensed premises - in general

Restrictions on the access of children under 18 to premises where licensable activities are being carried on should be made where it is necessary to protect children from harm. Conditions attached to premises licences and club premises certificates may reflect the concerns of responsible authorities and interested parties who have made representations but only where the Council considers such conditions necessary to protect children from harm. Whilst applications in relation to premises licences and club premises certificates must be judged by the Council on their individual merits and characteristics, the Secretary of State recommends (unless there are circumstances justifying the contrary) that:

- For any premises with known associations (having been presented with evidence at a hearing) with underage drinking, drugs, significant gambling, or any activity or entertainment (whether regulate 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 2200 hrs 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 operation 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 personal licence holder, designated premises supervisor or club's discretion, the expectation would be for unrestricted access for children of any age to premises. An operating schedule or club operating schedule should indicate any decision for the premises to exclude children completely, following from which there would be no need to include in the schedule steps the applicant proposes to take to promote the protection of children from harm.

Age Restrictions - specific

Under the 2003 Act a wide variety of licensable activities could take place at various types of premises and at different times of the day and night. Whilst it may be appropriate to allow children unrestricted access at particular times and when certain activities are not taking place the Council (following relevant representations made by responsible authorities and

interested parties) will need to consider a range of conditions that are tailored to the particular premises and their activities where these are necessary. The Council will consider:

- The times of day during when age restrictions should and should not apply. For example, the fact that adult entertainment may be presented at premises after 2000 hrs does not mean that it would be necessary to impose age restrictions for earlier parts of the day.
- Types of event or activity in respect of which no age restrictions may be needed, for example;
 - Family entertainment; or
 - Non-alcoholic events for young age groups such as under 18s dances

Similarly, types of event or activity that give rise to a more acute need for age restrictions than normal, for example:

- During "Happy Hours" or on drinks promotion nights;

35

Age restrictions - cinemas

The Secretary of State considers that, in addition to the mandatory condition imposed by virtue of Part 20 of the Act, requiring the admission of children to films to be restricted in accordance with recommendations given either by a body designated under Part 4 of the Video Recordings Act 1984 or by the Council itself, conditions restricting the admission of children to film exhibitions should include:

- A condition that where the Council itself is to make recommendations on the admission of children to films, the cinema or venue operator must submit any film to the authority that it intends to exhibit 28 days before it is proposed to show it. This is to allow the authority time to classify it so that the premises licence holder is able to adhere to any age restrictions then imposed.
- A condition that when films are classified, by either the film classification body as specified in the licence or the Council, they should be classified in the following way:
 - U Universal - suitable for audiences aged four years and over
 - PG - Parental Guidance. Some scenes may be unsuitable for young children.
 - 12 - Passed only for viewing by persons aged 12 years or older
 - 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
- That conditions specify that immediately 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 a film, of the statement approved by the Board indicating the classification of the film.

³⁵ British Beer and Pub Association

- A condition that when a Council has made a recommendation on 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. Such a condition might be expressed in the following terms:

"Where a programme includes a film recommended by the Council as falling into the 12, 12A, 15 or 18 category no person appearing to be under the age of 12, under 12 and unaccompanied, 15 or 18 as appropriate shall be admitted to any part of the programme; and the licence holder shall display in a conspicuous position at each entrance to the premises a notice in the following terms -

PERSONS UNDER THE AGE OF [INSERT APPROPRIATE AGE] CANNOT BE ADMITTED TO ANY PART OF THE PROGRAMME

Where films of different categories form part of the same programme, the notice shall refer to the oldest age restriction.

This condition does not apply to members of staff under the relevant age provided that the prior written consent of the person's parents or legal guardian has first been obtained,"

Theatres

The admission of children to theatres, as with other licensed premises, is not normally expected to 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 will normally be left to the discretion of the licence holder and no condition restricting the access of children to plays should be attached. 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. Entertainment may also be presented at theatres specifically for children (see below).

Consideration will be given to the imposition of conditions to premises licence requiring 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.

Performances especially for children

Where performances are presented especially for children in theatres and cinemas conditions are anticipated to be needed which:

- Require that an attendant 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.
- Specify whether or not standing will be allowed. For example, there may be reduced risk for children in the stalls than at other levels or areas in the building.

Children in performances

There 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 set out requirements for children performing in a show. However, if it is necessary to consider imposing conditions for the promotion of the protection of children from harm then the Council will 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, concerts 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.

GLOSSARY OF TERMS USED

Note: *In this Policy, the following definitions are included to provide an explanation of certain terms included in the Act and therefore in the Policy. In some cases they are an abbreviation of what is stated in the Licensing Act 2003 or an interpretation of those terms. For a full definition of the terms used, the reader must refer to the Licensing Act 2003.*

Club Premises Certificate	A certificate granted under the Licensing Act 2003 for premises habitually used by a club which fulfils certain statutory criteria.
Designated Premises Supervisor	The person (who must be a Personal Licence holder), in the case of premises selling alcohol, who will normally have been given the day to day responsibility for running the premises by the holder of the Premises Licence or will be the Premises Licence holder himself (who must also be a Personal Licence holder).
Interested Party	Any of the following: (a) A person living in the vicinity of the premises, (b) A body representing persons who live in that vicinity e.g. a residents association (a) A person involved in a business in that vicinity (b) A body representing persons involved in such businesses e.g. a trade association
Late Night Refreshment	the supply of hot food or hot drink to members of the public (whether for consumption on or off the premises) between the hours of 11.00 pm and 5.00 am.
Licensable Activities	<ul style="list-style-type: none">• the sale by retail of alcohol• the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club• the provision of Regulated Entertainment• the provision of Late Night Refreshment
Licensed Premises	includes club premises and events unless the context otherwise requires
Operating Schedule	a document containing a statement of the following matters (and any others that may be prescribed):- <ul style="list-style-type: none">• the relevant Licensable Activities• the times at which the Licensable Activities are to take place and any other times when premises are open to the public• information regarding the person who will be specified in the Premises Licence as the Premises Supervisor• where the Licensable Activities involve the supply of alcohol, whether it is for the supply on and/or off the premises• steps being taken to promote the Licensing Objectives
Personal Licence	A licence granted to an individual authorising that individual to supply alcohol
Premises Licence	A licence granted under the Licensing Act allowing premises to be used for one or more Licensable Activities
Relevant	Representations which are:

Representation

- (a) relevant to one or more of the licensing objectives; and
- (b) made by an interested party or responsible authority within the appropriate period; and
- (c) have not been withdrawn; and
- (d) if they are made by an interested party (who is not also a responsible authority), are not, in the opinion of the Council frivolous, or vexatious

The Council will determine whether representations are relevant or not.

Responsible Authority

These include any of the following:

- (a) The Chief Officer of Police
- (b) The Fire Authority (Hampshire Fire and Rescue)
- (c) The enforcing authority for health and safety at work (either the Health and Safety Executive or the City Council)
- (d) The local planning authority (the City Council)
- (e) The local authority by which statutory functions are exercisable in any area in which the premises are situated in relation to minimising or preventing the risk of pollution of the environment or of harm to human health (the City Council (Environmental Health Section))
- (f) A body which:
 - (i) represents those who, in relation to any such area, are responsible for, or interested in, matters relating to the protection of children from harm and
 - (ii) is recognised by the licensing authority for that area for the purposes of this section as being competent to advise it on such matters
(in Winchester's case, this will be the relevant Area Child Protection Team)
- (g) in relation to a vessel, a navigation authority, the Environment Agency, Maritime and Coastguard Agency or the British Waterways Board.

Regulated Entertainment

- a performance of a play
- an exhibition of a film
- an indoor sporting event
- a boxing or wrestling entertainment
- a performance of live music
- any playing of recorded music
- a performance of dance

(or entertainment of a similar description falling within the last three of the categories listed above), where the entertainment takes place in the presence of and for the purposes of entertaining that audience or spectators.

Temporary Event Notice

a temporary activity involving one or more Licensable Activities subject to the following various conditions and limitations:-

- duration – they are limited to events lasting for up to 96 hours;
- scale – less than 500 people present at the event at any one time;
- use of the same premises – the same premises cannot be used on more than 12 occasions in a calendar year, but are subject

to the overall aggregate of 15 days irrespective of the number of occasions on which they have been used; and

- the number of notices given by an individual within a given period of time – a Personal Licence holder is limited to 50 notices in one year and any other person to five notices in a similar period.

in any other circumstances, a full Premises Licence or Club Premises Certificate will be required for the period of the event.

Winchester City Council Draft Licensing Policy October 2004

For official use only:
Reference:

Form for commenting on the proposed Licensing Policy

Name	Address
Please indicate your interest in the policy (e.g. licensee, resident, business, agent for pub company, etc.)	

Where possible, please refer to specific paragraphs or policies. Please continue on separate sheets as necessary. * delete as applicable

Deletion Proposals

Are there any paragraphs or sections you believe should be deleted from the draft, and omitted in the final Policy?	Yes/No*
If "Yes", please explain why	

Rewording Proposals

Are there any paragraphs or sections which you believe should be retained in the Policy, but reworded?	Yes/No*
If so, please explain why;	
And set out how the wording should be changed	
And your reasons	

Omissions

Are there any matters which have not been included in the draft policy, which you believe should be included in the final Policy?	Yes/No *
If so, please state what matters should be included;	
And any suggested wording	

General Comments

Please set out any other general comments on the draft policy which you would wish the Council to consider before adopting the final Policy.
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Date	Signature
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Please return all completed forms:-

- By email (licensing@winchester.gov.uk)
- By post to Licensing and Registration Manager, Winchester City Council, City Offices, Colebrook Street, Winchester, Hants, SP23 9LJ

by no later than Friday 15 November 2004

Please note that all representations received will be made available to the public in accordance with the Local Government (Access to Information) Act 1985. Confidential or anonymous representations cannot be taken into account.