

ROYAL BOROUGH OF KINGSTON UPON THAMES



**THE LICENSING ACT 2003**

**STATEMENT OF LICENSING POLICY**

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# ROYAL BOROUGH OF KINGSTON UPON THAMES

## THE LICENSING ACT 2003

### STATEMENT OF LICENSING POLICY

#### PREFACE

The Royal Borough of Kingston upon Thames lies to the south west of London with a population of around 155,000. It plays a major role as a commercial and employment centre serving a wider catchment of SW London and NE Surrey, particularly through Kingston town centre's role as a major shopping centre and provider of evening and night time entertainment. The River Thames, the County of Surrey, and the London Boroughs of Richmond, Sutton, Merton and Wandsworth border it. The Borough has a long and rich history and includes the suburban areas of Surbiton, New Malden, Old Malden, Coombe, Tolworth, Chessington and Worcester Park.

In addition to its residential population, the Borough attracts an estimated quarter of a million shoppers every week. Kingston town centre, also has a range of cultural and entertainment attractions including a 14 screen cinema in the Rotunda, bowling, bingo, 6 health and fitness clubs, 3 main nightclubs plus smaller clubs, the Kingfisher leisure centre, the library and museum, hotels, the Kingston College arena and a new theatre due to open in 2005. The town centre is a major higher and further education centre with Kingston University and Kingston College. The University employs some 1800 academic professional and support staff and has around 17,000 students. The majority of full time students reside within the local area and are increasingly working as flexible part time employees in retail and service businesses in the town centre.

The Council is justifiably proud of the development of the Borough across the whole and, in particular, the facilities that are provided in Kingston Town Centre. The development of the Town Centre has also included increased residential accommodation so as to encourage a mix of activity during the day and at night and the last five years have seen the completion of 10 new housing developments adding 750 flats to the town centres stock of about 400 residential properties.

The town centre has a vibrant evening and late night economy with a total capacity of over 15,000, and on average drawing up to 10,000 visitors from a wide catchment area. Whilst this activity brings enjoyment to large numbers of people, makes the town centre more lively and interesting; creates business opportunities and provides jobs; it also raises concerns and problems of noise, and other anti social behaviour. These are particularly prevalent after pub/clubs close.

In exercising its powers under this Act, the Council will be mindful of these concerns whilst acknowledging that there are limitations on its powers and that a fair balance must be struck between all the stakeholders involved; including, licensees, businesses and users of entertainment facilities as well as residents.

Council will expect and encourage those engaged in operating licensed premises in the Town Centre and, indeed, across the whole of the Borough to carefully examine how they operate and how what they do may affect residents and businesses. In cases where Licensees do not act reasonably the Council will use its powers to exercise controls as far as that is possible.

In addition the Council is seeking through its “After Dark” and “K+20” strategies to provide services and develop strategies that will assist in meeting the changes and challenges that will result from the Licensing Act and provide a good balance for evening visitors. Finally, a Business Improvement District is now in place for Kingston Town Centre, which will allow Kingston Town Centre Management to pursue complementary improvements to services and facilities.

## **INTRODUCTION**

1. The following policy has been approved by the Royal Borough of Kingston upon Thames (The Council) in accordance with its responsibilities and powers under the Licensing Act 2003.
2. In determining its policy for this three-year period the Council has consulted with and taken into account the views of a wide range of authorities and organisations which include:
  - The Metropolitan Police
  - Kingston Community and Police Consultative Group
  - London Fire and Emergency Planning Authority
  - Residents Associations and the public generally
  - Representatives of licensees
  - Representatives of local businesses, Chambers of Commerce and Trade Associations
  - Neighbourhood Committees of the Council
  - Kingston Town Centre Management Board
  - Crime and Disorder Reduction Panel
  - British Transport Police
  - Kingston NHS Trust
3. When undertaking any review of the policy the Council will, in addition to the foregoing, consult with any:
  - persons/bodies representative of local holders of premises licences
  - persons/bodies representative of local holders of club premises certificates
  - persons/bodies representative of local holders of personal licences
4. This policy will remain in force for a period not exceeding three years from approval and within that period will be reviewed. Reviews will take into consideration feedback from the community on whether it is considered that the licensing objectives are being met.
5. The policy relates to all those activities falling within the scope of the Licensing Act 2003 (The Act) for which the Council is the Licensing Authority namely:
  - retail sale of alcohol
  - supply of alcohol to club members
  - the provision of late night refreshment
  - the provision of regulated entertainment (ie. music and dancing, plays, films, indoor spectator sport)

## **PROMOTION OF LICENSING OBJECTIVES**

6. In carrying out its functions under the Act the Council has a duty to promote the following licensing objectives:
  - the prevention of crime and disorder
  - public safety
  - the prevention of public nuisance
  - the protection of children from harm

These objectives are the only matters that can be taken into account when determining applications.

7. Through this policy and the implementation of the Act the Council will seek to protect the amenity of local residents in so far as the Act and the need for the fair treatment of applicants permit. However, the Council's powers under the Act are only one means by which these objectives may be met and the Act must not be regarded as the only method for resolving all problems that result from the use of premises for leisure pursuits and associated night-time activity.
8. In accordance with the Act's intentions, licensing powers will deal only with regulating licensable activities on licensed premises, by qualifying clubs and at temporary events as defined. To that end the conditions that attach to authorisations will focus upon matters which are within the control of individual licensees and others in possession of relevant authorisations. This may include matters "in the vicinity" of the licensed premises.
9. In making its decisions the Council will bear in mind the following examples of other powers and responsibilities (that may be used to deal with such matters as noise, littering and disturbances in the street after people have left licensed premises):
  - planning controls
  - the Council's duties under section 17 of the Crime and Disorder Act 1998
  - the Council's powers to prohibit the consumption of alcohol in public places
  - the Council's crime and disorder strategies, protocols and liaison in conjunction with the Police, LFEPA, Social Services and other organisations
  - enforcement of legislation by the police in respect of disorder and anti-social behaviour in public places
  - police powers to close licensed premises for 24 hours where they are giving rise to extreme disorder or noise
  - enforcement action by the police against selling alcohol to people who are intoxicated
10. The powers under this Act and the attachment of conditions will not be used so as to duplicate controls and regulation already provided for under other legislation. For example planning, fire safety, health and safety and public disorder and noise which is not directly attributable to the premises to which the licence relates.
11. The Conditions that the Council imposes will only relate to matters which the licensee can be expected to control and such conditions will therefore only relate to the premises themselves and the vicinity thereof.
12. In determining applications for new licences or request for revisions, particular regard is to be had to any possible adverse effects on residents that may be brought about by permitting smoking in outside areas under the control of the licensee or removing or not imposing appropriate no re-entry prohibitions.

## **FAIR AND EQUITABLE TREATMENT**

13. Nothing in this statement of policy will:

- undermine the rights of any person to have his/her application considered on its individual merits and in accordance with natural justice and human rights
- negate the right of any person to make representations regarding any application or to seek a review of any licence and for those representations to be properly considered in accordance with natural justice and human rights

## **THE APPLICATION OF LICENSING CONTROLS**

14. The Act will be implemented so as to promote licensable entertainment in a balanced way. To this end the Council recognises that the entertainment industry makes a major contribution to the economy and employment in the Borough, meets a large public demand and is of assistance in implementing cultural strategies. Therefore, in determining applications account will be taken of:

- the need to balance local representations against the benefits to the community at large
- the need to avoid the imposition of conditions that are unduly and unnecessarily restrictive.
- the desirability of promoting artistic and cultural events

15. Where licences are granted the Council will, where appropriate, attach conditions tailored to the individual characteristics and style of the premises so as to prevent noise and antisocial behaviour as far as practicable and will also work with the police, local businesses and other agencies to achieve this objective. These conditions will be selectively applied from a pool of the conditions set out in the Guidance from the Secretary of State or will be specifically drawn up to reflect the style and characteristics of the particular operation.

16. The police have intimated a particular concern that applicants for licences must have adequate operating schedules to deal with public nuisance and crime and disorder. Failure to address these issues may result in the police making representations in respect of any such application. Applicants are therefore urged to consult with the police before any application is made and particularly where there is an intention to extend opening hours.

17. In considering applications the Council will consider the adequacy of the applicant's proposals to meet the Council's licensing objectives and in particular the following:

- Measures to prevent the emission of noise
- Measures to prevent noise and disturbance from patrons arriving at and leaving the premises
- Means to prevent antisocial behaviour in the vicinity of the premises including the provision of CCTV and the use of Licensed Door Supervisors

18. The Council will work closely with all relevant bodies and particularly the Police in the determination of applications.

19. Stricter conditions with regard to noise control will be expected in areas that have denser residential accommodation but decisions on appropriate opening hours will be made on the basis of the individual merits of each application.
20. In determining applications for new licences or request for revisions, particular regard is to be had to any possible adverse effects on residents that may be brought about by permitting smoking in outside areas under the control of the licensee or removing or not imposing appropriate no re-entry prohibitions.
21. To ensure fair and equitable treatment and safeguard the rights of all parties the Council will not, except in the case of special saturation policies (see paragraphs 23 to 26):
  - impose a quota or limit on the number and or types of licensed premises within any specified area
  - seek to impose any general specified hour of closing for licensed premises
22. The Council will not consider more than one request in any 12 month period for a review of a licence on the same or similar grounds except in exceptional and compelling circumstances such as continued disorder which is clearly associated with the management of the premises or where the further review arises following a closure order.
23. Residents living within 50 metres of the application premises will be notified in writing where any application for a new, variation or review to a licence has been accepted. Given the timescales involved, written notification will not occur in respect of Minor Variations, which will only be permitted if they do not impact upon the licensing objectives.
24. The Head of Environmental Health and Trading Standards, Assistant Head of Environmental Health, Team Leader (Environmental Control) and the Principal Licensing Officer be authorised to determine whether requests for Reviews should be rejected on the grounds that they are frivolous, vexatious or repetitive following consultation with Chair or Vice Chair of the Committee.
25. The Council will not consider more than one request in any 12 month period for a review of a licence on the same or similar grounds except in exceptional and compelling circumstances such as continued disorder which is clearly associated with the management of the premises or where the further review arises following a closure order.

## **ENFORCEMENT PROTOCOLS**

26. The Council will has established protocols with the Police, the LFEPA to ensure the effective management of the Act and controls.

## **CUMULATIVE IMPACT**

27. The Council may adopt a special saturation policy where, following relevant representations from responsible authorities and/or interested parties and having consulted and considered the evidence, it is satisfied that the cumulative impact will:

- adversely affect the ability to meet the licensing objectives with particular reference to crime and disorder and public nuisance
  - make the area a focal point for the gathering of large group[s] of people away from the licensed premises themselves with consequent nuisance and disorder.
28. The adoption of a special policy would create a rebuttal presumption that premises licences or club premises certificates or major variations to existing licences will be refused because the granting thereof would undermine one or more of the Act's four objectives in the area specified.
29. The Council will consider the following matters when deciding whether to adopt a special saturation policy and any policy about future application in that area:
- information relating to serious and chronic concern about nuisance and disorder that has been submitted by a responsible authority or representatives of residents
  - the area that has been identified where problems of disorder and nuisance is arising as a result of customers from licensed premises
  - the causes and nature of the problem based upon evidence from responsible persons and sources
30. In making decisions regarding cumulative impact the Council will not have regard to "need" as that is principally a matter for the market and advice to planning authorities is that it is not the role of planning to restrict competition. However, the Council will have regard to the fact that different types of premises will have different effects when considering whether or not a licence should be granted or refused and that each application must be treated on its merits.

## **HOURS OF OPERATION**

31. The Council will not zone any area so as to prescribe any general terminal hour of opening but instead will consider each application on its merits having regard to the proposed use of the premises and the nature of the locality in which it is situated. Experience in other areas shows that zoning can lead to significant movements of people between locations late at night thereby putting pressure on those areas in a way that is not equitable to the people and amenities therein.
32. Unless it can be proven that the terminal hours required will cause adverse and unacceptable effects on those living in the surrounding area or amenities the assumption shall be that the terminal hours requested would be allowed.
33. Shops, stores and supermarkets will generally be permitted to sell alcohol for consumption off the premises during the normal hours they intend to open for shopping. However in cases where individual shops are a focus for disorder, disturbance or under age sales, a limitation on licensing hours may be imposed following representations from the Police or other enforcement organisations.

## AGE RESTRICTIONS AND PROTECTION OF CHILDREN

34. Whilst the Act does not in itself prohibit the access of children to any type of licensed premises the Council considers that age control is necessary in some circumstances. For instance in premises:

- where there have been convictions for serving alcohol to minors or that have a reputation for underage drinking
- where there is a significant element of gambling taking place
- where entertainment of an adult sexual nature is provided
- where there is a known association with drug taking or dealing

35. The conditions attached to licences in the circumstances listed in 30 could include:

- limitations on admission to persons below a specified age
- restrictions on hours when children below a specified age may be admitted
- prohibition of persons below a specified age at time when certain activities are taking place
- a requirement that admission will only be allowed when the person under the specified age is accompanied by an adult
- full exclusion for persons under the age of 18.

36. No condition will be attached to any licence that requires the admission of people under specified ages. This will be a matter for the discretion of the licensee.

37. When more than 100 children are expected to attend a regulated entertainment, conditions will be imposed requiring the presence of an appropriate number of adult staff if those children are unaccompanied by adults. Staff so provided must be suitably located to ensure the safety and protection from harm of the children. Operating Schedules will be required to satisfactorily address these issues. The Council expects the number of adults to children to be at least in the ratio of 1 adult to every 50 children.

38. Where the following circumstances apply and the Council is able to attach conditions operators, in some instances, will be required to obtain Enhanced Criminal Records Bureau checks on persons to be employed. These checks will be obtained through the Head of Children and Family Services.

- (a) The person must be employed in a supervisory capacity in a premises that is subject to a licence under the Act and
- (b) The majority of the children at the premises are expected to be 17 years of age or younger and
- (c) The majority of the children are not expected to be accompanied by a responsible person [i.e. a person of 18 years or more]
- (d) Enhanced Criminal Records Bureau checks will not in any circumstances be required where the person concerned will not, during the course of the licensed activity, have direct responsibility for supervising or working with children once they have been admitted [e.g. it will not apply to a person employed only as a door supervisor]

39. The Council recognises the Council's "Learning and Children's Services " within the Directorate of Community Services as being proper to advise on matters relating to the welfare of children and to whom copies of applications should be sent.

The Children and Family Services Division may be contacted as follows:

Learning and Children's Services  
Royal Borough of Kingston upon Thames  
Guildhall 1  
High Street  
Kingston upon Thames  
KT1 1EU

Telephone: 020 8547 5888

### **THE PORTMAN GROUP CODE OF PRACTICE AND DRINKS PROMOTIONS**

40. The Portman Group operates, on behalf of the alcohol industry, a Code of Practice and Retailer Alert Bulletin on the Naming, Packaging and Promotion of Alcohol Drinks. The Code seeks to ensure that drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years old or older. As such the Code is an important weapon in protecting children from harm and this Licensing Policy commends it to all those who sell or provide alcohol in the course of their business. This Council also encourages adoption of voluntary Codes of Practice produced by groups such as the British Beer and Pub Association [BBPA] Guidelines on On-Trade Promotions and which cover irresponsible drinks promotions.

### **ACCESS TO CINEMAS AND THE SHOWING OF FILMS**

41. The Council will impose conditions requiring that the viewing of films in licensed premises shall only be in accordance with the recommendations of the British Board of Film Classification or the classification awarded by the Council.

### **PUBLIC SAFETY AND PUBLIC NUISANCE**

42. Licensed premises will include those where attendees may be particularly vulnerable. It is therefore essential that premises be operated to a high standard of public and fire safety. The Council will expect operators to satisfactorily address these issues and applicants, prior to drawing up their schedules, should consult with the LFEPA concerning satisfactory capacity levels and measures to ensure adequate fire protection and means of escape.
43. Under the proposed fire safety reform orders operators will need to carry out a fire risk assessment and to set a capacity figure which should be included within the operating schedule.
44. Licensed premises, particularly those operating late at night have the potential to cause nuisance and disturbance to those living in the vicinity.
45. Operating schedules must properly address these issues in so far as it is within the capability and remit of the operator to do so and the schedules must be observed.

46. The Council will seek to protect the amenities of residents and businesses in the vicinity of licensed premises as far as that is practicable. Therefore when considering applications regard will be had to the following:
- procedures for the control of behaviour of customers queuing to gain admission
  - sound proofing and other measures to prevent noise escaping from the premises
  - installation of a sound limitation device if loud levels of music are played
  - minimising nuisance from open areas such as beer gardens and patios
  - steps to be taken to prevent nuisance from the delivery and disposal of bottles etc.
  - steps to be taken to minimise nuisance which may be caused by persons leaving the premises such as:
    - display of notices requesting patrons to leave quietly
    - loudspeaker announcements at the end of performances
    - collection of litter in the immediate area
    - provision and maintenance of refuse bins for disposal of takeaway foodstuffs
    - banning of patrons who are known to cause nuisance when leaving the premises
    - arrangements for convenient use of taxi services
  - delivery and collection arrangements
  - inappropriate external lighting
  - previous complaints of nuisance due to inadequate management and control
  - prohibition on allowing bottles or glasses to be removed from the premises

## **PREVENTION OF CRIME AND DISORDER**

47. The Council will carry out its licensing functions so as to promote the prevention of crime and disorder by ensuring that licensees take measures to regulate the behaviour of persons on the premises and patrons who are in the vicinity.
48. The Council will operate its powers having regard to its duty under Section 17 of the Crime and Disorder Act 1998 to exercise its functions with proper regard to the likely effect of the exercise of its functions on crime and disorder in the Borough and do all it reasonably can to prevent it.
49. Licensed premises, particularly late night venues can be a focus of crime and disorder problems and conditions may be imposed for certain night clubs and other venues where drug use and dealing may be a problem.
50. Where a significant event is likely to occur at a premise i.e.: any occasion in a premise licensed under the provisions of the Licensing Act 2003, where there will be live performer(s) – meaning musicians, DJs, MCs or other artiste; that is promoted in some form by either the venue or an outside promoter; whether entry is either free, by invitation, pay on the door or by ticket.
51. Licensees are advised to consult the local Metropolitan Police Licensing Unit to clarify whether their proposed event is significant.

52. The licensee will be expected to undertake a risk assessment of any significant promotion or event [as defined above] using the MPS Promotion/Event Risk Assessment [Form 696] or any equivalent and provide a copy to the Metropolitan Police Service and the licensing authority not less than 14 days before the event is due to take place.
53. Where an 'event' has taken place, the licensee will be expected to complete an MPS After Promotion/Event Debrief Risk Assessment [Form 696A] and submit this to the Metropolitan Police and the Licensing Authority, within 14 days of the conclusion of the event.
54. The Council will expect operators of relevant premises to:
- have a clear drugs policy, and to follow the guidance given by the Home Office in the "Safer Clubbing" document and any successor guidance.
  - have an Operating Schedule that deals with these issues and is properly observed
  - employ licensed door supervisors and install adequate CCTV equipment covering the interior and immediate exterior of the premises
  - consult with the local Drugs Action Team
55. The Council is concerned that licensed premises do not supply alcohol to underage children. The Council supports the Citizencard "No ID – No Sale" scheme that requires a specified proof of age document to be produced if staff who are serving have any concerns whatsoever as to someone's age. The scheme also expects all licensees to ensure that their staff are fully trained and have systems in place to ensure that those selling alcohol are not making such sales. Such systems may include induction and regular refresher training with signed records kept of that training; use of till prompts in shops; use of refused sale books that are regularly checked and signed together with appropriate warning notices being displayed.
56. All Door Supervisors must hold a current licence issued by the Securities Industry Authority.
57. The Council will support the aims of local pub watch groups and encourage licensees to:
- participate in and attend Pub Watch meetings
  - subscribe to the Pub Watch radio link
  - formulate policies to counter anti social behaviour, drug dealing, violence and disorder
58. Applicants with unspent criminal convictions as set out in the Licensing Act 2003 will be encouraged to discuss any proposed application for a personal licence with the police before making an application.

## **PROMOTION OF RACIAL EQUALITY**

59. This Policy recognises that the Race Relations Act 1976 [as amended by the Race Relations Amendment Act 2000] places a legal obligation on the Council to have due regard to the need to eliminate unlawful discrimination and to promote equality of opportunity and good relations between persons of different racial groups. The provisions of the Licensing Act 2003 and this policy will therefore be operated accordingly.

## **PROMOTION OF CULTURAL ACTIVITIES**

60. To promote greater cultural diversity in the performing arts, the Council will encourage applications for live music, dance, theatre and street theatre and musical bands etc. To this end the Council will particularly encourage applications from ethnic groups and seek to obtain premises licences for suitable public spaces and halls within its control.
61. The Council is anxious to ensure that broad cultural activity and entertainment is not deterred by licensing. We will monitor the impact of licensing on the provision of regulated entertainment and the arts and to this end, will request reports from the Director of Education and Leisure Services on the impact in this regard.

## **DETERMINATION OF APPLICATIONS AND INTEGRATION OF POLICIES**

62. The Council recognises the need to implement its licensing responsibilities as quickly, efficiently and cost effectively as possible. To that end it will operate through a system of Licensing Committee and Sub-Committees [drawn from the Members of the Licensing Committee] and delegation to officers.
63. Applications will be dealt with by the Licensing Committee, its Sub-Committees and officers in accordance with the Schedule at Annex 1. This is subject to the proviso that applications falling within the purview of officers may be referred to a Sub-Committee if officers feel that there are exceptional reasons for that to be done.
64. There is a clear distinction in the roles and responsibilities of the Council in relation to its planning and licensing functions and an approval or rejection under either does not imply or lead to a similar decision under the other. However, applications for licences should normally be from businesses with planning consent for the property concerned. The purpose of this is to avoid unnecessary use of time on the part of the Council and applicants for licences.
65. The Council will endeavour where possible to secure proper integration between its licensing policy and its strategies for crime and disorder, planning, culture, transport, tourism and economic development. The Licensing Committee Members will, where appropriate, receive reports on these issues to facilitate decisions and any review of policy.

## **CONDITIONS TO MEET THE LICENSING OBJECTIVES**

66. The Council will encourage licence holders, businesses, local residents, the Police and other bodies to work in partnership to ensure that the licensing objectives are promoted.
67. The Council anticipates that before making an application for a premises licence, or a club premises certificate applicants will carry out a full risk assessment and subsequently submit a detailed operating schedule setting out the steps the applicant intends to take to promote the licensing objectives. In some circumstances we would encourage applicants to discuss their operating schedules with the relevant bodies.

68. The Council will, following relevant representations, selectively apply conditions relating to those matters set out in the Pool of Conditions annexed hereto and such other conditions as are necessary to meet the licensing objectives.
69. Where no representations are made the Council will grant the licence or certificate subject to conditions that are consistent with the operating schedule and any mandatory conditions laid down by the Act.
70. In order to meet the licensing objectives the Council will selectively apply conditions relating to those matters set out in Annexes D to H of the Guidance issued by the Secretary of State [attached as annex 2]. In addition the Council will apply conditions in such other matters as it considers lawful where circumstances make that necessary.

## **ADVICE**

71. Any person requiring advice on whether a licence, certificate or authorisation is required or on the procedures whereby representations can be made or reviews requested should contact the following:

Licensing Section  
Environmental Health  
Royal Borough of Kingston upon Thames  
Guildhall  
Kingston upon Thames  
Surrey  
KTI 1EU

Telephone 020 8547 5079/5078

Fax 020 8547 5568

E-mail [licensing@rbk.kingston.gov.uk](mailto:licensing@rbk.kingston.gov.uk)

**ANNEX 1 - LICENSING - DELEGATION OF DECISIONS**

Matter to be dealt with	Full Committee	Sub-Committee	Officers
Application for a personal licence		If a Police objection is made	If no objection
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 a provisional statement		If a relevant representation made	If no relevant representation made
Application to vary premises licence/club certificate		If a relevant representation made	If no relevant representation made
Application to vary a designated personal licence holder		If a Police objection is made	All other cases
Request to be removed as a designated personal licence holder			All cases
Application for transfer of premises licence		If a Police objection is made	All other cases
Applications for Interim Authorities		If a Police objection is made	All other cases
Application to review premises licence/club premises certificate		All cases	
Decision on whether a complaint is irrelevant, frivolous, vexatious etc			All cases

Matter to be dealt with	Full Committee	Sub-Committee	Officers
Decision to object when Local Authority is consultee and not relevant Authority considering the application		All cases	
Determination of a police representation to a temporary event notice		All cases	
Age restrictions on films			HoEH&TS* in consultation with Chair of Licensing Committee and party spokespersons
Application for a Minor Variation			All Cases (decision made by HoEH&TS*)
Application by a Community Premises to disapply mandatory conditions		If a Police Representation Received	Where no relevant representation is received (decision made by HoEH&TS*)

\* HoEH&TS – Head of Environmental Health & Trading Standards

## ANNEX 2 - POOL OF CONDITIONS

### PART 1 - CONDITIONS RELATING TO THE PREVENTION OF CRIME AND DISORDER

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

- knowingly to sell or supply or attempt to sell or supply alcohol to a person who is drunk knowingly to allow disorderly conduct on licensed premises
- for the holder of a premises licence or a designated premises supervisor knowingly to 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 5am 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

#### General

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 licensing authorities are considering applications following the receipt of any relevant representations from a responsible authority or interested party, the following options should be considered as measures which, if necessary, would promote the prevention of crime and disorder.

Whether or not any risk assessment shows these options 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 codes of discipline to ensure the good order and behaviour of members.

Necessary conditions for the licence or certificate will also depend on local knowledge of the premises.

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 possible conditions drawn from experience relating to differing situations and to offer guidance.

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.

The licensee should undertake a risk assessment of any significant promotion or event [as defined below] using the MPS Promotion/Event Risk Assessment [Form 696] or any equivalent and provide a copy\* to the Metropolitan Police Service and the licensing authority not less than 14 days before the event is due to take place.

Where an 'event' has taken place, the licensee shall complete an MPS After Promotion/Event Debrief Risk Assessment [Form 696A] and submit this\* to the Metropolitan Police and the Licensing Authority, within 14 days of the conclusion of the event.

A significant event is any event where the DJs or musician are not those usually performing at the venue and where by virtue of the nature of the entertainment and the anticipated audience there is likely to be a need for increased levels of supervision and control etc.

\* submission of electronic documents by e-mail is preferred.

### **Text/Radio Pagers**

Text and radio pagers connecting premises licence holders, designated premises supervisors, managers of premises and clubs to the local police can provide for rapid response by the police to situations of disorder which may be endangering the customers and staff on the premises.

Such pagers provide two-way communication, both enabling licence holders, managers, designated premises supervisors and clubs to report incidents to the police, and enabling the police to warn those operating a large number of other premises of potential trouble-makers or individuals suspected of criminal behaviour who are about in a particular area. 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.

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

It is recommended that a condition requiring the text/radio pager links to the police should include the following elements:

- a requirement that the text/pager equipment is kept in working order at all times;
- a requirement that the pager link be activated, made available to and monitored by the designated premises supervisor or a responsible member of staff at all times that the premises are open to the public;
- a requirement that any police instructions/directions are complied with whenever given; and
- a requirement that all instances of crime or disorder are reported, via the text/radio pager link by the designated premises supervisor or a responsible member of staff to an agreed police contact point

## **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; and
- 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 the 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 supervisor 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 (see Part 2).

## **Bottle bans**

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

It is recommended that a condition requiring that no sales of beverages in glass bottles for consumption on the premises should be expressed in clear terms and include the following elements:

- no bottles containing beverages of any kind, whether open or sealed, shall be given to customers on the premises whether at the bar or by staff service away from the bar;
- no customers carrying open or sealed bottles shall be admitted to the premises at any time that the premises are open to the public (note: this needs to be carefully worded where off-sales also take place);

In appropriate circumstances, the condition could include exceptions, for example, as follows:

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

## **Plastic containers and toughened glass**

Glasses containing drinks may be used as weapons during incidents of disorder and in untoughened form, can cause very serious injuries. Consideration could therefore be given to conditions requiring either the use of plastic containers or toughened glass which inflicts less severe injuries where considered necessary.

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 some outdoor sports grounds may obviously be of concern, and 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 be noted that the use of plastic or paper drinks containers and toughened glass may also be relevant as measures necessary to promote public safety (see Part 2).

### **CCTV**

The presence of CCTV cameras can be an important means of deterring and detecting crime at and immediately outside licensed premises. Conditions should not just consider a requirement to have CCTV on the premises, but also the precise sitting of each camera, the requirement to maintain cameras in working order, and to retain recordings for an appropriate period of time.

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 a condition 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 on 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. Such conditions 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**

Although most commonly made a condition of a licence on public safety grounds, consideration should also be given to conditions which 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.

### **Proof of age cards**

It is unlawful for children under 18 to attempt to buy alcohol just as it is unlawful to sell or supply alcohol to them. To prevent such crimes, it may be necessary 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, student cards and passports. The Secretary of State strongly supports the PASS accreditation system (see paragraph 12.8 of the Guidance), which aims to approve and accredit various proof of age schemes that are in existence. This ensures that such schemes maintain high standards, particularly in the area of integrity and security, and where appropriate and necessary, conditions may refer directly to PASS accredited proof of age cards, photo-driving licences and passports.

It should be noted that many adults in England and Wales do not currently carry any proof of age. This means that the wording of any condition will require careful thought. For example, the requirement might be to ensure sight of evidence of age from any person appearing to those selling or supplying alcohol to be under the age of 18 and who is attempting to buy alcohol. This would ensure that most minors - even those looking older - would need to produce proof of age appropriately before making such a purchase. Under such an arrangement only a minority of adults might be affected, but for the majority there would be no disruption to their normal activity, for example, when shopping in a supermarket.

### **Crime prevention notices**

It may be necessary at some premises for notices to be displayed, which warn customers of the prevalence of crime, which may target them. Some premises may be reluctant to volunteer the display of such notices for commercial reasons. 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 which warn customers about the need to be aware of pickpockets or bag snatchers, and to guard their property. Similarly, it may be necessary for notices to be displayed, which advise customers not to leave bags unattended because of concerns about terrorism. Consideration could be given to a condition requiring a notice to display the name of a contact for customers. If they wish to report concerns.

### **Drinks promotions**

Standardised conditions should not be attached to premises licences or club premises certificates, which promote fixed prices for alcoholic drinks. It is also likely to be unlawful for licensing authorities or police officers to promote voluntary arrangements of this kind. This can risk creating cartels. Using conditions to control the prices of alcoholic drinks in an area may also breach competition law. Conditions tailored to the individual circumstances of particular premises which address irresponsible drinks promotions may be permissible provided they are necessary for the promotion of the licensing objectives, but licensing authorities should take their own legal advice before a licence or certificate is granted in that form. Judgements may be subjective, and on occasions, there will be a very fine line between responsible and irresponsible promotions but an even greater distinction to whether the promotion in question can be subject to the imposition of a condition. It is therefore vital that such matters are considered objectively in the context of the licensing objectives and with the benefit of appropriate legal advice. In addition, when considering any relevant representations which demonstrate a clear causal link between sales promotions or discounting and levels of crime and disorder on or in the vicinity of the premises, it would be appropriate for the licensing authority to consider whether the imposition of a new condition

prohibiting irresponsible sales promotions or discounting of prices of alcoholic beverages is necessary at those premises. However, before pursuing any form of restrictions at all, licensing authorities should take their own legal advice.

### **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 if 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.

### **Large capacity venues used exclusively or primarily for the "vertical" consumption of alcohol (HVVDs)**

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

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

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

## **PART 2 - CONDITIONS RELATING TO PUBLIC SAFETY INCLUDING FIRE SAFETY**

It should be noted that conditions relating to public safety should be those that are necessary, in the particular circumstances of any individual premises or club premises, and should not duplicate other requirements of the law. Equally, the attachment of conditions to a premises licence or club premises certificate will not in any way relieve employers of the statutory duty to comply with the requirements of other legislation including the Health and Safety at Work etc. Act 1974, associated regulations and especially the requirements under the Management of Health and Safety at Work Regulations 1999 and the Fire Precautions (Workplace) Regulations 1997 to undertake risk assessments. Employers should assess the risks, including risks from fire, and take measures necessary to avoid and control these risks. Conditions enforcing those requirements would therefore be unnecessary.

### **General**

When applicants for premises licences or club premises certificates are preparing their operating schedules or club operating schedules, responsible authorities are considering such applications and licensing authorities are considering applications following the receipt of relevant representations from a responsible authority or interested party, the following options should be considered as measures that, if necessary, would promote public safety. Additional matters relating to cinemas and theatres are considered in Part 3. It should also be recognised that special issues may arise in connection with outdoor and large-scale events.

Whether or not any risk assessment shows any of the 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.

Necessary conditions for the licence or certificate will also depend on local knowledge of the premises.

In addition, to considering the points made in this Annex, those preparing operating schedules or club operating schedules, licensing authorities and responsible authorities should consider:

- Model National and Standard Conditions for Places of Public Entertainment and Associated Guidance ISBN 1 904031 11 0 (Entertainment Technology Press - ABTT Publications)
- 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
- 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 Stationery 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.uk/pages/publications.htm](http://www.streetartsnetwork.org.uk/pages/publications.htm)
- The London District Surveyors Association's "Technical Standards for Places of Public Entertainment" ISBN 0 9531229 2 1

- The following British Standards should also be considered:
  - BS 5588 Part 6 (regarding places of assembly)
  - BS 5588 Part 9 (regarding ventilation and air conditioning systems)
  - BS 5588 Part 9 (regarding means of escape for disabled people)
  - BS 5839 (fire detection, fire alarm systems and buildings)
  - BS 5266 (emergency lighting systems)

However, in consulting these texts, which were prepared prior to the coming into force of the Licensing Act 2003, those creating operating schedules or club operating schedules, licensing authorities and responsible authorities should again note that under no circumstances should any conditions be regarded as standard for all premises.

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

### **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.

### **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, consideration might also be given to conditions that ensure that:

- all exits doors are easily openable without the use of a key, card, code or similar means;
- doors at such exits are regularly checked to ensure that they function satisfactorily and a record of the check kept;
- any removable security fastenings are removed whenever the premises are open to the public or occupied by staff;
- all fire doors are maintained effectively self-closing and shall not be held open other than by approved devices (for example, electromagnetic releases operated by smoke detectors);
- fire resisting doors to ducts, service shafts, and cupboards shall be kept locked shut; and
- the edges of the treads of steps and stairways are maintained so as to be conspicuous.

## **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

## **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;
- 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 section 5 of BS 5252,;1990;
- curtains, hangings and temporary decorations are arranged so as not to obstruct exits, fire safety signs or fire-fighting equipment; and
- temporary decorations are not used without prior notification to the licensing authority/fire authority

## **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 are not exceeded; and
- the licence holder, a club official, manager or designated premises supervisor should be aware of the number of people on the premises and required to inform any authorised person on request

## **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

## **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

## **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
- there is 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

## **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 supply of first aid equipment and materials is available on the premises;
- if necessary, at least one suitably trained first-aider shall be on duty when the public are present; and if more than one suitably trained first-aider that their respective duties are clearly defined

## **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 altered;
- emergency lighting batteries are fully charged before the admission of the public, members or guests; and
- in the event of the failure of normal lighting, where the emergency lighting battery has a capacity of one hour, arrangements are in place to ensure that the public, members or guests leave the premises within 20 minutes unless within that time normal lighting has been restored and the battery is being re-charged; and, if the emergency lighting battery has a capacity of three hours, the appropriate period by the end of which the public should have left the premises is one hour.

## **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 licensing authority at least ten days before commencement of the work] [prior inspection by a suitable qualified electrician];
- temporary electrical wiring and distribution systems shall comply with the recommendations of BS 7671 or where applicable BS 7909; and
- where they have not been installed by a competent person, temporary electrical wiring and distribution systems are inspected and certified by a competent person before they are put to use.

With regard to the first bullet above, it should be recognised that ten days notice may not be possible where performances are supported by outside technical teams. For example, where temporary electrical installations are made in theatres for television show performances. In such circumstances, the key requirement is that conditions where necessary should ensure that temporary electrical installations are only undertaken by competent qualified persons, for example, employed by the television company.

### **Indoor sports entertainments**

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 by a competent person and inspected by a competent authority 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; and
- at water sports entertainments, staff adequately trained in rescue and life safety procedures are stationed and remain within the vicinity of the water at all material times (see also Managing Health and Safety in Swimming Pools issued jointly by the Health and Safety Commission and Sport England).

## **Alterations to the premises**

Premises should not be altered in such a way as to make it impossible to comply with an existing licence condition without first seeking a variation of the premises licence proposing the deletion of the condition relating to public safety in question. The applicant will need to propose in a new operating schedule reflecting the proposed alteration to the premises how he or she intends to take alternative steps to promote the public safety objective. The application for variation will enable the responsible authorities with expertise in safety matters to consider whether the proposal is acceptable.

## **Special effects**

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

Specials effects which should be considered include:

- dry ice machines and cryogenic fog;
- smoke machines and fog generators;
- pyrotechnics, including fireworks;
- real flame;
- firearms;
- motor vehicles;
- strobe lighting;
- lasers (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 notification of the licensing authority or [inspection by] the fire authority.

### **PART 3 - THEATRES, CINEMAS, CONCERT HALLS AND SIMILAR PLACES (PROMOTION OF PUBLIC SAFETY)**

In addition to the points made in Annex E, 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 and standardised conditions should be avoided. The points, which follow are for consideration and do not represent a mandatory list.

#### **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 on the table below:

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

- (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.

Specials effects include:

- dry ice machines and cryogenic fog;
- smoke machines and smog 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 notification of the licensing authority or [inspection by] fire authority.

### **Scenery**

Any scenery should be maintained flame-retardant.

### **Safety curtain**

Where a safety curtain is provided, 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 heavyweight and be made of non-combustible material or inherently or durably treated flame-retardant fabric.

### **Ceilings**

All ceilings in those parts of the premises to which the audience are admitted should be inspected by a suitably qualified person who will decide when a further inspection would be necessary and a certificate concerning the condition of the ceilings forwarded to the licensing authority.

### **Seating**

Where the 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:

<b>Number of members of the audience present on the premises</b>	<b>Minimum number of attendants required to be on duty</b>
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 - premises 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:

<b>Number of members of the audience present on the premises</b>	<b>Minimum number of attendants required to be on duty</b>	<b>Minimum number of other staff on the premises who are available to assist in the event of an emergency</b>
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

- (b) Staff shall not be considered as being available to assist in the event of an emergency if they are:
- the holder of the premises licence or manager on duty at the premises or
  - a member of staff whose normal duties or responsibilities are likely to significantly affect or delay his response in an emergency situation; or
  - 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 prior notification of the licensing authority/fire authority.

## **PART 4 - CONDITIONS RELATING TO THE PREVENTION OF PUBLIC NUISANCE**

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 in 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 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.

### **General**

When applicants for premises licences or club premises certificates are preparing their operating schedules or club operating schedules, responsible authorities are considering such applications and licensing authorities are considering applications following the receipt of relevant representations from a responsible authority or interested party, the following options should be considered as measures that, if necessary, would promote the prevention of public nuisance.

Whether or not any risk assessment shows them to be necessary in the individual circumstances of any premises will depend on a range of factors including the nature and style of the venue, the activities being conducted there, the location of the premises and the anticipated clientele of the business involved. Necessary conditions for licences and certificates will also depend on local knowledge of the premises.

### **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. But this must be balanced by the potential impact on disorder, which 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 garden areas of the premises after a certain time.

## **Noise and vibration**

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

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

## **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.

## **Light pollution**

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

- flashing or particularly bright lights on or outside licensed premises do 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.

## **PART 5 - CONDITIONS RELATING TO THE PROTECTION OF CHILDREN FROM HARM**

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 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. In addition, it is an offence to permit the presence of children under 16 who are not accompanied by an adult between midnight and 5am at a 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.

### **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. Precise policy and details will be a matter for individual licensing authorities. 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 licensing authority considers it necessary to protect children from harm. Whilst applications in relation to premises licences and club premises certificates must be judged by licensing authorities 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 ) with or likely to give rise to heavy or binge or underage drinking, drugs, significant gambling, or any activity or entertainment (whether regulated entertainment or not) of a clearly adult or sexual nature, there should be a strong presumption against permitting any access at all for children under 18 years. Applicants wishing to allow access for children to premises where these associations may be relevant, when preparing operating schedules or club operating schedules or variations of those schedules for the purposes of obtaining or varying a premises licence or club premises certificate should:
  - explain their reasons; and
  - outline in detail the steps that they intend to take to protect children from harm on such premises.
- for any premises, not serving alcohol for consumption on the premises, but where the public are allowed on the premises after 11.00pm in the evening, there should be a presumption against the presence of children under the age of 12 unaccompanied by adults after that time. Applicants wishing to allow access when preparing operating schedules for the purpose of obtaining or varying a premises licence or club premises certificate should:
  - explain their reasons; and
  - outline in detail the steps that they intend to take to protect children from harm on such premises
- in any other case, subject to the premises licence holder's or club's discretion, the expectation would be for unrestricted access for children subject to the

terms of the 2003 Act. An operating schedule or club operating schedule should indicate any decision for the premises to exclude children completely, which would mean there would be no need to detail in the operating schedule steps that the applicant proposes to take to promote the protection of children from harm. Otherwise, where entry is to be permitted, the operating schedule should outline the steps to be taken to promote the protection of children from harm while on the premises.

### **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, licensing authorities following relevant representations made by responsible authorities and interested parties will need to consider a range of conditions that are to be tailored to the particular premises and their activities where these are necessary. Licensing authorities are expected to consider:

- the hours of day during which age restrictions should and should not apply. For example, the fact that adult entertainment may be presented at premises after 8.00pm 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 holiday events for young age groups, such as under 18s dances,
- Similarly, types of event or activity which give rise to a more acute need for age restrictions than normal, for example;
  - during "Happy Hours" or on drinks promotion nights;
  - during activities outlined in the first bullet point in the first paragraph above

### **Age restrictions - cinemas**

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

- a condition that where the licensing authority 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 licensing authority, 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.
  - 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 16 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;
- a condition that when a licensing authority 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 licensing authority as falling into the 12A, 15 or 18 category no person appearing to be under the age of 12 and unaccompanied, or under 15 or 18 as appropriate, shall be admitted to any part of the programme; and the licence holder shall display in a conspicuous position 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 while on-duty provided that the prior written consent of the person's parent or legal guardian has first been obtained."

### **Theatres**

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

Licensing authorities are also expected to consider whether a condition should be attached to a premises licence which requires the presence of a sufficient number of adult staff on the premises to ensure the well being of children present on the premises during any emergency (See Part 3).

### **Performances especially for children**

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

- an attendant to be stationed in the area(s) occupied by the children, in the vicinity of each exit, provided that on each level occupied by children the

minimum number of attendants on duty should be one attendant per 50 children or part thereof

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

### **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. Licensing authorities should familiarise themselves with the requirements of these Regulations and not duplicate any of these requirements. However, if it is necessary to consider imposing conditions, in addition to these requirements, for the promotion of the protection of children from harm then the licensing authority should consider the matters outlined below:

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

## **The Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks**

The Portman Group operates, on behalf of the alcohol industry, a Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks. The Code seeks to ensure that drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years old or older. Complaints about products under the Code are considered by an Independent Complaints Panel and the Panel's decisions are published on the Portman Group's website, in the trade press and in an annual report. If a product's packaging or point-of-sale advertising is found to be in breach of the Code, the Portman Group may issue a Retailer Alert Bulletin to notify retailers of the decision and ask them not to replenish stocks of any such product or to display such point-of-sale material, until the decision has been complied with. The Code is an important mechanism in protecting children from harm because it addresses the naming, marketing and promotion of alcohol products sold in licensed premises in a manner, which may appeal to or attract minors.

Where appropriate and necessary, consideration can be given to attaching conditions to premises licences and club premises certificates that require compliance with the Portman Group's Retailer Alert Bulletins.

### **Proof of Age cards**

Proof of age cards are discussed under Annex D in connection with the prevention of crime and disorder. However, where necessary and appropriate, a requirement for the production of proof of age cards before any sale of alcohol is made could be attached to any premises licence or club premises certificate for the protection of children from harm. Any such requirement 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. The Secretary of State strongly supports the PASS accreditation system (see paragraph 12.8 of the Guidance) which aims to approve and accredit various proof of age schemes that are in existence. This ensures that such schemes maintain high standards, particularly in the area of integrity and security, and where appropriate and necessary, conditions may refer directly to PASS accredited proof of age cards, photo-driving licences, student cards and passports. As for conditions relating to crime and disorder, it should be noted that many adults in England and Wales do not currently carry any proof of age. This means that the wording of any condition will require careful thought. For example, the requirement might be to ensure sight of evidence of age from any person appearing to those engaged in selling or supplying alcohol to be under the age of 18 and who is attempting to buy alcohol. This would ensure that most minors - even those looking older - would need to produce proof of age appropriately before making such a purchase. Under such an arrangement only a minority of adults might be affected, but for the majority there would be no disruption to their normal activity, for example, when shopping in a supermarket. Proof of age cards can also ensure that appropriate checks are made where the presence of children is restricted by age at certain times, such as 16.

## **RESPONSIBLE AUTHORITY – CONTACT DETAILS**

<b><u>Authority</u></b>	<b><u>Address</u></b>	<b><u>Telephone Number</u></b>	<b><u>Email address</u></b>
Royal Borough of Kingston (Licensing Section)	Environmental Health Guildhall Kingston upon Thames KT1 1EU	020 8547 5078/5079	licensing@rbk.kingston.gov.uk
(Planning Section)	Community Services Guildhall Kingston upon Thames Surrey KT1 1EU	020 8547 5344	bc.des@rbk.kingston.gov.uk
(Health & Safety and Noise Pollution)	Environmental Health Commercial Pollution Division Guildhall Kingston upon Thames Surrey KT1 1EU	020 8547 5536	ehadmin@rbk.kingston.gov.uk
(Learning & Children Services)	Learning & Children Services Guildhall Kingston upon Thames Surrey KT1 1EU	020 8547 5888	
London Fire & Emergency Planning Authority	90 Old Town Croydon CR0 1AR	020 7587 2000	kingstongroup@london-fire.gov.uk
Metropolitan Police Kingston Division	Licensing Office Kingston Police Station 5/7 High St Kingston upon Thames Surrey KT1 1LB	020 8247 4935/5133	uk.licensingoffice@met.police.uk
Environment Agency (for vessels)	Environment Agency Thames Region South East Area Swift House Frimley Business Park Camberley Surrey GU16 7SQ	0127 645 4427/4345	