

# Hastings Borough Council

## Licensing Policy

### Hastings Borough Council Licensing Policy 2022- 2027

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# 1.0 Statement of Policy

## Introduction

- The aim of the policy is to achieve a sustainable tourist, entertainment and cultural industry in Hastings, whilst securing the safety and amenity of our residential communities and promoting the licensing objectives set out in the Act.
- Encourage tourism
- Encourage an early evening and nighttime economy which is viable, sustainable and socially responsible
- Reduce alcohol misuse
- Encourage employment

This is the Statement of Licensing Policy as determined by the Council in respect of its licensing functions, with regard to the Licensing Act 2003. This document sets out the position and view of the Licensing Authority in respect of matters in connection with the discharge of its licensing function.

This Statement of Licensing Policy commences on the 1 February 2021 and continues for a five-year period. During the five-year period the Policy will be kept under review and the authority will make such revisions to it at such times as it considers appropriate. Further licensing statements will be published every five years thereafter or earlier as necessary.

## 1.1 Licensing objectives

All references to the 'Guidance' refer to the latest version of the Home Office Guidance to Licensing Authorities issued under section 182 of the Licensing Act 2003. The 2003 Act requires the Council to carry out its various licensing functions to promote the following four licensing objectives:

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

The aims of this Statement of Licensing Policy, in line with the four licensing objectives, are:

1. To minimise nuisance and disturbance to the public through the licensing process
2. To help build a fair and prosperous society that properly balances the rights of people and their communities
3. To integrate its aims and objectives with other initiatives, policies plus strategies that will:
  - Reduce crime and disorder
  - Encourage tourism
  - Encourage an early evening and night time economy which is viable, sustainable and socially responsible

- Reduce alcohol misuse
- Encourage employment
- Encourage the self-sufficiency of local communities
- Reduce the burden of unnecessary regulation on business
- Encourage and promote live entertainment for the wider cultural benefit of communities generally.

In the preparation of this Policy the Licensing Authority will have regard to the local strategies on crime prevention, planning, transport, culture, tourism, and economic development to ensure proper coordination and integration of the aims and actions of these policies.

The Act is part of a wider government strategy to tackle crime, disorder and anti-social behaviour and reduce alcohol related harm. The Licensing Authority will continue to develop strategies with the Police and the other enforcement agencies, as appropriate for the management of the night-time economy. Central to this is the enforcement of the law relating to sales of alcohol to drunk and underage people and drunkenness or disorder on, or in the immediate vicinity of licensed premises.

This policy covers a wide variety of premises and activities carried on within them. For this reason, this policy cannot detail all the factors that influence the achievement of the licensing objectives nor can this policy detail all the control measures that may be appropriate. However, there will be zero tolerance of dealing in or using controlled drugs (as defined by the Misuse of Drugs Act 1971) on licensed premises.

## **1.2 Statutory Consultees**

The Statement of Licensing Policy will be kept under review and reviewed every five years, where any significant amendments are considered, necessary these will only be made after consultations have taken place in accordance with Section 5 of the Act. Amendments required due to a change in legislation that do not impact on the aims and objectives of the Policy, or the promotion of the Licensing Objectives will be made with the approval of the Environmental Health and Licensing Manager / Legal services in order for the policy to remain legislatively current. Any major modifications will be undertaken following the appropriate public consultation.

Proper weight, in accordance with the Guidance, has been given to the views of all those consulted. Those consulted in the preparation of this Policy included:

- The Chief Officer of Police for Sussex
- The Fire and Rescue Authority for East Sussex
- One or more persons who appear to the authority to represent the interests of persons carrying on licensed businesses in the council area
- One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Act
- Any other bodies the council deemed appropriate
- Members of the public who requested to be consulted and have responded previously.

In accordance with the guidance the following persons have also been consulted on this revised statement:

- All ward councillors
- Sussex police licensing team
- All responsible authorities under the licensing act 2003

### 1.3 Local Features

The population of Hastings and St Leonards is approximately 99,000, but this number increases significantly in the summer months with the influx of tourists, day-trippers, and foreign students. The area has strong historic heritage, being at the centre of 1066 country and close to the original battle site. Hastings is one of the original Cinque Ports, and even today has Europe's largest beach launched fishing fleet.

The town has a lively evening/night-time economy with a vibrant pub and club culture.

The Council recognise that a lot of violent crime is alcohol related and takes place where there is a high concentration of licensed pubs and clubs.

The Council in conjunction with other relevant agencies must make sure that this policy remains consistent with other local and national policies and strategies relating to the operation of licensed premises.

### 1.4 Matrix approach to help inform licensing decisions

The licensing authority supports the need for a diverse mix of different types of licensed premises. Such a mix attracts a diverse range of customers from different age groups, different communities and with different attitudes to alcohol consumption and regulated entertainment. It offers the potential to positively change the ambience of parts of the borough, which in turn can reduce the public fear of crime and boost the number of evening visitors to the town centre.

Too many similar licensed premises in a confined area, with their customers leaving at around the same time, can lead to crime and disorder. In an effort to support a diverse mix of licensed venues, a 'matrix approach' is set out below. In certain circumstances variation from the Council's preferred matrix approach may be considered, such as to accommodate special events like carnival week.

The matrix is considered a 'live, part of the policy and can be amended following consideration of emerging evidence supplied by other key stakeholders. This will be the responsibility of the **Council's Licensing Committee**.

All applications will be considered on their merits, as well as against the relevant policy and statutory framework.

**It should be noted that any applicant requiring live music, must consider their operating schedule carefully to avoid noise complaints.**

Premises Type	Residential Area (mainly residences in street)	Mixed Commercial and Residential Areas / Special Consideration	Cumulative Impact Zone
	Terminal hour for licensable activities	Terminal hour for licensable activities	Termination hour for licensable activities
Restaurant	Yes (11:00pm)	Yes (11:30pm)	Yes (midnight)
Café bar	Yes (10:30pm)	Yes (10:30pm)	Yes 11.00pm
Late night takeaways (Post 11 pm)	No	Yes (midnight)	No
Night Club (Late night hours)	No	No	No
Public House	Yes Sun to Thursday (10.30pm), Friday and Saturday (11:30pm) 11pm if live music required.	Yes 11pm if live music required.	Yes (11:30 pm if live music is required)
Non-Alcohol led. (Theatre/film etc)	Yes (favourable)	Yes (favourable)	Yes (favourable)
Off Licence	Yes (8pm)	Yes (10pm)	No
Members club	Yes (11pm, midnight Friday and Saturday)	Yes (midnight)	Yes

## Definitions

**Cumulative Impact Zone (CIZ)** - Those areas defined by separate policy which have given rise to concerns over crime and disorder, anti-social behaviour, and street drinking.

**Special Consideration Area** – Those areas just on the curtilage of a CIZ which may give rise to concerns due to the proximity to these zones.

**Mixed Commercial / Residential Area** – Those areas of mixed usage which may be within or outside the CIZ area and due to the residential aspect may specify a lesser terminal hour than in the CIZ.

## Notes on The Matrix Approach

The notes pertaining to the Matrix approach apply to the details that follow, and the policy as outlined in the matrix will be strictly followed:

- 1) Each application will be considered on its own individual merits. The suggested terminal hours for different application types may be varied if exceptional circumstances are demonstrated.
- 2) Applications within the CIZ are subject to the special policy on cumulative impact. There is a strong presumption against the success of applications within the CIZ. Therefore, there is a need for exceptional circumstances to be presented. Directly outside this documented zone are areas which shall be defined as Special Consideration Areas. Applications near, but outside the CIZ, will be more carefully vetted for potential detrimental impact upon the designated CIZ areas. There is a presumption against the grant of applications within the special consideration areas.

- 3) Departure from the matrix policy is expected only in exceptional circumstances.
- 4) Exceptional circumstances will not include quality of management or size of venue except where explicitly stated in policy matrix.
- 5) Exceptional circumstances to grant a licence against policy typically involve situations that are rare, significant, unavoidable, and short term, and where the applicant can demonstrate a compelling reason for the exception.
- 6) The following licensing activities are encouraged and valued by the licensing authority: outdoor regulated entertainment, community-based street parties, members clubs, traditional pubs outside the city centre and non-alcohol led licensable activities, particularly within Town ctr.

Whilst this Cumulative Impact Assessment does not apply directly to Temporary Event Notices, the Secretary of State's Guidance to the Licensing Act 2003 states that it is open to the police and Environmental Health officers to refer to this assessment and the evidence contained within it when objecting to a TEN. The authority believes this is a right and proper approach as extension of hours within the Cumulative Impact Area can have a direct impact on the promotion of the licensing objectives.

The Licensing Authority encourages the development of premises which are not alcohol led and which are aimed at different sectors of the population, including age and gender. Premises that promote the arts, a food offer, or other cultural activities are particularly encouraged.

Where premises such as pubs are alcohol led, they are encouraged to consider diversifying their provisions to encourage a mixed customer-base and wider attractions, including community uses, soft drinks, snacks and live entertainment. Diversification is important in the promotion of the licensing objectives as well as ensuring a sustainable economic future for premises.

The Licensing Authority recognises the need to promote and encourage live and recorded music, dancing, theatre and other forms of entertainment for the wider cultural benefit of communities generally. The potential for limited disturbance in neighbourhoods will be carefully balanced with the wider benefits.

The Licensing Authority expects applicants to have researched in advance and understood the relevant Law in relation to their application and their particular business plans, as well as this Policy.

This policy guides applicants, objectors and interested residents on the Council's approach to licensing. However, each licence application must be considered on its individual merits.

## **1.5 Scope of the Policy**

The 2003 Licensing Act covers the licensing of individuals for the retail sale of alcohol (personal licences), the licensing of premises for the retail sale of alcohol, the provision of

regulated entertainment or late-night refreshment (premises licences), the supply of alcohol or the provision of regulated entertainment to certain clubs (club premises certificates) and the permitting of certain licensable activities on a temporary basis (temporary event notices).

Unless otherwise stated, a reference in this policy to a premises licence is a reference to a premises licence and a club premises certificate.

Activities requiring a licence under the 2003 Licensing Act and covered by this policy are:

- Retail sale of alcohol for consumption both on and off the premises.
- Supply of hot food or drink from any premises for consumption both on and off the premises, between 23.00 hours and 05.00 hours the following morning.
- Supply of alcohol to club members.
- Provision of entertainment listed below (known as 'regulated entertainment') to the public or club members or with a view to profit under specific circumstances:

1. Film exhibitions.
2. Performances of a play.
3. Indoor sporting events.
4. Boxing or wrestling entertainment.
5. Live music performances.
6. Playing of recorded music.
7. Dance performances.
8. Provision of facilities for making music.
9. Provision of dancing facilities.

The policy covers new applications, renewals, transfers, and variations of licences including, where applicable, provisional statements and temporary event notices. It also includes the review of a licence following representation.

## **1.6 Main Principles**

The main principles of the policy are as follows:

- To reduce crime and disorder.
- To ensure public Safety.
- To prevent public nuisance.
- To protect children from harm.
- To reduce alcohol misuse; and
- To encourage tourism.

The Council's Licensing Policy will encourage licensable activities but balance these with our ability (and that of the police) to maintain public safety. It sets out a general approach to licensing decision-making. It does not undermine the right of any individual to apply for a variety of permissions and to have each application considered on its individual merits.

Similarly, this policy does not override the right of any person to make representations on an application or seek a review of a licence or certificate, where the 2003 Licensing Act allows them to. Licensing is about the regulation of licensed premises, qualifying clubs, and temporary events within the terms of the Act. The conditions, where attached to various

permissions, will focus on matters that are within the control or influence of individual licensees and others granted relevant permissions. Accordingly, these matters will centre on the premises and places being used for licensable activities and the vicinity of those premises and places.

The Council will focus on the direct impact of the activities taking place at licensed premises on members of the public living, working, or socialising in the area concerned. Licensing law is not a way of controlling anti-social behaviour outside the premises and, therefore, beyond the control of the individual, club or business holding the licence, certificate or authorisation concerned. However, licensing law is a part of a holistic approach to the management of the evening and night-time economy in the town.

## **1.7 Meeting the needs of local communities and helping them to participate in the Licensing process**

Licensed premises are an important part of our communities. They provide a place for people to get together, relax and enjoy themselves. However, there can be problems if licensees do not take sufficient action to minimise any problems that may occur.

Clearly, all licensed premises must fully address the risks associated with the activities they provide through their operating procedures, and key details should be included in their operating schedule.

If residents and businesses do experience problems, it is important that they inform the licensee and/or the Licensing Authority or Responsible Authorities such as the Police. Reporting the problem is the first step towards resolving the problem.

Where there are problems, residents and businesses may want to contact their Ward Councillor, Sussex Police, Environmental Health or Trading Standards. Residents, Ward Councillors, and businesses can also ask for a review of a premises' licence at any time. It is important to understand that a review of a licence can be instigated against any premises licence or club premise certificate including those only licensed for "off" sales, and not just those authorised for the "on" sale of alcohol.

Initially we would however advise them to also contact/write to the licensee, outlining the problems experienced and giving them the opportunity to address these concerns.

If residents, Ward Councillors, or businesses feel the premises is still not adequately tackling problems associated with the activities they provide, and in their view, there is therefore persistent failure to promote the licensing objectives, then there is the option of asking for a review of the licence.

Representations cannot be made anonymously and must be clearly linked and evidenced in relation to 1 or more of the 4 licensing objectives. They must include the name and address of the individual or group e.g., residents' group making the representation. This gives the applicant the opportunity to adequately address the substance of the representation.

In some exceptional and isolated circumstances interested parties may be reluctant to make representations because of fears of intimidation or violence if their personal details, such as name and address, are divulged to the applicant. Where we consider that the interested party has a genuine and well-founded fear of intimidation and may be deterred



from making a representation because of this, we will look at alternative approaches e.g., advising the interested party to provide the relevant responsible authority with details of how they consider that the licensing objectives are being undermined so that the responsible authority can make representations if appropriate and justified. We may also look at withholding some or all the interested party's personal details (where justified) from the applicant, giving only enough details (such as street name or general location within a street), which would allow an applicant to be satisfied that the interested party is within the vicinity of the premises.

Where we receive applications for new premises or changes to existing premises (variations), residents/businesses have 28 days to have their say. In the case of minor variations, residents/businesses will have 10 days to make any representation. Details of these applications are available on the Council's website in the licensing section, and the applicant must place a notice on the outside of their premises and in a local newspaper. In the case of minor variations there is no requirement for a newspaper notice.

The Council also supports and participates in a range of area-based forums attended by Ward Councillors, service managers and members of the public active in their local communities. Whilst such groups do not have a decision-making role in the local administration and enforcement of licensing legislation, they have a legitimate interest in the impact that licensed premises have on the local environment, and may discuss licensing issues from time to time, and forward concerns and/or suggestions which can clearly be linked to one or more of the Licensing Objectives to the Council's Licensing Team for consideration.

The Council recognises that the town supports a diverse population, and that all these groups play an important role in developing a vibrant community. It also understands that some parts of the community may have additional difficulties in dealing with some of the application processes. Officers of the Council will always be available by appointment to guide and assist those persons in any way they can, as we seek to ensure that everyone can take an active part in the process.

## **1.8 Local Impact**

The 'need' for additional licensable premises is not covered by this policy and will remain a planning and market issue. However, the cumulative impact of licensed premises on an area does fall under this policy. Therefore, the Council might impose restrictions where it feels there will be a negative impact on the four licensing objectives. The Cumulative impact policy is contained within section 2.18 of this document.

## **1.9 Enforcement**

The enforcement of licensing law and the inspection of licensed premises is detailed in the Protocols between the Council, Sussex Police and East Sussex Fire and Rescue Service. In partnership with these agencies, the Council will target problem and high-risk premises as identified in the protocol. Inspections of premises will be on a risk-assessed basis and intelligence led.

## **1.10 Consumption of Alcohol in the Street.**

Since 2017 large parts of the Borough have been covered by a Public Space protection Order (PSPO). This order controls the consumption of alcohol in the street from open containers and gives specific enforcement powers to both the Local authority and the police to deal with offenders.

The supply of Alcohol to persons for consumption on the street in these areas is a matter that may be considered by the Authority when considering action against licensed premises.

## **1.11 Reduce the Strength.**

The Council acknowledges that it cannot require applicants for “off sales” authorisations to restrict their stock of cheap, high strength alcoholic products. It does however, seek licence applicants to cooperate with the Authority in restricting the supply of lagers, beers and cider with an ABV above 6.5% and the sale of such products in single cans.

These products have become the drink of choice for street drinkers who in turn have caused disproportional problems to parts of the borough.

The Council hopes that by restricting the supply of such products, it will be easier for “outreach” services to engage with those individuals affected.

## **1.12 Administration, Exercise and Delegation of Functions**

The Council will be involved in a wide range of licensing decisions and functions and has established a Licensing Committee to administer them.

Appreciating the need to provide a speedy, efficient and cost-effective service to all parties involved in the licensing process, the Committee has delegated certain decisions and functions and has established several Sub-Committees to deal with them.

Further, with many of the decisions and functions being purely administrative in nature, the grant of non-contentious applications, including for example, those licences and certificates where no representations have been made, has been delegated to Officers.

All such matters dealt with by Officers will be reported for information and comment only to the next Committee meeting.

The table in **Appendix 1** sets out the agreed delegation of decisions and functions to Sub-Committees and Officers.

This form of delegations is without prejudice to Officers referring an application to a Sub-Committee, or a Sub-Committee to Full Committee, if considered appropriate in the circumstances of any particular case.

## **2.0 The Policies**

### **General Information**

The Council's Licensing Policies are set out in bold type, with the explanation and justification for each area of policy in normal type. They will apply whenever we consider

any application made under the 2003 Licensing Act. Each policy will be applied to the premises as it exists at the time the application is determined, irrespective of its state at the time of application.

## **2.1 Main Policies.**

**Licensing Policy 1- Each application will be determined on its individual merits.**

- The 2003 Act provides for four different types of authorisation or permission, as follows:
- Premises licence – to use premises for licensable activities.
- Club premises certificate – to allow a qualifying club to engage in qualifying club activities as set out in Section 1 of the Act.
- Temporary event notice – to carry out licensable activities at a temporary event.
- Personal licence – to sell or authorise the sale of alcohol from premises in respect of which there is a premises licence.

**Licensing Policy 2 - This policy shall avoid duplication with other regulatory regimes wherever possible.**

**Licensing Policy 3 - Any conditions attached to licences following relevant representation shall be tailored to the individual styles and characteristics of the premises and events concerned.**

## **2.2 Live Music, Dancing & Theatre**

**Licensing Policy 4 - Whilst the Authority will encourage live music, dancing, and theatre for their wider cultural benefits throughout the town, the potential for public nuisance will always be carefully balanced with these wider benefits.**

Historically the Borough has held a good reputation for live regulated entertainment, however this has brought challenges in balancing the right of the public to have a quiet home life. The Licensing Committee represents the general interests of a community. Conditions should only be attached to licences as a matter of necessity for the promotion of the licensing objectives and not to deter live music, dancing, and theatre.

## **2.3 Licensing Hours**

**Licensing Policy 5 - The Authority has due regard to government recommendations over the relaxation of licensing hours. It recognises that longer & different licensing hours for the sale of alcohol are important to avoid concentrations of customers leaving premises simultaneously.**

Fixed and artificially early closing times may promote, in the case of sales of alcohol, rapid binge drinking close to closing times; and are a key cause of disorder and disturbance when large numbers of customers are required to leave premises simultaneously. This in turn produces friction, particularly between young men, and gives rise to disorder and peaks of noise and other nuisance behaviour particularly in and around late-night fast-food outlets, taxi ranks and other modes of transport.

The Authority will encourage an ordered dispersal of people from licensed premises through longer opening times. It will try to avoid conditions that undermine this principle unless they're necessary for the promotion of the four licensing objectives.

**Licensing Policy 6 - The Authority recognises the need for people to disperse quickly and safely from the town centre to avoid concentrations, which may produce disorder and disturbance, and will work with other parties to improve the overall facilities for this to occur.**

The Authority also wants to minimise disturbance and strain on transport systems. However, it recognises that encouraging people to disperse at later hours (because of longer opening times) may be to the detriment of our third licensing objective (prevention of public nuisance).

## **2.5 Transport**

The Authority will arrange for protocols with Sussex Police to achieve the swift and safe dispersal of people from the town centre to avoid disorder and disturbance.

The Authority wants to encourage taxi, private hire, and bus services to work at night in our area, to help with the safe and timely transportation of people away from the town centre. It will also encourage licence holders to provide transport home for their customers.

## **2.6 Planning**

It's very important to note that there are fundamental differences between the planning and licensing regimes. In general, planning permissions authorise a type of land use, whereas licences issued under the Licensing Act 2003 relate to a particular premise and operator and may only cover a part of the premises. Furthermore, planning takes no account of the suitability or otherwise of the applicant to operate a particular type of business, and licensable activities may therefore change without the need for a new planning permission.

Applicants therefore need to understand that because Planning, Building Control and Licensing are separate regimes with their own considerations, the granting by the licensing committee of any licence which involves a material alteration to a building **would not** relieve the applicant of the need to apply for planning permission or building control where appropriate.

Also, applicants must observe the planning conditions of any terminal hours of use where these hours are earlier than the licensing hours applied for. Consequently, applications for licences should normally be made after the relevant planning permission has been granted.

Applicants are encouraged to demonstrate that the premises for which a licence is sought is suitable for the proposed use and that the operation will not undermine the licensing objectives. Applicants should note that by having the relevant planning permissions in place, this will help to demonstrate the suitability of the premises.

When considering the suitability of an area for any licensable activity, consideration should be given to the established use of surrounding buildings. For example, operating a venue that sells alcohol near a mosque, synagogue, church, or other religious centre may be felt inappropriate by that community leading to substantial planning and licensing objections. However, each case will be determined on its own merits with regard to planning policy and the licensing objectives.

Other locations including hospitals, schools, and residential homes for older people may also be considered sensitive and could potentially undermine one or more of the licensing objectives. This is not an exhaustive list, nor is it intended as an outright ban for any licensed activity; all applications will be considered on their merits.

As outlined above each regime is different and officers will seek to assist applicants in achieving a clear understanding of this, to avoid duplication and confusion regarding what is a planning matter versus what is a licensing matter. However, it is ultimately the applicant's responsibility to ensure that the correct applications are lodged with both departments where necessary. The planning department can be contacted at [https://www.hastings.gov.uk/planning/make\\_application](https://www.hastings.gov.uk/planning/make_application)

**Licensing Policy 7 - The Licensing Authority considers that in most cases all planning permissions, consents and certificates have been obtained before any Licensing Applications is made. This will smooth the licensing process if the planning position is clear and certain before a Licensing Application is made.**

**However, an application will not be refused if planning is not in place.**

It may mean that it is more likely that the local planning authority as a responsible authority will make representations in relation to the Licensing Application. Members of the public will also be less likely to be confused about the two separate issues and so less likely to make representations on planning matters to a Licensing Application.

There may be exceptional reasons why an Applicant considers that it is necessary to make a Licensing Application before or at the same time as a Planning Application. If that is the case, Applicants are requested to explain their reasons for doing so, when the Licensing Application is submitted (e.g., The only outstanding planning matter relates to a minor uncontroversial matter not relevant to licensing objectives such as extraction facilities, landscaping, or refuse storage). This may help to avoid representations being made.

Where an applicant has indicated that a licensing and planning application has been made at the same time, licensing officers will consider whether there should be discussion with planning counterparts with the aim of agreeing mutually acceptable operating hours and scheme designs.

This means the Authority will avoid unnecessary duplication and thus comply with Government guidance.

Nothing in this policy will stop applicants from applying for a 'Provisional Statement' where premises are being or are about to be constructed, extended, or otherwise altered for the purpose of being used for one or more licensable activities. It is recognised that this is sometimes necessary to secure the required investment. Such a statement does not have a limited duration but with the potential for material change over time, the longer the delay before the premises licence is applied for, the greater chance of representation being made.

## **2.7 Personal Licences**

**Licensing Policy 8 - The Authority will consider whether the grant of a personal licence will be in the interests of the licensing objectives. It will take account of the seriousness of relevant convictions, the period that has elapsed since the relevant offence(s) were committed and any mitigating circumstances.**

**Prevention of crime is both an objective of the Act and an important responsibility of the Council under the Crime and Disorder Act 1998.**

The Authority recognises that it has very little discretion regarding the granting of these licences, and if an applicant has an approved qualification and does not have certain relevant criminal convictions the application must be granted. However, if an applicant has an 'unspent' relevant conviction or where an objection has been lodged, a hearing must be held.

## **2.8 Premises Licences and Club Premises Certificates**

**Licensing Policy 9 - The Authority expects premises to be constructed and operated to an appropriate standard of safety.**

**In keeping with its second licensing objective (public safety), the Authority wants anyone visiting or working at a licensed venue to do so knowing the building has been constructed to safe standards and is properly maintained.**

## **2.9 Public Safety/Crime and Disorder**

**Licensing Policy 10 - Applicants must show the steps they propose to take to promote the licensing objectives in their operational schedule and show how they will help the Authority achieve each of them, namely: -**

1. Prevention of crime and disorder.
2. Public safety.
3. Prevention of public nuisance; and
4. Protection of children from harm.

## **2.10 Designated Premises Supervisors**

**Licensing Policy 11 - Applicants must specify the Premises Supervisor in their operating plan. The supervisor should be responsible for the "day to day" running of the premises.**

The Authority recognises that Designated Premises Supervisors do not have to be constantly on the premises when it is trading. However, the Authority will expect such identified persons to be on site under normal circumstances, but fully accepts that occasions of sickness, leave and emergencies may take them away from the premises for short periods, and they are expected to operate suitable management systems to cover such absences.

## **2.11 Shops, Stores, Supermarkets and Garages with “off sales” licenses**

**Licensing Policy 12 - Shops, stores and supermarkets should be free to sell alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are very good reasons for restricting those hours.**

If the law permits the shop to open for 24 hours or limits such opening, for example, on Sundays, the Authority will generally permit the sale of alcohol during those hours. However, good reasons may exist for imposing a limitation, for example, following police representations in the case of shops known to be a focus of disorder, disturbance, or anti-social behaviour, including pressurising shop staff to make unlawful sales of alcohol. The sale or supply of alcohol at premises used primarily as a garage or forming part of premises, which are primarily used as a garage, is restricted by the 2003 Licensing Act.

## **2.12 Tables and Chairs outside Premises**

**Licensing Policy 13 - Applicants must indicate in their operating plan the adequacy of measures proposed to deal with the potential for public nuisance and/or crime and disorder arising from the use of tables and chairs or other such furniture by their patrons in the open air.**

The provision of tables and chairs outside the premises either on the highway or on private land can enhance the attractiveness of the venue. It can have the benefit of encouraging a continental style café culture. However, late at night these same tables and chairs can contribute to nuisance (unless within a self-contained beer garden). This is because they can encourage patrons and passers-by to loiter rather than disperse.

Where necessary, applicants must have the appropriate permissions for the placing and use of the tables and chairs in the open air. Such permissions are handled by the Highways Department of East Sussex County Council.

This policy is designed to strike a fair balance between the needs of those wishing to enjoy refreshment in the open air and the need to prevent safety and nuisance problems.

## **2.13 Temporary Event Notices**

**Licensing Policy 14 - The Authority recognises that permitted temporary activities do not require authorisation and are only subject to an official notice. However, we seek cooperation from applicants in giving as much notice as is possible of such events.**

It should also be noted that the giving of such a notice does not relieve the premises users from any requirements under planning law and other legislation.

## **2.14 Sex Related Activities**

**Licensing Policy 15 - The Authority recognises the need for applicants wishing to operate a Sexual Entertainment Venue (SEV) to hold a separate licence, The Authority also recognises that premises can operate up to 11 (eleven) such events on their premises in a calendar year without the need for a special SEV licence. Generally, the Authority will not grant SEV licences to premises near schools,**

churches, hospitals, youth clubs or other premises where significant numbers of children are likely to attend. Where such licences are granted, the Authority will impose tailored conditions in keeping with the first licensing objective (prevention of crime and disorder) and the fourth licensing objective (protection of children from harm) and as indicated in the Authorities Sex Establishment Policy.

## 2.15 Drugs

**Licensing Policy 16 - The Authority requires licensees to take all reasonable steps to prevent the entry of drugs into their premises, to take appropriate steps to prevent drugs changing hands within their premises and to take practical measures to deter drug use.**

The purpose of this policy is to further crime and disorder and public safety objectives, and to reduce the tragic social consequences of drug abuse.

Licensees should consider additional training in this area and follow the recommendations of the book 'Safer Nightlife' issued by the London Drugs Policy Forum and endorsed by the Home Office.

Licensees should rigidly follow these recommendations as failure to do so could lead to the licence being reviewed with the possibility of revocation, or in appropriate cases, the imposition of conditions.

## 2.16 Children

**Licensing Policy 17 - The Authority will take vigorous measures to protect children from harm. Where alcohol is to be sold, all applicants must outline their plans for control of underage drinkers. This should include use of an ID card scheme recognised by the Council, such as the Proof of Age Standards Scheme (PASS) as promoted by the Home Office. Pass scheme weblink**

The Authority considers East Sussex County Council Children's services to be competent to act as the responsible authority in relation to protection of children from harm.

Nothing in this policy limits the access of children to licensed premises unless it is necessary for the prevention of harm to children. Examples of premises where the introduction of additional controls are likely to be necessary are: -

- Where there have been convictions for serving alcohol to minors or with a reputation for under-age drinking.
- With a known association with drug taking or dealing.
- Where there is a strong element of gambling on the Premises.
- Where entertainment of an adult or sexual nature is provided.

In such circumstances the Authority may impose a complete prohibition on entry of children, or condition the licence, if satisfied that problems would be adequately controlled by so doing.

No statement of policy can properly anticipate every issue of concern that could arise in respect of children with regard to individual premises and as such, general rules will be



avoided. Consideration of the individual merits of each application remains the best mechanism for judging such matters.

Generally, the Authority will not impose conditions restricting the admission of children to any premises and the Authority cannot impose conditions requiring the admission of children to any premises. Where no licensing restriction is necessary, this will remain a matter for the discretion of the individual licensee or club.

Where childcare facilities are made available on premises, we would expect particular attention to be given to their location. They should be located on the same level as the parents or on the route to the final exit. This avoids parents travelling against the normal direction of escape when any alarm is raised.

Where matters relating to potential harm to children at licensed premises are raised with the Council, we will discuss those issues with the appropriate authorities, either the Police or the Safeguarding Children Team at East Sussex County Council to ensure that the matter is properly investigated.

Alternatives which may be considered for limiting the access of children where that is appropriate for the prevention of harm to children are as follows:

- a. Restriction on the hours when children may be present
- b. Restriction on presence of children under certain ages when particular specified activities are taking place
- c. Restrictions on the parts of premises children may have access to
- d. Age restrictions
- e. Restrictions when certain activities are taking place
- f. Requirement for an accompanying adult
- g. Exclusion of people under 18 from the premises when any licensable activity is taking place

## **2.16.1 Children and cinemas**

**Licensing Policy 18 - Where the exhibition of films is permitted, the age restrictions of the British Board of Film Classification (BBFC) in respect of the films to be exhibited will be complied with. Only in exceptional cases will variations of this policy be granted by the Authority and then only with appropriate safeguards.**

## **2.16.2 Children and public entertainments**

**Licensing Policy 19 - Where there is a likelihood of children attending regulated entertainment, licensees must ensure that their operating schedule addresses the specific problems of child safety. Where there is provision of entertainment specifically for children (e.g. a children's disco or a large outdoor play area) the Authority will require the presence of sufficient adults to control the access and egress of the children and assure their safety. Where this is the case, all staff employed to supervise children should first satisfy an enhanced Disclosure and Barring Service (DBS) check. No staff should be employed with a history of child abuse or sex offences.**

## **2.17 Discounting and Sales Promotions**

Where there is a clear causal link between sales discounting and levels of crime and disorder on or in the vicinity of a premises, then it will be appropriate for the licensing authority to consider the imposition of a condition prohibiting the discounting of prices of alcohol following a review of the premises licence.

The mandatory conditions on irresponsible sales promotions introduced by Government in 2010 have been adopted and added to all premises licenses.

The Authority expects any discounted drinks and sales promotions to be properly managed and take into account the 'Good Practice Guide on Point of Sale Promotions' issued by the British Beer and Pub Association.

The Authority supports measures to promote sensible drinking including a commitment not to participate in drink promotions / happy hours etc, which encourage binge drinking. Premises licences are likely to be subject to review where they lead to any of the licensing objectives being undermined. Licence holders should not only consider the price of the alcohol sold on the premises but also in the way it is promoted.

The Authority expects applicants to include in their operating schedules any proposals for discounting or sales promotions of alcohol and to provide the Authority with written procedures detailing how such promotions will be managed to further the licensing objectives, and not breach the new mandatory conditions, giving particular attention to any increased supervision that may be required.

## **2.18 Cumulative Impact Policy.**

The concept of Cumulative Impact has been described in the Home Office Guidance to the Licensing Act 2003 since the commencement of that Act. Cumulative Impact is defined as the potential impact upon the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area.

In some areas where the number, type or density of licensed premises such as those selling alcohol or providing late night refreshment, is high or exceptional, serious problems of nuisance, crime and disorder may arise outside or some distance from those premises. Such problems generally occur as a result of large numbers of drinkers being concentrated in an area, for example when leaving premises at peak times or when queuing at fast food outlets or for public transport. These conditions are more likely to arise in city centres.

This should not, however, be confused with 'need' which relates more to the commercial demand for a particular type of premises. The issue of 'need' is therefore a matter for the market to decide and can, in some circumstances, be a matter for planning consideration; need therefore does not form part of this policy.

Cumulative Impact Assessments (CIA) were introduced into the Licensing Act 2003, and thus given a statutory footing, by the Policing and Crime Act 2017 with effect from 6 April 2018. A CIA may be published by a licensing authority to help it to limit the number or types of licence applications granted in areas where there is evidence to show that the number or density of licensed premises in the area is having a cumulative impact and leading to problems which are undermining the licensing objectives.

It is also consistent with the Authority's obligations to prevent crime and disorder as outlined in Section 17 of the Crime and Disorder Act 1998. However, this assessment shall not relate to the demand for certain types of premises (need). The issue of 'need' is not a proper matter for the Authority to consider within the licensing policy statement.

Cumulative Impact for the purposes of this policy means the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in an area or areas. For example, this may include the potential impact on crime and disorder or public nuisance on an area that a large concentration of licensed premises may have.

Having been reviewed the CIA is being published under the provisions of the Licensing Act 2003. The assessment will be reviewed every three years from the date it came into force consulting the persons outlined in Section 5 of the Licensing Act 2003.

Regard is also had to local planning policies and other mitigating measures (set out below).

This assessment relates to the area shown within the policy as a Cumulative Impact Area. This assessment applies to all grants and material variations of premises licences and club premises certificates.

The assessment will relate to all premises within the specified area that have a premises licence or a club premises certificate which will be carrying on or proposing to carry on the following licensable activities:

- The sale or supply of alcohol on or off the premises
- The provision of late-night refreshment on or off the premises
- The provision of any regulated entertainment

Whilst this Cumulative Impact Assessment does not apply directly to Temporary Event Notices, the Secretary of State's Guidance to the Licensing Act 2003 states that it is open to the Police and Environmental Health Officers to refer to this assessment and the evidence contained within it when objecting to a TEN. The authority believes this is a right and proper approach as extension of hours within the Cumulative Impact Area can have a direct impact on the promotion of the licensing objectives.

The licensing authority, after careful consideration, determined that the concentration of licensed premises in an area of the town centre was causing problems of crime and disorder and public nuisance, and that therefore an approach to 'Cumulative Impact' was necessary as part of its statement of licensing policy.

This assessment is being published because the authority is of the opinion that the number of licensed premises and club premises certificates within the Cumulative Impact Zones detailed below is such that it is likely that granting further licences or variation to licences would be inconsistent with the authority's duty to promote the licensing objectives. This opinion has been reached after careful consideration of evidence showing high levels of public nuisance, anti-social behaviour and crime and disorder within these areas.

The content of this assessment does not change the fundamental way that decisions are made under the 2003 Act. The authority will make all decisions on applications within the

Cumulative Impact Area on a case-by-case basis with a view on how best to promote the licensing objectives. It also does not remove the requirement for a relevant representation to be submitted by a responsible authority or a member of the public (defined as 'any other person' within the act) against an application for it to be considered by the Licensing Sub-Committee. An application that does not receive relevant representations is deemed granted under the act.

The Licensing Authority continues to consider that the number of licensed premises in the CIZ is such that it is likely that granting further licences would be inconsistent with the authority's duty to promote the licensing objectives.

This CIA and special policy is thus setting down a strong statement of intent about its approach to considering applications for the grant or variation of premises licences or club premises certificates in the CIZ.

The special policy will only be overridden in exceptional circumstances. The effect of this special policy is that applications for new premises licences or club premises certificates within the area, or variations which are likely to add to the existing Cumulative Impact, will be refused following relevant representations. This presumption can be rebutted by the applicant if they can show that their application will have no negative Cumulative Impact/ will not add to cumulative impact.

This special policy also applies to all new premises licences and club premises certificates, for example pubs, restaurants and take-away establishments. Off licences also come within this policy as they can contribute to problems of street drinking, proxy purchasing, dispersal issues, preloading and excessive drinking and related disorder.

The presumption of refusal does not relieve responsible authorities or other persons of the need to make a relevant representation. If there are no representations, the licensing authority must grant the application in terms consistent with the operating schedule submitted.

Furthermore, this special policy is not absolute. Upon receipt of a relevant representation, the licensing authority will always consider the circumstances of each case and whether there are exceptional circumstances to justify departing from its special policy in the light of the individual circumstances of the case. If an application is unlikely to add to the cumulative impact of the area, it may be granted. The impact can be expected to be different for premises with different styles and characteristics. For example, while a large nightclub or high-capacity public house might add to problems of cumulative impact, a small restaurant, theatre or live music venue (where alcohol is not the primary activity) may be considered exceptional circumstances. The fact that a premises will be/is exceptionally well managed with a well-qualified applicant, or that there are no residential premises nearby, will not be considered exceptional. Applications for premises within the CIZ should give consideration to potential cumulative impact issues when setting out the steps that will be taken to promote the licensing objectives.

It is for the applicant to demonstrate that their application would not add to the cumulative impact of such licensed premises in the area.

An applicant wishing to obtain a new or varied licence for premises falling within any of the

cumulative impact areas must identify, through the risk assessment process and operating schedule, the steps that he or she intends to take so that the council and responsible authorities can be satisfied that granting a new licence will not add to the impact already being experienced.

There are mechanisms and interventions, both within and outside the licensing regime, that are available for mitigating adverse impacts on the licensing objectives and should be considered alongside local licensing policy by the licensing authority, responsible authorities, other persons, licensed premises, and new and existing applicants:

- planning controls
- voluntary or best practice schemes
- positive measures to create a safe and clean environment in partnership with local businesses and communities
- provision of CCTV
- powers to designate parts of the town as places where alcohol may not be consumed publicly
- provision of transport facilities including taxi ranks
- confiscation of alcohol from adults and children in designated areas
- police enforcement of the law with regard to disorder and antisocial behaviour, including the
- issuing of fixed penalty notices
- enforcement action against those selling alcohol to people who are inebriated
- police powers to close some premises for up to 24 hours on the grounds of disorder, the likelihood of disorder or excessive noise
- the power of police, local businesses or residents to seek a review of the licence or certificate

In areas where there is an excessive accumulation of off and on licensed premises, it is relatively straight forward to provide a direct correlation between those premises and public nuisance, anti- social behaviour and crime and disorder in the area, through an analysis of the evidence including operating hours of the premises and the peak times for incidents and calls for service. It is more challenging but not impossible to provide a direct correlation between the accumulations of off licensed premises and public nuisance, anti-social behaviour and crime and disorder in the same way.

It is recognised that people are not necessarily drinking on or near to the premises where they purchased the alcohol and may delay drinking the alcohol until they arrive at home or consume the alcohol elsewhere.

The Matrix approach: The licensing authority has published within its statement of licensing policy a framework of what types of premises it would like to see in the CIZ and which it believes are less likely to add to problems of cumulative impact in the area. Such premises include a restaurant until midnight, a café to 10 pm and favourable consideration to non-alcohol led premises such as theatres.

However, in the identified areas there is an issue with people drinking on the street and causing disorder and anti-social behaviour issues. The council and Sussex Police have

evidence, which identifies smaller independently owned off licences in the town centre who are selling strong and cheap alcohol popular to street drinkers.  
Opening new off licences in these areas, where street drinking and the associated anti-social behaviour is most problematic would add to the problems already being experienced in the area.

Hastings Borough Council has applied a cumulative impact policy including the following areas:

### **1: Hastings Town Centre**

Robertson Street (UC 3162G) for its entire length.  
Claremont (UC 3162E) for its entire length  
Trinity Street (UC 3162F) for its entire length  
Trinity Passage (DPROW 177) for its entire length  
Havelock Road (A21) for its entire length  
Harold Place (A2101) for its entire length  
Cambridge Road (UC 30021) from its junction with Robertson Street to the junction of White Rock Road. **Proposal to Amend - from its junction with Robertson Street to the junction of Cambridge Gardens**  
Wellington place for its entire length.  
Queens Road (A2101) for its entire length

### **2: Old Town**

George Street (UC 3206A) for its entire length  
High Street (UC 3208A) for its entire length **TO BE REMOVED**

### **3: Central St Leonards**

London Road (A2102) from its junction with Grand Parade (A259) to its junction with Silchester Road (UC 3140F)  
Kings Road (UC 3145A) from its junction with London Rd (A2102) to its junction with Western Road (UC 3144C)  
Western Road (UC 3144C) for its entire length  
Norman Road (UC 3141A) from its junction with Gensing Road (UC 3141A) to its junction with London Road (A2102)  
Norman Road (A2102) from its junction with London Road (A2102) to its junction with Warrior Square (A2102)

These areas have been specified in previous reviews because the licensing authority believes that the cumulative impact of the number and concentration of licensed premises in these areas is adversely affecting the promotion of the following licensing objectives:  
Prevention of Crime and Disorder and Prevention of Public Nuisance.

These areas have been identified because evidence shows that the cumulative impact of the number and concentration of licensed premises in these areas continue to adversely affect the promotion of the following licensing objectives:

- prevention of crime and disorder

- prevention of public nuisance
- protection of children from harm
- public safety

As a result of the revised Sec 182 Guidance issued by Central Government in April 2018, Where representations are received in relation to an application, there will no longer be a presumption against the grant of such a licence or certificate. However, the Authority will expect applicants to consider their proposals carefully and supply information to support their view that the application will not add to the existing problems of the area, experienced by the high concentration of licensed venues. The council will only grant applications in exceptional cases, where the applicant has been able to identify through rigorous risk assessment and their operating schedule that the licence would not have a negative impact on the Licensing objectives.

This applies to alcohol led premises such as bars, pubs, and nightclubs, and for premises seeking late night refreshment such as takeaways, late opening restaurants and premises seeking to sell alcohol for consumption off premises, such as off licences and convenience stores.

## **Other Initiatives within the Cumulative Impact Area**

Prospective applicants and current licence holders should also familiarise themselves with the other initiatives within the Cumulative Impact Areas. These have been implemented by the licensing authority in conjunction with its partners to assist in reducing public nuisance, anti-social behaviour and crime and disorder within these areas with particular regard to the evening and night-time economy.

- Hastings Community Safety Partnership
- The support of street pastors scheme
- Public Space Protection Order
- Test purchasing
- Regular routine inspections
- Safe space project
- Community Alcohol partnership

Applicants who wish to operate in the Cumulative Impact Area will be expected to be familiar with and supportive of these initiative and work in partnership to maintain a cohesive and best practice approach to promoting a safe environment in the town.

## **Effects of the Cumulative Impact Policy**

The adoption of the Cumulative Impact Policy does not prevent any person making an application for a licence or giving a temporary event notice for premises within the designated area.

Responsible authorities and interested parties must note that the licensing authority can only give effect to the Cumulative Impact Policy in respect of any application for premises within the cumulative impact areas if a relevant representation is received.

If no relevant representations are received in respect of an application, the Licensing Authority is obliged to grant that application in terms that are consistent with the applicants operating schedule.

The responsible authorities and other persons are encouraged to set out in their representations to make reference to this assessment and the evidential basis and any other matters that they consider would add to the existing cumulative impact as may be relevant to an application.

Applicants will be expected to address Cumulative Impact Assessment through the contents of their application and in particular their risk assessment, operating schedule, proposed conditions, operating style and supporting information.

Applicants are encouraged to have pre-application discussions with the licensing authority and relevant responsible authorities and proper consultation with persons likely to be affected by the application to address any likely concerns in the application.

They should address how the application will contribute to the vision and policies for the town of the Licensing Authority (including the planning and development of the town and its economic, social, and environmental well-being).

They should also address the deliverability of the perceived benefits and the avoidance of negative impacts on the licensing objectives in such a way that provides confidence to the licensing authority, responsible authorities, and other persons.

The absence of a special policy does not prevent any responsible authority or other person making representations on an application for the grant or variation of a licence or in respect of a temporary events notice on the grounds that the premises will give rise to adverse impacts based on cumulative impacts. In their view that the application will not add to the existing problems of the area, experienced by the high concentration of licensed venues.

## **Evidence and support for the CIA, Cumulative impact policy and CIZs**

Since it was first introduced in 2008 the Special policy has had widespread support from the responsible authorities – police and licensing authority, from residents and residents associations and from local councillors. Successive reviews of the policy have shown that it remains relevant and necessary.

For the purposes of this CIA the police have compiled a report to support the continuation of the current special policy. The report highlights the policing challenges of the night-time economy and the work of the special task force ‘Operation Marble’.

The public health team at the Council has provided evidence in support and speak about hospital admission from alcohol related incidents.



## **Review**

The Council will review the operation of this cumulative impact policy every 3 years, considering evidence to assess whether it needs variation or extension. It is important to note that this special policy does not seek to refuse all licensed premises applications but to consider each application on its own merits.

Appendix 5 contains maps of the existing Cumulative impact areas within the borough.

## **3.0 Integration of Strategies**

### **3.1 Integration**

The Authority will secure the proper integration of this policy with national and local strategies and initiatives supporting the licensing objectives and will seek regular feedback from the appropriate agencies in respect of their local effectiveness. Such strategies, initiatives and agencies will include: This list is not exhaustive

- The Local Plan.
- Local Crime and Disorder Reduction Strategy.
- Hastings Evening Economy Report.
- Safer Streets Initiative.
- Alcohol Harm Reduction Strategy for England.
- East Sussex Alcohol harm Reduction Strategy 2021-2026
- East Sussex Drug and Alcohol Reduction Team.
- 'Citizen Card'.
- Proof of Age Standards Scheme (PASS).
- Arts, Culture and Tourism development strategies'
- Equalities Policy including race equality scheme under Race Relations (Amendment) Act 2000.
- Operation Support. Sussex Police Late Night policing operation.
- Challenge 25

### **3.2 Other Regulatory Regimes**

The Authority will seek to avoid duplication with other regulatory regimes as far as possible. However, if other regulations do not adequately cover the unique circumstances that arise in connection with a particular venue or type of entertainment, or if more prescriptive requirements are required following a review of a licence, then additional controls will be imposed in support of the licensing objectives.

The following notes are made for information about specific regulatory regimes.

## **Health and Safety**

All businesses have general and specific legal duties under the 'Health and Safety at Work etc Act 1974' and regulations made there under. These duties are placed on employers, employees and the self-employed and any person involved in the business activity. The inspection of premises, together with any subsequent enforcement, will be undertaken by the Council's Environmental Health Department or by the Health and Safety Executive (HSE).

## **Fire Safety**

The Regulatory Reform (Fire Safety) Order 2005 places an obligation on a responsible person for premises to carry out a risk assessment and subsequently ensure that any protective and preventative measures identified are taken. The aim of this is to lower the risk from fire within premises to ensure the safety of any relevant persons.

This legislation applies inside and outside of the workplace. It applies to any place where a relevant person could be expected to visit. A relevant person being any person who is legally on any premises, other than a single private dwelling.

## **Food Hygiene**

Premises selling alcohol and/or premises engaged in a food business must be registered and will be subject to risk-based food hygiene inspections by the Council's Environmental Health staff, at regular intervals, under the Food Safety Act 1990.

## **Noise**

Statutory and Public nuisances are dealt with by the Council's Environmental Health staff under the Environmental Protection Act 1990 and associated legislation. Noise from commercial premises may often fall under this regime.

## **Door Supervisors**

Anybody on security or door supervisory activities in licensed premises when they are open to the public must be registered. The Security Industry Authority issues these registrations under the 'Private Security Industry Act 2001'

# **4.0 Equalities Act 2010**

## **Promotion of Equality**

The Human Rights Act 1998 makes it unlawful for a local authority to act in a way which is incompatible with the European Convention on Human Rights. In making decisions and determining appropriate action the council will have due regard to the Convention. The Licensing Authority will interpret the LA2003 in a manner consistent with the Human Rights Act 1998.

The Licensing Authority will consider the effect upon people's human rights and adopt a principle of proportionality and the need to balance the rights of the individual with the rights of the community as a whole. Action taken by the council which affects

another's rights must be no more onerous than is necessary in a democratic society.

The Equality Act 2010 requires public bodies to consider all individuals when carrying out their day to day work – in shaping Policy, in delivering services and in relation to their own employees. It requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity, and foster good relations between different people when carrying out their activities.

The Equality Duty supports good decision making – it encourages public bodies to understand how different people will be affected by their activities, so that their policies and services are appropriate and accessible to all and meet different people's needs. By understanding the effect of their activities on different people, and how inclusive public services can support and open up people's opportunities, public bodies can be more efficient and effective. The Equality Duty therefore helps public bodies to deliver the Government's overall objectives for public services.

# Appendix 1

## Table of Delegation

### Delegation of Functions

Matter to be dealt with by Environment and Place	Sub Committee	Assistant director or their nominee	Full Licensing committee
Application for personal license	If a police objection	If no objection made	
Application for personal license with unspent convictions	All cases		
Application for premises license/club premises certificate	If a relevant representation made	If no relevant representation made	
Application for provisional statement	If a relevant representation made	If no relevant representation made	
Application to vary premises license/club premises certificate	If a relevant representation made	If no relevant representation made	
Application for minor variation to premises license/club premises certificate		In all cases if no relevant representation made.	
Application to vary designated premises supervisor	If a police objection	All other cases	
Request to be removed as designated premises supervisor		All cases	
Application for transfer of premises license	If a police objection	All other cases	
Applications for interim authorities	If a police objection	All other cases	
Application to review premises license/club premises certificate	All cases		
Decision on whether a complaint is irrelevant frivolous vexatious etc		All cases, with advice from Council Chief legal officer or his/her nominee	
Decision to object when local authority is a consultee and not the relevant authority considering the application	All cases		
Determination of a police objection to a temporary notice	All cases		
Amendment to Matrix	.		All cases
Licensing policy review.			All cases

## **Appendix 2**

### **Advice on Matters for Consideration by Applicants**

It is for applicants to put forward steps to promote the licensing objectives as they are best placed to understand their own premises.

When applicants for premises licences or club premises certificates are preparing their operating schedules, required under section 17 (3a) of the Licensing Act 2003, and when the Authority is considering such applications, the following measures should be considered to meet the four licensing objectives.

#### **Licensing Objective 1 - Prevention of Crime and Disorder**

##### **Complying with Designing Out Crime Principles**

The applicant must be able to show that they have incorporated sensible security measures during the building or refurbishment of a licensed premise that will actively contribute to the safety of customers, staff, and local residents through the reduction of crime and disorder. The nature and extent of designing out crime will be largely determined by the location of the premises, type of entertainment involved, duration of proposed licence, proposed hours of operation, capacity of premises and audience profile. However, matters to consider when designing out crime could include: -

- Approach and access to premises.
- Doorways and emergency exit.
- Layout and capacity of premises.
- Lighting in and around premises particularly on the street.

##### **Communication Systems**

Radio, text pagers or other means of rapid two-way communication, connecting premises licence holders, designated premises supervisors, managers of premises to the local Police can provide for rapid response by the Police to situations of disorder which may be endangering the customers or staff on the premises. Such two-way communication will enable licence holders, managers, designated premises supervisors and clubs to report incidents to the Police and enable the Police to warn a large number of other premises of potential disorder or individuals suspected of criminal behaviour who are about in a particular area. Internally, such systems can be used to warn staff of potential and developing problems within the premises. Where appropriate participation in the Barwatch Scheme will be a positive step towards preventing crime and disorder, membership gives licensees the use of a monitored Radio Scheme and access to circulations of known troublemakers.

## **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, including the use of metal detectors, and excluding those suspected of carrying illegal drugs, or carrying offensive weapons.
- The use of 'amnesty boxes' for drugs and objects that could be considered potential offensive weapons.
- Maintaining orderly queuing outside of venues.
- Supervision of Smoking areas

Where door supervisors conducting security, activities are to be a condition of a licence, it means that they will have to be registered with the Security Industry Authority. Conditions may also be needed such as supervisors, displaying 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 door supervisor should be available to deal with problems involving female customers.

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

## **Bottle Bans**

Bottles may be used as weapons inflicting serious harm during incidents of disorder. One option can be to prevent sales of drinks in their bottles for consumption on the premises. However, some customers consider drinking from bottles to be safer than drinking from a glass as it is easier for them to prevent the spiking of drinks with drugs in bottles, the openings of which may be readily covered. These issues, therefore, need to be carefully balanced.

## **Plastic Containers and Toughened Glass**

Glasses containing drinks may be used as weapons during incidents of disorder and can cause very serious injuries. Consideration should therefore be given to conditions requiring either the use of plastic containers or toughened glass, which inflicts less severe injuries. The location and style of the venue and the activities carried on there would be particularly important in assessing whether a condition is necessary. For example, the use of glass containers on the terraces of outdoor sports grounds may obviously be of concern, but similar concerns may also apply to indoor sports events such as boxing matches. Similarly, the use of such plastic containers or toughened glass during the televising of live sporting events, such as international football matches, when high states of excitement and emotion fuelled by alcohol might arise, may be a necessary condition. In addition, such measures may be necessary during large scale Town events such as Carnival week, bonfire night etc. When used such glasses and containers should be weights and measures stamped.

It should also be noted that the use of plastic or paper drinks containers and toughened glass may also be relevant as measures to promote public safety and will be considered as a possible condition in circumstances when a premises licence is subject to a review on crime and disorder grounds.

It is now Council policy to promote the use of recyclable/reusable plastic containers and seeks co-operation from operators in replacing single use plastics where possible.

## **CCTV**

The presence of CCTV cameras can be an important means of deterring and detecting crime at and immediately outside licensed premises. Operating schedules should state the precise siting of each camera, the requirement to maintain cameras in working order, and to retain recordings for an appropriate period of time.

Advice is available from the Sussex Police under 'designing out crime' initiatives, for applicants preparing operating schedules, with advice on the use of CCTV to prevent crime. The main criteria required being:

1. The system will incorporate a recording facility and any recording shall be retained and stored in a secure manner for a minimum of 28 days and made available, subject to compliance with data Protection legislation, to the Police upon request.
2. The system will display on any recording, the correct time and date of the recording.
3. The system will be of sufficient quality to allow facial recognition.
4. The system will be maintained and be fully operational throughout the hours that the premises are open.
5. Train adequate members of suitable staff to use the CCTV system to its full potential thus ensuring that a member of staff is always available to replay footage and download material following an incident.

## **Open Containers not to be taken from the Premises**

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

## **Restrictions 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 sports events. Operating Schedules should not only specify these areas, but also indicate the circumstances in which the ban would apply and times at which it would be enforced.

## **Occupancy Limits**

Operating Schedules may set occupancy 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.

However, the need for such limits is a matter controlled by the Regulatory Reform (Fire Safety) Order 2005 and should be included within the Risk Assessment sent to the Fire and Rescue Service.

### **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 will be necessary to require a policy to be applied at licensed premises requiring the production of 'proof of age' documentation before such sales are made. This should not be limited to recognised "proof of age" cards, but their use should be encouraged, as other types of proof, such as photo-driving licences, and passports can be expensive to replace if lost and pose a potential security risk.

### **Crime Prevention Notices**

It may be necessary for notices to be displayed, which warn customers of the prevalence of certain types of crime, which they may be vulnerable to. 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 advise customers about the need to be vigilant of unattended bags because of concerns about terrorism.

### **Signage**

It may be necessary for the normal hours under the terms of the premises licence or club premises certificate at which licensable activities are permitted to take place, to be displayed on or immediately outside the premises, so that it is clear 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 along with signs encouraging patrons to leave in a quiet and orderly manner in respect of the neighbours. 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.

### **Licensing Objective 2 - Public Safety**

Matters of public safety should be properly addressed by the requirements of the Health and Safety at Work etc Act 1974 and associated regulations, and the Regulatory Reform (Fire Safety) Order 2005, and any successors to these regulations. Whether or not any risk assessment shows any additional measures to be necessary 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 be recognised that special issues may arise in connection with outdoor and large-scale events. In addition, to considering the points made in this section, those preparing premises operating schedules or club operating schedules, 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; 4 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 may be obtained through;
- <http://www.streetartsnetwork.org/pages/publications>.

## **People with Disabilities**

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 people with disabilities are present, adequate arrangements exist to enable their safe evacuation in the event of an emergency; and people with disabilities on the premises are made aware of those arrangements.
- Applicants are advised to discuss potential areas of concern with the Council's access officer who is located within the Council's Building Control service.

## **Escape Routes**

It may be necessary to include conditions relating to the maintenance of all escape routes and exits including external exits. These might demand that such exits are kept unobstructed, in good order with non-slippery and even surfaces, free of trip hazards and clearly identified. In restaurants and other premises where chairs and tables are provided this might also include ensuring that internal gangways are kept unobstructed. In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given in the Operating Schedule to ensure that:

- All exits doors are easily operable without the use of a key, card, code, or similar means.
- Doors at such exits are regularly checked to ensure that they function satisfactorily, and a record of the check kept.
- Any security fastenings are removed prior to the premises being open to the public.
- All fire doors are maintained effectively self-closing and shall not be held open.
- Fire resisting doors to ducts, service shafts, and cupboards shall be kept locked shut.
- The edges of the treads of steps and stairways are maintained to be conspicuous.

## **Safety Checks**

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

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

## **Curtains, Hangings, Decorations and Upholstery**

Consideration must also be given in the Operating Schedule to ensuring 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 Part 5 of BS 5852:2006.
- Curtain hangings, and temporary decorations are arranged so as not to come in contact with a heat source or obstruct exits, fire safety signs or fire-fighting equipment.

A suitable risk assessment should be undertaken in all such cases.

## **High Volume Vertical Drinking Establishments**

To meet the Authority's first licensing objective (prevention of crime and disorder) conditions may be attached to premises licences demanding:

- An appropriate ratio of tables and chairs based on capacity.
- The presence of Security Industry Authority registered security teams to control entry numbers in line with set limits and deny entry to persons who appear drunk and/or disorderly.

## **Fire Action Notices**

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.
- The local East Sussex Fire and Rescue Service are notified as soon as possible of any problems associated with the water supply to any hydrant, hose reel, sprinkler, drencher, or other fire extinguishing installation.
- The recording of all relevant information in a Fire Logbook in order that any short-term access problems are notified to the emergency services.

## **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:

- An adequate and appropriate supply of first aid equipment and materials is available on the premises.
- At least one suitably trained first aider shall be on duty when the public are present; and if more than one suitably trained first aider is present 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 to ensure that:

- In the absence of adequate daylight, the lighting in any area accessible to the public, members or guests shall be fully in operation when they are present.
- Fire safety signs are adequately illuminated.
- Emergency lighting is not to be altered without our consent.
- Emergency lighting batteries are fully charged before the admission of the public, members, or guests.
- In the event of the failure of normal lighting, where the emergency lighting battery has a capacity of an hour, arrangements are in place to ensure that the public, members or guests leave the premises within 20 minutes, unless within that time normal lighting has been restored and the battery is being re-charged; and, if the emergency lighting battery has a capacity of three hours the appropriate period by the end of which the public should have left the premises is one hour.

## **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.
- Temporary electrical wiring and distribution systems shall comply with the recommendations of BS 7671 or where applicable BS 7909.
- Temporary electrical wiring and distribution systems are inspected and certified by a competent qualified person before they are use.

## **Ventilation**

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

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

## **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 to the Licensing Authority's satisfaction and any material used to form the skirt around the ring is flame-retardant.
- At any wrestling or other entertainments of a similar nature members of the public do not occupy any seat within 2.5 metres of the ring.
- At water sports entertainments, staff adequately trained in rescue and lifesaving procedures are stationed and remain within the vicinity of the water at all material times (see also Health and Safety HSG179 HSE Publications)

## **Theatres and Cinemas (Promotion of Public Safety)**

There are particular public safety and fire safety matters that should be considered in connection with theatres and cinemas. The principle remains that conditions may be necessary and should be established through risk assessment.

## **Premises used for Closely Seated Audiences**

### **Attendants**

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

Number of members of the audience Minimum number of attendants

Present on a floor required to be present on that floor

1-101 One

101-250 Two

251-500 Three

501-750 Four

751-1000 Five

And one additional attendant for each additional 250 persons (or part thereof)

(b) Attendants shall not be engaged in any duties that would hinder the prompt discharge of their duties in the event of an emergency or entail their absence from that floor or auditorium where they are on duty.

(c) Any attendant shall be readily identifiable to the audience (but this need not entail the wearing of a uniform).

(d) The premises shall not be used for a closely seated audience except in accordance with seating plan(s), a copy of which is available at the premises and shall be shown to any authorised person on request.

(e) No article shall be attached to the back of any seat, which would reduce the clear width between rows 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 to minimise any risk to the safety of the audience, the performers, and staff. Warning of any special effects should be made and will require a risk assessment as demanded by health and safety legislation.

Special effects include:

- Dry ice machines and cryogenic fog.
- Smoke machines and fog generators.
- Pyrotechnics, including fireworks.
- Real flame.
- Firearms.
- Motor vehicles.
- Strobe lighting.
- Lasers (see Hse / PLSA Guide SAFETY OF DISPLAY LASER);
- Explosives and highly flammable substances

In certain circumstances, it may be necessary to require that certain special effects are only used with the Licensing Authority's prior consent.

## **Scenery**

Any scenery should be maintained flame-retardant.

## **Safety curtain**

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

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

## **Ceilings**

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

## **Seating**

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

## **Premises used for Film Exhibitions**

Attendants – premises without a staff alerting system:

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

Number of members of the audience present on the premises	1-250
Minimum number of attendants required to be on duty	2

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.

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

- Number of members of the audience present on the premises **1-500**
- Minimum number of attendants required to be on duty **2**
- Minimum number of staff on the premises who are available to assist in the event of an emergency **1**
- Number of members of the audience present on the premises **501-1000**
- Minimum number of attendants required to be on duty **3**
- Minimum number of staff on the premises who are available to assist in the event of an emergency **2**
- Number of members of the audience present on the premises **1001-1500**
- Minimum number of attendants required to be on duty **4**
- Minimum number of staff on the premises who are available to assist in the event of an emergency **4**
- Number of members of the audience present on the premises **1501 or more**
- Minimum number of attendants required to be on duty **5 plus one for every 500 (or part thereof) persons over 2000 on the premises**
- Minimum number of staff on the premises who are available to assist in the event of an emergency **5 plus one for every 500 (or part thereof) persons over 2000 on the premises**

Staff shall be considered as being available to assist in the event of an emergency if they are:

- the holder of the premises license or the 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: 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.

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.

The staff alerting system shall be maintained in working order.

## **Minimum Lighting**

The level of lighting in the auditorium should be appropriate and 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 5266-1:2005 Emergency lighting. Code of practice for the emergency lighting of premises.

## **Flammable Films**

No flammable films should be allowed on the premises without the Licensing Authority's consent.

## **Licensing Objective 3 - 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 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. Anti-social Behaviour, Crime and Policing Act 2014 allows the Council to issue a closure order in relation to licensed premises or premises operating under a temporary event notice which are causing a public noise nuisance. Under normal circumstances a premises that has been a subject of a closure by the Police, or the Licensing Authority will then be subjected to the review procedure.

## **Matters to be considered by Applicants**

Applicants should have regard to the following matters when writing their operating schedules and are advised to consult the Environmental Health Officer (Environmental Protection) at the Council before submitting their application.

If the Licensing Authority receives a representation, at the Hearing that determines the application, additional conditions may be imposed.

## **Hours**

The hours during which the premises are permitted to be open to the public or to members and their guests can be restricted by the conditions of a premises licence or a club premises certificate for the prevention of public nuisance. This must be balanced by the potential impact on disorder, 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 a garden area of the premises after a certain time.



## **Noise and vibration**

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

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

## **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 to cause a nuisance to nearby properties and the premises are properly vented.

## **Light Pollution**

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

## **Licensing Objective 4 - Protection of Children**

### **Matters to be Considered by the Applicants**

Applicants should have regard to the following matters when writing their operating schedules and are advised to consult the Head of Children's Safeguards and Quality Assurance, PO Box 5, County Hall, Lewes, East Sussex, BN7 1SW. If the Licensing Authority receives a representation at the Hearing that determines the application, additional conditions may be imposed.

It should be noted that it is unlawful under the 2003 Licensing 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 licences, club premises certificates or a temporary event notice when open for the purposes of being used for the supply of alcohol for consumption there. In between midnight and 5 a.m. at all premises supplying alcohol for consumption on those premises under the authorisation of any premises licence, club premises certificate or temporary event notice. Conditions duplicating these provisions are, therefore, unnecessary.

## **Access for Children to Licensed Premises - in general**

Restrictions on the access of children under 18 to premises where licensable activities are taking place should be made where it is necessary to protect children from harm. Precise policy and detail will be a matter for the licensing authority. Conditions attached to premises licences and club premises certificates may reflect the concerns of responsible Authority's 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 the Licensing Authority on their individual merits and characteristics, the Secretary of State recommends (unless there are circumstances justifying the contrary) that for any premises with known associations (having been presented with evidence at a hearing) with underage drinking, drugs, significant gambling, or any activity or entertainment (whether 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 10.00 p.m. in the evening, there should be a presumption against the presence of children unaccompanied by adults under the age of 12 after that time. Applicants wishing to allow access when preparing operating schedules or variations of those schedules or club operating schedules for the purposes of obtaining or varying a premises licence or club premises certificate should explain their reasons, and outline in detail the steps that they intend to take to protect children from harm on such premises.

In any other case, subject to the premises licence holders' or club's discretion, the expectation would be for unrestricted access for children of any age to the premises. An operating schedule or club operating schedule should indicate any decision for the premises to exclude children completely, which would mean there was no need to include in the schedule steps the applicant proposes to take to promote the protection of children from harm.

## **Age Restrictions – Specific**

Under the 2003 Licensing Act a wide variety of licensable activities could take place at various types of premises and at different times of the day and night. Whilst it may be appropriate to allow children unrestricted access at particular times and when certain activities are not taking place the Licensing Authority, following relevant representations made by responsible Authority's 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. The Licensing Authority will consider:

- The times of day during when age restrictions should and should not apply. For example, the fact that adult entertainment may be presented at premises after 20:00 hrs does not mean that it would be necessary to impose age restrictions for earlier parts of the day.
- Types of event or activity in respect of which no age restrictions may be needed, for example:

1. Family entertainment; or
  2. Non-alcoholic events for young age groups such as under 18s dances.
- Types of event or activity that give rise to a more acute need for age restrictions than normal, for example during Happy Hours or on drinks promotion nights.

### **Age restrictions – Cinemas**

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

A condition that where the Licensing Authority 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.
- 12 - Passed only for viewing by persons aged 12 years or older.
- 12A - Passed only for viewing by persons aged 12 years or older or persons younger than 12 when accompanied by an adult.
- 15 - Passed only for viewing by persons aged 15 years and over.
- 18 - Passed only for viewing by persons aged 18 years and over.
- A condition specifying 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 12, 12A, 15 or 18 category no person appearing to be under the age of 12, under 12 and unaccompanied, 15 or 18 as appropriate shall be admitted to any part of the programme; and the licence holder shall display in a conspicuous position at each entrance to the premises a notice in the following terms:

Persons under the age of [insert appropriate age] cannot be admitted to any part of the programme

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

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

## **Theatres**

The admission of children to theatres, as with other licensed premises, is not normally expected to be restricted unless it is necessary to promote the licensing objective of the protection of children from harm. However, theatres may be the venue for a wide range of activities. The admission of children to the performance of a play is expected to be left, normally, 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).

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 wellbeing of children present on the premises during any emergency.

## **Performances Especially for Children**

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

However, if it is necessary to consider imposing conditions for the promotion of the protection of children from harm then the Licensing Authority will consider the matters outlined below:

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

## **Appendix 3**

### **Definition of Terms**

In some cases, these definitions are an abbreviation or interpretation of the Licensing Act 2003. For a full definition of the terms used, the reader must refer to the Licensing Act 2003.

#### **‘Appeals’**

Appeals against decisions of the Licensing Authority are to the magistrates’ court for the area in which the premises are situated. The appeal must be lodged within 21 days of being notified of the Licensing Authority’s decision. On appeal a magistrates’ court may, dismiss the appeal; substitute its own decision; remit the case to the Licensing Authority with directions; and make an order for costs.

#### **‘Authorised Persons’**

“Authorised Persons” are specified people who have statutory duties in relation to the inspection of premises, e.g., licensing officers, police, fire, health & safety, environmental health.

#### **‘Children’**

Unless stated otherwise all references to children contained within this policy mean a person under the age of 16yrs.

#### **‘Closure Order’**

New powers for the police and courts to close premises. The 2003 Licensing Act significantly extends the existing powers of the police to seek court orders in a geographical area that is experiencing or likely to experience disorder or to close down instantly individual licensed premises that are disorderly, likely to become disorderly or are causing noise nuisance.

#### **‘Club Premises Certificate’**

A certificate that licences a qualifying club for the sale/supply of alcohol. It can be granted to members clubs which comply with specific conditions e.g., membership rules, run by club committees, profits go to members not an owner etc. club premises certificates replace registration under the Licensing Act 1964. The law for members clubs has changed relatively little under the 2003 Licensing Act. There is no limit on the duration of the certificate, but it may be withdrawn, surrendered, or suspended.

#### **‘Conditions’**

A premises licence may be granted subject to different conditions, and these may be in respect of different parts of the premises and different licensable activities. There is no power to impose conditions on a personal licence. Secretary of State’s guidance provides

“The only conditions which should be imposed on the premises licence or club premises certificate are those which are necessary for the promotion of the licensing objectives. Accordingly, if the existing law already places certain statutory responsibilities on an employer or operator of premises, it cannot be necessary to impose the same or similar duties on the premises licence holder”. Conditions must be proportional and tailored to size, style, characteristics, and activities taking place at the premises concerned.

### **‘Designated Premises Supervisor’**

The person in the case of premises selling alcohol, who will normally have been given the day-to-day responsibility for running the premises by the holder of the Premises Licence or will be the Premises Licence holder themselves (who must also be a Personal Licence holder).

### **‘Interested Parties’**

“Interested Parties” are any other persons or a body representing them including all Ward Councillors of the authority.

### **‘Interim Authority Notices’**

Where a premises licence lapses due to death, incapacity, or insolvency etc. of the holder, specified persons can within 7 days serve an interim Authority notice on the Licensing Authority. This revives the licence, subject to police objection, for a period of up to 2 months so the premises can continue trading. This is the equivalent to “interim Authority’s” and “protection orders” under the Licensing Act 1964.

### **‘Late Night Refreshment’**

The supply of hot food and/or drink to members of the public (whether for consumption on or off the premises) between the hours of 11.00p.m. and 5.00a.m.

### **‘Licensable Activities’**

- The sale by retail of alcohol
- The supply of alcohol by or on behalf of a club, or to the order of a member of the club
- The provision of Regulated Entertainment
- The provision of Late-Night Refreshment

### **‘Licensing Objectives’**

The Council's four Licensing Objectives (based on the 2003 Licensing Act) are:

- 1.Prevention of crime and disorder
- 2.Public safety
- 3.Prevention of public nuisance
- 4.Protection of children from harm

The Licensing Authority must carry out its function under the Act with a view to promoting the licensing objectives.

### **‘Licensed Premises’**

Includes club premises and events unless the context otherwise requires.

### **‘Mandatory Conditions’**

Conditions that the 2003 Licensing Act requires are imposed on the premises licence, club premises certificate or personal licence.

### **‘Minor variation’**

A simplified process to allow minor changes to the structure, layout of a premise or small adjustments to licensing hours and the addition of certain licensable activities. Cannot be used to extend the hours for the sale or supply of alcohol between 23.00 hours & 07.00 hours.

### **‘Objection Notice’**

A procedure whereby the police can object to the grant of a personal licence on the grounds that where having regard to convictions of the applicant for relevant offences, the grant would undermine the crime prevention objective.

### **‘Operating Schedule’**

A document containing a statement of the following matters (and any others that may be prescribed):

- Steps taken by the Licence holder to meet the four licensing objectives.
- The Licensable Activities to be conducted on the premises.
- The times during which the Licensable Activities are to take place and any other times when premises are open to the public.
- Where the Licence is required only for a limited period, that period.
- Where the Licensable Activities include the supply of alcohol, the name and address of the individual to be specified as the Designated Premises Supervisor.

### **‘Personal Licence’**

A licence granted to an individual authorising that person to supply alcohol or authorise the supply of alcohol in accordance with a premises licence. The licence lasts for ever and only ceases to have effect when revoked, forfeited, surrendered, or suspended. A personal licence holder is not required where the premise concerned does not supply alcohol as one of its licensable activities. A personal licence holder is also not required for the supply of alcohol in a club, which has a club premises certificate. Only the police can object to the grant of a personal licence (there is no equivalent to relevant representations as for premises licences).

### **‘Premises Licence’**

A licence granted in respect of any premises, which authorises the premises to be used for one or more licensable activities, has effect until revoked, surrendered or on the death,

insolvency etc of the holder. The local authority licensing committee in the area where the premises are situated deals with applications.

### **‘Provisional Statement’**

A procedure by which the Licensing Authority can give a statement approving for licensing purposes proposals for a premises being built or in the course of being constructed. Equivalent to a “provisional grant” under the Licensing Act 1964. Where a provisional statement is made, subject to limited exceptions, the full licence must normally be granted once the premises are completed.

### **‘Qualifying Club’**

Club Premises Certificates will be issued to Qualifying Clubs formerly Registered Members Clubs. To be eligible for a Club Premises Certificate the club/organisation members must have joined together for a particular social, sporting, or political purpose and then have combined to purchase alcohol in bulk as members of the organisation for supply to members and their guests. Qualifying conditions are specified in Section 61 of the Act and the Council must be satisfied that these conditions have been met, including evidence to support that the club is non-profit making and that there is a minimum of 48 hours delay between application and acceptance of new members. The club must be established and conducted in ‘good faith’ (this involves consideration of details such as club finances).

### **‘Regulated Entertainment’**

- A performance of a play
- An exhibition of a film
- An indoor sporting event
- A boxing or wrestling entertainment
- A performance of live music
- Any playing of recorded music
- A performance of dance
- Entertainment of a similar description to that falling within the performance of live music, the playing of recorded music and the performance of dance.
- (or entertainment of a similar description falling within the last three of the categories listed above), where the entertainment takes place in the presence of and for the purposes of entertaining that audience or spectators.

### **‘Relevant Representations’**

The 2003 Act does not use the term “objections”. Instead, authorised persons, interested parties and responsible Authority’s may be able to make relevant representations about an application for a licence. Representations must relate to the licensing objectives and where made by an interested party must not be frivolous or vexatious. When considering an application from an interested party or Responsible Authority we need only consider relevant representations. The making of relevant representations engages the licensing Authority’s discretion to take “steps” consistent with the licensing objectives when considering the application.



### **‘Review of Licence’**

Where a premises licence is in force an interested party or Responsible Authority may apply to the Licensing Authority for it to be reviewed. The Licensing Authority must hold a hearing to review the licence and as a result must take any necessary steps to promote the licensing objectives, such as modification of conditions; exclusion of licensable activities; removal of the premises supervisor; suspension of the licence for up to three months; or the revocation of the licence.

### **‘Responsible Authority’**

- The Chief Officer of Police in the area where the premises are situated.
- The Fire Authority in the area where the premises are situated.
- The enforcing Authority for Health and Safety at Work.
- The Licensing Authority
- Public health
- The local Planning Authority
- The local Authority responsible for minimising or preventing the risk of pollution of the environment or of harm to human health.
- The body representing matters relating to the protection of children from harm.
- In relation to a vessel, a navigating Authority, the Environment Agency, or the British Waterways Board.

Only these groups can make representation about an application for a Premises Licence.

### **‘Statement of Licensing Policy’**

The Licensing Authority must every five years determine and publish a statement of licensing policy. There is a requirement to consult on the policy and keep it under review. Additionally, the Council will review the Cumulative Impact Policy, every three years.

### **‘Supervisor’**

Responsible for supervision of the premises e.g., the day-to-day manager. Any premises where alcohol is supplied as a licensable activity must have a designated premises supervisor.

### **‘Temporary Event Notice’**

- A permitted Temporary Activity involving one or more Licensable Activities subject to the following various conditions and limitations:
- Duration- they are limited to events lasting for up to 7 days.
- Scale- they cannot involve the presence of more than 499 people at any one time.
- Use of the same premises- the same premises cannot be used on more than 15 occasions in a calendar year but are subject to the overall aggregate of 21 days irrespective of the number of occasions on which they have been used.
- The number of notices given by one individual within a given period of time- a Personal Licence holder is limited to 50 notices in one year, and any other person to five notices in a similar period.

- A provision for a “late” ten exists and can be used in exceptional circumstances where the normal 10 working days notification cannot be given.

(If these conditions are not fulfilled, the Temporary Event would require a Premises Licence if it were currently unlicensed for the activity involved).

### **‘Transfer’**

A procedure where an application can be made to transfer the premise licence into a new name e.g., if a premises licence holder sells his premises an application may be made to transfer the premises licence to the new owner.

## **Appendix 4**

### **Responsible Authorities – Local Contacts**

The following contacts are given to assist applicants. It is recognised that in many cases applicants will not have local knowledge and this information may help speed the application process: -

The Chief Officer of Police, Hastings Police Station, Bohemia Road, Hastings Tel 101

The Chief Fire Officer, Fire Station, Bohemia Road, Hastings Tel 01323 462133

The Borough Planning Officer, Hastings Borough Council, Muriel Matters House, Breeds Place, Hastings, TN34 3UY. Tel 01424 783336,  
Email: [DCEnquiries@hastings.gov.uk](mailto:DCEnquiries@hastings.gov.uk)

Assistant Director Environment and Place, Hastings Borough Council, Muriel Matters House, Breeds Place, Hastings, TN34 3UY.  
Email: [licensing@hastings.gov.uk](mailto:licensing@hastings.gov.uk)

East Sussex County Council, Head of Children Safeguards and Quality Assurance, St Marks House, 14 Upperton Road, Eastbourne, BN21 1EP Tel 01323 463471

Only required for educational establishments.  
Health & Safety Executive, The Council Offices, Station Road East, Oxted, Surrey, RH8 0BT

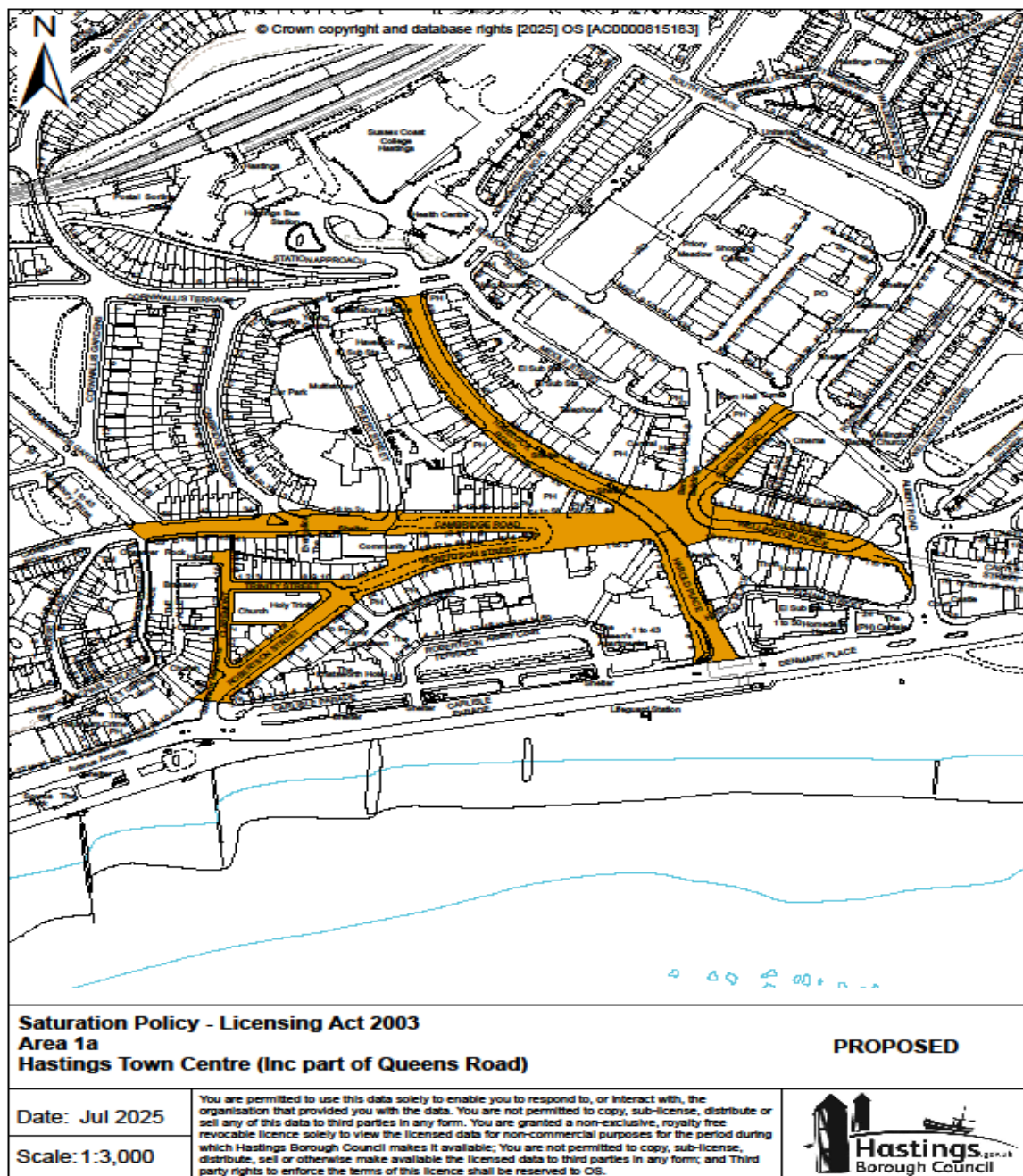
Head of Trading Standards, East Sussex County Council, County Hall, Lewes, BN7 1UE.  
Tel 0345 60 80 197  
Email: [trading.standards@eastsussex.gov.uk](mailto:trading.standards@eastsussex.gov.uk)

Public Health Network & Business Manager, County Hall, St Anne’s Crescent, Lewes, East Sussex, BN7 1SW. Tel 01273 335012.  
Email: [publichealth@eastsussex.gov.uk](mailto:publichealth@eastsussex.gov.uk)



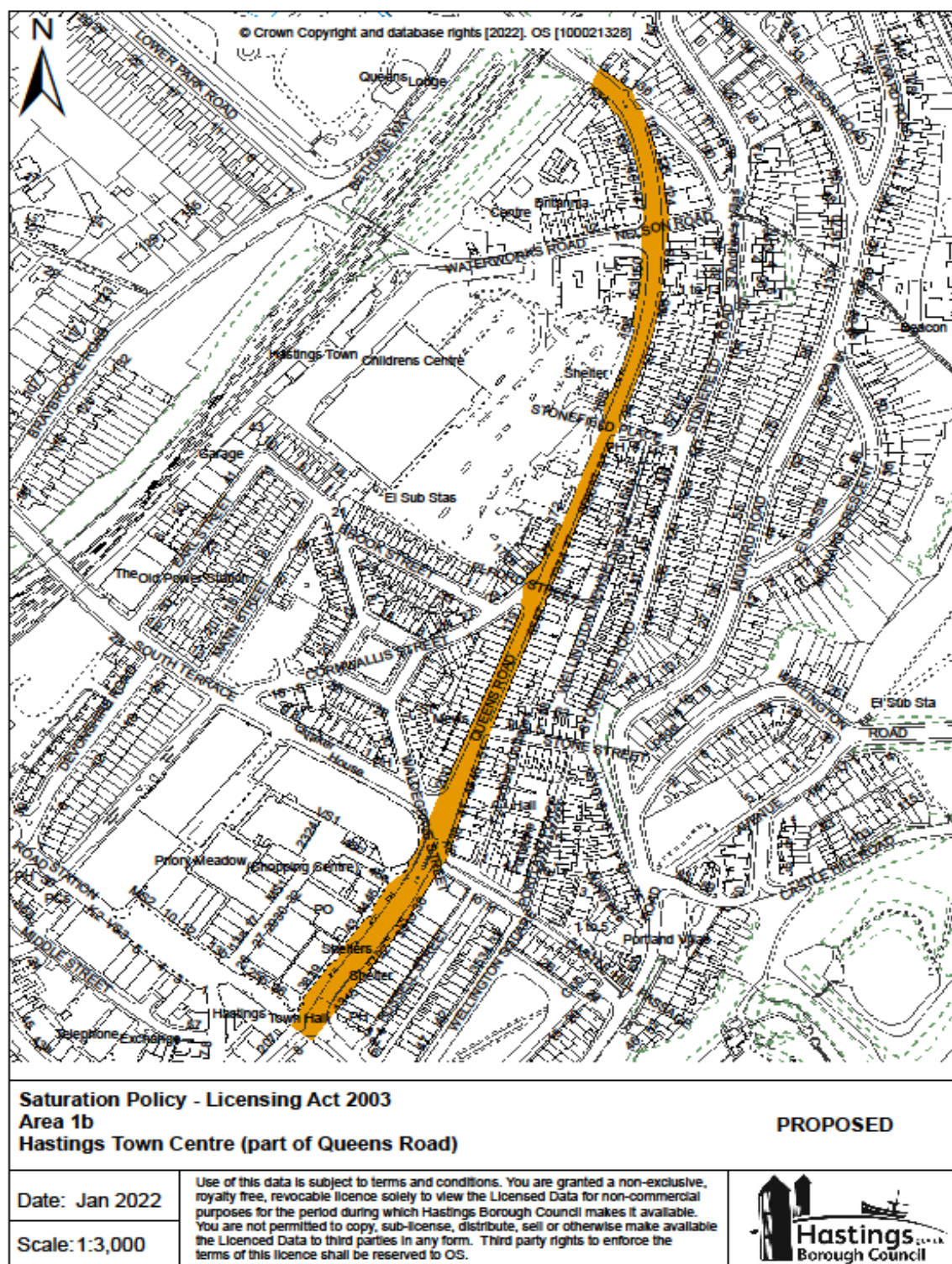
## Appendix 5

### Cumulative Impact Policy – Area 1A, Hastings Town Centre (AMENDED)

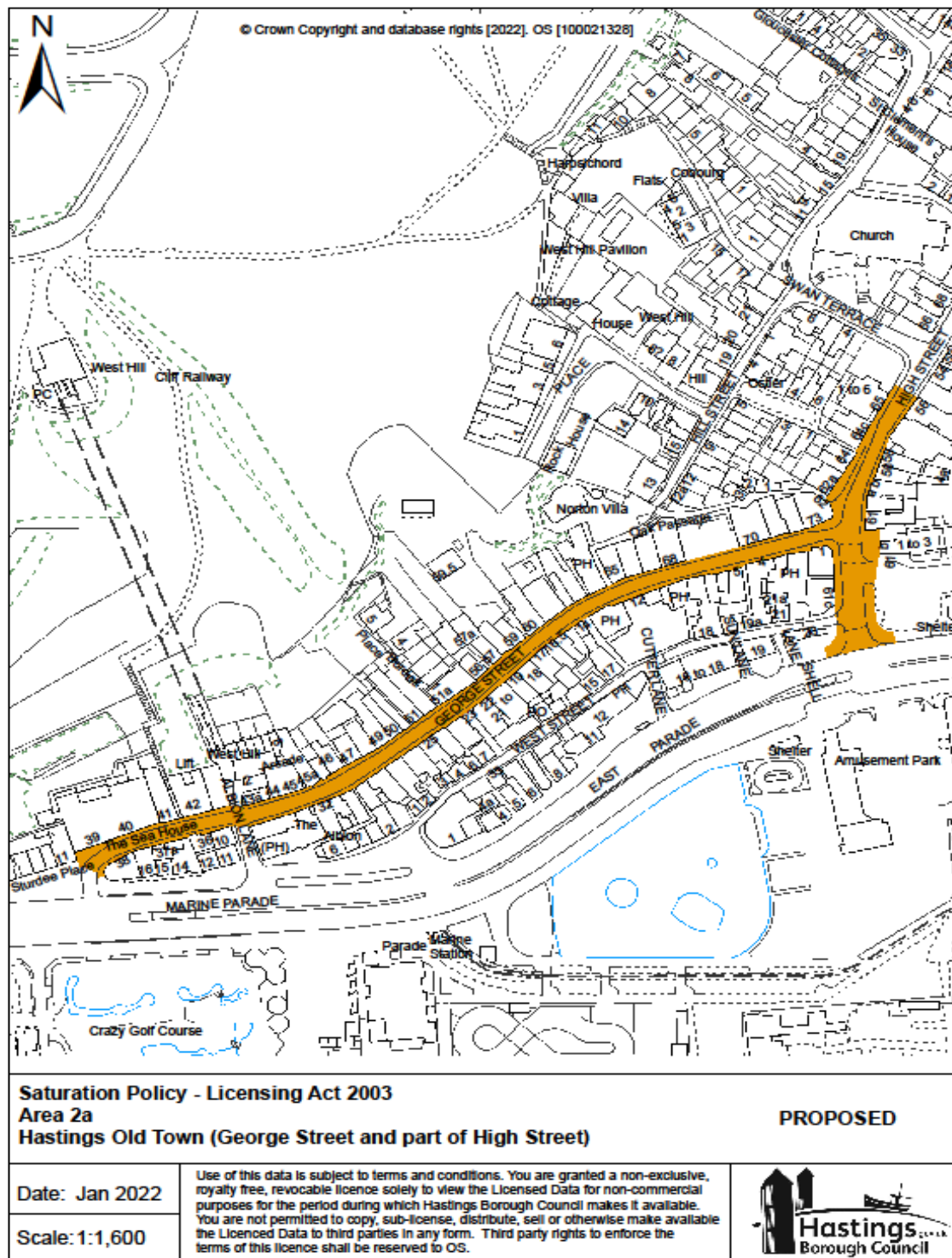




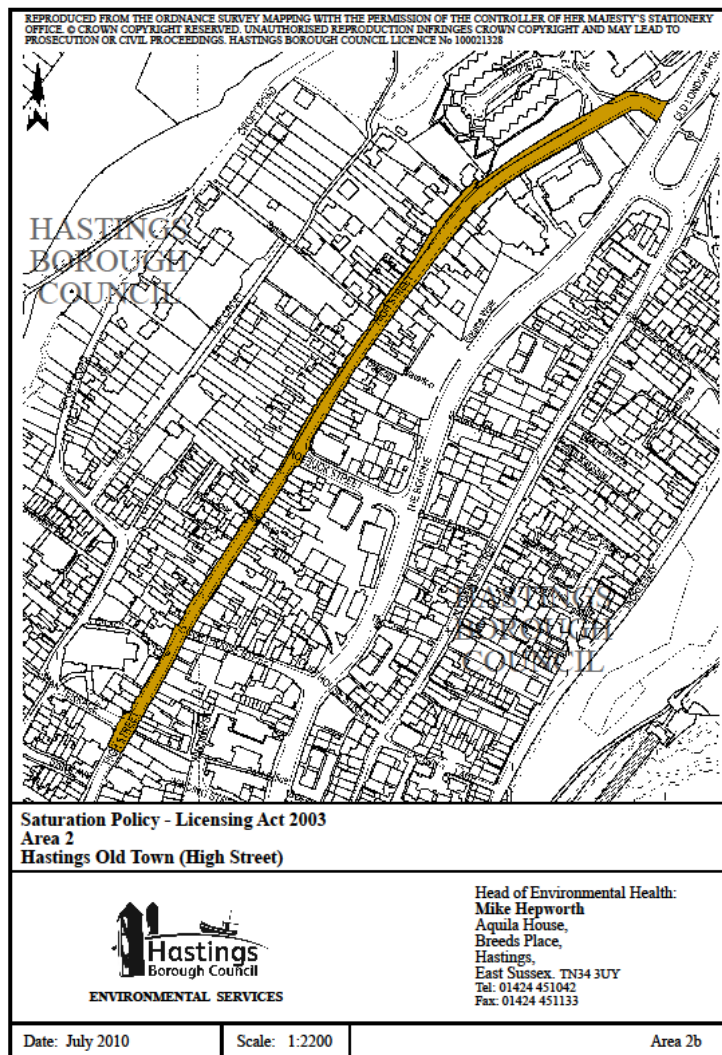
## Cumulative Impact Policy – Area 1B, Hastings Town Centre (Queens Road)



## Cumulative Impact Policy – Area 2a, Hastings Old Town (George Street & part of High Street)

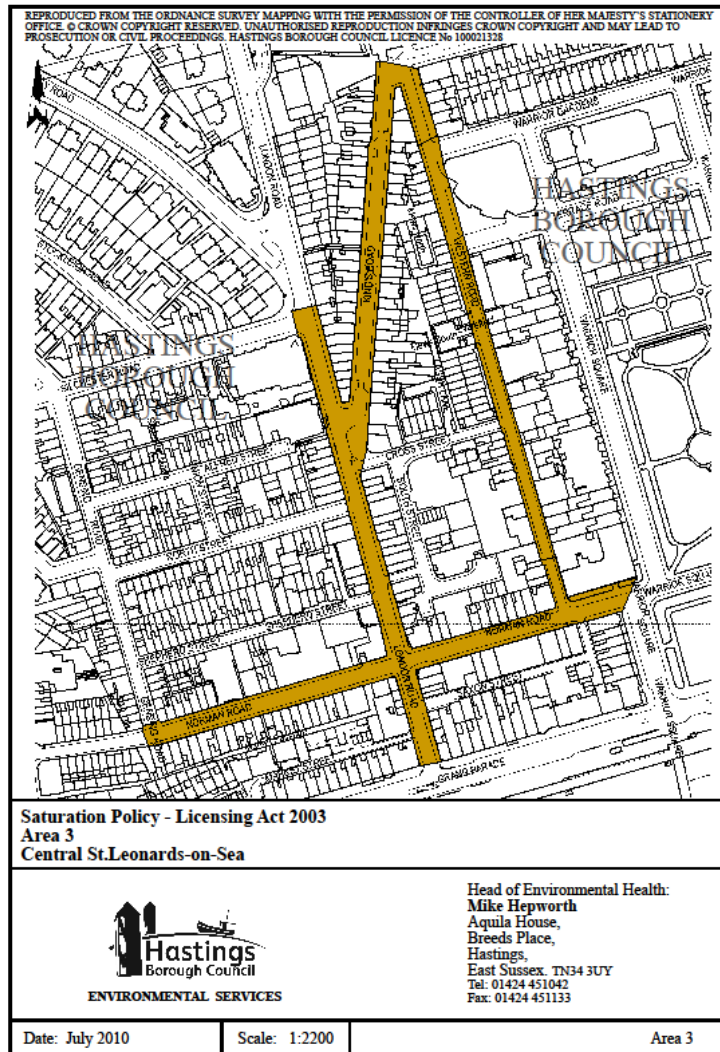


**Cumulative Impact Policy – Area 2b, Hastings Old Town (High Street) to be removed.**





## Cumulative Impact Policy – Area 3, Central St Leonards



## Appendix 6

### Advice for Residents

It is not uncommon for residents to have concerns about some aspects of how an existing licensed premises is being operated near to where they live, or to be concerned about proposals for a new licensed premises. Our small Licensing Team are well placed to be able to advise you on such matters, or to put you in touch with a more relevant service depending upon the nature of your enquiry.

If you have a complaint in respect of the operation of a licensed premises, in the first instance it is often beneficial to contact the licence holder yourself to discuss your concerns and give them an opportunity to rectify the problem. However, if you feel unable to do this or have tried this before and the problem has not been resolved to your satisfaction please keep a written record of the incident(s) that are the basis for your complaint and contact the Licensing Team on tel. **01424 451042** during office hours or email them on [licensing@hastings.gov.uk](mailto:licensing@hastings.gov.uk).

If the complaint is related to noise from the premises or its immediate surroundings, the most appropriate service to contact is the Council's Environmental Health Team. Ring **01424 451079** during office hours or email [environmentalhealth@hastings.gov.uk](mailto:environmentalhealth@hastings.gov.uk). If this team is able to put together a body of evidence indicating a serious problem, and if the licensee responsible for that premises doesn't co-operate to remedy the problem, this team can apply to have the licence for that premises formally reviewed by the Council's Licensing Committee. It is also possible that the Environmental Health Team may serve the person responsible for the noise with a Noise Abatement Notice.

If your complaint relates to anti-social behaviour, crime and disorder or a serious disturbance in the street you should contact the police. To contact the Police either call 101 for non-emergencies, or 999 if a serious incident is taking place at the time.

It is also possible for a resident or a Hastings Borough Council Ward Councillor to apply for a premises licence to be formally reviewed by the Council's Licensing Committee.

If you are considering applying for a review or want to bring problems at a licensed premise to the attention of your local Ward Councillor, we would recommend that you first discuss your concerns with the Licensing Team on 01424 451042 as the review process can be complicated. However, there is also guidance available on the Council's website at [www.hastings.gov.uk](http://www.hastings.gov.uk) under Licensing.

Our Licensing Team can also advise you on who your local Councillor is and how to contact them. These details are also available on the Council's website at <http://www.hastings.gov.uk/representation/councillors.aspx>



## Appendix 7

### Advice for Applicants and Licensees

Whether you are an existing licensee seeking some guidance in relation to licensing requirements, or a member of the business community considering applying for a licence, our small Licensing Team are well placed to be able to advise you on such matters, or to put you in touch with a more relevant service depending upon the nature of your enquiry.

Licensees may find the City of London "[Code of Good Practice for Licensed Premises](#)" an excellent reference guide when making an application, it can be viewed at [www.cityoflondon.gov.uk](http://www.cityoflondon.gov.uk)

Whether English isn't your first language, or you're just not sure which form you need to fill in, our staff can discuss your proposals and help you to understand what you need to do. To contact us to make an appointment to come in and see us, either ring on 01424 451042 during office hours or email to [licensing@hastings.gov.uk](mailto:licensing@hastings.gov.uk)

All application forms are available from our office at Aquila House, Breeds Place, Hastings and on our website [www.hastings.gov.uk/licensing](http://www.hastings.gov.uk/licensing) or Microsoft WORD copies of the forms are available on the Gov.uk website <https://www.gov.uk/guidance/alcohol-licensing>

We will also assist applicants by putting them in touch with officers from other Council services, such as Planning, or with other agencies such as the Police, and Fire and Rescue.

END.