



**HERTSMERE BOROUGH COUNCIL**

**LICENSING ACT 2003**  
**Statement of Licensing Policy**  
**2023 – 2028**

## **Contents**

<b>1.</b>	<b>Introduction</b>	<b>Page 4</b>
<b>2.</b>	<b>Authorisations Under The Act</b>	<b>Page 4</b>
<b>3.</b>	<b>Licensing Objectives</b>	<b>Page 5</b>
<b>4.</b>	<b>About This Policy</b>	<b>Page 5-6</b>
<b>5.</b>	<b>Responsible Authorities</b>	<b>Page 6-7</b>
<b>6.</b>	<b>Applications: General Principles</b>	<b>Pages 7-8</b>
<b>7.</b>	<b>New Premises Licence Applications &amp; New Club Premises Certificate Applications</b>	<b>Pages 9-10</b>
<b>8.</b>	<b>Applications To Change An Existing Licence</b>	<b>Page 10-11</b>
<b>9.</b>	<b>Serving Applications On Responsible Authorities</b>	<b>Page 12</b>
<b>10.</b>	<b>Statutory Consultation Periods</b>	<b>Page 12-13</b>
<b>11.</b>	<b>Advertising Applications</b>	<b>Page 13-14</b>
<b>12.</b>	<b>Plans</b>	<b>Page 15-16</b>
<b>13.</b>	<b>Operating Schedules</b>	<b>Page 16</b>
<b>14.</b>	<b>The Prevention Of Crime and Disorder</b>	<b>Page 16-18</b>
<b>15.</b>	<b>Public Safety</b>	<b>Page 18-20</b>
<b>16.</b>	<b>Prevention Of Public Nuisance</b>	<b>Page 20-21</b>
<b>17.</b>	<b>Protection Of Children From Harm</b>	<b>Page 21-24</b>
<b>18.</b>	<b>Proxy Sales</b>	<b>Page 24</b>
<b>19.</b>	<b>Online Sales Of Alcohol and Delivery Services</b>	<b>Page 24-25</b>
<b>20.</b>	<b>Age Verification</b>	<b>Page 26</b>
<b>21.</b>	<b>Making A Representation</b>	<b>Page 27-28</b>
<b>22.</b>	<b>Licence Reviews</b>	<b>Page 29</b>

23.	Appeals	Page 29
24.	Application Fees	Page 29-30
25.	Personal Licences	Page 30-31
26.	Designated Premises Supervisor (DPS)	Page 32
27.	Temporary Event Notices	Page 32-33
28.	Cumulative Impact	Page 33-35
29.	Early Morning Alcohol Restriction Orders (EMAROS)	Page 35
30.	Late Night Levy	Page 35-36
31.	Licensing Hours and Opening Hours	Page 36
32.	Enforcement	Page 36-38
33.	The Licensing Authority As A Responsible Authority	Page 38
34.	Events And Safety Advisory Group (SAG)	Page 38-39
35.	Live Music, Dancing and Theatre	Page 39
36.	Live Music	Page 39-40
37.	Deregulation Of Entertainment	Page 40-41
38.	Annual Fees and Suspension of Licences for Non-payment	Page 41-42
39.	Film Classifications	Page 42-43
40.	Integrating Strategies and Areas of Concern	Page 43-48
	Appendix A (Delegation Of Functions)	Page 49-50
	Appendix B (Useful Links And Guides)	Page 51
	Appendix C (List Of Responsible Authorities)	Page 52-53
	Appendix D (Responsible Authorities Statements)	Page 54-65

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# STATEMENT OF LICENSING POLICY

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## 1 INTRODUCTION

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- 1.1 Hertsmere Borough Council (“the Council”) is the Licensing Authority for the Borough of Hertsmere under the Licensing Act 2003 (“the Act”).
- 1.2 For the purposes of the Act the following are Licensable Activities:
- (a) The sale by retail of alcohol;
  - (b) The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club;
  - (c) The provision of regulated entertainment;
  - (d) The provision of late night refreshment.
- 1.3 The Council is responsible for the administration and enforcement of the Act within the borough of Hertsmere and this includes the granting of premises licences, club premises certificates, personal licences and the processing of temporary event notices.

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## 2 AUTHORISATIONS UNDER THE ACT

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- 2.1 The Act provides four different types of authorisation to regulate the provision of the above licensable activities:
- (a) **Premises Licences** – to use a premises for licensable activities;
  - (b) **Club Premises Certificates** – to allow a qualifying club to engage in qualifying club activities as set out in Section 1 of the Act;
  - (c) **Personal licences** – to sell or authorise the sale of alcohol from premises in respect of which there is a premises licence;
  - (d) **Temporary Event Notices** – to carry out licensable activities at a temporary event.

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## 3 LICENSING OBJECTIVES

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3.1 The Act requires that the Council carries out its licensing functions with a view to promote the four statutory licensing objectives:

- (a) The prevention of crime and disorder;
- (b) Public safety;
- (c) The prevention of public nuisance;
- (d) The protection of children from harm.

3.2 Each objective is of equal importance and there are no other statutory licensing objectives to consider.

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## 4 ABOUT THIS POLICY

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4.1 Section 5 of the Act requires the Licensing Authority to publish a statement of licensing policy at least every five years.

4.2 This statement sets out the policies that the Council will apply to promote the licensing objectives when exercising its discretion under the Act.

4.3 This statement of licensing policy has been prepared and updated in accordance with the provisions of the Act and having had regard to the latest revised Guidance issued under Section 182 of the Act.

4.4 Before determining its policy for any five-year period, the Licensing Authority must consult the persons listed in section 5(3) of the 2003 Act. These are:

- (a) The chief officer of police for the area;
- (b) The fire authority for the area;
- (c) Persons/bodies representative of local holders of premises licences;
- (d) Persons/bodies representative of local holders of club premises certificates;
- (e) Persons/bodies representative of local holders of personal licences;
- and
- (f) Persons/bodies representative of businesses and residents in its area;
- (g) Any other groups that the Licensing Authority considers appropriate.

4.5 The Council shall remain open to feedback about this Policy and shall continue to monitor its effect. Notwithstanding the statutory requirement that the policy is reviewed every 5 years, the Licensing Authority may review it at any time and make such revisions to it as it considers appropriate following the required statutory consultation.

- 4.6 This Policy cannot anticipate every possible scenario or set of circumstances that may arise. Therefore, so long as this Policy has been properly and carefully considered, the Licensing Authority may depart from it if the individual circumstances of any case merit such a decision in the interests of the promotion of the Licensing Objectives. When doing so, the Licensing Authority will give full reasons for their actions.
- 4.7 Nothing in the ‘Statement of Policy’ will:
- (a) Undermine the statutory rights of any person to apply under the 2003 Act for a variety of permissions and have the application considered on its individual merits, and/or;
  - (b) Override the right of any person to make representations on any application or seek a review of a licence or certificate where they are permitted to do so under the 2003 Act.
- 4.8 Licensing is about the control of licensable activities and ensuring that the provision of such activities do not undermine the licensing objectives. When its discretion is engaged the Council can only focus on the four statutory licensing objectives and the direct impact that the activities taking place at licensed premises have on members of the public living, working or engaged in normal activity in the area concerned.
- 4.9 The Council recognises that it does not have discretion to implement its policy, impose conditions on licences or to determine applications unless its discretion has been engaged by a relevant representation.
- 4.10 Licensing legislation is not the only mechanism available to control premises or businesses providing licensable activities. Each of the responsible authorities under the Act have a range of legislative powers which can be used to address a wide range of issues.
- 4.11 The Council shall not use its powers under the Act to seek to make licence holders responsible for activities that are beyond their reasonable control.

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## 5 RESPONSIBLE AUTHORITIES

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- 5.1 The Responsible Authorities under the Act are:
- (a) The Licensing Authority
  - (b) Hertsmere Borough Council Environmental Protection
  - (c) Hertsmere Borough Council Environmental Health and Safety
  - (d) Hertsmere Borough Council Planning Authority
  - (e) Hertfordshire Constabulary
  - (f) Hertfordshire Fire and Rescue
  - (g) Hertfordshire Trading Standards
  - (h) Hertfordshire Safeguarding Children Board
  - (i) Hertfordshire Public Health

- (j) Home Office (Immigration
- (k) Health and Safety Executive (for some premises only)

- 5.2 The address and contact details of each of these can be found at annex D.
- 5.3 Hertfordshire Safeguarding Children Board (HSCB) are responsible for matters relating to the protection of children from harm across Hertfordshire. The Council recognises HSCB as being the appropriate competent body to advise the Council on such issues.
- 5.4 Although Public Health is not a licensing objective, Hertfordshire Public Health is a responsible authority under the Act and are consulted on each new application made.
- 5.5 The consequences of alcohol related harm and abuse can also undermine the other four licensing objectives and the Council shall be willing to accept representations from Hertfordshire Public Health connecting health concerns with the undermining of the four licensing objectives.

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## 6 APPLICATIONS: GENERAL PRINCIPLES

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- 6.1 The Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005 (“Regulations”) set out the manner in which applications must be made to the Licensing Authority, served on responsible authorities and advertised.
- 6.2 The Council shall ensure that all relevant information on how to make applications for any authorisation under the Act is available on its website. An updated list of responsible authorities, their contact details together with all prescribed application forms and guidance will also be available.
- 6.3 Under the Act applications can be made for the following:
- (a) New Premises Licences
  - (b) New Club Premises Certificates
  - (c) Variation to a premises licence or club premises certificate;
  - (d) Minor Variation to a premises licence or club premises certificate;
  - (e) Transfer of a premises licence;
  - (f) Variation of a designated premises supervisor;
  - (g) Personal Licence
  - (h) Temporary Event Notice.
- 6.4 The principles set out in this part of the policy shall apply to all the above applications unless stated otherwise.
- 6.5 All applications, other than for personal licences, can be made to the Council through an online system. This may be either that provided through the government’s GOV.UK portal, a third party service appointed for the purpose or a service delivered by the Council itself.

The Council's chosen system shall be clearly advertised and available from its website or upon request from the Licensing department.

- 6.6 The Council is not responsible for any failure in the I.T system provided by any 3rd party. The Licensing Authority will accept applications submitted via email in instances when any of its chosen online systems are not working.
- 6.7 Applications can also be made in hard copy format, by post or delivered by hand. However applicants should ensure that they understand the extra duties placed on them to serve the other responsible authorities. This is explained further at section 8 below.
- 6.8 Applicants are encouraged to read this Policy, particularly the matters the Council expect to see to promote the licensing objectives, prior to submitting an application. Applicants may wish to seek the advice of specialist licensing agents/consultants and Solicitors.
- 6.9 The Licensing Authority will provide a range of advice on its website to assist applicants. Further advice may be sought from the Licensing Authority limited to the administrative requirements of the Act.
- 6.10 Specialist and professional advice may be requested from the Licensing Authority to provide professional assistance at a set charge or fee. This service will operate separately from the administration and enforcement of the licensing regime and further details can be provided by the Licensing team.
- 6.11 An incorrect or invalid application form received by the Council will not be accepted. The Council will endeavour to explain to the applicant or their agent why the application is invalid and provide guidance on how to amend it and re-submit. Any consultation period or statutory timescale will not begin until such time a valid application has been received.
- 6.12 Where an invalid application has been submitted the Council shall, at its discretion, hold onto it, if it believes that the application can be made valid within a period of 48 hours. This therefore helps resolve minor administrative mistakes made without returning an application. If the application is invalid and either cannot, or is not, resolved within 48 hours the application will be rejected.
- 6.13 No refunds will be given where an application is refused, save for where required by the Act. Where an application is rejected as being invalid, or withdrawn, the Council will not automatically refund the application fee. The fee may however be carried over to apply to another application. Refunds may be given in exceptional circumstances at the discretion of the Council and, if given, may be subject to an administration fee.



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## 7 NEW PREMISES LICENCE APPLICATIONS & NEW CLUB PREMISES CERTIFICATE APPLICATIONS

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- 7.1 A premises licence or club premises certificate application will be required where licensable activities are proposed to take place at any premises in the Borough.
- 7.2 An application for a premises licence or club premises certificate must be made in the manner prescribed in statutory regulations, and include a scale plan of the premises and a relevant fee.
- 7.3 A complete application for a new premises licence requires the submission of the following documents:
- (a) the prescribed application form,
  - (b) consent form of the designated premises supervisor,
  - (c) premises plan and
  - (d) the application fee.
- 7.4 A complete application for a new club premises certificate requires the submission of the following documents:
- (a) the prescribed application form,
  - (b) declaration form;
  - (c) the rules of the club,
  - (d) a plan of the premises and
  - (e) the application fee.
- 7.5 The prescribed application forms for premises licences and club premises certificate require the applicant to complete an “operating schedule”. The operating schedule allows the applicant to detail the steps they propose to take to promote the licensing objectives. The applicant should also outline the licensable activities they seek to provide and the hours within which they seek to provide them.
- 7.6 The information contained within the operating schedule will be converted into enforceable licence conditions and allows the responsible authorities and other persons to consider if the steps proposed will promote the licensing objectives.
- 7.7 Where the licence seeks the authorisation to sell alcohol the application must name a personal licence holder as the designated premises supervisor (DPS). A signed consent form by the prospective DPS will be expected upon submission of any new premises licence application.
- 7.8 The Council understands that applications can be made at a time where a prospective DPS is awaiting their personal licence from their respective local authority, does not yet hold one or the business has not yet employed one. The Council will accept an application where the

proposed DPS does not have, or has not yet received, their personal licence provided that the signed consent form is submitted with the application. An application where there is no DPS named on the licence may also be accepted.

- 7.9 Should the licence be granted before the full details of the perspective DPS are provided the licence will be issued without a DPS named on the licence. An application to vary the licence to name the DPS would then need to be submitted before the premises could sell alcohol.
- 7.10 All new premises licence applications must undergo a 28 day consultation period that starts the day following the day on which a valid application is made to the Council. The 28-day consultation period will not begin if the application is not valid for any reason.
- 7.11 At the start of each new application for a new premises license or new club certificate, applicants or their agents are advised to contact the Licensing Authority to confirm the first and last day of the 28-day consultation period.

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## 8 APPLICATIONS TO CHANGE AN EXISTING LICENCE

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- 8.1 Premises licences and club premises certificates usually do not have an expiry date and subsist in their current form until they are surrendered or revoked. The holder may however wish to, or be required by provisions of the Act to, amend their licence.
- 8.2 The Act requires the following changes to be made by way of an administrative application to the Licensing Authority.
- a) Any change to the holder of the premises licence (Transfer)
  - b) Any change to the designated premises supervisor,
  - c) Any change to the club rules
  - d) Any change to the name and address of either the licence holder or designated premises supervisor.
- 8.3 Other changes to the licence or certificate such as the hours of trading, the activities provided, licence conditions and the physical premises themselves may be made by way of a variation application. In some instances the licence holder will choose to vary a licence to reflect a change in operation – such as requesting the provision of live music or extending the hours for the sale of alcohol. In other instances the change will be necessitated by a change to the physical layout of the premises – such as after a refurbishment.
- 8.4 Licence holders should remember that not trading in accordance with their licence is a criminal offence and no change should be made until the licence is amended.

8.5 Variations fall into one of three categories;

- a) Minor Variations
- b) Major Variations
- c) Substantial Variations requiring a new premises licence application.

8.6 The Act does not permit a variation application to be made which will substantially vary the premises to which it relates. 'Substantially' is not however defined in the Act or Guidance, and this will ultimately depend upon the individual circumstances of the case as considered by officers. Where any applicant believes that the changes they propose could be considered substantial they should discuss this with officers.

8.7 Minor variations are designed to allow a licence holder to change their licence without undergoing the cost and consultation implications of a major variation.

8.8 Decisions on Minor Variations are delegated to licensing officers and must be determined within 15 days. Upon receipt of a minor variation application the Licensing Authority may consult any of the responsible authorities it deems necessary.

8.9 In order to grant a minor variation the Act requires the Council to be of the view that the proposed minor variation "could not" adversely impact the licensing objectives. The phrase "could not" requires an element of certainty from licensing officers and for such reason, if there is any doubt as to whether the variation will undermine the objectives the application will be refused.

8.10 Minor variations cannot be made to extend the hours for the sale or supply of alcohol between the hours of 23:00 and 07:00 or to increase the amount of time on any day during which alcohol may be sold or supplied.

8.11 An applicant for a minor variation is not required to advertise the minor variation in a newspaper or serve it on any responsible authorities. The applicant must display a white A4 notice at the premises in accordance with regulations for a period of '10 working days'.

8.12 The majority of variations will not be substantial enough to require a new premises licence application nor so inconsequential to be made as a minor variation. These applications, described as major or full variations are made in much the same way as a new premises licence application.

8.13 A major variation application has the same statutory 28 day consultation period as a new application and requires the application to be advertised in the same way as a new application. Applicants should therefore ensure they read and understand the sections below relating to service on responsible authorities, advertising of applications and operating schedules.

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## 9 SERVING APPLICATIONS ON RESPONSIBLE AUTHORITIES

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- 9.1 Applications submitted electronically either through an online system or email (where permitted) will be served on all relevant responsible authorities by the Council.
- 9.2 Applicants are encouraged to submit applications electronically, rather than by post. This is especially pertinent to applications that require a consultation period.
- 9.3 Should an applicant chose to submit an application using the post, the regulations require them to send a full copy of the application and accompanying documents to each responsible authority on the same day. It is recommended that such applications are sent by special next day delivery in order for the 28 day consultation period to be accurately calculated.
- 9.4 Should an applicant chose not to submit a hard copy application by special delivery it is recommended that they allow 2 working days for the application to be received by all responsible authorities and calculate the 28 day consultation period accordingly.
- 9.5 The contact details for each responsible authority are contained at Appendix C to this Policy. It is the responsibility of each authority to keep the Council and applicants updated with their correct address and any changes to how they require application to be served on them.
- 9.6 Substantive applications must be served on all of the responsible authorities. Substantive applications are those for a new premises licence or club premises certificate or an application to vary a premises licence or club premises certificate.
- 9.7 In addition to being submitted to the Licensing Authority, transfers and variations of a DPS, need only be submitted to the Police and Home Office.
- 9.8 In addition to being submitted to the Licensing Authority, Temporary Event Notices are submitted to the Police and Environmental Health.

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## 10 STATUTORY CONSULTATION PERIODS

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- 10.1 All substantive applications must undergo a 28 day consultation period beginning on the day following the day a valid application is made. Substantive applications are those for a new premises licence or club

premises certificate or an application to vary a premises licence or club premises certificate.

- 10.2 In the case of a minor variation application a 10 working day consultation period begins the day after a valid application is submitted. The Council however has 15 days from the date of receipt in which to determine the application
- 10.3 Applications for the transfer of a premises licence or the variation of a DPS, or Temporary Event Notices have shorter consultation processes and are only served on some responsible authorities.
- 10.4 It is advisable for applicants to confirm with the Council to agree on the correct date for the end of the relevant consultation period.

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## 11 ADVERTISING APPLICATIONS

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- 11.1 Applications for a new, or variation to a, premises licence or club premises certificate are required to be advertised in accordance with the Regulations.
- 11.2 At least one notice must be displayed on or outside the premises. The notice is required to be printed on pale blue paper of at least A4 size. This notice must be in a prescribed format and contain the information set out in the regulations. This includes the details of the applicant, the premises address, the activities and timings and the last date for representations. The Council has template notices that can be provided for applicants to use or may, assist the applicant by drafting the notice for a set fee.
- 11.3 The notice must be displayed in such a manner at or on the premises where it can be conveniently read by members of the public. Premises that are set back from the public street or highway or in their own private land must display the notice where their property abuts the public highway or at the point on the public highway nearest to their property.
- 11.4 Notices must be visible for 24 hours a day continuously throughout the 28 day period.
- 11.5 Where the premises proposed to be licensed is 50 metres square or more, the applicant must display a blue notice every 50 metres around the perimeter of the premises where it abuts the highway.
- 11.6 The application will be invalidated if the notices are not displayed as required. Applicants should ensure that notices are not displayed inside the premises or obscured by a curtain or shutters.
- 11.7 The purpose of the notice is to allow members of the public to be aware of the application and applicants are expected to do this in good faith. Notices will be checked regularly by officers and obscured notices or notices not displayed will result in the application being invalidated.

- 11.8 A notice, containing the same detail as that displayed on the premises, must be published in a local newspaper or other publication circulating in the area in which the premises are situated. This must be published on at least one day during the period of '10 working days' starting on the day after the day a valid application was submitted.
- 11.9 The Council is not aware of any appropriate "other publications" circulating in the Borough and recommends that applications are advertised in the relevant local newspaper for each area. These are as follows:
- (a) Premises in Aldenham: Watford Observer
  - (b) Premises in Bushey: Watford Observer
  - (c) Premises in Borehamwood and Elstree: Borehamwood Times/Barnet Borough Times
  - (d) Premises in London Colney: Herts Adviser
  - (e) Premises in Potters Bar: Wellhat Times
  - (f) Premises in Radlett: Watford Observer
  - (g) Premises in Shenley: Watford Observer
- 11.10 If an applicant wishes to advertise in a publication other than that stated above they should make a written request to the Council at least 7 days in advance of doing so for confirmation that it is acceptable. The Council is not responsible or liable for any losses or delays incurred from an applicant's failure to advertise in accordance with paragraph above.
- 11.11 The newspaper notice must go in to the correct newspaper circulating in the area of the premises as stated above. If the notice is advertised in the wrong paper the application will be invalid and rejected.
- 11.12 If any advertising irregularities are found, the application will be deemed invalid. Where it is reasonable to do so the 28 day consultation period may be reset by the Licensing Authority.
- 11.13 The Council recognises that newspaper advertisements can be expensive and the requirement to re-advertise in the newspaper for a minor compliance issue with the advertising regulations may be unreasonable.
- 11.14 If the advertising irregularity found is not in respect to the newspaper advert the Council may re-start the 28 day consultation period but not require the application to be re-advertised in a newspaper, provided that the Council is satisfied that it will not prejudice any member of the public reliant on that notice.
- 11.15 For instance, if the newspaper advert has been published in the correct newspaper, within the 10 working days timescale and with the correct detail printed (including the last date for representations) it is unlikely that any person relying on the notice will suffer any prejudice by being given more time in which to object. However, if the fault lies with the newspaper advert itself or it is in anyway incorrect. the Licensing Authority will insist on it being re-advertised.

- 12.1 The Act and regulations require a plan to be submitted with applications for new premises licences or club premises certificates. The plan is attached to the granted licence and forms part of the authorisation and a new plan is needed where any variation application is made that seeks to vary that plan.
- 12.2 Plans are expected to be to a scale of 1:100 unless a different scale is agreed by the Licensing Authority.
- 12.3 The plan(s) must be in a format which is 'clear and legible in all material respects and provide sufficient detail for the licensing authority and responsible authorities to assess the application. There is no requirement for plans to be professionally drawn as long as they clearly show all the prescribed information.
- 12.4 The information required is as follows:

- (a) the extent of the boundary of the building, if relevant, and any external and internal walls of the building and, if different, the perimeter of the premises;
- (b) the location of points of access to and egress from the premises;
- (c) if different from (b), the location of escape routes from the premises;
- (d) in a case where the premises is used for more than one existing licensable activity the area within the premises used for each activity;
- (e) in a case where an existing licensable activity relates to the supply of alcohol, the location or locations on the premises which is or are used for consumption of alcohol;
- (f) fixed structures (including furniture) or similar objects temporarily in a fixed location which may impact on the ability of individuals on the premises to use exits or escape routes without impediment;
- (g) in a case where the premises includes a stage or raised area, the location and height of each stage or area relative to the floor;
- (h) in a case where the premises includes any steps, stairs, elevators or lifts, the location of the steps, stairs, elevators or lifts;
- (i) in a case where the premises includes any room or rooms containing public conveniences, the location of the room or rooms;
- (j) the location and type of any fire safety and any other safety equipment; and
- (k) the location of a kitchen, if any, on the premises.



- 12.5 The plan may include a key of symbols to illustrate the above on the plan but there is no requirement to do so, provided the plan is otherwise legible.

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## 13 OPERATING SCHEDULES

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- 13.1 The operating schedule is the main part of the application form allows the applicant to inform the Responsible Authorities of:

- (a) The nature of business
- (b) The location and the size of the premises
- (c) The proposed opening hours
- (d) The proposed licensable activities and which hours these activities are intended to be carried out at the premises
- (e) The steps the applicant will take to promote the Licensing Objectives.

- 13.2 The schedule allows the responsible authorities to determine whether the licence, if granted, will undermine the licensing objectives. As these authorities rely on the information provided any steps offered to promote the licensing objectives will be turned into conditions by the Licensing Authority and imposed on the licence.

- 13.3 The proposed steps should be specific for the premises and the type of business proposed and require significant consideration by the applicant. Inadequate steps will result in objections.

- 13.4 In order to minimise problems and the delays caused to applicants by hearings, it would be sensible for applicants to consult this policy, the responsible authority statements annexed to this policy and if in doubt, with the responsible authorities directly.

- 13.5 In order to assist applicants when completing their operating schedule and to assist the Licensing Authority when its discretion has been engaged, the following sets out the Licensing Authorities expectations as to what may be necessary to promote the licensing objectives.

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## 14 THE PREVENTION OF CRIME AND DISORDER

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- 14.1 The Licensing Act is not the primary mechanism for the control of nuisance and anti-social behaviour by individuals once they are away from licensed premises. Nonetheless, the Licensing Act, and the Council's powers under it are intended to work hand in hand with other integrating strategies and partners as part of a holistic approach to the management of the evening and night time economy in town centres.



- 14.2 Applicants will be expected to identify any particular issues (having regard to their particular type of premises and/or activities) which are likely to adversely affect the promotion of the crime and disorder objective in their particular case. Such steps as are required to deal with these identified issues should be included within the applicant's operating schedule.
- 14.3 Applicants are expected to seek advice, where necessary from Council Licensing Officers and Hertfordshire Constabulary, as well as taking into account, as appropriate, local planning and transport policies and crime prevention strategies when preparing their plans and schedules.
- 14.4 The Council recognises that Hertfordshire Constabulary are the Licensing Authority's main source of advice and expertise on matters relating to the prevention of crime and disorder. The Constabulary may also make relevant representations with regards to the other licensing objectives if they have evidence to support such representations.
- 14.5 The Council shall give significant weight to representations made by the police in relation to crime and disorder in the Borough but expects suitable evidence which can withstand scrutiny to be provided.
- 14.6 All licensed premises can be a source of crime and disorder related problems if not managed correctly. Premises open past 23:00 to serve alcohol and/or provide entertainment and/or late night refreshment face additional challenges and pose significant risks of disorder.
- 14.7 The Council will expect Operating Schedules to satisfactorily address the issues that may arise or contribute to undermining the licensing objectives, from the design of the premises through to the daily operation of the business.
- 14.8 Where alcohol is sold for consumption on the premises after 23:00 the Licensing Authority would expect an operating schedule to state that a personal licence holder will be always be present at the premises. A responsible person with a recognised qualification is often a great asset in managing the more difficult situations that may arise around and after that time.
- 14.9 The use of Security Industry Authority (SIA) door supervisors in suitable numbers should be considered and is expected where premises are open to provide alcohol and entertainment after 23:00. Those who sell late night refreshment, such as takeaways, may also wish to consider using Security Industry Authority door supervisors.
- 14.10 The Licensing Authority will, along with the police, look to work in partnership with Pub Watch Schemes within the borough, supporting licence holders to actively prevent crime and disorder issues and to form strategies to reduce current levels. Strategies which would normally derive from such schemes, address matters such as underage sales, problems associated with drunken individuals/behaviour, prevention of the use of drugs and violent and anti-social behaviour etc. The active membership of a Pub Watch Scheme is positively

encouraged as it is seen as an indication of responsible management and useful in reducing nuisance and public disorder.

- 14.11 The use of glassware in alcohol-related violence can cause serious and life changing injuries. The use of toughened drinking glasses or polycarbonate composition (or similar) are expected to be used by premises that are selling alcohol and providing entertainment after 23:00, particularly where the business caters for, encourages or permits significant vertical drinking and is not providing food. Glass bottles should be decanted into polycarbonate or toughened glass.
- 14.12 CCTV inside and outside a premises can play an important role in combating crime and disorder. It is expected that all licensed premises have CCTV that operates at all times the premises are open to the public and during dispersal. Images captured are to be recorded and stored on site for a minimum period of 31 days and made available to the police and/or the licensing authority upon request. The images should also be capable of obtaining clear facial recognition images and a clear head and shoulders image of every person entering or leaving the premises and where possible/practicable, the images should be in colour for better recognition.
- 14.13 A CCTV system should be registered with the Office of the Information Commissioner (ICO). Further information and guidance can be found by viewing the Useful Links Guide in Appendix B.

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## 15 PUBLIC SAFETY

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- 15.1 Members of the public have the right to expect that when visiting licensed premises due consideration has been given to their physical safety. Premises Licence Holders must be able to demonstrate that they have considered and put in place effective measures to protect members of the public.
- 15.2 The Licensing Authority is committed to promoting public safety across the Borough by working in close partnership with Hertsmere Borough Council's Environmental Health Team, Hertfordshire Constabulary, Fire Protection Department of Hertfordshire's Fire and Rescue Service, Premises Licence Holders and designated premises supervisors or nominated person(s).
- 15.3 Most premises are subject to a range of legislative requirements and regulatory regimes such as the Health and Safety at Work Act 1974 and The Regulatory Reform (Fire Safety) Order 2005 aimed at protecting public safety. The Licensing Authority will consider attaching conditions to licenses to promote public safety but does not intend to duplicate requirements of existing statutory requirements.
- 15.4 Public Safety issues can range from blocked exit routes, virus transmission in pandemic situations, hygiene issues, inadequate plant and equipment on site or physical dangers present in the premises and surrounding areas.

- 15.5 Premises Licence holders should make provisions to ensure that premises users safely leave their premises. In the absence of adequate natural daylight, artificial lighting is encouraged in any area that is accessible to the public during hours of operation (i.e. car parks, paths leading to and from the premises etc.) Such lighting should be considered with a view to ensuring no nuisance is caused to neighbours.
- 15.6 Consideration may also need to be given to any possible risks in the surrounding area immediately near to the premises, main roads, train tracks, rivers, canals or similar landmarks can cause additional concerns. Premises that allow children on to their site should risk assess specifically for children.
- 15.7 Licence holders should also consider if there are any blind spots or areas inside or outside the premises which people may hide or conceal themselves for the purpose of committing crime.
- 15.8 Where an applicant identifies an issue in regard to public safety (including fire safety) which is not covered by existing legislation, the applicant should identify in their Operating Schedule, Health and Safety and Fire Safety Risk Assessments and the steps taken to mitigate against any potential risk.
- 15.9 Hertfordshire Fire and Rescue Service have produced a document: 'Fire Safety Advice and Your Responsibilities' which gives advice on how to avoid fires and how to ensure people's safety if a fire does start. It is recommended that applicants are familiar with this, or the issues related to carrying out fire risk assessments, prior to opening to the public. This document can be found by viewing the Useful Links Guide in Appendix B.
- 15.10 Premises that sell alcohol are required by mandatory conditions under the Licensing Act 2003 to provide free tap water to all customers. The Licensing Authority expect a licence holder to ensure that they comply with this condition by maintaining a supply of wholesome water from the water mains – providing drinking water not fit for consumption would be an offence.
- 15.11 Those holding an event outside, remote from any existing main water facilities, are expected to ensure that they provide a sufficient supply of potable drinking water. Failure to do so at an event can have consequences to the health of the public leading to an organiser being liable both criminally and civilly.
- 15.12 Licensed premises serving drink or food must be registered as a food business and ensure appropriate procedures are in place to meet the requirements of the Food Safety Act 1990. Enforcement action is available to the Council under this legislation and initial concerns about the food standards at premises are expected to be enforced under this Act. However, poor food standards is a risk to the safety of the public and the Council may consider evidence of this to undermine the Licensing Objectives. For instance, a premises issued with more than

one improvement notice may, be considered to pose a danger to the public.

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## 16 PREVENTION OF PUBLIC NUISANCE

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- 16.1 Licensed premises, especially those operating late at night and into the early hours of the morning, can cause a range of disturbances impacting upon people living, working or sleeping in the vicinity of the premises or wider afield.
- 16.2 Noise disturbance can arise from any form of entertainment or activities held within licensed premises. The Licensing Authority expect Operating Schedules to address these concerns.
- 16.3 Advice and guidance can be obtained from Licensing Officers or the Council's Environmental Protection Team. Steps that may be taken to control noise may be:
- (a) satisfactory sound insulation;
  - (b) sound limiting devices;
  - (c) acoustic lobbies;
  - (d) measures taken or proposed to be taken to prevent unreasonable disturbance by customers and staff arriving and departing from the premises and the delivery of goods and services;
  - (e) restrictions on times when music or other licensable activities may take place;
  - (f) exit doors save for ingress and egress be kept closed while regulated entertainment is being provided;
  - (g) notices to be displayed at all exits requesting patrons to respect the needs of local residents and to leave the premises and area quietly;
  - (h) A formal noise management plan
  - (i) Installation of double glazing
- 16.4 People can cause a disturbance when leaving a licensed premises and returning to residential areas from later-opening premises elsewhere. These problems may not be within the direct control of any particular licensed premises. However, premises licence holders are generally expected to take measures to encourage people to leave their premises quietly and considerately. The Licensing Authority would encourage premises to adopt a dispersal policy where appropriate.
- 16.5 Applicants and existing licence holders are encouraged to assess whether the noise emitting from patrons using the gardens, smoking areas and other outside areas that could potentially disturb nearby residents. If appropriate, it could be worthwhile for licence holders to impose a closing time for the relevant use of outside areas irrespective of any licensable activities being carried out.
- 16.6 Should patrons smoke on the public highway at the front of any given premises, the applicant or existing licence holders should take steps to mitigate against any litter that may have been caused by patrons smoking in that immediate area.

- 16.7 Where smoking shelters are provided, premises licence holders and applicants are required to make sure the structure of the smoking shelter complies with Health Act 2006 and The Smoke free (Premises and Enforcement) Regulations 2006. This requires that at least 50% of any area used for smoking is uncovered.
- 16.8 Litter will also cause a nuisance if allowed to accumulate outside of a premises. Licence holders will be expected to take responsibility for their external areas and provide adequate means for litter to be disposed of.
- 16.9 Businesses will need a commercial waste contract and collections should be arranged so as not to disturb neighbours and frequently enough to prevent the accumulation of waste that attracts flies or vermin.
- 16.10 Premises cooking food to be served on site may generate cooking odours that can cause a nuisance and should consider the use of an extraction fan.
- 16.11 An extraction fan may however causes a noise nuisance or direct fumes at a neighbour and a applicants and licence holders should consider the placement of such fans as well as the location of any kitchen to minimise potential nuisance.
- 16.12 Deliveries to, and collections from, a premises, along with the disposal of rubbish and bottles, should not take place before 8am in the morning and not after 22:00 at night. The Licensing Authority would expect applicants to offer clear conditions setting out the times in which they will ensure no deliveries, collections or rubbish disposal occurs.

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## 17 PROTECTION OF CHILDREN FROM HARM

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- 17.1 Protecting children from harm is one of the fundamental licensing objectives. The Licensing Authority shall ensure that issues relating to the protection of children are fully taken into consideration by all parties involved within the licensing regime. 'Children' for these purposes means anyone under the age of 18.
- 17.2 Whilst the 2003 Act does not prohibit children from entering licenced premises, limitations may considered where it appears necessary to protect children from harm.
- 17.3 The risk to children will vary between each premises and in the absence of any evidence of obvious risk it is expected that licence holders will be given discretion to take the appropriate measures.
- 17.4 The following are examples of situations that may give rise for concern where:

- (a) there have been previous convictions for serving alcohol to minors from the premises or failed test purchases;
- (b) Where the licence holder, DPS or other individual at the premises has convictions for servicing alcohol to minors; or with a reputation for underage drinking;
- (c) there is a known association with drug taking or dealing;
- (d) there is a strong element of gambling on the premises (but not, for example the simple presence of a small number of cash prize gaming machines);
- (e) entertainment of an adult or sexual nature is commonly provided;
- (f) the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.
- (g) The venue provides regulated entertainment at a later hour;
- (h) Safeguarding concerns have been raised in relation to the premises, licence holder, DPS or staff.

17.5 Where concerns about the protection of children are present, the Licensing Authority will consider the following options:

- (a) Limits on the hours when children may be present
- (b) Restrictions on parts of the premises to which children may have access;
- (c) Age limitations (for those below 18 years of age);
- (d) Limitations or exclusions from all or part of the premises when certain activities are taking place;
- (e) Requirements that all children are accompanied by an adult;
- (f) Exclusion of people under 18 from the premises when particular licensable activities are taking place.

17.6 Hertfordshire Safeguarding Children Partnership are recognised as being competent to advise the Licensing Authority on matters relating to the protection of harm. Applicants are encouraged to visit the Hertfordshire Safeguarding Children Partnership website for further advice. Additional information and guidance can be found by viewing the Useful Links Guide in Appendix B.

17.7 No conditions will be imposed requiring that children must be admitted to any premises and such a limitation will remain a matter for the discretion of the individual licence holder.

17.8 The law specifies that people between the ages of 16 and 18 can drink wine, beer or cider when accompanied by an adult during a table meal and that the alcohol is purchased by an adult. However, all business retain discretion as to who they serve and, save for any other legal provision, premises may choose not to serve alcohol at all to anyone under the age of 18 even if falling with the above exemption.

17.9 Where children go to see and/or take part in entertainment arranged especially for them, for example children's film shows or pantomimes, there should be additional arrangements in place to safeguard them while on the premises.

- 17.10 The organiser of such an event should ensure suitable arrangements to ensure safe access and egress, having regard to the size of the venue, the number and ages of children present and the type of activity.
- 17.11 It would be expected that an appropriate risk assessment is documented taking into account the difference in physical capability, maturity, experience and knowledge as may vary between children of a wide variety of ages.
- 17.12 A suitable ratio of adults to staff should be employed and the business should have a safeguarding policy.
- 17.13 This licensing objective should be considered in relation to the safeguarding of children and young people in its widest sense. The protection of children from harm requires children and young people to be protected from physical, psychological and moral harm. This includes the issues of the risk of child sex exploitation, vulnerability and anti-social behaviour around licensed premises.
- 17.14 In many licensed premises such as hot food takeaways, restaurants, sports venues and off licences young people can enter without an adult, in some licensed premises young people can be employed and these factors and risks should be considered in any application in order to ensure they are protected from any harm.
- 17.15 A licence holder should ensure awareness of safeguarding issues by:
- (a) Identifying and managing any risks at their premises by considering if young people have access to the premises and what is the purpose of that access;
  - (b) Ensuring that staff are aware who and where to report concerns or suspicions;
  - (c) Provide awareness training to all members of staff on a regular basis on safeguarding issues which may include:
  - (d) Being alert to the possibility of child abuse and neglect;
  - (e) Recognising suspicious, abusive or potentially abusive event or set of circumstances;
  - (f) Knowing who to raise concerns with – which staff member in the premises;
  - (g) Being competent in taking the appropriate immediate or emergency action;
  - (h) Knowing how to make a referral to the appropriate Organisation and/or the Police.
- 17.16 These principles should be equally applied to vulnerable people.
- 17.17 Where a licensed premises provides WIFI access they should consider ensuring that it is filtered to block any access to inappropriate adult websites.
- 17.18 Films cover a vast range of subjects, some of which deal with adult themes and/or contain, for example, scenes of horror, violence or a



sexual nature that may be considered unsuitable for children within certain age groups. Where films are shown, licensees will be expected to have procedures in place and identified in the Operating schedule to prevent children from viewing films that are unsuitable because of the age classification imposed by the British Board of Film Classification or in specific cases, the Local Authority. Films requiring approval from the Licensing Authority, please see section 43 regarding films that require licensing by the Council.

- 17.19 Premises are entitled to provide activities and entertainment aimed at adult audiences. An applicant may decide to offer a condition that no children will be permitted on to the premises at all. If not, an applicant will be expected to offer a condition that when age restricted activities are provided suitable checks will be in place to prevent access by children.

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## 18 PROXY SALES

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- 18.1 Proxy sales are where alcohol is purchased by an adult on behalf of a child. Adequate procedures should be in place to ensure that all members of staff working at the premises are aware of their responsibilities in relation to potential proxy sales of alcohol.
- 18.2 The procedures should ensure that all reasonable steps are in place and implemented to prevent adults purchasing alcohol for those underage.
- 18.3 Such measures can include but are not limited to a comprehensive training record regarding proxy sales maintained regularly with refresher training taking place every six months and displaying posters stating that it is an offence to purchase alcohol on behalf of an underage person.

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## 19 ONLINE SALES OF ALCOHOL AND DELIVERY SERVICES

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- 19.1 Licence holders and other members of staff involved with the delivery of alcohol to residential/commercial addresses should be made fully aware of their responsibilities to ensure that no alcohol is sold or delivered to persons under the age of 18.
- 19.2 It is expected that any premises who makes sales of alcohol via an online capacity takes steps to protect members of the public and themselves by undertaking the below measures:

(a) Adopting robust Age Verification Policy in respect of internet sales which shall cover order and doorstep delivery;



- (b) Ensuring that orders for alcohol to be delivered will only be accepted from residential or commercial addresses;
- (c) Have in place adequate systems for confirming an address;
- (d) All staff, including delivery drivers, should undertake training in regards to the procedures for accepting online alcohol orders and delivering alcohol. Training should be recorded and kept for a period of 12 months. Additionally all staff should undergo refresher training regularly which would also be recorded;

19.3 Licence holders delivering alcohol purchased remotely need to ensure that an age verification check is made at the point of sale and at the point of delivery. Drivers should be trained to refuse the sale if:

- (a) The person receiving the delivery is under age or does not have acceptable identification;
- (b) Appears to be under the influence of alcohol or drugs;
- (c) Appears to be a proxy sale;
- (d) If the person seeking to accept the delivery does not appear to live at, or have the right to be at, the premises address (i.e. waiting on the street outside).

19.4 The licence holder will be expected to maintain and complete a refusal's log for all refusal made. Training should ensure that the driver records adequately the refusal and returns the alcohol to the premises licence holder.

19.5 A licence holder using a third party delivery company or agent remains responsible for ensuring that no offences are committed by them and must carry out appropriate due diligence. The Licensing Authority will not accept any argument that once the alcohol is placed in the hands of a third party the licence holder ceases to be responsible if it is provided to a minor.

19.6 Licence holders should ensure that they only use an agent or delivery company that satisfies the requirements of the above and any licence conditions. Due diligence by a licence holder may be shown by having formal contractual agreements in place with the party responsible for delivering the alcohol which mirror the requirements set out above. Licence holders should also ensure that they are satisfied that the drivers of any third party receive adequate training on age related sales.

19.7 If the premises licence holder is an online business operating from a residential address, the onus will be on them to ensure arrangements are in place to prevent any unreasonable disturbance to neighbours being caused by the delivery or collection. It is encouraged that within an operating schedule, hours for delivery of online orders of alcohol are restricted to reasonable times of the day. Business operating from residential premises should ensure that they have appropriate planning permission.

- 20.1 A mandatory condition on all premises licensed to sell alcohol requires them to have an adequate age verification system in place. The Council encourage premises selling alcohol to adopt a 'Challenge 25' scheme to protect members of public and staff members from any underage sale of alcohol to a minor.
- 20.2 Such a scheme operates by staff asking for identification from any person who does not appear to them to be aged 25 or over.
- 20.3 A challenge 25 scheme should have notices displayed at the premises to remind customers and staff of the policy. This also acts as a visual deterrent to any child intending to purchase alcohol.
- 20.4 It is considered advisable that the premises licence holder and/or applicant have their own written policy in regards to their age verification policy that can be produced to authorised officers upon request. This ensures compliance with the mandatory condition can be evidenced and used as a document to train staff.
- 20.5 Licensees should be able to demonstrate that their staff receive regular and adequate training on the law and practice relating to age restricted sales (including challenging purchasers and checking identification). The training provided to members of staff to prevent the sale of alcohol to underage people should be properly documented in a training log so that there is an adequate audit trail.
- 20.6 The following are examples of identification used:
- (a) Passport
  - (b) Photo-card driving licence
  - (c) PASS card
  - (d) Official identity card issued by HM forces
- 20.7 Additionally, when a retailer refuses the sale of alcohol this should be recorded in a 'refusal log/book'. This log/book should contain the date and time of the incident, a description of the customer, the name of the staff member who refused the sale, and the reason the sale was refused. Best practice would be for the licence holder, DPS or other responsible person to review the refusals log on either a weekly or monthly basis to identify any issues.
- 20.8 These documents should be kept for 12 months and be made available for inspection by a police officer or authorised officer of the licensing authority.
- 20.9 Licence holders may also use electronic prompts on their till to ask staff to check for ID.

- 21.1 Responsible authorities and 'any other person' may make representations on applications for a new premises licence or new club premises certificate, a variation to the premises licence or a minor variation to the premises licence.
- 21.2 Only the police can make a representation to the transfer of a premises licence, variation of a Designated Premises Supervisor or a personal licence solely on the crime prevention objection. Both environmental health and the police can object to a Temporary Event Notice (TEN) under any of the licensing objectives.
- 21.3 Representations must be made in writing and must be received by the Licensing Authority within the statutory consultation period. Any representations received after the close of the consultation cannot be considered. It is the responsibility of any authority or person to ensure their representation is received in time.
- 21.4 Representations cannot be made anonymously and an objector will be asked to provide confirmation of their home address. Use of an email address will not be acceptable but it will not normally be the case that the Council will require an objector to provide identification documents.
- 21.5 Those making representations must be aware that the law requires the Council to give a copy of that representation (and their personal details) to the applicant. This is to encourage direct communication between the parties. The Council accepts that this legal requirement is not always known to objectors and can cause concerns.
- 21.6 Where it is able to do so, the Council will explain this to objectors to offer them the opportunity to withdraw their representation. Alternatively the objector may wish to contact the relevant responsible authority and request that they consider their concerns.
- 21.7 In extremely rare situations an anonymous representation may be acceptable where there is evidence that the objector may be at risk of harm should their identity be known.
- 21.8 Where a valid representation is made the discretion of the licensing authority is engaged and, unless an agreement is reached between the applicant and the objector, the application must be determined at a Licensing Sub-Committee hearing.
- 21.9 The Licensing Authority encourages direct contact between applicants and objectors to resolve issues without the determination of the Licensing Sub-Committee. This could include the agreement of conditions and/or reduction in hours to mitigate against any potential issues. This process will not override the right of any responsible authority or other person to ask that the Licensing Sub-Committee consider a valid representation.

- 21.10 To engage the licensing authorities' discretion the representation must be "relevant". A relevant representation will be about the effect of the application on one or more of the licensing and objectives and not considered frivolous or vexatious.
- 21.11 The vast majority of individuals making representations are persons residing or involved in a business within the vicinity of that licensed premises. However, representations maybe made by any person regardless of location or place of residence.
- 21.12 Notwithstanding this, objectors are expected to have evidential grounds supporting their objections. An objector who is not in reasonable proximity of the premises will be expected to have sufficient evidence to overcome a determination that the representation is frivolous or vexatious.
- 21.13 The Licensing Authority is entitled to attach such weight to a representation as it considers appropriate in the circumstances and may take into account whether the individual is likely to be directly affected by activities occurring or potentially occurring at a premises.
- 21.14 The Licensing Authority may also give less weight to a representation where the objector has chosen not to engage with the applicant, produce any evidence supporting their concerns or fails to attend a hearing.
- 21.15 Representations may be in support of an application or made against the application. However, all valid representations will trigger a hearing which is often not the desired intention of those who submit representations to support an application, particularly if there are no representations against.
- 21.16 Where the Council is only in receipt of representations supporting an application the person who made the representation will be informed that the Council consider it to be "frivolous" and not relevant as the only action resulting from the acceptance of the representation (i.e. holding a hearing) would be contrary to being in support of the application.
- 21.17 Where representations are received in support of an application which has also received representations against it, all comments will be provided to the Licensing Committee at a hearing.
- 21.18 There is no right of appeal against a decision by an officer of the Council to reject a representation. Such redress can be sought from the Council's complaint procedure. However, officers will accept representations rather than refuse in borderline cases.

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## 22 LICENCE REVIEWS

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- 22.1 Any person or a responsible authority may make an application for review in respect of any granted licence where it becomes apparent that, because of some matter arising at the premises, one or more of the licensing objectives are not being promoted.
- 22.2 With the exception of applications for a review from responsible authorities, the Council will not consider more than one application in any 12 month period for the review of a licence unless substantial new evidence is presented for consideration.
- 22.3 The Council has delegated the function of determining whether requests for reviews should be rejected on the grounds that they are frivolous, vexatious or repetitive to officers.
- 22.4 Evidence is expected to support a review and without this it is unlikely that any action will be lawfully justified. Those affected by a premises should contact relevant responsible authorities about the issues at the earliest opportunity and liaise with them. If there is suitable evidence a responsible authority may be able to make the application to review the licence.

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## 23 APPEALS

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- 23.1 Entitlements to appeal for parties aggrieved by decisions of the Licensing Authority are set out in Schedule 5 of the 2003 Act.
- 23.2 The Licensing Sub-Committee will give clear and comprehensive reasons for any rejection of an application or grant of a licence or any other decisions. The reasons for any decision will be made in public at the hearing where possible.
- 23.3 The Licensing Sub-Committee will provide full written details of the decision with its reasons to all parties within 5 working days. From receipt of the written decision, the parties have 21 days to lodge an appeal at the magistrates' court.

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## 24 APPLICATION FEES

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- 24.1 Each application fee for a new premises licence or club premises certificate shall be based on the non-domestic rateable value band of the premises. The value rates can be found by visiting the GOV.UK business rates valuation webpage. The responsibility to find this information and enter it in within the new application form is that of the applicant's.

24.2 Other additional statutory licensing fee fees can be found below:

- (a) Application for the grant of a personal licence- £37
- (b) Temporary event notice - £21
- (c) Theft, loss, etc. of premises licence or summary - £10.50
- (d) Application for a provisional statement where premises being built etc. - £315
- (e) Notification of change of name or address - £10.50
- (f) Application to vary licence to specify individual as premises supervisor - £23
- (g) Application for transfer of premises licence - £23
- (h) Interim authority notice following death etc.of licence holder - £23
- (i) Theft, loss etc.of certificate or summary - £10.50
- (j) Notification of change of name or alteration of rules of club - £10.50
- (k) Change of relevant registered address of club - £10.50
- (l) Theft, loss etc.of temporary event notice - £10.50
- (m)Theft, loss etc.of personal licence - £10.50
- (n) Duty to notify change of name or address -£10.50
- (o) Right of freeholder etc.to be notified of licensing matters -£21
- (p) Application for minor variation - £89
- (q) Application to vary premises licence at community premises to include alternative licence condition- £23

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## 25 PERSONAL LICENCES

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- 25.1 The sale of alcohol can only be made or authorised by a personal licence holder. Any individual may seek a personal licence whether or not they have current employment or business interests associated with the use of the licence. Applications are made to the Licensing Authority for the area in which the applicant is resident.
- 25.2 Personal licences do not have an expiry date and do not require renewal. Once an individual is licensed by the Council it becomes the “Relevant Licensing Authority” for that personal licence holder for the duration of the licence. Even though the licence holder may move out of the area they will remain licensed by this authority.
- 25.3 Applications must be made in the prescribed manner, accompanied by the relevant fee, original or a certified copy documentary evidence of qualifications, search results or certificate relating to criminal convictions (obtained within the last calendar month) a declaration in respect of criminal convictions for relevant or foreign offences and copies of a document or documents which demonstrate the applicant’s right to work in the UK. Two recent passport sized photographs should be submitted, one of which is endorsed with a statement verifying the likeness of the photograph to the applicant by a solicitor, notary, person of standing in the community or any individual with a professional qualification.
- 25.4 The Licensing Authority will grant a personal licence if it appears that:

- (a) the applicant is over 18;

- (b) the applicant possesses a relevant licensing qualification;
- (c) the applicant has not forfeited a personal licence in the previous five years beginning with the day the application was made;
- (d) the applicant has not been convicted of any relevant offence as defined in the Act;
- (e) the appropriate fee has not been paid.

- 25.5 The Immigration Act 2016 requires that personal licences may only be granted to individuals if they have provided evidence of their lawful immigration status and proven their eligibility to undertake work relating to the carrying on of licensable activity in line with the requirements of the legislation and guidance. Licences issued after 6 April 2017 automatically lapse if and when the licence holder's lawful leave or permission to work ends.
- 25.6 In order to substantiate whether or not an applicant has an unspent conviction for a relevant offence, applicants will be required to produce a criminal conviction certificate, a criminal record certificate or similar. The date on the certificate should be no older than one calendar month at the time it is received by the Council. This is a legal requirement and no other certificates will be accepted.
- 25.7 The Licensing Authority will notify Hertfordshire Constabulary when an applicant is found to have an unspent conviction for any relevant, foreign or immigration offence or has been required to pay an immigration penalty.
- 25.8 The police may object to the application being granted on crime prevention grounds. If an objection is made by the Police, the matter will be determined by a Licensing Sub-Committee and the applicant entitled to address the authority before a decision is made.
- 25.9 Personal licence holders must be aware that they have a duty to notify the Licensing Authority of any changes in regard to personal details i.e. change of name or address or the theft or loss of their licence.
- 25.10 A personal licence holder must notify any court in which they appear charged with an offence that they are a personal licence holder and must also inform the local authority should they be convicted of any offence.
- 25.11 Failure to notify the council in relation to any of the above is a criminal offence and the Council may prosecute an individual for this offence or take it into consideration as to whether an individual is also undermining the crime and disorder objective at any licensed premises which they work at.
- 25.12 The Licensing Authority has the power to revoke or suspend personal licences where it becomes aware of a relevant conviction, foreign offence or civil penalty for an immigration matter. In making their decision the Licensing Authority will have regard to the crime prevention objective.



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## 26 DESIGNATED PREMISES SUPERVISOR (DPS)

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- 26.1 The main purpose of the appointment of a 'designated premises supervisor' (DPS) is to ensure that there is always one specified individual with day to day responsibility for running the premises, ensuring that the licensing objectives are promoted and licence conditions are observed.
- 26.2 The DPS will usually be in a position to provide direct management supervision of the premises and to be regularly on the premises during trading hours. By identifying the DPS in the premises licence, it will be clear to the Licensing Authority, the police, other agencies and customers who is in charge of the premises.
- 26.3 When not available on the premises for a period of time i.e. holidays etc. the DPS should nominate and brief a competent, authorised 'person in charge' to act in their absence. The DPS is expected to give such delegation in writing to confirm this and it is expected that the nominated person will normally be a personal licence holder.
- 26.4 Applications can be made to vary a premises licence to remove one DPS and replace them with another person. The applicant can request that the application has immediate effect or propose a date in which the change will occur.
- 26.5 The police may object to a DPS where, in exceptional circumstances, they believe that the appointment would undermine the "the crime prevention" objective.
- 26.6 If the police object to the application on the grounds of crime prevention, the council will arrange a hearing at which the issue can be considered. The Licensing Sub-Committee must confine its considerations to issues of crime and disorder.

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## 27 TEMPORARY EVENT NOTICES

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- 27.1 Temporary event notices (TENs) authorise the carrying out of any of the licensable activities on a temporary and short term basis. TENS are simply a notice that can be given by an individual notifying the relevant authorities that they will be exercising a statutory right to carry out licensable activities within the prescribed restriction of the Act.
- 27.2 Despite the use of the term "event" a TEN does not have to relate to specific event. TENs can be used for a variety of reasons such as allowing licensable activities to take place on a temporary basis in a place that would otherwise not be authorised or to extend the hours in which activities may be provided by an existing licensed premises.



- 27.3 A 'Standard TEN' must be submitted at least 10 clear working days before the event.
- 27.4 A 'Late TEN' can only be submitted if there are less than 10 working days before the event begins but must be at least 5 clear working days between the submission of the 'Late TEN' and the event start date.
- 27.5 Clear working days means that the day the notice is given/served and the day of the event are not counted as being part of the 10 or 5 days.
- 27.6 Online TEN submissions can be made through the council's website using the government's GOV.UK portal, or other system provided by the Council but may also be submitted via email should any applicant have any I.T issues related to the GOV.UK portal.
- 27.7 Should a TEN be submitted by post, the premises user must ensure that they send the TEN to Hertsmere Borough Council's Environmental Protection Team, The Police and to the Local Licensing Authority.
- 27.8 The Police or Environmental Health may object against any TEN providing it's pertinent to promotion of the four licensing objectives. Should an objection be made against a 'Standard TEN' then it must be determined by way of a Licensing Sub-Committee Hearing. If the TEN is in connection with licensed premises, the Licensing Sub Committee may impose one or more of the existing licence conditions as long as they are not inconsistent with the event.
- 27.9 Should The Police or Environmental Health object to a 'Late TEN', then no hearing can be permitted and therefore the TEN cannot lawfully go ahead.
- 27.10 TENS must be submitted in a prescribed manner and have a number of restrictions in place. The Licensing Authority must issue a counter notice where a TEN exceeds any prescribed limits.
- 27.11 The Licensing Authority shall explain the reasons as to why the TEN is invalid and shall offer the premises user an opportunity to re-submit the TEN providing it falls inside the legislative timeframe. The Licensing Authority will not issue a refund for any TEN submitted. At its discretion it may carry over a payment should a new TEN be submitted within a period of 7 days.

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## 28 CUMULATIVE IMPACT

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- 28.1 The 'need' for licensed premises is not relevant to the Licensing Objectives. This is a matter for planning policies and strategies and for the market as a whole. The Licensing Authority shall not impose any policy or make any decision with the intention of creating set "quotas" or zones.

- 28.2 However it is possible for the Council to consider the overall “cumulative” impact of more than one licensed premises on the licensing objectives.
- 28.3 Where the Council considers that the licensing objectives are being undermined by the cumulative effect of licensed premises it can adopt a special policy. The 2003 Act requires a Council to publish a Cumulative Impact Assessment (CIA) if it believes that a special policy is considered necessary.
- 28.4 There are, a range of approaches which may be used to address issues of cumulative impact outside of the Licensing Act 2003. They include:-
- (a) Planning Controls
  - (b) Positive measures to create a safe and clean environment in partnership with local businesses, transport operators and other local authority departments
  - (c) Application of the powers of the Licensing Authority to designate parts of the area as places where alcohol may not be consumed in public.
  - (d) The confiscation of alcohol from adults and children in designated areas.
  - (e) The power of the Local Authority to close noisy licensed premises to prevent a public nuisance for up to 24 hours under the provisions of the Anti-Social Behaviour Act 2003;
  - (f) Application of police powers to instantly close for up to 24 hours, any licensed premises or temporary event on the grounds of disorder, the likelihood of disorder, or excessive noise emanating from the premises.
  - (g) Application of powers of the police, other responsible authorities, local residents or businesses to seek a review of the licence or certificate in question.
  - (h) Police enforcement of the normal law concerning disorder and anti-social behaviour, including the issue of fixed penalty notices.
  - (i) The prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk.
- 28.5 However, where any of the above fail to resolve issues or not considered suitable options the Council may adopt a Cumulative Impact Policy (CIP).
- 28.6 At the present time the Council does not believe that any area of its borough suffers from a cumulative impact and no such policy is in effect.
- 28.7 The adoption of a CIP creates a rebuttable presumption that applications for new premises licences or club premises certificates or material variations will undermine the licensing objectives and be refused. Applicants would need to address the special policy issues in their operating schedules in order to demonstrate that the operation of the premises will not add to the cumulative impact already being experienced. This presumption does not relieve responsible authorities or other persons from the need to make a relevant representation to

engage the Licensing Authorities discretion. If there are no objections the licence will be granted.

- 28.8 Although there is no CIP in effect at the present time any person may submit a representation in respect to an application for a new premises licence or variation stating that the grant of the licence would add to the cumulative impact of other licensed premises undermining the licensing objectives. The person submitting the representation would be required to provide the evidence that there is, or will be, a cumulative impact occurring if the application was granted.
- 28.9 If the Licensing Authority accepts the evidence provided within a representation that a cumulative impact will occur it will automatically trigger a review of this licensing policy with a view to adopting a CIP in the area in question.
- 28.10 Notwithstanding the above any person may write to the Licensing Authority and provide evidence of concerns related to the cumulative impact of premises on the licensing objectives in a clearly defined geographical area. Such evidence will be considered and may result in the carrying out of a CIA.

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## 29 EARLY MORNING ALCOHOL RESTRICTION ORDERS (EMROS)

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- 29.1 An Early Morning Restriction Order (EMRO) is an option to address recurring problems such as high levels of alcohol-related crime and disorder in specific areas at specific times; public nuisance and any other instances of alcohol-related anti-social behaviour which is not directly attributable to a specific premises.
- 29.2 An EMRO passed by the Council would restrict the sale of alcohol on such days and times (between 12am and 6am) and in such places within the Borough, as the Council may specify in the order. The EMRO would override any premises licence, club premises certificate or temporary event notice in effect.
- 29.3 The Licensing Authority will only make an EMRO where there is evidence that it is appropriate for the promotion of the licensing objectives. At the present time the Council does not consider there to be any need for such an order.

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## 30 LATE NIGHT LEVY

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- 30.1 Licensing Authorities may charge premises that sell alcohol between the hours of 12am and 6am an additional fee known as a Late Night Levy. This additional fee is set by the Government and based upon the rateable value of the premises, and whether the premises are used to sell alcohol primarily or exclusively for consumption on the premises.

- 30.2 70% of the proceeds from the Levy go to the Police and 30% to the Licensing Authority. The Licensing authority must spend the money it generates on reducing crime and disorder in the borough.
- 30.3 The Council does not consider there to be sufficient evidence of crime and disorder from licensed premises in its area to support the adoption of a levy.

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## 31 LICENSING HOURS AND OPENING HOURS

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- 31.1 The Council recognises that fixed licensing hours can result in concentrations of customers leaving premises simultaneously and can result in disorder at late night fast food outlets, taxi ranks and other sources of transport. Fixed hours can also inhibit the development of a thriving and safe evening or night-time economy important for local investment and employment.
- 31.2 Conversely, the Council recognises that it is more likely that the licensing objectives will be undermined where premises trade after 23:00. The Council expects applicants for hours beyond 23:00 to consider carefully the measures they will put in place to promote the licensing objectives and expects the responsible authorities to sufficiently scrutinise such applications.
- 31.3 Where the Licensing Authorities discretion is engaged it will presume that the licensing objectives will be undermined unless satisfactory measures are in place. Additional conditions or steps are likely to be necessary.
- 31.4 The Licensing Authority expects that the opening hours provided on an application form shall be the only times that members of the public will be on the premises, whether licensable activities are provided or not and will impose a condition as such, unless the applicant clearly indicates otherwise.
- 31.5 Where opening hours provided widely differ from the hours requested for the provision of licensable activities an applicant or licence holder will be expected to justify the reason for this.
- 31.6 Shops, stores and supermarkets that sell alcohol for consumption off the premises will normally be permitted to sell alcohol at any time that they are open to sell other items. However, shops that primarily sell alcohol, or have insufficient 'non-alcohol sale' trade at certain times may have their hours reduced.

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## 32 ENFORCEMENT

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- 32.1 The purpose of a licensing regime has no value if it is not properly enforced. The Licensing Authority and all Responsible Authorities not only wish to be satisfied that the licensing objectives will not be undermined when considering applications, but expect that once licensed, premises are maintained and operated so as to ensure the continued promotion of the licensing objectives.
- 32.2 Licence holders are expected to not only comply with the specific requirements of the 2003 Act but to evidence clearly their compliance when inspected.
- 32.3 All premises and individuals licensed may be inspected to ensure compliance with their licence and the Act. Proactive inspections shall normally be carried out on a risk assessed basis, with higher risks premises inspected more frequently than those deemed lower risk.
- 32.4 However, any premises may be inspected at any time they are open to the public as part of routine general compliance checks as such inspections are necessary to factor into the Council's risk assessed inspection programmes and identify compliance issues that may not otherwise come to the Council's attention.
- 32.5 Enforcement activities will be carried out either by proactive operations and compliance inspections and reactive responses and investigations in relation to complaints and intelligence received.
- 32.6 The Licensing Authority will liaise with all responsible authorities as well as encouraging, and where necessary, facilitating communication between the responsible authorities.
- 32.7 The initial expectation of the Licensing Authority is that each responsible authority will lead on the area that is their specialism. However, the Authority is a responsible authority in its own right and shall not limit itself to be solely reliant on a responsible authority where a matter of concern would normally fall within its remit.
- 32.8 For instance, a responsible authority could take action against a licence holder or premises using powers given to them under separate legislation and decide that no further action is necessary. The Licensing Authority may however consider that the need for such action is incompatible with its expectations, as expressed in this Policy, and take its own action.
- 32.9 The Licensing Authority recognises the Regulators Code and the principles at the heart of good regulation. Enforcement actions taken by the Council will be fair and proportionate to the harms it wishes to prevent. Minor compliance issues will usually be dealt with by either informal or written advice. Written advice may also be considered to be a written warning if states clearly that a licence holder is not acting in accordance with their authorisation or undermining the licensing objectives.

- 32.10 The Licensing Authority expects that businesses carrying out licensable activities for profit understand the law regulating them and will not accept lack of knowledge as a sufficient excuse for serious breaches. The power to review or prosecute may be used without need for a person to have previously been warned or advised.
- 32.11 The authority may use a variety of methods of enforcement from inspections to undercover operations, test purchases and surveillance. It is unlikely that the method of enforcement or investigation used by the Licensing Authority will fall into the requirements to have an authorisation under the Regulation of Investigatory Powers Act 2000 (RIPA) but where necessary such authorisation will be applied for.

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## 33 THE LICENSING AUTHORITY AS A RESPONSIBLE AUTHORITY

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- 33.1 The Licensing Authority is also a responsible authority under the Act and able to submit representations to applications as well as apply to review licences, and instigate criminal proceedings.
- 33.2 This policy is that of the Licensing Authority and sets out its expectations. It does not bind, or oblige, any other responsible authority to agree with Council's expectations and submit representations.
- 33.3 However, the Licensing Authority in its role as a Responsible authority, may take steps to uphold the clear expectations of this Policy if, on the individual merits of an application, it is appropriate for the promotion of the licensing objectives.

## 34 EVENTS AND SAFETY ADVISORY GROUP (SAG)

- 34.1 The Council has established a 'Safety Advisory Group' (SAG) comprising of representatives from the emergency services and other statutory agencies to advise and co-ordinate the planning for public events in the Borough.
- 34.2 Organisers of events, whether or not a premises licence or a temporary event notice is needed, are strongly advised to contact the SAG in order to receive, sufficient advice to ensure the safe running of the event.
- 34.3 Where a premises licence is needed for an event (i.e. the event is over 500 people) the Licensing Authority would expect to see a condition that the SAG will be notified at least 3 months in advance and required confirm approval of event 1 month before it takes place. This is particularly important where the applicant wishes to be granted a licence that is not limited to a once only event.

- 34.4 Whilst a premises licence could be granted after 28 days of the application being served, applicants should be aware that if representations are received and a hearing required, a decision may take 2 months. Applicants should consider this in their planning and the more people expected at the event the more notice should be given to the SAG. This allows the police to ensure sufficient cover and the public transport provision to be changed to accommodate the event.
- 34.5 6 months notice or more will be expected for events of 5,000 people or more.
- 34.6 Hertfordshire Fire and Rescue Service have also produced a document: 'Organised Events' which provides suggested conditions set out by the Fire Authority in their role as a 'responsible authority' which is deemed appropriate for the promotion of the public safety objection.

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## 35 LIVE MUSIC, DANCING AND THEATRE

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- 35.1 The Council recognises that as part of implementing Local Authority cultural strategies, proper account should be taken of the need to encourage and promote live music, dancing and theatre for the wider cultural benefit of communities generally. This 'promotion' naturally extends to non-traditional forms of music, including singing, as well as areas that may fall outside the definition of 'regulated entertainment' e.g. comedians, children's entertainers and physical performance artists such as jugglers and mimes.
- 35.2 Under Regulation 9 of the Licensing Act 2003 (Fees) Regulations 2005, the Council holds non fee-paying premises licences that pertain to the licensable activity of regulated entertainment only. The Council maintains a record of each premises licence in public areas to encourage non-for profit community events.

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## 36 LIVE MUSIC

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- 36.1 The Live music Act 2012 aims to relax the licensing burden on those licence holders providing live music at their venue. It removes the licensing requirements for:
- (a) Unamplified live music between 8.00 and 23.00.
  - (b) Amplified live music between 8.00 and 23.00 before audiences of no more than 500 people on premises authorised to sell alcohol for consumption on the premises;
  - (c) Amplified live music between 8.00 and 23.00 before audiences of no more than 500 people on places of work.
- 36.2 Any condition attached to a premises licence relating to live music ceases to have effect between 8.00 and 23.00 however it is possible to



reinstate or impose conditions about live music following a review of a premises licence or club premises certificate authorising premises to supply alcohol for consumption on the premises.

- 36.3 The Live Music Act also removes licensing requirements for the provision of entertainment facilities.

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## 37 DEREGULATION OF ENTERTAINMENT

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- 37.1 The Legislative Reform (Entertainment Licensing) Order 2014 and Deregulation Act 2015 deregulated some of the licensable activities under the 2003 Act in addition to the deregulation created by the Live Music Act 2012.

- 37.2 As a result, the following activities are no longer licensable between the hours of 8.00 and 23.00 on any day;

- (a) Performances of plays up to an audience of 500 people;
- (b) Exhibitions of dance up to an audience of 500 people;
- (c) Indoor sport up to an audience of 1000 people;
- (d) 'Not for profit' film exhibitions up to an audience of 500;
- (e) Playing of recorded music up to an audience of 500 on premises authorised to sell alcohol;
- (f) Playing of recorded music in a church hall, community hall, or other similar community premises, that is not licensed to sell alcohol, up to an audience of 500 people and the organiser gets consent from the person responsible for the premises;
- (g) Playing of recorded music at a non-residential premises of a local authority, a school or a hospital up to an audience of 500 people and the organiser gets consent from the local authority or the school or the health care provider for the hospital.

- 37.3 Boxing and Wrestling (with exception for Greco-Roman and freestyle forms of wrestling), Combined Fighting Sports and Adult Entertainment remains a licensable activity irrespective of audience numbers and the time of the event.

- 37.4 Any condition imposed on a premises licence in relation to regulated entertainment will not apply if the entertainment falls into the above "deregulated" categories. Operators are expected to be clear about when they are carrying out "deregulated entertainment" and understand the limits of the exemption and evidence compliance with them.

- 37.5 The Licensing Authority expect licensees to ensure that no nuisance or disturbance is caused to local residents and businesses when providing the deregulated activities. Whilst the Council's Environmental Protection team can take action where a nuisance is caused it is also open for the Licensing Authority, upon the review of an application, to apply a condition that deregulated entertainment is not permitted and any entertainment carried out will be considered "regulated" and conditions and time limits may apply.



- 37.6 Where a licence already has conditions, the Licensing Authority expect an operator to give strong consideration to continuing to comply with those conditions when providing deregulated forms of entertainment or to have taken suitable steps to be satisfied that such compliance is not necessary.

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## 38 ANNUAL FEES AND SUSPENSION OF LICENCES FOR NON-PAYMENT

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- 38.1 Annual fees are due on the annual anniversary of the licence being granted. The Licensing Authority is not under an obligation to send out invoices but does so in order to assist businesses and ensure payments are traceable.
- 38.2 The Licensing Authority shall aim to send Annual fee invoices out a month before the due date (grant date of the premises licence). The annual fee invoice shall be sent to the premises licence holders address unless the premises licence holder requests otherwise.
- 38.3 The onus of notifying the council of a preferred address to send the annual fee invoice to is up the premises licence holder. Should a premises licence holder wish for the annual fee invoice to be sent via email, the council should be notified of this intention.
- 38.4 Where an agent requests that an invoice is to be sent to them to administer on behalf of a premises licence holder the agent will be responsible for the payment of that invoice. The agent should notify the council as soon as they no longer wish to be responsible for their clients invoice.
- 38.5 The commercial business arrangement between the agent and their client (the licence holder) is a separate matter between those two parties and the agent will be expected to pay the annual fee regardless of whether they receive the money from their client.
- 38.6 Where an agent fails to pay an invoice addressed to them on behalf of a client, for whatever reason, the Council may choose to cease sending any invoices addressed to them and send them directly to the premises licence holder.
- 38.7 The Council is required under section 55A of the Licensing Act to suspend premises licenses where the annual fee has not been paid. Where the fee has not been paid or there has been no claim of administrative error by the end of 21 days after the due date, the Council will serve the minimum required 2 working day notice to suspend the licence.
- 38.8 Where a licence is suspended no authorised licensable activities can take place at the premises until the suspension is lifted. The suspension will only be lifted upon receipt of payment of the overdue fee. Officers

will conduct enforcement visits and will take the appropriate action in accordance with the council's enforcement policy if a premises operates without a licence in effect.

- 38.9 Where a licence holder owns more than one annual fee, any payment made by them will be allocated to the earliest fee due. Suspensions will not be lifted until no annual fee remains due.
- 38.10 Each case will be determined on its individual merits and depending upon the circumstances and where appropriate in accordance with the Licensing Act 2003 the Council may decide not to suspend a licence pending payment of the overdue fee.
- 38.11 Notwithstanding the ability to suspend, the annual fee is a debt owed to the Council and it may seek recovery for any outstanding amounts from a licence holder.

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## 39 FILM CLASSIFICATIONS

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- 39.1 All films shown must have an appropriate age rating confirming the appropriate ages that the film is suitable for. This a legal requirement to protect children from harm whilst also identifying to consumers and parents films that may contain unsuitable or offensive scenes.
- 39.2 The Licensing Authority is the classification body for films shown in its borough and may, upon request, issue film classifications. A charge will be payable for this.
- 39.3 The majority of films shown in the UK are given approval, and an age rating, by the British Board of Film Classification (BBFC). When considering a film the Council will apply the standards and criteria contained in the BBFC Classification Guidelines.
- 39.4 The Licensing Authority will not normally provide an age rating to any film where it already has a BBFC rating. However, if requested to do so the Council may consider the film but it will not depart from the BBFC rating without first discussing its reasons for that departure with the BBFC. In most instances, and because the Council will apply the BBFC guidelines, it is unlikely to come to any alternative decision.
- 39.5 The Licensing Authority shall adopt its own separate procedures and application from for film rating submissions. Applicants will be expected to submit ratings at least one calendar month before the proposed first screening date. If the film is not submitted correctly a calendar month beforehand there can be no guarantee that it will be classified before the first screening date. The Licensing Authority may agree to accept applications received outside of this time period at its discretion and may charge an expedited fee for doing so.
- 39.6 The applicant must submit a full copy of the film on DVD. If a DVD is not possible than any other accessible format that can be viewed by

the Council without the need for specialist equipment or software may be agreed. Alternatively the applicant will be required to arrange a viewing at a suitable venue. The cost of which will be borne by the applicant.

- 39.7 If the film to be classified is either partly or entirely in a foreign language, then there must be a subtitled track for all non-English speaking sections. It is recommended that an English subtitled track is always provided even for English speaking parts or the film script is provided (in English).
- 39.8 The council reserves the right to employ an independent interpreter to verify the accuracy of the subtitles if there is any doubt that the subtitles are not a true account of the words spoken. Where the Council considers this to be necessary the applicant will pay the reasonable costs of the interpreter.

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## 40 INTEGRATING STRATEGIES AND AREAS OF CONCERN

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- 40.1 The Council will endeavour where possible to secure proper integration between its licensing policy and its strategies for crime and disorder, planning, culture, transport, tourism and economic development. Members of the Licensing Committee may, where appropriate, receive reports on these issues to facilitate decisions and any review of current policy.
- 40.2 Crime and disorder strategy**
- 40.3 The Council has a duty under the Crime and Disorder Act 1998 to adopt strategies for:
- (a) the reduction of crime and disorder in the area (including anti-social and other behaviour adversely affecting the local environment); and
  - (b) combatting the misuse of drugs, alcohol and other substances in the area
  - (c) the reduction of re-offending in the area.
- 40.4 The Hertsmere Community Safety Partnership (CSP) brings together key partners within the borough with the aim of reducing crime and disorder and making Hertsmere a safer place to live, work and visit. The Licensing Authority shall, to the extent permitted by the Licensing Act 2003, work with the partnership to reduce crime and disorder in the Borough. Community Safety plays a major role in the health and wellbeing of the community through dealing with causes of domestic abuse, tackling modern slavery, reducing anti-social behaviour, responding to mental health crises, drug and alcohol safety.

## **40.5 Immigration**

40.6 The commencement of the Immigration Act 2016 made it a requirement for licensing authorities to be satisfied that an applicant has the right to work in the UK. An application made by someone who is not entitled to work in the UK must be rejected.

40.7 Licences must not be issued to individuals who are illegally present in the UK, who are not permitted to work, or who are permitted to work but are subject to a condition that prohibits them from doing work relating to the carrying on of a licensable activity.

40.8 A premises or personal licence issued in respect of an application made on or after 6 April 2017 will lapse if the holder's permission to live or work in the UK comes to an end.

## **40.9 Equality Act 2010**

40.10 The Council recognises its obligation under the Equality Act to consider the effect of its Policy on those with protected characteristics.

40.11 The Authority considers that access to licensed premises and the full range of entertainment provided by a licenced premises should not be denied to anyone because of a protected characteristic.

40.12 The Authority expects all licensed premises to cater for the diverse residents and visitors to the borough and give due consideration to the needs and requirements of all.

## **40.13 Health and safety**

40.14 The Health and Safety at Work Act 1974 requires all business operators to assess the risk of their business on their employees and other people who may attend their premises. Where 5 or more people are employed the risk assessment should be written down. The Licensing Authority recommends that all businesses have a written risk assessment.

40.15 The Covid 19 Pandemic reiterated the importance of licensed premises in the transmission of diseases and the impact that can be had on the health of the public by premises taking sensible steps to improve the health and hygiene of their customers.

## **40.16 Health and Wellbeing Strategy**

40.17 Hertsmere has a health and wealth being strategy. Whilst there is no public health objective within the licensing act 2003, public health are a responsible body and the provision of certain foods and alcohol can impact on the health of the public.

## **40.18 Fire safety**

40.19 The Regulatory Reform (Fire Safety) Order 2005 makes business operators responsible for carrying out a fire risk assessment and taking any steps necessary to mitigate such risks.

## **40.20 Modern Slavery**

40.21 Under the Modern Slavery Act 2015 a person commits a criminal offence if—

- (a) the person holds another person in slavery or servitude and the circumstances are such that the person knows or ought to know that the other person is held in slavery or servitude, or
- (b) the person requires another person to perform forced or compulsory labour and the circumstances are such that the person knows or ought to know that the other person is being required to perform forced or compulsory labour.

40.22 The Act also makes it an offence to arrange or facilitate the travel of another person with a view to that person being exploited (human trafficking).

40.23 The 2015 Act imposes a statutory duty on Hertsmere Borough Council, as a public body to co-operate with the Independent Anti-Slavery Commissioner. The Commission of any of the offences set out in the 2015 Act would undermine the crime and disorder objective of the Licensing Act 2003.

40.24 Licensed premises might be unwitting hosts to modern slavery by allowing victims and their traffickers to use the licensed establishment as a place to meet. Sexual exploitation and forced criminality would be the most common forms of slavery identified in this way.

40.25 It is also possible that the business owner of a licensed premises could conduct their business affairs by enslaving other people, who have the appearance of employees. This can occur where the individuals do not have the legal right to work in the UK and are therefore beholden to the business owner for money and accommodation and are required to work outside of the employment protections of UK law and for less money than the statutory minimum wage.

## **40.26 Child Sexual Exploitation**

40.27 Child sexual exploitation is a form of child sexual abuse. It occurs where an individual or group takes advantage of an imbalance of power to coerce, manipulate or deceive a child or young person under the age of 18 into sexual activity (a) in exchange for something the victim needs or wants, and/or (b) for the financial advantage or increased status of the perpetrator or facilitator. The victim may have been sexually exploited even if the sexual activity appears consensual. Child sexual exploitation does not always involve physical contact, it can also occur through the use of technology.

40.28 All types of licensed premises could be a potential host to CSE occurring and therefore licensed premises can play a significant part in preventing this happening or reporting concerns.

- 40.29 Licensed Premises provide an ideal environment for the grooming and sexual exploitation of children and young people. As part of the grooming process adults may meet young people or take them to licensed premises, to develop a relationship of trust and make them feel special by giving them ‘treats’ such as meals or alcohol, or by involving them in adult environments. Perpetrators may attend premises such as Cinema’s where young people frequent or purchase items such as food and alcohol from late night take-away’s and off-licences to give as gifts. Hotels and guest houses may also be used by perpetrators to exploit young people.
- 40.30 Licensed premises have a duty to protect children from harm and any premises that allows persons under the age of 18 onto their site is expected to consider the risks to children and the issues of CSE. Premises that do not allow children onto their site are still expected to consider this issue and ensure that persons under 18 are prevented from entering.
- 40.31 It is the responsibility of premises licence holders and their managers to make sure that suitable control measures are in place at licensed venues for the protection of children from harm. In the first instance these measures are left to the discretion of the management of a premises as to the measures they put in place. As a minimum premises should identify any risks at the premises and take measures to mitigate against them, including:
- a) Those selling alcohol should have a challenge 25 age verification policy in place;
  - b) Premises open after 23:00 should be able to identify any children on their premises and that they are accompanied by an appropriate adult;
  - c) Premises that accept children on to their site should have safeguarding and lost child policies;
  - d) Staff left alone with children as part of their role should be criminal record checked;
  - e) Training for staff in relation to CSE and safeguarding issues.
- 40.32 Food Hygiene**
- 40.33 Businesses selling food and/or drink will require to be registered with the Council, inspected and given a food hygiene rating. It is criminal offence to operate a business without being registered and any criminal offence is relevant under the crime and disorder objective.
- 40.34 Poor hygiene standards will also undermine the public safety objective of the Licensing Act.
- 40.35 Planning**
- 40.36 Planning and licensing are separate regimes and the Act and guidance makes the separation of the two regimes clear. The licensing committee is not bound by decisions made by a planning committee, and vice versa.

- 40.37 The legal obligations of the Council when operating as the planning authority are different to those when acting as the Licensing Authority. It is possible that a planning permission and a premises licence granted on differing terms that may conflict.
- 40.38 The legal position is however clear – a premises licence does not authorise the licence holder to breach its planning permission and a planning permission does not authorise any breach of the premises licence.
- 40.39 Premises operating in breach of their planning permission face enforcement action from the planning team. If an enforcement notice is served and breached, the premises licence holder may be prosecuted for a criminal offence by the Council’s planning team. A breach of planning could give rise to a review if it also leads to the licensing objectives being undermined.
- 40.40 Building Control**
- 40.41 The Building Regulation process is a separate system to the licencing regime.
- 40.42 Any building work carried out, either as a material alteration, change of use or a new build may require a building regulation consent. Before opening to the public the owner of the premises should ensure any relevant consent has been granted – the failure to do so could undermine the licensing objectives.
- 40.43 Two separate and distinct certificates are issued on a commercial or work place premises. The first confirms compliance with Building Regulations in general and the second compliance in terms of fire precautions, including means of escape in case of fire. A copy of this second certificate is sent to the Fire Protection Department of Hertfordshire Fire and Rescue Service, which triggers their responsibilities under the Regulatory Reform (Fire Safety) Order 2005 and enforcement of fire safety legislation.
- 40.44 Climate change**
- 40.45 The Council declared a climate emergency in 2019 and climate change is one of the biggest challenges facing the world. The Council has a climate and sustainability strategy setting out its response to this emergency. The Council accepts that everyone has to take steps to reduce the impact of society on the environment.
- 40.46 The Licensing Authority accepts that linking climate change to the Licensing Objectives of public safety and protection of children from harm may be tenuous but is open to the possibility that a premises could conduct undermine these objectives by adopting practices that are harmful to the environment.
- 40.47 Delegation of Functions**

- 40.48 The Council has adopted the recommendations of the Secretary of State as to how the Councils functions under the Act should be delegated. These are shown in the table in Appendix A.
- 40.49 The Licensing Committee comprises fifteen Elected Members. When the Licensing Authority's discretion is engaged hearings will take place before a sub-Committees made up of three members of the licensing Committee.
- 40.50** The Licensing Authority's procedure setting out how it intends to deals with hearings shall be published separately and provided to the parties of a hearing.



## APPENDIX A

### DELEGATION OF FUNCTIONS

The Council will delegate its functions under the Licensing Act 2003 as follows:

<b>Matter to be dealt with</b>	<b>Licensing Sub-Committee</b>	<b>Officers</b>
<b>Application for a Personal Licence</b>	If a police objection	If no objection made – Officers will grant
<b>Application for Premises Licence/Club Premises Licence</b>	If a relevant representation made	If no relevant representation made – Officers will grant.
<b>Application for a Provisional Statement</b>	If a relevant representation made	If no relevant representation made – Officers will grant.
<b>Application to vary Premises Licence/Club Premises Licence</b>	If a relevant representation made	If no relevant representation made – Officers will grant.
<b>Application to vary Designated Premises Supervisor</b>	If a police objection	All other cases – Officers will grant.
<b>Request to be removed as Designated Premises Supervisor</b>		All cases
<b>Application for Transfer of Premises Licence</b>	If a police objection	All other cases – Officers will grant.
<b>Application for Interim Authorities</b>	If a police objection	All other cases– Officers will grant.
<b>Application to review Premises Licence/Club Premises Certificate</b>	All cases	
<b>Decision on whether a complaint is irrelevant, frivolous or vexatious</b>	If referred by an Officer.	All other cases.
<b>Acknowledgement of receipt of Temporary Event Notices</b>		All cases
<b>Service of Counter Notice to Temporary Event Notice.</b>		All cases
<b>Determination of an objection to a Temporary Event Notice</b>	All Cases	

<b>Matter to be dealt with</b>	<b>Licensing Sub-Committee</b>	<b>Officers</b>
<b>Decision as to whether a club satisfies the conditions to be a qualifying club or is established in good faith.</b>		All cases
<b>Notice requiring Personal Licence Holder to produce licence for updating</b>		All cases
<b>Institution of proceedings</b>		Chief Environmental Health Officer
<b>Determination of Minor Variations</b>		All cases
<b>Making a representation on behalf of the Licensing Authority</b>		All cases
<b>Initiating a Review on behalf of the Licensing Authority</b>		All cases

Any matter not specified above will be dealt with by Officers unless reserved to the Council or Licensing Committee by the Licensing Act 2003 and associated regulations.

## APPENDIX B

### USEFUL LINKS AND GUIDES

Information Commissioner (ICO)	<a href="http://www.informationcommissioner.gov.uk">www.informationcommissioner.gov.uk</a>
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	<a href="http://www.hse.gov.uk">www.hse.gov.uk</a>  <a href="http://www.thepurpleguide.co.uk">www.thepurpleguide.co.uk</a>
HM Government fire safety risk assessments.	<a href="https://www.gov.uk/workplace-fire-safety-your-responsibilities/fire-safety-advice-documents">https://www.gov.uk/workplace-fire-safety-your-responsibilities/fire-safety-advice-documents</a>
Managing Crowds Safely (HSE 2000) ISBN 0 7176 1834 X	<a href="http://www.hse.gov.uk">www.hse.gov.uk</a>
The Guide to Safety at Sports Grounds (The Stationery Office, 1997) (“The Green Guide”) ISBN 0 11 300095 2	<a href="http://www.safetyatsportsfounds.org.uk">www.safetyatsportsfounds.org.uk</a>
Good Practice Guide on the Control of Noise from Pubs and Clubs – The Institute of Acoustics	<a href="http://www.ioa.org.uk">www.ioa.org.uk</a>
Hertfordshire Safeguarding Children Partnership	<a href="https://www.hertfordshire.gov.uk/services/childrens-social-care/child-protection/hertfordshire-safeguarding-children-partnership/hscp.aspx">https://www.hertfordshire.gov.uk/services/childrens-social-care/child-protection/hertfordshire-safeguarding-children-partnership/hscp.aspx</a>
Licensed Property: Noise Control-British Beer and Pub Association	<a href="http://www.beerandpub.com">www.beerandpub.com</a>
The Portman Group Code of Practice on the naming, packaging and promotion of Alcoholic Drinks	<a href="http://www.portmangroup.org.uk">www.portmangroup.org.uk</a>
British Board of Film Classification – Classification Guidelines	<a href="http://www.bbfc.co.uk">www.bbfc.co.uk</a>
The Governments Alcohol Strategy	<a href="http://www.homeoffice.gov.uk/publications/alcohol-drugs/alcohol/alcohol-strategy">www.homeoffice.gov.uk/publications/alcohol-drugs/alcohol/alcohol-strategy</a>
Home Office - Supporting Guidance Pool of Conditions	<a href="http://www.homeoffice.gov.uk/publications/alcohol-drugs/alcohol/alcohol-supporting-guidance/pools-conditions">www.homeoffice.gov.uk/publications/alcohol-drugs/alcohol/alcohol-supporting-guidance/pools-conditions</a>
Guidance issued under Section 182 of the Licensing Act 2003	<a href="http://www.homeoffice.gov.uk">www.homeoffice.gov.uk</a>
Hertfordshire Fire and Rescue Service document named ‘Fire Safety Advice and Your Responsibilities’.	<a href="https://www.hertsmere.gov.uk/Documents/02-Business/Licensing/Alcohol--Entertainment-Licensing/Guidance-for-organised-events-from-the-fire-and-rescue-service.pdf">https://www.hertsmere.gov.uk/Documents/02-Business/Licensing/Alcohol--Entertainment-Licensing/Guidance-for-organised-events-from-the-fire-and-rescue-service.pdf</a>

This is not intended to be an exhaustive list of reference guides but is offered for guidance and may be revised. Where an application proposes any activity not covered by the above, every effort should be made to research current best practice guidance.

## APPENDIX C

### LIST OF RESPONSIBLE AUTHORITIES

<p>The Licensing Team Hertsmere Borough Council Civic Offices Elstree Way Borehamwood Hertfordshire WD6 1WA</p> <p>Email: <a href="mailto:licensing@hertsmere.gov.uk">licensing@hertsmere.gov.uk</a></p>	<p>Environmental Protection Hertsmere Borough Council Civic Offices Elstree Way Borehamwood Hertfordshire WD6 1WA</p> <p>Email: <a href="mailto:ep-tens@hertsmere.gov.uk">ep-tens@hertsmere.gov.uk</a>; <a href="mailto:environmental.health@hertsmere.gov.uk">environmental.health@hertsmere.gov.uk</a></p>
<p>Environmental Health - Health &amp; Safety Hertsmere Borough Council Civic Offices Elstree Way Borehamwood Hertfordshire WD6 1WA</p> <p>Email: <a href="mailto:environmental.health@hertsmere.gov.uk">environmental.health@hertsmere.gov.uk</a></p>	<p>Head of Planning Hertsmere Borough Council Civic Offices Elstree Way Borehamwood Hertfordshire WD6 1WA</p> <p>Email: <a href="mailto:planning@hertsmere.gov.uk">planning@hertsmere.gov.uk</a></p>
<p>The Licensing Officer Borehamwood Police Station Civic Offices Elstree Way Borehamwood Hertfordshire WD6 1JP</p> <p>Tel: 01707 806625</p> <p>Email: <a href="mailto:licensinghertsmerearea@herts.pnn.police.uk">licensinghertsmerearea@herts.pnn.police.uk</a></p>	<p>Fire Protection Manager Fire Protection Mundells MU 103 Welwyn Garden City Hertfordshire AL7 1FT</p> <p>Tel: 01707 292 310</p> <p>Email: <a href="mailto:administration.cfs@hertfordshire.gov.uk">administration.cfs@hertfordshire.gov.uk</a></p>
<p>HSCB Business Manager Hertfordshire Safeguarding Children's Board Room 127 County Hall Pegs Lane Hertford Hertfordshire SG13 8DF</p> <p>Tel: 01992 588757</p> <p>Email: <a href="mailto:admin.hscb@hertfordshire.gov.uk">admin.hscb@hertfordshire.gov.uk</a></p>	<p>Trading Standards Hertfordshire County Council Mundells Welwyn Garden City Hertfordshire AL7 1FT</p> <p>Tel: 01707 292429</p> <p>Email: <a href="mailto:tradingstandards@hertfordshire.gov.uk">tradingstandards@hertfordshire.gov.uk</a></p>

<p>Licensing Applications Public Health (postal point SFAR232) Farnham House Six Hills Way Stevenage Hertfordshire SG1 2FQ</p> <p>Email: <a href="mailto:publichealth@hertfordshire.gov.uk">publichealth@hertfordshire.gov.uk</a></p>	<p>Immigration Home Office Alcohol Licensing Team Lunar House 40 Wellesley Road Croydon CR9 2BY</p> <p>email: <a href="mailto:alcohol@homeoffice.gsi.gov.uk">alcohol@homeoffice.gsi.gov.uk</a></p>
<p>If your premises are enforced by the Health and Safety Executive you will also need to serve:</p> <p>Health and Safety Executive Woodlands Manton Lane Bedford Bedfordshire MK41 7LW</p> <p>Tel: 01234 22 550</p>	

## APPENDIX D

### RESPONSIBLE AUTHORITIES STATEMENTS

the below statements do not form part of the council's own policy but are intended to assist applicants in knowing the expectations each authority may have, to assist the public in knowing when they should expect a responsible authority to lead on, or become involved in an issue and to assist the licensing authority as to its expectations and understanding of an authority's role when making decisions in respect to matters set out in this Policy.

#### **Statement of the Hertsmere Borough Council Environmental Health Service**

The Council's Environmental Health Department have two separate functions under the Licensing Act 2003. The Environmental Protection team are the lead authority in relation to nuisance caused to residents and neighbouring businesses as a result of the activities conducted from licensed premises. The Commercial team will consider the health and safety risks of applications and licence holders. Both teams may consider the previous compliance of the premises or an application in respect to any other regulatory regimes dealt with by the department to assess the suitability of a premises licence holder and designated premises supervisor.

Both teams also consider a wider range of issues related to events held in the borough as part of the Council's Safety Advisory Group and the Environmental Protection team also consider all Temporary Event Notices.

Whilst both of these separate teams are responsible authorities under the Act they each have a range of duties and powers under other bespoke legislation which they may use to tackle any problems.

Applicants and licence holders are expected to risk assess their activities and the potential impact of them on their customers, neighbours and other members of the public. This could be noise from regulated entertainment (such as recorded music, live music, DJ's or Karaoke) or customers either when leaving the premises or using outside seating or smoking areas. Plant and Equipment such as generators, extractor fans and air-con units can also cause a nuisance as well staff tidying and closing up after trading has finished.

Odour nuisance is largely likely to be as a result of cooking food with insufficient means of extraction. Applicants and licence holder should also consider their waste disposal methods and litter that may result either from the activities provided or as a result of customers attending the premises.

It is the responsibility of an applicant to consider the above issues and propose adequate measures to prevent disturbances occurring. Where it is clear from an application that an issue has not been considered or there is no measure offered to control a reasonably likely nuisance, the Environmental Protection team may object to an application being granted and suggest conditions to be imposed on any licence granted.

Where the team has sufficient evidence that the premises will cause a nuisance and undermine the licensing objectives and reasonable measures to prevent the disturbance are not offered, the team will object and recommend that the licence is not granted.

Complaints about existing licensed premises will be dealt with by the team under its existing protocols and evidence will be necessary to substantiate any nuisance caused. Where a complaint relates to the breach of a licence or its conditions the team will work jointly with the Licensing department to ensure the matter is dealt with.

The Commercial team will expect matters related to public safety to be strongly considered by applicants and premises licence holders. Businesses will already be under duties imposed on them under the Health and Safety at Work Act 1974 and the Food Safety Act 1985 and the commercial team will not seek to duplicate these permissions. However, there may be instances where further conditions are necessary and in such instances representations may be made. Notwithstanding the separate legislative obligations the team must have confidence that a licence holder and their management staff are competent to understand and comply with these legal duties. Where the team is not satisfied that an individual can comply with the legislative requirements further conditions may be proposed or applications for licences will be objected to.

The breach of these duties by an existing licence holder amounts to a criminal offence and as such could result in their prosecution or review of the premises licence.

Where necessary, and where it holds relevant evidence, the department will assist the licensing authority by providing statements to the Licensing authority or sub-committee or attending any sub-committee hearings.

The department can only submit representations based on the evidence or knowledge that it has at the time of an application. Residents close to a particular premises may have an entirely different experience or perspective than that evidence recorded by the Environmental team and should not assume that the Council are aware of all possible issues occurring. Residents are encouraged to submit their own representations where they have concerns.

## **Statement of the Hertfordshire Constabulary**

The Police are the lead agency in respect to issues of crime and disorder stemming from the operation of licensed premises and shall work closely with the Licensing Authority on these issues. The Police will be the primary agency responsible for investigation of crime and disorder related matters that arise from any given licenced premises.

It is acknowledged that not all issues of crime and disorder in relation to a licensed premises are the sole responsibility or fault of the premises licence holder. The Police have a range of powers under a variety of legislative provisions to deal with individuals who commit offences.

However, the Police have the power to review premises licences where there is evidence that the premises is the cause of crime and disorder issues or is failing to take adequate steps to resolve crime and disorder issues occurring around its premises.

Applicants for premises licences should consider appropriate steps to prevent crime and disorder when making applications. These steps are expected to form clear and enforceable conditions. Existing licence holders are expected to review their operation on a regular basis and notwithstanding the absence of any conditions on their licence, take appropriate steps to promote the licensing objective of the prevention of crime and disorder.

The Police would ordinarily expect that premises are equipped with CCTV covering all of the inside areas and the outside areas of the premises. If the outside area includes any car park this should also be covered by the CCTV.

CCTV systems are expected to be capable of recording footage continuously for a minimum of 31 days and to enable footage to be recorded or downloaded to a removable storage device such as a UBS stick, hard drive or CD. Someone at the premises should be capable of using the CCTV system at all times and competent enough to be able to provide footage to the Police. Licence holders may be expected to ensure that they have appropriate training for their staff to use such systems.

The use of SIA registered door staff are recommended for certain premises and the licence holder or applicant should risk assess the need for this based on their operation, activities and opening hours. The Police shall normally support an operators own risk assessment unless, or until such time, as there is evidence that additional measures are necessary. Where door staff are used, operators should consider the number and whether it is appropriate to employ male and/or female door staff. The operator should also ensure that where necessary door staff are able to carry out the appropriate checks of age verification identification.

Mandatory conditions require premises that sell alcohol to have an age verification policy. The Police recommend that Challenge 25 is used and that staff are trained to check



appropriate documentation. Refusal registers or till prompts may also be necessary for some premises.

Licence holders and applicants should also consider incident logs to record any occurrences of crime or disorder at their premises.

The Police will also expect licensed businesses to work constructively in their local environment with other businesses and proactively report, share and support other local business in dealing with issues of crime and disorder. Pubs are expected to be members of the relevant local pubwatch scheme.

## **Statement of the Hertsmere Borough Council Planning Authority**

The Planning Department do not expect to routinely object to applications for premises to be licensed in Hertsmere. All premises will require separate planning permission from the Council as the relevant local Planning Authority. The effect of the premises in respect to relevant planning matters are considered at that time in line with the relevant planning policies that the Council has in place.

The lack of planning permission shall not ordinarily be a cause for the Planning Department to object to an application but applicants should note that the operation of the business without the appropriate planning consent will result in enforcement action being taken by the Planning Department.

The Planning Department may apply to review the premises licence or assist the Licensing Authority in a review in situations where the breach of a planning permission calls into question the suitability of a licence holder to effectively and responsibly manage their premises in compliance with the legal requirements, particularly in situations where the breach is causing a nuisance to neighbouring properties or the public. In such instances the Planning Department expects to work jointly with the Licensing team and the Environmental Protection team of the Council.

Where a planning enforcement notice has been served, and subsequently breached, a review of the premises licence may occur due to the crime and disorder objective being undermined.

The Planning Department may also consider raising representations or providing comments to the licensing authority to assist with the determination or enforcement of applications where it has information or evidence that may be relevant to the Licensing Authority's decision. The final decision as to whether the information is relevant will be that of the Licensing Authority.

Where representations under the Act have been received by the Council from residents or neighbouring businesses citing issues that relate to planning, the Department will work with the Licensing Authority and if requested either provide a statement to the Licensing Sub-Committee or attend any hearing to provide the context of any planning related matter.

## **Statement of the Hertfordshire Fire and Rescue Service**

Hertfordshire Fire and Rescue Service works collaboratively with a wide range of partners, locally and nationally, to meet its statutory duties and deliver high quality services that support and safeguard the wellbeing of local people, the local economy and contribute to Hertfordshire's future prosperity. The service does everything it can to protect our communities from risk, prevent incidents from occurring and help our residents to live safe, healthy, fulfilling lives.

The primary tool used by Hertfordshire Fire and Rescue Service to ensure compliance and advice to business is through a risk based inspection and enforcement regime. The service also has responsibility to consider applications made across the county for planning or licensing permissions and applications made under The Building Regulations.

All business operators have a legal duty to carry out an appropriate risk assessment at their premises in relation to fire safety. It is expected that premises licence holders have this risk assessment in an accessible documentary form that can be provided to any responsible authority officers carrying out an inspection to confirm compliance with their legal duties.

Hertfordshire Fire and Rescue Service shall notify the Licensing Authority in respect to an application where it wishes to raise a representation. Any matters outside of the licensing remit will be dealt with by the service directly with the applicant.

In addition to its ability to make representations and review licences, the service shall also support the Licensing authority in respect to enforcement action, reviews or representations taken by it, by providing evidence or attending relevant committee hearings where appropriate.

## **Statement of Hertfordshire Trading Standards**

Trading Standards are a responsible authority under the Licensing Act 2003 for the primary purposes of ensuring that the law relating to age restricted products is (i.e. alcohol) complied with as well as the legal requirements surrounding the amount (measures) of alcohol that can be sold. Trading Standards also take the lead locally where the sale of alcohol involves fraud, counterfeiting or is illegally imported without duty paid. "Fake" alcohol also poses a risk to the health and safety of the public and where detected in the borough the service will notify the Hertsmere Licensing Authority and Environmental Health Teams as well as the Hertfordshire Constabulary's Licensing Officer for the district.

All premises selling alcohol are required by mandatory conditions to have in place an age verification policy. Trading standards recommends that premises adopt the "challenge 25" standard and that all applicants and licence holders should offer this as a condition.

Premises should also consider offering conditions setting out that staff will be trained on the law relating to the sale of alcohol, the age verification policy and the conditions of any licence granted. Training records should be kept for each member of staff selling alcohol and made available for inspection to a responsible authority officer upon request. Training should be refreshed regularly and the record updated. No member of staff should sell alcohol unless they have been trained in their duties.

Where complaints are received to the service about a premises in the borough, Trading Standards will notify the Licensing Authority and shall work proactively to determine the appropriate investigation, inspection and action. The service will, subject to appropriate intel, carry out relevant undercover test purchases on a regular basis to determine if premises are compliant with their legal duties and licence conditions.

Trading standards are also the lead agency for dealing with other matters that, whilst not licensable, may occur in licensed premises and risk undermining the licensing objectives. These matters include the sale of other age restricted products, such as tobacco and vapes, to children, other counterfeit items or items imported unlawfully without relevant duty paid.

Trading Standards view is that any premises licence holder selling an age restricted item to a child, or a counterfeit or unlawful item, is undermining the licensing objectives. The

intention to do this, or the lack of procedures to prevent this from happening call into question the suitability of the premises licence holder and would be grounds for review.

The team will also consider the review of a premises licence where the licence holder has been prosecuted, or accepted a caution or fixed penalty notice, for selling alcohol to person under the age of 18. Instances where a licence holder or member of staff employed by them has sold alcohol unlawfully will ordinarily be dealt with by Trading Standards outside of the review process unless there is evidence that the offence is a result of a widespread management failure that will continue to undermine the licensing objectives. More than one such failure at a licensed premises indicates that there is a problem and a review of the licence is likely to occur.

The service shall report to the Hertsmere Licensing Authority all matters relevant to premises in its area, including complaints received, inspections carried out, or any test purchase failures or offences detected.

### **Hertfordshire Safeguarding Children Partnership**

*Hertfordshire Safeguarding Children Partnership is recognised by the Council under section 13(4)(f) of the Licensing Act 2003 as being the appropriate competent body to advise Hertsmere Borough Council of steps necessary to protect children from harm.*

*The obvious risk to children from licensed premises is from the unlawful sale of alcohol to minors. However, there are a number of other risks that may result from those who hold licences under the Licensing Act 2003, including the provision of age restricted films or other forms of regulated entertainment, the employment of children in licensed premises and certain late night refreshment premises such as take-away's being used as areas of congregation by young people.*

*In some circumstance children being present in some establishments could be an indicator of a safeguarding concern. All applicants and licensed holders are expected to familiarise themselves with the issue of safeguarding and undertake appropriate training to identify the signs that may indicate a concern and how to report them.*

*HSCP would expect applicants to consider the risks activities conducted on their premises poses to children and where necessary identify the measures to be taken in their operating schedule. HSCP does not consider it appropriate to raise concerns solely based on the adequacy of the provisions within an applicant's operating schedule to meet their legal requirements – these matters are best left to agencies such as the Police and Trading standards.*

*HSCP will take a wider view of the issues relevant for the safeguarding of children and shall where necessary input into the development of the Council's policy to ensure that the needs of children are met. Where HSCP have evidence of concerns or is in receipt of information that may indicate a risk to children is occurring it will report these to the Licensing Authority. Whilst HSCP understand it has the power to review premises licences its first port of call will normally be to raise issues with Hertsmere Borough Council's Licensing team and provide expertise in an advisory capacity.*

## **Statement of Hertfordshire Public Health**

*Licensable activities, particularly the sale of alcohol, can impact upon the public's health.*

*Hertfordshire County Councils Public Health Department is therefore an important responsible authority under the Licensing Act 2003. As a responsible authority (RA), public health teams can:*

- submit a representation against an application for a new or existing premises*
- negotiate conditions with an applicant*
- support or apply for a review of a premises licence or club premises certificate where there are problems with one or more of the licensing objectives*
- help develop and review a cumulative impact assessment (CIA)*
- help to develop and review the SLP and have an important role in identifying and interpreting health data and evidence*
- build relationships with other RAs and support their representations by providing them with public health evidence*

*However, the service recognises that “public health” is not a licensing objective and cannot simply object to licences being granted on health grounds. Where the service has concerns that can be evidentially linked to one of the four licensing objectives it may submit representations against an application or review a premises licence.*

*The service generally expects to share data and other information about concerns that it has in relation to the consumption of alcohol or, in the case of late night refreshment, take-away fast food, with the Licensing Authority to enable the appropriate development of this Statement of Licensing Policy.*

## **Statement of Home Office (Immigration Enforcement)**

The Immigration Act 2016 makes the Secretary of State a responsible authority in respect of premises licensed to sell alcohol or provide late night refreshment. In effect this conveys the role of responsible authority to Home Office (Immigration Enforcement) who exercises the powers on the Secretary of State's behalf. When Home Office (Immigration Enforcement) exercises its powers as a responsible authority, it will do so in respect of the prevention of crime and disorder licensing objective because it is concerned with the prevention of immigration crime in connection with licensed premises. In addition to its function as a responsible authority in respect of premises licences, Home Office (Immigration Enforcement) has a similar role to the police in respect of its ability to intervene in respect of personal licences. Licence applications must be sent to the Home Office (Immigration Enforcement).

In the event that Home Office (Immigration Enforcement) considers it appropriate to make representations in the case of a premises licence application or to object to the grant of a personal licence, it will do so by email and using a standard form. Home Office (Immigration Enforcement) will not submit a response to the relevant licensing authority where it does not wish to intervene in an application.

Home Office (Immigration Enforcement) will assist a Licensing Authority in respect of applications in which it has made representations, including participation in a hearing if this is required. The central team will be the point of contact for Licensing Authorities at any point before a hearing. At a hearing, Home Office (Immigration Enforcement) will usually be represented by a member of an Immigration, Compliance and Enforcement Team. Their attendance will be decided on a case by case basis, and the Licensing Authority will be informed in advance. The Licensing Authority should notify Home Office (Immigration Enforcement) of the outcome of applications in which it has submitted representations.

When appeals are made to a magistrates' court against a decision of a Licensing Authority, the court is not permitted to consider any question as to whether an individual should be, or should have been granted leave to enter or remain in the UK; or an individual has, after the date of the decision being appealed against, been granted leave to enter or remain in the UK. In the case of the latter, it is open to the individual to make a further licence application. Home Office (Immigration Enforcement), in common with other responsible authorities, may appeal against a decision about the grant or variation of a licence where it has objected or made representations.

Home Office (Immigration Enforcement) may request that a licensing authority reviews an existing licence where it has concerns relating to the licensing objective of preventing crime and disorder, including immigration crime and preventing illegal working in licensed premises. Such a request is likely to follow:

- (i) an enforcement operation or instance of data sharing that identifies an offence under any of the Immigration Act is suspected of being committed in connection with the carrying on of the licensable activity and/or a breach of the immigration conditions on the licence ; or
- (ii) the issue of a civil penalty which is not cancelled following an objection or appeal: or



- (iii) the identification of a licence holder whose immigration status no longer permits them to work in the UK.

In addition, the Licensing Authority must review a premises licence if the premises to which it relates was made the subject of a compliance order to prevent illegal working, as set out in section 167(1A) of the Licensing Act 2003, as amended by paragraph 18 of Schedule 6 of the Immigration Act 2016. When the Licensing Authority receives notice from a magistrates' court that it has issued a compliance order the Licensing Authority has 28 days to determine the licence review and must hold a hearing within 10 working days of receiving the notice.

Section 179 of the Licensing Act 2003 in relation to rights of entry to investigate licensable activities, has been amended by the 2016 Act so that where an immigration officer has reason to believe that any premises is being used for the sale of alcohol or provision of late night refreshment, the officer may enter the premises without a warrant, with a view to seeing whether an offence under any of the Immigration Acts is being committed in connection with the carrying on of these licensable activities. Immigration officers, like police officers, are not authorised persons within the 2003 Act, but they are separately empowered by the Act to carry out their duties. The effect is to facilitate joint enforcement operations with licensing enforcement officers, and other bodies that inspect workplaces for compliance. The power of entry may also be used by Immigration, Compliance and Enforcement (ICE) teams operating on their own, to investigate illegal working following receipt of intelligence on premises they have reason to believe are being used for a licensable activity