

Committee: LICENSING AND ENVIRONMENTAL
HEALTH COMMITTEE

Agenda Item

Date: 11 JULY 2012

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Title: REVISION OF THE STATEMENT OF
LICENSING POLICY

Author: CLLRS LEMON, LOUGHLIN AND PERRY (c) Item for decision

Summary

1. This report is to inform members of the work of the Licensing Task Group on the proposed revision of the Council'

Recommendations

2. Members approve the revised Statement of Licensing Policy as a basis for consultation
3. Members approve an interim statement to be published on the Council's website

Financial Implications

4. None

Background Papers

5. The following papers were referred to by the authors in the preparation of this report and are available for inspection from the Assistant Chief Executive – Legal or as stated below.
 - Council's current Statement of Licensing Policy (available at <http://www.uttlesford.gov.uk/uttlesford/file/Licensing%20Policy%20-%20updated%202011.pdf>)
 - Report to the Licensing and Environmental Health Committee on 18 April 2012
 - Home Office Amended Guidance issued under s.182 Licensing Act 2003 (the full document can be accessed at <http://www.homeoffice.gov.uk/publications/alcohol-drugs/alcohol/guidance-section-182-licensing?view=Standard&pubID=836513>)

Impact

- 6.

Communication/Consultation	Consultation will take place with the statutory consultees (which includes all responsible authorities), all premises
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	licence holders and licensed clubs in the district and all town and parish councils. In addition the views of the public will be sought through a press release and the Council's website
Community Safety	Public safety is one of the licensing objectives promoted by the draft policy statement
Equalities	An equalities impact assessment is attached
Health and Safety	Public safety is one of the licensing objectives promoted by the draft policy statement
Human Rights/Legal Implications	The Council is obliged to keep its Statement of Licensing Policy under review and make changes when necessary
Sustainability	None
Ward-specific impacts	None
Workforce/Workplace	None

Situation

7. On 18 April 2012 this Committee appointed a Task Group to advise the Committee on changes to the Statement of Licensing Policy necessary to reflect amendments to the Licensing Act 2003 made by the Police Reform and Social Responsibility Act 2011.
8. The Task Group met on 14 May 2012 and carried out a review of the Statement of Licensing Policy having regard to the amendments contained in the 2011 Act and the Revised Government Guidance issued under s.182 of the 2003 Act.
9. The suggested revised Statement of Licensing Policy is attached as Appendix A. Suggested deletions from the existing policy have been struck through and suggested insertions are underlined.
10. Once the amended Statement has been agreed by the Committee it will be necessary for it to be consulted on. It is suggested that the consultation should commence as soon as possible and run until 12 October 2012. The Task Group will then meet to consider any responses with a view to producing a final report to this Committee at its meeting on 24 October 2012 to enable the Committee to recommend a Statement of Licensing Policy to Full Council for adoption at its meeting on 11 December 2012.

11. In the meantime the Task Group considered it important to draw amendments contained in the 2011 Act to the attention of the trade and public now. To that end the Task Group suggest that the summary of the amendments which is attached at Appendix B should be published on the Council's website on the licensing page as soon as possible.

Risk Analysis

12.

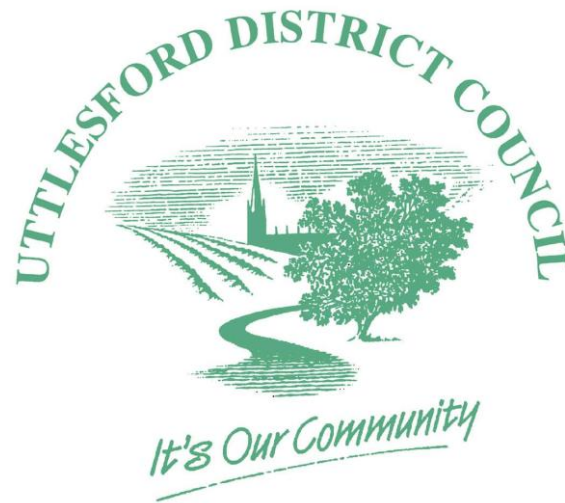
Risk	Likelihood	Impact	Mitigating actions
The recommended policy is contrary to the government guidance	1. The Task Group were given extracts of the relevant sections of the updated guidance and had regard to it	3. There is a risk of judicial review and adverse costs orders on appeals	The Task Group's recommendations accord with the guidance. Should Members decide to depart from those recommendations they sound reasons for any provisions of the Statement of Licensing Policy which they propose should be otherwise than in accordance with government guidance
The council does not review its licensing policy prior to the next scheduled review in 2016	1. The Licensing and Environmental Health Committee have appointed a Task Group to advise on a review and the work is underway	3. The council would suffer reputational damage if its policy was seen not to be consistent with the legislation and may be the subject of adverse costs awards on appeal	Members recommend a revised policy for consultation and in the meantime recommend a statement to be published on the Council's website outlining the changes in the law.

1 = Little or no risk or impact

2 = Some risk or impact – action may be necessary.

3 = Significant risk or impact – action required

4 = Near certainty of risk occurring, catastrophic effect or failure of project.



STATEMENT OF LICENSING POLICY

If you require this information in any other format or language please contact the Licensing Department on 01799 510578 or at licensing@uttlesford.gov.uk

STATEMENT OF LICENSING POLICY

1.0 INTRODUCTION

Introduction

- 1.1 This is the fourth Statement of Licensing Policy produced by Uttlesford District Council under the Licensing Act 2003, Since the adoption of the third statement the Act has been amended. The amendments expand the list of responsible authorities; extends the right to make representations with regard to applications and to seek reviews; reduces the evidential burden on licensing authorities by permitting them to take steps which they consider “appropriate” to the promotion of the licensing objectives rather than “necessary” for that purpose and amend the law relating to Temporary Events Notices. References in this statement to “the Act” are references to the Act as amended. This Statement sets out the general approach the Authority will be taking when making licensing decisions during the five year period up to December 2017.
- 1.2 Uttlesford District Council is the Licensing Authority under the Act and is responsible for granting premises licences, club premises certificates and personal licences and acknowledging temporary events *notices* in the District in respect of the sale and/or supply of alcohol and the provision of regulated entertainment and late night refreshment. In doing so the Licensing Authority will carry out its functions in such a way as to promote the licensing objectives referred to at paragraph 1.4 below.
- 1.3 When applications for new or variations to licences or certificates are made the responsible authorities and others may make representations. If no representations are received a licence will be granted subject only to those conditions required by statute and those offered by the applicant in the operating schedule. If representations are received however the application must be considered by the Licensing Authority. When assessing applications in respect of which relevant representations have been received, the Licensing Authority must be satisfied that the measures proposed in the applicant’s operating schedule aim to achieve the promotion of the licensing objectives, as far as possible. Bold type refers to matters that the Licensing Authority expects to see addressed in the applicant’s operating schedule, where appropriate. Passages of text that are not in bold are provided to assist applicants to understand what the Licensing Authority is seeking to achieve, the factors that influence the achievement of that outcome and the control measures that could be implemented by the applicant to achieve that outcome. Although it is open to applicants to omit any of the suggested conditions, applicants should be aware that responsible authorities and others will scrutinise applications in the light of this policy. Failure to take account of the policy may therefore encourage representations.

- 1.4 It should be recognised that this policy covers a wide variety of premises and activities carried on in them including theatres, cinemas, restaurants, pubs, nightclubs, private members' clubs, village halls and community centres, as well as off-licences and late night food premises and vehicles selling hot food or hot drink after 11p.m. For this reason, this policy cannot detail all the factors that influence the achievement of the licensing objectives nor can this policy detail all the control measures that may be appropriate.

The Licensing Objectives

- 1.5 The Act requires the Licensing Authority to carry out its various licensing functions so as to promote the four licensing objectives. These are:
- The Prevention of Crime and Disorder
 - Public Safety
 - The Prevention of Public Nuisance
 - The Protection of Children From Harm
- 1.6 **In respect of each of the four licensing objectives, if representations are received from responsible authorities or others applicants will need to provide evidence to the Licensing Authority that suitable and sufficient measures, as detailed in their operating schedule, will be implemented and maintained, relevant to the individual style and characteristics of their premises and events. Reference will need to be made to whether additional measures will be taken on an occasional or specific basis such as when a special event or promotion is planned, which is intended to, or likely to attract, larger audiences.**

Statement of Licensing Policy

- 1.7 The Act further requires that the Licensing Authority publishes a 'Statement of Licensing Policy' that sets out the policies the Licensing Authority will generally apply to promote the licensing objectives when making decisions on applications made under the Act. Applicants should be aware that the Licensing Authority will only make decisions on applications where representations are made by relevant authorities or others.
- 1.8 This 'Statement of Licensing Policy' has been prepared in accordance with the provisions of the Act and having regard to the guidance issued under Section 182 of the Act. This Policy Statement was reviewed in July 2012, circulated for consultation between July and October 2012 and was ratified by Full Council on 11 December 2012. It will take effect on 12 December 2012 and will remain in force for a period of not more than 5 years. It will be subject to regular review and further consultation prior to 11 December 2017.
- 1.9.1 When making and publishing its policy, the Licensing Authority must have regard to the Secretary of State's Guidance. The Licensing Authority may depart from this Licensing Policy if the individual circumstances of any case

merit such a decision in the interests of the promotion of the Licensing Objectives and if this situation arises the Licensing Authority will give full reasons for doing so. It is possible that, during a consultation period the Guidance issued by the Secretary of State may be subject to revision leading to some temporary inconsistencies between the two documents. In such circumstances, the Licensing Authority will have regard to the revised Guidance as well as its Licensing Policy.

Consultation

- 1.10 There are a number of groups who have a stake in the leisure industry, including providers, customers, residents and enforcers, all of whom have views and concerns that require consideration as part of the licensing function and promotion of the licensing objectives.
- 1.11 In developing the Policy Statement and this revision, the Licensing Authority consulted widely. Along with the statutory consultees (the Chief Police Officer for the District, the Essex County Fire and Rescue Service and the Primary Care Trust), the views of existing licence holders, businesses, voluntary groups and residents were also taken into account. Due consideration was given to the views of all those who responded to that consultation process.

Links to other Strategies

- 1.12 In preparing the statement of licensing policy and this revision, the Licensing Authority has had regard to and consulted those involved in its local strategies on crime prevention, planning, transport, culture, tourism and economic development, provision of private hire vehicles and hackney carriages to ensure the proper co-ordination and integration of the aims and actions of these policies. Review and amendment of these strategies will be considered for their impact on this statement of licensing policy.
- 1.13 Further, arrangements will be made for the Licensing Committee to receive reports, when appropriate, on the needs of the local tourist economy to ensure that these are reflected in their considerations. The Licensing Committee will also be appraised of the local employment situation and the need for new investment and employment, where appropriate.
- 1.14 To ensure proper integration with the Licensing Authority's planning policies, the Licensing Committee will provide reports to the Development Control Committee, where appropriate, on the situation regarding licensed premises in the area, including the general impact of alcohol related crime and disorder, to enable the Development Control Committee to have regard to such matters when making its decisions.

- 1.15 The Licensing Authority recognises its responsibilities under the Equality Act 2010. The impact of this policy on those sharing protected characteristics will be monitored through Uttlesford District Council's equality scheme.

Regulated Entertainment

- 1.16 Having regard to the Licensing Authority's Leisure and Culture Strategy and the International Covenant on Economic, Social and Cultural Rights (ICESCR), ratified in 1976, a diverse provision of cultural activities is welcomed for the benefit of communities. Where representations are made by responsible authorities or others the Licensing Authority will monitor the licensing of regulated entertainment, especially with regard to live music and dancing, theatrical performances, circuses, etc. to ensure that such events are promoted without unreasonable restrictions being imposed, which would discourage such events. Where representations are made the Licensing Authority will need to balance the natural concern to prevent disturbance in neighbourhoods with the wider cultural benefits, particularly the cultural benefits for children. Advice and guidance on this matter will be sought from the Licensing Authority's Youth and Arts Development Officer.

Applications

- 1.17 When considering applications after receiving representations, the Licensing Authority will have regard to
- the Act and the licensing objectives,
 - Government guidance issued under Section 182 of the Act,
 - any supporting regulations
 - this statement of licensing policy
- 1.18 This does not however undermine the rights of any person to apply under the Act for a variety of permissions nor does it 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 Act. Where such representations or a request for a review is made the application or review will be considered on its individual merits.
- 1.19 When following the receipt of representations the Licensing Authority is considering any application, it will avoid duplication with other regulatory regimes, so far as possible, and does not intend to use the licensing regime to achieve outcomes that can be achieved by other legislation. In particular, its licensing functions will be discharged separately from its functions as the local planning authority. **However, applications for premises licences for permanent commercial premises should normally be from businesses with planning**

consent for the property concerned. (Other permissions may be applicable to licensed premises and applicants are expected to ensure that such permissions are obtained where necessary.) In some instances the conditions on a licence or certificate will be inconsistent with another consent (e.g. the closing time specified in a planning permission in respect of licensed premises may be different from that contained in the licence). In such circumstances **licence holders should be aware that the more restrictive condition is the one that applies.** Thus in the example given, if a planning permission required premises to close at 11 pm but the licence permits the premises to be open until midnight the planning permission prevails.

1.20 When one part of the Licensing Authority seeks a premises licence from the licensing authority, the licensing committee and its officers will consider the matter from an entirely neutral standpoint. If relevant representations are made, for example, by local residents or the police, they will be considered by the committee on its merits. Those making representations genuinely aggrieved by a positive decision in favour of a local authority application by the licensing authority may be entitled to appeal to the magistrates' court and thereby receive an independent review of any decision made.

1.21 In all cases, applicants and those making representations in respect of applications to the Licensing Authority have a right of appeal to the Magistrates' Court against the decisions of the Licensing Authority.

1.22 Publicity for Applications

The Licensing Authority wishes to ensure that those entitled to make representations are aware of applications for licences and variations. When an application is made for a premises licence or a variation to such a licence in addition to the statutory publicity given to the application the Licensing Authority will notify the Town or Parish Council for the area within which the premises are situated. The Licensing Authority will also notify all district councillors and occupants of residential premises adjoining, opposite and to the rear of properties which are the subject of such applications.

Representations

1.23 The Chief Officer of Police, the Fire Authority, the Enforcing Authority for health and safety purposes, the local planning authority, the authority responsible for minimising or preventing the risk of pollution, the trading standards authority, the Child Protection Authority, the Primary Care Trust for the District and the Licensing Authority are all known as 'Responsible Authorities'. These responsible authorities may make representations on applications, so far as they relate to the promotion of the four licensing objectives, and request reviews once licences have been granted.

1.24 Other parties are free to raise relevant representations. A representation would only be 'relevant' if it relates to the likely effect of the grant of the licence on the promotion of

at least one of the four licensing objectives. In addition, the representation must not be frivolous or vexatious, and in the case of reviews, not repetitive. If a party making representations does not live in or carry on a business in the vicinity of the premises and is unable to demonstrate that they would be affected by any licensable activities carried on at the premises their representations may be declined as being frivolous or vexatious.

1.27 Where relevant representations are made, the Licensing Authority must provide copies of those representations to the Applicant. The Licensing Authority accepts that in exceptional circumstances, where there is a genuine and well-founded fear of intimidation or violence, an Interested Party may not wish for his/ her personal details to be disclosed to the applicant

1.28 Where the Licensing Authority consider that a relevant representation has been made and that exceptional circumstances exist, details of the name and address may be withheld from the copy of the representation that is provided to the Applicant.

1.29 Representations should be made within 28 days of the day after the application is made to the Licensing Authority in order to be considered. If a representation is made outside of this period, it cannot be considered.

Conditions

1.30 Licensing is about the appropriate control of licensed premises, qualifying clubs, temporary events and the people who manage them or hold personal licences within the terms of the Act. Where relevant representations are made, the Licensing Authority will seek to make objective judgements as to whether conditions may need to be attached to various authorisations, to secure achievement of the licensing objectives. Any conditions arising from the operating schedule or as a result of representations will primarily focus on the direct impact of the activities taking place at licensed premises on those attending the premises and members of the public living, working or otherwise engaged in normal activity in the area concerned and will cover matters that are within the control of individual licensees.

- 1.31 The Licensing Authority acknowledges that the licensing function cannot be used for the general control of the anti-social behaviour of individuals once they are beyond the direct control of the licensee of any premises concerned. However, other mechanisms may be utilised, where appropriate, to tackle unruly or unlawful behaviour of consumers when beyond the control of the individual, club or business holding the licence, certificate or authorisation concerned. These include:
 - - planning controls
 - positive measures to create a safe and clean town environment in partnership with local businesses, transport operators and other departments of the local authority

- the provision of CCTV surveillance in town centres, ample taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols
- powers of local authorities to designate parts of the local authority area as places where alcohol may not be consumed publicly
- police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices
- the prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are under age or drunk
- the confiscation of alcohol from children and adults in designated areas
- police powers to close down any licensed premises for between 48 and 336 hours where there has been persistent sales of alcohol to children
- police and/or local authority powers to close down instantly for up to 24 hours any licensed premises or temporary events on grounds of disorder, the likelihood of disorder or noise emanating from the premises causing a nuisance
- the power of the police, other responsible authorities or a local resident or business to seek a review of the licence or certificate in question
- Action under the Violent Crime Reduction Act 2006.

1.32 If an applicant volunteers a prohibition or restriction in their operating schedule because their own risk assessment has determined such prohibition or restriction to be appropriate, such volunteered prohibitions or restrictions will become conditions attached to the licence, or certificate and will be enforceable as such.

1.33 The Licensing Authority recognises that where representations are made applications should be considered on an individual basis and any condition attached to such a licence will be tailored to each individual premises, in order to avoid the imposition of disproportionate and other burdensome conditions on those premises. Standard conditions will therefore be avoided. Conditions will not be imposed that cannot be shown to be appropriate for the promotion of the licensing objectives.

Delegation of Functions

1.34 With the exception of the approval and review of its Licensing Policy and the making of early morning alcohol restriction orders, decisions on licensing matters will be taken in accordance with an approved scheme of delegation aimed at underlining the principles of timely, efficient and effective decision-making. Applications which do not attract relevant representations will be granted by officers under delegated powers. Where such representations are received the application will be determined by Members of the Licensing Committee. The Licensing Committee will receive regular reports regarding licences determined by officers under delegated powers, in order to maintain an overview of the general situation.

The Need for Licensed Premises

- 1.35 There can be confusion about the difference between “need” and the “cumulative impact” of premises on the licensing objectives. “Need” concerns the commercial demand for another pub or restaurant or hotel. This is not a matter for a licensing authority in discharging its licensing functions or for its statement of licensing policy.

Cumulative Impact of a Concentration of Licensed Premises

- 1.36 “Cumulative impact” means the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. The cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for a licensing authority to consider in developing its licensing policy statement.
- 1.37 The Licensing Authority acknowledges that a concentration of licensed premises in a particular area can result in an increased number of people walking through or congregating in streets during the night with the potential impact of an increase in crime, anti-social behaviour, noise pollution and other disturbance to residents, together with an increase in littering or fouling. In such cases the amenity of local residents can be placed under severe pressure but may not be attributable to any individual premises.
- 1.38 The Licensing Authority will only adopt a special policy on cumulative impact if there is evidence that a significant number of licensed premises concentrated in one area are resulting in unacceptable levels of crime and disorder or public nuisance.
- 1.39 The Licensing Authority, having regard to the evidence currently available, considers that there is no particular part of the district causing a cumulative impact on any of the licensing objectives.**
- 1.40 However, the cumulative impact of licensed premises in a particular area may, at a future time, on representation from residents or businesses or a responsible authority, trigger the consideration of whether any additional licences or substantial variations to existing licences, to increase such aspects as capacity or operating hours, would lead to an unacceptable saturation in an area. The onus will be on the objector to provide evidence that additional licences or the variation of existing licences will produce the cumulative impact claimed.

Advice and Guidance

- 1.41 The Licensing Authority recognises the valuable cultural, social and business importance that premises and events requiring a licence under the Licensing Act provide and welcomes the diversity of activities that are provided by licence holders. For this reason, pre-application discussions will be encouraged to assist applicants to develop their operating schedule. The Licensing Authority, Environmental Health, Essex Police and/or Essex County Fire and Rescue Service will offer as much advice and guidance to applicants, as resources permit.
- 1.42 The Licensing Authority will also seek to liaise with applicants and/or mediate between applicants and others who may make representations, to achieve a satisfactory outcome for all involved, wherever possible and where resources permit. Where an applicant considers that mediation and liaison may be likely or probable, it is recommended that the applicant discuss his proposal with the licensing department/section and those from who they think representations are likely prior to submitting their application. Once an application has been lodged, there are statutory time scales imposed upon the application and determination process, which restrict the opportunity for such discussions, liaison and mediation.

Reviews

- 1.43 Where possible and appropriate the Licensing Authority, Environmental Health, Essex Police, Essex Fire Service and/or the PCT will give early warning to licence holders of any concerns about problems identified at premises and of the need for improvement.
- 1.44 Responsible authorities and/or others can trigger a review of a premises licence but an evidentiary basis would be required to be presented to the Licensing Authority.
- 1.45 No more than one review from persons other than responsible authorities will be normally permitted within any 12 month period on similar grounds except in exceptional and compelling circumstances.

Enforcement

- 1.46 The Licensing Authority delivers a wide range of enforcement services aimed at safeguarding the environment and the community and at providing a 'level playing field' on which businesses can fairly trade. The administration and enforcement of the licensing regime is one of these services. The Authority has adopted the Government's Enforcement Concordat designed to ensure effective and efficient public protection services. Specifically, the Licensing Authority is committed to accord with the principles of good enforcement practice by carrying out its regulatory functions in a proportionate, open and consistent manner.

- 1.47 The Enforcement Concordat is based on the principles that businesses should:
- receive clear explanations from enforcers of what they need to do and by when;
 - have opportunities to resolve differences before enforcement action is taken - unless immediate action is needed;
 - receive an explanation of their rights of appeal
- 1.48 The Licensing Authority recognises the interests of both citizens and businesses and will work closely, with partners, to assist licence holders to comply with the law and the four licensing objectives it seeks to promote. However, proportionate but firm action will be taken against those who commit serious offences or consistently break the law.
- 1.49 The Licensing Authority will establish an enforcement protocol with Essex Police, Essex County Fire and Rescue Service, Essex County Licensing Authority Trading Standards, Environmental Health and the council's Enforcement Team on enforcement issues. This protocol will provide for the targeting of resources towards high-risk premises and activities that require greater attention, while providing a lighter touch in respect of low risk premises that are well operated. A draft of the protocol can be viewed on the Licensing Authority's website: www.uttlesford.gov.uk. Hard copies are available on request.

2.0 LICENSING OBJECTIVES

- 2.1 The following sections set out the Licensing Authority's Policy relating specifically to the four licensing objectives:
- the prevention of crime and disorder
 - public safety
 - the prevention of public nuisance
 - the protection of children from harm
- 2.2 In each section relating to the objectives, the Licensing Authority has defined its intended outcome (in bold type). Each section then lists the influencing factors on the achievement of that objective but, because of the wide variety of premises and activities to which this policy applies, the lists provided are not exhaustive. **Applicants should know their premises best and should consider all aspects relevant to the individual style and characteristics of their premises and events.**
- 2.3 Further, in each section, a list of possible control measures is provided, to be of assistance to applicants, but again is not intended to be an exhaustive list. Many control measures achieve more than one objective but have not necessarily been listed under each objective. Similarly, applicants need not mention a control measure more than once in their operating schedule.

- 2.4 **The selection of control measures, referred to in 2.3 above, should be based upon a risk assessment of the premises, events, activities and the customers expected to attend (e.g. their age, number, etc.).** Whilst the Licensing Authority cannot require such risk assessments to be undertaken or documented, (other than where required by other legislation), it considers such documentation to be good practice and a useful tool in the instruction and training of staff, as well as a sound basis for review by the licence holder, in the event of requiring to make application for variation or in response to changing circumstances/conditions at the premises.
- 2.5 Additional measures may be appropriate on an occasional or specific basis such as when a special event (e.g. popular live band) or promotion (e.g. during major sporting occasions) is planned, which is intended to, or likely to attract larger audiences and/or audiences of a different nature, and which can have a significant impact on the achievement of the licensing objectives. If representations are made the Licensing Authority will expect to see **reference to be made in an applicant's operating schedule, where applicable, to such occasions and the additional measures that are planned in order to achieve the licensing objectives.**
- 2.6 The Licensing Authority considers the effective and responsible management of the premises, instruction, training and supervision of personnel engaged on the premises and the adoption of best practice to be amongst the most essential control measures for the achievement of all the licensing objectives. **For this reason** If representations are made the Licensing Authority will expect to see, **these elements specifically considered and addressed within an applicant's operating schedule.**
- 2.7 In addition, the occupancy capacity for premises, and events as appropriate, is also considered to be an essential factor in the achievement of the four licensing objectives, (except in respect of premises licensed for the consumption of food and/or alcohol off the premises). If representations are made the Licensing Authority will expect **the issue of occupancy capacity to be considered and addressed, where appropriate, within an applicant's operating schedule.**
- 2.8 The design and layout of premises are important in determining capacity, as is the availability and size of exits within recommended travel distances. Other factors should also be considered when assessing the appropriate capacity for premises or events. These include:
- the nature of the premises or event
 - the nature of the licensable activities being provided
 - the provision or removal of such items as temporary structures, such as a stage, or furniture
 - the number of staff available to supervise customers both ordinarily and in the event of an emergency

- the age of the customers
- the attendance by customers with disabilities, or whose first language is not English
- availability of suitable and sufficient sanitary accommodation
- nature and provision of facilities for ventilation

2.9 The agreement to a capacity for premises or events should not be interpreted as a requirement to also provide permanent monitoring arrangements such as doorstaff, attendance clickers or maintenance of attendance records. The Licensing Authority recognises that the person in charge at the premises can often readily assess the capacity of premises without resort to such measures. **However, If representations are made the Licensing Authority will expect that where the capacity is likely to be reached (such as on known busy evenings) and particularly where a special event or promotion is planned, the applicant will be expected to detail the additional arrangements that will be put in place to ensure that the capacity of the premises is not exceeded.**

2.10 The Licensing Authority will consider applications for minor variations to premises licences, provided that the Authority is satisfied that the variation will not adversely impact on any of the licensing objectives and the Licensing Authority will consult with such of the Responsible Authorities as it deems appropriate to make such assessment.

3.0 PREVENTION OF CRIME AND DISORDER

3.1 The Licensing Authority is committed to further improving the quality of life for the people of the District of Uttlesford by continuing to reduce crime and the fear of crime.

3.2 Section 17 of the Crime and Disorder Act 1998 introduced a wide range of measures for preventing crime and disorder and imposed a duty on Uttlesford District Council, Essex Police, Essex County the Licensing Authority and others to consider crime and disorder reduction in the exercise of all their duties. The Act reinforces this duty for local authorities.

3.3 The promotion of the licensing objective, to prevent crime and disorder, places a responsibility on licence holders to become key partners in achieving this objective. If representations are made to the Licensing Authority **applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to reduce or prevent crime and disorder on and in the vicinity of their premises, relevant to the individual style and characteristics of their premises and events.**

3.4 When addressing the issue of crime and disorder, the applicant should consider those factors that impact on crime and disorder. These may include:

- Underage drinking
- Drunkenness on premises
- Public drunkenness
- Drugs
- Violent behaviour
- Anti-social behaviour

3.5 The following examples of control measures are given to assist applicants who may need to take account of them in their operating schedule in the event that representations are received, having regard to their particular type of premises and/or activities:

- Effective and responsible management of premises
- Training and supervision of staff
- Adoption of best practice guidance (e.g. Safer Clubbing, the National Alcohol Harm Reduction Strategy Toolkit and other voluntary codes of practice, including those relating to drinks promotions e.g. The Point of Sale Promotions published by BBPA, Security in Design published by BBPA and Drugs and Pubs, published by BBPA)
- Acceptance of accredited 'proof of age' cards e.g. PASS, locally approved 'proof of age' cards e.g. 'Prove It' and/or 'new type' driving licences with photographs or adoption of industry best practice (e.g. Challenge 21 policy)
- Provision of effective CCTV and mirrors in and around premises
- Employment of Security Industry Authority licensed Doorstaff
- Provision of toughened or plastic drinking vessels
- Provision of secure, deposit boxes for confiscated items ('sin bins')
- Provision of litterbins and other security measures, such as lighting, outside premises
- Membership of local 'Pubwatch' schemes or similar organisations
- Promotion of SPIKEY and similar campaigns relating to the dangers of drinks tampering

3.6 Within the operating schedule for premises from which alcohol will be sold, save for certain community premises, a Premises Supervisor must be designated ('Designated Premises Supervisor' DPS). The Licensing Authority will normally expect the DPS to have been given the day to day responsibility for running the premises by the premises licence holder. Mandatory conditions under the Act impose express duties upon the DPS and the premises licence holder with regard to irresponsible drinks promotions, the pouring of alcohol into the mouth of a third party, the supply of tap water and the availability of alcoholic drinks in small measures. In addition to the DPS holding a personal licence, the Licensing Authority would strongly encourage the DPS to undergo additional training, and to have experience commensurate with the nature and style of entertainment provided and the capacity of the premises.

3.7 Whilst the Licensing Act 2003 requires each sale of alcohol (other than in certain community premises) to be made or authorised by a personal licence holder there is no requirement for every sale to be made by a personal licence holder or for them to be personally present at every transaction. In determining whether the real authorisation was given, the Guidance issued by the Secretary of State encourages the practice of a written authorisation to make supplies of alcohol being given by personal licence holders to persons not holding a personal licence.

3.8 In the case of community premises (church halls, chapel halls, village halls, parish halls, community halls or other similar buildings) run by a management committee, providing the Licensing Authority does not consider that the conditions requiring there to be a DPS and for all sales to be made or authorised by a personal licence holder appropriate for the promotion of the crime prevention objective, then these conditions can be replaced by a condition that all sales must be made or authorised by the management committee. On an application for a new licence for such premises requesting the alternative condition, if representations are made the alternative condition must be included in the licence if the Licensing Authority is satisfied that the management arrangements are adequate and it does not consider that the conditions requiring there to be a DPS and for all sales to be made or authorised by a personal licence holder appropriate for the promotion of the crime prevention objective.

3.9

4.0 PUBLIC SAFETY

4.1 The Licensing Authority is committed to ensuring that the safety of any person visiting or working in licensed premises is not compromised. If representations are made **applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to ensure public safety, relevant to the individual style and characteristics of their premises and events.**

4.2 When addressing the issue of public safety, an applicant should consider those factors that impact on the standards of public safety. These may include:

- the occupancy capacity of the premises
- the age, design and layout of the premises, including means of escape in the event of fire
- the nature of the licensable activities to be provided, in particular the sale or supply of alcohol, and/or the provision of music and dancing and including whether those activities are of a temporary or permanent nature
- the hours of operation (differentiating the hours of opening from the hours when licensable activities are provided, if different)

- customer profile (e.g. age, disability)
- the use of special effects such as lasers, pyrotechnics, smoke machines, foam machines, etc.

4.3 The following examples of control measures are given to assist applicants who may need to take account of them in their operating schedule, in the event that representations are received, having regard to their particular type of premises and/or activities:

- Suitable and sufficient risk assessments
- Effective and responsible management of premises
- Provision of a sufficient number of people employed or engaged to secure the safety of the premises and patrons
- Appropriate instruction, training and supervision of those employed or engaged to secure the safety of the premises and patrons
- Adoption of best practice guidance (e.g. Guide to Fire Precautions in Existing Places of Entertainment and Like Premises, The Event Safety Guide, Safety in Pubs published by the BBPA))
- Provision of effective CCTV in and around premises
- Provision of toughened or plastic drinking vessels
- Implementation of crowd management measures
- Proof of regular testing (and certification where appropriate) of procedures, appliances, systems etc. pertinent to safety

5.0 PREVENTION OF PUBLIC NUISANCE

5.1 Licensed premises have a significant potential to adversely impact on communities through public nuisances that arise from their operation. The Licensing Authority wishes to proactively maintain and protect the amenity of residents and other businesses from the potential consequence of the operation of licensed premises whilst recognising the valuable cultural, social and business importance that such premises provide.

5.2 The Licensing Authority intends to interpret “public nuisance” in its widest sense, and takes it to include such issues as noise, light, odour, litter and anti-social behaviour, where these matters impact on those living, working or otherwise engaged in normal activity in an area.

5.3 Applicants need to be clear that the Licensing Authority may apply stricter conditions, including controls on licensing hours, where licensed premises are in or near residential areas and where relevant representations have been received. Conversely, premises which can demonstrate that they have effective measures planned to prevent public nuisance, may be suitable for 24-hour opening.

5.4 In the case of shops, stores and supermarkets selling alcohol, the Licensing Authority will normally permit the hours during which alcohol is sold to match the normal trading hours during which other sales take place, unless

representations are made and there are exceptional reasons relating to disturbance or disorder.

- 5.5 The Licensing Authority does recognise that in some circumstances flexible licensing hours may help to avoid concentrations of customers leaving premises simultaneously and could reduce the potential for disorder. It also recognises that licensing hours should not inhibit the development of safe evening and night-time local economies. However, the Authority will always seek to balance their decisions with the duty to promote the four licensing objectives and the rights of residents to peace and quiet.**
- 5.6 If representations are made applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to prevent public nuisance, relevant to the individual style and characteristics of their premises and events.**
- 5.7 When addressing the issue of prevention of public nuisance, the applicant should consider those factors that impact on the likelihood of public nuisance. These may include:
- the location of premises and proximity to residential and other noise sensitive premises, such as hospitals, hospices and places of worship
 - the hours during which the licensable activities will be carried out particularly between 23.00 and 07.00
 - the closing time of the premises
 - the nature of activities to be provided, including whether those activities are of a temporary or permanent nature and whether they are to be held inside or outside premises
 - the design and layout of premises and in particular the presence of noise limiting features
 - the occupancy capacity of the premises
 - the availability of public transport
- 5.8 The following examples of control measures are given to assist applicants who may need to take account of them in their operating schedule, in the event that representations are received, having regard to their particular type of premises and/or activities:
- Effective and responsible management of premises
 - Appropriate instruction, training and supervision of those employed or engaged to prevent incidents of public nuisance, e.g. to ensure customers leave quietly
 - Control of operating hours for all or parts (e.g. garden areas) of premises, including such matters as deliveries and clearing up
 - Provision of effective CCTV in and around the premises
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- Adoption of best practice guidance (e.g. Good Practice Guide on the Control of Noise from Pubs and Clubs, produced by Institute of Acoustics, Licensed Property: Noise, published by BBPA)
- Installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices
- Management of people, including staff, and traffic (and resulting queues) arriving and leaving premises
- Liaison with public transport providers
- Siting of external lighting, including security lighting
- Management arrangements for collection and disposal of litter
- Effective ventilation systems to prevent nuisance from odour

6.0 PROTECTION OF CHILDREN FROM HARM

6.1 The protection of children from harm is a most important issue. While it is hoped that family friendly premises will thrive, the risk of harm to children remains a paramount consideration when determining applications.

6.2 The general relaxation in the Licensing Act giving accompanied children greater access to licensed premises is a positive step, aimed at bringing about a social change in family friendly leisure. Clearly this relaxation places additional responsibilities upon licence holders. However, it is also recognised that parents and others accompanying children also have responsibilities.

6.3 The protection of children from harm includes the protection of children from moral, psychological and physical harm and in relation to the exhibition of films, or transmission of programmes or videos, this includes the protection of children from exposure to strong language and sexual expletives. In certain circumstances children are more vulnerable and their needs will require special consideration. Examples would include topless bar staff, striptease, lap, table or pole dancing, performances involving feigned violence or horrific incidents, feigned or actual sexual acts or fetishism, or entertainment involving strong and offensive language. This vulnerability includes their susceptibility to suggestion, peer group influences, inappropriate example, the unpredictability of their age and the lack of understanding of danger.

6.4 The Licensing Authority considers that there should be no presumption of giving or preventing children's access to licensed premises. The Licensing Authority will rarely impose complete bans on access to children. If representations are made then in exceptional circumstances, conditions restricting access or excluding children completely may be considered appropriate. Where no licensing restriction is appropriate, admission of children will remain entirely a matter for the discretion of the individual licensee or club, or person who has given a temporary event notice.

6.5 If representations are made **applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to protect children from harm, relevant to the individual style and characteristics of their premises and events.**

6.6 Whilst children may be adequately protected from harm by the action taken to protect adults, they may also need special consideration and no policy can anticipate every situation. When addressing the issue of protecting children from harm, the applicant should consider those factors that impact on harm to children. Areas that will give particular concern in respect of children include:

- where entertainment or services of an adult or sexual nature are commonly provided
- where there have been convictions of members of the current staff at the premises for serving alcohol to minors or with a reputation for underage drinking
- with a known association with drug taking or dealing
- where there is a strong element of gambling on the premises, and
- where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.

6.7 The following examples of control measures are given to assist applicants and are considered to be amongst the most essential that applicants should take account of in their operating schedule, in the event that representations are received, having regard to their particular type of premises and/or activities. These examples can be adopted in any combination:

- Effective and responsible management of premises
- Provision of a sufficient number of people employed or engaged to secure the protection of children from harm
- Appropriate instruction, training and supervision of those employed or engaged to secure the protection of children from harm
- Adoption of best practice guidance (Public Places Charter, The Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks)
- Limitations on the hours when children may be present, in all or parts of the premises
- Limitations or exclusions by age when certain activities are taking place
- Imposition of requirements for children to be accompanied by an adult
- Measures to ensure children do not purchase, acquire or consume alcohol
- Measures to ensure children are not exposed to incidences of violence or disorder

6.8 **In the case of film exhibitions, if representations are made, the Licensing Authority will expect licence and certificate holders and those who have given notice of a temporary event within the terms of the 2003 Act to implement measures that restrict children from viewing age-restricted films classified according to the recommendations of the British Board of Film Classification or the Licensing Authority. In the case of a film exhibition that has not been classified, the Licensing Authority will expect the licensee not to permit children to view the film unless it has been approved by the Licensing Authority applying British Board of Film Classification standards.**

If representations are made the Licensing Authority may require that adult supervisors who regularly work with children having access to licensed premises who are not accompanied by an adult be checked with the Criminal Records Bureau for suitability to work with children.

7. TEMPORARY EVENTS

- 7.1. Certain temporary events are not required to be licensed but can be notified to the Licensing Authority using the Temporary Event Notice procedure. However, depending on the nature and location of such events, these can have serious crime and disorder implications. Organisers of these events are encouraged to submit their notification as soon as reasonably practicable to enable the police and the Licensing Authority to work with them to identify and reduce the risk of crime and disorder.
- 7.2. There are 2 categories of temporary event, “standard temporary events” and “late temporary events”.
- 7.3. A standard temporary events notice must be served at least 10 working days before the event is to take place. Organisers of these events should be aware that if a counter notice is served this has the effect of preventing the event from going ahead unless the counter notice is overturned on appeal. The appeal process is likely to take several months and unless the standard temporary events notice is served well in advance of the proposed event there may not be sufficient time for an appeal to be brought.
- 7.4. A late temporary event notice may be served between 5 and 9 working days before the event. Organisers of these events should be aware that in the event of a counter notice being served the event may not go ahead. There is no right of appeal against a counter notice in response to a late temporary events notice.
- 7.5. Event organisers should also be aware that either the police or the council’s Environmental Health Department can object to a temporary events notice (either a standard or late notice) on the basis that to permit the event to go ahead would undermine **ANY** of the licensing objectives. Where such an objection is received in respect of a late temporary events notice the Licensing Authority must serve a counter notice and the event cannot take place. Where a counter notice relates to a standard temporary events notice then the Licensing Authority must hold a hearing in order to determine the issue. At a hearing into objections to a standard temporary events notice any conditions on a premises licence or club premises certificate may be attached to the temporary events notice if the Licensing Authority consider it appropriate for the promotion of the licensing objectives unless the conditions would effectively prevent the event going ahead.

8. THE ROLE OF THE LICENSING AUTHORITY AS A RESPONSIBLE AUTHORITY

- 8.1. As a responsible authority the Licensing Authority may make representations on applications for the grant or variation of a premises licence or club premises certificate and may also seek a review of a licence or certificate.
- 8.2. Without imposing any limitations on its power to make such representations or to call for a review it is the view of the Licensing Authority that the other responsible authorities are generally better placed to determine whether representations are appropriate or whether a review should be called for. The

Licensing Authority is therefore likely to exercise its powers in the capacity of a responsible authority only in exceptional circumstances. This in no way inhibits the right of the other departments of the Council which are responsible authorities in their own right (namely Environmental Health and Planning) to make representations or to apply for reviews if they consider it appropriate to do so

- 8.3. To ensure that the Licensing Committee are able to conduct a hearing impartially and to reach a conclusion on its merits the power of the Licensing Authority to make representations and to seek reviews has been delegated to the Team Leader of the Council's Enforcement Team.

APPENDIX (Outline of the District)

Uttlesford is a rural area in north west Essex and is geographically the second largest district in the County. It has a population of approx 77500. There are four main centres of population, Great Dunmow, Saffron Walden, Stansted and Thaxted. The remainder of the district consists of numerous villages and hamlets. In the south of the District is Britain's fourth largest airport, Stansted. A survey carried out for the Sunday Times in 2002 stated that Uttlesford offered the best quality of life in England and Wales and it has scored highly in similar surveys ever since. Its pleasant rural setting attracts many visitors from day trippers to those staying for longer periods many of whom will make use of licensed facilities within the district.

Currently there are 299 premises within the District licensed to sell alcohol for consumption on and/or off the premises. Of these 139 are public houses or registered clubs, 51 are off licences, 86 are restaurants or hotels, 18 are community or village halls and 5 are sports clubs. In addition there are some bars airside at the airport which are not subject to the Licensing Acts by virtue of government designation.

AMENDMENTS TO THE LICENSING ACT 2003

The Police Reform and Social Responsibility Act 2011 has made a number of amendments to the Licensing Act 2003 and the Home Office has issued revised guidance under s.182 of the 2003 Act. As a result of this the Council's Statement of Licensing Policy no longer reflects the legislation or guidance in all respects. The Council is carrying out an urgent review of its Licensing Policy and will be consulting upon this in due course. However until a new policy has been adopted where there is a conflict between the legislation or Home Office Guidance and the Statement of Licensing Policy the legislation or Home Office Guidance will prevail.

The main changes to the legislation are:-

- The list of responsible authorities which must be served with applications for the grant or variation of premises licenses and club premises certificates has been expanded to include Primary Care Trusts and the Licensing Authority. Contact details are available on the Council's website or can be obtained from the Licensing Team
- Anyone is now entitled to make representations on applications for premises licenses and club premises certificates or to apply for a review of licenses or certificates provided such representations are based upon one of the four licensing objectives. The only distinction between a responsible authority and another party is that the Licensing Authority may reject representations from other parties on the basis that they are frivolous or vexatious and may reject an application for a review on either of those grounds or on the basis that the application is repetitious.
- Where there is a hearing of an application for the grant, variation or review of a premises licence or club premises certificate the Licensing Authority is no longer limited to imposing conditions which it considers necessary for the promotion of the licensing objectives. The test now is whether conditions are "appropriate" for that purpose.

- There are now provisions which permit some temporary event notices (“TENs”) to be served less than 10 working days before an event. TENs are now divided into two categories, “standard” and “late”.
- The overall limits on TENs in a calendar year remains the same (i.e. 50 for a personal licence holder, 5 for anyone else). The limit for late TENs is 10 for a personal licence holder and 2 for anyone else. However once the limit of late TENs has been reached in any calendar year no further standard TENs may be served by that person even if the overall limit has not been reached.
- TENs must now be served upon the Council’s Environmental Health Department at the same time as they are served upon the Licensing Authority and the Police. Contact details are available on the Council’s website or can be obtained from the Licensing Team. Either the Police or the Environmental Health Department may object to a TEN on the basis that to allow the event to proceed in accordance with the TEN would undermine any of the licensing objectives.
- If there are objections to a late TEN the event cannot go ahead.
- If there are objections to a standard TEN the Licensing Committee will hold a hearing as at present. Where the TEN is served in respect of premises which have a premises licence or club premises certificate any conditions on the licence or certificate may be carried forward onto the TEN if the Licensing Committee decide that it would be appropriate to do so to promote the licensing objectives unless the conditions would be inconsistent with the event going ahead.
- TENs may now cover a period of up to 168 hours (previously 96 hours) and the maximum number of days for TENs at any venue has been increased to 21 (previously 15).