

LONDON BOROUGH OF WALTHAM FOREST STATEMENT OF LICENSING POLICY

December 2004

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1. BACKGROUND

1.1 Introduction

1.1.1 The laws relating to alcohol sales, public entertainment and late night refreshment are about to change with the introduction of the provisions contained within the Licensing Act 2003 (the Act). As part of the change, the London Borough of Waltham Forest will assume responsibility from the magistrates' court for licensing all outlets in the Borough that sell alcohol. In addition, premises that supply alcohol to club members and their guests, premises that provide regulated entertainment and premises that sell late night refreshments between 11pm and 5am will also become licensed under this Act.

1.1.2 The Council welcomes the new powers granted to it by the Act, and intends to use them in consultation with responsible authorities, licensees and the general public in a socially responsible way. The Council will actively encourage and promote a broad range of entertainment, recognising the wider cultural benefits for local communities.

1.1.3 The new law requires the Council to determine and to publish, every three years a 'Statement of Licensing Policy', which sets out the policies the Council will apply with respect to the exercise of its licensing functions when making decisions on applications and to review it every three years. Before it does so, it must consult with those who may be affected by it.

1.1.4 In drafting this Policy, the Council wants to see it used to help secure its vision of working with local communities to make Waltham Forest a better place to live, work and visit. It is expected that implementation of this policy will contribute significantly to the Council's corporate objective of creating safer and stronger communities.

1.1.5 The guidance issued by the Secretary of State under section 182 of the Act, as well as the licensing objectives set out in the Act, have been taken into account in developing this policy.

1.2 Transitional arrangements

1.2.1 Current government guidance allows for a period of at least nine months. The start of the transitional period is the first appointed day. The end of the transitional period is the second appointed day, nine months from the date that the Government's Guidance to the Act is approved and published. The latest information is that the first appointed date will be 7 February 2005. The second appointed day is expected to be in November 2005 but has not yet been published. There will be a transitional period of nine months between the first appointed day and the second appointed

day, which will give time for current licensees to apply for their existing licence to be transferred into the new scheme or to have their licence varied to allow a change in activity or operating hours.

- 1.2.2 It seems likely that existing licence holders will be granted a direct transfer of an existing licence and attached conditions if no changes are required. Only when a variation is requested (e.g. extension of opening hours or change in style of operation) will representations to these variations be considered. Existing licensees will have the ability to operate under their old licence during the transitional period whilst compiling their new application. The premises' licences and certificates, with any associated variations granted during the transitional period, will not take effect until the second appointed day.

1.3 Consultation

- 1.3.1 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. Before determining its policy for any three-year period, the following were consulted:

- The Chief Officer of Police;
- The Fire Authority;
- Representatives of local holders of premises licences;
- Representatives of local holders of club premises certificates;
- Representatives of local holders of personal licences;
- Representatives of businesses and residents in the borough;
- Representatives of local late night take-away food businesses;
- SafetyNet Crime & Disorder Reduction Partnership.

Prior to finally determining this first policy document, the Council also consulted bodies of current licence holders with representatives of the Council's Planning, Environmental Services and Highways Departments.

- 1.3.2 In developing a licensing policy statement that will deliver the licensing objectives (see 3.5 below) locally, views were sought on what should be included in the Council's 'Statement of Licensing Policy'. This was an opportunity for us to collect views on what should be in the statement of policy to ensure that it reflects the local balance between the commercial interests of the licensed trade and the communities they serve and impact upon.

2. INTRODUCTION

2.1 The London Borough of Waltham Forest (the Council) is responsible under the Act for the licensing of the following activities:

- The sale by retail of alcohol;
- The supply of alcohol by clubs;
- The provision of regulated entertainment (including temporary events), including:
 - Film exhibitions,
 - Performances of plays,
 - Indoor sporting events,
 - A boxing or wrestling entertainment,
 - Live music performances,
 - Provision of facilities for making music,
 - Provision of dancing facilities;
- The provision of late night refreshment.

There are a number of exemptions: details of these are set out in full in Appendix A on page 30.

2.2 The Act makes provisions for the licensing of individuals for the retail sale of alcohol (personal licences), the licensing of premises for the retail of alcohol, provision of regulated entertainment or late night refreshment (premise licences), the supply of alcohol or the provision of regulated entertainment in certain clubs (club premises certificates) and the permitting of certain licensable activities on a temporary basis (temporary event notices).

2.3 The aim of the policy is to regulate the carrying on of licensable activities on licensed premises, by qualifying clubs and at temporary events within the terms of the Act. The conditions attached to the licence or other authorisations issued under the Act will be focused on matters within the control of the licensees and others in possession of relevant authorisations.

In so doing, the Council intends to secure the amenity and safety of residential communities while facilitating a sustainable entertainment and cultural industry. The Council, in adopting the licensing policy, recognises both the needs of residents for a safe and healthy environment in which to live and work, and the importance of safe and well-run licensed premises to both the local economy and vibrancy of the Borough. It is the Council's wish to facilitate well-managed premises with licence holders, displaying sensitivity to the impact of the premises on local residents.

2.4 In carrying out its licensing functions, the Council will promote the following four **licensing objectives** set out in the Act:

- **Prevention of Crime and Disorder;**
- **Public Safety;**
- **Prevention of Public Nuisance; and,**
- **Protection of children from harm.**

- 2.5 In determining applications, consideration will be given to matters which impact on one or more of these objectives, each of which is considered to have equal importance. Each application within the Council's jurisdiction will be considered and determined on its own individual merits.
- 2.6 To achieve these objectives, the Council will use a full range of measures including its planning controls, transport controls as well as crime and disorder policies and powers.
- 2.7 The policy provides guidance to applicants, objectors and interested residents on the general approach the Council will take in terms of licensing.
- 2.8 The Council recognises that proper account will have to be taken of the need to encourage and promote live music, dancing and theatre for the wider cultural benefit of the community. Conditions to be imposed on relevant licences will not, therefore, discourage the promotion of such entertainment but will relate solely to the promotion of the licensing objectives.
- 2.9 The Council recognises that balancing the interests of owners, employees, customers and neighbours of pubs, clubs, late night catering premises and off licenses will not always be straightforward. It will, however, always be guided by the four principal objectives of the Act and will use its powers to promote best practice and to deter poor practice, in relation to the operation of licensed premises.
- 2.10 The Policy will not undermine the applicant's right 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.

3. PERSONAL LICENCES

- 3.1 Personal licences authorise individuals to sell or supply alcohol, or authorise the sale or supply of alcohol for consumption on or off the premises for which a premises licence is in force for the carrying-on of that activity.

- 3.2 The Council recognises it has very little discretion regarding the granting of these licences. In general, provided an applicant is over 18 and has an approved qualification, for example, the British Institute of Innkeeping (determined by Department for Culture Media & Sport) and does not have certain specified criminal convictions, the application has to be granted. Existing holders of justice's licenses will qualify for a personal licence without a licensing qualification under 'Grandfather Rights' which can be claimed before 7th August 2005.
- 3.3 An application for a personal licence to sell alcohol must be made in the form specified in government guidance or regulation (Appendix C). The requisite fee must also accompany the application form (Appendix D).
- 3.4 After the expiry of "Grandfather Rights" all applicants for a personal licence, regardless of whether they have been living for a length of time in a foreign jurisdiction (outside England and Wales), will be required to produce a Criminal Record Bureau certificate copied to the local chief officer along with the application form. The certificate must have been issued within the three months before the application.
- 3.5 All applicants will also be expected to make a clear statement as to whether they have been convicted outside England and Wales of a relevant offence or an equivalent offence. Again, these statements must be sent to the Chief Officer of Police along with the application form.
- 3.6 The Police may make an objection or representations to an unspent relevant conviction or foreign offence.
- 3.7 If an objection is lodged or relevant representations are made, a hearing will be held before the Council's licensing committee or sub committee, and the application will be determined once the application and representations have been considered.
- 3.8 At such hearings the Council will consider carefully whether the grant of the licence will compromise the crime prevention objective. It will consider the seriousness and relevance of the conviction(s), the period that has elapsed since the offence(s) were committed and any mitigating circumstances. The Council will normally refuse applications where there are recent "relevant offences" and will only grant the application if it is satisfied that there are compelling reasons for so doing.
- 3.9 Prevention of crime is both an objective of the Act and an important responsibility of the Council under the Crime and Disorder Act, 1998. A person holding a personal licence should be a person who is able to work towards achieving reasonable crime prevention and reduction measures.

- 3.10 In order for the sale of alcohol to take place, the Council would normally expect the Designated Premises Supervisor to ensure that there are a sufficient number of personal licence holders at the premises when alcohol is being supplied or retailed.
- 3.11 The Act requires one of the personal licence holders to be a Designated Premises Supervisor: The main purpose being to ensure that there is always one specified individual who can be readily identified at the premises in cases of emergency. Thus, it will be clear who is in charge of the day-to-day running of the business.
- 3.12 Where the Designated Premises Supervisor is not available at the premises for whatever reason, the Council will expect an individual to be nominated as a point of contact who will have details of where the Designated Premises Supervisor can be contacted.
- 3.13 Where a Personal Licence holder is convicted by a court for a relevant offence, the Court will advise the Council accordingly. On receipt of such a notification, the Council will notify the Police and, if the Police or Council consider the continuance of the licence will prejudice crime and disorder objectives; they may issue an objection notice. In these circumstances, a hearing before the Licensing Committee will be held.

4. APPLICATION FOR PREMISES LICENCES AND CLUB PREMISES CERTIFICATES

4.1 Other regulatory controls

- 4.1.1 In undertaking its licensing function, the licensing authority is also bound by other legislation, much of which is set out below:
- The Health and Safety at Work Etc. Act 1974;
 - The Environmental Protection Act 1990;
 - The Food Safety (General Food Hygiene) Regulations 1995;
 - The Fire Precautions (Workplace) Regulations 1997;
 - Section 17 of the Crime and Disorder Act 1998 (which requires a local authority to do all that it reasonably can to prevent crime and disorder in its locality);
 - The European Convention on Human Rights (which is given effect by the Human Rights Act 1998 as amended and places a duty on public authorities to protect the rights of individuals in a variety of circumstances);
 - The Anti-social Behaviour Act 2003.

- 4.1.2 The Licensing Act will not be used as an enforcement tool for breaches of these statutes. Enforcement of such matters will be undertaken by the relevant enforcement agencies.
- 4.1.3 The intention of this policy is not to duplicate other legislation or regulatory regimes. However, in reaching a decision on whether or not to grant an application, the Council will take account of any non-compliance of other statutory requirements brought to its attention, particularly where these undermine the licensing objectives set out at paragraph 2.2. This is because any non-compliance with other statutory requirements may demonstrate that the premises are unsuitable for the activities proposed or that the management of the premises is not adequate to protect the public from harm or nuisance.

4.2 Planning (Development Control)

- 4.2.1 The Council's Planning Policies are set out in its Unitary Development Plan (UDP). The 1996 UDP is under review and a new document will be published in due course. In determining planning applications and applications for licenses, government planning policies (PPG/PPS) and the London Plan are important material considerations.
- 4.2.2 The Council has separated its planning and licensing regimes to avoid duplication and inefficiency. Licensing applications will not, therefore, be a re-run of the planning application. As appropriate, the Licensing and Planning Committees will be kept informed of the situation regarding licensed premises in the area, including the general impact of alcohol-related crime and disorder.
- 4.2.3 In general, the Council will expect that, prior to the submission of a licensing application, the appropriate planning permission will have been granted in respect of any premises. The Council may not consider a new licence application, or variation of conditions, if the activity authorised by the licence would constitute unlawful planning use or the hours of operation sought exceed those authorised by the planning permission.
- 4.2.4 For more information on how to make a planning application or to check the planning status of your property, please telephone Waltham Forest Direct on 020 8496 3000. You may also visit Chingford Municipal Office:

Monday – Thursday	9.00 am – 5.15 pm:
Friday	9.00 am – 5.00 pm.

A duty-planning officer is available for general advice:

Monday – Friday	10.00 am	4.00pm.
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4.3 Building Control

- 4.3.1 Building Regulations govern a variety of issues, which will directly contribute to the licensing objectives, including means of escape, structural integrity, accessibility and public safety.
- 4.3.2 The Council will not normally entertain an application for a licence or variation of a licence where building control approval has been withheld unless the applicant can demonstrate that the matter preventing approval does not relate to any concerns in respect of public safety.

4.4 Application forms

- 4.4.1 An application for a premises licence or club premises certificate must be made in the form specified by Government Guidance or regulation (Appendix C).
- 4.4.2 The application must be accompanied by the requisite fee (Appendix D), operating schedule and, if the application involves the supply of alcohol, a form of consent from the individual who is to be specified in the licence as the Designated Premises Supervisor.
- 4.4.3 The Council will also expect all applications to be made in accordance with regulations made under the Licensing Act. This could include a floor plan of the premises drawn to scale (specify scale) and identifying where the licensable activity is to take place, the other features, bar counters, toilet facilities, storage of intoxicating liquor, fire doors, access and egress points, ventilation/extract ducts, refuse storage, etc.

4.5 Consultation on applications

- 4.5.1 A person making an application for a premises licence or club premises certificate or to vary an existing premise licence must consult with the following “responsible authorities”:
- Chief Officer of Police;
 - The Fire authority;
 - The local enforcement agency for health & safety at work;
 - The local authority with responsibility for environmental health;
 - The local planning authority;
 - Anybody recognised by the local authority that represents those who are responsible for, or interested in, matters relating to the protection of children from harm.
- 4.5.2 The consultation must include a copy of the application form, the operating

schedule and a plan of the premises. If the application involves the supply of alcohol, a form of consent from the individual who is to be specified as the Designated Premises Supervisor must be included.

- 4.5.3 An application for the grant or variation of a premises licence must be advertised in accordance with the arrangements prescribed in the Regulations. The content of the advertisement must use those terms and descriptions of the application that are prescribed by the Regulations made under the Act.
- 4.5.4 The applicant must demonstrate that satisfactory consultation has been completed by providing the Council with proof of service on the responsible authorities and copies of any advertising of the application.
- 4.5.6 The following “interested parties” may make representations to the Licensing Authorities in any application for the grant variation or review of a premise licence:
- A person living in the vicinity of the premises in question;
 - A body representing persons living in the vicinity: for example, a resident’s association;
 - A person involved in a business in the vicinity of the premises in question;
 - A body representing persons involved in such businesses: for example, a trade association.
- 4.5.7 The Council expects that, in normal circumstances, representations should be made in writing to the Council (Appendix E).

4.6 Operating Schedule

- 4.6.1 The Council expects applicants to address the licensing objectives (see paragraph 3.5 above) in their operating schedule. The Council expects the operating schedule to have regard to the nature of the area where the premises are situated, the type of premises concerned, the nature of the licensable activities to be provided, operational procedures and the needs of the local community. In particular, operating schedules should normally include practical steps to address disturbance, loss of amenity and the environment, transport, crime and disorder, pedestrian movement and public safety, intended use of the premises and times the premises will be open/ alcohol sold/ supplied.

4.7 Prevention of Public Nuisance

- 4.7.1 Licensed premises have a significant potential to impact adversely on communities through public nuisances which can arise from their

operation. The Council recognises the need to prevent public nuisance to residents, visitors and other businesses from the potential consequence of the operation of licensed premises, whilst balancing the rights of licensed premises to develop their business potential and to serve the community.

4.7.2 Public nuisance in this context includes such issues as noise and disturbance, light, odour, litter, anti-social behaviour and fear of crime, where these matters impact on those living, working or otherwise engaged in normal activity in an area.

4.7.3 The Council, however, recognises that licensing law is not a mechanism for the general control of anti-social behaviour by individuals once they are away from the premises and, therefore, beyond the direct control of the individual, club or business holding the licence.

4.7.4 Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained with the intention of preventing public nuisance.

4.7.5 The Council will consider *inter alia* the following with regard to a licence application:

- Steps the applicant has taken or proposes to prevent noise and vibration of all kinds escaping from the premises bearing in mind the location of premises. Measures may include installation of soundproofing, air conditioning, acoustic lobbies or sound limitation devices or may simply be closing of windows and doors;
- Steps taken or proposed to prevent disturbance by patrons or staff arriving or departing from the premises, such as erecting prominent notices at exits to premises asking customers to leave quietly and not to slam car doors, utilising the internal PA system to make announcements to the same effect or instructing door staff to ask customers to leave the area quietly;
- Reducing the volume of music towards the end of the evening and where appropriate playing quieter, more soothing music as the evening/morning winds down;
- Steps taken or proposed to prevent queuing, or to minimise noise and disorder caused by queuing including the supervision of queues formed later in the evening to keep noise to a minimum. Door supervisors will generally carry out this role but they must be given clear instructions as to their duties and responsibilities. Where necessary, they should be adequately supervised;
- Where there is a private forecourt/ beer garden, preventing patrons from using it for eating or drinking after 11pm in a residential area;

- Steps taken to control light to ensure that it does not stray outside the boundary of the premises such as to give rise to problems to residents in the vicinity;
- Steps the applicant has taken to prevent any impact of refuse or littering of the surrounding area;
- Steps taken to prevent someone who has consumed excess alcohol from entering the premises and to manage individuals that have consumed excess alcohol whilst on the premises;
- A 'last admission time' policy.

The extent to which the above matters need to be addressed will be dependent on the nature of the area where the premises are situated, the type of premises concerned, the licensable activities to be provided, operational procedures and the needs of the local community. In general, however, the Council will expect more comprehensive measures to be in place at late night entertainment venues or in premises with a history of public nuisance issues.

4.8 Transportation and pedestrian movement

4.8.1 The removal of customers without delay will reduce the number of people on the streets and, thereby, reduce noise. Where appropriate, the Council expects that applicants will address the following points in the operating schedule:

- Steps taken to lessen the impact of parking in the local vicinity;
- Where appropriate, partnerships formed with local transport providers to ensure customers and staff are taken away without delay and that transport can be booked from the licensed premises for collection from those premises at all opening times;
- Direction of customers away from noise sensitive areas.

4.9 Prevention of Crime and Disorder

4.9.1 Prevention of crime and disorder is both an objective of the Act and an important responsibility for the Council under the Crime and Disorder Act, 1998. It is important, therefore, that an applicant is able to demonstrate to the Council the practical steps that will be taken to further this objective.

4.9.2 When addressing the issue of crime and disorder, an applicant must demonstrate that those factors that impact on crime and disorder have been considered. These specifically include: -

- Underage drinking;

- Drunkenness on premises;
- Public drunkenness;
- Drugs;
- Violent behaviour;
- Anti-social behaviour.

4.9.3 Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained with the intention of preventing crime and disorder.

4.9.4 In considering applications, the Council will expect to see evidence that the following specific matters that impact on crime and disorder have been addressed in the operating schedule of the premises:

- The capability of the person who is in charge to run the premises during trading hours or, when Regulated Entertainment is provided, to effectively and responsibly manage and supervise the premises, including associated open areas;
- The steps taken or to be taken to ensure that appropriate instruction, training and supervision is given to those employed or engaged in the premises to prevent incidents of crime and disorder;
- The steps taken to prevent underage drinking in licensed premises or supply of alcohol intended to be consumed by underage persons on the premises;
- “Drinking-up time” and how customers will be managed after the sale of alcohol ceases. The operating schedule shall specify how long customers will be allowed to drink on the premises once the sale of alcohol has ceased;
- The measures taken or to be taken to raise staff awareness to discourage and prevent the use or supply of illegal drugs on the premises;
- The features currently in place or planned for physical security at the premises, such as lighting outside the premises;
- Any appropriate measures taken or to be taken for the prevention of violence or public disorder.

The extent to which the above matters need to be addressed will be dependent on the individual style and characteristics of the premises, proposed events and activities. In general, however, the Council will expect more comprehensive measures to be in place at late night entertainment venues or in premises with a history of crime and disorder issues.

4.9.5 In such premises, appropriate additional measures taken or to be taken for the prevention of violence or public disorder may include:

- Provision of effective CCTV, both within and around premises;
- Employment of Security Industry Authority licensed door staff;
- Provision of toughened or plastic glasses;
- Procedures for risk assessing promotions and events such as "Happy Hours" for the potential to cause crime and disorder, and plans for minimising such risks.

4.9.6 The Council will have particular regard to representations from the Police in deciding whether the above issues have been adequately addressed. It will not normally grant an application for a licence or variation of a licence where representations indicate that any matter has not been addressed sufficiently to avoid a potential negative impact on crime and disorder, unless the applicant can demonstrate compelling reasons why the application should be approved in the light of these representations.

4.9.7 Where either prescribed and/or premises-related conditions have not been adhered to in the past, the Council will expect applicants to have considered and taken action to rectify those issues. Applications are likely to be refused where there are significant outstanding issues.

4.9.8 The Council will expect details to be provided in operating schedules of how licensees of venues likely to be affected by drugs will take all reasonable steps to prevent the entry of drugs into licensed premises, and show what appropriate steps will be implemented to prevent drugs changing hands within the premises.

4.9.9 The Council will not support drinks' promotions that encourage the irresponsible consumption of alcohol, such as binge drinking. If such promotions are held, they should be in accordance with industry best practice guides.

4.9.10 The Council will work closely with the Police to review the licences of premises where a Police Closure Notice has been served.

4.10 Public Safety

4.10.1 The Council is committed to ensuring that the safety of any person visiting or working in licensed premises is not compromised. Members of the public have a right to expect, when visiting licensed premises, that due consideration has been taken of their needs with respect to public safety. Licensees, as providers of premises for the sale of alcohol or Regulated Entertainment, must be able to demonstrate that they have considered and put into effect measures to protect members of the public as well as the commercial interests of neighbouring premises.

4.10.2 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 at the premises. Premises must be constructed or adapted to minimise any risk of injury, including fire to those using or working in the premises, before the Council will grant a licence.

4.10.3 Applicants should satisfy relevant fire safety, and health and safety legislation. The appropriate health and safety, and fire safety authorities will be consulted on all licence applications.

4.10.4 In considering applications, the Council will expect to see evidence that the following matters that impact on public safety have been addressed in the operating schedule of the premises:

- The condition, design and layout of the premises, including the means of escape in case of fire;
- The nature of the activities to be provided, in particular the sale or supply of alcohol, and including whether those activities are of a temporary or permanent nature;
- The number of people that can safely be accommodated at the premises - having regard, in particular to floor area and means of escape;
- The customer profile, (e.g. age, disability, etc.);
- The necessary health and safety, and fire risk assessments at premises and other measures to reduce risk to public safety;
- The use of special effects such as lasers, pyrotechnics, smoke machines, foam machines, etc;
- The number of people employed or engaged to secure the safety of everyone attending the premises or event;
- Measures for the appropriate instruction, training and supervision of those employed or engaged to secure the safety of everyone attending the premises or event;
- Arrangements to ensure that litter, generated by the activity of premises, does not create a fire hazard;
- Implementation of appropriate crowd management measures;
- The proposed hours.

The extent to which the above matters need to be addressed will be dependent on the individual style and characteristics of the premises, proposed events and activities.

4.10.6 The Council will have particular regard to representations from its officers as well as from the London Fire & Emergency Planning Authority and the Police to determine if measures proposed are sufficient to ensure the safety of the public. It will not normally grant an application for a licence or

variation of a licence where representations are made by one of the above mentioned bodies expressing serious concern regarding public safety, unless the applicant can demonstrate compelling reasons why the application should be approved in the light of these representations.

4.10.7 Where appropriate, the Council will consider the attachment of a condition to the licence requiring the use of door supervisors, licensed by the Security Industry Authority to control access to and egress from the premises during events in order to ensure public safety. The Council will work in close partnership with the LFEPA to assist in determining an appropriate maximum capacity, where required, at individual venues.

4.11 Protection of Children from Harm

4.11.1 The Council is committed to protecting children aged 17 and under from harm and views this as an important licensing objective. Applicants for a premises licence will be expected to set out in the operating schedule accompanying their application the measures to be taken to protect children. The Council will not normally impose conditions requiring or prohibiting the admission of children to any premises. However, it will where necessary impose conditions designed to protect children.

4.11.2 In considering applications, the Council will expect to see evidence that the following specific matters that assist in protecting children from harm have been addressed in the operating schedule for the premises:

- Arrangements taken or proposed to prevent children from acquiring or consuming alcohol;
- Steps taken or proposed to prevent children from being exposed to drugs, drug taking or drug dealing;
- Arrangements taken or proposed to prevent children from being exposed to gambling;
- Steps taken or proposed to prevent children from being exposed to activities of an adult or sexual nature;
- Steps taken or proposed to prevent children from being exposed to incidents of violence or disorder;
- Measures taken or proposed to prevent children from being exposed to environmental pollution such as cigarette smoke or excessive noise;
- Measures taken or proposed to prevent children from being exposed to special hazards such as falls from height;
- Steps taken or proposed to prevent children from purchasing cigarettes from vending machines;
- Arrangements for appropriate instruction, training and supervision of those employed or engaged to secure the protection of children from harm.

- 4.11.3 The Council will have particular regard to representations from the Social Services and other child protection agencies to determine if measures proposed are sufficient to ensure that children are adequately protected from harm [*Officer / Post in Social Services to be identified*]. It will not normally grant an application for a licence or variation of a licence where representations are made by one of the above-mentioned bodies expressing serious concern regarding child protection or safety, unless the applicant can demonstrate compelling reasons why the application should be approved in the light of these representations.
- 4.11.4 In recognising the importance of the issue of under-age drinking, licensees are not able to provide alcohol to children, except as provided for by the Act. Applicants must be able to demonstrate that they have in place, satisfactory arrangements to prevent sales of alcohol to children including a recognised or appropriate proof-of-age scheme. The Council would be supportive of arrangements, which include incorporating any of the following:
- Passport;
 - Photo Card driving licence issued in the European Union;
 - Proof of Age Scheme Card;
 - 'New type' driving licences with photographs;
 - Official ID card issued by the HM Forces or by a European Union country bearing a photo and date of birth of holder;
 - Citizen Card supported by the Home Office.
- 4.11.5 In view of concerns about passive smoking, the Council will expect, where necessary, a 'no smoking' area to be set aside for use by children where access is permitted.
- 4.11.6 The Council will expect cigarette vending machines to be in sight and under the supervision of bar staff in accordance with the appropriate code of practice.
- 4.11.7 In premises where there are AWP (Amusement with Prizes) machines, the Council will expect operating schedules to show the measures to be taken to prevent access by children. The Council will also expect that where there is access by children, all machines be located within sight of the bar staff so that their use by children can be prevented.
- 4.11.8 Where children are present at an event as entertainers, the Council will expect an adult to be nominated as responsible for such child performers.
- 4.11.9 Where there is provision of entertainment specifically for children (e.g. a children's disco or supervised play area), the Council will expect sufficient adults to be present to control the access and egress of the children and

secure the protection of children, including child performers, from harm. It will expect those caring for or supervising children to have undergone an appropriate Criminal Record check with the Criminal Records Bureau.

4.11.10 Venue operators seeking premises and club premises certificates may wish to volunteer prohibitions and restrictions in their operating schedules because their own risk assessments have determined that the presence of children is undesirable or inappropriate. Where no relevant representations to the contrary are made to the Council, these volunteered prohibitions and restrictions will become conditions attached to the licence or certificate and will be enforceable as such.

4.11.11 In the case of film exhibitions, the Council will expect licensees to implement measures that restrict children from viewing age-restricted films classified according to the recommendations of the British Board of Film Classification or by the Council. In the case of a film exhibition that has not been classified, the Council will also expect a licensee to conduct an assessment of the suitability of the film for exhibition to children and to implement measures that restrict viewing by children if necessary.

5. PROVISIONAL STATEMENTS

5.1 Where premises are being constructed for the purposes of being used for one or more licensable activities or are being extended or otherwise altered for that purpose (whether or not they are already being used for that purpose), a person may apply for a Provisional Statement if they have an interest in the premises and, if an individual, they are aged 18 years or over.

5.2 Applications for provisional statements will be dealt with in a similar manner as applications for a premises licence.

5.3 If a provisional statement has been issued and the person subsequently applies for a premises licence in respect of the premises, any representations made at the time will not be considered provided that:

- Given the information in the application for a provisional statement the person objecting could have made the same, or substantially the same, representations about the application but had failed to do so;
- There has been no material change in circumstances relating either to the relevant premises or to the area in the vicinity of those premises.

5.4 The licence will not become effective until the start date stipulated by the Council.

6. DETERMINATION OF PREMISES LICENCES AND CLUB PREMISES LICENCES

6.1 General principle for determination

6.1.1 In determining a licence application, the overriding principle adopted by the Council will be that each application will be determined on its merits. In considering every application, under the terms of this policy, regard will be given to Central Government guidance under section 182 of the Act, the Act generally and to any supporting regulations. The ability of local authorities to take decisions is, however, to some extent limited by these provisions.

6.1.2 The Council considers the effective and responsible management of the premises, instruction, training and supervision of staff and the adoption of best practice to be amongst the most important control measures for the achievement of all the licensing objectives. For this reason, the Council will expect these elements to be specifically considered and addressed within an applicant's operating schedule.

6.2 Saturation and cumulative impact

6.2.1 This policy will not seek to limit the number of licensed premises that will be permitted on the basis of arguments that there are currently enough licensed premises to satisfy demand. The issue of demand or "need" is an entirely commercial issue and is not a matter to be addressed through the licensing policy. The "cumulative impact" of granting additional licences on the promotion of the four licensing objectives, on the other hand, is a matter that the Council can and will properly take into account under this policy. Nevertheless, this principle will not be used to impose quotas of any kind, which would predetermine any application.

6.2.2 The Council recognises that the cumulative impact of a proliferation of late night entertainment premises (including night cafes) may result in an increase in numbers of people either walking through or congregating in streets during the night and this, in turn, may have a number of undesirable consequences, as set out below:

- Increase in crime against both property and persons;
- Increase in noise causing disturbance to residents;
- Traffic congestion and/or parking difficulties;
- Littering and fouling.

This may result in the amenity of local residents being placed under severe pressure, as it will not always be possible to attribute a particular problem to customers of particular premises. This means that, whilst

enforcement action to ensure that licence conditions are complied with is taken, this may not resolve all problems.

6.2.3 The Council recognises that a minority of patrons may behave badly and that this licensing policy cannot address issues relating to the behaviour of individuals or groups unless in the immediate area of the licensed premises. It is, nevertheless, well aware that there are other means of addressing the problems identified above and that other mechanisms available include:

- Planning controls;
- Powers to designate parts of the local authority area as places where alcohol may not be consumed publicly and for confiscation of alcohol, from adults and children, in these areas;
- Positive measures to provide safe and clean environments in partnership with local businesses, transport operators and other departments of the Council;
- Enforcement powers in respect of anti-social behaviour, underage drinking and disorder;
- Training and education of staff working in licensed premises;
- Police powers to close down premises or temporary events for up to 24 hours on the grounds of disorder, the likelihood of disorder or excessive noise;
- Prosecution of personal licence holders who sell alcohol to people who are drunk;
- Powers of the Police, responsible authorities or a local resident or business to seek a review of a premises licence.

6.2.4 Where there is evidence that a particular area of the Borough is already suffering adverse effects arising from the concentration of late night premises, or that residential areas are under stress, this will be taken into account in determining any further applications for premises within the area identified. As such, the Council will take into account:

- Character of the surrounding area;
- Nature, style and character of the proposed operation, and;
- Potential impact of the licence on the surrounding area, both individually and cumulatively with existing licences.

6.2.5 The Council may, after hearing evidence from all parties, refuse applications for licences in respect of new premises if representations are received from a responsible authority or interested party (as defined in the Act) to the effect that the issue of another licence would result in an area becoming saturated with licensed premises and may result in exceptional crime and disorder problems for that area.

6.2.6 In cases where objectors seek to establish that an application should be refused on the grounds that it would result in or further contribute to a cumulative impact that would undermine one or more of the licensing objectives, the onus is on the objector to:

- Identify the boundaries of the area from which it is alleged problems are arising;
- Provide full details and evidence as to the seriousness and the causes of the nuisance and/or crime and disorder in the area;
- Identify the licensing objective(s) which it is alleged will be undermined with specific regard to:
 - The occupancy figure for the proposed premises,
 - The nature of the licensed activity to be carried on at the premises and its patrons.

6.3 Licensing Hours

6.3.1 The view of the Government is that longer licensing hours should be encouraged in the interests of avoiding a concentration of disturbance while ensuring that nuisance is minimised to local residents. The Government believe that shops and public houses should generally be permitted to sell alcohol during the hours they intend to open. Entertainment providers should be encouraged to provide a range of entertainment during their operating hours and to promote live music, dancing and theatre for the wider cultural benefit of the community.

6.3.2 The Council understands the view of the Government and accepts the principle of 24 hour opening of all licensed premises, but considers that it is self evident that the risk of disturbance to local residents is greater when licensable activities continue late at night and into the early hours of the morning. (For example, the risk of residents' sleep being disturbed by patrons leaving licensed premises is obviously greater at 2am than at 11pm). It also realises that the majority of licensed premises will not wish to remain open for 24 hours even if their licence permits it. Where an applicant wishes to apply to extend their current opening hours, the Council will expect their operating schedule to detail the measures to be taken to ensure the licensing objectives are addressed.

6.3.3 The Council also accepts that longer licensing hours with regard to the sale of alcohol may, in some circumstances, help with mitigating the adverse effect of concentrations of customers leaving premises simultaneously. This may then serve to reduce friction at late night fast food outlets, taxi ranks and other sources of transport, which could be the focus of disorder and disturbance.

- 6.3.4 In general terms, a flexible approach will be adopted and arbitrary restrictions will be avoided. Fixed predetermined closing times for particular areas or zones will not form part of the Council's licensing policy as this could lead to a significant movement of people from one area to another. Restriction on trading hours will be considered only where necessary to meet the licensing objectives.
- 6.3.5 Every application will be determined on its merits. Applicants will need to demonstrate to the satisfaction of the Council, in their operating schedule, that there will be no significant disturbance to members of the public living, working or otherwise engaged in normal activity around the premises concerned.
- 6.3.6 All residents living in the vicinity of any licensed premises, or any premises where an application is made for such licence, have equal rights to make representations concerning applications for premises licences (and hours of trading) and to receive appropriate consideration to their representations. Unreasonable, frivolous, repetitive and vexatious representations will be disregarded.
- 6.3.7 When considering applications for extended hours in respect of premises licences, the Council will take *inter alia* the following into consideration:
- The location of the premises;
 - The transport systems available to customers, including the amount of parking;
 - The nature of the proposed activities to be provided at the premises;
 - The steps proposed by the applicant to comply with the licensing objective of preventing public nuisance;
 - Whether the licensed activities are likely to cause adverse impact especially on local residents, and that, if there is a potential to cause adverse impact, appropriate measures will be put in place to prevent it;
 - Whether there will be any increase in the cumulative adverse impact from these or similar activities on an adjacent residential area;
 - Any representations from a responsible authority or interested party that identify the premises as a focus for disorder and disturbance.
- 6.3.8 As far as premises in residential areas are concerned, these may be subject to stricter controls with regard to opening hours to ensure that disturbance to local residents is minimised.
- 6.3.9 In principle, the Council believes that shops, stores and supermarkets selling alcohol should generally be permitted to match the hours during which they sell alcohol with their normal trading hours during which other sales take place, unless there are exceptional reasons relating to disorder or disturbance. Where representations are made by the Police concerning

crime and disorder issues, the Council will consider a restriction on opening hours as one mechanism of combating such problems.

6.4 Entertainments of a sexual nature

- 6.4.1 Where activities proposed under the licence include those of a sexual nature (e.g. striptease, table dancing, lap dancing, topless waitresses), the Council will take into account the increased risk to achieving the licensing objectives. Any reference to entertainments of a sexual nature in this part of the policy should be taken to refer to any entertainment or service involving exposure of private parts or the non-contact, sexual stimulation of patrons.
- 6.4.2 The Council will not normally grant licences which involve a sex-related element in the immediate vicinity of schools, nurseries, places of worship, youth clubs or other premises where a significant number of children are likely to attend.
- 6.4.3 Where such licences are granted, conditions will be imposed which are designed to ensure that children are not admitted to these activities and cannot witness either these activities or advertisements for them, as well as those conditions necessary to prevent crime and disorder problems.
- 6.4.4 The Council may attach such conditions deemed necessary to protect performers from harm and to deter the risk of sex-related crimes. Such conditions, where imposed, must relate to one or more of the four licensing objectives.

6.5 Licence Conditions

- 6.5.1 The policy does not provide for any 'standard conditions' to be imposed so as to avoid the imposition of disproportionate and burdensome requirements. Conditions attached to licences, if required in particular circumstances, will be tailored to reflect the individual style and characteristics of the premises and activities concerned, and only those necessary to meet the licensing objectives will be imposed. Conditions will not be imposed which are beyond the responsibility or control of the licence holder and will focus on those matters on the premises and places being used for licensable activities and the vicinity of those premises and places.
- 6.5.2 Licence conditions will not be imposed where the Council considers other regulatory regimes provide sufficient protection to the public: e.g. food safety, health and safety at work, and fire safety legislation.

- 6.5.3 It is the Council's view that, when considering conditions, there should be openness, transparency and reasonableness. Consequently, officers must seek to discuss proposed conditions in advance with the applicant and/or representative with the aim of achieving a mutually agreeable level of protection to the public along with fulfilment of the licensing objectives.

7. TEMPORARY EVENT NOTICES

- 7.1 A person over 18 may use a premises for one or more licensable activities for a period not exceeding 96 hours if notice is given to the Licensing Authority and Chief Officer of Police in the form prescribed (Appendix C) no later than 10 working days before the event is due to start. This will include temporary indoor or outdoor theatre productions or cinema screenings.
- 7.2 Temporary event notices can only be used where the maximum number attending is less than 500. In all other cases, a full premises licence must be applied for.
- 7.3 The limit on the number of temporary event notices specified in the Act is five within the same year, unless the applicant holds a personal licence, when the limit is fifty within the same year.
- 7.4 The most important aspect of the system of temporary event notices is that no permission is required for these events from the Council. In general, only the Police may intervene to prevent such an event or modify the arrangements for such an event. The Council will only ever intervene itself if the limits on the number of notices that may be given in various circumstances, as outlined in the Act, would be exceeded.
- 7.5 In the event of a relevant representation from the Police, regarding temporary event notices, the Council will hold a hearing not less than 24 hours before the event is due to take place.
- 7.6 An application for a temporary event must be made in the form specified by Government Guidance or regulation (Appendix C). The application form must be accompanied by the requisite fee (Appendix D).

8. APPEALS

- 8.1 Where an applicant is aggrieved by any decision or condition, there is a right of appeal. This appeal must be lodged within a period of 21 days from the day on which the applicant was notified by the Council of the decision and must be made to Waltham Forest Magistrates' Court. In respect of personal licences, appeals must be made to the Magistrates' Court in the area where the licence was issued. Appeals in relation to all

other licences must be made to the Magistrates Court where the premises or event is situated. On determining an appeal, the court may:

- dismiss the appeal;
- substitute for the decision appealed against any other decision which the Council could have made;
- remit the case to the Council to dispose of it in accordance with the direction of the court.

8.2 The Council will give comprehensive reasons for its decisions. On making findings of fact in its reasons, the Council will also ensure that they address the standard of proof and the burden of proof that they have adopted. The Council will also address the extent to which the decision has been made with regard to its statement of licensing policy and the guidance issued by the Secretary of State under Section 182.

8.3 As soon as the determination of the Magistrates' Courts has been promulgated, the Council will not delay its implementation and necessary action will be taken forthwith unless ordered by a higher court to suspend such action (for example, as a result of an on-going judicial review). The Act provides for no further appeal against the determination of the Magistrates' Courts.

9. REVIEWS OF LICENCES

9.1 The Act provides a mechanism for reviewing premises licences where problems associated with achieving the licensing objectives occur.

9.2 Responsible Authorities and/or residents living in the vicinity of the premises can trigger a review of a premises licence but must provide evidence to the Council to substantiate any allegations.

9.3 The Council will consider requests for a review of an existing premises licence if representations are made from the following:

- A responsible body such as the Police and Fire Authority;
- An interested party such as a person living or carrying out a business in the vicinity of the premises or an organisation representing them.

9.4 The Council must reject any request for a review if the reason does not relate to one or more of the four licensing objectives. The Council will expect anybody requesting a review to produce evidence to support that one or more of these objectives are not being met.

9.5 Requests for reviews will also be rejected if the grounds are, in the opinion of the Head of Community Protection Services, frivolous, vexatious or

repetitive. Repetitive grounds are those which are identical to those which were considered at a previous hearing.

9.6 A review of a licence can result in the following action:

- Modify the conditions of a licence;
- Exclude a licensable activity from the scope of the licence, for example, music;
- Remove the designated premises supervisor;
- Suspend the licence for a period not exceeding three months;
- Revoke the licence.

10. COMPLAINTS AGAINST LICENSED PREMISES

10.1 The Council will investigate all complaints against premises licensed by the Council. Complainants will, in the first instance, be encouraged to raise the complaint directly with the licensee or business concerned. In the case of a valid complaint, the Council will initially endeavour to seek a resolution through informal means.

10.2 All complaints must, in the first instance, be addressed to:

Licensing Section
London Borough of Waltham Forest
Community Protection
154 Blackhorse Road
London
E17 6NW

10.3 The Council will only investigate complaints under this policy if they relate to one or more of the four licensing objectives.

10.4 Where they consider appropriate, the Council may pass any complaint on for investigation by any other statutory agency under whose enforcement responsibility the complaint falls.

11. ENFORCEMENT

11.1 The Council 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 Council has adopted the Government's Enforcement Concordat designed to ensure effective and efficient public protection services. Specifically, the Council is committed to accord with the principles of good enforcement practice by carrying out its regulatory

functions in a fair, open and consistent manner and will abide by its own Enforcement Policy.

11.2 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.

11.3 Where necessary, enforcement action will be taken in accordance with the principles of the Enforcement Concordat. In particular, regard will be paid to the fundamental principles recommended by the Better Regulation Task Force for good enforcement:

- Targeting - i.e. focusing on activities that give rise to the most serious risks or where hazards are least well controlled;
- Consistency - i.e. similar approaches in similar circumstances to achieve similar ends;
- Transparency - i.e. helping duty holders to understand what is expected and distinguishing between statutory requirements and guidance;
- Proportionality - i.e. action taken should be proportional to the risk.

11.4 The Council intends to establish protocols with both the Metropolitan Police Service and the London Fire & Emergency Planning Authority on enforcement issues to provide for efficient deployment of local authority staff and Police/ Fire Officers who may be engaged in enforcing licensing law and the inspection of licensed premises. This joint partnership approach is intended to prevent duplication of effort, maximise the potential for controlling crime and disorder at premises and to ensure compliance when relevant conditions are appropriate. Inspections will take place at the discretion of the Council and its partner agencies and resources will be concentrated on areas of need. A light touch inspection regime will be employed for well managed and maintained premises with a targeted and graduated inspection and enforcement regime for problem and high-risk premises.

11.5 Where possible and appropriate, the Council will give early warning to licence holders of any concerns about problems occurring at premises associated with the licensing objectives.

12. POLICY REVIEW

12.1 The Policy takes effect on 7 February 2005 and will remain in force for not more than three years. It will be subject to periodic reviews and further consultation.

12.2 The Council is required to review its Licensing Policy Statement every three years and will, in doing so, take into account the views of:

- The Metropolitan Police;
- The London Fire & Emergency Planning Authority;
- Persons/representatives of local holders of premises licences;
- Persons/bodies representative of local holders of club premises certificates;
- Persons/bodies representative of local holders of personal licences;
- Persons/bodies representative of businesses and residents in the Borough.

The Council may, however, review the policy at any time within those three years should it consider it appropriate to do so.

12.3 The Council is also required to take into account any guidance issued by the Secretary of State.

12.4 Following consultation, any revisions to this Policy will be published.

13. APPENDICES

Appendix A - Exempted Activities

Film exhibitions for the purposes of advertisement, information, education, etc. The provision of entertainment consisting of the exhibition of a film is not to be regarded as the provision of regulated entertainment for the purposes of this Act if its sole or main purpose is to:

1. Demonstrate any product;
2. Advertise any goods or services; or
3. Provide information, education or instruction.

Film exhibitions: museums and art galleries.

The provision of entertainment consisting of the exhibition of a film is not to be regarded as the provision of regulated entertainment for the purposes of this Act if it consists of or forms part of an exhibit put on show for any purposes of a museum or art gallery.

Music incidental to certain other activities.

The provision of entertainment consisting of the performance of live music or the playing of recorded music is not to be regarded as the provision of regulated entertainment for the purposes of this Act to the extent that it is incidental to some other activity which is not itself:

1. A description of entertainment falling within paragraph 2; or
2. The provision of entertainment facilities.

Use of television or radio receivers.

The provision of any entertainment or entertainment facilities is not to be regarded as the provision of regulated entertainment for the purposes of this Act to the extent that it consists of the simultaneous reception and playing of a programme service within the meaning of the Broadcasting Act 1990 (c.42).

Religious services, places of worship, etc.

The provision of any entertainment or entertainment facilities is not to be regarded as the provision of regulated entertainment for the purposes of this Act when held:

1. For the purposes of, or for purposes incidental to, a religious meeting or service; or
2. At a place of public religious worship,

Garden Fetes, etc.

1. The provision of any entertainment or entertainment facilities at a garden fete, or at a function or event of a similar character, is not to be regarded as the provision of regulated entertainment for the purposes of this Act;

2. But sub-paragraph (1) does not apply if the fete, function or event is promoted with a view to applying the whole or part of its proceeds for purposes of private gain;
3. In sub-paragraph (2) "private gain", in relation to the proceeds of a fete, function or event, is to be construed in accordance with section 22 of the Lotteries and Amusements Act 1976 (c.32).

Morris dancing, etc.

The provision of any entertainment or entertainment facilities is not to be regarded as the provision of regulated entertainment for the purposes of this Act to the extent that it consists of the provision of:

1. A performance of Morris dancing or any dancing of a similar nature or a performance of unamplified, live music as an integral part of such a performance; or,
2. Facilities for enabling persons to take part in entertainment of a description falling within paragraph (a).

Vehicles in motion

The provision of any entertainment or entertainment facilities is not to be regarded as the provision of regulated entertainment for the purposes of this Act when held:

1. On a premises consisting of or forming part of a vehicle; and,
2. At a time when the vehicle is not permanently or temporarily parked.

Appendix B - Administration, Exercise and Delegation of Functions

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

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

Further, with many of the decisions and functions being purely administrative in nature, the grant of non-contentious applications, including for example, those licences and certificates where no representations have been made, has been delegated to Council officers. All such matters dealt with by officers will be reported for information and comment only to the next Committee meeting.

The table below page sets out the agreed delegation of decisions and functions to Licensing Committee, sub committees and officers.

This form of delegations is without prejudice to officers referring an application to a sub committee, or a sub committee to full committee, if considered appropriate in the circumstances of any particular case.

TABLE OF DELEGATIONS OF LICENSING FUNCTIONS

MATTER TO BE DEALT WITH	FULL COMMITTEE	SUB COMMITTEE	OFFICERS
Application for personal licence		If an objection made	If no objection made
Application for personal licence, with unspent convictions		All cases	
Application for premises licence/club premises certificate		If a representation made	If no representation made
Application for provisional statement		If a representation made	If no representation made
Application to vary premises licence/club registration		If a representation made	If no representation made

certificate			
Application to vary designate personal licence holder		If a Police representation	All other cases
Request to be removed as designated personal licence holder			All cases
Application for transfer of premises licence		If a Police representation	All other cases
Application for Interim Authorities		If a Police representation	All other cases
Application to review premise licence/club premises registration		All cases	
Decision on whether a complaint is irrelevant, frivolous, vexatious, etc			All cases
Decision to object when local authority is a consultee and not the lead authority		All cases	
Determination of a Police representation to a temporary event notice		All cases	

Appendix C – APPLICATION FORMS

Application forms are available from

The Licensing Section
Community Protection Services
154 Blackhorse Road
Walthamstow
E17 9NW

Tel: 0208 496 3000
Fax: 0208 521 9001
Email licensing@lbwf.gov.uk
Internet www.walthamforest.gov.uk

Application forms are also available from the Department for Culture, Media and Sport (DCMS) website www.culture.gov.uk

Appendix D FEES

PREMISES LICENCES AND CLUB PREMISES CERTIFICATES

CONVERSION APPLICATIONS

1. Fees in respect of applications to convert existing licences or certificates made between 7th February 2005 and 6th August 2005

Each premises that is licensable is allocated to an application fee band according to its rateable value. Table I sets out premises rateable value bands and the corresponding fee to accompany applications to convert existing licences/certificates to a premises licence or a club premises certificate made between from 7th February 2005 to 6th August 2005.

2. Fees in respect of applications to vary licence or certificate conditions made between 7th February 2005 and 6th August 2005

When an application to vary a newly converted premises licence conditions is made at the same time as applying to convert an existing licence to a premises licence, an additional fee is payable. This is in respect of applications to vary conditions relating to alcohol only. The additional fee is shown in Table 1. There is no additional fee due in respect of applications to vary club premises certificate conditions made at the same time as an application to convert an existing club registration certificate to a club premises certificate.

3. Annual Fees

An annual fee payable to the licensing authority is due one year after the date of granting a premises licence or club premises certificate. The annual fee is to be paid every year by the licence holder or secretary of the club holding the club premises certificate. Table I sets out the premises rateable value bands and the corresponding annual fee.

Table I

<i>Non Domestic</i> Rateable Value Of Premises To Be Licensed	Band	Fee To Convert Existing Licence To Premises Licence or Club Premises Licence	Additional Fee To Vary Premises Licence Conditions Relating To Alcohol Only.	Annual Fee
£0 to £4300	A	£100	£20	£70
£4301 to £33000	B	£190	£60	£180
£33001 to £87000	C	£315	£80	£295
£87001 to £125000	D	£450	£100	£320
£125001 and above	E	£635	£120	£350

4. Exemptions

Application Fee

An exemption from the requirement to pay the application fee in respect of applications to convert an existing licence or club certificate applies where the application relates to the provision of regulated entertainment only and either

- i. the application is made by the proprietor of a school or college and where the school or college premises are used for the entertainment by the school or college on behalf of the school or college; or
- ii. the application is in respect of a church hall, chapel hall, village hall, parish hall or community hall or similar buildings.

Annual Fee

An exemption from the requirement to pay an annual fee applies where the premises licence or club premises certificate authorises the provision of regulated entertainment only and either

- i.a) the holder of the premises licence or club premises certificate is the proprietor of an educational institution which is a school or college; and
- b) the licence or certificate is in respect of the school or college; and
- c) the school or college premises are used for the entertainment by the school or college on behalf of the school or college; or
- ii. the premises licence or club premises certificate is in respect of a church hall, chapel hall, village hall, parish hall or community hall or other similar building.

5. Premises in Bands D or E that are exclusively or primarily used for supplying alcohol for consumption on the premises

Application Fee

Table 2 sets out the fees to accompany applications, made between 7th February 2005 and 6th August 2005, to convert existing licences to a premises licence in respect premises in Bands D or E, which are exclusively or primarily used for supplying alcohol for consumption on the premises.

Annual Fee

Table 2 also sets out the annual fee payable to the licensing authority by the holder of a premises licence in respect of these premises in Bands D and E.

Table 2

Band	Application Fee	Annual Fee
D	£900	£640
E	£1905	£1050

6. Exceptionally Large Events

Additional Application Fee

Table 3 sets out the additional fee (to that shown in Table 1) to be paid in respect of an application to convert an existing licence to a premises licence where there are 5000 or more persons to be allowed on the premises at any one time.

This additional fee does not need to be paid in respect of certain buildings and the licensing authority should be contacted for further advice.

Additional Annual Fee

The additional annual fee (to that shown in Table 1) in respect of such premises is also shown in Table 3.

This additional fee does not need to be paid in respect of certain buildings and the licensing authority should be contacted for further advice.

Table 3

Maximum number of persons proposed to be allowed on the premise at any one time	Additional application fee	Additional annual fee
5000 to 9999	£1000	£500
10000 to 14999	£2000	£1000
15000 to 19999	£4000	£2000
20000 to 29999	£8000	£4000
30000 to 39999	£16000	£8000
40000 to 49999	£24000	£12000
50000 to 59999	£32000	£16000
60000 to 69999	£40000	£20000
70000 to 79999	£48000	£24000
80000 to 89999	£56000	£28000
90000 and over	£64000	£32000

NEW APPLICATIONS

7. Fees in respect of new applications for a premises licence or club premises certificate

Each premises that is licensable is allocated to an application fee band according to its rateable value. Table 4 sets out the premises rateable value and the corresponding fee to accompany new applications for a premises licence or a club premises certificate.

Premises in the course of construction shall be in Band C.

8. Fees in respect of applications to vary a premises licence or club premises certificates

The fee to accompany an application to vary the conditions on a premises licence or club premises certificate is also shown in Table 4.

9. Annual Fee

An annual fee payable to the licensing authority is due one year after the date of granting a premises licence or club premises certificate. The annual fee is to be paid every year by the licence holder or secretary of the club holding the club premises certificate. Table 4 sets out the premises rateable value bands and the corresponding annual fee.

Table 4

<i>Non Domestic</i> Rateable Value Of Premises To Be Licensed	Band	Application Fee For A Premises Licence or Club Premises Certificate	Application Fee To Vary Premises Licence Conditions Or Club Premises Certificate Conditions	Annual Fee
£0 to £4300	A	£100	£100	£70
£4301 to £33000	B	£190	£190	£180
£33001 to £87000	C	£315	£315	£295
£87001 to £125000	D	£450	£450	£320
£125001 and above	E	£635	£635	£350

10. Exemptions

Application Fee

An exemption from the requirement to pay the application fee in respect of new application for a premises licence or club premises certificate, or application to vary the licence or certificate applies where the application relates to the provision of regulated entertainment only and either

- i. the application is made by the proprietor of a school or college and where the school or college premises are used for the entertainment by the school or college on behalf of the school or college; or
- ii. the application is in respect of a church hall, chapel hall, village hall, parish hall or community hall or similar buildings.

Annual Fee

An exemption from the requirement to pay an annual fee applies where the premises licence or club premises certificate authorises the provision of regulated entertainment only and either

- i. a) the holder of the premises licence or club premises certificate is the proprietor of an educational institution which is a school or college; and
b) the licence or certificate is in respect of the school or college; and
c) the school or college premises are used for the entertainment by the school or college on behalf of the school or college; or
- ii. the premises licence or club premises certificate is in respect of a church hall, chapel hall, village hall, parish hall or community hall or other similar building.

11. Premises in Bands D or E that are exclusively or primarily used for supplying alcohol for consumption on the premises

Application Fee

Table 5 sets out the fees to accompany new applications for a premises licence in respect premises in Bands D or E, which are exclusively or primarily used for supplying alcohol for consumption on the premises.

Annual Fee

Table 5 also sets out the annual fee payable to the licensing authority by the holder of a premises licence in respect of these premises in Bands D and E.

Table 5

Band	Application Fee	Annual Fee
D	£900	£640
E	£1905	£1050

12. Exceptionally Large Events

Additional Application Fee

Table 6 sets out the additional fee (to that shown in Table 4) to be paid in respect of a new application for a premises licence or application to vary a premises licence where there are 5000 or more persons to be allowed on the premises at any one time.

This additional fee does not need to be paid in respect of certain buildings and the licensing authority should be contacted for further advice.

Additional Annual Fee

The additional annual fee (to that shown in Table 4) in respect of such premises is also shown in Table 6.

This additional fee does not need to be paid in respect of certain buildings and the licensing authority should be contacted for further advice.

Table 6

Maximum number of persons proposed to be allowed on the premise at any one time	Additional application fee	Additional annual fee
5000 to 9999	£1000	£500
10000 to 14999	£2000	£1000
15000 to 19999	£4000	£2000
20000 to 29999	£8000	£4000
30000 to 39999	£16000	£8000
40000 to 49999	£24000	£12000
50000 to 59999	£32000	£16000
60000 to 69999	£40000	£20000
70000 to 79999	£48000	£24000
80000 to 89999	£56000	£28000
90000 and over	£64000	£32000

Personal Licences, Temporary Event Notice and Other Fees

Application for a grant or renewal of a personal licence	£37
Temporary Event Notice	£21
Theft, loss, etc. of premises licence or summary	£10.50
Application for a provisional statement where premises being built, etc.	£315
Notification of change of name or address	£10.50
Application to vary licence to specify individual as premises supervisor	£23
Application for transfer of premises licence	£23
Interim authority notice following death etc. of licence holder	£23
Theft, loss, etc. of certificate or summary	£10.50
Notification of change of name or alteration of rules of club	£10.50
Change of relevant registered address of club	£10.50
Theft, loss, etc. of temporary event notice	£10.50
Theft, loss, etc. of personal licence	£10.50
Duty to notify change of address	£10.50
Right of freeholder etc. to be notified of licensing matters	£21

Appendix E

ANNEX1 GUIDANCE ON CONDITIONS RELATING TO THE PREVENTION OF CRIME AND DISORDER

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

- **Knowingly to sell or supply or attempt to sell or supply alcohol to a person who is drunk**
- **Knowingly to allow disorderly conduct on licensed premises**
- **For the holder of a premises licence or a designated premises supervisor knowingly to keep or to allow to be kept on licensed premises any goods that have been imported without payment of duty or which have otherwise been unlawfully imported**
- **To allow the presence of children under 16 who are not accompanied by an adult between midnight and 5am at any premises licensed for the sale of alcohol for consumption on the premises, and at any time in premises used exclusively or primarily for the sale and consumption of alcohol**

Conditions enforcing these arrangements are therefore unnecessary.

General

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

Whether or not any risk assessment shows these options to be necessary in the individual circumstances of any premises will depend on a range of factors including the nature and style of the venue, the activities being conducted there, the location of the premises and the anticipated clientele of the business involved. It should also be borne in mind that club premises operate under codes of discipline to ensure the good order and behaviour of members.

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

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

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

Text/Radio pagers

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

Such pagers provide two-way communication, both enabling licence holders, managers, designated premises supervisors and clubs to report incidents to the police, and enabling the police to warn those operating a large number of other premises of potential trouble-makers or individuals suspected of criminal behaviour who are about in a particular area. Pager systems can also be used by licence holders, door supervisors, managers, designated premises supervisors and clubs to warn each other of the presence in an area of such people.

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

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

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

Door supervisors

Conditions relating to the provision of door supervisors and security teams may be valuable in:

- preventing the admission and ensuring the departure from the premises of the drunk and disorderly, without causing further disorder;
- keeping out excluded individuals (subject to court bans or imposed by the licence holder);
- searching and excluding those suspected of carrying illegal drugs, or carrying offensive weapons; and
- maintaining orderly queuing outside of venues prone to such queuing.

Where door supervisors conducting security activities are to be a condition of a licence, which means that they would have to be registered with the Security Industry Authority, conditions may also need to deal with the number of such supervisors, the displaying of name badges, the carrying of proof of registration, where and at what times they should be stationed on the premises, and whether at least one female supervisor should be available (for example, if female customers are to be the subject of body searches). Door supervisors also have a role to play in ensuring public safety (see Annex 2).

Bottle bans

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

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

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

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

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

Plastic containers and toughened glass

Glasses containing drinks may be used as weapons during incidents of disorder and in untoughened form, can cause very serious injuries. Consideration could therefore be given to conditions requiring either the use of plastic containers or toughened glass which inflicts less severe injuries where considered necessary. Location and style of the venue and the activities carried on there would be particularly important in assessing whether a condition is necessary. For example, the use of glass containers on the terraces of some outdoor sports grounds may obviously be of concern, and similar concerns may also apply to indoor sports events such as boxing matches. Similarly, the use of such plastic containers or toughened glass during the televising of live sporting events, such as international football matches, when high states of excitement and emotion fuelled by alcohol might arise, may be a necessary condition.

When incorporated into the licence or certificate as it should be noted that the use of plastic or paper drinks containers and toughened glass may also be relevant as measures necessary to promote public safety (see Annex 2)

CCTV

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

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

Open containers not to be taken from the premises

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

Restrictions on drinking areas

It may be necessary to restrict the areas where alcoholic drinks may be consumed in premises after they have been purchased from the bar. An example would be at a sports ground where the police consider it necessary to prevent the

consumption of alcohol on the terracing of sports grounds during particular sports events. Such conditions should not only specify these areas, but also indicate the circumstances in which the ban would apply and times at which it should be enforced.

Capacity limits

Although most commonly made a condition of a licence on public safety grounds, consideration should also be given to conditions which set capacity limits for licensed premises or clubs where it may be necessary to prevent overcrowding which can lead to disorder and violence. Where such a condition is considered necessary, consideration should also be given to whether door supervisors would be needed to ensure that the numbers are appropriately controlled.

Proof of age cards

It is unlawful for children under 18 to attempt to buy alcohol just as it is unlawful to sell or supply alcohol to them. To prevent such crimes, it may be necessary to require a policy to be applied at certain licensed premises requiring the production of “proof of age” before such sales are made. This should not be limited to recognised “proof of age” cards, but allow for the production of other proof, such as photo driving licences, student cards and passports. The Secretary of State strongly supports the PASS accreditation system (see paragraph 12.8 of the Guidance), which aims to approve and accredit various proof of age schemes that are in existence. This ensures that such schemes maintain high standards, particularly in the area of integrity and security, and where appropriate and necessary, conditions may refer directly to PASS accredited proof of age cards, photo-driving licences and passports.

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

Crime prevention notices

It may be necessary at some premises for notices to be displayed which warn customers of the prevalence of crime which may target them. Some premises maybe reluctant to volunteer the display of such notices for commercial reasons. For example, in certain areas, a condition attached to a premises licence or club premises certificate might require the displaying of notices at the premises which

warn customers about the need to be aware of pickpockets or bag snatchers, and to guard their property. Similarly, it may be necessary for notices to be displayed which advise customers not to leave bags unattended because of concerns about terrorism. Consideration could be given to a condition requiring a notice to display the name of a contact for customers if they wish to report concerns.

Drinks promotions

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

In addition, when considering any relevant representations which demonstrate a clear causal link between sales promotions or discounting and levels of crime and disorder on or in the vicinity of the premises, it would be appropriate for the licensing authority to consider whether the imposition of a new condition prohibiting irresponsible sales promotions or discounting of prices of alcoholic beverages is necessary at those premises. However, before pursuing any form of restrictions at all, licensing authorities should take their own legal advice.

Signage

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

Similarly, it may be necessary for any restrictions on the admission of children to be displayed on or immediately outside the premises so that the consequences of breaches of these conditions would also be clear and to deter those who might seek admission in breach of those conditions.

Large capacity venues used exclusively or primarily for the “vertical” consumption of alcohol (HVVDs)

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

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

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

ANNEX 2 **GUIDANCE ON CONDITIONS RELATING TO PUBLIC SAFETY (INCLUDING FIRE SAFETY)**

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

General

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

Whether or not any risk assessment shows any of the measures to be necessary in the individual circumstances of any premises will depend on a range of factors including the nature and style of the venue, the activities being conducted there, the location of the premises and the anticipated clientele of the business involved.

Necessary conditions for the licence or certificate will also depend on local knowledge of the premises. In addition, to considering the points made in this Annex, those preparing operating schedules or club operating schedules, licensing authorities and responsible authorities should consider:

- Model National and Standard Conditions for Places of Public Entertainment and Associated Guidance ISBN 1 904031 11 0 (Entertainment Technology Press –ABTT Publications)
- The Event Safety Guide – A guide to health, safety and welfare at music and similar events (HSE 1999)(“The Purple Book”) ISBN 0 7176 2453 6
- Managing Crowds Safely (HSE 2000) ISBN 0 7176 1834 X

- 5 Steps to Risk Assessment: Case Studies (HSE 1998) ISBN 07176 15804
- The Guide to Safety at Sports Grounds (The Stationery Office, 1997) (“The Green Guide”) ISBN 0 11 300095 2
- Safety Guidance for Street Arts, Carnival, Processions and Large Scale Performances published by the Independent Street Arts Network, copies of which may be obtained through:
www.streetartsnetwork.org.uk/pages/publications.htm
- The London District Surveyors Association’s “Technical Standards for Places of Public Entertainment” ISBN 0 9531229 2 1

The following British Standards should also be considered:

- .. BS 5588 Part 6 (regarding places of assembly)
- .. BS 5588 Part 9 (regarding ventilation and air conditioning systems)
- .. BS 5588 Part 9 (regarding means of escape for disabled people)
- .. BS 5839 (fire detection, fire alarm systems and buildings)
- .. BS 5266 (emergency lighting systems)

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

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

Disabled people

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

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

Escape routes

It may be necessary to include conditions relating to the maintenance of all escape routes and exits including external exits. These might be expressed in terms of the need to ensure that such exits are kept unobstructed, in good order with non-slippery and even surfaces, free of trip hazards and clearly identified. In restaurants and other premises where chairs and tables are provided this might also include ensuring that internal gangways are kept unobstructed.

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

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

Safety checks

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

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

Curtains, hangings, decorations and upholstery

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

- Hangings, curtains and temporary decorations are maintained in a flame retardant condition;
- Any upholstered seating meets on a continuous basis the pass criteria for smouldering ignition source 0, flaming ignition source 1 and crib ignition source 5 when tested in accordance with section 5 of BS 5852:1990;
- Curtains, hangings and temporary decorations are arranged so as not to obstruct exits, fire safety signs or fire-fighting equipment; and
- Temporary decorations are not used without prior notification to the licensing authority/fire authority.

Accommodation limits

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

- Arrangements are made to ensure that any capacity limit imposed under the premises licence or club premises certificate are not exceeded; and
- The licence holder, a club official, manager or designated premises supervisor should be aware of the number of people on the premises and required to inform any authorised person on request.

Fire action notices

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

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

Outbreaks of fire

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

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

Loss of water

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

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

Access for emergency vehicles

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

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

First aid

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

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

Lighting

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

- In the absence of adequate daylight, the lighting in any area accessible to the public, members or guests shall be fully in operation when they are present;
- Fire safety signs are adequately illuminated;
- Emergency lighting is not altered;
- Emergency lighting batteries are fully charged before the admission of the public, members or guests; and
- In the event of the failure of normal lighting, where the emergency lighting battery has a capacity of one hour, arrangements are in place to ensure that the public, members or guests leave the premises within 20 minutes unless within that time normal lighting has been restored and the battery is being re-charged; and, if the emergency lighting battery has a capacity of three hours, the appropriate period by the end of which the public should have left the premises is one hour.

Temporary electrical installations

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

- Temporary electrical wiring and distribution systems are not provided without [notification to the licensing authority at least ten days before commencement of the work] [prior inspection by a suitable qualified electrician];
- Temporary electrical wiring and distribution systems shall comply with the recommendations of BS 7671 or where applicable BS 7909; and
- Where they have not been installed by a competent person, temporary electrical wiring and distribution systems are inspected and certified by a competent person before they are put to use.

With regard to the first bullet above, it should be recognised that ten days notice may not be possible where performances are supported by outside technical teams. For example, where temporary electrical installations are made in

theatres for television show performances. In such circumstances, the key requirement is that conditions where necessary should ensure that temporary electrical installations are only undertaken by competent qualified persons, for example, employed by the television company.

Indoor sports entertainments

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

- If necessary, an appropriately qualified medical practitioner is present throughout a sports entertainment involving boxing, wrestling, judo, karate or other sports entertainment of a similar nature;
- Where a ring is involved, it is constructed and supported by a competent person and inspected by a competent authority and any material used to form the skirt around the ring is flame-retardant;
- At any wrestling or other entertainments of a similar nature members of the public do not occupy any seat within 2.5 metres of the ring; and
- At water sports entertainments, staff adequately trained in rescue and life safety procedures are stationed and remain within the vicinity of the water at all material times (see also Managing Health and Safety in Swimming Pools issued jointly by the Health and Safety Commission and Sport England).

Alterations to the premises

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

Special effects

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

Specials effects, which should be considered, include:

- Dry ice machines and cryogenic fog;
- Smoke machines and fog generators;
- Pyrotechnics, including fireworks;
- Real flame;

- Firearms;
- Motor vehicles;
- Strobe lighting;
- Lasers (see HSE Guide The Radiation Safety of lasers used for display purposes [HS(G)95] and BS EN 60825: Safety of laser products);
- Explosives and highly flammable substances.

In certain circumstances, it may be necessary to require that certain special effects are only used with the prior notification of the licensing authority or [inspection by] the fire authority.

ANNEX 3
**GUIDANCE ON CONDITIONS RELATING TO THEATRES,
CINEMAS, CONCERT HALLS AND SIMILAR PLACES
(PROMOTION OF PUBLIC SAFETY)**

In addition to the points made in Annex 2, there are particular matters in the context of public safety and fire safety, which should be considered in connection with theatres and cinemas. The principle remains that conditions must be necessary and should be established through risk assessment and standardised conditions should be avoided. The points which follow are for consideration and do not represent a mandatory list.

Premises used for closely seated audiences

Attendants

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

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

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

Standing and sitting in gangways etc.

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

Drinks

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

Balcony Fronts

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

Special effects

Any special effects or mechanical installation should be arranged and stored so as to minimise any risk to the safety of the audience, the performers and staff.

Specials effects include:

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

In certain circumstances, it may be necessary to require that certain special effects are only used with the prior notification of the licensing authority or [inspection by] fire authority.

Scenery

Any scenery should be maintained flame-retardant.

Safety curtain

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

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

Ceilings

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

Seating

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

Premises used for film exhibitions

Attendants – premises without a staff alerting system

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

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

Attendants – premises with a staff alerting system

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

Number of members of the audience present on the premises	Minimum number of attendants required to be on duty	Minimum number of other staff on the premises who are available to assist in the event
1 – 500	Two	One
501 – 1000	Three	Two
1001 - 1500	Four	Four
1501 or more	Five plus one for every 500 (or part thereof) persons over 2000 on the premises	Five plus one for every 500 (or part thereof) persons over 2000 on the premises

- b) Staff shall not be considered as being available to assist in the event of an emergency if they are:
- i. The holder of the premises licence or the manager on duty at the premises; or
 - ii. A member of staff whose normal duties or responsibilities are likely to significantly affect or delay his response in an emergency situation; or
 - iii. A member of staff whose usual location when on duty is more than 60metres from the location to which he is required to go on being alerted to an emergency situation.
- c) Attendants shall as far as reasonably practicable be evenly distributed throughout all parts of the premises to which the public have access and keep under observation all parts of the premises to which the audience have access.
- d) The staff alerting system shall be maintained in working order.

Minimum lighting

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

Flammable films

No flammable films should be allowed on the premises without the prior notification of the licensing authority/fire authority.

ANNEX 4

GUIDANCE ON CONDITIONS RELATING TO THE PREVENTION OF PUBLIC NUISANCE

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

General

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

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

Necessary conditions for licences and certificates will also depend on local knowledge of the premises.

Hours

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

Restrictions could be necessary on the times when certain licensable activities take place even though the premises may be open to the public at such times. For example, the playing of recorded music after a certain time might be prohibited, even though other licensable activities are permitted to continue.

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

Noise and vibration

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

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

Noxious smells

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

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

Light pollution

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

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

ANNEX 5

GUIDANCE ON CONDITIONS RELATING TO THE PROTECTION OF CHILDREN FROM HARM

It should be noted that it is unlawful under the 2003 Act to permit unaccompanied children under the age of 16 to be present on premises exclusively or primarily used for supply of alcohol for consumption on those premises under the authorisation of a premises licence, club premises certificate or a temporary event notice when open for the purposes of being used for the supply of alcohol for consumption there. In addition, it is an offence to permit the presence of children under 16 who are not accompanied by an adult between midnight and 5am at all premises supplying alcohol for consumption on those premises under the authorisation of any premises licence, club premises certificate or temporary event notice. Conditions duplicating these provisions are, therefore, unnecessary.

Access for children to licensed premises – in general

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

- for any premises with known associations (having been presented with evidence) with or likely to give rise to heavy or binge or underage drinking, drugs, significant gambling, or any activity or entertainment (whether regulated entertainment or not) of a clearly adult or sexual nature, there should be a strong presumption against permitting any access at all for children under 18 years. Applicants wishing to allow access for children to premises where these associations may be relevant, when preparing operating schedules or club operating schedules or variations of those schedules for the purposes of obtaining or varying a premises licence or club premises certificate should:
 - explain their reasons; and
 - outline in detail the steps that they intend to take to protect children from harm on such premises.

- for any premises, not serving alcohol for consumption on the premises, but where the public are allowed on the premises after 11.00pm in the evening, there should be a presumption against the presence of children under the age of 12 unaccompanied by adults after that time. Applicants wishing to allow access when preparing operating schedules or variations of those schedules or club operating schedules for the purposes of obtaining or varying a premises licence or club premises certificate should:

- explain their reasons; and

- outline in detail the steps that they intend to take to protect children from harm on such premises.

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

Age Restrictions – specific

Under the 2003 Act a wide variety of licensable activities could take place at various types of premises and at different times of the day and night. Whilst it may be appropriate to allow children unrestricted access at particular times and when certain activities are not taking place, licensing authorities following relevant representations made by responsible authorities and interested parties will need to consider a range of conditions that are to be tailored to the particular premises and their activities where these are necessary. Licensing authorities are expected to consider:

- the hours of day during which age restrictions should and should not apply. For example, the fact that adult entertainment may be presented at premises after 8.00pm does not mean that it would be necessary to impose age restrictions for earlier parts of the day;
- types of event or activity in respect of which no age restrictions may be needed, for example;
 - family entertainment; or
 - non-alcohol events for young age groups, such as under 18s dances,
- Similarly, types of event or activity which give rise to a more acute need for age restrictions than normal, for example;
 - during “Happy Hours” or on drinks promotion nights;
 - during activities outlined in the first bullet point in the first paragraph above.

Age restrictions – cinemas

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

- a condition that where the licensing authority itself is to make recommendations on the admission of children to films, the cinema or venue operator must submit any film to the authority that it intends to exhibit 28 days before it is proposed to show it. This is to allow the authority time to classify it so that the premises licence holder is able to adhere to any age restrictions then imposed;
- a condition that when films are classified, by either the film classification body as specified in the licence or the licensing authority, they should be classified in the following way:
 - U – Universal. Suitable for audiences aged four years and over
 - PG – Parental Guidance. Some scenes may be unsuitable for young children.
 - 12A – Passed only for viewing by persons aged 12 years or older or persons younger than 12 when accompanied by an adult.
 - 15 – Passed only for viewing by persons aged 15 years and over.
 - 18 – Passed only for viewing by persons aged 18 years and over.
- that conditions specify that immediately before each exhibition at the premises of a film passed by the British Board of Film Classification there shall be exhibited on screen for at least five seconds in such a manner as to be easily read by all persons in the auditorium a reproduction of the certificate of the Board or, as regards a trailer advertising a film, of the statement approved by the Board indicating the classification of the film;
- a condition that when a licensing authority has made a recommendation on the restriction of admission of children to a film, notices are required to be displayed both inside and outside the premises so that persons entering can readily be made aware of the classification attached to any film or trailer. Such a condition might be expressed in the following terms:

“Where a programme includes a film recommended by the licensing authority as falling into the 12A, 15 or 18 category no person appearing to be under the age of 12 and unaccompanied, or under 15 or 18 as appropriate, shall be admitted to any part of the programme; and the licence holder shall display in a conspicuous position a notice in the following terms –

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

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

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

Theatres

The admission of children to theatres, as with other licensed premises, is not expected to normally be restricted unless it is necessary to promote the licensing objective of the protection of children from harm. However, theatres may be the venue for a wide range of activities. The admission of children to the performance of a play is expected to normally be left to the discretion of the licence holder and no condition restricting the access of children to plays should be attached. However, theatres may also present entertainment including, for example, variety shows, incorporating adult entertainment. A condition restricting the admission of children in such circumstances may be necessary. Entertainment may also be presented at theatres specifically for children (see below).

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

Performances especially for children

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

- an attendant to be stationed in the area(s) occupied by the children, in the vicinity of each exit, provided that on each level occupied by children the minimum number of attendants on duty should be one attendant per 50 children or part thereof.

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

Children in performances

There are many productions each year that are one-off shows where the cast is made up almost entirely of children. They may be taking part as individuals or as part of a drama club, stage school or school group. The age of those involved may range from 5 to 18. The Children (Performances) Regulations 1968 as amended set out requirements for children performing in a show. Licensing authorities should familiarise themselves with the requirements of these Regulations and not duplicate any of these requirements. However, if it is necessary to consider imposing conditions, in addition to these requirements, for the promotion of the protection of children from harm then the licensing authority should consider the matters outlined below.

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

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

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

promotion of alcohol products sold in licensed premises in a manner which may appeal to or attract minors.

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

Proof of Age cards

Proof of age cards are discussed under Annex 1 in connection with the prevention of crime and disorder. However, where necessary and appropriate, a requirement for the production of proof of age cards before any sale of alcohol is made could be attached to any premises licence or club premises certificate for the protection of children from harm. Any such requirement should not be limited to recognised "proof of age" cards, but allow for the production of other proof, such as photo-driving licences and passports. The Secretary of State strongly supports the PASS accreditation system (see paragraph 12.8 of the Guidance) which aims to approve and accredit various proof of age schemes that are in existence. This ensures that such schemes maintain high standards, particularly in the area of integrity and security, and where appropriate and necessary, conditions may refer directly to PASS accredited proof of age cards, photo-driving licences, student cards and passports. As for conditions relating to crime and disorder, it should be noted that many adults in England and Wales do not currently carry any proof of age. This means that the wording of any condition will require careful thought. For example, the requirement might be to ensure sight of evidence of age from any person appearing to those engaged in selling or supplying alcohol to be under the age of 18 and who is attempting to buy alcohol. This would ensure that most minors – even those looking older – would need to produce proof of age appropriately before making such a purchase. Under such an arrangement only a minority of adults might be affected, but for the majority there would be no disruption to their normal activity, for example, when shopping in a supermarket.

Proof of age cards can also ensure that appropriate checks are made where the presence of children is restricted by age at certain times, such as 16.