

BIRMINGHAM CITY COUNCIL

STATEMENT OF LICENSING POLICY 2020

Birmingham City Council ("the Council") is required to publish this Statement of Licensing Policy ("Policy") under the Licensing Act 2003 ("the Act").

Legal Background

Section 5 of the Act requires each Licensing Authority to publish, every five years, a Statement of its Licensing Policy.

This Policy is the Council's Statement of Licensing Policy which will come into force on 2nd December and will be reviewed, updated and modified as and when the Council considers appropriate.

Technical amendments to correct errors brought about by legislative or other administrative change (such as change of address details or references to Guidance) will be effected by officers of the Licensing and Public Protection Committee and tracked by way of version control.

Amendments or reviews of the Policy itself must be approved by City Council.

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1. **Licensing Act 2003 Guidance**

- 1.1. In accordance with Section 182 of the Act the Secretary of State has produced Amended Guidance for Licensing Authorities (the Council) regarding the discharge of their functions. This guidance is regularly reviewed and updated. For the most recent version, go to www.gov.uk.
- 1.2. No part of the Act compels the Licensing Authority to follow the guidance explicitly. The Council may and will depart from the Guidance and this policy where it is deemed appropriate to promote one or all of the licensing objectives.

2. **Scope**

2.1 This Policy relates to those licensable activities identified by the Act, which are:

- The sale of alcohol by retail.
- The supply of alcohol to club members and their guests.
- The provision of regulated entertainment. "Regulated entertainment" is defined as any of the following which take place in the presence of an audience for the entertainment of that audience and are provided for members of the public or a section of the public or exclusively for the members of a qualifying club and/or their guests or for consideration and with a view to profit:
 - A performance of a play.
 - An exhibition of a film.
 - An indoor sporting event.
 - A Boxing or wrestling entertainment.
 - A contest, exhibition or display which combines boxing or wrestling with one or more martial arts ("combined fighting sports")
 - A performance of dance.
 - A performance of live music.
 - Any playing of recorded music.
 - The provision of late night refreshment. (Late night refreshment is defined under the Act as the supply of hot food or drink to the public or a section of the public on or from any premises whether for consumption on or off the premises (mobile units included) between 11pm and 5am.)

2.2 There are certain exemptions from this definition which are set out in the Act, particularly in relation to plays, indoor sporting events and performances of dance. These exemptions are detailed within APPENDIX 1 to the Policy.

3. Background

- 3.1 The Council has responsibility for granting licences for the sale by retail of alcohol, the supply of alcohol by or on behalf of a club or to the order of a member of the club, the provision of regulated entertainment and the provision of late night refreshment establishments (including late night takeaways) throughout its area.
- 3.2 Birmingham is the second city of the United Kingdom and this is reflected in the fact that the city has a thriving night time economy. The city has a multicultural population of 1,141,400 people live in Birmingham (according to the 2018 mid-year population estimates).and is part of the West Midlands Conurbation which, is the largest conurbation in the United Kingdom after Greater London. Birmingham is a prominent entertainment destination for people living in the conurbation and many areas beyond.

4. Development Process

- 4.1 The content of this document was developed by the Council in consultation with representatives of the following key stakeholder groups and organisations:
- West Midlands Police.
 - West Midlands Fire Service.
 - Bodies representing holders of premises licences, club premises licences and personal licences in the Council's area.
 - The Birmingham Magistrates Court Service.
 - Bodies representing local businesses.
 - Representatives of the Council's Planning, Environmental Health, and Trading Standards Services.
 - Trade Associations.
 - Independent licence holders.
 - Local residents.
 - Birmingham Safeguarding Children Board.
 - Members of the Council's Licensing and Gambling Forum.
 - Public Health
- 4.2 The views of the parties consulted have been given proper weighting.

5. Licensing Objectives

5.1 This Policy has been developed with the licensing objectives, as stated in the Act, at its core, namely:

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

5.2 Each of the licensing objectives is considered to be of equal importance for the purposes of this Policy.

5.3 Each application for the grant, variation or review of a licence will be considered and determined on its individual merits.

5.4 This Policy concerns the regulation 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 authorisation issued under the Act will be focused on matters within the control of the licensee or other person who is granted the licence or authorisation and will be centred on and around the premises or place(s) being used for licensable activities and the vicinity of those premises and places.

6. Relationship with other Legislation

6.1 The Council will avoid in so far as is possible duplication with other regulatory regimes and legislation. It will, in appropriate circumstances, attach conditions to premises licences and club premises certificates to the extent that they are appropriate for the promotion of the four licensing objectives but will not attach conditions where provision exists in other legislation, e.g. planning or health and safety legislation. However, it may be appropriate to attach specific conditions where legislation does not cover the unique circumstances that arise in connection with entertainment at specific premises.

6.2 This Policy takes into consideration the crime and disorder initiatives being implemented by the Council in partnership with other enforcement or regulatory agencies. The Council will strive to support these initiatives by implementing this Policy, which promotes and encourages a responsible approach to the sale of alcohol, late night refreshment and the provision of entertainment.

6.3 The Council maintains that its function as the Licensing Authority concerns the control of licensable activities, licensed premises and licence holders. The Council will attach such conditions to licences as are appropriate to promote the licensing objectives.

6.4 This Policy is concerned with individuals and behaviour on or in the vicinity of licensed premises and, therefore, within the control of the individual holding the relevant licence or authorisation. It is not a mechanism for the general control of anti-social behaviour by individuals.

6.5 In implementing this Policy the Council will have regard to the provisions of the Human Rights Act 1998.

6.6 **Equality and Race Relations**

The Council recognises the right to freedom of speech and would not intervene in this matter, when discharging its licensing functions, unless to do so would be appropriate to promote one or all of the licensing objectives. Holders of premises, club or personal licences / certificates should be aware of the potential for some organisations to have an influence on or advocate illegal activity that would be in direct contradiction of the spirit of the licensing objectives.

6.7 The Council may, following representations from responsible authorities or other persons and based on evidence, seek to prohibit certain types of meetings or gatherings at licensed premises or clubs by attaching conditions in order to promote the licensing objectives, in particular the prevention of crime and disorder and the promotion of public safety.

6.8 **Licensing Hours**

The Council's view, having considered the Act and having had regard to the Guidance under section 182, is that that the Act neither promotes nor discourages extended licensing hours. For that reason the Council will approach each application on its own individual merits having regard to the representations received, the Guidance and this policy, and with the aim of properly promoting the licensing objectives, which it recognises are paramount considerations. The Council will not apply core hours to any area of the city.

6.9 Shops and supermarkets will normally be free to provide sales of alcohol for consumption off the premises at any times when they are open for shopping unless the Council has good reasons for restricting those hours such as where there have been Police representations in the case of shops known to be a focus of crime, disorder and/or disturbance. The Council may consider any other matter that it considers relevant to the promotion of the licensing objectives.

6.10 **Licensing and Planning**

The Council is of the view that the Licensing Authority is not bound by decisions made by the Planning Authority and vice versa. While the two authorities consider different (albeit related) matters, the Licensing Authority must ensure it addresses only the licensing objectives to ensure that any hearing does not in effect become a re-run of any planning hearing.

6.11 There may be occasions when licensing hours are different from hours granted by the Planning Authority, or vice versa. In such situations the licence holder must observe the earlier closing time. The responsibility for enforcement will rest with whichever body within the Council granted the earlier terminal hour.

6.12 The Licensing Authority of the Council will ensure that there is proper integration with the Planning Authority by providing it with regular reports on the situation regarding licensed premises in the area. This will include the general impact of alcohol related crime and disorder and the impact of public nuisance

caused by licensed premises.

6.13 Paragraph 9.44 of the Amended Guidance states:

“Where businesses have indicated, when applying for a licence under the 2003 Act, that they have also applied for planning permission or that they intend to do so, licensing committees and officers should consider discussion with their planning counterparts prior to determination with the aim of agreeing mutually acceptable operating hours and scheme designs. “

6.14 **Integrating Strategies**

The Council recognises that a minority of consumers will behave badly and unlawfully once away from licensed premises. The Council cannot as part of its licensing function address issues relating to the behaviour of individuals or groups once they are away from licensed premises, although it can address issues within the direct control of the individual, club or business holding the licence, certificate or authorisation concerned. The Council also recognises that initiatives are available that assist with calming or reducing the incidence of disorder and would expect these to be addressed in the operating schedule. Measures outside of the Council's licensing functions available for addressing behavioural issues include:

- Planning controls.
- Positive measures to create a safe and clean city centre environment in partnership with local businesses, transport operators and other services provided by the Local Authority.
- Police enforcement of the law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices.
- The confiscation of alcohol from adults and children in designated areas.
- Police powers to close down instantly, for up to 24 hours, any licensed premises or temporary events on the grounds of disorder, the likelihood of disorder or excessive noise emanating from the premises.
- The power of the Police, other responsible authority or a local resident or business to seek a review of the licence or certificate in question.

6.15 The Council will secure the integration of its licensing function with other local strategies by supporting partnership working with other agencies and Council services and by establishing best working practice utilising some of the initiatives available to the Licensing Service and Licensing and Public Protection Committee such as.

- The continued use of Public Space Protection Orders
- Sharing information.
- Targeting premises in areas where nuisance, breaches of conditions and contraventions of legislation occur.
- Promoting the Challenge 25 proof of age scheme or recognised equivalent.
- Restricting hours of operation of licences, where appropriate, in areas where alcohol fuelled disorder or nuisance is prevalent (EMRO).
- Assisting in the establishment of an information monitoring system, with the Police, in order to identify premises that are disregarding their

responsibilities. This will assist in collating information in order to identify premises where arrested or detained persons last purchased alcohol or the premises they were allowed to purchase alcohol to a state of inebriation.

- Adopting a multi-agency approach to announced and unannounced inspections and visits to those premises defined as being high risk or through intelligence led action.
- Continuing to promote the setting up and use of safe places for transport. Liaison with transport agencies to improve signage, lighting and awareness of availability.

6.16 Public Health

6.16.1 The Council recognises the impact of alcohol misuse in Birmingham. It is hoped that through the implementation of this Licensing Policy the promotion of the four Licensing Objectives will in turn have a positive effect on preventing alcohol misuse in the city and reducing harmful and hazardous drinking, and will be a vehicle for addressing the wider and social determinants of health especially children's safeguarding . It will also have a positive effect on pricing, the promotion of treatment services; including screening and advice, marketing controls, availability controls, legal drinking age enforcement, reinforcing drink driving laws and server liability. For example, by ensuring licensed premises refuse sales of alcohol to children, or those attempting to purchase it on behalf of children, this will impact positively on a reduction in child alcohol-related health problems.

6.16.2 The inclusion of off-licence premises when considering cumulative impact zones will reduce the opportunity for pre-loading, access to cheap alcohol and super strength, on-street drinking, especially in underage and vulnerable groups. Additionally, by preventing the use of illegal drugs on licensed premises, it is hoped this might reduce combined alcohol and drug misuse, which is an issue for any city.

6.16.3 Through ensuring the responsible selling of alcohol, this may impact on reducing a person's drinking at harmful or hazardous levels, especially the enforcement of no sales to the intoxicated. However, it is recognised that any such positive impact will be as a coincidence of the licensing authority conducting its licensing function under the Act to promote the Licensing Objectives.

7. Enforcement Protocol

7.1 The City Council has developed a protocol for enforcement and will continue partnership working with other enforcement agencies to promote a consistent approach between them. The protocol will encompass a strategy of targeting high-risk premises and will ensure intelligence led policing and regulation. The protocol will actively promote inspections of licensed premises which have been found, following risk assessment, to be problematic or high risk.

7.2 The Council will actively seek to advise the licensees or managers of those premises who wish to comply with legislation and conditions; however, the Council will take a firm stand against irresponsible licensees who do not comply.

- 7.3 The Council, the Police and other responsible bodies will share information about licensees, licensed premises and activities associated with them. Such information sharing is permitted under Section 185 of the Act. Further open access to data will be given to those Police Officers and Licensing Authority Officers discharging their functions under this Act.
- 7.4 The Council and the Police will work closely in order to ensure consistency, transparency and proportionality in their enforcement activities. The Council will continue to investigate complaints and conduct proactive enforcement exercises to ensure that licences and the conditions attached to them are complied with and that unlicensed activity is dealt with as appropriate to ensure the highest standards of licensees and premises in the City of Birmingham.
- 7.5 Closure notices can be issued by a Police officer of the rank of Inspector or above in relation to crime and disorder.
- 7.6 The Council's Licensing Enforcement team is authorised to act as the Responsible Authority on behalf of the Licensing Authority which includes responsibility for considering applications for new /varied authorisations or for licence reviews.

8. **The Licence Process**

- 8.1 Further guidance for applicants for a licence or other authorisation under the Act and details about the application and licensing process can be obtained from; the Licensing Service website at www.birmingham.gov.uk/licensing or via licensing@birmingham.gov.uk
- 8.2 The Policy of the Council will be to:
- promote the four licensing objectives;
 - ensure that the premises are appropriate for their proposed use;
 - ensure the premises layout and condition is acceptable for the proposed use; and
 - ensure that the premises are being managed responsibly.

8.3 **Operating Schedule**

All applicants for the grant or variation of a **premises licence or club premises certificate** are required to provide an operating schedule as part of their application. The operating schedule will be in a prescribed form and must include a statement of the following:

- Full details of the licensable activities to be carried on at and the intended use of the premises.
- The times during which the licensable activities will take place.
- Any other times when the premises are to be open to the public.
- Where the licence is only required for a limited period, that period.
- Where the licensable activities include the supply of alcohol, the name and address of the individual to be specified as the designated premises

- supervisor.
 - Whether alcohol will be supplied for consumption on or off the premises or both.
 - The steps which the applicant proposes to promote the licensing objectives. (examples of which can be found within paragraphs 18 to 21 of this Policy)
- 8.4 Any steps proposed by an applicant, and the extent to which they apply will depend on the individual premises, the proposed events /activities and the characteristics of the premises, the surrounding area, and to an extent, the history of the premises or applicant.
- 8.5 The Council's powers and duties as Licensing Authority are delegated by the Council to its Licensing and Public Protection Committee, Licensing Sub-Committees and officers. The Council approaches these delegations in accordance with APPENDIX 2 to this Policy.
- 8.6 Every application received whether for the issue of a personal or premises licence will be treated fairly and will be considered on its own merits. If no relevant representations are received then the licence will be issued automatically with, in the case of a premises licence or club premises certificate, such conditions attached as are mandatory under the Act or are consistent with the operating schedule accompanying the application.
- 8.7 **Representations**
Where relevant representations are made regarding a particular application for the grant, variation or review of a premises licence the Council will consider the likely impact that the proposed use of the premises will have on promotion of the licensing objectives.
- 8.8 Representations which are made outside of the period prescribed by the Secretary of State or are, in the Council's opinion, frivolous or vexatious will not be considered by the Council as relevant representations.
- 8.9 Where relevant representations are made, a hearing will be held before the Council's Licensing and Public Protection Committee or Sub-Committee (as appropriate) and the application will be determined once the application and representations have been considered.
- 8.10 The Council will determine the application using and considering supporting evidence from the applicant and any parties who have made representations.
- 8.11 Any decision of the Council will be relayed to the applicant as soon as is practicable and in writing.
- 8.12 **People or organisations that can make representations**
Any responsible authority and/or other person is entitled to make representations to licensing authorities in relation to applications for the grant, variation, minor variation or review of premises licences and club premises certificates or the grant of a provisional statement, regardless of their

geographic proximity to the premises, and to make applications for the review of such authorisations.

“Other person” is defined as any individual, body or business including a member of the relevant licensing authority

"Responsible authority" is defined as:

- a) The Chief Officer of Police within which the premises are situated;
- b) the Fire Authority within which the premises are situated;
- c) the enforcing authority within the meaning given by Section 18 of the Health and Safety at Work etc. Act 1974 in which the premises are situated;
- d) the local Planning Authority within which the premises are situated;
- e) the Local Authority for which statutory functions are exercisable in relation to minimising or reducing the risk of pollution to the environment or harm to human health in which the premises are situated;
- f) a body which:
 - (i) represents those who, in relation to any such area, are responsible for, or interested in, the protection of children from harm and
 - (ii) is recognised by the Licensing Authority for that area for the purposes of this section as being competent to advise it on such matters;
- g) any Licensing Authority (other than the Council) in whose area part of the premises is situated;
- h) in relation to a vessel:
 - (i) a navigation authority having functions in relation to the waters where the vessel is usually moored or berthed or any waters where it is or is proposed to be navigated at a time when it is used for licensable activities;
 - (ii) the Environment Agency;
 - (iii) the British Waterways Board;
 - (iv) the Secretary of State; or
 - (v) a person prescribed for the purposes of this subsection.
- i) the local authority in England whose public health functions within the meaning of the National Health Service Act 2006 are exercisable in respect of any area in which the premises are situated,
- j) the relevant licensing authority and other licensing authority in whose area part of the premises is situated

[LA2003 13(4) (as amended)]

8.13 **Making Representations:**

Representations may be made in relation to the following applications:

- Grant of Premises Licence
- Grant of Club Premises Certificate
- Variation of Premises Licence
- Variation of Club Premises Certificate
- Minor Variation of Premises Licence

- Minor Variation of Club Premises Certificate
- 8.14 Representations are not limited to objections to licence applications but may also be made in support of applications. They will still be governed by the same rules as for objections.
- 8.15 Representations will not be accepted if they are deemed by officers to be frivolous or vexatious.
- 8.16 Representations may not be made anonymously. If a person believes there are exceptional circumstances relating to the disclosure of their identity, they are advised to contact the Licensing Service for advice.

8.17 **Petitions**

The petition must meet the following minimum requirements:

- It must be clear to which premises/application the petition relates.
 - The petition must relate to one or more of the licensing objectives.
 - Each page must include information as to the purpose of the petition (so it is clear signatories were aware what they were signing.)
 - Full Names and addresses must be supplied, in a legible manner.
 - It should be made clear to all signatories that a copy of the petition, containing their details will be passed to the applicant and contained within the Committee papers, which, in the event of a hearing become public documents.
 - The first named respondent is taken to be the instigator of the petition, and will be used as the point of contact in terms of any queries about the petition.
 - The first named respondent will be expected to represent the signatories at a hearing and to communicate any information to other signatories as appropriate – the Council will NOT contact each signatory as if they were making individual representations.
 - The Council reserves the right to make such checks as to the validity of the petition signatories as it feels appropriate.
 - Petitions regarding Licensing Act 2003 applications MUST be submitted in accordance with the existing rules for licence representations, to the offices of the Licensing Service in Aston, (contrary to the City Council's guidance relating to petitions of any other kind). They should NOT be sent to individual officers.
 - Petitions submitted to an Elected Member or via City Council Meeting are conferred no advantage, and risk unnecessary delay of submission.
- 8.18 A petition must be submitted in good faith. **You must not include:**
- potentially libellous, false or defamatory statements
 - matters which are subject to prescribed statutory requirements
 - information protected by a court order (e.g. the identities of children in custody disputes); or in accordance with any other enactment

- matters which are subject to appeal processes or legal actions (e.g. planning appeals, enforcement action or other legal actions in court etc)
- material which is commercially sensitive, confidential or which may cause personal distress or loss
- the names of individual officials of public bodies
- the names of individuals, or information where they may be easily identified, in relation to criminal accusations
- anything which would incite racial hatred or violence

8.19 Where it is reasonably anticipated that the expression of such beliefs, views, policies or objectives might be unlawful, the Council reserves the right to prevent by any means those views/beliefs from being expressed either on its premises or by using Council resources.

8.20 Anyone contemplating drawing up a petition either in support of or objection to a licence application is strongly advised to contact the Licensing Service for advice on the format before obtaining signatures.

8.21 Provisional Statements.

An application for a **provisional statement** shall be considered, subject to the provisions of the Act.

9. Licence Reviews

9.1 The Council may review a licence on the application of any responsible authority or other person.

9.2 The Licensing Authority can refuse to review licences if it considers that the representations are not relevant to any of the licensing objectives or, in the case of a representation made by an other person, that the representation is frivolous, vexatious or a repetition of a representation already made at the time of the licence application or previous application for review.

9.3 The outcome of a review may be no action, warnings regarding future conduct, additional conditions or the modification, suspension for a period not exceeding 3 months or revocation of the licence, the exclusion of a licensable activity from the scope of the licence, the removal of the designated premises supervisor.

9.4 Summary (Expedited) Licence Reviews.

The Summary Review procedure was effected by Section 53A-C of the Licensing Act 2003 inserted by section 21 of the Violent Crime Reduction Act 2006, which allows a quick process for attaching interim conditions to a licence and a fast track licence review when the police consider that the premises concerned is associated with serious crime or serious disorder (or both).

9.5 Interim Steps:

The Licensing Sub Committee shall determine, by email, telephone (or in such other manner as may be deemed appropriate by the Committee Services Manager or by the Solicitor to the Council), whether it is necessary to take interim steps pending determination of the premises licence the subject of an application and a certificate issued by a Senior Police Officer stating that in

his/her opinion named premises are associated with serious crime or serious disorder (or both) (the requirements of the Local Government Act 1972 concerning the giving of notice of meetings will not apply).

- 9.6 Following a determination of interim steps, the licence will be subject to review, which will be heard in the usual manner.

10. **Open Space Premises Licences**

The Council has applied for and been granted a number of premises licences for public spaces, such as parks and other municipal areas, within the city. Performers and entertainers who wish to give performances in such places may seek the permission of the Council, as licence holder, to do so. Such permission should be sought at least 3 months in advance of the event as the applicant will in most cases be required to participate in a Safety Advisory Group (SAG) before the Council approves the event.

11. **Vicinity**

The Council has chosen not to define vicinity as a fixed distance in relation to any premises. Instead its approach will be to consider each matter individually, taking into account whether any individual's residence or business is likely to be directly affected by activities which occur on the premises or immediately outside it. The key consideration is the impact of issues on the licensing objectives.

12. **Temporary Event Notices**

12.1 **Standard TENS**

It is recommended that an applicant for a temporary event notice should give at least 28 days prior notice of their intended event and that at the same time of submitting their application to the Council they serve notice to the Police and Environmental Health. Section 100 of the Act stipulates a period of at least 10 working days, prior to the event for an application to be submitted. The Council agrees with the Guidance that 10 working days notice means 10 working days exclusive of the day on which the event is to start and exclusive of the day on which the notice is given.

- 12.2 There are strict limits on the number of TENS which can be submitted. Once these limits have been reached, the Council will issue a counter notice (permitted limits) if any more are given.

- 12.3 In the event of a valid objection to a Standard TEN, a sub-committee hearing will be held to determine the notice. Further guidance is available online.

12.4 **Late TENS**

Late TENS can be given up to five working days but no earlier than nine working days before the event is scheduled and, unless given electronically to the Council, must also be sent by the premises user to the police and environmental health. A late TEN given less than five days before the event to which it relates will be returned as void and the activities to which it relates will not be authorised. There are strict limits on the number of Late TENS which can be submitted. Once these limits have been reached, the Council will issue

a counter notice (permitted limits) if any more are given.

- 12.5 In the event of a valid objection to a Late TEN, there will be no hearing. A counter notice will be issued. This is in accordance with the legislative requirements. Further guidance is available online
- 12.6 Notwithstanding the mandatory notifications already included within the legislation, the Council highly recommend that anyone contemplating putting on an event should contact West Midlands Fire and Rescue Service for advice relating to matters concerning fire safety.

13. Personal Licences

- 13.1 All applicants for the grant of a **personal licence** will be required to undertake a criminal record check. Where a criminal record check discloses an unspent relevant conviction (see schedule 4 of the Licensing Act 2003) and the Police object to the application on crime prevention grounds the Licensing and Public Protection Committee or Sub-Committee shall normally refuse such an application unless there are exceptional and compelling circumstances to justify the granting of a licence.
- 13.2 If there have been Police representations in relation to the individual specified in the application for a premises licence, club premises certificate or authorisation as the designated premises supervisor then the Council may consider any factors relating to that individual which would undermine the licensing objective relating to the prevention of crime and disorder. This could include the previous character of the individual, the individual's experience and training and their ability to monitor the premises at all times when they are open.

14. Cumulative Impact

- 14.1 The cumulative impact of licences in a particular area may lead to the area becoming saturated with premises of a certain type, making it a focal point for large groups of people, and thereby creating exceptional problems of crime, disorder and nuisance over and above the impact from the individual premises themselves.
- 14.2 A Cumulative Impact Policy requires a Cumulative Impact Assessment (CIA) to be carried out. A cumulative impact assessment helps to inform the statement of licensing policy with the aim of limiting the number of licence applications granted where there is evidence to show that the number of licensed premises in a particular area is having a cumulative impact and leading to problems which are undermining the licensing objectives.
- 14.3 There is no current cumulative impact assessment in effect. When carrying out such an assessment reference shall be made to the steps outlined in the s182 Guidance.
- 14.3 The effect of a cumulative impact or 'special' policy is to create a rebuttable presumption that applications for new licences/certificates or material variations to existing licences will normally be refused unless it can be shown that the

premises concerned will not add to the cumulative impact on the licensing objectives being experienced.

- 14.4 As is clearly stated in the s182 Guidance: *“The absence of a CIA does not prevent any responsible authority or other person making representations on an application for the grant or variation of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives, However, in each case it would be incumbent on the person making the representation to provide relevant evidence of cumulative impact”*.

15. Early Morning Restriction Orders

- 15.1 The ability to implement an Early Morning Restriction Order or ‘EMRO’ is a power conferred on licensing authorities by the Police Reform and Social Responsibility Act 2011 (“the 2011 Act”), which enables licensing authorities to restrict the sale of alcohol in the whole or a part of their areas between midnight and 6am on all or some days. Licensing authorities are able to make an EMRO in relation to problem areas if they have evidence that the order is appropriate for the promotion of the licensing objectives. It should be noted that the restriction would only relate to alcohol and will have no effect on regulated entertainment.
- 15.2 The Council has no plan to implement any EMROs at the time of writing this policy.
- 15.3 Any decision to implement an EMRO would be made by the Licensing and Public Protection Committee.

16. Late night levy

- 16.1 The power to implement a late night levy is also within the 2011 Act. This enables licensing authorities to charge a levy to persons who are licensed to sell alcohol late at night in the authority's area, as a means of raising a contribution towards the costs of policing the late-night economy.
- 16.2 Any levy would have to apply to the entire Local Authority area.
- 16.3 The Council has no plan to implement a Late Night Levy at the time of writing this policy.
- 16.4 Any decision to implement a late night levy would require consultation with the Police and Crime Commissioner and Chief Officer of Police, as well as much broader consultation. Such a decision would be made by the Full Council.

17. Conditions of Licence

- 17.1 The Council will endeavour to tailor conditions to the premises concerned and there is also a pool of model licensing conditions that may, in appropriate circumstances, be attached to a licence or certificate depending upon the individual styles and characteristics of the premises and events concerned. This pool of conditions will be utilised to apply appropriate and proportionate conditions in particular circumstances. The pool of conditions is not an exhaustive list and the Council may attach any conditions that are appropriate for the promotion of the licensing objectives.
- 17.2 The Council cannot not impose standardised conditions on any licence or certificate other than those prescribed by law (Mandatory Conditions).

18. The Prevention of Crime and Disorder

- 18.1 It should be noted in particular that it is unlawful under the 2003 Act:
- to sell or supply alcohol to a person who is drunk;
 - to knowingly allow disorderly conduct on licensed premises;
 - for the holder of a premises licence or a designated premises supervisor to knowingly 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.

18.2 **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 the Licensing Authority 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 appropriate, would promote the prevention of crime and disorder.

- 18.3 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. It should also be borne in mind that club premises operate under codes of discipline to ensure the good order and behaviour of members.
- 18.4 Necessary conditions for the licence or certificate will also depend on local knowledge of the premises.
- 18.5 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 conditions drawn from experience relating to differing situations and to offer guidance.
- 18.6 Any individual preparing an operating schedule is at liberty to volunteer any measure, such as those described below, as a step they intend 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.

18.7 Drinks and Irresponsible promotions

18.7.1 Standardised conditions should not be attached to premises licences or club premises certificates which promote fixed prices for alcoholic drinks.

18.7.2 Licence holders should undertake all reasonable steps to ensure staff do not engage in, arrange or participate in irresponsible drinks promotions.

18.7.3 Mandatory conditions now apply to irresponsible promotions that includes: drinking games, large quantities of alcohol for a fixed price, posters and flyers that encourage anti-social behaviour or glamorise this sort of activity and if there is a significant risk that these do not promote the licensing objectives.

18.8 Text pagers

18.8.1 Text and radio pagers connecting premises licence holders, designated premises supervisors managers of premises 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.

18.8.2 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 troublemakers or individuals suspected of criminal behaviour that are about in a particular area. Pager systems can also be used by licence holders, door supervisors, managers, designated premises supervisors and club employees to warn each other of the presence of such people in an area.

18.9 Door supervisors

18.9.1 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.

18.9.2 Where door supervisors are conducting security activities there will be a condition attached which means that they would have to be registered with the Security Industry Authority.

18.9.3 Conditions may also be needed to deal with the number of door 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).

18.9.4 Door supervisors also have a role to play in ensuring public safety.

18.10 **Bottle bans**

Bottles may be used as weapons inflicting more serious harm during incidents of disorder. A condition can prevent sales of drinks in their bottles for consumption on the premises. However, responsible authorities and licensing authorities should note that many women consider drinking from bottles to be safer as it is easier for them to prevent the spiking of bottled drinks with drugs because the opening to a bottle can be more readily covered. These issues, therefore, need to be carefully balanced.

18.11 **Plastic containers and toughened glass**

18.11.1 Glasses containing drinks may be used as weapons during incidents of disorder and can cause very serious injuries. Consideration should therefore be given to conditions requiring the use of safer alternatives which inflict less severe injuries. Location and style of the venue and the activities carried on there would be particularly important in assessing whether a condition is necessary. For example, the use of glass containers on the terraces of outdoor sports grounds may obviously be of concern, but similar concerns may also apply to indoor sports events such as boxing matches. Similarly, the use of 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.

18.11.2 It should be noted that the use of plastic or paper drinks containers and toughened glass may also be relevant as measures to promote public safety.

18.12 **CCTV**

18.12.1 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.

18.12.2 The Police may provide advice on the use of CCTV to prevent crime to those individuals conducting risk assessments when preparing operating schedules.

18.13 **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.

18.14 **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 indicate the circumstances in which the ban would apply and times at which it should be enforced.

18.15 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.

18.16 Wind-Down Policies

Consideration of implementing a period of lower volume, lower tempo music before closing to facilitate customers leaving in a calmer, quieter manner.

18.17 Large Capacity Venues for “Vertical” consumption of alcohol HVVDs

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

18.17.2 It may be necessary to attach conditions to licences for these premises which require adherence to a prescribed capacity, an appropriate ratio of tables and chairs to customers based on capacity and the presence of security staff to control entry for the purposes of compliance with the capacity limit.

18.18 Crime prevention notices

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

18.19 Signage

18.19.1 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.

18.19.2 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.

19. PUBLIC SAFETY

19.1 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, especially the requirements under the Management of Health and Safety at Work Regulations 1999, and the Regulatory Reform (Fire Safety) Order 2005 to undertake risk assessments. Employers should assess the risks from fire, and take measures necessary to avoid and control them.

19.2 Conditions enforcing these requirements are, therefore, unnecessary.

19.3 From 1 October 2006, the Regulatory Reform (Fire Safety) Order 2005 replaced previous fire safety legislation. Under Article 43 of the Order, any conditions imposed by the Licensing Authority that relate to any of the requirements or prohibitions that are, or could be, imposed by the Order have no effect.

19.4 General

19.4.1 In addition, to considering the points made in this section, 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 (Entertainment Technology Press – ABTT Publications) ISBN 1 904031 11 0.
- 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.

19.4.2 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.

19.5 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.

19.6 **Escape routes**

19.6.1 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.

19.6.2 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 security fastenings are removed prior to the premises being open to the public; and
- the edges of the treads of steps and stairways are maintained so as to be conspicuous.

19.7 **Safety checks**

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

- Safety checks are carried out before the admission of the public; and
- details of such checks are kept in a Log-book.

19.8 **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:

- Curtains, hangings and temporary decorations are arranged so as not to obstruct exits; and
- Temporary decorations are not used without the consent of the Licensing Authority.

19.9 **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 is 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.

19.10 **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.

19.11 **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.

19.12 **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.
- Emergency lighting is not altered.
- Emergency lighting batteries are fully charged before the admission of the public, members or guests.
- In the event of the failure of normal lighting, where the emergency lighting battery has a capacity of 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.

19.13 **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 and/or prior to inspection by a suitably qualified electrician.
- Temporary electrical wiring and distribution systems shall comply with the recommendations of BS 7671 or, where applicable, BS 7909.
- Temporary electrical wiring and distribution systems are inspected and certified by a competent qualified person before they are put to use.

19.14 **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 authority.
- At any wrestling or other entertainments of a similar nature members of the public do not occupy any seat within 2.5 metres of the ring.
- At water sports entertainments staff adequately trained in rescue and 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).

19.15 **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.

19.16 **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 to delete the relevant public safety condition. The applicant will need to propose how they intend to take alternative steps to promote the public safety objective in a new operating schedule reflecting the proposed alteration to the premises.

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

In addition to the points made in the above there are particular matters in the context of public safety which should be considered in connection with theatres and cinemas.

19.17.1 Premises used for Closely Seated Audiences

19.17.2 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 in the audience present on a floor	Minimum No. of attendants required to be present on a floor
1 to 100	1
101 to 250	2
251 to 500	3
501 to 750	4
751 to 1000	5

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

- (b) Attendants shall not be engaged in any duties that would prevent them from promptly discharging 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.

19.17.3 Standing and Sitting in Gangways etc

19.17.4 Sitting on floors shall not be permitted except where authorised in the premises licence or club premises certificate.

19.17.5 Waiting or standing shall not be permitted except in areas designated in the premises licence or club premises certificate.

19.17.6 In no circumstances shall anyone be permitted to:

- (i) sit in any gangway;
- (ii) stand or sit in front of any exit; or
- (iii) stand or sit on any staircase including any landings.

19.17.7 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.

19.17.8 **Balcony Fronts**

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

19.17.9 **Special effects**

19.17.10 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.

19.17.11 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.

19.17.12 In certain circumstances it may be necessary to require that certain special effects are only used with the prior consent of the Licensing Authority. In these cases the Licensing Authority should notify the Fire and Rescue Authority who will exercise their powers under the Regulatory Reform (Fire Safety) Order 2005.

19.17.13 **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 is necessary and a certificate concerning the condition of the ceilings forwarded to the Licensing Authority.

19.17.14 **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 4 or more than 12.

19.18 **Premises used for Film Exhibitions**

19.18.1 **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 follows:

- Number of members of the audience present on the premises 1 to 250, minimum number of attendants required to be on duty 2.
- And one additional attendant for each additional 250 members of the audience present (or part thereof).

- Where there are more than 150 members of an audience in any auditorium or on any floor at least one attendant shall be present in any auditorium or on any floor

19.18.2 **Attendants – 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 in the audience present on the premises	Minimum number of attendants required to be on duty	Minimum number of staff on the premises who are available to assist in the event of an emergency
1 to 500	2	1
501 to 1000	3	2
1001 to 1500	4	4
1501 or more	5 (plus 1 per additional 500 [or part thereof] persons over 2000 on the premises)	5 (plus 1 per additional 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 60 metres from the location to which he/she 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.

19.18.3 **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).

20. The Prevention of Public Nuisance

20.1 It should be noted that provisions of the Environmental Protection Act 1990, the Noise Act 1996 and the Clean Neighbourhoods and Environment Act 2005 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.

20.2 General

20.2.1 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.

20.2.2 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.

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

20.3 Noise

20.3.1 Where relevant representations are received the Council may have regard to nuisance caused by noise from licensed premises or noise attributable to it and may require prevention measures to be implemented by licence and certificate holders. Details of these measures must be highlighted as part of the operating schedule accompanying the application. The Council may consider the direct impact of a premises licence or club premises certificate on those persons living or working in the area concerned. The Council may require stricter conditions in areas which are primarily of a residential nature.

20.3.2 The Council also recognises that Birmingham is a diverse city containing many areas of mixed use where residents live alongside commercial and entertainment developments. The Council expects applications in such areas to properly address noise control and may impose stricter conditions where there is a dense residential population in close proximity to the premises.

20.3.3 The Council may limit opening hours or restrict licensable activities if appropriate in relation to noise nuisance, but will not do so without regard to the individual merits of any application.

20.3.4 Applicants are expected to consider measures which could be implemented in

order to mitigate or remove any potential nuisance from their premises. Examples include:

- ensuring 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;
- limiting live music to a particular area of the building;
- moving the location and direction of speakers away from external walls or walls that abut private premises;
- installation of acoustic curtains;
- fitting of rubber seals to doorways;
- installation of rubber speaker mounts;
- measures to ensure that music will not be audible above background level at the nearest noise sensitive location;
- undertaking routine monitoring to ensure external levels of music are not excessive and take appropriate action where necessary;
- noise limiters on amplification equipment used at the premises (if appropriate);
- Prominent, clear and legible notices displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly.
- Restrictions on the use of explosives, pyrotechnics and fireworks of a similar nature which could cause disturbance in surrounding areas.
- The placing of refuse – such as bottles - into receptacles outside the premises takes place at times that will minimise the disturbance to nearby properties.

20.4 **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.

20.5 **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

20.6 **Hours**

20.6.1 The hours during which the premises are permitted to be open to the public or to members and their guests can be restricted by the conditions of a premises licence or a club premises certificate for the prevention of public nuisance. But this must be balanced by the potential impact on disorder which results from arbitrarily fixed closing times. However, there is no general presumption in favour of lengthening licensing hours and the four licensing objectives should be paramount considerations at all times.

20.6.2 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.

20.6.3 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.

20.7 **Fly posting and Promotional Material**

20.7.1 As a leading entertainment centre Birmingham often faces the widespread problem of illegal or nuisance fly posting, and littering from promotional material. This can have an impact on the prevention of public nuisance objective and the prevention of crime and disorder objective within the Licensing Act 2003.

20.7.2 Existing legislation seeks to address this problem, however, it often proves ineffective in preventing this type of nuisance advertising. The Council is also concerned that some licence holders leave the advertising of regulated entertainment to events promoters and then use this to argue that they are not responsible for any illegal fly posting which occurs.

20.7.3 The Council expects responsible licence holders to ensure the licensing objectives are properly promoted when advertising regulated entertainment at their premises. For this reason it considers licence holders should outline in their operating schedules the steps to be taken to make sure that advertising of licensable activities does not cause nuisance or ~~result in criminal offences~~ give rise to crime and disorder.

20.7.4 Where they are engaged, Premises Licence Holders are encouraged to have explicit agreements or contracts with named individuals or companies used to promote events to address the issue of fly posting and littering from promotional material: and to maintain a register of individuals and companies contracted with, for inspection by any Responsible Authority or Authorised Officer on request. Where appropriate and where consistent with the applicant's operating schedule the Council will impose conditions to this effect when its discretion to do so has been engaged.

20.8 **Live Music, Dancing and Theatre**

The Council recognises that proper account must be taken of the need to encourage and promote live music, dancing and theatre for the wider cultural benefit of communities generally. The potential for limited disturbance in neighbourhoods must be carefully balanced with these wider benefits.

21. The Protection of Children From Harm

- 21.1 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 licences, club premises certificates or a temporary event notice when open for the purposes of being used for the supply of alcohol for consumption there.
- 21.2 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.
- 21.3 Conditions duplicating these provisions are, therefore, unnecessary.
- 21.4 Applicants for a premises licence will be expected to set out in the operating schedule accompanying their application a statement of the measures that they will take to protect children from harm.

These measures should include:

- Arrangements to prevent children from acquiring or consuming alcohol;
- Arrangements for the appropriate instruction, training and supervision of staff to prevent children from acquiring or consuming alcohol;
- Steps to prevent children from being exposed to drugs, drug taking or drug dealing; Arrangements to prevent children from being exposed to gambling;
- Steps to prevent children from being exposed to entertainment of an adult or sexual nature; Steps to prevent children from being exposed to incidents of violence or disorder;
- Measures to prevent children from being exposed to environmental pollution such as excessive noise;
- Measures to prevent children from being exposed to special hazards such as falls from height; Arrangements for appropriate instruction, training and supervision of those employed or engaged to secure the protection of children from harm;
- Restrictions on the access by children to the whole or any part of the premises, including times when children may not be present;
- Means for ensuring that nominated persons supervising children are suitable. To include training in supervising adults in safeguarding principles and where necessary disclosure from the Disclosure and Barring Service.

- 21.5 The Council will not impose any condition which requires licensed premises to allow access by children.
- 21.6 The Council will not limit or exclude access of children to any premises unless it considers it necessary to do so for the prevention of harm to them. Where the Council determines that there is a risk of harm to children in relation to particular premises it may exclude or limit the access of children to the premises at specific times, or when certain activities are taking place, or may attach to the licence a condition that children/young persons must be accompanied by an adult.
- 21.7 Issues of concern may include:
- where the entertainment or services provided on the premises are commonly of an adult or sexual nature;
 - where any member of the current staff at the premises has been convicted for serving alcohol to a minor or where there is a reputation for selling alcohol to underage drinkers; or
 - where there is a strong element of gambling on the premises or the premises has a known association or involvement with taking or dealing drugs.
 - For any premises with known associations (having been presented with evidence at a hearing) with 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.
- 21.8 In any other case, subject to the premises licence holder's or club's discretion, the expectation would be for unrestricted access for children of any age to premises.

21.9 An operating schedule or club operating schedule should indicate any decision for the premises to exclude children completely, which would mean there was no need to include in the schedule steps the applicant proposes to take to promote the protection of children from harm

21.10 The Council may, in appropriate circumstances, attach conditions to a licence in order to control entertainment specifically aimed at children or otherwise to ensure adequate supervision by adult staff. It may also set requirements regarding the appropriate number of adult staff to be present at the premises based on the number of children present.

21.11 The Council encourages licence holders and operators of licensed premises:

- (1) To ensure that they are fully aware of the signs of child sexual exploitation and to understand that the sexual exploitation of a child is sexual abuse and a crime and
- (2) To raise the awareness of their staff about child sexual exploitation and provide intelligence to the appropriate authorities about concerns and about perpetrators who may be operating in their areas.

21.12 **Children in performances**

21.12.1 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.

21.12.2 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 matters outlined below should be considered:

- **Venue** – the backstage facilities should be large enough to accommodate safely the number of children taking part in any performance.
- **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 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.

21.13 **Films**

The Council will expect those premises exhibiting films to include in the operating schedule accompanying their application for a licence, details of the measures they propose to stop children who are under age from viewing age-restricted films which are classified by the British Board of Film Classification or by the Council itself.

21.14 Adult Entertainment

21.14.1 Where regulated entertainment provided on premises is commonly of an adult or sexual nature the Council may, where relevant representations are received, give appropriate consideration to whether to grant a premises licence when the premises are in the vicinity of:

- Residential Housing.
- Schools.
- Play Areas.
- Children's Nurseries or preschool facilities.
- Places of Religious Worship or Education.
- Historic Buildings.
- Tourist Attractions.
- Predominantly Family Shopping Areas.
- Community Facilities or Public Buildings e.g. youth clubs, libraries & sports centres.

21.14.2 In so far as it relates to the licensing objectives, and taking into account location, the Council may determine the nature of any external signage for premises providing adult entertainment. The Council will also expect that the entertainment occurring on the premises should only be visible to those who have chosen to go inside, regardless of the location.

21.14.3 The Council is especially concerned that premises providing adult entertainment promote the protection of children from harm objective and will expect operating schedules to address this by adopting strict entrance policies, security measures and staff training and management policies to ensure that this and the other licensing objectives are promoted.

21.14.4 The Council has resolved to adopt schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, as amended by the Policing and Crime Act 2009, in relation to lap dancing and other sexual entertainment venues and the Licensing and Public Protection Committee will have regard to its own Sexual Entertainment Venue Policy, as and when an application is made to operate a venue of this kind.

21.15 Sale of Alcohol to Children

21.15.1 The Council considers that the sale of alcohol to children, or supply of alcohol in the case of a club, is a particularly serious offence.

21.15.2 There has been considerable research on the detrimental impact in areas where alcohol is accessed by children, in particular with regard to health, crime and disorder and anti-social behaviour. The Council, therefore, expects all licence holders to set out in their operating schedules the measures and management controls in place to prevent alcohol being sold or served to children (other than in the limited circumstances permitted under the Act) and to demonstrate all reasonable precautions and due diligence to prevent sales to under age persons whilst trading.

- 21.15.3 The Council considers that 'Challenge 25' policies, where the individual attempting to purchase alcohol must prove he/she is 18 or over if he/she appears to be under 25, are in many circumstances an effective way of preventing the sale of alcohol to children.
- 21.15.4 The Council expects licensed premises to embrace this initiative and premises licensed for the sale or supply of alcohol, particularly off-sales, to display prominent signage informing customers that it is an offence to sell or allow the sale of alcohol to children, to buy or attempt to buy it on a child's behalf, and for children to buy or attempt to buy it themselves.
- 21.15.5 Where the Council is required to review a licence due to the sale of alcohol to children the presumption will be for the licensee to demonstrate what systems were in place to try and prevent the situation arising.
- 21.15.6 If the Licensing Sub-Committee are not persuaded that appropriate, reasonable steps were taken by the licensee then the committee will take action to ensure the licensing objectives are promoted and may suspend or even revoke the licence of the premises licence holder or remove the designated premises supervisor.

22. List of Responsible Authorities:

Applicants are required under the Act to send copies of their application to the following responsible authorities in the Birmingham area:

A Copy must be sent to each Authority listed – even where they share the same address.

Licensing Authority	Birmingham City Council General Licensing Regulation & Enforcement P.O. Box 17831 Birmingham B2 2HJ licensing@birmingham.gov.uk
Operations Manager Licensing Enforcement	Birmingham City Council General Licensing Regulation & Enforcement P.O. Box 17831 Birmingham B2 2HJ licensing@birmingham.gov.uk
Chief Inspector of Weights and Measures	Trading Standards PO Box 16977, Birmingham B2 2AE tradingstandards@birmingham.gov.uk
Environmental Health	Environmental Health Pollution Team PO Box 16977, Birmingham B2 2AE pollution.team@birmingham.gov.uk
West Midlands Police	Birmingham Licensing Department West Midlands Police Lloyd House Colmore Circus Queensway Birmingham B4 6NQ bw_licensing@west-midlands.pnn.police.uk
West Midlands Fire Service	West Midlands Fire Service HQ 99 Vauxhall Road Nechells Birmingham B7 4HW firesafety.admin@wmfs.net
Planning Services	Planning & Development PO Box 28 1 Lancaster Circus Birmingham B1 1TU PlanningandRegenerationEnquiries@birmingham.gov.uk

Birmingham Children's Trust Protection of Children From Harm	Safeguarding Children & Licensing Birmingham Children's Trust 1 Lancaster Circus Ground Floor, Zone 02 PO Box 16895 Birmingham B2 2LD licensing@birminghamchildrenstrust.co.uk
Director of Public Health	Public Health Birmingham City Council 10 Woodcock Street Birmingham B7 4BH publichealth@birmingham.gov.uk
Home Office (Immigration Enforcement)	Alcohol Licensing Team Lunar House 40 Wellesley Road Croydon CR9 2BY Alcohol@homeoffice.gsi.gov.uk

Applicants seeking to licence a vessel are also required under the Act to send copies of their application to the following responsible authorities, in addition to those listed above:

Environment Agency	Environment Agency Midlands Regional Office 550 Streetsbrook Road Solihull B91 1QU
Canal & River Trust	Canal & River Trust Peel's Wharf Lichfield Street Fazeley Tamworth B78 3QZ

Deregulation of Schedule 1 Entertainment

Schedule 1 Category	Position
Plays	Deregulated between 0800-2300 for audiences up to 500
Dance	Deregulated between 0800-2300 for audiences up to 500 (Except certain performance of an adult nature)
Indoor Sport	Deregulated between 0800-2300 for audiences up to 1000
Live Music	Licensing suspended for amplified live music between 0800-2300 in on-licensed premises and deregulated in workplaces for audiences up to 500 (raised from 200 in Live Music Act 2012) (the Live Music Act 2012 already deregulated unamplified live music between 0800-2300 with no audience limitations)

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e of the Licensing Act 2003 (Descriptions of Entertainment)(Amendment) Order 2013 further to those already implemented by the Live Music Act 2012.

Guidance on both enactments has been produced by the Department for Culture Media and Sport.

DELEGATION OF FUNCTIONS REGARDING THE LICENSING ACT 2003

Subject	Sub Committee	Officers
Application for personal licence.	If a Police objection is made.	If no objection made.
Application for personal licence with relevant unspent convictions.	If a Police objection is made.	
Application for premises licence/ club premises certificate.	If a relevant representation is made.	If no relevant representations made.
Application for provisional statement.	If a relevant representation is made.	If no relevant representations made.
Application to vary premises licence/club premises certificate.	If a relevant representation is made.	If no relevant representations made.
Request to vary designated premises supervisor.	If a Police objection is made.	All other cases.
Request to be removed as designated premises supervisor.		All cases.
Application for transfer of premises licence.	If a Police objection is made.	All other cases.
Application for interim authorities.	If a Police objection is made.	All other cases.
Application to review premises licence/club premises certificate.	All cases.	
Decision on whether a complaint is irrelevant, frivolous, vexatious, etc.		All cases.
Decision to object when Local Authority is a consultee and not the relevant authority considering the application.		All cases.
Determination of application to vary premises licence at community premises to include and alternative licence condition	If a Police objection is made.	All other cases.
Determination of a Police objection to a STANDARD temporary event notice.	All cases.	
Application for minor variation of premises licence/club premises certificate		All cases (for decision whether to consult other Responsible

		authorities and for Determination)
Determination of a Police / EH objection to a temporary event notice.	All cases except where objection requires inclusion of conditions from existing premises licence and applicant is in agreement	Where objection requires inclusion of conditions from existing premises licence and applicant is in agreement
Attachment of Conditions from existing premises licence to TEN	Where applicant objects to conditions	If applicant is in agreement
Issuing of Counter notice for STANDARD TEN	Following determination hearing	Where limits are exceeded
Issuing of counter notice for Late TEN		All cases
Suspension of licence for non payment of fees		All cases
Requests for a change to the film classification awarded by the BBFC	All cases	
Requests for classification of films where there is no BBFC classification	Where there is concern about the content of any film submitted or the proposed exhibition of the film	Where appropriate procedure is followed and no concerns as to content
Request for implementation of Early Morning Restriction Order	FULL Committee	
Request for imposition of Late Night Levy	Full City Council	
Statement of Licensing Policy	Full City Council	
Cumulative Impact Assessment	Full City Council	