

# Licensing Policy under the Licensing Act 2003

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## Background and Context

**This Policy should be read in conjunction with:**

**The Licensing Act 2003** available from [www.hmso.gov.uk/acts/acts2003/20030017.htm](http://www.hmso.gov.uk/acts/acts2003/20030017.htm) or by telephoning 01603 723011

**Government Guidance under Section 182 of the Licensing Act 2003:** available on the website [www.dcms.gov.uk](http://www.dcms.gov.uk) or by telephoning 020 7211 6200

**Tower Hamlets guidance documents on making applications under the Licensing Act 2003** available from [http://www.towerhamlets.gov.uk/lgs/851-900/860\\_alcohol\\_and\\_entertainment.aspx](http://www.towerhamlets.gov.uk/lgs/851-900/860_alcohol_and_entertainment.aspx)  
Or available from the Licensing Service on 020 7364 5008

**Tower Hamlets** is a Borough that is diverse, improves choice and provides enjoyment for residents and visitors to the Borough of all ages. We want to provide an environment that is safe and welcoming for all to enjoy. While at the same time we also want to ensure that we protect the quality of life for our residents by ensuring that we have sensible controls that keep anti social behaviour, and undesirable developments selling hot food and drink between 23:00 and 05:00 to a minimum.

However the policy only applies where the discretion of the licensing authority is engaged. That is, all applications which are unopposed must be granted as applied for. The only conditions that can be applied must relate to statements made in the application itself.

The Licensing Policy objectives and associated benefits have clear links with the Council's vision to improve the quality of life for everyone living and working in the Borough.

The four major themes that the Council have set out in the Tower Hamlets Partnership's Community Plan by means of which the vision is delivered are:

**A Great Place to Live**  
**A Prosperous Community**  
**A Safe and Supportive Community**  
**A Healthy Community**

There's more detailed information about the four themes, and how they support One Tower Hamlets at:  
[www.towerhamlets.gov.uk/lgs/.../800022\\_community\\_plan.aspx](http://www.towerhamlets.gov.uk/lgs/.../800022_community_plan.aspx)

# **1 Introduction**

1.1 Tower Hamlets Council is the Licensing Authority under the Licensing Act 2003 (the Act) and is responsible for granting licences in the Borough. This policy covers the following activities:

- Retail supply of alcohol
- Supply of alcohol to club members
- Provision of regulated entertainment
- Supply of hot food and / or drink between 23:00 and 05:00 hours

# **2 The Policy**

2.1 The 2003 Act requires that the Council, after consultation, adopts and publishes a Licensing Policy. It is a requirement that this Policy is reviewed at least every three years. This has been done in the past and the original policy is due for its 2<sup>nd</sup> review. The Licensing Authority will generally apply the policy when making decisions on applications made under the Act. However each individual application must still be treated on its own merits and must be given proper consideration.

2.2 This 'Statement of Licensing Policy' has been prepared in accordance with the provisions of the Act and the draft Guidance issued under Section 182 of the Act.

# **3 Consultation**

3.1 The Council recognises the important role of responsible authorities, the licensing trade, local residents and other stakeholders have to play in influencing this Policy. The Council will consider a wide range of views that are made in response to the consultation before finalising and publishing the policy in 2011.

3.2 The Council will ensure that its consultation is broadly based, available on the internet and the responsible authorities as well as wide range of community, public, welfare and religious organisations are consulted.

3.3 The Council will give due weight to the views of all the persons / bodies consulted before the Policy Statement is agreed and implemented by the Council.

3.4 The Licensing Authority undertakes to involve the Tower Hamlets Crime and Disorder Reduction Partnership (or equivalent organisation) in policy development and review.

3.5 All major reviews will be broadly based, as well as complying with statutory requirements.

## 4 Main Principles of the Licensing Policy

- 4.1 The Act requires that the Licensing Authority carries out its various licensing functions so as to promote the following four licensing objectives:-
- the prevention of crime and disorder
  - public safety
  - the prevention of public nuisance
  - the protection of children from harm
- 4.2 All of the Policy and its implementation must be consistent with those four objectives.
- 4.3 Nothing in the Licensing Policy will undermine the rights of any person to apply under the Act for a variety of permissions and have the application considered on its individual merits and / or override the right of any person to make representations on any application or seek a review of a licence or certificate where they are permitted to do so under the Act.
- 4.4 Licensing is about the control of licensed activities in licensed premises and the people in control of selling alcohol and or selling hot food and drinks past 23:00hrs and before 05:00 hrs. Conditions are likely to be attached to licences, certificates and permissions that will cover matters which are within the control of individual licensees.
- 4.5 In relation to all applications, however, if its discretion is engaged, the Licensing Authority will also consider the impact on the vicinity of the application.
- 4.6 The Licensing Authority is not, itself a "responsible authority" and cannot itself make any representations about an application.
- 4.7 If representations are made by a "responsible authority" or interested party a hearing would then be convened where the Licensing Authority would exercise its discretion.
- 4.8 Where no representations are made the application must be granted subject only to the mandatory conditions or conditions that are consistent with the applicant's operating schedule.
- 4.9 When considering these conditions, the Licensing Authority will primarily focus on the direct impact of the activities taking place at licensed premises on members of the public living, working or engaged in normal activity in the area concerned.

4.10 Licensing laws are not the primary method of controlling anti-social behaviour by individuals once they are beyond the direct control of the licensee of any premises concerned. However, they are a key aspect of such control and will always be part of an overall approach to the management of the evening and night time economy.

4.11 In this respect, the Licensing Authority recognises that, apart from the licensing function, (and issues around cumulative effect) there are a number of other mechanisms available for addressing issues of unruly behaviour that can occur away from licensed premises, including (the list is not exhaustive):\_

- planning controls
- ongoing measures to create a safe and clean environment in these areas in partnership with local businesses, transport operators and other Council Departments
- designation of parts of the Borough as places where alcohol may not be consumed publicly
- regularly liaison with Borough Police on law enforcement issues regarding disorder and anti-social behaviour, including the issue of fixed penalty notices, prosecution of those selling alcohol to people who are drunk, confiscation of alcohol from adults and children in designated areas and instantly closing down licensed premises or temporary events on the grounds of disorder, or likelihood of disorder or excessive noise 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

4.12 The Licensing Authority recognises the positive benefits that the leisure industry brings to the Borough. This includes not just jobs and associated regeneration but also through music, dance and other entertainment that celebrates the rich mixture of cultural diversity and creativity that exists in the Borough.

4.13 The responsible authorities are given in **Appendix 1**.

4.14 The consultation with local residents about a premises or club which is applying for a licence is carried out by the business which is applying for the licence. Notification of applications under the Licensing Act 2003 is limited to an advertisement in a local paper and the display of a pale blue notice on the premises, both done by the applicant.

- 4.15 Following consultation the Licensing Authority has determined to itself contact all residents and businesses within 40 metres of the applicant's premises, where the application is for a new club or premises licence or its variation. The consultation will be strictly neutral, and will repeat the information required in the statutory notification.
- 4.16 For larger events and premises of a capacity of more than 1000 persons the Council will carry out a reasonable and relevant level of consultation with local residents and businesses. The scope of this consultation will be decided by the Licensing Service Manager.
- 4.17 The consultation period will not be extended; any failure by the licensing authority to carry out this consultation is not grounds for refusing or delaying any application.

## **5 Crime and Disorder**

- 5.1 Licensed premises, especially those offering late night / early morning entertainment, alcohol and refreshment for large numbers of people, can be a source of crime and disorder problems.
- 5.2 When addressing crime and disorder the applicant should initially identify any particular issues (having regard to their particular type of premises and / or activities) which are likely to adversely affect the promotion of the crime and disorder objective. Such steps as are required to deal with these identified issues should be included within the applications operating schedule. Where a Crime Prevention Officer from the Metropolitan Police makes recommendations for premises that relate to the licensing objectives, the operating schedule should normally incorporate the suggestions.
- 5.3 Applicants are recommended to seek advice from Council Officers and the Police as well as taking into account, as appropriate, local planning and transport policies, with tourism, cultural and crime prevention strategies, when preparing their plans and Schedules.
- 5.4 In addition to the requirements for the Licensing Authority to promote the licensing objectives, it also has a duty under Section 17 of the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in the Borough.
- 5.5 The Licensing Authority, if its discretion is engaged, will consider attaching Conditions to licences and permissions to deter and prevent crime and disorder both inside and immediately outside the premises and these may include Conditions drawn from the Model Pool of Conditions relating to Crime and Disorder given in Section 182 of the Licensing Act 200. (See **Appendix 2.**)

- 5.6 **CCTV** - The Licensing Authority, if its discretion is engaged, will attach conditions to licences, as appropriate where the conditions reflect local crime prevention strategies, for example the provision of closed circuit television cameras.
- 5.7 **Touting** - The Council has had a significant number of complaints relating to premises which are substantially or mainly restaurants where "touting" is a problem. Touting is soliciting for custom. Consequently, in relation to such premises the Licensing Authority, where its discretion is engaged will insert a standard condition that prohibits "touting."
- 5.8 **Street Furniture** - This would include Advertising Boards, they are sometimes placed in such a way as to be a nuisance to the public on the highway, or they encourage the consumption of alcohol in areas that are not licensed. The Licensing Authority expects applicants to have ensured that they fully comply with the Councils rules relating to authorisation of obstructions on the highway and a licence permission to place advertising boards or street furniture on the highway should normally have been obtained from Tower Hamlets Markets Service before an application for a licence is made. Where proportionate and appropriate, and its discretion is engaged, the Licensing Authority will impose conditions in relation to street seats and tables or boards, including on private land.
- 5.9 **Fly Posting** - The Council has experienced significant problems with "fly posting" in relation to venues that offer entertainment. Fly posting is the unauthorised posting of posters / advertisements etc. Where it considers it appropriate and its discretion is engaged, the Licensing Authority will attach conditions relating to the control of fly posting to ensure that venues clearly prohibit all fly posting in their contract terms with others and they effectively enforce this control.
- 5.10 **Responsible Drinking** - The Licensing Authority expects alcohol to be promoted in a responsible way in the Borough. This should incorporate relevant industry standards, such as the Portman Group. Where appropriate and proportionate, if its discretion is engaged, the Licensing Authority will apply conditions to ensure responsible drinking. The Licensing Authority also recognises the positive contribution to best practice that "Pubwatch" and other similar schemes can make to achieving the licensing objectives and is committed to working with them Model Pool Conditions from the Licensing Act 2003, Section 182 Guidance are in Appendix 2.
- 5.11 The Licensing Authority expects to be given 28 days notice of temporary events, and for them to have been discussed with the Metropolitan Police before submission to the Council.

## 6 Cumulative Effect

- 6.1 The Licensing Authority will not take 'need' into account when considering an application (i.e. commercial demand), as this is not a licensing objective. However, it recognises that the cumulative impact of the number, type and density of licensed premises in a given area, may lead to serious problems of nuisance and disorder outside and some distance from the premises.
- 6.2 Representations may be received from a responsible authority / interested party that an area has become saturated with premises, which has made it a focal point for large groups of people to gather and circulate away from the licensed premises themselves, creating exceptional problems of disorder and nuisance over and above the impact from the individual premises.
- 6.3 In these circumstances, the Licensing Authority may consider that the imposition of conditions is unlikely to address these problems and may consider the adoption of a special policy of refusing new licences because the area is saturated with licensed premises and the granting of any more would undermine one of the licensing objectives.
- 6.4 The Licensing Authority will take the following steps when considering whether to adopt a special saturation policy:-
- identification of serious and chronic concern from a responsible authority or representatives of residents about nuisance and disorder
  - where it can be demonstrated that disorder and nuisance is arising as a result of customers from licensed premises, identifying the area from which problems are arising and the boundaries of that area
  - assessing the causes
  - adopting a policy about future licence applications from that area
- 6.5 The Licensing Authority will not adopt a "cumulative impact" policy in relation to a particular area without having consulted individuals and organisations listed in Section 5(3) of the Licensing Act (i.e. those who have to be consulted about this policy). It will also have ensured that there is consultation with local residents.
- 6.6 The Licensing Authority will consider representations based on the impact on the promotion of the licensing objectives in the Borough generally of the grant of the particular application in front of them.

- 6.7 However, the onus would be on the objectors to provide evidence to back up any assertion that the addition of the premises in question would produce the cumulative impact claimed, taking into account that the impact will be different for premises with different styles and characteristics.
- 6.8 The Licensing Authority will review any special saturation policies every three years to see whether they have had the effect intended, and whether they are still required.
- 6.9 The Licensing Authority will not use such policies solely:-
- as the grounds for removing a licence when representations are received about problems with existing licensed premises, or,
  - to refuse modifications to a licence, except where the modifications are directly relevant to the policy, for example where the application is for a significant increase in the capacity limits
  - to impose any form of quota
- 6.10 The Licensing Authority recognises that there is a wide diversity of premises requiring a licence and will have full regard to the differing impact these will have on the local community.
- 6.11 It therefore also recognises that, within this policy, it may be able to approve licences that are unlikely to add significantly to the saturation, and will consider the circumstances of each individual application.
- 6.12 However, if the Licensing Authority does adopt a special policy concerning cumulative impact for a particular area it creates a rebuttable presumption that new applications or variations will be refused provided there is a relevant objection. Applicants will need to specifically address this in their operating schedule.
- 6.13 It will not normally be the case that a "cumulative impact" policy can be adopted in relation to off-sales, although the Licensing Authority will consider such a policy in the light of relevant representations.

## **7 Public Safety**

- 7.1 The 2003 Act covers a wide range of premises that require a licence, and so such premises present a mixture of risks to users and should be constructed or adapted and operated so as to acknowledge and safeguard occupants against these risks.

- 7.2 The Licensing Authority will expect Operating Schedules to satisfactorily address these issues and applicants are advised to seek advice from the Council's Environmental Health (Health & Safety) Officers and the London Fire and Emergency Planning Authority before preparing their plans and Schedules.
- 7.3 Where an applicant identifies an issue in regard to public safety (including fire safety) which is not covered by existing legislation, the applicant should identify in their operating schedule the steps that will be taken to ensure public safety. This needs to take into account any unique characteristics that arise in connection with the licensable activity, any requirements that are specific to the premises.
- 7.4 The Licensing Authority, where its discretion is engaged, will consider attaching Conditions to licences and permissions to promote safety, and these may include Conditions drawn from a Model Pool of Conditions as proportionate and appropriate are contained in Appendix 2.
- 7.5 The Licensing Authority will impose conditions that relate to its licensing objectives, and in a way that is proportionate to the individual circumstances of the premises seeking a licence.

## **8 Prevention of Nuisance**

- 8.1 Licensed premises, especially those operating late at night and in the early hours of the morning, can cause a range of nuisances impacting on people living, working or sleeping in the vicinity of the premises.
- 8.2 The concerns mainly relate to noise nuisance both from the premises and customer egress, light pollution, noxious smells and disruption from parked vehicles and due regard will be taken of the impact these may have in considering a licence. The Licensing Authority will expect Operating Schedules to satisfactorily address these issues. Applicants are advised to seek advice from the Council's Environmental Health Officers before preparing their plans and Schedules.
- 8.3 The Licensing Authority, where its discretion is engaged, will consider, where appropriate, attaching conditions to licences and permissions to prevent the problems identified in 8.2, and these may include conditions drawn from the Model Pool of Conditions in Appendix 2.

## **9 Prevention of Harm to Children**

- 9.1 The wide range of premises that require licensing means that children can be expected to visit many of these, often on their own, for food and/or entertainment.

- 9.2 The Act does not prohibit children from having access to any licensed premises; the Council recognises that limitations may have to be considered where it appears necessary to protect children from harm.
- 9.3 Applicants are recommended to consult with the Area Child Protection Committee or such other body, as the Licensing Authority considers appropriate.
- 9.4 The Licensing Authority will judge the merits of each separate application before deciding whether to impose conditions limiting the access of children to individual premises. The following are examples of premises that will raise concern:-
- Where there have been convictions for serving alcohol to minors or with a reputation for underage drinking
  - With a known association with drug taking or dealing
  - Where there is a strong element of gambling on the premises
  - Where entertainment of an adult or sexual nature is provided
  - Where irresponsible drinking is encouraged or permitted.
- 9.5 Where its discretion is engaged, the Licensing Authority will consider any of the following options when dealing with a licence application where limiting the access of children is considered necessary to prevent harm to children:
- Limitations on the hours when children may be present
  - Limitations on ages below 18
  - Limitations or exclusion when certain activities are taking place
  - Requirements for an accompanying adult
  - Full exclusion of people under 18 from the premises when any licensable activities are taking place
- 9.6 No conditions will be imposed requiring that children must be admitted to any premises and, where no limitation is imposed, this will be left to the discretion of the individual licensee.
- 9.7 The Act details a number of offences designed to protect children in licensed premises and the Licensing Authority will work closely with the police to ensure the appropriate enforcement of the law, especially relating to the sale and supply of alcohol to children.

- 9.8 All licence holders will be expected to comply the Portman Group Code of Practice, and in particular the Retailer Alert Bulletin.
- 9.9 The Licensing Authority expects all licensed suppliers of alcohol to have robust measures, effectively managed and monitored, in place to ensure that minors are fully protected from harm.

## **10 Access to Cinemas**

- 10.1 Films cover a vast range of subjects, some of which deal with adult themes and / or contain, for example, scenes of horror or violence that may be considered unsuitable for children within certain age groups.
- 10.2 In order to prevent children from seeing such films, the Licensing Authority will impose conditions requiring licensees to restrict children from viewing age restricted films classified according to the recommendations of the BBFC, or the Council itself. The Licensing Authority will not consider reclassifying any films already classified by the BBFC. The Council will charge for classifying films, on a full cost recovery basis.
- 10.3 The Licensing Authority will classify films itself where it is satisfied that no BBFC classification exists. It will inform relevant licensee and require such classifications to be clearly contained in any advertising or informative material relating to such films.

## **11 Children and Public Entertainment**

- 11.1 Many children go to see and / or take part in an entertainment arranged substantially for them. Consequently additional arrangements are required to safeguard them at such times.
- 11.2 Where 11.1 applies, and its discretion is engaged, the Licensing Authority will require the following arrangements in order to control their access and egress and to assure their safety:-
- An adult member of staff to be stationed in the vicinity of each of the exits from any level, subject to there being a minimum of one member of staff per 50 children or part thereof
  - No child unless accompanied by an adult to be permitted in the front row of any balcony
  - No standing to be permitted in any part of the auditorium during the Performance

- 11.3 Where children are taking part in any regulated entertainment, and its discretion is engaged, the Licensing Authority will require the operating schedule to clearly state the steps taken to assure their safety.
- 11.4 Where its authority is engaged, the Licensing Authority will consider attaching conditions to licences and permissions to prevent harm to children, and these may include conditions drawn from the Model Pool of Conditions in Appendix 2.

## **12 Licensing Hours**

- 12.1 This Part of the Statement details the Licensing Authority's approach to licensing hours. It states the reasons for the policy and identifies the issues the Licensing Authority will take into account when considering applications during the framework hours. It only has any application when the discretion of the local authority is engaged.
- 12.2 The policy set out in this Part applies to applications for:-
- a new premises licence;
  - a new club premises certificate;
  - variation of a converted premises licence;
  - variation of an existing premises licence;
  - variation of a converted club registration certificate; and
  - variation of an existing club premises certificate where relevant representations are made.
- 12.3 The policies set out in this Part may, depending on the circumstances of the application, apply to applications for a provisional statement.
- 12.4 Any condition setting out the hours of premises refers to the hours during which alcohol may be sold or supplied or (as appropriate) the hours during which other licensable activities may take place pursuant to the premises licence or club premises certificate. In attaching conditions on hours the Licensing Authority will generally require that customers should not be allowed to remain on the premises later than half an hour after the cessation of licensable activities.
- 12.5 Tower Hamlets has a number of licensed venues that already have extended licensing hours. It also borders other London councils that have high concentrations of licensed premises including premises with extended licensing hours.  
The Licensing Authority considers that the possibility of disturbance to residents late at night and in the early hours of the morning, and the effect that any such disturbance may have, is a proper matter for it to consider when addressing the hours during which licensable activities may be undertaken.

12.6 The Licensing Authority is concerned to ensure that extended licensing hours do not result in alcohol-related antisocial behaviour persisting into the night and early hours of the morning. For these reasons, applications to carry on licensable activities at any time outside the framework hours will be considered on their own merits with particular regard to the matters set out in the Policy section below.

12.7 The Licensing Authority has had regard to the Guidance to the Act when determining this policy. The end times set out in the policy are not (and should not be regarded as) the 'usual' or 'normal' terminal hour for licensable activities in the Borough. Instead, the 'framework hours' serve to identify cases where the Licensing Authority will pay particular regard to the likely effect on the local neighbourhood of carrying out the proposed licensable activities during the hours applied for. Applications for hours up to the end of the Framework Hours will not automatically be granted. This policy will be applied only where relevant representations are made. Each case will be considered on its merits.

12.8 The framework hours (i.e. when premises are open) are:-

Sunday - 06 00 hrs to 22 30 hrs  
Monday to Thursday - 06 00 hrs to 23 30 hrs  
Friday and Saturday - 06 00hrs and midnight

Applications in respect of premises licences and club premises certificates to authorise licensable activities outside the framework hours, and in respect of which relevant representations are made, will be decided on their own merits and with particular regard to the following.

- a) The location of the premises and the general character of the area in which the premises are situated. (i.e. does the area include residential or business premises likely to be adversely affected).
- b) The proposed hours during which licensable activities will be take place and the proposed hours during which customers will be permitted to remain on the premises.
- c) The adequacy of the applicant's proposals to address the issues of the prevention of crime and disorder **and** the prevention of public nuisance.
- d) Where the premises have been previously licensed, the past operation of the premises.
- e) Whether customers have access to public transport when arriving at or leaving the premises at night time and in the early hours of the morning.
- f) The proximity of the premises to other licensed premises in the vicinity and the hours of those other premises.

12.9 Applicants who apply for authorisation to carry on licensable activities, throughout the entirety of the hours outside the framework hours, when they do not intend to operate at these times run a risk that Responsible Authorities and interested parties may be more inclined, than they might otherwise be, to make relevant representations about the application.

Although this policy applies to all licensable activities, the Licensing Authority will have regard to the proposed use of the premises when considering applications to carry on licensable activities outside the framework hours. Subject to any relevant representations that may be made to the contrary in individual cases, premises where the following licensable activities are authorised are not considered to make a significant contribution to the problems of late-night antisocial behaviour, and as such these premises will generally have greater freedom to operate outside the framework hours. These premises are:-

- Theatres.
- Cinemas.
- Premises with a club premises certificate.

12.10 In addition and in relation to all applications, whatever the hours applied for where its discretion is engaged, the Licensing Authority will generally deal with the issue of licensing hours having due regard to the individual merits of each application. However, consideration will be given to imposing stricter conditions in respect of noise control where premises are situated close to local residents.

12.11 Where a negative impact is likely on local residents or businesses it is expected that the applicants' operating schedule will describe how this impact will be minimised.

### **13 Shops, Stores and Supermarkets**

13.1 The Licensing Authority will generally licence shops, stores and supermarkets to sell alcohol for consumption off the premises at any times they are open for shopping.

13.2 However, it may consider there are very good reasons for restricting those hours, for example, where police representations are made in respect of particular premises known by them to be the focus of disorder and disturbance.

## **14 Integrating Strategies and Avoiding Duplication**

14.1 The Council's licensing function relates, in broad terms to a number of other matters in particular;

- Local crime prevention
- Planning
- Transport
- Tourism
- Cultural strategies
- The night time economy

14.2 The Licensing Authority will set up multi-disciplinary working groups to ensure proper integration of local crime prevention, planning, transport, tourism, cultural and night time economy strategies.

14.3 The Licensing Authority will arrange for protocols with the Borough Police to enable them to report to the Committee responsible for transport matters on the need for the swift and safe dispersal of people from relevant venues in the Borough.

14.4 Arrangements will be made for the Licensing Committees to receive reports on the following matters to ensure these are reflected in their decisions:

- The needs of the local tourist economy and cultural strategy for the Borough, and
- The employment situation in the Borough and the need for investment and employment where appropriate
- The night time economy, its economic contribution to the Borough and the Council's strategy for its development and management. As the Council develops its policy towards the night time economy, through Community Plans or Town Centre Plans and Core Strategies, otherwise the Licensing Policy will be reviewed as necessary.

14.5 Planning, Building Control and Licensing regimes are properly separated by the Licensing Authority, who wishes to avoid duplication and inefficiency. Applications for premises licences for permanent commercial premises should normally be from businesses with planning consent for the property concerned. However, applications for licences may be made before any relevant planning permission has been sought or granted by the planning authority.

- 14.6 The planning and licensing regimes involve consideration of different (albeit related) matters. For instance, licensing considers public nuisance whereas planning considers amenity. As such licensing applications should not be a re-run of the planning application and should not cut across decisions taken by the local authority planning committee or following appeals against decisions taken by that committee. Licensing Committees are not bound by decisions made by a planning committee, and vice versa.
- 14.7 The granting by the Licensing Committee of any variation of a licence which involves a material alteration to a building would not relieve the applicant of the need to apply for planning permission or building control where appropriate.
- 14.8 There are also circumstances when as a condition of planning permission; a terminal hour has been set for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law.
- 14.9 Applicants for new premise or club licences or variations of them are advised to consult the London Borough of Tower Hamlets' Planning Authority about any planning restrictions which may apply to their premises. The Planning website is <http://www.towerhamlets.gov.uk/data/planning/index.cfm>.

## 15 Striptease

***(This section will be deleted on the adoption and implementation of the provisions of the Policing and Crime Act 2009 relating to Sex Encounter Establishments)***

- 15.1 The Licensing Authority will only seek to attach conditions that are reasonable, proportionate and necessary for the promotion of the licensing objectives.
- 15.2 The Licensing Authority confirms that, if its discretion is engaged and where appropriate and necessary for the promotion of the licensing objectives it will use the Government's suggested model pool of conditions that are attached as an Appendix 2 to the Licensing Authority.
- 15.3 In addition standard conditions required by the Licensing Act 2003, its regulations or guidance will be attached as relevant.

- 15.4 The licensing authority when its discretion is engaged will always consider all applications on their individual merits, however all applications involving adult entertainment of nudity or semi-nudity are unlikely to be successful where the premises is in the vicinity of:
- residential accommodation;
  - schools;
  - places of worship;
  - other premises where entertainment of a similar nature takes place;
  - community centres; and
  - youth clubs.
- 15.4 Only nudity or semi-nudity which is predominantly the performance of dance to music is permitted by this policy. Sex Encounter establishments are controlled by the Local Government (Miscellaneous Provisions) Act 1982 as amended by Part 111 of the Greater London Council (General Powers) Act 1986, and the London Borough of Tower Hamlets has set a limit of zero on such establishments. The licensing authority will appropriately monitor the premises it has licensed to ensure that all performances involving nudity or semi-nudity are dance to music or a like entertainment, and take appropriate enforcement action if they are not.
- 15.5 Where its discretion is engaged the licensing authority will make enquiries to ensure that the proposed application is indeed for music and dance and not an activity which is caught by the Sex Encounter establishment legislation.
- 15.6 All applications for adult entertainment involving nudity or semi-nudity will be scrutinised to ensure they meet the licensing objectives.
- 15.7 All applications that do not specifically request nudity or semi-nudity will have a condition imposed which forbids it. This will be the case for both opposed and unopposed applications.
- 15.8 Where applications involving nudity or semi-nudity are made and its discretion is engaged the Licensing Authority will expect Operating Schedules to address the following matters and to include such conditions as are necessary to promote the licensing objectives:
- a. A code of conduct for dancers and appropriate disciplinary procedures, developed in consultation with the police and the council.
  - b. Rules of conduct for customers, developed in consultation with the police and the council.
  - c. Procedures to ensure that all staff employed in the premises have pre-employment checks including suitable proof of identity, age and (where required) permission to work.

- d. The exclusion of persons under 18 from the premises when such activities are taking place.
  - e. That publicity and advertising does not cause offence to members of the local community
- 15.9 The Policing and Crime Act came into effect on 6 April 2010. One of the effects of that Act is to enable local authorities to adopt powers in that act, including sex entertainment venues (SEVs). This Borough will adopt the powers that will provide a Sex Encounter Establishment Policy with the intention of banning all lap dancing premises within the Borough.
- 15.10 The consultation regarding the Sex Establishment Policy will run simultaneously to the Licensing Policy and cause this Licensing Policy to be reviewed again within the next 12 months is adopted.
- 15.11 If the Sex Establishment is adopted, the changes to the Licensing Policy will be with regards to Section 15, 'Striptease'.

## **16 Enforcement**

- 16.1 Once licensed, it is essential premises are maintained and operated so as to ensure the continued promotion of the licensing objectives and compliance with the specific requirements of the Act and the Licensing Authority will make arrangements to monitor premises and take appropriate enforcement action to ensure this.
- 16.2 The Licensing Authority will work closely with Borough Police to establish protocols to ensure an efficient deployment of Police and Council Officers engaged in enforcing licensing law and inspecting licensed premises, in order to ensure that resources are targeted at problem and high risk premises.
- 16.3 The Licensing Authority considers the protection of minors to be a particular priority for enforcement and will, in partnership with other agencies, especially the Police, seek to use the criminal sanctions of the Licensing Act to their fullest extent to achieve such protection.

## **17 Live Music, Dancing and Theatre**

- 17.1 In its role of implementing local authority cultural strategies, the Licensing Authority recognises the desirability of encouraging and promoting live music, dance, theatre and festivals for the wider cultural benefit of the community, particularly for children. This broad strategy includes all forms of licensable live entertainment. The Licensing Authority recognises that a rich cultural provision

has a positive role in community cohesion.

- 17.2 When considering applications for such events and the imposition of conditions on licences or certificates, the Licensing Authority will carefully balance these cultural needs with the necessity of promoting the licensing objectives.
- 17.3 Consideration will be given to the particular characteristics of any event, including the type, scale and duration of the proposed entertainment, especially where limited disturbance only may be caused. The Licensing Authority will regulate live performances on a risk assessed basis and we will be mindful of the licensing objectives and the need to ensure we are not committing disproportionate costs to regulation.
- 17.4 The Licensing Authority will request and receive a report from Cultural Services, which examines the issue of licensing in relation to the use of its open spaces and how this promotes local festivals and cultural diversity.
- 17.5 That at the time of the review of this policy the Licensing Authority will seek the views of Cultural Services on, amongst other matters, whether the new licensing regime is having an adverse impact on live music or other licensable live entertainment.

## **18. Risk Assessments**

- 18.1 When the Licensing Authority's discretion is engaged it expects applicants to have regard to the advice of the Metropolitan Police in relation to the licensing objective of the prevention of crime and disorder. Therefore it recommends for significant events (please see note below for definition), a comprehensive risk assessment is undertaken by premises licence holders to ensure that crime and disorder and public safety matters are identified and addressed. Accordingly, for premises that wish to stage promotions, or events (as defined below) the Licensing Authority recommends that applicants carry out the Risk Assessment and debrief processes and when relevant include in their Operating Schedule.
- 18.2 The Licensing Authority further recommends the Metropolitan Police Promotion/Event Risk Assessment Form 696 and the After Promotion/Event Debrief Risk Assessment Form 696A as useful and effective tools for this purpose. Where the Risk Assessment forms are used to assess the likely risks from any promotion or event, the Licensing Authority anticipates that these will be completed in consultation with the Metropolitan Police. Risk assessments should be submitted to the Metropolitan Police and the Licensing Authority within 14 days of any proposed event and debrief forms submitted within 14 days of the conclusion.
- 18.3 Forms 696 and 696A are available on the Metropolitan Police web completion and transmission of the forms is undertaken by licensees. E-mail site at (please

insert hyperlink). It is recommended that electronic addresses for submission are [ClubsFocusDesk-CO14@met.police.uk](mailto:ClubsFocusDesk-CO14@met.police.uk) and the local authority and police licensing section, which are contained in the link of responsible authorities.

- 18.4 **Promotion or Event** - The majority of venues have regular repeat artistes and DJs. Only one risk assessment and subsequent debrief is required for an artiste at the venue concerned. Where venues have promotions with different artistes or DJs on each occasion, it is anticipated that the risk assessment forms will be completed for each of these occasions.
- 18.5 The Premises Licence Conditions proposed by can be recommended as part of a pool of standard conditions. They will not be imposed on any licence as a condition, unless as suggested in the policy statement, applicants address risk assessment in their operating schedules, or one of the statutory authorities submits relevant representations for any application received. If conditions are to be applied, they will have to be relevant and proportionate to the matters raised in representations by the Responsible Authorities.
- 18.6 The recommended risk assessment conditions are:  
Prevention of Crime and Disorder - The licensee shall undertake a risk assessment of any significant promotion or event (as defined below) using the MPS Promotion/Event Risk Assessment (Form 696) or an equivalent and provide a copy\* to the Metropolitan Police Service and the licensing authority not less than **14 days** before the event is due to take place.
- 18.7 Where an 'event' has taken place, the licensee shall complete an MPS after Promotion/Event Debrief Risk Assessment (Form 696A) and submit this\* to the Metropolitan Police and the Licensing Authority, within 14 days of the conclusion of the event.  
\*submission of electronic documents by e-mail is preferred.
- 18.8 **Definition of a 'Significant Event'**  
This definition relates to events that require a Promotion/Event Risk Assessment Form 696.
- 18.9 A significant event will be deemed to be: any occasion in a premises licensed under the provisions of the Licensing Act 2003, where there will be a live performer(s) – meaning musicians, DJs, MCs or other artiste; that is promoted in some form by either the venue or an outside promoter; where entry is either free, by invitation, pay on the door or by ticket.
- 18.10 Licensees are advised to consult the local Metropolitan Police Licensing Unit to clarify whether their proposed event is significant.

## **19. Temporary Event Notices Process**

- 19.1 The Licensing Act 2003 allows small scale events (for less than 500 people at a time and lasting for no longer than 96 hours) which include any licensable activities to be held without the need for a premises licence. However advance notice must be given to the Licensing Authority and the Metropolitan Police of at least ten full working days.
- 19.2 Under the Licensing Act 2003, the number of temporary event notices that a personal licence holder can give is limited to 50 a year. People who are not personal licence holders can only give notice of 5 events in any one year. The number of times a premise can be used in one year is limited to 12. In any other circumstances, full premises licence or club premises certificate would be required for the period of the event involved.
- 19.3 The Licensing authority, with other partners will assist organisers to plan their events safely, check that the limitations set down in the Act are being observed and that there are no limitations or restrictions under other legislation.
- 19.4 The Police must also be notified of an application. This allows the Police to intervene if necessary in order to prevent crime and disorder.
- 19.5 Organisers of outdoor events are strongly advised to contact the Council's Arts and Leisure section, Environmental Health and Health and Safety as well as the emergency services for advice.

## **20. Review Process**

### **20.1 Working in partnership**

The promotion of the licensing objectives and achieving common aims relies on a partnership between licence holders, authorised persons, interested parties, the Police, Fire Authority and the Licensing Authority. The licensing authority will try to give licence holders early warning of any concerns about problems identified at any licensed premises and identify the need for improvement

### **20.2 Purpose of reviews:**

The review process is integral to the operation of the Licensing Act 2003. The Government's intention is a light touch regulatory regime with regard to the granting of new licences and variations. Only when there have been representations will the Licensing Authority have the discretion not to grant licences. If problems arise in connection with a premises licence, it is for the Responsible Authorities and the interested parties to apply for a review of the licence. Without such representations, the Licensing Authority cannot review a licence.

### 20.3 **Proceedings**

Under the Licensing Act 2003 for reviewing a premises licence are provided as protection for the community, where problems associated with crime and disorder, public safety, public nuisance or the protection of children from harm are occurring.

### 20.4 **Initiating Reviews**

At any stage, following the grant of a premises licence, any of the Responsible Authorities or any interested party, such as a resident living in the vicinity of the premises and Councillors, may ask the Licensing Authority to review the licence because of a matter arising at the premises in connection with any of the four licensing objectives.

20.5 The Police and Environmental Health Officers have various additional powers of closure. The Licensing Authority cannot initiate its own reviews of premises licences, however, officers of the London Borough of Tower Hamlets who are specified as Responsible Authorities under the Act may request reviews

20.6 In every review case an evidential basis for the allegations made will need to be submitted to the Licensing Authority. When a request for a review is initiated from an interested party, the Licensing Authority is required to first consider whether the representation made is irrelevant to the licensing objectives, or is vexatious or frivolous.

20.7 Where the Licensing Authority receives a request for a review in accordance with the closure procedures contained in legislation it will arrange a hearing in accordance with the regulations set out by the Government.

20.8 Powers following determination of review - The Licensing Authority in determining a review may exercise the range of powers given to them to promote the licensing objectives. The Licensing Authority must take the following steps if it considers it necessary to promote the licensing objectives:

- a. Modifying the conditions of the premises licence (which includes the addition of a condition or any alteration or omission of an existing condition temporarily or permanently);
- b. Excluding a licensable activity from the scope of the licence;
- c. Removing the designated supervisor;
- d. Suspending the licence for a period not exceeding three months;
- e. Revoking the licence.

**Steps that can be taken by the Council include:**

- a. Taking no action;
  - b. Issuing an informal warning;
  - c. Recommending improvements within a particular time;
  - d. Monitoring by regular inspection and invite to seek a further review if problems persist.
- 20.9 Where reviews arise and the Licensing Authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, the revocation of the licence will be seriously considered. However, revocation also remains an option if other licensing objectives are being undermined.

**21 Responsibility of Licence Holders and Designated Premises Supervisors**

- 21.1 When licence holders or designated premises supervisors move, leave a premise or dispose of their premises they remain responsible in law until they have informed the licensing authority and arranged a transfer, which may involve notification to the Police as well. Any licensees or designated premises supervisors who are not sure what to do should contact the licensing authority.

**22 “No Traveller” and similar signs**

- 22.1 When its discretion is engaged and a relevant representation is made relating to the exclusion or discouragement of any minority adult group the Licensing Authority will add a condition which forbids such as practice.
- 22.2 The Licensing Authority is especially concerned that such practices adversely affect social cohesion and are likely to hinder the promotion of the licensing objective relating to law and order.

**23 Promotion of Racial Equality**

- 23.1 Legislation requires the local authority to have due regard to the elimination of unlawful discrimination and to promote equality of opportunity and good relations between persons of different racial groups. The Licensing Authority expects all licence applications to be consistent with this duty.

23.2 The Council as an organisation has a race equality scheme and monitoring licensing forms a part of that overall scheme.

## 24 Duplication

24.1 As far as possible the Licensing Authority will seek to avoid duplication with other regulatory regimes. The Licensing Authority will however impose tailored conditions where it judges it necessary to meet the licensing objectives.

## 25 Administration, Exercise and Delegation of Functions

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

25.2 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.

25.3 The Table on the following page sets out the agreed delegation of decisions and functions to Licensing Committee / Sub-Committees and Officers

<b>Matter to be dealt with</b>	<b>Full Committee</b>	<b>Sub Committee</b>	<b>Officers</b>
Application for personal licence		Police objection including unspent convictions	If no objection made
Application for premises licence/club premises certificate		If a relevant representation made	If no relevant representations are made
Application for provisional statement		If a relevant representation made	If no relevant representations are made
Application to vary premises licence/club premises certificate		If a relevant representation made	If no relevant representations are made
Application to vary designated premises supervisor		If police objection	All other cases
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If police objection	All other cases
Application for interim		If police objection	All other cases

authorities			
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 consultee and not the relevant authority considering the application		All cases	
Determination of a police objection to a temporary event notice		All cases	
Decision on whether a minor variation application is valid, the need to go out to consultation and determination.			All cases

- 25.4 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. These decisions cannot be reversed.
- 25.5 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.
- 25.6 The officers to exercise the discretion are officers who are responsible for the Licensing function, who are given the appropriate delegated authority.

# Appendix 1:

## List of Responsible Authorities

There are a number of “Responsible Authorities”. These have been designated by the Government. Any variation application should be discussed with the relevant authorities first. All new and variation applications have to be sent to the responsible authority.

If you are not sure you will need to check which organisation is responsible for health and safety before you send off your forms.

- (a) **The Chief Officer of Police** for any Police area in which the premises are situated

**Metropolitan Police Service**

Tower Hamlets Division  
Licensing Office  
Bethnal Green Police Station  
12 Victoria Park Square  
London E2 9NZ

Tel: 020 8217 4118

- (b) **The Fire Authority** for any in which the premises are situated –

**Fire Safety Regulation**

NE 2 Area  
London Fire Brigade  
169 Union Street  
London  
SE1 0LL

Tel: 020 8555 1200

- (c) The enforcing Authority within the meaning given by Section 18 of the Health and Safety at work etc. Act 1974 and the local Weights and Measures Authority (within the meaning for section 69 of the Weights and Measures Act 1985) for any area in which the premises are situated –

**i.) Health and Safety**

London Borough of Tower Hamlets  
Environment Commercial and Trading Standards  
Mulberry Place (AH)  
PO Box 55739  
5 Clove Crescent  
London E14 1BY

Tel: 020 7364 5008

**OR**

ii.) Health and Safety Executive  
Field Operations Division  
4<sup>th</sup> Floor, North Wing,  
Rose Court, 2 Southwark Bridge  
London SE1 9HS

Tel: 020 7556 2100

OR

iii.) Maritime Coastguard Agency  
Marine Office  
Central Court  
1B Knoll Rise  
Orpington, Kent  
BR6 0JA

Tel: 0168 9890400

**AND**

iv.) Local Weights and Measures Authority  
Trading Standards  
Administration Section  
Mulberry Place (AH)  
PO Box 55739  
5 Clove Crescent  
London E14 1BY

Tel: 020 7364 5008

**\*Each licensee should know which Authority is responsible for their Health and Safety – a copy of the application should be sent to the relevant Authority.**

(d) The local **Planning Authority** within the meaning given by the Town and Country Planning Act 1990 (c.8) for any area in which the premises are situated –

Directorate of Development and Renewal  
Development Control  
Mulberry Place (AH)  
P.O. Box 55739  
5 Clove Crescent  
London E14 1BY

Tel: 020 7364 5009

- (e) The local Authority by which statutory functions are exercisable in any area in which the premises are situated in relation to minimising or preventing the risk of **Pollution** of the environment or of harm to human health –

London Borough of Tower Hamlets

**Environmental Protection**

Administration Section

Mulberry Place (AH)

PO Box 55739

5 Clove Crescent

London E14 1BY

Tel: 020 7364 5007

- (f) A body which:
- i.) Represents those who, in relation to any such area, are responsible for, or interested in, matters relating to 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

Jane Cooke, Group Manager, **Child Protection**

CPRS Unit

2<sup>nd</sup> Floor

Mulberry Place

5 Clove Crescent

London

E14 2BG

Tel: 020 7364 3496

This list can also be found at:

[www.towerhamlets.gov.uk/data/business/data/regulations/data/licensing-act-2003](http://www.towerhamlets.gov.uk/data/business/data/regulations/data/licensing-act-2003)

## Appendix 2

### Mandatory Conditions

The Policing and Crime Act 2009 allowed the Government to impose mandatory conditions with regard to the responsible retailing of alcohol. These conditions must be intended to support and actively promote the licensing objectives. The aim of the mandatory conditions is to ensure that those businesses, both small and large, who are selling alcohol irresponsibly, act more responsibly to help tackle alcohol-related crime and disorder.

The mandatory licensing conditions apply to all alcohol retailers. They refer to irresponsible drink promotions, banning the dispensing of alcohol directly into the mouth, provision of free tap water for customers, ensuring that an age verification policy is in place, and ensuring that smaller measures are made available to customers.

#### From 6<sup>th</sup> April 2010

**(1)** The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

**(2)** In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children—

**(a)** games or other activities which require or encourage, or are designed to require or encourage, individuals to—

**(i)** drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or

**(ii)** drink as much alcohol as possible (whether within a time limit or otherwise);

**(b)** provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);

**(c)** provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;

**(d)** provision of free or discounted alcohol in relation to the viewing on the premises of a

sporting event, where that provision is dependent on—

- (i) the outcome of a race, competition or other event or process, or
- (ii) the likelihood of anything occurring or not occurring;

(e) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.

**2.** The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

**3.** The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.

**In addition From 10<sup>th</sup> October 2010:**

**4.(1)** The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

(2) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

**5.** The responsible person shall ensure that—

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—

**(i)** beer or cider: ½ pint;

**(ii)** gin, rum, vodka or whisky: 25 ml or 35 ml; and

**(iii)** still wine in a glass: 125 ml; and

**(b)** customers are made aware of the availability of these measures.

## **Appendix 3:**

### **List of Government Pool Conditions from the S.186 Guidance of the Licensing Act 2003**

#### **Conditions relating to the prevention of crime and Disorder**

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

- 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. 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.

## **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) A requirement that the text/pager equipment is kept in working order at all times;
- b) 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;
- c) 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:

- a) preventing the admission and ensuring the departure from the premises of the drunk and disorderly, without causing further disorder;
- b) keeping out excluded individuals (subject to court bans or imposed by the licence holder);
- c) searching and excluding those suspected of carrying illegal drugs, or carrying offensive weapons; and
- d) 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 Appendix E).

## **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:

- A. given to customers on the premises whether at the bar or by staff service away from the bar;
- B. 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:

- A. 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.

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 Appendix E).

## **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 positioning 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 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 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.

## **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.

## **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) a prescribed capacity;

b) an appropriate ratio of tables and chairs to customers based on the capacity;

and

c) the presence of SIA registered security teams to control entry for the purpose of compliance with the capacity limit.

# Annex E

## 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 F. 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 011 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](http://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.

## **People with Disabilities**

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

- A. When people with disabilities are present, adequate arrangements exist to enable their safe evacuation in the event of an emergency; and
- B. people with disabilities 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 can be easily opened without the use of a key, card, code or similar means;

- A. doors at such exits are regularly checked to ensure that they function satisfactorily and a record of the check kept;
- B. any removable security fastenings are removed whenever the premises are open to the public or occupied by staff;
- C. 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);
- D. fire resisting doors to ducts, service shafts, and cupboards shall be kept locked shut; and
- E. 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 Log-book.

## **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:

- 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- 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, 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;
- 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 F

## Theatres, cinemas, concert halls and similar places (promotion of public safety)

In addition to the points made in Annex E, 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 below:

- Between 1-100 members of the audience present on a floor – 1 attendant must be present on that floor.
- Between 101-250 members of the audience present on a floor – 2 attendants must be present on that floor.
- Between 251 - 500 members of the audience present on a floor – 3 attendants must be present on that floor.
- Between 501-750 members of the audience present on a floor – 4 attendants must be present on that floor.
- Between 75-1000 members of the audience present on a floor – 5 attendants must be present on that floor.

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 seat ways or cause a tripping hazard or obstruction.

- (f) A copy of any certificate relating to the design, construction and loading of any temporary seating shall be kept available at the premises and shall be shown to any authorised person on request.

## **Standing and sitting in gangways etc.**

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

## **Drinks**

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

## **Balcony Fronts**

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

## **Special effects**

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

Special effects include:

- dry ice machines and cryogenic fog;
- smoke machines and fog generators;
- pyrotechnics, including fireworks;
- real flame;
- firearms;
- motor vehicles;
- strobe lighting;
- lasers (see HSE 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 below:

- Between 1-250 members of the audience present on a floor – 2 attendants must be present on that floor.
- 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 below:

- Between 1 - 500 members of the audience present on the premises – 2 attendants must be present on that floor and 1 other staff member must be on the premises who will be available to assist in the event of an emergency

- Between 501 - 1000 members of the audience present on the premises – 3 attendants must be present on that floor and 2 other staff member must be on the premises who will be available to assist in the event of an emergency
- Between 1501 or more members of the audience present on the premises – 5, plus one for every 500 (or part thereof) persons (or part thereof) persons over 2000 on the premises, attendants must be present on that floor and 5 plus one for every 500 over 2000 on the premises other staff member must be on the premises who will be available to assist in the event of an emergency

- (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 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 G

## 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 H

## 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 23:00, 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 20:00 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 18's 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; or 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 F).

## **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.

# Annex I

## Statutory qualifying conditions for clubs

The following qualifying conditions for clubs are extracted from the Licensing Act 2003.

### 62 The general conditions

- (1) The general conditions which a club must satisfy if it is to be a qualifying club in relation to a qualifying club activity are the following.
- (2) Condition 1 is that under the rules of the club persons may not —
  - (a) be admitted to membership, or
  - (b) be admitted, as candidates for membership, to any of the privileges of membership, without an interval of at least two days between their nomination or application for membership and their admission.
- (3) Condition 2 is that under the rules of the club persons becoming members without prior nomination or application may not be admitted to the privileges of membership without an interval of at least two days between their becoming members and their admission.
- (4) Condition 3 is that the club is established and conducted in good faith as a club (see section 63).
- (5) Condition 4 is that the club has at least 25 members.
- (6) Condition 5 is that alcohol is not supplied, or intended to be supplied, to members on the premises otherwise than by or on behalf of the club.

### 63 Determining whether a club is established and conducted in good faith

- (1) In determining for the purposes of condition 3 in subsection (4) of section 62 whether a club is established and conducted in good faith as a club, the matters to be taken into account are those specified in subsection (2).
- (2) Those matters are —
  - (a) any arrangements restricting the club's freedom of purchase of alcohol;
  - (b) any provision in the rules, or arrangements, under which —
    - (i) money or property of the club, or
    - (ii) any gain arising from the carrying on of the club, is or may be applied otherwise than for the benefit of the club as a whole or for charitable, benevolent or political purposes;

- (c) the arrangements for giving members information about the finances of the club;
  - (d) the books of account and other records kept to ensure the accuracy of that information;
  - (e) the nature of the premises occupied by the club.
- (3) If a licensing authority decides for any purpose of this Act that a club does not satisfy condition 3 in subsection (4) of section 62, the authority must give the club notice of the decision and of the reasons for it.

## **64 The additional conditions for the supply of alcohol**

- (1) The additional conditions which a club must satisfy if it is to be a qualifying club in relation to the supply of alcohol to members or guests are the following.
- (2) Additional condition 1 is that (so far as not managed by the club in general meeting or otherwise by the general body of members) the purchase of alcohol for the club, and the supply of alcohol by the club, are managed by a committee whose members —
- (a) are members of the club;
  - (b) have attained the age of 18 years; and
  - (c) are elected by the members of the club.

This subsection is subject to section 65 (which makes special provision for industrial and provident societies, friendly societies etc.).

- (3) Additional condition 2 is that no arrangements are, or are intended to be, made for any person to receive at the expense of the club any commission, percentage or similar payment on, or with reference to, purchases of alcohol by the club.
- (4) Additional condition 3 is that no arrangements are, or are intended to be, made for any person directly or indirectly to derive any pecuniary benefit from the supply of alcohol by or on behalf of the club to members or guests, apart from
- (a) any benefit accruing to the club as a whole, or
  - (b) any benefit which a person derives indirectly by reason of the supply giving rise or contributing to a general gain from the carrying on of the club.

## **65 Industrial and provident societies, friendly societies Etc.**

- (1) Subsection (2) applies in relation to any club which is —
  - (a) a registered society, within the meaning of the Industrial and Provident Societies Act 1965 (c. 12)(see section 74(1) of that Act),
  - b) a registered society, within the meaning of the Friendly Societies Act 1974 (c). (46) (see section 111(1) of that Act), or
  - (c) a registered friendly society, within the meaning of the Friendly Societies Act 1992 (c. 40) (see section 116 of that Act).
  
- (2) Any such club is to be taken for the purposes of this Act to satisfy additional condition 1 in subsection (2) of section 64 if and to the extent that —
  - (a) the purchase of alcohol for the club, and
  - (b) the supply of alcohol by the club, are under the control of the members or of a committee appointed by the members.
  
- (3) References in this Act, other than this section, to —
  - (a) subsection (2) of section 64, or
  - (c) additional condition 1 in that subsection, are references to it as read with subsection (1) of this section.
  
- (4) Subject to subsection (5), this Act applies in relation to an incorporated friendly society as it applies in relation to a club, and accordingly —
  - (a) the premises of the society are to be treated as the premises of a club,
  - (b) the members of the society are to be treated as the members of the club,
  - and (c) anything done by or on behalf of the society is to be treated as done by or on behalf of the club.
  
- (5) In determining for the purposes of section 61 whether an incorporated friendly society is a qualifying club in relation to a qualifying club activity, the society is to be taken to satisfy the following conditions —
  - (a) condition 3 in subsection (4) of section 62,
  - (b) condition 5 in subsection (6) of that section,
  - (c) the additional conditions in section 64.
  
- (6) In this section "incorporated friendly society" has the same meaning as in the Friendly Societies Act 1992 (see section 116 of that Act).

# Annex J

## The Safer Clubbing Checklist for club owners, managers and event promoters

The role of club owners, managers and event promoters is to ensure that all aspects of their venue are designed and run in ways which maximise the safety of customers, performers and staff.

Key activities of club owners, managers and event promoters include:

- Communicating all safety requirements clearly to performers ensuring that they are familiar with and understand the safety requirements for the venue
- Developing a constructive working relationship with licensing authority officers and police officers with licensing responsibilities
- Developing a venue drug policy in consultation with licensing and police officers
- Ensuring that all staff are aware of their responsibilities within the drug policy and that they receive training and support to discharge these fully
- Employing door supervisors from a reputable company and with SIA Accreditation
- Employing experienced and fully trained first aiders
- Providing free and easily accessible supplies of cold water and ensuring the provision of water is supervised to prevent contamination of water by others (a Mandatory Condition)
- Liaising with appropriate drug service personnel to provide training to staff, and information, advice and support to clubbers
- Considering inviting and supporting drug outreach work, including integrating outreach workers into the staff team
- Sharing intelligence on drug use and drug dealing with police officers and other local venues
- Informing clubbers of their rights and responsibilities, and encouraging feedback on safety issues
- Considering the provision of safe transport home
- Ensuring that all staff are aware of the law and the responsibilities of the club to work within it

# Annex K

## Key actions for licensing authorities in connection with Safer Clubbing

In connection with Safer Clubbing, the role of the licensing authority officers is to take the lead in ensuring that dance venues are designed and run in a way which maximises the safety of customers, performers and staff. With the police, they are responsible for monitoring and enforcing compliance with regulations.

Key activities of licensing authority officers include:

- Providing clear information on how to apply for a premises licence
- Providing induction training to councillors serving on licensing committees
- Advising venue owners on how to establish and maintain a safe environment
- Advising venue owners, in partnership with police officers and police licensing officers, on developing a venue drug policy
- Ensuring that sufficient first aiders are always present and are trained to a high Standard
- Informing clubbers of their rights
- Liaising with police licensing and other officers to ensure good communication about potentially dangerous venues
- Encouraging venues to use outreach services
- Encouraging venues to provide safe transport home
- Surveying clubbers on their views of the safety aspects of different local venues
- Monitoring the operation of clubs at times of peak occupancy
- Ensuring that door supervisors are from a reputable company and with SIA Accreditation
- Ensuring that door supervisors are properly trained

# Appendix 3:

## Licensing Contact Details

A printed version of the policy can be obtained from:

**The Licensing Section,  
Mulberry Place (AH),  
PO Box 55739,  
5 Clove Crescent,  
London E14 1BY**

Telephone: 020 7364 5008

Email: [licensing@towerhamlets.gov.uk](mailto:licensing@towerhamlets.gov.uk)

It is also available for inspection at the above office.