

5 November 2007	ITEM No. 5
Licensing Committee	
REPORT INTRODUCING THE DRAFT REVIEWED LOCAL LICENSING POLICY	
Portfolio Holder: Cllr W. Herd – Commissioning and Community Well-being	
Report Author: Gavin Dennett – Team Leader Safety, Licensing and Nuisance Control	
Accountable Head of Service: Andrew Millard – Head of Strategic Planning and Delivery	
Accountable Director: Bill Newman – Sustainable Communities	
Purpose: To introduce the revised Local Licensing Policy to members of the Licensing Committee	
Wards affected: All	Key decision: Yes
This report is Public	

Comment [s]: **PLEASE CLICK THIS BOX ONCE and enter the date of the meeting (in font 16, not capitals)**

Comment [s]: **Please leave this for completion by Democratic Services**

Comment [s]: **PLEASE CLICK THIS BOX ONCE and enter the name of the Committee you are reporting to (in font 16, not capitals)**

Comment [s]: **PLEASE CLICK THIS BOX ONCE and enter the title of your**

Comment [s]: **Please state the Cabinet Member and the Portfolio to which the**

Comment [s]: **Briefly state the purpose of the report**

Comment [s]: **Name/All/None**

Comment [s]: **Yes/No/Not Applicable**

Comment [s]: **public/exempt (state reasons)**

Comment [s]: **The recommendations should be set out in bold in the**

Comment [s]: **If used, this could briefly explain why the report is on the**

Comment [s]: **If used, this could briefly explain the factual and policy**

1. RECOMMENDATIONS:

1.1 That the Licensing Committee recommends the draft reviewed Policy given at appendix 1 for presentation to the Full Council for adoption at its meeting of 28th November 2007

2. INTRODUCTION:

2.1 The Licensing Act 2003 required the Council as a Licensing Authority to produce a statement of Local Licensing Policy. The legislation further requires the Council to review, determine and publish its Policy with respect to the exercise of its licensing functions every 3 years.

2.2 In compliance with the above requirement a draft of the reviewed Local Licensing Policy has been prepared by the Team Leader of Safety, Licensing and Nuisance Control (Appendix 1). As part of this review interested parties were consulted and were given access to a copy of the draft of the reviewed policy. Those consulted were invited to make representations on the Policy.

3. BACKGROUND:

3.1 The Licensing Act 2003 established a single integrated scheme for licensing premises used for the supply of alcohol, regulated entertainment or the provision of late night refreshment.

3.3 In accordance with the requirements of this legislation the Council has reviewed its original policy. A draft reviewed Policy has been prepared. The review required a consultation process to be followed whereby interested parties were given 3 months to make representations or comment on the reviewed Policy. This consultation process commenced on 12th July 2007 and the end date for responses was 12th October. Responses received are detailed (Appendix 2).

4. ISSUES AND/OR OPTIONS:

4.1 The Council as a Licensing Authority are obliged to have a statement of Local Licensing Policy in place. The current Policy expires on 6th January 2007. It is therefore imperative that a reviewed Policy is adopted by the Full Council before this date.

5. IMPACT ON CORPORATE PRIORITIES:

5.1 Thurrock's local statement of licensing policy underpins the authority's administration of the licensing regime. It should accord with the general principles in the Secretary of State's Guidance and promote the licensing objectives:

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

5.2 This contributes to the safer environment corporate objective by helping to ensure that the above licensing objectives are met and reduce any adverse impacts licensed premises would otherwise have on the well being of the community.

Comment [s]: **Other headings may be appropriate. The report should outline the reasoning that leads to its recommendations and must include:**

- 1. a brief summary of options considered;**
- 2. consultation outcomes**
- 3. a risk assessment.**
- 4. Whether the responsible cabinet members have been consulted/contributed to the report (NB professional and political advice must be clearly distinguished)**

- See para.5.5 of the report writing guidelines.

Comment [s]: **The report should clearly state how the report would promote or fit in with approved Council policies - See para. 5.7 of the report writing guidelines**

Comment [s]: **State the names of any approved policies that apply to the report or say "none"**

RELEVANT POLICIES

Local Licensing Policy

FINANCIAL IMPLICATIONS

(Prepared by: Tim Madden, Head of Corporate Finance 01375 652010)
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There are no financial implications directly arising out of this report.

LEGAL IMPLICATIONS

Prepared by: David Lawson, Senior Litigation Solicitor 01375 652834
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Section 5 of the Licensing Act 2003 requires the Council to determine and publish a statement of its licensing policy every three years. The Secretary of State designated 7 January 2005 as the beginning of the first three-year period. During each three year period the policy must be kept under review and the Council may make such revisions it considers appropriate. Before determining its licensing policy statement and any revisions to it, the Council is required to consult those persons referred to at Paragraph 3 of this report. Where revisions are made, the licensing authority must publish a statement of revisions or the revised licensing statement. The legal implications are as above and as well stated in the body of the report

Comment [s]: **As they apply:**
 - **Diversity and equality**
 - **Community safety**
 - **Welfare of children**
 - **Biodiversity and sustainability**

Comment [s]: **None/List and state location**

DIVERSITY IMPLICATIONS

(Prepared by: Olayinka Omojokun 01375 65 2472)
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There are no direct diversity implications contained in this report. However, the Licensing Policy referred to must be subjected to an Equality Impact Assessment.

OTHER IMPLICATIONS

None

BACKGROUND PAPERS

Licensing Act 2003
 Guidance issued under section 182 of the Licensing Act 2003

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Appendix 1



Regulation Department

Licensing Act 2003

Local Licensing Policy Statement

THURROCK COUNCIL

STATEMENT OF LICENSING POLICY

<u>CONTENTS</u>	<u>Page No</u>
A Profile of Thurrock	15
1. Introduction	17
The Licensing Objectives	17
Statement of Licensing Policy	18
Consultation	18
Links to other Strategies	18
Regulated Entertainment	19
Applications	20
Representations	21
Conditions	21
Delegation of Functions	22
The Need for Licensed Premises	23
Cumulative Impact of a Concentration of Licensed Premises	23
Advice and Guidance	23
Reviews	24
Transition Period and 'Grandfathers Rights'	24
Enforcement	24
2. Licensing Objectives	25
3. Prevention of Crime and Disorder	27
4. Public Safety	29
5. Prevention of Public Nuisance	30
6. Protection of Children from Harm	31

Thurrock Council Local Licensing Policy Statement

Thurrock Council resolved this Policy on the **(Insert Date)** in accordance with our obligations under the Licensing Act 2003. The policy takes effect on the, first day following the expiration of the current policy this being the **6th January 2008**.

Reference documents

- A. Guidance issued under Section 182 of the Licensing Act
- B. Thurrock's Community Plan August 2002.
- C. Thurrock's Community Strategy ('ASPIRE') November 2003
- D. Thurrock's Unitary Development Plan, on deposit 28th March 2003
- E. Thurrock's Crime and Disorder Reduction Strategy and Plan) March 2002 - 2005
- F. Thurrock's Corporate Community Safety Strategy April 2004 –March 2005
- G. Thurrock's Involvement And Consultation Strategy August 2002
- H. Thurrock's Cultural Strategy (Draft) 2004
- I. Thurrock's Local Transport Plan July 2000, 4th Annual Progress Report July 2004
- J. Race Relations Act 1976 (as amended)
- K. Thurrock's Child Protection Policy
- L. Thurrock's Health and Safety Enforcement Strategy (to be adopted)
- M. Alcohol Harm Reduction Strategy for England, 2004

Further copies of this document can be obtained from:

Thurrock Council
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The borough of Thurrock lies on the River Thames, just to the East of London. It covers an area of 165 sq km – more than half of which is green belt. It has over 18 miles of riverfront.

Thurrock has a wide-ranging economy, centred on logistics and the retail trade. There are a number of large and important industrial sites, including a large oil refinery and manufacturing industries. Thurrock is also home to the Lakeside shopping centre. With over 300 shops under one roof, this is one of the largest retail attractions in Europe.

Thurrock has licensed premises in most areas of the borough, many of which contribute to the history of the area by virtue of their age and their geographical position in the community. This is an established and growing licensed trade. As at July 2007, there are 322 Licensed Premises and 44 Clubs holding a licence. In addition, Thurrock Council currently grants and issues around 100 Licences for Temporary Events each year.

In 2001 our population was 143,128 in 58,485 households – a growth of 10% in 10 years. By mid-2002 it was estimated at 145,235. The majority of the population live in the main conurbations of Grays, Stanford/Corringham, South Ockendon/Belhus, Tilbury and the developing community of Chafford. With the establishment of Thurrock urban development corporation (UDC), future housing development is expected to raise the number of households considerably by 2021. Estimates range from 18,500 to 25,000 new dwellings and a rise of between 40% and 50% in population.

The current population is relatively young, with almost a quarter aged under 18 and 7% under 5. There are more than 9,000 people over 75 and this number is projected to increase considerably by 2011, reversing the trend elsewhere in South Essex. The black and minority ethnic (BME) population has increased from 2.4% to 4.7% in the past ten years. Although significantly less than the England average of 9.9%, the profile across wards ranges from 1.9% to 14.5% and across schools from 5% to 28%. The higher figures occur in areas of new development. Within the 0-15 age group, the BME representation rises to 6.15% and is 5.8% in the 25-49 group. This growth pattern is expected to continue at an accelerated pace with UDC development and as family formation of young people in Thurrock continues.

Over 30 different languages are currently spoken and this number is also expected to rise. The council recognises the benefits of a diverse community and the potential impact of these trends on shaping the future of Thurrock.

There are 3,634 commercial properties in Thurrock but the traditional manufacturing sector now only accounts for 11% of the business base. The impact of this trend away from manufacturing and towards service sector employment is that part-time male and part and full-time female employment are becoming the norm. Female unemployment is lower than male but female earnings are lower than male for the same or similar jobs and the pay gap is wider than elsewhere in the Eastern region or nationally.

Whilst Thurrock's ranking in deprivation has improved, deep pockets of deprivation are experienced in particular wards. The indices of deprivation 2004 show that Thurrock has 24% of identified communities (super output areas) in the lower quartile, 62% in the medium quartiles and 14% in the upper quartile. The most deprived have the highest levels of crime and anti-social behaviour, poorer health and a higher incidence of school age pregnancy. The Local Strategic Partnership (LSP) is developing a social inclusion strategy and we, together with our partners, are tackling the problems in a number of ways, such as through our local public service agreement.

Thurrock Unitary Council was formed in the 1998 local government review. There are 20 electoral wards and 49 seats on the Council. Ordinarily, Members serve for a mandate of four years. A ward re-organisation became effective on 10th June 2004 with all out elections being held.

The current political composition is as follows:

- 24 Conservative Councillors
- 22 Labour Councillors
- 1 Independent Councillor
- 1 Independent Socialist Councillor

Thurrock also has 2 MPs, both of whom represent the Labour Party.

The Council has operated the Leader-Cabinet model of governance since May 2000 and the Cabinet formally assumed new executive powers in June 2002. The Council has appointed a Licensing Committee that, together with its Sub-Committees, will carry out duties in line with the new licensing function. Our approach to area governance is a key part of our decision making structure. The Council has encouraged the establishment of associated community forums to which funding is devolved for local projects.

The Council has a Chief Executive and four corporate directors. Each director works with a team of heads of service who have responsibility for the day-to-day management of services and contribute to the strategic direction of the Council. Reporting to the Director of Sustainable Communities, the Head of Strategy, Environment and Development Services is charged with managing the Licensing Service, which includes administering the licensing function.

Shaping Thurrock (the area's LSP) was launched in January 2002 and published the community strategy - ASPIRE - in November 2003, following extensive consultation. The Council has a genuine and well-established commitment to partnership working and the LSP is developing as an effective umbrella for the various partnerships with an interest in the well being of the people of Thurrock.

STATEMENT OF LICENSING POLICY

1.0 INTRODUCTION

- 1.1 Thurrock Council is the Licensing Authority under the Licensing Act 2003 and is responsible for granting premises licences, club premises certificates, temporary events notices and personal licences in the Borough in respect of the sale and/or supply of alcohol and the provision of regulated entertainment and late night refreshment.
- 1.2 When assessing applications following the receipt of representations relating to the application the Licensing Authority must be satisfied that the measures proposed in the applicant's operating schedule will, as far as possible, achieve the desired outcomes. Where appropriate, this policy directs applicants to what the Licensing Authority expects to see addressed in their operating schedules. It also aims to assist applicants in understanding what the Licensing Authority is seeking to achieve, what will be the influencing factors and what control measures could be implemented by the applicant to achieve the desired outcomes.
- 1.3 However, it should be recognised that this policy covers a wide variety of premises and activities carried on in them including theatres, cinemas, restaurants, pubs, nightclubs, private members' clubs, village halls and community centres, as well as off-licences and late night food premises and vehicles selling hot food or hot drink after 11p.m. For this reason, this policy cannot detail all the factors that influence the achievement of the licensing objectives nor can this policy detail all the control measures that may be appropriate.

The Licensing Objectives

- 1.4 The 2003 Act requires the Council to carry out its various licensing functions so as to promote the four licensing objectives. These are the only matters which can be taken into account in determining an application and any conditions made must be necessary to achieve these objectives:
- The Prevention of Crime and Disorder
 - Public Safety
 - The Prevention of Public Nuisance
 - The Protection of Children From Harm
- 1.5 Applicants are advised to provide evidence in their operating schedules of the suitable and sufficient measures to be taken in respect of each of the four licensing objectives. These will reflect the individual style and characteristics of the premises and the activities going on there. Reference will need to be made to any additional arrangements and precautions required when a special event or promotion is planned, for example, where the event is likely to attract a larger audience.

Statement of Licensing Policy

- 1.6 The 2003 Act further requires that the Licensing Authority publishes a 'Statement of Licensing Policy' that sets out the policies the Licensing Authority will generally apply to promote the licensing objectives when making decisions on applications made under the Act.
- 1.7 This 'Statement of Licensing Policy' has been prepared in accordance with the provisions of the 2003 Act and having regard to the guidance issued under Section 182 of the Act. It has been drafted in partnership with the Essex Joint Licensing Officers' Forum, the Safer Thurrock Partnership and the Thurrock Drug and Alcohol Reference Group. These partnerships provide links to the Essex Chief Executives' Association's Crime and Disorder Steering Group, who will maintain a strategic overview of issues associated with the Licensing Act 2003.
- 1.8 This Policy Statement takes effect on **(Insert Date)** and will remain in force for a period of not more than 3 years. It will be subject to regular review and further consultation prior to January 2011.

Consultation

- 1.9 There are a number of groups who have a stake in the leisure industry, including providers, customers, residents and enforcers, all of whom have views and concerns that require consideration as part of the licensing function and promotion of the licensing objectives.
- 1.10 Broader cultural activities and entertainment may be affected by this policy. In developing its statement of licensing policy, the Council has considered views expressed by the local arts community and those of its own officers concerned with the development of the arts. As required, the licensing authority will consult National Association of Local Government Arts Officers (NALGAO) for practical help and advice in implementing the policy.
- 1.11 In developing this Policy Statement, the Licensing Authority consulted widely. Along with the Chief Police Officer for the District and the Essex County Fire and Rescue Service, the views of existing licence holders, businesses, voluntary groups and residents were also taken into account. Due consideration was given to the views of all those who responded to that consultation process.

Links to other Strategies

- 1.12 In preparing this statement of licensing policy, the Licensing Authority has had regard to and consulted those involved in its local strategies on crime prevention, planning, transport, culture, tourism and economic development, to ensure the proper co-ordination and integration of the aims and actions of these policies. Review and amendment of these strategies will be considered for their impact on this statement of licensing policy.

- 1.13 These include enforcement, promoting health and safety, nuisance control, tackling Anti-Social behaviour, Crime and Disorder and the Council's ASPIRE themes. The Council also has a general commitment to economic development, diversity, and promotion of cultural activities and has developed policies that cover these areas of interest. Licensing decisions inevitably influence the provision and scale of local leisure facilities.
- 1.14 Furthermore, arrangements will be made for the Licensing Committee to receive reports, when available and appropriate, on the needs of the local tourist economy to ensure that these are reflected in their considerations. Similarly when appropriate and available, the Licensing Committee will be appraised of the local employment situation and the need for new investment and employment.
- 1.15 To ensure proper integration with the Council's planning policies, the Licensing Committee will provide reports to the Planning Committee, where appropriate, on the situation regarding licensed premises in the area, including the general impact of alcohol related crime and disorder, to enable the planning committee to have regard to such matters when making its decisions.
- 1.16 The Licensing Authority recognises its responsibilities under the Race Relations Act, 1976, as amended by the Race Relations (Amendment) Act, 2000. The impact of this policy on race relations will be monitored through the Council's race diversity strategy.

Regulated Entertainment

- 1.17 There will inevitably be an overlap between Licensing Policy and the Council's Cultural Strategy. Specifically, to the extent that relevant information is available, the Licensing Authority will seek to monitor the impact of licensing on the provision of regulated entertainment, and particularly live music and dancing. Care will be needed to ensure that only necessary, proportionate and reasonable licensing conditions impose any restrictions on such events. Where there is any indication that licensing requirements are deterring such events, the licensing policy will be re-visited with a view to investigating how the situation might be reversed.
- 1.18 The emphasis will therefore be on reducing any unjustified application of the licensing scheme that could have a deleterious effect on the provision of entertainments. Ultimately when the Licensing Committee comes to determine contested applications, it can only take into account those matters that fall within the four licensing objectives. However, in making decisions it will be important to not allow the views of vocal minorities to always predominate over the interests of the community as a whole.
- 1.19 The Licensing Authority recognises that as part of implementing its cultural strategy, proper account should be taken of the need to encourage and promote a broad range of entertainment, particularly live music, dancing and

theatre, including the performance of a wide range of traditional and historic plays, for the wider benefit of communities. The natural concern to prevent disturbance in neighbourhoods will always have to be carefully balanced with these wider cultural benefits, particularly the cultural benefits for children.

- 1.20 The United Kingdom ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR) in 1976. Article 15 of the Covenant requires that progressive measures be taken to ensure that everyone can participate in the cultural life of the community and enjoy the arts. It is therefore important that the principles underpinning ICESCR are integrated, where possible, with the licensing authority's approach to the licensing of regulated entertainment.

Applications

- 1.21 When considering applications, the Licensing Authority will have regard to
- the Licensing Act 2003 and the licensing objectives,
 - Government guidance issued under Section 182 of the Licensing Act 2003,
 - any supporting regulations
 - this statement of licensing policy
- 1.22 This does not however undermine the rights of any person to apply under the 2003 Act for a variety of permissions and have the application considered on its individual merits, nor does it override the right of any person to make representations on any application or seek a review of a licence or certificate where they are permitted to do so under the 2003 Act.
- 1.23 When the Licensing Authority is considering any application, it will avoid duplication with other regulatory regimes, so far as possible, and does not intend to use the licensing regime to achieve outcomes that can be achieved by other legislation. In particular, its licensing functions will be discharged separately from its functions as the local planning authority. However, applications for premises licences for permanent commercial premises should normally be from businesses with planning consent for the property concerned. (Other permissions may be applicable to licensed premises and applicants are expected to ensure that such permissions are obtained where necessary).
- 1.24 When one part of the Council seeks a premises license from the licensing authority, the licensing committee and its officers will consider the matter from an entirely neutral standpoint. If relevant representations are made, for example, by local residents or the police they will be considered fairly by the committee. Those making representations genuinely aggrieved by a positive decision in favor of a local authority application by the licensing authority may be entitled to appeal to the magistrates' court and thereby receive an independent review of any decision made.

- 1.25 In all cases, applicants and those making representation in respect of applications to the Licensing Authority have a right of appeal to the Magistrates' Court against the decisions of the Council.
- 1.26 Applications will be approved, on the terms sought, unless representations are received.

Representations

- 1.27 The Chief Officer of Police, the Fire Authority, the Enforcing Authority for health and safety purposes, the local planning authority, the authority responsible for minimising or preventing the risk of pollution and the Child Protection Authority are all known as 'Responsible Authorities'. These responsible authorities may make representations on applications, so far as they relate to the promotion of the four licensing objectives, and request reviews once licences have been granted.
- 1.28 Local residents and businesses, in the vicinity of the premises subject to the application, or their representatives, (known as 'interested parties') are free to raise relevant representations. A representation would only be 'relevant' if it relates to the likely effect of the grant of the licence on the promotion of at least one of the four licensing objectives. In addition, the representation must not be frivolous or vexatious, and in the case of reviews, in addition, not repetitious.

Conditions

- 1.29 Licensing is about the appropriate control of licensed premises, qualifying clubs, temporary events and the people who manage them or hold personal licences within the terms of the 2003 Act. Where relevant representations are made, the Licensing Authority will seek to make objective judgements as to whether conditions may need to be attached to various authorisations and others in possession of relevant authorisations, to secure achievement of the licensing objectives. Any conditions arising from the operating schedule or as a result of representations will primarily focus on the direct impact of the activities taking place at licensed premises on those attending the premises and members of the public living, working or otherwise engaged in normal activity in the area concerned and will cover matters that are within the control of individual licensees.
- 1.30 The Licensing Authority acknowledges that the licensing function cannot be used for the general control of the anti-social behaviour of individuals once they are beyond the direct control of the licensee of any premises concerned. However, other mechanisms may be utilised, where appropriate, to tackle unruly or unlawful behaviour of consumers when beyond the control of the individual, club or business holding the licence, certificate or authorisation concerned.

These include:

- planning controls
- positive measures to create a safe and clean town environment in partnership with local businesses, transport operators and other departments of the local authority
- the provision of CCTV surveillance in town centres, ample taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols
- powers of local authorities to designate parts of the local authority area as places where alcohol may not be consumed publicly
- police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices
- the prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk
- the confiscation of alcohol from children and adults in designated areas
- police and/or local authority powers to close down instantly for up to 24 hours any licensed premises or temporary events on grounds of disorder, the likelihood of disorder or noise emanating from the premises causing a nuisance
- the power of the police, other responsible authorities or a local resident or business to seek a review of the licence or certificate in question

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

1.32 The Licensing Authority recognises that all applications should be considered on an individual basis and any condition attached to such a licence will be tailored to each individual premises, in order to avoid the imposition of disproportionate and other burdensome conditions on those premises. Standard conditions, other than mandatory conditions, will therefore be avoided and no condition will be imposed that cannot be shown to be necessary for the promotion of the licensing objectives.

Delegation of Functions

1.33 With the exception of the approval and review of its Licensing Policy, decisions on licensing matters will be taken in accordance with an approved scheme of delegation aimed at underlining the principles of timely, efficient and effective decision-making. The Licensing Committee will receive regular reports regarding licences determined by officers under delegated powers, in order to maintain an overview of the general situation.

The Need for Licensed Premises

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

Cumulative Impact of a Concentration of Licensed Premises

- 1.35 “Cumulative impact” means the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. The cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for a licensing authority to consider in developing its licensing policy statement.
- 1.36 The Licensing Authority acknowledges that a concentration of licensed premises in a particular area can result in an increased number of people walking through or congregating in streets during the night with the potential impact of an increase in crime, anti-social behaviour, noise pollution and other disturbance to residents, together with an increase in littering or fouling. In such cases the amenity of local residents can be placed under severe pressure but may not be attributable to any individual premises.
- 1.37 The Licensing Authority should only adopt a special policy on cumulative impact if there is evidence that a significant number of licensed premises concentrated in one area is resulting in unacceptable levels of crime and disorder or public nuisance.
- 1.38 The Licensing Authority, having regard to the evidence currently available, considers that there is no particular part of the district/borough causing a cumulative impact on any of the licensing objectives.
- 1.39 With regard to the potential cumulative effect of premises in an area should representations be received with regard to the cumulative effective of licensed premises, the licensing authority may consider the introduction of a “special policy” having followed the procedure set out in section 13.24 of the official guidance to the Licensing Act.

Advice and Guidance

- 1.40 The Licensing Authority recognises the valuable cultural, social and business importance that premises and events requiring a licence under the Licensing Act provide and welcomes the diversity of activities that are provided by licence holders.
- In respect of new businesses and developments involving licensable activities, the Council welcomes an early opportunity to offer advice and guidance; this includes prior to seeking planning permission. At this stage, it is often easier and more cost effective to integrate such issues as crime and

disorder, transport and public safety into the early design stages. With regard to existing businesses, discussions, prior to submitting an application under the Licensing Act 2003, will be encouraged to assist applicants to develop their operating schedule. The Council, Essex Police and/or Essex County Fire and Rescue Service will offer as much advice and guidance to applicants, as resources permit.

- 1.41 The Licensing Authority will also seek to liaise with applicants and/or mediate between applicants and others who may make representations, to achieve a satisfactory outcome for all involved, wherever possible and where resources permit. Where an applicant considers that mediation and liaison may be likely or probable, it is recommended that the applicant discuss his proposal with the licensing department/section and those from who they think representations are likely prior to submitting their application. Once an application has been lodged, there are statutory timescales imposed upon the application and determination process, which restrict the opportunity for such discussions, liaison and mediation.

Reviews

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

Enforcement

- 1.45 The Council delivers a wide range of enforcement services aimed at safeguarding the environment and the community and at providing a 'level playing field' on which businesses can fairly trade. The administration and enforcement of the licensing regime is one of these services. The Authority has adopted the Government's Enforcement Concordat designed to ensure effective and efficient public protection services. Specifically, the Council is committed to accord with the principles of good enforcement practice by carrying out its regulatory functions in a fair, open and consistent manner. The councils policies and procedures will be amended as necessary to comply with the stipulations of the Regulators Compliance Code when this is introduced to replace the Enforcement Concordat.
- 1.46 The Enforcement Concordat is based on the principles that businesses should:
- receive clear explanations from enforcers of what they need to do and by when;

- have opportunities to resolve differences before enforcement action is taken - unless immediate action is needed;
- receive an explanation of their rights of appeal

A copy of the Enforcement Concordat is available on request.

The principles established following the Hampton review will guide the enforcement activities of the Licensing Authority.

1.47 The Licensing Authority recognises the interests of both citizens and businesses and will work closely, with partners, to assist licence holders to comply with the law and the four licensing objectives it seeks to promote. However, proportionate but firm action will be taken against those who commit serious offences or consistently break the law. The Council has set clear standards of service and performance that the public and businesses can expect. In particular, a licensing enforcement policy has been created that explains how the Council will undertake its role as Licensing Authority and how the principles of effective enforcement will be achieved. This policy will be freely available from the Regulation Department as are details of the Council's corporate complaints procedures. These documents can also be viewed on the Council's website: www.thurrock.gov.uk.

1.48 The Licensing Authority has established an enforcement protocol with Essex Police, Essex County Fire and Rescue Service and Thurrock Council's Trading Standards service on enforcement issues. This protocol provides for the targeting of resources towards high-risk premises and activities that require greater attention, while providing a lighter touch in respect of low risk premises that are well operated.

2.0 LICENSING OBJECTIVES

2.1 The following sections set out the Licensing Authority's Policy relating specifically to the four licensing objectives:

the prevention of crime and disorder
 public safety
 the prevention of public nuisance
 the protection of children from harm

2.2 In each section relating to the objectives, the Licensing Authority has defined its intended outcome (in bold type). Each section then lists the influencing factors on the achievement of that objective but, because of the wide variety of premises and activities to which this policy applies, the lists provided are not exhaustive. Applicants should know their premises best and will be expected to address all aspects relevant to the individual style and characteristics of their premises and events.

2.3 Further, in each section, a list of possible control measures is provided, to be of assistance to applicants, but again is not intended to be an exhaustive list.

Many control measures achieve more than one objective but have not necessarily been listed under each objective. Similarly, applicants will not be required to mention a control measure more than once in their operating schedule.

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

- the number of staff available to supervise customers both ordinarily and in the event of an emergency
- the age of the customers
- the attendance by customers with disabilities, or whose first language is not English
- availability of suitable and sufficient sanitary accommodation
- nature and provision of facilities for ventilation

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

3.0 PREVENTION OF CRIME AND DISORDER

3.1 Thurrock Council is committed to further improving the quality of life for the people of the Borough of Thurrock by continuing to reduce crime and the fear of crime.

3.2 Section 17 of the Crime and Disorder Act 1998 introduced a wide range of measures for preventing crime and disorder and imposed a duty on Thurrock Council, Essex Police, and to include Essex Fire & Rescue Service and Thurrock Primary Care Trust to consider crime and disorder reduction in the exercise of all their duties. This has resulted in Thurrock's Crime and Disorder Strategy. The Licensing Act 2003 reinforces these aims and duties.

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

3.4 When addressing the issue of crime and disorder, the applicant should demonstrate that those factors that impact on crime and disorder have been considered.

These may include:

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

- Anti-social behaviour

3.5 The following examples of control measures are given for illustration purposes. Applicants will have to apply control measures as appropriate to ensure that they fulfil the objectives of the Licensing Act 2003, having regard to their particular type of premises and/or activities:

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

3.6 Within the operating schedule for premises from which alcohol will be sold, a Premises Supervisor must be designated ('Designated Premises Supervisor' DPS). The Licensing Authority will expect the DPS to, be a personal licence holder. The DPS will have day to day responsibility for licensable activities at the premises. The premises licence holder will be expected to employ competent staff who have undergone sufficient training and have relevant experience commensurate with the nature and style of entertainment provided and the capacity of the premises.

3.7 Certain temporary events are not required to be licensed but can be notified to the Licensing Authority using the Temporary Event Notice procedure. However, depending on the nature and location of such events, these can have serious crime and disorder implications. Organisers of these events are encouraged to submit their notification as soon as reasonably practicable to enable the police and the Licensing Authority to work with them to identify and reduce the risk of crime and disorder.

4.0 PUBLIC SAFETY

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

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

- the occupancy capacity of the premises
- the age, design and layout of the premises, including means of escape in the event of fire
- the nature of the licensable activities to be provided, in particular the sale or supply of alcohol, and/or the provision of music and dancing and including whether those activities are of a temporary or permanent nature
- the hours of operation (differentiating the hours of opening from the hours when licensable activities are to occur, if different)
- customer profile (e.g. age, disability)
- the use of special effects such as lasers, pyrotechnics, smoke machines, foam machines, etc.

The applicant will need to determine appropriate control measures to ensure they achieve the objectives of the Licensing Act 2003.

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

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

5.0 PREVENTION OF PUBLIC NUISANCE

- 5.1 Licensed premises have a significant potential to adversely impact on communities through public nuisances that arise from their operation. The Licensing Authority wishes to maintain and protect the amenity of residents and other businesses from the potential consequence of the operation of licensed premises whilst recognising the valuable cultural, social and business importance that such premises provide.
- 5.2 The Licensing Authority intends to interpret “public nuisance” in its widest sense, and takes it to include such issues as noise, light, odour, litter and anti-social behaviour, where these matters impact on those living, working or otherwise engaged in normal activity in an area.
- 5.3 Applicants need to be clear that the Licensing Authority will normally apply stricter conditions, including controls on licensing hours, where licensed premises are in residential areas and where relevant representations have been received. Conversely, premises for which it can be demonstrated have effective measures planned to prevent public nuisance, may be suitable for 24-hour opening.
- 5.4 In the case of shops, stores and supermarkets selling alcohol, the Licensing Authority will normally permit the hours during which alcohol is sold to match the normal trading hours during which other sales take place, unless there are exceptional reasons relating to disturbance or disorder.
- 5.5 Applicants are advised to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to prevent public nuisance, relevant to the individual style and characteristics of their premises and events.
- 5.6 When addressing the issue of prevention of public nuisance, applicants are advised to demonstrate that those factors that impact on the likelihood of public nuisance have been considered. These may include the following but the applicant will need to determine appropriate control measures to ensure they achieve the objectives of the Licensing Act 2003.
- the location of premises and proximity to residential and other noise sensitive premises, such as hospitals, hospices and places of worship
 - the hours of opening, particularly between 23.00 and 07.00
 - the nature of activities to be provided, including whether those activities are of a temporary or permanent nature and whether they are to be held inside or outside premises
 - the design and layout of premises and in particular the presence of noise limiting features
 - the occupancy capacity of the premises
 - the availability of public transport

- ‘wind down period’ between the end of the licensable activities and closure of the premises
- last admission time

5.7 The following examples of control measures are given to assist applicants who may need to take account of them in their operating schedule, having regard to their particular type of premises and/or activities. The applicant will need to determine appropriate control measures to ensure they achieve the objectives of the Licensing Act 2003.

- Effective and responsible management of premises
- Appropriate instruction, training and supervision of those employed or engaged to prevent incidents of public nuisance, e.g. to ensure customers leave quietly
- Control of operating hours for all or parts (e.g. garden areas) of premises, including such matters as deliveries
- Adoption of best practice guidance (e.g. Good Practice Guide on the Control of Noise from Pubs and Clubs, produced by Institute of Acoustics, Licensed Property: Noise, published by BBPA)
- Installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices
- Management of people, including staff, and traffic (and resulting queues) arriving and leaving premises
- Liaison with public transport providers
- Siting of external lighting, including security lighting
- Management arrangements for collection and disposal of litter
- Effective ventilation systems to prevent nuisance from odour

5.8 The licensing authority will take a liberal attitude to the occasional opening of licensed premises for international televised sporting events that attract significant public interest. Such allowance for opening at unusual times can be included in an applicant’s operating schedule.

5.9 In applying conditions on opening times where appropriate to do so, consideration shall be given to both the times that the licensable activities take place and the times the premises are open to the public, for instance to allow for “drinking up” time.

6.0 PROTECTION OF CHILDREN FROM HARM

6.1 The protection of children (those under the age of 18) from harm is a most important issue. It is hoped that family friendly premises will thrive, but the risk of harm to children remains a paramount consideration when determining applications.

6.2 The general relaxation in the Licensing Act giving accompanied children greater access to licensed premises is a positive step, aimed at bringing about a social change in family friendly leisure. Clearly this relaxation places

additional responsibilities upon licence holders. However, it is also recognised that parents and others accompanying children also have responsibilities.

- 6.3 The protection of children from harm includes the protection of children from moral, psychological and physical harm and in relation to the exhibition of films, or transmission of programmes or videos, this includes the protection of children from exposure to strong language and sexual expletives. In certain circumstances children are more vulnerable and their needs will require special consideration. Examples would include topless bar staff, striptease, lap, table or pole dancing, performances involving feigned violence or horrific incidents, feigned or actual sexual acts or fetishism, or entertainment involving strong and offensive language. This vulnerability includes their susceptibility to suggestion, peer group influences, inappropriate example the unpredictability of their age and the lack of understanding of danger.
- 6.4 The Licensing Authority considers that, on the one hand, there should be no presumption of giving children access or, on the other hand, no presumption of preventing their access to licensed premises. The Licensing Authority has no intention of imposing conditions requiring the admission of children and where no licensing restriction is necessary, admission of children will remain entirely a matter for the discretion of the individual licensee or club, or person who has given a temporary event notice.
- 6.5 Applicants are advised to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to protect children from harm, relevant to the individual style and characteristics of their premises and events.
- 6.6 Whilst children may be adequately protected from harm by the action taken to protect adults, they may also need special consideration and no policy can anticipate every situation. When addressing the issue of protecting children from harm, the applicant is advised to demonstrate that those factors that impact on harm to children have been considered. Areas that will give particular concern in respect of children include:
- Where entertainment or services of an adult or sexual nature are commonly provided
 - where there have been convictions of members of the current staff at the premises for serving alcohol to minors or with a reputation for underage drinking
 - with a known association with drug taking or dealing
 - where there is a substantial* element of gambling on the premises, and
 - where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.

(*Small numbers of Amusement With Prizes (AWP) machines within licensed premises would not be considered as being “substantial”).

6.7 The following examples of control measures are given to assist applicants and are considered to be amongst the most essential that applicants may wish to take account of in their operating schedule, having regard to their particular type of premises and/or activities but the applicant will need to determine appropriate control measures to ensure they achieve the objectives of the Licensing Act 2003.

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

These examples can be adopted in any combination.

6.8 In the case of film exhibitions, the Licensing Authority will expect licence and certificate holders and those who have given notice of a temporary event within the terms of the 2003 Act to implement measures that restrict children from viewing age-restricted films classified according to the recommendations of the British Board of Film Classification or the Council. In the case of a film exhibition that has not been classified, the Council will expect the licensee to conduct an assessment of the suitability of the film for exhibition to children and to implement measures that restrict viewing by children if necessary.

6.9 If considered appropriate, the licensing authority may require that adult supervisors be checked for suitability to work with children.

6.10 The Licensing Authority will rarely impose complete bans on access to children. In exceptional circumstances, conditions restricting access or excluding children completely may be considered necessary.

Respondent	Comments	Appraisal	Recommended Response
Chief Officer of Police	Police licensing changed location. Update contact details to – South Western Division Police Licensing Unit, 14 London Road, Wickford, Essex SS12 0AN	Not relevant in terms of this policy	Council recorded update accordingly
Local Fire Authority	No comments received		
Port of Tilbury	There is insufficient consideration given to parking requirements for events. Lack of proper provision presents considerable public nuisance. (2.8 pg16 & 5.6 pg20)	The control of parking is outside of the scope of the Licensing Act 2003 and is dealt with by other legislation	No amendment to policy recommended.
	The profile of Thurrock puts little importance of the value of having a 13 mile river frontage and there is no mention of the Port of Tilbury or Cruise Terminal and its impact on the local community & employment.	This policy is not a means to promote cultural activities or opportunities that may exist for such in Thurrock. The promotion of such activities should be dealt with separately	No amendment to policy recommended.

British Beer & Pub Association

Cumulative Impact - Section 1.39 – May we suggest that the position with regard to cumulative impact is clarified in this section. Should representations be received with regard to the cumulative effect of licensed premises, the licensing authority may wish to consider the introduction of a “special policy” having followed the procedure set out in section 13.24 of the official guidance to the Licensing Act.

The use of conditions to control cumulative impact would require a policy to be agreed and implemented relating to the subject area in the area.

Amend Section 1.39 to say – With regard to the potential cumulative effect of premises in an area should representations be received with regard to the cumulative effect of licensed premises, the licensing authority may consider the introduction of a “special policy” having followed the procedure set out in section 13.24 of the official guidance to the Licensing Act 2003.

Enforcement Section 1.46 - We would welcome a recognition of the Hampton principles of inspection and enforcement in this section, which include the following:
 · No inspection should take place without a reason
 · Regulators should recognise that a key element of their activity will be to allow or even encourage, economic progress and only to intervene when there is a clear case for protection

It is agreed that the inclusion of the suggested wording regarding the Hampton Principles would clarify the position regarding inspection.

The principles established following the Hampton review will guide the enforcement activities of the Licensing Authority.

Licensing Objectives

The Association recognises that the lists of control measures given for each licensing objective are meant as examples and would not be applied in all cases. However, some of the examples given do not easily translate into conditions on licences and would be unenforceable, although the BBPA would support them as good practice. Conditions should be specific and should not seek to “micro-manage” premises.

For example -

2.6 – the BBPA agrees that staff training is an important aspect of managing licensed premises but such matters cannot be offered as conditions.

Alternative wording recommended to clarify this point

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

2.7 - there is no mechanism for the Licensing Authority to require applicants to include an occupancy limit in their operating schedules. Such an approach, would make a capacity limit a blanket requirement for the vast majority of licensed premises. Again, blanket conditions are prohibited under the new Licensing Act and cannot be imposed except where there are valid objections on a licence on the grounds of public safety. The relevant authority (namely the fire authority in this instance) may advise on those grounds.

Recommend change in wording to address the deficiency highlighted by the consultee

In addition, the occupancy capacity for premises, and events as appropriate, is also considered to be an essential factor in the achievement of the four licensing objectives, (except in respect of premises licensed for the consumption of food and/or alcohol off the premises). The Licensing Authority would like to see the issue of occupancy capacity considered and addressed, where necessary, within an applicant's operating schedule.

2.9 – any agreement to a capacity for premises or event will be interpreted as a requirement to provide permanent monitoring.

Recommend change in wording to address the deficiency highlighted by the consultee

Prevention of Crime and Disorder

Insert amended wording

Section 3.5 – many of the control measures listed in this section cannot be transferred into conditions and again the licensing authority should not mislead applicants into believing they must be included within the operating schedule:

The following examples of control measures are given for illustration purposes. Applicants having regard to their particular type of premises and/or activities will need to apply control measures as appropriate, to ensure they fulfill the objectives of the Licensing Act 2003:

- Effective and responsible management of the premises - Such a subjective condition could not be reasonably enforced
- Training and supervision of staff - again, this is subjective – who would decide what is appropriate?
- Acceptance of accredited “proof of age” cards - this is unnecessary, given the sanctions in law on underage sales, and unenforceable

- Effective and responsible management of premises
- Training and supervision of staff
- Adoption of best practice guidance (e.g. Safer Clubbing, the National Alcohol Harm Reduction Strategy Toolkit and other voluntary codes of practice, including those relating to drinks promotions e.g. The Point of Sale Promotions published by BBPA, Security in Design published by BBPA and Drugs and Pubs, published by BBPA)
- Acceptance of accredited ‘proof of age’ cards e.g. PASS,

locally
approved 'proof of age' cards
e.g. 'Prove It' and/or 'new type'
driving licences with
photographs

- Provision of effective CCTV in the vicinity of the premises
- Employment of Security Industry Authority licensed Door staff
- Provision of toughened or 'safe-break' plastic drinking vessels and
- bottles
- Provision of secure, deposit boxes for confiscated items ('sin bins')
- Provision of litterbins and other security measures, such as

lighting, outside premises

- Membership of local 'Pubwatch' schemes or similar organisations

· Provision of toughened or “safe break” plastic drinking vessels and bottles – the BBPA (and the Government) believes that a risk-based, rather than blanket, approach to requiring licensed premises to use safer alternatives is the best way to tackle the problem of glass-related injuries. The BBPA has consolidated good practice on combating violence in licensed premises into a guide to risk assessment. This is available on our website at www.beerandpub.com.

Pubwatch - as a major supporter of National Pubwatch we are very keen that public houses participate in their local Pubwatches, but we are opposed to such participation being a condition of the licence. Pubwatches are voluntary organisations and membership must remain voluntary if they are to be effective. They are also co-operative bodies that must be able to determine their own membership, which would become almost impossible if leaving a Pubwatch would result in a breach of condition. We trust that the policy merely seeks to encourage Pubwatch membership rather than make it a condition of licences.

The draft policy also contains some very specific “expectations” which we believe could give rise to the same complaint as was dealt with by the Judicial Review of the Canterbury City Council policy. The judgment in that case clearly stated that licensing authorities should not mislead applicants into believing that they must meet certain requirements.

3.6 - The Licensing Act already stipulates that the Designated Premises Supervisor must hold a personal licence. The expectation that the DPS “will normally be present on the licensed premises on a regular basis” is vague and open to subjective interpretation and should therefore be deleted. The law simply requires a DPS to be nominated for licensed premises where the sale of alcohol is to take place.

The premises licence holder may not have any influence over the day-to-day running of the licensed premises. For example a pub owning company may hold the premises licence but lease the premises by agreement to a third party who will run the pub as a small business. It would therefore be impossible to meet such an expectation even if it was relevant.

Within the operating schedule for premises from which alcohol will be sold, a Premises Supervisor must be designated (‘Designated Premises Supervisor’ DPS). The Licensing Authority will expect the DPS to, be a personal licence holder, and will have the day to day responsibility for licensinf activities at the premises. The premises licence holder will be expected to employ competent staff who have undergone sufficient training and have relevant experience commensurate with the nature and style of entertainment provided and the capacity of the premises.

Public Safety

Again this section contains examples of control measures which relate to good management. It is down to the applicant to decide how they will meet the licensing objectives.

Suitable and sufficient risk assessments - The Association is very much in favour of the use of risk assessments, but the provision of a risk assessment to support an application is not a requirement under the Licensing Act 2003.
 Proof of regular testing (and certification etc – this

Insert amended wording

When addressing the issue of public safety, the applicant may wish to consider factors detailed below that impact on the standards of public safety has been considered. These may include:

- the occupancy capacity of the premises
- the age, design and layout of the premises, including means

is a duplication of existing legal requirements, and is outside the scope of the Licensing Act.

of escape in the event of fire

- the nature of the licensable activities to be provided, in particular the sale or supply of alcohol, and/or the provision of music and dancing and including whether those activities are of a temporary or permanent nature
- the hours of operation (differentiating the hours of opening from the hours when licensable activities are to occur, if different)
- customer profile (e.g. age, disability)
- the use of special effects such
- the applicant will need to determine appropriate control measures to ensure they fulfill the objectives of the Licensing Act 2003.

Prevention of Public Nuisance

Again section 5.6 refers to good management practices and applicants should not be encouraged to offer these as conditions – e.g. occupancy capacity (see 2.7 above), 5.7 refers to instruction and training (see 3.5 above) and management of people, including staff and traffic – control of traffic is beyond the control of the pub operator.

Insert amended wording

When addressing the issue of prevention of public nuisance, applicants are advised to demonstrate that those factors that impact on the likelihood of public nuisance have been considered. These may include the following but again the applicant will need to determine appropriate control measures to ensure they fulfill the objectives of the Licensing Act 2003:

- the location of premises and proximity to residential and other noise sensitive premises, such as hospitals, hospices and places of worship
- the hours of opening, particularly between 23.00 and 07.00
- the nature of activities to be provided, including whether those activities are of a temporary or permanent nature and whether they are to be held inside or outside premises
- the design and layout of premises and in particular the presence of noise limiting features
- the occupancy capacity of the premises
- the availability of public transport

- 'wind down period' between the end of the licensable activities and closure of the premises
- last admission time

The following examples of control measures are given to assist applicants who may need to take account of them in their operating schedule, having regard to their particular type of premises and/or activities the applicant will need to determine appropriate control measures to ensure they fulfill the objectives of the Licensing Act 2003:

- Effective and responsible management of premises
- Appropriate instruction, training and supervision of those employed or engaged to prevent incidents of public nuisance, e.g. to ensure customers leave quietly
- Control of operating hours for all or parts (e.g. garden areas) of premises, including such matters as deliveries
- Adoption of best practice guidance (e.g. Good Practice Guide on the Control of Noise from Pubs and Clubs, produced by Institute of Acoustics, Licensed Property: Noise, published by BBPA)

- Installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices
- Management of people, including staff, and traffic (and resulting queues) arriving and leaving premises
- Liaison with public transport providers
- Sitting of external lighting, including security lighting
- Management arrangements for collection and disposal of litter
- Effective ventilation systems to prevent nuisance from odour

Protection of Children from Harm

Section 6.7 refers again to control measures which cannot be transferred to conditions, e.g. responsible management of premises, instruction training and supervision of those employed, acceptance of proof of age cards (see 3.5 above). It is an offence under the Licensing Act to sell alcohol to children and therefore down to the licensee to decide how they will comply with the law. It is not an offence for a person who is 16 or 17 years old to consume beer, wine or cider with a sit-down meal provided they are accompanied by someone 18 or over. This is perfectly legal.

Insert amended wording

The following examples of control measures are given to assist applicants and are considered to be amongst the most essential that applicants may wish to take account of in their operating schedule, having regard to their particular type of premises and/or activities, but again the applicant will need to determine appropriate control measures to ensure they fulfill the objectives of the Licensing Act 2003::

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

Cllr G Gambier	<p>Response to:</p> <p>Q4 – “Not unless you include no control over outside smoking areas i.e. cannabis</p> <p>Q5 – If you allow drinking in the car parks adjacent to the highways then you will have “tomfoolery” i.e. “Boy racers” teasing those smoking (driving at them & slamming on their brakes at the last minute)</p> <p>Q6 – Yes as said previously drinking & smoking in the car park can only lead to noise. This in turn can only exasperate neighbours suffering with ASB problems, noise pollution and bad language.</p> <p>General Comments – July 1st – No smoking in public places. Shelters erected – umbrellas etc...If no garden or garden has restrictions then car parks are used. This was not the intention. If you have a ban on smoking & cannot facilitate smokers for whatever reason it is wrong to encroach onto car parks & encourage drinking adjacent to the highways. It also causes problems to neighbours (noise etc... and encourages people to remain after closing)</p>	<p>Consumption is not a licensable activity hence it is not within the scope of this policy. A number of the issues highlighted in the responses are dealt with by other legislation.</p>	<p>No adjustment necessary</p>
Cllr P Smith	<p>· The paragraph (1.47) talks about law. Would this include conditions of Licence i.e. using garden when licence states that for example “after 21:20 the garden must not be used”. If conditions that we apply to the licence when approved are not covered by this paragraph and this matter is not covered by any other section. Could we include such a condition in this paragraph or create a new one?</p>	<p>Licence conditions imposed by committee become both enforceable and appealable to the magistrates court. It is not legal to stipulate conditions in the policy that would pre-empt the committees ruling for an individual case.</p>	<p>No adjustment necessary</p>

· I have an issue with the chart. In practise we have had to totally ignore the times as the law does not really allow for this. Plus if we wanted to place restrictions on a premises hours they could argue that our own code says they can open until the times laid down in the chart (Section 5.8 pg23)·

Section 5.10 should cover or contradicts 5.8.

Comments noted and agreed

Delete para 5.8 and chart

Thurrock PPIF	<p>Response to: Q4 – Not quite. Local forums should be asked for their opinion as many councillors do not know the areas they are discussing.</p> <p>Q7 – Yes. It should be clearly stated that any sales to underage drinkers will result in immediate loss of licence.</p> <p>General Comments – Although it is not really in the remit of this consultation can we have a by-law to stop people drinking in public places, including outside public houses.</p>	Local forums may make representations when licences are considered.	No adjustment necessary
Local business owner	<p>General comments – I think that the policy is written very clearly and is understandable and as the licensing law is a very serious issue I think its important as an off-licence owner and a personal licence holder to have this information.</p>		No adjustment necessary
Local resident	<p>Response to: Q7 – There is a need to tighten up on the sale of alcohol to underage drinkers, particularly in the area of off-licence premises and supermarkets.</p>	This is dealt with by separate legislation.	No adjustment necessary
Local resident	<p>Response to all consultation questions: Local forums should be involved in the decision</p>	See response to Q4 above	No adjustment necessary
Local resident	<p>Response to: Q3 – Whilst those</p>	Given the complexity of	No adjustment necessary

that come into contact with this type of document would have little trouble understanding it, I feel the wording of the consultation document would put off a vast majority of the general public. Therefore I do not feel the document is fit for purpose. One could even argue that it was designed in such a way to deter the general public from responding.

the issues dealt with, over-simplification of the text could be detrimental to the purpose of the policy and lead to difficulties in subsequent enforcement

Q8 – I feel that a prime opportunity to limit the number of take-away outlets in Stanford-le-hope 7 Corringham has been missed. Section 1.35 through 1.39 “Cumulative Impact” should be used to stop the granting of further licences for take-away outlets in the area. The council has opposed them in the past but lost on appeal. The number of take-away outlets in the said area is now having a cumulative impact with regard to littler and late night noise.

These comments are noted however the legislation precludes the use of the Licensing Act 2003 to achieve objectives other than licensing objectives that are properly dealt with by other legislation

No adjustment necessary

General Comments – Licences should be looked upon as a way of benefiting the whole community. Where establishments have a limited impact on the surrounding area they should be allowed more leeway in their operations. The need to have somewhere for the younger element in our community to gather and enjoy themselves should have as much weight attached to it as other objectives. Where this requirement can be achieved without affecting the majority of people in a community it should be encouraged

Dealt with in the policy by reference to the enforcement concordat (para 1.46)

No adjustment necessary