

REPORT OF GENERAL PURPOSES AND LICENSING COMMITTEE

(Meetings held 12 and 30 November 2004)

1. STANDING ORDERS FOR MEETINGS – NOTICES OF MOTION (REPORT E) (MINUTE NO. 31)

The Committee has considered a change to the Standing Orders for Meetings to amend the procedure for dealing with motions to the Council of which notice has been given under Standing Order No. 21 (“notice of motion”). The recommendation arises from an anomaly highlighted by a member at the meeting of the Council on 13 September 2004. The amendment suggested is to Standing Order 41. Copies of both Standing Orders referred to are set out in Appendix 1.

Members will note that, currently, Standing Order 41 provides that, unless the Chairman of the Council considers the matter “urgent, convenient or conducive to the despatch of business”, and the motion does not affect matters that are the Cabinet’s responsibility, a notice of motion shall be referred to the Cabinet, a Committee or a Panel. The Cabinet, Committee or Panel to which the motion has been referred shall consider it and report to the next Council meeting.

Under the Leader/Executive decision-making arrangements, most functions of the Council are the responsibility of the Cabinet. The Council cannot take a decision on any matter that is a function of the Cabinet. Notices of motion referred by the Council to another body for consideration often relate to matters that are the responsibility of the Cabinet. Any recommendations that might emerge from a Committee’s or a Panel’s consideration of a notice of motion on an Cabinet function must, as a matter of law, be referred to the Cabinet. Therefore, the requirement laid down in Standing Order 41 for reporting to the Council after a motion has been referred to another body is no longer considered appropriate.

To regularise the position, the Committee recommends that Standing Order 41 should be amended to provide that motions referred by the Council to the Cabinet, a Committee or a Panel should, after consideration, be referred to the appropriate decision-making body. If that body is not the Council, the decision-making body shall report the matter to the Council. The effect of the amendment will ensure that the Council remains informed on any recommendations or action taken on a notice of motion.

RECOMMENDED:

That Standing Order 41.1 be amended to read as follows:

“41.1 Subject to 41.2 and 41.3, a motion of which notice has been given under Standing Order 21 shall be moved and seconded without speeches. It shall then be referred without discussion to:

the Cabinet, Committee(s) or Panel(s) within whose terms of reference the subject matter of the motion comes, or

the Cabinet, or such Committee(s) or Panel(s) as the Council may determine

The Cabinet, Committee(s) or Panel(s) to which it is referred shall consider it and report to the appropriate decision-making body. If this is not the Council, that body shall report to the Council on its consideration of the matter.”

2. LICENSING ACT 2003 – APPROVAL OF THE STATEMENT OF LICENSING POLICY (REPORT A) (MINUTE NO. 34)

The Committee has now recommended this Council’s Statement of Licensing Policy to full Council for approval. The Policy is attached at Appendix 2 to this report.

The Licensing Act 2003 transfers to local authorities the regulation of certain licensable activities, including the sale and supply of alcohol, and greatly changes the manner in which the Council is expected to deal with licensing the provision of various forms of entertainment and late night refreshment. The Act, by Regulation, requires each licensing authority to publish a Statement of Licensing Policy for each three year period, effective initially from 7 January 2005.

The Committee approved a draft Statement of Licensing Policy for public consultation in July 2004. Consultations were carried out, as required by the Act, with various bodies, and a number of comments were received. The draft policy was then amended as appropriate in the light of the comments.

By law, the policy has to be published by 7 January 2005. It is accepted that some tidying up of the wording may still be necessary. Officers will undertake this exercise before publication.

The Licensing Act 2003 does not over-ride existing legislation for the protection of children. For example, if under 18s are allowed onto premises showing “adult only” films (for example to work), it is understood that they would not be permitted to be in the auditorium while a film is being shown. Existing licences, such as theatre licences, will in the course of the year need to be replaced by 2003 Act premises licences. Existing conditions will be carried forward into the new licence.

As with all new legislation, there is no precedent on which to base the interpretation of the Act’s requirements. However, the Committee feels that the final policy has been designed and arranged to include all of the Council’s current responsibilities under the Act. The policy will be kept under review, and subsequent versions will be amended as necessary to reflect any future case law and experience of operating the Act.

RECOMMENDED:

That, subject to officers being authorized to correct any typographical errors and ensure consistency in the use of terminology, the Policy document attached at Appendix 2 to this report be adopted as the Council’s Statement of Licensing Policy under the Licensing Act 2003.

3. LICENSING ACT 2003 – DEMOCRATIC PROCESS (REPORT C) (MINUTE NO. 36).

The Committee has considered the democratic processes that will be necessary to facilitate decision-making under the 2003 Act.

Various amendments to the Committee's terms of reference are proposed. These are attached at Appendix 3 to this report. Proposed additions are shown in bold italic print. Words proposed for deletion are struck through.

Members will be familiar with the current procedure for arranging hearings of the Licensing Panel (for example to consider applications for hackney carriage and private hire vehicle driver licenses). The Committee will continue to be responsible for many of these existing licensing and regulatory functions after 7 February 2005 (the "first appointed day" under the 2003 Act). In other respects, some current licensing functions operated under other legislation will "transfer" to the 2003 Act during the year, so for a time either the old or the new legislation may apply, depending on whether and when the existing licensee applies for a 2003 Act licence. The proposed amendments to the Committee's terms of reference address these situations.

In accordance with Government Guidance, the Committee has also agreed to establish a Licensing Sub-Committee to deal with certain matters under the 2003 Act, (mainly those where a hearing is required), and other licensing matters for which a Panel would previously have been arranged. Under the Act, a Sub-Committee must consist of 3 members of the Committee.

The Committee recognizes that, at least during the transitional period, the likely requirement for a large number of Sub-Committee hearings will place a great deal of pressure on both members and officers. It is accepted that members' personal circumstances inevitably mean that some are more available to take part in hearings than others. In order to give maximum flexibility to officers in assigning members to particular hearings, the Committee unanimously agreed that the rules of proportionality need not apply if the Head of Legal and Democratic Services is satisfied that it is not reasonably practicable to apply those rules taking into account the availability of members and their commitments to other hearings.

RECOMMENDED:

That, with effect from 7 February 2005, the Committee's Terms of Reference be amended as shown in Appendix 3 to this report, but that the words "and closing orders with respect to take away food shops" in paragraph 5 be not deleted until the second appointed day under the 2003 Act.

Cllr W H Dow
CHAIRMAN

EXTRACTS FROM STANDING ORDERS FOR MEETINGS

21. Notices of motion for Council meetings

21.1 Some motions may be moved at Council meetings without notice (see Standing Order 44). Notice of every motion which does not fall within Standing Order 44 shall be:

given in writing; and

signed by the member or members giving the notice; and

received by the Chief Executive's office, Appletree Court, Lyndhurst, at least seven clear working days before the next Council meeting.

The Chief Executive shall:

date it; and

number it in the order in which it is received; and

enter it in a book which any Council member may inspect.

21.2 Every motion shall be relevant to some matter in which the Council has powers or duties, or which affects the District.

21.3 Subject to 21.4, the Chief Executive shall set out in the summons for the Council meeting all motions of which notice has been given as in 21.1 above, in the order in which they were received, UNLESS the member who gave it:

stated in writing at any time before the summons is issued that he proposed to move it at a later meeting; or

has since withdrawn it in writing.

21.4 A notice of motion shall not be included in the business to be conducted at an extraordinary or special Council meeting unless, in the Chief Executive's opinion, it is relevant to a subject specified or to be specified on the summons for that meeting. If in his opinion it is not so relevant, the Chief Executive shall set it out in the summons for the next ordinary Council meeting.

Note: See Standing Order 41 for dealing with notices of motion at Council, and Standing Order 28.6 for the mover of a motion's right to attend a meeting if the motion is referred on.

41. Motions to Council of which Notice has been given

Automatic reference to Committee

41.1 Subject to 41.2 and 41.3, a motion of which notice has been given under Standing Order 21 shall be moved and seconded without speeches. It shall then be referred without discussion to:

the Cabinet, Committee(s) or Panel(s) within whose terms of reference the subject matter of the motion comes, or

the Cabinet, or such Committee(s) or Panel(s) as the Council may determine

The Cabinet, Committee(s) or Panel(s) to which it is referred shall consider it and report to the next Council meeting.

41.2 The Chairman may allow the motion to be dealt with at the meeting at which it is brought forward if:

he considers it urgent, convenient, or conducive to the despatch of business;
and

the motion does not affect matters which are the Cabinet's responsibility.

The rules of debate for Council meetings (Standing Order No. 47) will apply.

41.3 A motion which affects the Council's approved strategies, policies or budgets shall be referred to the Cabinet for consideration and report to the next Council meeting, in addition to being referred to any Committee or Panel.

41.4 If a motion set out in the summons is not moved by:

the member who gave notice of it; or

some other member on his behalf,

it shall be:

treated as withdrawn, and shall not be moved without fresh notice; or

postponed by consent of the Council.

APPENDIX 2



LICENSING ACT 2003

**STATEMENT OF
LICENSING POLICY**

Published 7 January 2005

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**NEW FOREST DISTRICT COUNCIL
LICENSING ACT 2003
SECTION 5**

**Statement of Licensing Policy
Effective 7 January 2005 – 6 January 2008**

A Statement of licensing policy as determined by the Council in respect of its licensing functions for the three year period commencing 7 January 2005 is set out in this document. During the three year period the policy will be kept under regular review and, following a full consultation process the Council will make such revisions to it, at such times, as it considers appropriate. Further licensing statements will be published every three years thereafter.

PART 1 : BACKGROUND

- 1.1 New Forest District is situated in the County of Hampshire and has a large number of licensed premises. The Council recognises that these premises are an important part of the District and are major contributors to the local economy, attracting tourists and visitors, and making for vibrant towns and communities, whilst at the same time providing employment.
- 1.2 There are approximately 800 licensed premises in the District where alcohol is sold or provided, entertainment provided on a regular or occasional basis or hot food served. These premises include:
 - public houses and nightclubs
 - off licences
 - businesses offering hot food between 2300 and 0500
 - hotels, guest houses, restaurants and other places that sell alcohol
 - private members clubs and social clubs
 - theatres and amateur dramatic groups
 - cinemas
 - premises where indoor sporting events take place

Other Legislation

- 1.3 Prior to submitting an application to the Council the Applicant should ensure that there is appropriate current Planning Permission for the hours and activities for which application is being made.
- 1.4 The Council recognizes that there should be a clear separation of the planning and licensing systems and licensing applications will be viewed independently of planning applications. To achieve this, close liaison will be maintained between the General Purposes and Licensing and Planning

Development Control Committees ("GPLC" and "PDCC"). Licensing applications are not a re-run of the planning application and should not cut across decisions taken by the PDCC or following appeals against decisions by that Committee. The GPLC, where appropriate, will provide reports to the PDCC and any appropriate review panels on the situation regarding licensed premises in the area including the general impact of alcohol-related crime and disorder.

1.5 Furthermore premises must comply with all other relevant legislation, e.g.

- Food Safety Act 1990 (Food Hygiene)
- Health & Safety at Work etc Act 1974 (Risk Assessments for work practices and fire safety)
- Disability Discrimination Act 1995
- Building Regulations

1.6 The Council will seek to avoid duplication with other regulatory regimes as far as possible. However, if other regulations do not cover the unique circumstances that arise in connection with, for example, entertainment at specified premises then additional controls will be imposed.

PART 2 : INTRODUCTION

2.1 New Forest District Council ("the Council") is the Licensing Authority pursuant to the Licensing Act 2003 ("the Act") and is responsible for considering all applications for licensable activities, as defined in section 1 of the Act. The purpose of licensing is to regulate the carrying on of licensable activities on licensed premises, by qualifying clubs and at temporary events. Licensable activities, identified by the Act, include:

- Retail sale of alcohol
- Supply of hot food or drink from premises between 2300 and 0500 hours
- Supply of alcohol to club members
- Provision of entertainment listed below (known as "regulated entertainment") to the public or club members or with a view to profit:
 - Film exhibitions
 - Performances of a play
 - Indoor sporting events
 - Boxing or wrestling entertainment
 - Live music performances
 - Playing of recorded music
 - Dance performances
 - Provision of facilities for making music
 - Provision of facilities for dancing

- 2.2 There are a number of exceptions and details of these are set out in Sections 173 to 175 of the Act.
- 2.3 This draft Statement of Licensing Policy has been prepared in accordance with the provisions of the Act and the Guidance issued under Section 182 of the Act.
- 2.4 The Policy will be kept under review and where any amendments are considered necessary these will only be made after consultation has taken place in accordance with Section 5(3) of the Act. Proper weight shall be given to the views of all those consulted. Those to be consulted will include:
- The Chief Officer of Police for Hampshire
 - The Chief Officer of the Fire and Rescue Service of Hampshire
 - Bodies representing local holders of premises licences
 - Bodies representing local holders of club premises certificates
 - Bodies representing local holders of personal licences
 - Bodies representing businesses and residents in the Councils area
 - Bodies representing the welfare of children
 - Any other bodies the Council deems appropriate
- 2.5 The Council recognises that the best means of promoting the licensing objectives (see 2.6 below) is through the co-operation and partnership of local councils, the police, local business, performers, local people and those involved in child protection.

Licensing Objectives

- 2.6 When dealing with licensing matters the Council will promote and have regard to the four licensing objectives set out in the Act. These are:
- The prevention of crime and disorder;
 - Public safety;
 - The prevention of public nuisance; and
 - The protection of children from harm.
- 2.7 The Council's primary focus is the direct impact of activities taking place at licensed premises on members of the public who are living, working or engaged in normal activity in the vicinity of the premises/place concerned. Licensing law is not a mechanism for the general control of anti-social behaviour by individuals once they are away from that premises/place and,

therefore, beyond the direct control of the individual, business or club holding the licence or certificate concerned.

- 2.8 Accordingly, any conditions attached to the licence/certificate will centre on the premises and places being used for licensable activities and the vicinity of those premises and places. Whether or not an instance can be regarded as being in the vicinity of licensed premises or places is a question of fact and will depend on the particular circumstances of the case.

Integration of Strategies

- 2.9 The Council will take into consideration the following in so far as they are relevant to the licensing objectives:
- The need of the local tourist economy.
 - The cultural strategy for the District, and the Council's wish to encourage and promote live music, dancing and theatre to the wider cultural benefit of its community.
 - The employment situation in the District, and the need for investment and employment where appropriate.
- 2.10 There are many stakeholders in the leisure industry. Many are involved, directly or indirectly, in the promotion of the licensing objectives, particularly those relating to the prevention of crime and disorder and public nuisance.
- 2.11 The Council will ensure at all times that it takes into account the views of these stakeholders and ensures proper integration of local crime prevention, planning, transport, tourism and cultural strategies. The Council will work closely with the police on issues of enforcement. Where appropriate, neighbouring authorities and parish councils will also be consulted.
- 2.12 Conditions attached to premises licences and club premises certificates will, so far as possible, reflect local crime prevention strategies.

Cumulative Effect of a number of Licensed Premises in one area

- 2.13 The Council will not take 'need' into account when considering an application, as this is a matter for planning development control and the market. 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 both in the vicinity of and at some distance from the premises.
- 2.14 Representations may be received from a responsible authority/interested party that an area has become saturated with premises making it a focal point for large groups of people to gather and circulate away from the licensed premises themselves. This concentration of premises may be creating exceptional problems of disorder and nuisance over and above the impact from the individual premises.

- 2.15 In these circumstances, the Council 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 premises licences or club premises certificates if it believes that the area is saturated with such premises and the granting of any more would undermine one of the licensing objectives.
- 2.16 When deciding whether to adopt a special saturation policy the Council will consider:
- whether serious and chronic concerns have been identified by a responsible authority or significant representations from residents have been received about the levels of nuisance and disorder;
 - whether it can be demonstrated that disorder and nuisance is arising as a result of customers from licensed premises in an identified and specific area;
 - whether taking all relevant matters into account a policy about future licence applications from that area should be adopted.
- 2.17 If such a policy were adopted, the Council will consider representations on the grant of a particular application based on its impact on the promotion of the licensing objectives in the District generally.
- 2.18 However, the onus would be on the objector to provide evidence to back up any assertion that the addition of the premises in question would produce the cumulative impact claimed, always remembering that the impact will be different for premises with different styles and characteristics.
- 2.19 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.

Other Controls on Anti-social Behaviour

- 2.20 Other mechanisms exist to control the anti-social behaviour of a minority of consumers who behave badly and unlawfully after leaving licensed premises etc. These controls include:
- Planning controls
 - Positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the local authority
 - Power of local authorities to designate parts of the local authority area as places for alcohol, i.e. not to be consumed publicly
 - Police enforcement of normal 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 adults and children in designated areas
- Police 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 excessive noise emanating from the premises
- The power of the Police and other responsible authorities or a local resident or business to seek a review of the licence or certificate in question

Licensing Hours

- 2.21 With regard to licensing hours consideration will be given to the individual merits of an application. Longer licensing hours relating to the sale of alcohol are important to ensure that concentrations of customers leaving premises simultaneously are avoided. It is hoped that longer hours will also result in a reduction in binge drinking at the end of an evening. This is necessary to reduce friction at late night food outlets, taxi ranks and other sources of transport which can lead to problems of disorder and disturbance.

Standardised Conditions

- 2.22 If, after receiving relevant representations the Council believes it to be appropriate or necessary, in order to promote any of the licensing objectives, it will consider attaching conditions to licences. Conditions attached to licences will, as far as possible, be tailored to the individual style and characteristics of the premises and licensable activities concerned.

Enforcement

- 2.23 The Council will establish protocols with the local Police on enforcement issues. This will enable the more efficient deployment of local authority staff and Police Officers who are commonly engaged in enforcing licensing law and the inspection of licensed premises. The aim of the protocol will be to target agreed problem and high risk premises which require greater attention while providing a lighter touch in respect of low risk premises which are well run.

Delegation of functions

- 2.24 In the interests of speed and efficiency the Council will, where possible, delegate licensing decisions and functions to officers. However, if the matter to be decided is controversial in any way or the determination of the matter under delegated powers is precluded by law then it will be decided by the GPLC or, normally, a Sub-Committee.

See Appendix A for the full list of delegated functions set out in the Act.

PART 3 : TYPES OF LICENCES, CERTIFICATES AND NOTICES

Personal licences

- 3.1 A personal licence will be granted to any applicant, aged 18 or over, who possesses a relevant qualification or is a person of a prescribed description as determined by the DCMS. A licence will not be granted to any applicant who has forfeited a personal licence in the five year period ending with the date of the application. Applicants for a Personal Licence must send a copy of their application and relevant documentation to the Police within 48 hrs.
- 3.2 The police can oppose an application if an applicant has a relevant unspent conviction or a conviction for a comparable offence in a foreign jurisdiction.
- 3.3 Applicants who meet the statutory criteria in terms of age, qualifications and non-forfeiture, as mentioned above, will be granted a licence (subject to any police objections being received). Applications that do not meet those criteria will be rejected.
- 3.4 If a police objection is received the application will be determined by the GPLC or one of its Sub - Committee at a hearing where all representations, which are relevant to the grant or refusal of the licence, will be taken into consideration. These may include the nature of any offences, the time since their commission and any mitigating circumstances. The Act requires the Council to reject an application if it considers it is necessary in the interests of crime prevention to do so and, where there is a police objection, the normal course of events will be refusal unless there are exceptional and compelling reasons to grant the application.
- 3.5 There will be no need for a hearing if the applicant, Council and Chief Officer of Police agree that a hearing is not necessary.
- 3.6 The Council requires every application for a personal licence to be accompanied with a standard criminal record disclosure form from the Criminal Records Bureau. This will assist the Council in determining whether the applicant has any relevant unspent convictions.
- 3.7 Any applicants who are unable to provide a standard Criminal Records Disclosure Form from the CRB will be required to provide alternative equivalent official documentation, confirming that they have not been convicted of a relevant offence or equivalent offence either in England and Wales or outside the jurisdiction. It will be at the discretion of the Council, in every case whether or not to accept the alternative documentation supplied as equivalent.

Temporary Event Notices

- 3.8 Temporary events involving relevant licensable activities may be held if certain criteria are fulfilled. However, the Council actively encourages persons organising such events ("premises users") to have due regard to any concerns of occupiers of premises adjacent to the proposed venue where the temporary event is due to take place.
- 3.9 When a temporary event is proposed notice of the event, along with the relevant fee, must be served on the Council at least 10 working dates before the event (although the Council hopes that in most cases the premises user will serve notice on the Council as far as possible ahead of the proposed event).
- 3.10 On receipt of a temporary event notice the Council will issue an acknowledgement notice in accordance with the requirements of the Act, unless a counter notice has been served under Section 107 of the Act. Counter notices under this Section relate to circumstances where the limits permitted under the Act for the service of temporary events notices are exceeded. The premises user must also serve a copy of the notice on the local Chief Officer of Police no later than 10 days before the day on which the event specified in the temporary event notice begins.
- 3.11 If the Chief Officer of Police is satisfied that allowing the premises to be used in accordance with the notice will undermine the crime prevention objective he/she must serve an objection notice, stating his/her reasons, on both the Council and the premises user within 48 hours of receiving the temporary event notice.
- 3.12 If the Council receives an objection notice it will hold a hearing to consider the objections (unless the Council, police and premises user agree that a hearing is unnecessary) and will give the premises user a counter notice under Section 105 of the Act if it considers it necessary for the promotion of the crime prevention objective to do so.

Club Premises Certificates

- 3.13 The Council acknowledges that private premises to which public access is restricted, and where alcohol is supplied, other than for profit, give rise to different issues for licensing law than those presented by commercial enterprises selling direct to the public. The Council encourages clubs to take advantage of the benefits offered to such premises such as the absence of a requirement for a Personal Licence Holder ("PLH") or Designated Premises Supervisor ("DPS").
- 3.14 The Council will consider applications for premises licences if the Club decides that it wishes to offer its facilities commercially for use by the general public but the Applicant should remember that the appropriate planning consent should be sought prior to the application for a premises licence being submitted.

- 3.15 Those premises having the benefit of a Club Premises Certificate may make an application to allow those running the premises to supply alcohol for consumption off the premises. Such supply will only be allowed during the hours that the premises are open for supply of alcohol to its members on the premises. Any such permission that is granted will be subject to conditions that any alcohol supplied will be in a sealed container and will only be supplied to members.

Premises Licences

- 3.16 A premises licence is required for any premises that is used for one or more licensable activity as defined in 2.1 above. Those who may apply for licences are defined in Section 16 of the Act.
- 3.17 The requirements in relation to applications for premises licences are set out in Section 17 of the Act and the Council will not be able to consider applications that do not comply with those requirements. This Section requires that applications must be accompanied by:
- an operating schedule that demonstrates that the licensed premises can comply with the Council's licensing policy and promotes the four licensing objectives. The operating schedule must be adequate and appropriate for the type, location and opening hours of the particular premises. The licensing policies and matters for consideration by applicants, as detailed in Part 4, need to be considered carefully and measures included in the operating schedule, where necessary, showing how compliance with those policies and the licensing objectives will be achieved. Such measures will be incorporated into the conditions attached to the licence.
 - a plan of the premises to which the application relates in the prescribed form details of the relevant premises supervisor and appropriate consent.
 - the appropriate fee.

Note : Once they are published by the government fee levels and prescribed forms may be viewed on the websites of the DCMS and the Council, or can be obtained from the Council's licensing section.

PART 4 : LICENSING POLICIES & MATTERS FOR CONSIDERATION BY APPLICANTS

Section A : Prevention of Crime and Disorder

Matters for consideration by applicants.

- 4.1 Applicants should have regard to the following matters when writing their operating schedules and are advised to consult Hampshire Police before submitting their application. If the Council receives a relevant representation, conditions may be imposed at the Hearing that determines the application.
- 4.2 It should be noted in particular that it is unlawful under the 2003 Act:
- to sell or supply alcohol to a person who is drunk
 - to knowingly allow disorderly conduct on licensed premises
 - for the holder of a premises licence or a designated premises supervisor to knowingly keep or to allow to be kept on licensed premises any goods that have been imported without payment of duty or which have otherwise been unlawfully imported
 - to allow the presence of children under 16 who are not accompanied by an adult between midnight and 05:00 hrs 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.
- 4.3 When applicants for premises licences or club premises certificates are preparing their operating schedules or club operating schedules, when responsible authorities are considering such applications and when the Council is considering applications, following receipt of any relevant representations from a responsible authority or interested party, the measures laid down in Section A should be considered as practices which, if necessary, may promote the prevention of crime and disorder.
- 4.4 Whether or not any risk assessment shows certain measures to be necessary the individual circumstances of any premises will always be considered in the light of 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 when deciding whether to impose conditions. It should also be borne in mind that club premises operate under their own codes of discipline to ensure the good order and behaviour of members.
- 4.5 Whether it is necessary to impose conditions on the licence or certificate will also depend on local knowledge of the premises.
- 4.6 Under no circumstances should the following measures be regarded as standard conditions to be automatically imposed in all cases. They are designed to provide a range of conditions drawn from experience relating to differing situations and to offer guidance.

- 4.7 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 objections. 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.

4.8 Measures which should be considered

1 Electronic Communication Devices

Electronic communication devices such as text pagers connecting premises licence holders, designated premises supervisors, managers of premises clubs to the local Police can provide for rapid response by the Police to situations of disorder which may be endangering the customers or staff on the premises.

Such devices 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 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.

2 Door Supervisors

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

- Preventing the admission and ensuring the departure from the premises of the drunk and disorderly, without causing further disorder
- Keeping out excluded individuals (subject to court bans or imposed by the licence holder)
- Searching and excluding those suspected of carrying illegal drugs, or carrying offensive weapons
- 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 a 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 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.

3 Bottle Bans

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

4 Plastic Containers and Toughened Glass

Glasses containing drinks may be used as weapons during incidents of disorder and can cause very serious injuries. Consideration should therefore be given to conditions requiring either the use of plastic containers or toughened glass that inflicts less severe injuries. Location and style of the venue and the activities carried on there would be particularly important in assessing whether a condition is necessary. For example, the use of glass containers on the terraces of outdoor sports grounds may obviously be of concern, but similar concerns may also apply to indoor sports events such as boxing matches. Similarly, the use of 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 also be noted that the use of plastic or paper drinks containers and toughened glass may also be relevant as measures to promote public safety.

5 CCTV

The presence of CCTV cameras can be an important means of deterring and detecting crime at and immediately outside licensed premises. Operating schedules should state the precise siting of each camera, the requirement to maintain cameras in working order, and to retain recordings for an appropriate period of time.

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

6 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 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.

7 Restrictions of 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. Operating Schedules should not only specify these areas, but also indicate the circumstances in which the ban would apply and times at which it should be enforced.

8 Capacity Limits

Operating Schedules may need to set capacity limits for licensed premises or clubs where it may be necessary to prevent overcrowding which can lead to disorder and violence. Where such a condition is considered necessary, consideration should also be given to whether door supervisors would be needed to ensure that the numbers are appropriately controlled.

9 Proof of Age

It is unlawful for children under 18 to attempt to buy alcohol, just as it is unlawful to sell or supply alcohol to them. To prevent such crimes, it may be necessary to require a policy to be applied at certain licensed premises requiring the production of "proof of age" before such sales are made. This should not be limited to recognised "proof of age" cards, but allow for the production of other proof, such as photo-driving licences, and passports.

10 Crime Prevention Notices

It may be necessary at some premises for notices to be displayed warning customers of the prevalence of crime that may affect them. 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 advising customers about the need to be vigilant of unattended bags because of concerns about terrorism.

11 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 when 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.

Policy A1

The applicant must indicate in the operating schedule the steps he/she proposes to prevent crime and disorder. If premises are to be open between the hours of 2300 and 0800, and as appropriate for all other premises, the Council will expect operating schedules to include arrangements for some, or all, of the following measures listed below. Whether these are necessary in every single case will obviously depend upon the nature and location of the premises in question.:

- Use of CCTV both within and outside the premises in accordance with the code of practice issued by the Information Commissioner from time to time e.g. warning signs
- Metal detection and search facilities
- Procedures for risk assessing promotions and events such as "happy hours" including the potential to cause crime and disorder, and plans for minimising such risks
- Measures to prevent the use or supply of illegal drugs
- Employment of door supervisors licensed by the Security Industry Authority and other appropriately trained staff
- Participation in an appropriate Watch Scheme or other body designed to ensure effective liaison with the local community
- Proof of Age schemes
- Controls on bottles, glasses and containers
- Capacity limits
- Notices and signage, including a prominent sign giving the name of the personal licence holder in charge of the premises.
- No admissions after a specified time
- A personal licence holder to be on duty at the premises during opening hours

Reason

Prevention of crime is both an objective of the Licensing Act 2003 and an important responsibility of the Council under the Crime & Disorder Act 1998. It is important, therefore, that the applicant be able to demonstrate to the Council the practical steps that will be taken to further this objective.

Policy A2

The Council will expect licensees of venues likely to be affected by drugs to take all reasonable steps to prevent the entry of drugs into licensed premises, to take appropriate steps to prevent drugs changing hands within the premises and to take practical measures to prevent tragedies as a result of drug misuse.

In particular the Council will expect licensees of such venues to be familiar with the contents of Chapter 4 (drug awareness) of the BIIAB Level 2 National Certificate for Entertainment Licensees and to be following the recommendations of that handbook. The Council will also expect licensees to be following the recommendations of the book "Safer Clubbing" issued by the Home Office (ISBN 1840827807).

Reason

The purpose of this policy is to further the crime prevention objective and to ensure public safety by preventing loss of life caused by drug abuse, including overheating and other factors.

Policy A3 : Shops, Stores and Supermarkets

The Council will generally consider licensing shops, stores and supermarkets to sell alcohol for consumption off the premises at any times they are open for shopping. But shops must have adequate management practices to ensure that sales are not made to under 18 year olds and persons where there are grounds to believe that the sale will result in crime and disorder.

Ensure only over 18 year olds sell alcohol or under 18 year olds are closely supervised doing so.

However, if there are good reasons for restricting those hours, for example, where police representations made in respect of shops known to be the focus of disorder and disturbance, then restriction of hours will be considered.

Reason: To prevent poorly managed shops from selling alcohol to children and persons under the influence of alcohol.

Section B : Public Safety

Matters to be considered by Applicants

- 5.1 Applicants should have regard to the following matters when writing their operating schedules and are advised to consult the Environmental Health Officer (Commercial) at New Forest District Council and the Chief Fire Officer before submitting their application. If the Council receives a representation, then at the Hearing that determines the application conditions may be imposed.
- 5.2 It should be noted in 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.
- 5.3 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. Furthermore, under no circumstances should any conditions be regarded as standard for all premises.

General

- 5.4 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 the Council is considering applications following the receipt of relevant representations from a responsible authority or interested party, the measures set out in section B and the accompanying Appendix B should be considered as practices that, if necessary, would promote public safety. It should also be recognised that special issues may arise in connection with outdoor and large - scale events.
- 5.5 Whether or not any risk assessment shows any of the measures to be necessary in the individual circumstance 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.
- 5.6 Any individual preparing an operating schedule or club operating schedule is at liberty to volunteer any measure or steps he or she intends to take. Such measures will become conditions of the licence/certificate, and as such, any breach of these conditions could give rise to prosecution.

- 5.7 When writing the operating schedule due regard should be taken of the requirements of relevant legislation to secure adequate public safety. In particular that prescribed in the; “Health and Safety at Work, Management of Health and Safety at Work Regulations, and The Fire Regulations.”
- 5.8 The main guidance bibliography is listed in the appendix to this section.
- 5.9 Following receipt of an application a responsible authority may make representation to the Council, if adequate provision for public safety has not been made or has not been demonstrated within the application.
- 5.10 To clearly demonstrate to the Council and other responsible authorities that adequate provision has been made, it is recommended that **the following are included with the Operating Schedule:**
- a) The date when the last Health and Safety and the specific Fire Safety risk assessments of the premises were carried, along with any identified significant findings.
 - b) A summary of any proposed changes or improvements to remedy the significant findings, with the date of their implementation.
 - c) Details of the Occupancy numbers to be permitted in the premises, and the management arrangements to ensure they are not exceeded.
 - d) A copy of the emergency plan
 - e) A single line scaled plan or architects drawing, showing the general layout of the premises, fire safety provisions, including escape routes from the premises to a place of ultimate safety with any significant features
 - f) Supporting evidence demonstrating adequate maintenance of fire safety provisions and systems. E.g. Current servicing certificates.
- 5.11 The operating schedule will become conditions of a licence/certificate, and as such, any breach of these conditions may give rise to prosecution.
- 5.12 The Council will expect effective arrangements to secure adequate public safety at all times. Applicants, when preparing the operating schedule are to take into account the areas listed below and any others, which are identified from either of the Health and Safety and the specific Fire Safety risk assessments of the premises, completed by a competent person.
- a) Adequate provision for the safety of persons with special needs
 - b) Adequate provision of safe ingress and egress to the premises at all times when in use
 - c) Safe occupancy levels to be determined and suitable arrangements to ensure they are not exceeded
 - d) Adequate means of escape in case of fire

- e) Adequate warning in case of fire
- f) Adequate provision for fire fighting
- g) Adequate levels of both normal and emergency lighting
- h) Suitable and adequate fire and safety notices
- i) Adequate levels of ventilation
- j) Adequate provision for summoning the emergency services
- k) Suitable levels of non combustible or flame retarded finishes for the premise construction, wall and ceiling coverings, drapes and contents
- l) Adequate arrangements for the maintenance of safety equipment, and systems
- m) Adequate levels of training to staff members
- n) Suitable recording of maintenance, tests and training.
- o) Testing of electrical wiring and systems
- p) Suitable access for emergency vehicles
- q) Adequate arrangements for the provision of first aid equipment
- r) Adequate safety for indoor Sports Entertainment
- s) Adequate numbers of attendants and marshals
- t) Adequate arrangements for the safe use and storage of equipment, used for special effects

Policy B1

Premises that provide regulated entertainment for large numbers of people create additional safety hazards that need to be controlled. Operating Schedules must include details of provisions to ensure the safety of temporary and permanent electrical installations, measures to provide means of escape from fire (including maximum numbers and emergency lighting), fire fighting, fire precautions, lighting, attendants and structural safety.

Reason

Licensed premises need to demonstrate in their Operating Schedules practical safety procedures and measures that are sufficient to control the risks associated with temporary structures, installations and large numbers of people.

Section C: The Prevention of Public Nuisance

6.1 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 of 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 as defined in guidance issued under Section 182 of the Licensing Act 2003.

Matters to be considered by Applicants

6.2 Applicants should have regard to the following matters when writing their operating schedules and are advised to consult the Environmental Health Officers (Environmental Protection) at New Forest District Council before submitting their application. If the Council receives a representation at the Hearing that determines the application, conditions may be imposed.

Hours

6.3 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. This must be balanced by the potential impact on disorder that results from artificially early fixed closing times.

6.4 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.

6.5 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 a garden area of the premises after a certain time.

Noise and vibration

6.6 In certain premises where 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 the occupants of nearby properties. This might be achieved by a simple requirement to keep doors and windows at the premises closed, to use noise limiters on amplification equipment used at the premises and/or to undertake works of sound insulation.

- 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.
- Prohibit certain rooms from being used for purposes that create noise.
- The use of explosives, pyrotechnics and fireworks of a similar nature, which could cause disturbance in surrounding area are restricted.
- 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

6.7 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. This might be achieved by the inclusion of additional filtration within the extraction system or increasing the height or direction of the final point of discharge.

Light pollution

6.8 Flashing or particularly bright lights on or outside licensed premises may cause a nuisance to nearby properties and may distract road users, especially in unlit areas. Any such condition needs to be balanced against the benefits to the prevention of crime and disorder of bright lighting in certain places.

Policy C1

Noise Controls

Stricter conditions with regard to noise control will be expected in areas of the District, which have denser residential accommodation or low levels of background noise but this will not limit opening hours without regard to the individual merits of any application.

The operating schedule must have regard to the nature of the area where the premises are situated, the type of premises concerned, the licensable activities to be provided, operational procedures and the needs of the local community. The Council will expect the schedule to demonstrate how it is intended that the premises will be "good neighbours" both to residents and to other venues and businesses and should have regard to guidance contained in the Good Practice Guide on the Control of Noise from Pubs and Clubs, March 2003 (produced by the Institute of Acoustics and where appropriate the Code of Practice on Environmental Noise Control at Concerts (produced by the former Noise Council).

Noise from Regulated Entertainment

Other than in exceptional circumstances the Licensing Authority expects the noise associated with regulated entertainment which takes place between the hours of 23:00 to 09:00 or takes place on a regular basis at any time should be controlled to such a level that the noise will be inaudible at all times inside all noise sensitive properties in the vicinity of the licensed premises.

Where applicable, the applicant will be expected to adequately demonstrate that compliance with the inaudibility criteria will be achieved. Accordingly, the applicant may be required to appoint a competent noise control consultant to carry out acoustic tests of the premises under worst case conditions and identify suitable noise control measures required to meet the inaudibility criteria.

In all cases where regulated entertainment is provided within a building the Council will expect the applicant to identify any areas of sound leakage from the premises and include in the operating schedule measures for addressing any areas so identified, such as:

- Keeping doors and windows closed and providing adequate mechanical ventilation
- Reducing sound levels and installing a sound limiting device to prevent sound exceeding the appropriate level
- Installing soundproofing measures to contain sound and vibration

In all cases the Council will expect the applicant to propose practical steps as to how disturbance to local residents will be prevented and the following general issues should be covered in the operating schedule:

- The establishment of an appropriate noise assessment procedure
- The establishment of monitoring systems to demonstrate compliance with noise policies and with any specific noise restrictions
- The establishment of an internal communications procedure for dealing with noise issues
- The establishment of methods for logging and responding to noise complaints within appropriate time limits
- The provision of general advice and training on noise control to employees

(1) Plant and Machinery

Fixed plant and machinery such as refrigeration equipment, air conditioning plant and cooking extraction systems, if not properly designed, constructed and maintained can cause noise disturbance. The noise produced may not be a problem during the evening but may cause disturbance to local residents when they are trying to sleep, i.e. at 2300. The total noise energy (L_{Aeq}), background noise (L_{A90}) and tonal content of the noise are important. Premises which will be operating such plant and machinery should demonstrate in their operating schedules that noise produced will not cause disturbance to local residents and this could include measures such as switching off fans and ventilation not required for public areas at 23:00

(2) Noise from Patrons

The Council will expect popular venues (including take-aways), which attract queues, to formulate a system to avoid disturbance to residents. This can sometimes be achieved by simply ensuring that the direction of the queue is as far away as possible from residential accommodation.

However, excessive noise and/or disorder require more rigorous action. It is important that queues formed later in the evening are supervised to keep noise to a minimum. This action can also help stop drug dealers from passing on drugs during the queuing process but the primary purpose is to prevent noise and disturbance. Door supervisors will generally carry out this role, but they must be given clear instructions as to their duties and responsibilities where necessary they should be adequately supervised.

In terms of patrons leaving the premises particularly late at night (after 2300) or early in the morning the Council will expect the applicant to have included in the operating schedule such practical steps as:

- Erecting prominent notices at the exits to premises asking customers to leave quietly and not to slam car doors
- At appropriate times making loudspeaker announcements within the premises to the same effect
- Instructing door staff to ask customers leaving the premises to leave the area quietly
- Reducing the volume of music towards the end of the evening and where appropriate playing quieter, more soothing music as the evening winds down
- Giving free lollipops to customers as they leave
- Availability of licensed taxis or private hire vehicles to take patrons from the premises

Reason

Noise from licensed premises gives rise to a large number of complaints from local residents. Additional controls are required if premises are open when residents are sleeping or attempting to sleep.

Policy C2 Anti Social Behaviour

It is self evident that the risk of disturbance to local residents is greater when licensable activities continue late at night and into the early hours of the morning. For example the risk of resident's sleep being disturbed by patrons leaving licensed premises is obviously greater at 0200hrs than at 2300hrs.

The policy of the Council is to strike a fair balance between the benefits to a community of a licensed venue and the risk of disturbance to local residents. Consequently in some cases the Council may restrict the hours of operation, as an alternative to extensive sound insulation and noise control measures.

Premises open between 2300 and 0800 will be expected to have:

- (a) an appropriate amount of car parking readily accessible to the premises, and situated in such a way that vehicular movement will not cause demonstrable adverse impact to local residents; and
- (b) submitted an operating schedule that indicates the applicant is taking appropriate steps to comply with the licensing objective of preventing public nuisance.

Exceptions may be made where it can be demonstrated that:

- (a) the licensable activities would not be likely to cause adverse impact especially on local residents, and that, if there is a potential to cause adverse impact, appropriate measures will be put in place to prevent it;
- (b) there will not be any increase in the cumulative adverse impact from these or similar activities, on an adjacent residential area; and
- (c) there is a particularly high level of public transport accessibility to and from the premises at the appropriate times;
- (d) the activity will not be likely to lead to a demonstrable increase in car parking demand in surrounding residential streets.

Reason

Any activity involving public entertainment or eating or drinking on the premises has the potential to impact adversely on the surrounding area due to noise, smells, or congestion on the footway. It may also be caused by the customers being noisy when leaving, dropping litter or taking up on-street car parking space needed by residents. The impact of noise generated by these activities, especially customers departing either on foot or in cars, is particularly intrusive at night when ambient noise levels are much lower.

Certain areas of the District in particular are sensitive to the impact of licensable activities as they are either residential in character or close to residential areas and background noise levels are low. Many shopping areas are abutted by residential areas, including housing above commercial premises. The impact of traffic and parking related to licensed premises can be considerable. Even where a majority of customers arrive on foot, the additional parking demand may be significant, especially where there are already a number of licensed premises. The impact may be felt by local residents in preventing them from parking close to their homes and by increasing the danger from traffic in residential streets.

Policy C3

Tables and Chairs outside Premises and Beer gardens

The Beer gardens of public houses and particularly rural public houses are an asset to the premises. Similarly, the provision of tables and chairs outside the premises either on the highway or on private land can enhance the attractiveness of the venue. It can have the benefit of encouraging a continental style café culture. However, late at night these same tables and chairs can contribute to noise problems and can be used as weapons. This is because they can encourage patrons and passers by to loiter rather than disperse. In certain locations they have been taken over by gangs of noisy youths.

The leaving of tables and chairs on the public highway will need the consent of Hampshire County Council. On private land consent may not be required, but the operating schedule must adequately address public nuisance.

There should be no loud speakers outside the building unless agreed by the Council for a specific event and the operating schedule must include measures to control noise e.g. hours of use, if near residential premises. The Council will generally only allow hours of use of outside chairs and beer gardens between 0900 to 1800 in residential areas. In predominantly commercial areas such as shopping centres the Council will normally allow hours of operation of 0800 to 2300. At the conclusion of these hours the Council will expect the removal of these tables and chairs from the public highway and adequate safeguards when situated within the curtilage of the premises.

If these hours lead to adverse impacts on the safety and amenity of local residents they may be reduced on review unless appropriate measures have been agreed with the Council to mitigate these impacts.

Reason

This policy is designed to strike a fair balance between the needs of those wishing to enjoy refreshment in the open air and the need to ensure safety and prevent nuisance problems.

Policy C4

Sanitary Accommodation

Premises must have sufficient provision of sanitary accommodation (e.g. water closets/urinals) for males and females adequately signed, located, maintained and kept clean. In certain circumstances applicants may wish to erect notices on the premises suggesting customers may wish to avail themselves of the toilet facilities before leaving the premises.

Reason

To prevent the public nuisance of people urinating and defecating in the street, public place or private land, causing nuisance to members of the public.

Policy C5

Exterior Lighting

Exterior lighting and security lighting must be positioned to avoid disturbing neighbouring residential property and to avoid being an unnecessary distraction to drivers.

Reason

Bright lights shining into windows can cause disturbance. Whilst flashing or bright lights can distract drivers thereby increasing the risk of accidents.

Section D: Protection of Children

Matters to be considered by Applicants

- 7.1 Applicants should have regard to the following matters when writing their operating schedules and are advised to consult the appropriate Hampshire Area Child Protection Team. If the Council receive a representation, at the Hearing that determines the application conditions may be imposed.
- 7.2 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
- (a) 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; or
 - (b) in between midnight and 0500hrs 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

- 7.3 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. 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 Council considers such conditions necessary to protect children from harm. Whilst applications in relation to premises licences and club premises certificates must be judged by the Council 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 at a hearing) with underage drinking, drugs, significant gambling, or any activity or entertainment (whether regulate 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 10.00 pm in the evening, there should be a presumption against the presence of children unaccompanied by adults under the age of 12 after that time. Applicants wishing to allow access when preparing operation 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.

7.4 In any other case, subject to the personal licence holder, designated premises supervisor or club's discretion, the expectation would be for unrestricted access for children of any age to premises. An operating schedule or club operating schedule should indicate any decision for the premises to exclude children completely, following from which there would be no need to include in the schedule steps the applicant proposes to take to promote the protection of children from harm.

Age Restrictions - specific

7.5 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 the Council, following relevant representations made by responsible authorities and interested parties, will need to consider a range of conditions that are tailored to the particular premises and their activities where these are necessary. The Council will consider:

- The times of day during when age restrictions should and should not apply. For example, the fact that adult entertainment may be presented at premises after 20:00 hrs 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-alcoholic events for young age groups such as under 18s dances
 - Types of event or activity that give rise to a more acute need for age restrictions than normal, for example, "happy hours" or on drinks promotion nights

Age restrictions - cinemas

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

- A condition that where the Council 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 Council, 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.
 - 12 - Passed only for viewing by persons aged 12 years or older
 - 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 Council 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 Council as falling into the 12, 12A, 15 or 18 category no person appearing to be under the age of 12, under 12 and unaccompanied, under the age of 15 or 18, as appropriate, shall be admitted to any part of the programme; and the licence holder shall display in a conspicuous position at each entrance to the premises 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 provided that the prior written consent of the person's parents or legal guardian has first been obtained,"

Theatres

- 7.7 The admission of children to theatres, as with other licensed premises, is not normally expected to 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 will 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).
- 7.8 Consideration will be given to the imposition of conditions to premises licence requiring 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.

Performances especially for children

- 7.9 Where performances are presented especially for 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.
 - 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

- 7.10 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. However, if it is necessary to consider imposing conditions for the promotion

of the protection of children from harm then the Council will 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, concerts 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.

Policy D1

Where the activities proposed under the licence include those of a sex related nature (e.g. topless waitresses, striptease, table dancing etc) the Council will take into account the increased risk to the licensing objectives.

Note: For the sake of convenience the term “striptease” in this part of the policy should be taken to refer to any entertainment or service involving exposure of private parts or involving any form of sexual stimulation of patrons.

Where such entertainment is provided the operating schedule must include conditions designed to ensure that children are not admitted to and cannot witness these activities and to prevent crime and disorder problems. For example:

The area proposed for striptease shall:

- (a) be in a position where the performance cannot be seen from the street;
- (b) be in a designated area of the premises with segregation from the audience;
- (c) be in a position where the performers will have direct access to the dressing room without passing through or in close proximity to the audience.

Whilst striptease entertainment is taking place no person under the age of 18 shall be on the licensed *premises* and a clear notice shall be displayed at each entrance to the premises in a prominent position, so that it can be easily read by persons entering the premises, in the following terms:

NO PERSON UNDER 18 WILL BE ADMITTED

To prevent the possibility of children seeing unsuitable advertisement, unless the advert has been previously agreed by the Council, the policy of the Council will be to attach a condition to the effect that “Except with the consent of the Council there shall be no external advertising of the striptease entertainment either at the premises or in its immediate vicinity.”

/cont

Reason (cont)

These policies are designed to further the licensing objective of protecting children by preventing them being exposed to unsuitable material or acts. They are also designed to further the crime prevention and prevention of nuisance objectives by recognising the increased risk of nuisance or illegal activities such as performers offering “extras” to customers or the plying for trade by prostitutes.

Policy D2

The Council will take strong measures to protect children from harm. Examples of premises where the introduction of additional controls are likely to be necessary are:

- Where there have been convictions for serving alcohol to a minor or with a reputation for under-age 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

In such circumstances while it may sometimes be necessary to impose a complete prohibition this would be only rarely imposed. The Council would normally require:

- Limitations on the hours when children may be present
- Age limitations below 18
- Limitations or exclusions when certain activities are taking place
- Requirements for accompanying adults
- Full exclusion of people under 18 from the premises when any licensable activities are taking place

Where there is provision of entertainment specifically for children (e.g. a children’s disco) the Council will require the presence of sufficient adults to control the access and egress of the children and assure their safety.

Reason

These policies are designed to allow flexibility for the licensee, to ensure that where appropriate licensed premises are “user friendly” for children but to ensure they are adequately protected.

Policy D3 Children & Cinemas

The Council expects licensees to include in their operating schedule arrangements for restricting children from viewing age restricted films classified according to the recommendations of the British Board of Film Classification.

Where the exhibition of films is permitted the authority will expect the age restrictions of the British Board of Film Classification (BBFC) in respect of the films to be exhibited to be complied with. Only in exceptional cases will variations of this general rule be granted by the Council and then only with appropriate safeguards.

In relation to specialist Film Festivals where it is desired to show films not classified by the BBFC the Council will, provided adequate notice has been given, classify the films concerned. To achieve consistency and the protection of children the Council will use the guidelines published by the BBFC.

Reason

To prevent children from viewing unsuitable films.

Policy D4 Children and Regulated Entertainment

It is expected that adult staff will be at places of public entertainment to control the access and egress of children and to protect them from harm. This requirement also applies to children present at an event as performers, in which case, for every ten children there must be one supervising adult present at all times.

This Policy Statement will be regularly reviewed and a new policy published at three yearly intervals. The Council welcomes all comments and observations and a form is attached in order that you may do so.

Observations and comments should be posted to the following address:

**Licensing Services
New Forest District Council
Appletree Court
Lyndhurst
Hampshire
SO43 7PA**

Email: licensing@nfdc.gov.uk

For further information please contact a member of Licensing Services on 023 8028 5505.

APPENDIX A

SCHEDULE OF DELEGATIONS

Matter to be dealt with	GPLC or Sub-Committee	Officers
Application for personal licence	If a Police objection	If no representation made
Application for personal licence with unspent convictions	All cases	
Application for premises licence/club premises certificate	If a relevant representation made	If no relevant representation made
Application for provisional Statement	If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate	If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor	If a Police objection	All other cases
Request to be removed as designated premises supervisor		All cases
Application for transfer of premises licence	If a Police objection	All other cases
Applications for interim authorities	If a Police objection	All other cases
Application to review premises licence/club premises certificate	All cases	
Decision on whether a complaint is irrelevant frivolous vexatious etc		All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application	All cases	
Determination of a Police objection to a temporary event notice	All cases	
In cases where the Magistrates Court has determined the licence on appeal		All cases

Appendix B

PUBLIC SAFETY

The following bibliography provides suitable information and guidance to assist applicants to determine the appropriate provisions and standards required for public safety.

Model National and Standard Conditions for Places of Public Entertainment and Associated Guidance ISBN 1 904031 11 0 (Entertainment Technology Press – ABTT Publications)

BS: 5588 Part 6: 1991. “Code of practice for places of assembly”

Approved document B to the Building Regulations.

Guide to Fire Precautions in Existing Places of Entertainment ISBN 0 11 340907 9 (HMSO 1990)

Fire safety, “An Employers Guide” ISBN 0 11 341229 0

Fire Safety Manual – Volume 3: Part A: Section 1 “Licensing of Community Premises – Inspection Policy

Sample conditions of licence/Local Authority Regulations relating to Entertainment – fire safety reference material.

DCOL 14/1995 – Technical Standards for marquees and large tents provided for exhibitions and entertainment.

HSG 195 – 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

HSE/Home Office “Guide to Health Safety and Welfare at Pop Concerts and similar events.

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 Stationary Office 1997) (“The Green Guide”) ISBN 0 11 300095 2

Safety Guidance for Street Arts, Carnival, Processions and Large Scale Performances published by the independent Street Arts Network, copies of which may be obtained through streetartsnetwork.org/pages/publication

Additional assistance on fire safety related matters can be found by visiting Hampshire Fire and Rescue Service web site: www.hantsfire.gov.uk

APPENDIX C

ADDITIONAL CONTACT DETAILS

Contact	Postal Address	Telephone	Email	Website
New Forest District Council	Appletree Court Lyndhurst Hampshire SO43 7PA	02380 285505	licensing@nfdc.gov.uk	nfdc.gov.uk
Dept. of Culture, Media and Sport	2-4 Cockspur St London SW1Y 5DH	General Enquiries 020 7211 6200	enquiries@culture.gov.uk	culture.gov.uk
Trading Standards	Regulatory Advice Service Mottisfont Court High Street Winchester SO23 8ZE	0845 6030081	rsadvice@hants.gov.uk	
Chief Officer of Police	Lyndhurst Hampshire SO			
Chief Fire Officer	Walnut Tree Grove Southampton Hampshire			
NFDC Environmental Health (Noise Pollution)	Appletree Court Lyndhurst Hampshire SO43 7PA			
NFDC Environmental Health (Health & Safety and Food Safety)	Town Hall Lymington Hampshire SO			

Please use this form to make your comments known to the Council. If necessary you may also use the reverse of this form or a separate sheet of paper, laying out your comments in the same manner as on this page. Please also ensure that your pages are stapled or otherwise firmly fixed together.

Statement of Licensing Policy

Form Ref:

Schedule of Comments/Suggested Changes to the Statement of Licensing Policy

Name of Person or Organisation _____

Your Post Code _____ Your Email Address _____

Your Address _____

Policy Paragraph Number	Comments / Suggested Changes / Additions	Reasons for your Proposal	Office use only	

Continue overleaf as necessary

Thank you for your input

Please return to : Licensing Services, New Forest District Council, Appletree Court, Lyndhurst, Hampshire SO43 7PA

Continued from previous page

Policy Paragraph Number	Comments / Suggested Changes / Additions	Reasons for your Proposal	Office use only	

Thank you for your input

Please return to : Licensing Services, New Forest District Council, Appletree Court, Lyndhurst, Hampshire SO43 7PA

GENERAL PURPOSES AND LICENSING COMMITTEE

TERMS OF REFERENCE

1. ***To be the licensing committee established by the Council under section 6 of the Licensing Act 2003 and to discharge licensing functions under that Act.***
2. ***To keep the Council's Statement of Licensing Policy under review and recommend changes to the Council.***
3. ***To provide regular reports to the Planning Development Control Committee and Review Panels, as appropriate, on the situation regarding licensed premises in the area, including the general impact of alcohol-related crime and disorder.***
4. ***To determine the procedure to be followed at hearings of the Licensing Sub-Committee.***
5. To be responsible for all matters relating to the licensing and registration functions determined by the Council under Part B, and the functions relating to public rights of way and closing orders with respect to take-away food shops determined by the Council under Part I, of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000. ~~Such responsibilities include power to delegate functional responsibility to individual Officers for determination of any application for any Consent, Licence, Certificate, Permit, Registration or the like and: where officers are unable or feel it is inappropriate to make a decision under their delegated powers, to determine any matter coming within the Committee's Terms of Reference through a Panel of up to five members of the Committee as determined by the Head of Legal and Democratic Services.~~
6. Except in relation to the Council as an employer, to advise the Council on functions under any relevant statutory provision within the meaning of Part 1 (health, safety and welfare in connection with work and control of dangerous substances) of the Health and Safety at Work etc., Act 1974 under Part C of The Local Authorities (Functions and Responsibilities) (England) Regulations 2000.
7. To advise the Council on all matters, including the appointment of appropriate Officers, relating to:-
 - a) electoral registration and elections
 - b) establishment, dissolution, grouping and any other matters relating to Parishes and Parish Councils
 - c) declarations of vacancy in certain offices
 - d) the name, status of areas and individuals
 - e) the making, amendment, revocation or re-enactment of byelaws

- f) the promotion or opposition to local or personal Bills
- g) Local Government pensions

under Parts D,E,F,G and H of Schedule 1 to The Local Authorities (Functions and Responsibilities) (England) Regulations 2000.

8. To authorise the requisition of information as to interests in land in connection with the functions delegated to the Committee.
9. To respond, as consultee, on issues relating to sea fisheries.
10. Where appropriate, to advise the Council on appointments to Committees, Sub-Committees and Joint Committees.
11. To advise the Council on standing orders for meetings and other matters.
12. To advise the Council on the arrangements for the appointment of staff to discharge the Authority's functions properly.
13. To make recommendations to Council on estimates of income, fees and charges, expenditure and the budget required by the Committee to undertake its functions.
14. To vary the maximum hackney carriage fares applicable in the District.
15. Subject to compliance with any provisions within legislation and the Council's Constitution, to delegate any of the functions of the Committee to an officer of the Council.
16. To respond on behalf of the Council to consultation papers on matters falling under the specific terms of reference of the Committee.
17. To advise the Council on appointing staff and the terms and conditions on which employees hold office (including procedures for their dismissal).