

Harlow Council Statement of Licensing Policy

Made under Section 5 of the
Licensing Act 2003

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HARLOW COUNCIL LICENSING POLICY

1.0 INTRODUCTION

Introduction

- 1.1 Harlow Council is the Licensing Authority under the Licensing Act 2003 and is responsible for granting premises licences, club premises certificates, temporary events notices and personal licences in the District of Harlow in respect of the sale and/or supply of alcohol and the provision of regulated entertainment and late night refreshment. Since it initially came into effect, the Licensing Act 2003 has been subject to a number of amendments. All references to the Licensing Act 2003 contained within this policy relate to the Licensing Act 2003 (as amended).
- 1.2 When assessing applications, the Council must be satisfied that the measures proposed in the applicant's operating schedule aim to achieve the four licensing objectives. **Bold type** refers to matters that the Council expects to see addressed in the applicant's operating schedule, where appropriate. Passages of text that are not in bold are provided to assist applicants to understand what the Council is seeking to achieve, the factors that influence the achievement of the licensing objectives and the control measures that could be implemented by the applicant to achieve that outcome.
- 1.3 This policy covers a wide variety of premises and activities carried on in them including theatres, cinemas, restaurants, pubs, nightclubs, private members' clubs, educational establishments and community centres, as well as shops and off-licences and late night food premises and vehicles selling hot food or hot drink after 11p.m. For this reason, this policy cannot detail all the factors that influence the achievement of the licensing objectives nor can this policy detail all the control measures that may be appropriate.

The Licensing Objectives

- 1.4 The 2003 Act requires the Council to carry out its various licensing functions so as to promote the four licensing objectives. These are:
- The Prevention of Crime and Disorder
 - Public Safety
 - The Prevention of Public Nuisance
 - The Protection of Children From Harm

These are the only four matters to which the Local Authority can have regard

- 1.5 **Applicants will have to set out details within their operating schedule measures which are of the right kind and go far enough to meet each of the four licensing objectives. Applicants will need to provide evidence that these measures will be put in place and maintained. The applicant will in the same way also have to set out support with evidence any**

measures needed to deal with any special event or promotion, which is likely to attract more customers than usual.

Statement of Licensing Policy

- 1.6 The 2003 Act further requires that the Council publishes a 'Statement of Licensing Policy' that sets out the policies the Council will generally apply to promote the licensing objectives when making decisions on applications made under the Act.
- 1.7 This 'Statement of Licensing Policy' has been prepared in accordance with the provisions of the 2003 Act and having regard to the guidance issued under Section 182 of the Act. It was originally drafted in partnership with the Essex Joint Licensing Officers' Forum and the Harlow Crime and Disorder Reduction Partnership (Safer Harlow Partnership) and is underpinned by partnership work with the Essex Joint Licensing Officers' Forum and the Harlow Crime and Disorder Reduction Partnership (Safer Harlow Partnership). These partnerships provide links to the Essex Chief Executives' Association's Crime and Disorder Steering Group, who will maintain a strategic overview of issues associated with permissions issued under the Licensing Act 2003.
- 1.8 This Policy Statement takes effect on 8th February 2019 and will remain in force for a period of not more than 5 years. It will be subject to regular review and further consultation prior to February 2024.
- 1.9 From time to time the Government may update the Regulations and Guidance made under the Licensing Act 2003. Interim review of this policy may be necessary as a result of such changes.
- 1.10 Supplementary information contained in the appendices is available to support this Policy Statement. It is intended that this will provide local information which may be helpful to applicants. It should not be interpreted as legal advice.

Consultation

- 1.11 There are a number of groups who have a stake in the leisure industry, including providers, customers, residents and enforcers, all of whom have views and concerns that require consideration as part of the licensing function and promotion of the licensing objectives.
- 1.12 In developing this Policy Statement, the Council consulted with statutory consultees (Responsible Authorities), existing licence holders, businesses, voluntary groups, residents and relevant Harlow Council Services.

Links to other Strategies

- 1.13 In preparing this statement of licensing policy, the Council has consulted with and has considered the responses of those involved in its local strategies on crime prevention, planning, public transport, culture, tourism and economic development, to ensure the proper co-ordination and integration of the aims and actions of these

policies. Review and amendment of these strategies will be considered for their impact on this statement of licensing policy.

- 1.14 Further, arrangements will be made for the Licensing Committee to receive reports, when appropriate, on the needs of the local tourist economy to ensure that these are reflected in their considerations. The Licensing Committee will also be apprised of the local employment situation and the need for new investment and employment, where appropriate.
- 1.15 To ensure proper integration with the Council's planning policies, the Licensing Committee will provide reports to the Planning Committee, where appropriate, on the situation regarding licensed premises in the area, including the general impact of alcohol related crime and disorder, to enable the planning committee to have regard to such matters when making its decisions.
- 1.16 The Council recognises its responsibilities under the Equality Act 2010. The impact of this policy on equality issues will be kept under review and the policy amended where appropriate.
- 1.17 Having regard to the Council's Health and Wellbeing Strategy, a diverse provision of cultural activities is welcomed for the benefit of communities. The Council will monitor the licensing of regulated entertainment, especially with regard to live music and dancing, theatrical performances, circuses, etc. where these remain licensable activities, to ensure that such events are promoted without unreasonable restrictions being imposed, which would discourage such events. The Council will need to balance the natural concern to prevent disturbance in neighbourhoods with the wider cultural benefits, particularly the cultural benefits for children. Advice and guidance on this matter will be sought from the Council's Arts Development Officer.

Applications

- 1.18 When considering applications etc. the Council will have regard to:
 - The Licensing Act 2003 and the licensing objectives,
 - Government guidance issued under Section 182 of the Licensing Act 2003,
 - Any supporting regulations
 - This statement of licensing policy
- 1.19 This does not however undermine the rights of any person to apply under the 2003 Act for a variety of permissions and have the application considered on its individual merits, nor does it override the right of any person to make representations on any application or seek a review of a licence or certificate where they are permitted to do so under the 2003 Act.
- 1.20 When the Council is considering any application, it will avoid duplication with other regulatory regimes, so far as possible and does not intend to use the licensing regime to achieve outcomes that can be achieved by other legislation. In particular, its licensing functions will be discharged separately from its functions as the local planning authority. **However, applications for**

premises licences for permanent commercial premises should normally be from businesses with planning consent for the property concerned. (Other permissions may be applicable to licensed premises and applicants are expected to ensure that such permissions are obtained where necessary.)

- 1.21 When one part of the Council seeks a premises licence from the licensing authority, the licensing committee and its officers will consider the matter from an entirely neutral standpoint. If relevant representations are made, for example by local residents or the police the committee will consider them impartially and objectively.
- 1.22 In all cases, applicants and those making representation in respect of applications to the Council have a right of appeal to the Magistrates' Court against the decisions of the Council.
- 1.23 Appendix E provides applicants with the details of the application process, having regard to the Licensing Act 2003, the regulations, statutory guidance and local practice and procedures.

Representations

- 1.24 Essex Police, Essex County Fire and Rescue Service, Essex Trading Standards, the Enforcing Authority for Health and Safety purposes, the local Planning Authority, the Environmental Health Housing and Pollution Section, the Licensing Authority as a Responsible Authority in its own right, the local health body, and the Essex County Council Child Protection are all known as 'Responsible Authorities'. These responsible authorities may make representations on applications, so far as they relate to the promotion of the four licensing objectives, and request reviews once licences have been granted.
- 1.25 Any person or their representatives are 'interested persons' and may raise relevant representations. A representation would only be 'relevant' if it relates to the effect of the grant of the licence on the promotion of at least one of the four licensing objectives. In addition, the representation must not be frivolous or vexatious, and in the case of reviews, in addition, not repetitious.
- 1.26 It is only when well founded relevant representations are received, that the Licensing Authority may hold a hearing. It will pay particular attention at any hearing whether to impose additional conditions to any which may already be included in the operating schedule, with a view to promoting the objectives.
- 1.27 Where no representations are received, the application will be granted on the terms sought by the applicant where the application is made in accordance with the Act.

Conditions

- 1.28 Licensing is about the appropriate control of licensed premises, qualifying clubs, temporary events and the people who manage them or hold personal licences within the terms of the 2003 Act. Where relevant representations are made, the Council will make objective judgements as to whether it should attach conditions to a licence to secure achievement of the licensing objectives. Any conditions arising from the operating schedule, or as a result of representations, will primarily focus on the direct impact of the activities taking place at licensed premises on those attending the premises and members of the public living, working or otherwise engaged in normal activity in the area concerned. The conditions will cover matters that are within the control of individual licensees.
- 1.29 Licensing powers cannot be used for the general control of the anti-social behaviour of individuals once they are beyond the direct control of the licensee of any premises concerned. However, other mechanisms may be used, where appropriate, to tackle any unruly or unlawful behaviour of consumers when beyond the control of the individual, club or business holding the licence. These include:
- Planning controls
 - Positive measures to create a safe and clean town environment in partnership with local businesses, transport operators and other departments of the local authority
 - The provision of CCTV surveillance in town centres, sufficient taxi ranks, street cleaning and litter patrols
 - Powers of local authorities to put in place 'public space protection orders' to control undesirable activities or activities that cause anti-social behaviour including drinking in the street
 - Police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices
 - The prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk
 - The confiscation of alcohol from children and adults in protected areas
 - Police and/or local authority powers to close down instantly for up to 24 hours any licensed premises or temporary events on grounds of disorder, the likelihood of disorder or noise emanating from the premises causing a nuisance
 - The power of the police, other responsible authorities or other interested party to seek a review of the licence or certificate in question
 - Hackney carriage and private hire licensing arrangements
 - The effective licensing of tables and chairs (facilities) outside of licensed premises
- 1.30 If an applicant for a licence volunteers a prohibition or restriction in their operating schedule because it has been identified as being necessary as a result of their own risk assessment, such volunteered prohibitions or restrictions will become conditions attached to the licence, or certificate and will be enforceable.
- 1.31 All applications will be considered on an individual basis. In order to avoid the imposition of disproportionate or burdensome conditions, any conditions

attached to a licence will be tailored to the individual premises. Standard conditions, other than mandatory conditions, will therefore be avoided and no condition will be imposed that cannot be shown to be necessary for the promotion of the licensing objectives.

Delegation of Functions

- 1.32 With the exception of the approval and review of its Licensing Policy, decisions on licensing matters will be taken in accordance with an approved scheme of delegation so that decisions are made quickly and efficiently. A table setting out how the licensing authority intends to approach its various functions is attached at Appendix A. The Licensing Committee will receive regular reports regarding licences determined by Officers under delegated powers, in order to maintain a general overview.

The Need for Licensed Premises

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

Cumulative Impact of a Concentration of Licensed Premises

- 1.34 “Cumulative impact” means the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. This is a proper matter for a licensing authority to consider in developing its licensing policy statement.
- 1.35 The Council acknowledges that a concentration of licensed premises in a particular area can result in an increased number of people walking through or congregating in streets during the night with the potential impact of an increase in crime, anti-social behaviour, noise and other disturbance to residents, together with an increase in littering or fouling. In such cases the amenity of local residents can be placed under severe pressure, which may not be attributable to any individual premises.
- 1.36 The Council will only adopt a special policy on cumulative impact if there is evidence that such a policy is necessary to prevent unacceptable anti-social behaviour and crime impacts.
- 1.37** The licensing team will have regard to current and emerging evidence when making an assessment as to whether it will recommend to the Licensing Committee that a cumulative impact assessment should be made in relation to a particular area. The assessment will be based on the promotion of the licensing objectives.
- 1.38 The cumulative impact of licensed premises in a particular area may, at a future time, on representation from residents or businesses or a responsible authority, trigger the consideration of whether any additional licences or substantial variations to existing licences, would lead to an unacceptable

saturation in an area. The onus will be on the person or body making the representation to provide suitable evidence to warrant a consideration of whether cumulative impact exists.

Late Night Levy

- 1.39 The Licensing Authority has at its disposal, the power to implement a Late Night levy. This power has been available since October 2012.
- 1.40 The Levy is a means of raising funds from businesses which are licensed to open after midnight in order to help police the negative impact of the late night economy. The money raised by the Levy is shared with the Police on a 70%/30% split after Local Authority costs have been deducted.
- 1.41 The Local Authority's 30% share must be spent on managing the effects of the night time economy.
- 1.42 The Late Night Levy is a discretionary power and can be implemented by the Licensing Committee should it be deemed appropriate to do so.
- 1.43 The Levy covers the whole district and affects all businesses which hold a licence to open during the hours adopted by the Levy irrespective of whether the business chooses to open during those hours or not.
- 1.44 In making such a decision, the Licensing Committee will take into account evidence from any of the Responsible Authorities about negative impact of the night time economy and consult with affected businesses as well as publishing its intention to implement a Levy for general public perusal and comment.

Early Morning Alcohol Restriction Order

- 1.45 Licensing Authority's may implement an Early Morning Alcohol Restriction Order (EMRO) if it so chooses.
- 1.46 An EMRO allows the Licensing Authority to require businesses to stop serving alcohol between the hours specified by the Order.
- 1.47 The EMRO can apply to part of the district as opposed the Late Night Levy which must apply to the whole district.
- 1.48 The Licensing Authority must be satisfied that there is enough evidence of a negative impact of the night time economy in the area to which the EMRO will apply.
- 1.49 Before applying the EMRO, the Licensing Authority will consult with Responsible Authorities, local businesses, particularly those to be affected by the Order and publish its intention to implement an Order for general public perusal and comment.

Advice and Guidance

- 1.50 Harlow Council recognises the valuable cultural, social and business importance that premises and events requiring a licence under the Licensing Act provide and welcomes the diversity of activities that are provided by licence holders.
- 1.51 Pre-application discussions with Harlow Council, Essex Police and other responsible authorities will be encouraged to assist applicants to develop their operating schedule. Essex Police have developed a suite of 'model conditions' which may be used or be modified for use by applicants or licence holders when framing their operating schedule.
- 1.52 The licensing team will, where resources permit, liaise with applicants and interested parties who may intend to make representations to achieve a satisfactory outcome for all involved prior to submission of a formal licence application. Where an applicant considers that liaison may be beneficial, we recommend the applicant discusses their proposal with the licensing team and those from whom they think representations are likely prior to submitting their application. Once an application has been lodged, there are statutory timescales imposed upon the application and determination process, which restrict the opportunity for such discussions, liaison and mediation.
- 1.53 Appendices C and D provide details of various organisations, trade associations and reference literature that an applicant may find useful in preparing an operating schedule and running a safe premises/event.

Reviews

- 1.54 Where appropriate any Responsible Authority will likely give early warning to licence holders of any concerns about problems identified at premises and of the need for improvement.
- 1.55 Responsible authorities or other interested persons may trigger a review of a premises licence. The application for review must be supported with evidence.
- 1.56 No more than one review from an interested person will be normally permitted within a 12-month period on similar grounds except in exceptional and compelling circumstances. Each application will be considered on its own merits.

Enforcement

- 1.57 The Council recognises the interests of both citizens and businesses and will work closely with partners to assist licence holders to comply with the law and the four licensing objectives it seeks to promote. Progressive and proportionate action will be taken against those who commit offences or consistently break the law. The Council has set clear standards of service and

performance that the public and businesses can expect. In particular, it has adopted a Licensing Enforcement Policy that explains how the Council will undertake its role as Licensing Authority and how the principles of effective enforcement will be followed. This policy is freely available from the Licensing Department and can also be viewed on the Council's website: www.harlow.gov.uk

1.58 The Enforcement Policy is based on the principles that businesses should:

- Receive clear assistance from the licensing team on the action they are required to take and the timescale
- Be given, where appropriate, opportunity to resolve differences before enforcement action is taken
- Receive an explanation of their rights of appeal

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

2.0 LICENSING OBJECTIVES

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

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

2.2 In each section relating to the objectives, the Council has defined its intended outcome **in bold type**. Each section then lists the influencing factors on the achievement of that objective but, because of the wide variety of premises and activities to which this policy applies, the lists provided are not exhaustive. **Applicants should know their premises and will be expected to address all aspects relevant to the individual style and characteristics of their premises and events.** Pre-application discussions with the Responsible Authorities are encouraged to assist applicants to develop their operating schedule.

2.3 To assist applicants, a list of possible control measures is provided. The list is not exhaustive. Many control measures achieve more than one objective but have not necessarily been listed under each objective. Similarly, applicants will not be required to mention a control measure more than once in their operating schedule. To further assist licence holders and applicants, Essex Police have developed a comprehensive list of control measures which may be incorporated or adapted for use by the licence holder or applicant in their operating schedule.

- 2.4 **The selection of control measures, referred to in 2.3 above, should be based upon a risk assessment of the premises, events, activities and the customers expected to attend (e.g. their age, number, etc.).** Whilst the Council cannot require such risk assessments to be documented, (other than where required by other legislation), it considers such documentation to be good practice. It will be a useful tool in the instruction and training of staff, as well as a sound basis in the event of making an application for a variation or in response to changing circumstances/conditions at the premises.
- 2.5 Additional measures may be necessary on an occasional or specific basis such as when a special event (e.g. popular live band) or promotion (e.g. during major sporting occasions) is planned. These occasions can often attract larger audiences and/or audiences of a different nature, and this can have a significant impact on the achievement of the licensing objectives. **Reference must be made in an applicant's operating schedule, where applicable, to such occasions and the additional measures that are planned in order to *promote* the licensing objectives.**
- 2.6 The Council considers the effective and responsible management of the premises, instruction, training and supervision of staff and the adoption of best practice to be amongst the most essential control measures for the achievement of all the licensing objectives. **For this reason, these elements should be specifically considered and addressed within an applicant's operating schedule.**
- 2.7 In addition, the occupancy capacity for premises, and events as appropriate, is also considered to be an essential factor in the achievement of the four licensing objectives, (except in respect of premises licensed for the consumption of food and/or alcohol off the premises).

The Council will expect the issue of occupancy capacity to be considered within the applicant's operating schedule and fire risk assessment.

- 2.8 The design and layout of premises are important in determining capacity, as is the availability and size of exits within recommended travel distances. Other factors should also be considered when assessing the appropriate capacity for premises or events. These include:
- The nature of the premises or event
 - The nature of the licensable activities being provided
 - The provision or removal of temporary structures, such as a stage, or furniture
 - The number of staff available to supervise customers both ordinarily and in the event of an emergency
 - The age of the customers
 - The attendance by customers with disabilities, or whose first language is not English
 - Availability of suitable and sufficient sanitary accommodation
 - Nature and provision of facilities for ventilation

- 2.9 The agreed premises capacity for premises or events may not always require that permanent monitoring arrangements such as door supervisors, attendance clickers or maintenance of attendance records are required. The Council recognises that the person in charge at the premises can often readily assess the occupancy level of the premises without resort to such measures. **However, where the capacity is likely to be reached (such as on known busy evenings) and particularly where a special event or promotion is planned, the applicant will be expected to detail the additional arrangements that will be put in place to ensure that the capacity of the premises is not exceeded.**
- 2.10 The licensing authority will process applications for minor variations to premises licences when satisfied that the variation will not adversely impact on the licensing objectives. The licensing authority will consult with responsible authorities whom they deem necessary to make such assessment.

3.0 PREVENTION OF CRIME AND DISORDER

- 3.1 Harlow Council is committed to further improving the quality of life for the people of the District of Harlow by continuing to reduce crime and the fear of crime.
- 3.2 Section 17 of the Crime and Disorder Act 1998 introduced a wide range of measures for preventing crime and disorder and imposed a duty on Harlow Council, Essex Police, Essex County Council and others to consider crime and disorder reduction in the exercise of all their duties. The Licensing Act 2003 reinforces this duty for local authorities. The Anti-Social Behaviour, Crime and Policing Act 2014 provides for additional enforcement actions and sanctions which may be used by the Council and Police to deal with crime and anti-social behaviour.
- 3.3 The promotion of the licensing objective, to prevent crime and disorder, places a responsibility on licence holders to become key partners in achieving this objective.

Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures to reduce or prevent crime and disorder on and in the vicinity of their premises have been identified and will be implemented and maintained. The measures will be relevant to the individual style and characteristics of their premises and events.

- 3.4 When addressing the issue of crime and disorder, the applicant should demonstrate that those factors, which impact on crime and disorder, have been considered. These may include:
- Underage drinking
 - Drunkenness on premises
 - Public drunkenness
 - Drugs
 - Violent behaviour
 - Anti-social behaviour

3.5 The following examples of control measures are given to assist applicants who may need to take account of them in their operating schedule, having regard to their particular type of premises and/or activities. The list is not exhaustive and the examples given will not be applicable in all cases.

- Effective and responsible management of premises
- Documented staff training
- Supervision of staff
- Number of personal licence holders present
- Adoption of best practice guidance (e.g. Safer Clubbing, the Government's Alcohol Harm Reduction Strategy 'Safe. Sensible. Social.' and other voluntary codes of practice, including those relating to drinks promotions e.g. The Point of Sale Promotions published by BBPA, Security in Design published by BBPA and Drugs and Pubs, published by BBPA)
- Acceptance of accredited 'proof of age' cards e.g. PASS, locally approved 'proof of age' cards and/or 'new type' driving licences with photographs and/or passports
- Adoption of a 'Challenge 25' policy. An approved ID must be provided to prove that they are over 18 years of age.
- Provision of effective CCTV in and around premises with the retention of images for a suitable period in accordance with Home Office Best Practice Guidance.
- Design and seating layout
- Employment of Security Industry Authority licensed door staff
- Provision of toughened or plastic drinking vessels
- Provision of secure, deposit boxes for confiscated items ('sin bins')
- Provision of litterbins and other security measures, such as lighting, outside premises
- Membership of local 'Pubwatch' schemes or similar organisations
- Prohibition on glass bottles being served to customers.

Pre-application discussions with the Responsible Authorities are encouraged to assist applicants to develop their operating schedule.

3.6 Within the operating schedule for premises from which alcohol will be sold, with the exception of qualifying community premises, a Premises Supervisor must be designated ('Designated Premises Supervisor' DPS). The Council will normally expect the DPS to have been given the day to day responsibility for running the premises by the premises licence holder and so would expect the DPS be present on the licensed premises on a regular basis. In addition to the DPS holding a personal licence, the Council would strongly encourage the DPS to undergo additional training, and to have experience commensurate with the nature and style of any regulated entertainment provided and the capacity of the premises.

3.7 A licence is not needed for certain temporary events but the Temporary Event Notice procedure can be used to notify the Council, Essex Police and Environmental Health Services. Certain events not needing a premises licence can, however, have serious implications on all four licence objectives. Organisers of these events are encouraged to submit their notification as

soon as reasonably practicable to enable the Police, Environmental Health Services and the Council to work with them to identify and reduce the risk to the licensing objectives.

4.0 PUBLIC SAFETY

4.1 The Licensing Authority is committed to ensuring that the safety of any person visiting or working in licensed premises is not compromised.

Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures to ensure public safety have been identified and will be implemented and maintained. These will be relevant to the individual style and characteristics of their premises and events.

4.2 When addressing public safety, an applicant must demonstrate factors which impact on public safety have been considered. These may include:

- The occupancy capacity of the premises
- The age, design and layout of the premises, evacuation procedures, and fire resistance of materials and furnishings
- The nature of the licensable activities to be provided, in particular the sale or supply of alcohol, and/or the provision of music and dancing and including whether those activities are of a temporary or permanent nature
- Hours of operation (differentiating the hours of opening from the hours when licensable activities are provided, if different)
- Customer profile (e.g. age, disability)
- Use of special effects such as lasers, pyrotechnics, smoke machines, foam machines, etc.
- Automatic fire detection systems and emergency lighting.

4.3 The following examples of control measures are given to assist applicants who may need to take account of them in their operating schedule, having regard to their particular type of premises and/or activities. The list is not exhaustive and the examples given will not be applicable in all cases.

- Suitable and sufficient risk assessments
- Effective and responsible management of premises
- Provision of a sufficient number of people employed or engaged to secure the safety of the premises and patrons
- Employment of Security Industry Authority licensed door staff
- Appropriate instruction, training and supervision of those employed or engaged to secure the safety of the premises and patrons
- Adoption of best practice guidance (e.g. Guide to Fire Precautions in Existing Places of Entertainment and Like Premises, The Event Safety Guide)
- Provision of effective CCTV in and around premises
- Provision of toughened or plastic drinking vessels
- Implementation of crowd management measures

- Proof of regular testing (and certification where appropriate) of procedures, appliances, systems etc. pertinent to safety

Pre-application discussions with the Responsible Authorities are encouraged to assist applicants to develop their operating schedule.

5.0 PREVENTION OF PUBLIC NUISANCE

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

- Provision of facilities for smokers in line with Health Act 2006
- The occupancy capacity of the premises
- The availability of local public transport including hackney carriages and private hire vehicles
- 'Wind down period' between the end of the licensable activities and closure of the premises
- Last admission time

5.7 The following examples of control measures are given to assist applicants who may need to take account of them in their operating schedule, having regard to their particular type of premises and/or activities. The list is not exhaustive and the examples given will not be applicable in all cases.

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

Pre-application discussions with the Responsible Authorities are encouraged to assist applicants to develop their operating schedule.

6.0 PROTECTION OF CHILDREN FROM HARM

6.1 The protection of children from harm is a high priority. It is hoped that family friendly premises will thrive, but the risk of harm to children remains a critical consideration when determining applications.

6.2 The general relaxation in the Licensing Act giving accompanied children greater access to licensed premises is a positive step, aimed at bringing about a social change in family friendly leisure. Clearly this relaxation places additional responsibilities upon licence holders. However, it is recognised that parents and others accompanying children also have responsibilities.

- 6.3 The protection of children from harm includes the protection of children from moral, psychological and physical harm and in relation to the exhibition of films, or transmission of programmes or videos, this includes the protection of children from exposure to strong language and sexual expletives. In certain circumstances children are more vulnerable and their needs will require special consideration. Examples would include topless bar staff, striptease, lap, table or pole dancing, performances involving feigned violence or horrific incidents, feigned or actual sexual acts or fetishism, or entertainment involving strong and offensive language. This vulnerability includes their susceptibility to suggestion, peer group influences, the unpredictability of their age and the lack of understanding of danger. Premises which are licensed as sexual entertainment venues under the Local Government (Miscellaneous Provisions) Act 1982 will be subject to additional regulation to protect children from harm.
- 6.4 For premises that sell or supply alcohol one of the main issues in respect of the protection of children from harm is in preventing the unauthorised access to it by underage persons.
- 6.5 The Council considers that, on the one hand, there should be no presumption of giving children access or, on the other hand, no presumption of preventing their access to licensed premises. The Council has no intention of imposing conditions requiring the admission of children and, where no licensing restriction is necessary, admission of children will remain entirely a matter for the discretion of the individual licensee or club, or person who has given a temporary event notice.
- 6.6 Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures to protect children from harm have been identified and will be implemented and maintained. These will be relevant to the individual style and characteristics of their premises and events.**
- 6.7 Whilst children may be adequately protected from harm by the action taken to protect adults, they may also need special consideration and no policy can anticipate every situation. When addressing the issue of protecting children from harm, the applicant must demonstrate that those factors that impact on harm to children have been considered. Areas that will give particular concern in respect of children include:
- where entertainment or services of an adult or sexual nature are commonly provided
 - where there have been convictions of members of the current staff at the premises for serving alcohol to minors or with a reputation for underage drinking
 - with a known association with drug taking or dealing
 - where there is a strong element of gambling on the premises, and
 - where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.

6.8 The following examples of control measures are given to assist applicants and are considered to be amongst the most essential that applicants should take account of in their operating schedule, having regard to their particular type of premises and/or activities. The list is not exhaustive and the examples given will not be applicable in all cases.

- Effective and responsible management of premises
- Employment of Security Industry Authority licensed door staff
- Provision of a sufficient number of people employed or engaged to secure the protection of children from harm
- Appropriate instruction, training and supervision of those employed or engaged to secure the protection of children from harm
- Adoption of best practice guidance (Public Places Charter, The Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks)
- Limitations on the hours when children may be present, in all or parts of the premises
- Limitations or exclusions by age when certain activities are taking place
- Imposition of requirements for children to be accompanied by an adult
- Acceptance of accredited 'proof of age' cards and/or 'new type' driving licences with photographs
- Measures to ensure children do not purchase, acquire or consume alcohol (eg 'Challenge 25' scheme)
- Measures to ensure children are not exposed to incidences of violence or disorder
- Appropriate siting and supervision of Amusements with Prizes machines

These examples can be adopted in any combination. Pre-application discussions with the Responsible Authorities are encouraged to assist applicants to develop their operating schedule.

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

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

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

List of Appendices

- A. *Delegation of Powers***
- B. *Relevant Authorities: Contact Details***
- C. *Useful Addresses***
- D. *References to Best Practice Guides***
- E. *The Application Process***
- F. *Objections/Representations/Reviews and Appeals***

HARLOW COUNCIL – STATEMENT OF LICENSING POLICY

APPENDIX A – LICENSING ACT 2003 - DELEGATION OF FUNCTIONS

Matter to be dealt with	Full Council	Subcommittee of Licensing Cttee	Environment & Licensing Manager
Final approval of five year licensing policy	All cases	Recommendation to Council	
Dealing with Policy Issues	All cases	Recommendation to Council	
Matters of Cumulative Impact	When referred by Licensing Committee	All cases except when referred to Council	
Application for personal Licence		If a police objection and not withdrawn	If no objection made or objection withdrawn
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/representations have been withdrawn
Application for provisional statement		If a relevant representation made	If no relevant representation made/representations have been withdrawn
Application to vary premises licence/club premises certificate		If a relevant representation made	If no relevant representation made/representations have been withdrawn
Application for minor variation premises licence/club premises			All cases
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		All cases	

relevant authority considering the application			
Determination to a temporary event notice where a valid objection received and then withdrawn		If referred	All cases unless referred including application of relevant licence conditions
Determination of a police objection to a temporary event notice which an objection notice was made and not withdrawn		Standard TEN	Late TEN
Determination of application to vary premises licence at community premises to include alternative licence condition		If a police objection	All other cases
Decision whether to consult other responsible authorities on minor variation application			All cases
Determination of minor variation application			All cases

HARLOW COUNCIL – STATEMENT OF LICENSING POLICY

APPENDIX B – RELEVANT AUTHORITIES: CONTACT DETAILS

	Organisation	Contact Address	Telephone/Fax /E:mail
1	Licensing Authority	Harlow Council Licensing Team Civic Centre The Water Gardens Harlow Essex CM20 1WG	Tel: 01279 446148 Tel: 01279 446561 Tel: 01279 446005 Fax: 01279 446639 Email: licensing@harlow.gov.uk
2	Essex Police (Responsible Authority)	The Chief Officer of Police Licensing Department (Alcohol) Essex Police Licensing Team Braintree Police Station Blyths Meadow Braintree Essex CM7 3DJ	E-Mail: licensing.applications@essex.pnn.police.uk Tel: 01245 452035 www.essex.police.uk/licensing
3	Planning Services (Responsible Authority)	Head of Planning Services Harlow Council Civic Centre The Water Gardens Harlow Essex CM20 1WG	Tel: 01279 4466595 Fax: 01279 446598
4	Children's Safeguarding Service (Responsible Authority)	Licensing Applications Head of Child Protection Children's Safeguarding Service 70 Duke Street County Hall Chelmsford, CM1 1JP	Tel: 03330139797 or 01245 430 430 Email: licenceapplications@essex.gov.uk
5	Essex County Fire and Rescue Service (Responsible Authority)	Essex Fire and Rescue Service Harlow and Epping Community Command (Licensing) Harlow Service Delivery Point Fourth Avenue Harlow Essex CM20 1DU	Tel: 01279 420841 he.command@essex-fire.gov.uk
6	Essex Trading Standards (Responsible Authority)	Information and Business Support Team Essex Trading Standards CG32 County Hall, Market Road Chelmsford CM1 1Q	Tel: 0345 758 430 or 01245 430 430 Email: ESHbsnewdukesway@essex.gov.uk

7	Environmental Health Services (Housing and Pollution) (Responsible Authority)	Environmental Health Manager Harlow Council Housing and Pollution Section Civic Centre The Water Gardens Harlow Essex CM20 1WG	Tel: 01279 446111 Fax: 01279 446639 env.health@harlow.gov.uk
8	Environmental Health Services (Commercial Section – Health and Safety) (Responsible Authority)	Environmental Health Manager Harlow Council Commercial Section Civic Centre The Water Gardens Harlow Essex CM20 1WG	Tel: 01279 446111 Fax: 01279 446639 env.health@harlow.gov.uk
9	Health and Safety Executive (Responsible Authority)	The Health and Safety Executive Wren House Hedgerows Business Park Colchester Road Chelmsford Essex CM2 5PF	Tel: 01245 706200 Fax: 01245 706222
10	Health Authority (Responsible Authority)	Licensing Officer Public Health Team E2 County Hall Chelmsford Essex CM1 1LX	Tel: 0345 758 430 or 01245 430 430 Email: ESHbsnewdukesway@essex.gov.uk
11	Licensing Authority (Responsible Authority)	Environment and Licensing Manager Harlow Council Civic Centre The Water Gardens Harlow Essex CM20 1WG	Tel: 01279 446111 Fax: 01279 446639 licensing@harlow.gov.uk

HARLOW COUNCIL – STATEMENT OF LICENSING POLICY

APPENDIX C – USEFUL ADDRESSES

Alcohol Change UK 27 Swinton Street London WC1X 9NW	Tel: 0203 9078480 Web: www.alcoholchange.org.uk Email: contact@alcoholchange.org.uk
Arts Council England Bloomsbury Street Bloomsbury London WC1B 3HF	Tel: 0845 300 6200 Email: www.artscouncil.org.uk
Association of Convenience Stores Ltd Federation House 17 Farnborough Street Farnborough GU14 8AG	Tel: 01252 515001 Email: acs@acs.org.uk Web: www.acs.org.uk
UK Hospitality 10 Bloomsbury Way London WC1A 2SL	Tel: 02074047744 Email: info@almr.org.uk Web: www.ukhospitality.org.uk Email: info@ukhospitality.org.uk
British Beer and Pub Association Ground Floor Brewers Hall Aldermanbury Square London EC2V 7HR	Tel: 020 7627 9199 Email: contact@beerandpub.com Web: www.beerandpub.com
British Board of Film Classification 3 Soho Square London W1D 3HD	Tel: 020 7440 1570 Email: helpline@bbfc.co.uk Web: www.bbfc.co.uk
British Institute of Innkeeping (BII) Infor House 1 Lakeside Road Farnborough Road Hampshire GU14 6Xp	Tel: 01276 684449 Email: enquiries@bii.org Web: www.bii.org
British Retail Consortium (BRC) 2 London Bridge London SE1 9RA	Tel: 0207 8548900 Web: www.brc.org.uk/default.asp Email: info@brc.org.uk
Campaign for Real Ale 230 Hatfield Road St Albans Herts AL1 4LW	Tel: 01727 867201 Web: cwebaccess@camra.org.uk Email: www.camra.org.uk
Civic Trust	Tel: 020 7170 4299

Winchester House 259-269 Old Marylebone Road London NW1 5RA	Web: www.civictrust.org.uk
Department for Culture, Media and Sport 2-4 Cockspur Street London SW1Y 5DH	Tel: 020 7211 6200 Web: www.culture.gov.uk
Equity Guild House Upper Martins Lane London WC2H 9EG	Tel: 020 7379 6000 Email: info@equity.org.uk Web: www.equity.org.uk
Essex Chamber of Commerce 8/9 St Peters Court Colchester Essex CO1 1WD	Tel: 01206 765277 Email: enquiries@essexchambers.co.uk Web: www.essexchambers.co.uk
Essex Racial Equality Council 12 Northlands Pavement Basildon SS13 3DU	Tel: 01268 465068 Email: Erec.Southend@btconnect.com Web: www.cre.gov.uk
Harlow & District Chamber of Commerce Civic Centre The Water Gardens Harlow CM20 1WG	Tel: 01279 271104
Independent Street Arts Network (ISAN) 54 Charlton Street London NW1 1HS	Tel: 020 7388 9767 Web: www.streetartsnetwork.org.uk
Institute of Acoustics Silbury Court 406 Silbury Boulevard Milton Keynes MK9 2AF	Tel: 03009999675 Email: ioa@ioa.org.uk Web: www.ioa.org.uk
Institute of Licensing Ridgeway Upper Milton Wells Somerset BA5 3AH	Tel: 0845 2871347 Web: www.instituteoflicensing.org
Musicians' Union MU East & South East England 1A Fentiman Road London	Tel: 020 7840 5537 Web: www.musiciansunion.org.uk

SW8 1LD	
National Federation of Retail Newsagents Yeoman House Sekforde Street London EC1R 0HF	Tel: 0800 1216376 Email: connect@nfrnonline.com Web: www.nfrn.org.uk
Security Industry Authority PO Box 74957 London E14 1UG	Tel: 0844 892 1025 web: www.the-sia.homeoffice.gov.uk
The Portman Group 4 TH Floor 20 Conduit Street London W1S 2XW	Tel: 020 7290 1460 Email: info@portmangroup.org.uk Web: www.portmangroup.org.uk
Valuation Office London House New London Road Chelmsford Essex CM2 0QL	Tel: 01245 541200 Web: www.voa.gov.uk

HARLOW COUNCIL – STATEMENT OF LICENSING POLICY

APPENDIX D – REFERENCES TO BEST PRACTICE GUIDES

Guidance issued under Section 182 of the Licensing Act 2003
Home Office

Safer Clubbing Guide
www.drugs.gov.uk

The Event Safety Guide – A guide to health, safety and welfare at music and similar events
(HSE1999)(“The Purple Book”) ISBN 978 0 7176 2453 9

Managing Crowds Safely
(HSE 2000) ISBN 978 0 7176 1834 7

The Guide to Safety at Sports Grounds
(“The Green Guide”) ISBN 978 1 9164583 0 7

Safety Guidance for Street Arts, Carnival, Processions and Large Scale Performances
www.streetartsnetwork.org.uk/pages/publications.htm

The National Alcohol Harm Reduction strategy Toolkit
www.hmsso.gov.uk

The Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks
www.portman.group.org.uk

Licensed Property: Noise
Drugs and Pubs
Safety in Pubs
Security in Design
www.beerandpub.com

Guide to fire Precautions in Existing Places of Entertainment and Like Premises (The Primrose
Guide)
www.hmsso.gov.uk

Good Practice Guide on the Control of Noise from Pubs and Clubs
Institute of Acoustics

HARLOW COUNCIL – STATEMENT OF LICENSING POLICY

APPENDIX E – THE APPLICATION PROCESS

PERSONAL LICENCE

To apply for a new Personal Licence, applicants must be over 18 years of age and will need to complete an application form and be made to the authority for the area in which the applicant is normally resident. You should note that the forms are prescribed forms issued by the Government.

The application must be accompanied by:

- the prescribed fee,
- two passport photos (one which must be certified as a true likeness, by a solicitor, notary, a person of standing in the community (this includes a bank or building society official, police officer, civil servant or a minister of religion) or any individual with a professional qualification),
- the original of the applicant's licensing qualification,
- a Criminal Conviction Certificate or a Criminal Record Certificate or the results of a subject access search of the police national computer by the National Intelligence Service.
- A declaration by the applicant that either they have not been convicted of a relevant offence or a foreign relevant offence or that they have been convicted of a relevant offence or a foreign relevant offence accompanied by details of the nature of the conviction and any sentence imposed on them in respect of it.
- The criminal checks must not be more than one month old when your application is received.

Include a proof of right to work in the United Kingdom

The Licensing Authority must reject the application where the applicant is under 18 years of age, does not possess the prescribed licensing qualification or has had a personal licence forfeited within the preceding 5 years.

Where an applicant has been convicted of a relevant offence or foreign offence the Licensing Authority must give notice to that effect to the police who may object to the application. The police objection has to be made within 14 days of receiving the notice from the Licensing Authority, following which a hearing must be held to determine the application.

Individuals applying for a personal licence must be entitled to work in the UK. The Immigration Act 2016 amended the Licensing Act 2003 with effect from 6 April 2017. Applicants must submit one of the documents listed in Annex x. For applications made after April 2017, where the applicants immigration permission to live and work in the UK is time-limited, a personal licence may be issued but will become invalid when the immigration permission expires.

The Deregulation Act 2015 removed the requirement to renew a personal licence with effect from 1 April 2015.

PREMISES LICENCE

To apply for the grant of a Premises Licence, applicants must be over 18 years of age and complete an approved application form, which must be sent to the Licensing Authority together with: -

- (a) a plan of the premises drawn to the scale of 1:100,
- (b) a form of consent in the prescribed form given by the individual whom the applicant wishes to have specified in the premises licence as the premises supervisor, if the licensable activities to which the application relates include the supply of alcohol,
- (c) the relevant fee . Please note, the Premises Licence/Club Certificate is payable annually on the anniversary of the grant of the licence. Non-payment of this fee will be treated by the local authority as a serious matter and will result in the licence being suspended until payment is received.

Entitlement to work in the UK.

Individuals applying for a premises licence for the sale of alcohol or late night refreshment must be entitled to work in the UK. Licensing authorities must be satisfied that an individual who applies for a premises licence is entitled to work in the UK. This includes applications made by more than one individual applicant. An application made by an individual without the entitlement to work in the UK must be rejected. Applicants must submit one of the documents listed in Annex x

The plan shall show: -

- (a) the extent of the boundary of the building, if relevant, and any external and internal walls of the building and, if different, the perimeter of the premises;
- (b) the location of points of access to and egress from the premises;
- (c) if different from sub-paragraph (3)(b), the location of escape routes from the premises;
- (d) in a case where the premises is to be used for more than one licensable activity, the area within the premises used for each activity;
- (e) fixed structures (including furniture) or similar objects temporarily in a fixed location (but not furniture) which may impact on the ability of individuals on the premises to use exits or escape routes without impediment;
- (f) in a case where the premises includes a stage or raised area, the location and height of each stage or area relative to the floor;
- (g) in a case where the premises includes any steps, stairs, elevators or lifts, the location of the steps, stairs, elevators or lifts;

- (h) in the case where the premises includes any room or rooms containing public conveniences, the location of the room or rooms;
- (i) the location and type of any fire safety and any other safety equipment including, if applicable, marine safety equipment; and
- (j) the location of a kitchen, if any, on the premises.

The plan may include a legend through which the matters mentioned or referred to in paragraph above are sufficiently illustrated by the use of symbols on the plan.

A copy of the application, plan and DPS consent form (where applicable) must be given to the Responsible Authorities (Appendix B) at the same time of giving the application to the Licensing Authority.

A notice, on blue paper sized A4 or larger, must also be displayed at or on the premises to which the application relates for a period of not less than 28 consecutive days from the day following the day the application was given to the Licensing Authority, where it can be conveniently read from the exterior of the premises.

Where the premises cover an area of more than 50 square meters, a further identical notice must be displayed every 50 metres along the external perimeter of the premises abutting any highway.

The notice must state: -

- details of the relevant licensable activities that it is proposed will be carried on or from the premises, or in the case of an application to vary the licence, a brief description of the proposed variation,
- the name of the applicant,
- the postal address of the premises, or in the case where there is no postal address, a description of the premises sufficient to enable the location and extent of the premises to be identified,
- the postal address and (where applicable) the worldwide web address where the register of the relevant licensing authority is kept and where and when the record of the application may be inspected,
- the date by which any persons who live or are involved in a business in the relevant Licensing Authority area or responsible authority may make representations to the relevant licensing authority and that representations should be made in writing,
- that it is an offence knowingly or recklessly to make a false statement in connection with an application and the maximum fine for which a person is liable on summary conviction for the offence.

The notice, containing the same details, must be published in a local newspaper or similar document on at least one occasion during the period of 10 working days following the day after giving the application to the Licensing Authority.

VARIATION OF PREMISES LICENCE

To apply for variation to a premises licence, the same procedure must be adopted as for the original application plus both parts of the original licence must be returned to the Licensing Authority, or the application must include an explanation why the licence has not been returned.

An application to vary the licence may not be made to extend the period for which a licence has effect, e.g. a seasonal licence or one that is limited to certain days/dates.

Applications to vary the licence may be made to affect the licensable activities provided, the times during which they may be provided or where the premises are to undergo structural alterations.

However an application to vary a licence may not be made to vary substantially the premises to which it relates. As this is a matter of degree, applicants are advised to contact the Licensing Unit to discuss the extent of the alterations to decide if an application for a new licence must be made.

Where the application to vary the licence arises from structural alterations, a new plan showing the proposed alterations must also be submitted.

The fee for a variation is the same as for a new licence and is set in accordance with the Non-domestic Rateable Value of the premises.

VARIATION OF PREMISES LICENCE (DESIGNATED PREMISES SUPERVISOR)

An application to vary a premises licence, where there has been a change of the designated premises supervisor, must be in the prescribed form and accompanied by

- the premises licence,
- a form of consent in the prescribed form given by the individual whom the applicant wishes to have specified in the premises licence as the premises supervisor,
- the fee

A copy of the application and all accompanying documents must also be sent to the police (Appendix B).

TRANSFER OF PREMISES LICENCE

An application to transfer a premises licence, where there has been a change of the premises licence holder, must be in the prescribed form and accompanied by

- the premises licence,

- a form of consent in the prescribed form given by the existing premises licence holder'
- the fee

A copy of the application and all accompanying documents must also be sent to the police in all cases, and the Home Office (Immigration Enforcement) if the licence authorises the sale of alcohol or provision of late night refreshment.(Appendix B).

CLUB PREMISES CERTIFICATE

The process of applying for the grant or variation of a Club Premises Certificate is similar to that for a Premises Licence.

There are two exceptions: -

- there must be a declaration for qualifying club status in respect of an application for grant of a new club premises certificate, and
- neither a Designated Premises Supervisor nor a Personal Licence Holder is required because the 'supply' of alcohol that is managed by or on behalf of the club is not regarded as a 'sale' of alcohol.

ADVERTISEMENT OF APPLICATIONS BY THE LICENSING AUTHORITY

The Licensing Act 2003 (Premises Licence and Club Premises Certificate)(Amendment) Regulations 2012, which came into effect on 25th April 2012 introduced a requirement for the licensing authority to advertise, by way of a notice on its website; all applications for premises licences under section 12, for provisional statements under section 29, variation of a premises licence under section 34 (except where the only variation sought is the inclusion of an alternative licence condition), for club premises certificate under section 71 or to vary a club premises certificate under section 84. This notice must remain on the website for a period of no less than 28 consecutive days starting on the day after the day on which the application was given to the relevant licensing authority.

PROVISIONAL STATEMENT

Where premises are being, or are about to be constructed for the purpose of being used for one or more of those activities, or are being or about to be extended or otherwise altered for that purpose (whether or not they are already being used for that purpose) an application may be made by any person for the grant of a Provisional Statement.

'Person' in this instance also includes a business (e.g. the applicant could be a firm or architects, or a construction firm or even a financier).

To apply for a Provisional Statement, the same procedure must be adopted as that described above for the grant of a premises licence.

A provisional statement does not have a limited duration. However with the potential for there to be a material change over time, the longer the delay before a premises licence is applied for the greater the potential that representations, at the later application, may be allowed.

Responsible authorities and interested parties will be able to make representations against the application. If there are no representations the application will be granted. If there are representations a hearing will be held before the Licensing Sub Committee.

The Licensing Act 2003 does not empower a licensing authority to refuse a provisional statement. Following consideration of relevant representations the Licensing Committee may only indicate (as part of the issued statement) that it would consider certain steps to be necessary for the promotion of the licensing objectives when, and if, an application was made for a premises licence or club premises certificate following the issue of the provisional statement.

MINOR VARIATIONS TO PREMISES LICENCES AND CLUB PREMISES CERTIFICATES

The Licensing Act 2003 has been amended by the insertion of sections 41A to 41C relating to minor variations. These sections were commenced on 29 July 2009. Small variations that will not impact adversely on the licensing objectives are subject to a simplified 'minor variations' process. Under this process, the applicant is not required to advertise the variation in a newspaper or circular or copy it to responsible authorities.

However, they must display it on a white notice (to distinguish it from the blue notice used for full variations and new applications). The notice must be displayed for a period of ten working days starting on the working day after the minor variation application was given to the licensing authority.

On receipt of an application for a minor variation, the licensing officer for the licensing authority will consider whether the variation could impact adversely on the licensing objectives. In considering the application, the licensing authority must consult relevant responsible authorities if there is any doubt about the impact of the variation on the licensing objectives and they need specialist advice, and take their views into account in reaching a decision. But there is no requirement to consult all responsible authorities on each application and in many cases the licensing authority may be able to make a decision without consultation.

The licensing authority will also consider any relevant representations received from interested parties within the time limit referred to below. Representations are only relevant if they clearly relate to the likely effect of the grant of the variation on the promotion of at least one of the licensing objectives.

For minor variations, there is no right to a hearing (as for a full variation or new application), but the licensing authority will take any representations into account in arriving at a decision. Persons who live or are involved in a business in the relevant Licensing Authority area have ten working days from the 'initial day', i.e., the day after the application is received by the licensing authority, to submit representations.

The licensing authority must therefore wait until this period has elapsed before determining the application, but must do so at the latest within 15 working days, beginning on the first working day after the authority received the application, with effect either that:

- the minor variation is granted; or,
- the application is refused.

If the licensing authority fails to respond to the applicant within 15 working days the application will be treated as refused and the authority must return the fee to the applicant forthwith. However, the licensing authority and the applicant may agree instead that the undetermined application should be treated as a new application and that the fee originally submitted will be treated as a fee for the new application.

Club Premises Certificates

The arrangements for applying for or seeking to vary club premises certificates are the same as those for a premises licence. Clubs may also use the minor variation process to make small changes to their certificates as long as these will have no adverse impact on the licensing objectives.

TEMPORARY EVENT NOTICES

Temporary Event Notices (TEN's) do not have to be applied for, they are issued by the 'Premises User'. Any person can be a 'Premises User' and can issue a TEN in respect of any premises or area of land. A 'Premises User' does not have to hold a Personal Licence to authorise the supply of alcohol in conjunction with a TEN.

However, it should be noted that TENS are subject to certain limitations: -

- the same premises cannot be used on more than 15 occasions in a calendar year, but are subject to the overall aggregate of 21 days irrespective of the number of occasions on which they have been used, and
- the number of notices that may be given are limited to 50 in one year for a Personal Licence holder and 5 times in one year for any other person.
- The maximum duration of an event is 168 hours (7 days).
- the maximum number of persons (being less than 500) it is proposed will be allowed on the premises during those times

The notice must be given to the Licensing Authority at least 10 working days before the event is held and must contain details of: -

- the proposed licensable activities,
- the period (not exceeding 168 hours) during which it is proposed to use the premises,

- the times during that period when it is proposed for those licensable activities to take place, ,
- where alcohol is to be supplied, whether it is for consumption on or off the premises, or both,
- the fee

A copy of the notice must be also given to the police and Environmental Health at the same time and must be received at least 10 working days prior to the event.

An Objection Notice may be issued by the police or Environmental Health where they are satisfied that the proposed use of the premises would undermine the crime prevention licensing objective. The police or Environmental Health must make their objection to both the Licensing Authority and applicant no later than the 3rd working day of receiving the TEN, giving their reasons for doing so.

Where an Objection Notice is given, the Licensing Authority must hold a hearing to consider the objection, unless the police or Environmental Health agree that it is unnecessary, and give a Counter Notice if it considers it necessary for the promotion of the crime prevention objective. Where a hearing is held, it must be at least 24hrs before the start of the event.

Licensing Authorities will be given discretion to apply existing licence conditions to a TEN if there are objections from Essex Police or the Council's Environmental Health Service.

The Licensing Authority must issue a Counter Notice where the limits are exceeded.

Late Temporary Event Notices

Provision has been made to allow for 'late TEN' applications. The following applies:

- A personal licence holder can submit up to 10 Late TENS in a calendar year; non-personal licence holder may submit a maximum of 2.
- Late TENS are included in the maximum allowance for the premises.
- The notice must be submitted to the Licensing Authority, Police and Environmental Health 5-9 days before the date of the event.
- There needs to be exceptional circumstance why the Late TEN process is being used as opposed to the standard TEN.
- The Licensing Authority will issue a counter notice prohibiting any licensable activity if an objection is received from either the Police or environmental health.

IF YOU ARE IN ANY DOUBT WITH REGARD TO THE ABOVE, PLEASE CONTACT THE LICENSING SECTION FOR ADVICE.

HARLOW COUNCIL – STATEMENT OF LICENSING POLICY

APPENDIX F– OBJECTIONS/REPRESENTATIONS/REVIEWS AND APPEALS

Who can object (make representations) about an application for a premises licence or ask for a review of the licence:

‘Any Person’ and ‘Responsible Authorities’ may make ‘relevant representations’ in respect of applications made for the grant or variation of a Premises Licence or Club Premises Certificate and may seek a review of licences and certificates granted.

‘Any Person’ is defined as:-

- Any person
- A body (e.g. a residents association) representing any persons
- A person involved in any business.
- A body (e.g. a trade association) representing any person involved in any businesses.
- Members of the Licensing Authority.

‘Responsible Authority’ is defined as any of the following: -

- the Chief Officer of Police for the area in which the premises are situated
- the Fire Authority for the area in which the premises are situated
- the enforcing authority for Health and Safety at Work for the area in which the premises are situated
- the local planning authority for the area in which the premises are situated
- the local authority responsible for minimising or preventing the risk of pollution of the environment or of harm to human health
- the body representing matters relating to the protection of children from harm
- a navigation authority, the Environment Agency, or the British Waterways Board in relation to a vessel
- Essex Trading Standards - weights and measures.
- The Licensing Authority
- Local Health Board

(for a list of Responsible Authorities in Harlow District, see Appendix B)

What are relevant representations?

'Relevant representations' is the term used for comments and objections that:-

- are about the likely effect of the grant of the premises licence or premises certificate on the promotion of the licensing objectives,
- are made by any person or 'Responsible Authority' within the prescribed period and have not been withdrawn,
- in the opinion of the Licensing Authority, are not frivolous or vexatious,

What does frivolous, vexatious or repetitious mean?

Frivolous or vexatious will bear their ordinary meaning. The licensing authority must form a view as to whether a reasonable person would consider the observations frivolous or vexatious.

In the case of a review of a premises licence or certificate, a representation will be repetitious if:

a) it is identical or substantially similar to:-

- grounds in an earlier application for review made in respect of the same premises and already determined, or
- representations considered by the Licensing Authority in granting the premises licence or certificate, or
- representations which would have been considered except they were excluded representations following a provisional statement, and

b) a reasonable interval has not elapsed since the earlier application for review or grant of the licence or certificate.

Time Limits on Representations

The table below lists those provisions about which representations may be made, the timescales within which and by whom they may be made.

Provision under which hearing is held.	Period of time within which representations must be made.	Persons who may make representations.
Application for premises licence	28 days beginning with the day after the day on which application was given to licensing authority.	Responsible authorities Any person or business

Application for a provisional statement	28 days beginning with the day after the day on which application was given to licensing authority.	Responsible authorities Any person or business
Application to vary premises licence	28 days beginning with the day after the day on which application was given to licensing authority.	Responsible authorities Any person or business
Application to vary premises supervisor (DPS)	14 days of receipt of application.	Chief of Police
Application for transfer of premises licence	14 days of receipt of application.	Chief of police
Cancellation of interim authority notice	48 hours of receipt of application.	Chief of police
Application for review of premises licence	28 days beginning with the day after the day on which application was given to licensing authority.	Responsible authorities Any person
Application for club premises certificate	28 days beginning with the day after the day on which application was given to licensing authority.	Responsible authorities Any person
Application to vary club premises certificate	28 days beginning with the day after the day on which application was given to licensing authority.	Responsible authorities Any person
Application for review of club premises certificate	28 days beginning with the day after the day on which application was given to licensing authority.	Responsible authorities Any person
Counter notice following police objection to temporary event notice*	3 working days of receipt of application.	Chief of police Environmental Health
Application for grant of personal licence	14 days of receipt of notice of convictions from Licensing Authority.	Chief of police
Application for renewal of personal licence	14 days of receipt of notice of convictions from Licensing Authority.	Chief of police

Convictions coming to light after grant/renewal of personal licence	14 days of receipt of notice of convictions from Licensing Authority.	Chief of police
Review of premises licence following closure order	7 days beginning on the day after the day the licensing authority receives notice given by relevant magistrates' court	Responsible authorities Any person
Minor Variation	10 working days beginning with the day after the day on which application was given to licensing authority.	Responsible authorities Any person
Summary Review	10 days beginning with the day after the day on which application was given to licensing authority.	Responsible authorities Any person

* It should be noted that the Licensing Authority must issue a counter notice where the Temporary Event Notice exceeds the permitted limits, which are: -

- 50 per year if the premises user is the holder of a Personal Licence,
- 5 per year if the premises user is not the holder of a Personal Licence, and
- 12 per year in respect of the same premises covering no more than 15 days in total.

Reviews

The Licensing Authority must hold a hearing to review a premises licence or club premises certificate where either: -

- representations are made in the prescribed form by a Responsible Authority or Interested Party seeking a review of the licence or certificate on one or more of the licensing objectives, or
- a Magistrate's Court issues a notice under section 165 (4) of the Act, following consideration of a Closure Order issued by the police.

In the case of a review of a premises licence or certificate, a representation will be repetitious if: -

- (a) it is identical or substantially similar to: -
- grounds in an earlier application for review made in respect of the same premises and already determined, or

- representations considered by the Licensing Authority in granting the premises licence or certificate, or
 - representations which would have been considered except they were excluded representations following a provisional statement, and
- (b) a reasonable interval has not elapsed since the earlier application for review or grant of the licence or certificate.

Hearings

A hearing must be held within a prescribed period of time where relevant representations are made in respect of any licensing application or issue of a Temporary Event Notice or in respect of an application for review of a premises licence or club premises certificate.

Notices must be sent to each party informing them of the date of hearing: -

- (a) at least 2 working days before the day of the hearing for cancellation of an interim authority notice and counter notice to a temporary event notice following police objection;
- (b) at least 5 working days before the day of the hearing for review of a premises licence following a closure order;
- (c) at least 10 working days before the day of the hearing in respect of all other applications.

Copies of the representations must also be given to the applicant, the holder of the premises licence or the club, as appropriate.

The table below lists the provisions, the timescales within which hearings have to be held and the persons to whom notices must be given.

Provision under which hearing is held.	Period of time in which hearing must be held.	Persons to whom notices must be sent.
Application for premises licence	20 working days beginning with the day after the end of the period for making representations.	Applicant. Persons who have made relevant representations.
Application for a provisional statement	20 working days beginning with the day after the end of the period for making representations.	Applicant. Persons who have made relevant representations.
Application to vary premises licence	20 working days beginning with the day after the end of the period for making representations.	Holder of licence. Persons who have made relevant representations.

Application to vary premises licence to change the premises supervisor	20 working days beginning with the day after the end of the period for making representations.	Holder of licence. Chief of police Proposed premises supervisor
Application for transfer of premises licence	20 working days beginning with the day after the end of the period for making representations.	Applicant. Chief of police Holder of licence.
Cancellation of interim authority notice	5 working days beginning with the day after the end of the period for making representations.	Applicant. Chief of police
Application for review of premises licence	20 working days beginning with the day after the end of the period for making representations.	Applicant. Holder of premises licence. Persons who have made relevant representations.
Application for club premises certificate	20 working days beginning with the day after the end of the period for making representations.	Applicant (the club). Persons who have made relevant representations.
Application to vary club premises certificate	20 working days beginning with the day after the end of the period for making representations.	Applicant (the club). Persons who have made relevant representations.
Application for review of club premises certificate	20 working days beginning with the day after the end of the period for making representations.	Applicant. The club. Persons who have made relevant representations.
Counter notice following police/environmental health objection to temporary event notice	7 working days beginning with the day after the end of the period for making representations.	The premises user. Chief of police Environmental Health
Application for grant of personal licence	20 working days beginning with the day after the end of the period for making representations.	Applicant. Chief of police
Application for renewal of personal licence	20 working days beginning with the day after the end of the period for making representations.	Applicant. Chief of police

Convictions coming to light after grant or renewal of personal licence	20 working days beginning with the day after the end of the period for making representations.	Holder of licence. Chief of police
Review of premises licence following closure order	10 working days beginning with the day after the day the licensing authority receives the court notice.	Holder of licence. Chief of police

Appeals Against Decisions

Any person aggrieved by the decision of the Licensing Committee can appeal to the Magistrates' Court.