

APPENDIX 7

Relevant extracts from Hart District Council Statement of Licensing Policy

2.1 When administering licensing matters the council as the Licensing Authority will have regard to and promote the four Licensing Objectives set out in section 4 of Part 2 of the Licensing Act 2003.

The four licensing objectives are:

- **Prevention of Crime and Disorder**
- **Public Safety**
- **Prevention of Public Nuisance, and**
- **Protection of Children from Harm**

The Council gives equal weight to each of these objectives.

3.1 Hart District Council is the Licensing Authority pursuant to the Licensing Act 2003 (the Act) and is responsible for considering a range of licence applications and amendments to licences for a number of activities detailed below. The purpose of licensing is to regulate the carrying on of licensable activities on licensed premises, at qualifying clubs and under temporary event notices. The activities as defined by the Act include:

- Sale and/or supply of alcohol
- The provision of regulated entertainment which includes:
 - the performance of a play
 - an exhibition of a film
 - an indoor sporting event (subject to some exemptions)
 - boxing or wrestling entertainment
 - a performance of live music (subject to some exemptions)
 - playing of recorded music (subject to some exemptions)
 - provision of late night refreshment
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Some exemptions exist for audiences of fewer than 500 if provided between the hours of 8am and 11pm.

3.3 The Policy will apply across a range of applications which include the following:

- i) New Premises Licences and Club Premises Certificates
- ii) Variations to Premises Licences and Club Premises Certificates
- iii) Provisional Statements for proposed premises yet to be built
- iv) Transfer of Premises Licences
- v) Disapplication of mandatory condition in respect of alcohol sales at village Halls and community premises
- vi) Variations of licences to change the Designated Premises Supervisor
- vii) Reviews of Premises Licences and Club Premises Certificates
- viii) Personal Licences
- ix) Temporary Events Notices

3.4 Hart District Council has a wide range of premises across the District to which the policy licences and activities apply. These include:

Licensed private members clubs/social clubs	Wholesalers/Internet sales of alcohol	Supermarkets
Cafes	Licensed open spaces	Off Licences
Cinemas/Theatre/Concert Hall	Public Houses	Late night food traders
Hotels and guest houses	Restaurants	Night clubs
Community premises/village halls	Sports clubs with Bars	Mobile food vendors

4.2 It is fact that well managed licensed premises and licensable activities contribute to the District's activity, vitality, vibrancy and economy by attracting local residents and visitors to use the premises and facilities on offer, and provide sustainable employment for people who work at those premises. The licensed premises and licensable activities regulated by the Licensing Act 2003 will play a significant part in realising that vision.

5 POLICY AIMS

5.1 This Policy aims to promote the Licensing Authority's vision for the District as a whole and its hopes:

'to encourage in our District a wide choice of high quality and responsibly managed entertainment and cultural venues which provide a diverse range of licensed activities, community interaction and a variety of places for retail and refreshment, ensuring at all times the safety and amenity of residential communities, business communities and the visiting public'

5.5 The aim of this Policy is to clearly set out how Hart District Council in its role as the Licensing Authority will promote the four licensing objectives when dealing with licensing matters. The four licensing objectives are:

- Prevention of Crime and Disorder
- Public Safety
- Prevention of Public Nuisance
- Protection of Children from Harm

5.6 The Licensing Authority will regulate licensable activities at licensed and unlicensed premises in the combined interests of the public and licensed trades, and recognises that these activities contribute to the quality of lives of the districts residents, businesses and visitors and help support the local economy.

5.7 To achieve this aim the council is committed to partnership working with the responsible authorities, local businesses, licensing trade, residents, those involved in the protection of children and other interested parties towards the promotion of the objectives. The council will ensure that it takes into account the views of these stakeholders and ensure proper integration of local crime prevention, planning, transport, employment, tourism and cultural strategies.

5.8 The Licensing Authority aims to balance the protection of the amenity of the local population with the expectations and ability of local businesses to operate in an environment that is attractive and sustainable for their business. The Policy aims to minimise the impacts of licensable activities on residents, visitors, stakeholders and the environment.

5.9 This Policy aims to guide applicants, residents and other persons on the general approach that the council will take to licensing applications and other related issues. Although each application will be considered individually on its own merits, this Policy indicates the wider considerations that will be taken into account when determining applications. However, it is not the Council's intention in adopting this Policy to override the right of any person to make an application and have it considered on its merit.

5.10 The Council will work with other local authorities, particularly those with whom boundaries are shared, to ensure a consistent approach is taken to licensing issues whilst respecting the differing needs of the individual communities.

6 LICENSING AUTHORITY GENERAL POLICY CONSIDERATIONS

6.1 The Licensing Authority encourages the development of premises which are not alcohol-led and which are aimed at different sectors of the population, including age and gender. Premises that promote the arts, a food offer, or other cultural activities are particularly encouraged.

6.2 Where premises such as pubs are alcohol-based, they are encouraged to consider diversifying their provisions so as to encourage a mixed customer-base and wider attractions, including community uses, soft refreshments, snacks and live entertainment

Diversification is important in the promotion of the licensing objectives as well as ensuring a sustainable economic future for premises

Advice

6.4 Pre application advice is available from licensing officers upon request and where appropriate. The Licensing Authority expects that applicants will have in advance researched and understood the relevant Law in relation to their application and their particular business plans, as well as this Policy. It is not for licensing officers to determine the business needs and capabilities of an applicant but advice can be offered in relation to the licensing objectives. In addition guidance notes are available on the licensing pages of Council's website at

<http://www.hart.gov.uk/alcohol-entertainment#alcohol>

6.5 Licensing officers will also provide advice to other parties on the licensing process where needed in relation to objecting to or supporting applications that may affect them.

Supermarkets and other 'off' licensed premises selling alcohol

6.7 All 'off' licensed premises must comply with the *Licensing Act 2003 Mandatory Conditions Order* in relation to age related sales. The Licensing Authority also expects such premises to implement additional measures to prevent and deter **proxy** sales on behalf of under 18's.

6.9 The Licensing Authority expects adequate checks to be made and all reasonable steps taken to ensure alcohol delivered by way of online shopping services (as provided by most large supermarket chains) is not delivered to minors, to prevent a risk of underage consumption.

Designated Premises Supervisor (DPS) at alcohol licensed premises

6.11 Whilst this role has a limited definition under the Licensing Act 2003, it is expected that this person nominated on a licence will have overall responsibility for the day to day management and control of the licensed premises and in particular be responsible for the safe receipt, storage and sale of alcohol.

6.12 The Licensing Authority would expect the DPS to be onsite at the licensed premises for the majority of time when alcohol is being sold subject to working hours' legislation and absence for sickness and holidays. The Licensing Authority expects the DPS to provide training to staff in relation to alcohol sales and to authorise the employees the DPS considers competent to sell alcohol on their behalf in writing.

6.13 The Licensing Authority expects that a DPS should have responsibility for only one licensed premises at a time to ensure good management of the premises and the licensable activities. Where the same person is a nominated DPS on more than one premises licence and representations are made, the Licensing Authority will wish to satisfy itself that the premises in question can properly be managed by that person whilst responsibly promoting the licensing objectives.

7 RESPONSIBLE AUTHORITIES AND OTHER PERSONS

7.1 Responsible authorities are public bodies that are statutory consultees that must be notified of applications by the applicant. The full list and contact details can be found at Appendix A and are contained on the Hart District Council web-site at: http://www.hart.gov.uk/sites/default/files/2_Businesses/Licensing_and_permits/Alcohol_and_entertainment/Responsible%20authorities%20March%202016.pdf

7.2 When dealing with applications for licences and reviews of premises licenses, the Licensing Authority is obliged to consider representations from two categories of persons, referred to as 'Responsible Authorities' and 'Other Persons'. This allows for a broad range of persons including ward councillors to comment both for and against applications for premises licences and club premises certificates and for reviews.

7.3 The Licensing Authority may only consider representations that are relevant, in that they relate to the promotion of the licensing objectives, or that they raise issues in relation to this Statement of Licensing Policy or Home Office Guidance.

7.4 The Licensing Authority will take care to ensure that concerns raised by Responsible Authorities in relation to their own legislative functions are not taken into account if they are not relevant to the application for a premises licence under the Act, or the promotion of the licensing objectives. It would expect those authorities to use their powers and duties within their statutory roles to control such matters. Any representation made by a Responsible Authority that relates to the promotion of the licensing objectives will be accepted.

7.5 The Licensing Authority must give the appropriate amount of weight to representations made by the Police on crime and disorder matters. The Police are the Licensing Authority's main source of advice on matters relating to the promotion of the crime and disorder licensing objective. The Licensing Authority will accept representations made by the Police unless the authority has evidence that to do so would not be appropriate for the promotion of the licensing objectives.

7.6 Where an 'Other Person or Persons' request to be represented when seeking to make a representation, the Licensing Authority will require written evidence from the person/s being represented that they have authorised a third party to speak or write on their behalf.

7.7 The Licensing Authority will examine closely all representations to ensure that they are not frivolous, repetitive or vexatious. Matters that this authority will consider are likely to include:

- i) who is making the representation, and whether there is a history of making representations that are not relevant or which have been previously considered vexatious or frivolous
- ii) whether the representation raises a 'relevant' issue
- iii) whether the representation raises issues specifically to do with the premises and/or the licensable activities that are the subject of the application.

7.8 The above considerations are not exhaustive, and the Licensing Authority will have regard to anything a person making a representation, or persons representing them, say about his or her status to make representations. Nothing in this Policy should be taken to undermine the right of any person to make a representation on an application or to seek a review of a licence where provision to do so exists.

Closing times

8.9 Where matters of concern arise from an application which generates representations, the Licensing Authority will, where appropriate, control or restrict trading hours and/or activities and impose appropriate and proportionate licence conditions to adequately mitigate those concerns where evidence supports such control, in order to promote the licensing objectives.

8.10 Where noise nuisance arises from customers some distance from licensed premises affecting local residents which is caused by customers leaving the late night premises, the council may use its powers under the Environmental Protection Act 1990 where evidence is obtained of statutory nuisance.

11 HUMAN RIGHTS AND EQUAL OPPORTUNITIES

11.1 The Human Rights Act 1998 makes it unlawful for a local authority to act in a way which is incompatible with the European Convention on Human Rights. In making decisions and determining appropriate action the council will have due regard to the Convention. The Council will interpret the Licensing Act 2003 (LA 2003) in a manner consistent with the Human Rights Act 1998.

11.2 The Council will consider the effect upon people's human rights and adopt a principle of proportionality and the need to balance the rights of the individual with the rights of the community as a whole. Action taken by the council which affects another's rights must be no more onerous than is necessary in a democratic society.

11.3 The Equality Act 2010 requires public bodies to consider all individuals when carrying out their day to day work – in shaping Policy, in delivering services and in relation to their own employees. It requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity, and foster good relations between different people when carrying out their activities.

11.4 The Equality Duty supports good decision making – it encourages public bodies to understand how different people will be affected by their activities, so that their policies and services are appropriate and accessible to all and meet different people's needs. By understanding the effect of their activities on different people, and how inclusive public services can support and open up people's opportunities, public bodies can be more efficient and effective. The Equality Duty therefore helps public bodies to deliver the Government's overall objectives for public services.

CONSIDERATION OF APPLICATIONS

14 NEW PREMISES LICENCES

14.1 This Council is aware that in making decisions about applications for licences it will have regard to:

- i) its Statement of Licensing Policy made under section 5 of the Licensing Act 2003
- ii) the Statutory Guidance issued under section 182 of the Licensing Act 2003, and that decisions made are reasonably consistent with the four licensing objectives.

14.4 Licensing officers will routinely check that the Public Notices at the premises and the Public Notices in newspapers are displayed in accordance with the regulations as part of the validation process.

14.5 Licensing officers will also notify ward councillors in whose ward the application relates to, and the parish council for the relevant parish.

14.7 Where relevant representations are received the application will be referred to the Licensing Sub-committee for determination at hearing, unless all parties agree that a hearing is not necessary. Where applications result in the need for a hearing the process at section 23 of this policy will apply.

22 HEARINGS

22.1 Any application that has resulted in the submission of relevant representations from any party will be referred to the Licensing Sub-Committee for a hearing and determination in accordance with the 2003 Act and the Licensing Act 2003 (Hearings) Regulations 2005.

22.2 A sub-committee will consist of three suitably trained members of the Licensing Committee. No members will serve on a sub-committee involving an application for a licence within their own district ward. The subcommittee will be advised on the law by a member of the Council's Shared Legal Services Team. That legal team member will not be involved in the application process in order to avoid a conflict of interest by ensuring a clear separation of roles.

22.3 This Policy will play a key role in achieving consistency in decision making and will ensure decisions are made in a way which promotes a sustainable leisure economy for the district.

22.4 Where representations are made only by Responsible Authorities, the Council would expect applicants and Responsible Authorities to enter into negotiation or mediation prior to a hearing in an attempt to resolve issues before attending the licensing hearing.

22.6 Parties will be advised of the hearing date and procedure in advance and in accordance with the statutory process. At all hearings the sub-committee will have regard to the Guidance issued under section 182 of the Act. This authority may use its discretion where there are strong and defensible reasons for departing from the Guidance and where it considers it right to do so. In any such case this authority will clearly express and explain its reasons for doing so.

22.7 The Council must give the appropriate amount of weight to representations made by the Police on crime and disorder matters. It will give appropriate weight to all representations made by all parties based on the content and relevance to the promotion of all licensing objectives.

22.8 All decision notices will be in writing and will include clearly stated reasons to explain a decision on an application. Decision notices will be issued within 5 working days or the same day in the instance of applications for a review.

22.9 In respect of all of the licensing objectives, licensing officers may be asked to assist in the drafting of licence conditions relevant to the application and representations in order to assist the Sub-Committee at a hearing.

23 LICENCE CONDITIONS

23.1 A key concept in the Licensing Act is that conditions that are attached to licences or certificates are tailored to suit the individual style and characteristics of the premises and its activities and the impact of those activities. Those conditions will be deemed appropriate and proportionate in order to promote the licensing objectives at that premises.

23.2 All licences that authorise the sale of alcohol will be subject to the mandatory conditions set out in the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010.

23.3 Applicants will be expected to include appropriate steps within their operating schedule which will be converted to conditions on a premises licence or club premises certificate. Those steps will be expected to be achievable and relevant to the business in question and will ensure the promotion of each of the four licensing objectives.

23.4 Where applications receive valid representations and are subject to a hearing, the sub-committee will consider the evidence provided within representations, the detail of the application, the nature of the premises and business and only where appropriate will attach conditions to a licence to secure the promotion of the licensing objectives in light of the evidence provided.

23.5 Decisions on individual licence conditions will be made on a case by case basis, and where there are concerns over the effective promotion of the licensing objectives, the applicant will be expected to offer suggestions on how the objectives can be met. This authority will work closely with all parties and the applicant in establishing workable and reasonable conditions for new and variation applications.

23.6 In all cases the Council will have regard to the Guidance when considering the implementation of licence conditions. Further information on the Guidance can be found at the Home Office website by clicking here: [Guidance to the Licensing Act issued by the Home Office - https://www.gov.uk/government/publications/section-182-of-the-licensing-act-2003-amended-guidance](https://www.gov.uk/government/publications/section-182-of-the-licensing-act-2003-amended-guidance)

23.7 In all cases conditions will aim to promote the licensing objectives, be unambiguous and enforceable, appropriate to the activities and the business, achievable and applicable to the premises itself and the areas around the premises which is within the licence holders control.

23.8 The Council recognises the need to avoid, so far as possible, duplication with other regulatory systems including Health and Safety at Work, Fire Safety, Food Hygiene and Nuisance Control. However these regulations may not cover the unique circumstances of some activities and entertainment. In these circumstances, the council may therefore, where necessary, attach conditions to premises licenses for the promotion of the licensing objectives.

Conditions to promote the Prevention of Crime and Disorder

23.9 Under the Act the Council has a duty to promote the licensing objectives, and, a further duty under the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in the District.

23.10 The applicant will be expected to detail in their operating schedule how they will prevent crime and disorder on and close to the premises. Such detail should reflect the licensable activities on offer, location and character of the area, the nature of the premises use and the range of customers likely to use the premises.

These may include, but are not limited to, the following:

- i) Prevention of disorderly conduct and anti-social behaviour
- ii) Prevention of underage drinking
- iii) Prevention of sales of alcohol to intoxicated customers
- iv) Prevention of drunkenness both on and in the vicinity of the premises
- v) Prevention of drug use and drug dealing
- vi) Restriction of drinks promotions
- vii) Use of safety glass
- viii) Inclusion of a wind-down time following alcohol sales period
- ix) Adequate seating to discourage “vertical drinking”
- x) The offer of food and snacks or other entertainment or occupation to discourage persistent drinking
- xi) Prevention of noise nuisance by customers waiting to enter a premises and on leaving

23.12 Where the Council determines after consultation with the police that a premise is one that warrants additional security and monitoring, it would expect applicants to include the provision of SIA approved door staff at the premises at appropriate times. Relevant premises are usually those used mainly for drinking alcohol, have later opening hours and are situated within the Town Centre night time economy area. Applicants will be expected to seek advice from the Police and the Council will give appropriate weight to requests by the Police for premises to be protected by SIA registered door staff subject to the provision of relevant evidence.

23.15 The use of CCTV should be considered where appropriate or on the advice and recommendations of the Police and to a quality and standard approved by the Police for evidence purposes. Licence holders will be expected to fully comply with the requirements of the Information Commissioners Office and the Data Protection Act 1998 in respect of any surveillance equipment installed at a premises.

23.16 In any application the sub-committee will consider each application on its individual merits and determine the imposition of conditions that are appropriate to the objectives.

Conditions to promote Public Safety

23.17 The applicant will be expected to show that the physical safety of persons attending the premises will be protected and will offer relevant steps in the operating schedule to promote this.

23.18 Such steps will not replace the statutory obligation on the applicant to comply with all relevant legislation under the Health and Safety at Work etc. Act 1973 or under the Regulatory Reform (Fire Safety) Order 2004.

Conditions to promote the Prevention of Public Nuisance

23.20 The applicant will be expected to detail steps to prevent nuisance and disturbance arising from the licensable activities at the premises and from the customers using the premises.

23.21 The applicant will be expected to demonstrate that they have considered and included steps to prevent public nuisance, such as:

- (i) Proximity of local residents to the premises
- (ii) Licensable activities proposed and customer base
- (iii) Hours and nature of operation
- (iv) Risk and Prevention of noise leakage from the premises from equipment, customers and machinery
- (v) Prevention of noise from customers leaving the premises and customer pick up points outside premises and from the Car Park.
- (vi) Availability of public transport to and from the premises
- (vii) Noise from use of the garden/outside space including smoking shelters.
- (viii) Delivery and collection times and locations.
- (ix) Impact of external security or general lighting on residents.
- (x) History of management of and complaints about the premises.
- (xi) Applicant's previous success in preventing Public Nuisance.
- (xii) Outcomes of discussions with the relevant Responsible Authorities.
- (xiii) Impact of location, noise and contamination from outside smoking areas on neighbours and other customers
- (xiv) Collection of litter arising from the premises
- (xv) Appropriate times of disposal of glass bottles into external waste receptacles
- (xvi) Provision of and encouraging use of toilet facilities for customers prior to leaving a premises.
- (xvii) Notices to clients asking them to respect the amenity of local residents.

23.22 Steps to prevent public nuisance may include a range of options including noise limiting devices, sound insulation, wind down periods, acoustic lobbies, closing windows and doors at appropriate times, management of smoking areas, etc.

23.23 Steps will differ depending on the individual premises and activities and it is for the applicant to ensure that reasonable, effective and appropriate steps are included within the operating schedule.

Conditions to promote the Protection of Children from Harm

23.24 Applicants will be expected to detail steps to protect children at the premises from any harm. The Council recognises the right of licensees (serving alcohol) to allow accompanied children into their premises. The Council would not seek to restrict access by children (above that specified in the Act) unless it is necessary for the prevention of physical, moral or psychological harm.

23.25 Steps to prevent children from harm must be included where:

- (i) There is entertainment or services of an adult nature provided.
- (ii) There have been previous convictions for under age sales of alcohol.
- (iii) There is a known association with drug taking or dealing.
- (iv) There is a significant element of gambling on the premises.

- (v) There is a presumption that children under 18 should not be permitted entry such as to nightclubs (apart from when specific events are held for under 18's).
- (vi) Outcomes of discussions with relevant Responsible Authorities suggest such steps are applicable.

23.26 Nothing in the Licensing Act prevents licensees from excluding children from a licensed premises and no condition can be added to require the admission of children.