



LICENSING ACT 2003

Licensing Policy

2021

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Part A

Background

Rother District is situated at the eastern end of the County of East Sussex and covers an area of 200 square miles. With a 25-mile coastline, it is predominantly a rural District that embraces the vast majority of the historic 1066 countryside. The town of Bexhill-on-Sea is home for just under 50% of the District's total resident population of 95,000. The 31 small towns and villages are home for the remainder of the population. The second and third largest towns are historic Battle and Rye.

The Council recognises that the best means of promoting the licensing objectives is through the co-operation and partnership of local authorities, the police, Security Industry Authority (SIA), local business, performers, local people and those involved in child protection.

Other Legislation

Premises must have the appropriate planning permission to operate and comply with all other relevant legislation, e.g.

- The Gambling Act 2005
- The Equality Act 2010
- The Regulatory Reform (Fire Safety) Order 2005
- Anti-social Behaviour, Crime and Policing Act 2014
- The Environmental Protection Act 1990
- Noise Act 1996
- Health & Safety at Work etc Act 1974 (Risk Assessments for work practices and fire safety).
- Food Safety Act 1990 (Food Hygiene).
- Building Regulations.

Operating Schedule

Application for a premises licences or club premises certificate must be accompanied by an operating schedule that demonstrates that the licensed premises can comply with this licensing policy and achieve the four licensing objectives of:

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

The operating schedule must be adequate and appropriate for the type, site and opening hours of the particular premises. The policies and matters for consideration in Part C are not standard but need to be considered and included in the operating schedule if necessary.

The operating schedule forms a vitally important part of the completed application form for a premises licence since it serves to indicate the basis on which it is proposed that the premises will be operated. In the event that the premises licence is granted without objection, the operating schedule becomes part of the licence, in that its contents

become conditions of the licence. The Act requires an operating schedule to set out the steps, which an applicant of a premises licence proposes to take, to achieve the licensing objectives. These steps will have emerged from the risk assessments which applicants are encouraged to undertake before making an application for a premises licence.

Where the responsible authorities and interested parties do not raise any representations about the application, it is the duty of the licensing authority to grant the premises licence. The duty is to grant subject only to conditions that are necessary for the promotion of the licence objectives and are consistent with the operating schedule and any mandatory conditions described in the Act itself. Great care and attention should therefore be given to the preparation of an operating schedule in order to ensure that it clearly sets out the steps which the applicant will definitely take when operating his business.

The operating schedule should include any information which is necessary to allow any responsible authority or interested party to assess whether the steps to be taken to promote the licensing objectives are satisfactory.

An operating schedule should include a description of the style and the character of the business to be conducted on the premises (for example a supermarket or a cinema with six screens and a bar, or restaurant or public house with two bars, a dining area and a garden open to the public). The Secretary of State's Guidance states that "where alcohol is being sold for consumption on the premises in public houses, bars and nightclubs, it would also be valuable to know the extent to which seating is to be provided because research has shown that the amount of seating can be relevant to the prevention of crime and disorder. It should also indicate the type of activities available on the premises, whether licensable under the 2003 Act or not". In relation to dance, (other than Morris dancing or dancing of a similar nature which does not constitute the provision of regulated entertainment) the operating schedule should describe the type of dancing in broad terms and disclose if any dancing involves striptease or lap-dancing. It should be made clear whether the dancing will take place by members of the public, or performers or both. In relation to music, it should be made clear what type of music is to be provided (for example, live acoustic music, live amplified music, pre-recorded dance music). This information will allow the responsible authorities and interested parties to form a proper view as to what measures would be necessary to ensure public safety and prevent nuisance.

The following advice is from the Secretary of State's Guidance:

- (a) In preparing operating schedules, applicants should have regard to statements of licensing policy.
- (b) Licensing authorities and responsible authorities are expected so far as possible to publish material about the promotion of the licensing objectives and to ensure that applicants can readily access advice about the matters.
- (c) Applicants may wish to consult the following in relation to relevant issues:
 - (i) Crime Prevention: the police
 - (ii) Crime and disorder: the police and local authority
 - (iii) Noise: Environmental Health (Pollution)
 - (iv) Fire safety and capacity: ESFRS

Part B

1.0 Introduction

- 1.1 The Council in pursuance of its duties and powers under the Licensing Act 2003 hereby formally makes a statement as to its policy in respect of the provision of that Act. Rother District Council is the licensing authority under the Licensing Act 2003 and is responsible for granting premises licences, club premises certificates, and personal licences in the District in respect of the sale and/or supply of alcohol and the provision of regulated entertainment and late night refreshment. In this document the Council means the licensing authority.
- 1.2 The aim of the policy is to secure the safety and amenity of residential communities and patrons whilst facilitating a sustainable entertainment and cultural industry. Rother District Council in adopting the licensing policy recognises both the needs of residents to live in a safe and healthy nuisance free environment and the importance of safe and well run entertainment premises for the local economy and vibrancy of the District.
- 1.3 The policy provides guidance to applicants, objectors and interested residents as to the general approach of the Council will take in terms of licensing. Although each licence application must be considered separately on its individual merits, the Council in adopting the licensing policy is making it clear that wider considerations other than the ability of the applicant and suitability of the premises will be taken into account.
- 1.4 The policy must be reviewed every 5 years. It may also be reviewed at shorter intervals if required.

2.0 The Policy

- 2.1 The Act requires that the Council carries out its various licensing functions so as to promote the following four licensing objectives, which are set out in the Act:-
 - (a) The prevention of crime and disorder
 - (b) Public safety
 - (c) The prevention of public nuisance
 - (d) The protection of children from harm

Each objective is of equal importance. There are no other statutory licensing objectives, so that the promotion of the four objectives is a paramount consideration at all times.

- 2.2 The 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.
- 2.3 This Statement of Licensing Policy has been prepared in accordance with the provisions of the Act and the Guidance issued under section 182 of the Act and revised guidance published March 2015.

2.4 Licensing is about regulating the carrying on of licensable activities on licensed premises, and by qualifying clubs. The conditions attached to licences will be focussed on matters which are within the control of individual licensees. Accordingly, these matters will centre on the premises and in the vicinity of those premises. The licensing authority's focus is the impact of activities taking place on licensed premises on members of the public living, working or engaged in normal activity in the area concerned.

3.0 Cumulative Effect of a number of Licensed Premises in one area

3.1 The Council will not take 'need' into account when considering an application. 'Need' concerns the commercial demand for another licensed premises. This is a matter for planning development control and the market. However, it recognises that the cumulative impact of the number, type and density of licensed premises in a given area, may lead to serious problems of nuisance and disorder outside at some distance from the premises.

3.2 Representations may be received from a responsible authority/interested party that an area has become saturated with premises making it a focal point for large groups of people to gather and circulate away from the licensed premises themselves, creating exceptional problems of disorder and nuisance over and above the impact from the individual premises.

3.3 In these circumstances, the Council may consider that the imposition of conditions is unlikely to address these problems and may consider the adoption of a special policy of refusing new premises licences or club premises certificates because the area is saturated with such premises and the granting of any more would undermine one of the licensing objectives.

3.4 When considering whether to adopt a special saturation policy the Council will have regard to:

- Identification of concern from a responsible authority or representatives of residents about nuisance and disorder.
- Consideration of whether it can be demonstrated that crime and disorder and nuisance are arising and are caused by the customers of licensed premises, and if so identifying the area from which problems are arising and the boundaries of that area; or that the risk factors are such that the area is reaching a point when a cumulative impact is imminent.

3.5 The Council will consider representations on the grant of a particular application based on its impact on the promotion of the licensing objectives in the District generally.

3.6 However, the onus would be on the responsible authority or representative to provide evidence to back up any assertion that the addition of the premises in question would produce the cumulative impact claimed, taking into account that the impact will be different for premises with different styles and characteristics.

3.7 It therefore also recognises that, within this policy, it may be able to approve licences that are unlikely to add significantly to the saturation and will consider the circumstances of each individual application.

- 3.8 Even in the absence of a special policy, the issue of cumulative impact can be raised on a new application if it is alleged to impact on one or more of the licensing objectives.
- 3.9 Where the licensing authority has concerns about the effect of activities at existing premises between midnight and 6am on the promotion of the licensing objectives in a specific area, it may introduce an Early Morning Restriction Order (EMRO) if there is sufficient evidence to do so. An EMRO is a powerful tool which will prevent licensed premises, in the area to which the EMRO relates, from supplying alcohol during the times at which the EMRO applies. EMROs are designed to address recurring problems such as high levels of alcohol related crime and disorder in specific areas at specific times; serious public nuisance and other instances of alcohol related behaviour which is not directly attributable to specific premises.

The Council would however seriously consider whether taking this step is reasonable, justified and proportionate. It is the Council's intention to support businesses rather than hinder them, whilst ensuring the promotion of the licensing objectives. The introduction of an EMRO may have far reaching, wider impacts on the socio-economic circumstances in an area. Other measures that could be considered prior to an EMRO include:

- Working in partnership with licensed premises on voluntary measures and encouraging the creation of business-led best practice schemes in the area;
- Reviewing licences of specific problem premises
- Use of the new closure power in the Anti-social Behaviour, Crime and Policing Act 2014. This new closure power can be used to protect victims and communities by quickly closing premises that are causing nuisance or disorder.
- Introducing a Cumulative Impact Policy

4.0 Other Controls on Anti-social Behaviour

- 4.1 Other mechanisms exist to control the anti-social behaviour of the minority of consumers who behave badly and unlawfully after leaving licensed premises etc. These controls include:

- Planning controls;
- Positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the local authority;
- The provision of CCTV surveillance in town centres, taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols;
- Power of local authorities to designate parts of the local authority area as places where alcohol may not be consumed publicly. (Public Spaces Protection Order (PSPO) in the Anti-social Behaviour Crime and Policing Act 2014 can be used to restrict the drinking of alcohol in a public place where this has, or is likely to have, a detrimental effect on the quality of life on those in the locality, be persistent or continuing in nature, and unreasonable);
- Police enforcement of the law concerning disorder and anti-social behaviour including the issuing of fixed penalty notices;

- The prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk;
- The confiscation of alcohol from adults and children in designated areas;
- Police powers to close down instantly for up to 24 hours any licensed premises or temporary events on grounds of disorder, the likelihood of disorder or excessive noise emanating from the premises;
- The power of the Police and other responsible authorities or a local resident or business to seek a review of the licence or certificate in question;
- Raising a contribution to policing the late night economy through the Late Night Levy.

5.0 Licensing Hours

- 5.1 With regard to licensing hours, the Council acknowledges that different opening hours can help reduce the number of people leaving licensed premises at the same time. The aim of which is to avoid binge drinking at the end of the evening. This is necessary to reduce the friction on late night food outlets, taxi ranks and other sources of transport which lead to disorder and disturbance. However, there is no general presumption in favour of lengthening licensing hours.
- 5.2 Premises in residential areas may be subject to stricter controls with regard to opening hours to ensure that disturbance to local residents is minimised. The Council considers that it is self-evident that the risk of disturbance to local residents is greater when licensable activities continue late at night and into the early hours of the morning. For example, the risk of residents' sleep being disturbed by patrons leaving licensed premises is obviously greater at 2 a.m. than at 11 p.m. It is, therefore, the policy of the Council to strike a fair balance between the benefits to a community of a licensed venue and the risk of disturbance to local residents. In predominantly residential areas, therefore, it may not be appropriate to allow closing times later than midnight. Applicants will be expected to demonstrate, with detailed proposals, how their business will uphold the public nuisance objective towards residential neighbours where opening hours exceed midnight. These measures need to be detailed in the application, not introduced late in the application process or during hearings.
- 5.3 It may be acceptable to open later on a limited number of occasions. This would allow licensees to extend opening beyond midnight for special occasions such as New Year. However, every application will be determined on its merits, and applicants wishing to operate beyond midnight will need to demonstrate, to the satisfaction of the Council, in their operating schedule, that there will be no significant disturbance to members of the public living, working or otherwise engaged in normal activity around the premises concerned.

6.0 Integration of Strategies

- 6.1 The Council will secure the proper integration of this policy with local crime prevention, public safety, planning, transport, tourism, public health and cultural strategies by liaising and consulting with Sussex Police, East Sussex Fire & Rescue Service, Trading Standards, Crime & Disorder Partnerships, East Sussex Public Health Service and following the guidance in the adopted Crime & Disorder Reduction Strategy for the District. The Committee will liaise and consult with the Planning Committee and follow the guidance of the Local Plan.

The Committee will also liaise with East Sussex County Council as the Highways and Transport Authority. The Licensing Committee will consider the Authorities existing and future arts, cultural and tourism strategies.

6.2 The Licensing Authority will give considerable weight to representations about child protection matters. In addition to the responsible authority whose functions relate directly to child protection, the Director of Public Health may also have access to relevant evidence to inform such representations. These representations may include, amongst other things, the use of health data about the harms that alcohol can cause to underage drinkers. Appropriate conditions could be considered to ensure that children are protected from harm.

6.3 Conditions attached to premises licences and club premises certificates will, so far as possible, reflect local crime & disorder reduction strategies.

7.0 Tourism and Employment

7.1 The Licensing Committee may receive reports when appropriate on the needs of the local tourist economy and any future cultural strategy for the area to ensure these are reflected in their considerations. The Committee may also be kept apprised of the employment situation in the area and the need for new investment and employment where appropriate.

8.0 Planning Applications

8.1 The determination of planning applications and licensing applications are recognised as being a separate activity. Licensing applications are not a re-run of the planning application and should not cut across decisions taken by the Local Authority Planning Committee or following appeals against decisions by that Committee. The Licensing Committee where appropriate will provide regular reports to the Planning Committee on the situation regarding licensed premises in the area including the general impact of alcohol related crime and disorder.

8.2 In general, all premises that apply for a licence must also have authorized planning permission and comply with conditions of that planning permission that relate to the four licensing objectives, or be deemed permitted development pursuant to the General Permitted Development Order (1995). The Licensing Committee may refuse to grant a licence following representations from the Local Planning Authority if the activity to be authorised by the licence would constitute unlawful planning use or the hours of operation sought exceed those authorized by the planning permission.

9.0 Other Legislation

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

10.0 Standardised Conditions

10.1 Conditions can only be imposed if a relevant representation is made and it is necessary to secure the licensing objectives. Conditions attached to licensing

certificates will, as far as possible, be tailored to the individual style and characteristics of the premises and events concerned. Disproportionate and over burdensome conditions on premises will not be imposed where there is no need for such conditions. Standardised conditions will be avoided.

11.0 Enforcement

Enforcement of licensing laws, public safety and the inspection of licensed premises will be undertaken by the relevant authorities taking account of any local agreements between Sussex Police, East Sussex Fire & Rescue Service, Trading Standards and the Licensing Authorities of Sussex.

Inspections are carried out to check compliance with licensing conditions and statutory provisions.

12.0 Smoking

The Health Act 2006 was introduced to protect employees and the public from harmful effects of second hand smoke. Managers of licensed premises have a legal responsibility to prevent smoking and to ensure that no smoking signs are displayed.

13.0 Review Procedure

13.1 The process set out in the 2003 Act for reviewing premises licences represents a key protector for the community where problems associated with crime and disorder, public safety, public nuisance and the protection of children from harm are occurring.

13.2 Following the grant of a premises licence, a responsible authority such as the Police or the Fire Authority or an interested party, such as a resident living in the vicinity of the premises, may ask the Council to review the licence because of matters arising at the premises in connection with any of the four licensing objectives.

13.3 In every case, the representation must relate to particular premises for which a premises licence is in existence and must be relevant to the promotion of the licensing objectives.

13.4 The Council will endeavour to give licence holders early notification of their concerns about a problem identified at particular premises in partnership with other enforcement agencies. This does not affect the right of an interested party to call a review under provisions of the Act.

14.0 Live Music, Dancing and Theatre

14.1 The Council wishes to encourage and promote live music, dancing and theatre to the wider cultural benefit of its community.

15.0 Delegation of Functions

- 15.1 In the interests of speed, efficiency and cost-effectiveness decisions and functions of a purely administrative nature will be delegated as set out in table one.

16.0 Portman Group Code of Practice

- 16.1 The Council commends the use of the Portman Group's Code of Practice on drinks promoted to attract children.

17.0 Temporary Event Notices (TENs)

- 17.1 Certain temporary events are not required to be licensed but can be notified to the Licensing Authority using the Temporary Event Notice procedure. Nevertheless, depending on the nature and location of such events, these can have serious crime and disorder and noise implications. Organisers of these events are encouraged to submit their notification as soon as reasonably practicable to enable the Police and the Council to work with them to identify and reduce the risk of crime and disorder and noise nuisance.
- 17.2 The Council recommends that at least 28 days' notice be given to hold such events, to allow it to help organisers to plan their events safely. Any longer period than this may mean that organisers do not have all the details available at the time of submitting the notice, and any lesser time means that planning may be rushed and haphazard.
- 17.3 There are two types of TEN; a standard TEN and a late TEN. These are subject to different processes: a standard notice is given no later than 10 working days before the event to which it relates; and a late notice is given not before nine and not later than 5 working days before the event.
- 17.4 In the event of a relevant representation from the Police and/or Environmental Health to a standard TEN the Council will hold a hearing not less than 24 hours before the event is due to take place. There is no right of hearing if an objection is lodged against a late TEN.

18.0 Outdoor Events

- 18.1 Outdoor events may range from relatively small local events, like fairs, which may last for 4 or 5 days, to major pop festivals lasting one or more days. Despite the temporary duration of such events, they can attract large numbers of people. The risks to public safety and to crime and disorder as well as public nuisance may be considerable. An event likely to attract more than 499 people will require an application for a premises licence
- 18.2 It is recommended that the applicant make an initial approach to the local authority at least 6–9 months prior to the proposed event. This will allow the Council and the Emergency Services sufficient time to assess and comment on how organisers are planning to manage their event. Many events will give rise to special considerations in respect of public safety and public nuisance. Operating schedules should therefore reflect an awareness of these matters. It

is recommended that an application be made at least 3 months prior to the event.

- 18.3 The Council may convene a Safety Advisory Group (SAG). A SAG is a meeting held with the event organiser and emergency services. The purpose of the meeting is to allow the emergency services and local authorities to advise the event organiser about the adequacy their event management plan (EMP). If such a meeting is held it is expected that the event organiser will attend and provide their EMP to other members well before the meeting. Appendix 2 provides further information.

It is the responsibility of the organisers/promoters to satisfy the Council that they have met the standards outlined in the following relevant documents:

<https://www.thepurpleguide.co.uk/>

- 19.0 The Authority is aware of its responsibilities to be active and co-operate with the police and other statutory authorities to combat and deter child sexual exploitation, illegal immigration and modern day slavery.

Contact Details / Advice and Guidance

Further details about Rother District Councils licensing and application process, including application forms can be obtained from:-

Website: <https://www.rother.gov.uk/licences-and-permits/licensing-act-2003/>

Email : licensing@rother.gov.uk

Table One

Matter to be dealt with	Licensing Panel	Head of Service
Application for personal licence		All cases
Application for personal licence with relevant convictions	If a Police objection	If no objection made
Application for premises licence/club premises certificate including minor variations	If a relevant representation made	If no relevant representation made
Application for provisional statement	If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate	If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor	If a Police objection	All other cases
Request to be removed as designated premises supervisor		All cases
Application for transfer of premises licence	If a Police objection	All other cases
Applications for interim authorities	If a Police objection	All other cases
Application to review premises licence/club premises certificate	All cases	
Decision on whether a complaint is irrelevant frivolous vexatious etc		All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application		All cases
Determination of an objection to a standard temporary event notice	All cases	
If determined by a Court		All cases

Part C

Licensing Regulations and Matters for Consideration by Applicants

Section A : Prevention of Crime and Disorder

Matters to be considered by the applicants

Applicants should have regard to the following matters when writing their operating schedules and are advised to consult Sussex Police before submitting their application. If the Council receive a representation, additional conditions may be imposed at the Hearing that determines the application.

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

- To sell or supply alcohol to a person who is drunk.
- To knowingly allow disorderly conduct on licensed premises.
- For the holder of a premises licence or a designated premises supervisor to knowingly keep or to allow to be kept on licensed premises any goods that have been imported without payment of duty or which have otherwise been unlawfully imported.
- To allow the presence of children under 16 who are not accompanied by an adult between midnight and 05:00 hrs at any premises licensed for the sale of alcohol for consumption on the premises and at any time in premises used exclusively or primarily for the sale and consumption of alcohol.

Conditions enforcing these arrangements are therefore unnecessary.

When applicants for premises licences or club premises certificates are preparing their operating schedules or club operating schedules, when responsible authorities are considering such applications and when licensing authorities are considering applications following the receipt of any relevant representations from a responsible authority or interested party, the following options should be considered as measures which, if necessary, would promote the prevention of crime and disorder. The options below are not a complete list of actions that can be taken, and new control measures will arise from new technology.

Whether or not any risk assessment shows them to be necessary in the individual circumstances of any premises will depend on a range of factors including the nature and style of the venue, the activities being conducted there, the location of the premises and the anticipated clientele of the business involved. It should also be borne in mind that club premises operate under codes of discipline to ensure the good order and behaviour of members.

Necessary conditions for the licence or certificate will also depend on local knowledge of the premises.

Under no circumstances should the following measures be regarded as standard conditions to be automatically imposed in all cases. They are designed to provide a range of conditions drawn from experience relating to differing situations and to offer guidance.

Any individual preparing an operating schedule is at liberty to volunteer any measure, such as those described below, as a step he or she intends to take to promote the licensing objectives. When incorporated into the licence or certificate as a condition, they become enforceable under the law and a breach of such a condition could give rise to prosecution.

Door Supervisors

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

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

Where door supervisors are to be a condition of a licence, conditions may also be imposed such as, the displaying of name badges, the carrying of proof of registration, where and at what times they should be stationed on the premises, and whether at least one female should be available (for example, if female customers are to be the subject of body searches). Door supervisors also have a role to play in ensuring public safety.

Bottle Bans

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

Plastic Containers and Toughened Glass

Glasses containing drinks may be used as weapons during incidents of disorder and can cause very serious injuries. Consideration should therefore be given to conditions requiring either the use of plastic containers or toughened glass which inflicts less severe injuries. Location and style of the venue and the activities carried on there would be particularly important in assessing whether a condition is necessary. For example, the use of glass containers on the terraces of outdoor sports grounds may obviously be of concern, but similar concerns may also apply to indoor sports events such as boxing matches. Similarly, the use of such plastic containers or toughened glass during the televising of live sporting events, such as international football matches, when high states of excitement and emotion fuelled by alcohol might arise, may be a necessary condition.

It should also be noted that the use of plastic or paper drinks containers and toughened glass may also be relevant as measures to promote public safety.

CCTV

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

For individuals conducting risk assessments when preparing their operating schedules the police may be able to advise on the use of CCTV to prevent crime.

Open Containers not to be taken from the Premises

Drinks purchased in licensed premises or clubs may be taken from those premises for consumption elsewhere. Where premises are licensed for the sale of alcohol for consumption off the premises that would be entirely lawful. However, consideration should be given to preventing the taking of alcoholic and other drinks from the premises in open containers (e.g. glasses and opened bottles). This may again be necessary to prevent the use of these containers as offensive weapons in surrounding streets after individuals have left the premises.

Restrictions of Drinking Areas

It may be necessary to restrict the areas where alcoholic drinks may be consumed in premises after they have been purchased from the bar. An example would be at a sports ground where the police consider it necessary to prevent the consumption of alcohol on the terracing of sports grounds during particular sports events. Operating Schedules should not only specify these areas but indicate the circumstances in which the ban would apply and times at which it should be enforced.

Capacity Limits

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

Proof of Age Cards

It is unlawful for children under 18 to attempt to buy alcohol just as it is unlawful to sell or supply alcohol to them. To prevent such crimes, it may be necessary to require a policy to be applied at certain licensed premises requiring the production of "proof of age" before such sales are made to anyone who appears to be 21 years old or younger. This should not be limited to recognised "proof of age" cards, but allow for the production of other proof, such as photo-driving licences, and passports. The policy supports the PASS (Proof of Age Standards Scheme), which encourages a PASS hologram logo on proof of age card schemes.

Crime Prevention Notices

It may be necessary at some premises for notices to be displayed which warn customers of the prevalence of crime which may target them. For example, in certain areas, a condition attached to a premises licence or club premises certificate might

require the displaying of notices at the premises which advise customers about the need to be vigilant of unattended bags because of concerns about terrorism.

Signage

It may be necessary for the normal hours under the terms of the premises licence or club premises certificate at which licensable activities are permitted to take place to be displayed on or immediately outside the premises so that it is clear if breaches of the terms of the licence or certificate are taking place.

Similarly, it may be necessary for any restrictions on the admission of children to be displayed on or immediately outside the premises so that the consequences of breaches of these conditions would also be clear and to deter those who might seek admission in breach of those conditions.

Pub and Bar Watch Schemes

The DPS is expected to regularly attend any local pub or bar watch schemes and abide by the decisions of the group, provided the decision to bar any person from licensed premises is taken in accordance with national guidelines and equality legislation.

All decisions taken must be based on sound evidence and reasons should be given. All actions must satisfy the necessary and proportionate test and be regularly reviewed.

Rother D.C. Policy A1 (Prevention of Crime & Disorder)

Where an applicant identifies an issue with regard to the prevention of crime & disorder, which is not covered by existing legislation, the applicant should identify in their operating schedule the steps which will be taken to ensure the prevention of crime & disorder.

In appropriate circumstances and normally for premises where licensable activities occur, after 2300 the Council expect operating schedules to include the following as to the specific premises and business carried out:-

- Use of CCTV both within and outside the premises in accordance with the code of practice issued by the Information Commissioner.
- Metal detection and search facilities.
- Procedures for risk assessing promotions and events such as "happy hours" including the potential to cause crime and disorder and plans for minimising such risks.
- Measures to prevent the use or supply of illegal drugs.
- Employment of door supervisors licensed by the Security Industry Authority and other appropriately trained staff.
- Participation in an appropriate Watch Scheme or other body designed to ensure effective liaison with other licensed premises.
- Proof of Age schemes e.g. Challenge 21.
- Controls on bottles, glasses and containers.
- Capacity limits.
- Notices and signage, including a prominent sign giving the name of the personal licence holder in charge of the premises. Similarly a prominent sign stating its permitted licensing hours and any restrictions on the admission of children.
- No admissions after a specified time.
- A personal licence holder to be on duty at the premises.

Reason

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

Rother D.C. Policy A2 (Prevention of Crime & Disorder)

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

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

Reason

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

Rother D.C. Policy A3 (Prevention of Crime & Disorder)

Shops, Stores and Supermarkets

The Council will generally consider licensing shops, stores and supermarkets to sell alcohol for consumption off the premises at any times they are open for shopping. But shops must have adequate management practices to ensure that sales are not made to under 18 year olds and persons where there are grounds to believe that the sale will result in crime and disorder. The adoption of a policy to challenge any person attempting to purchase alcohol who appears to be 21 or 25 years old or younger.

Ensure only over 18 year olds sell alcohol or under 18 year olds are closely supervised doing so. Under 18 year olds should not sell alcohol if an over 18 year old is not present.

If the police make representations that a shop has been the focus of crime, disorder or underage sales then the sale of alcohol may be restricted to certain times only.

Reason

To prevent poorly managed shops from selling alcohol to children and alcoholics.

Rother D.C. Policy A4 (Prevention of Crime & Disorder)

Co-operation with Police, Local Authority Officers etc

The Premises Licence holder, Designated Premises Supervisors and staff employed on licensed premises must co-operate and actively assist Police Officers, Local Authority Officers and other enforcement agencies in carrying out their duties.

Reason

To ensure that crime is prevented and detected, and offenders are prosecuted.

Section B : Public Safety

Matters to be Considered by Applicants

Applicants should have regard to the following matters when writing their operating schedules and are advised to consult the Environmental Health Service (Health and Safety) at Rother District Council and Fire Prevention Officer at ESFRS before submitting their application. If the Council receives a representation, then at the Hearing that determines the application, additional conditions may be imposed.

It should be noted that conditions relating to public safety should be those, which are necessary, in the particular circumstances of any individual premises or club premises and should not duplicate other requirements of the law. Equally, the attachment of conditions to a premises licence or club premises certificate will not in any way relieve employers of the statutory duty to comply with the requirements of other legislation including the Health and Safety at Work etc Act 1974, associated regulations and especially the requirements under the Management of Health and Safety at Work Regulations 1999 and the Regulatory Reform (Fire Safety) Order 2005 to undertake risk assessments. Employers should assess the risks, including risks from fire, and take measures necessary to avoid and control these risks. Conditions enforcing those requirements would therefore be unnecessary.

General

When applicants for premises licences or club premises certificates are preparing their operating schedules or club operating schedules, responsible authorities are considering such applications and licensing authorities are considering applications following the receipt of relevant representations from a responsible authority or interested party, the following options should be considered as measures that, if necessary, would promote public safety. It should also be recognised that special issues may arise in connection with outdoor and large scale events.

Whether or not any risk assessment shows any of the measures to be necessary in the individual circumstance of any premises will depend on a range of factors including the nature and style of the venue, the activities being conducted there, the location of the premises and the anticipated clientele of the business involved.

In addition, to considering the points made in this Part, those preparing premises operating schedules or club operating schedules, should consider, published relevant guidance and the latest version of the following guidance:

- Model National and Standard Conditions for Places of Public Entertainment and Associated Guidance ISBN 1 904031 11 0 (Entertainment Technology Press - ABTT Publications).
- Managing Crowds Safely (HSE 2000) ISBN 0 7176 1834 X.
- 5 Steps to Risk Assessment: Case Studies (HSE 1998) ISBN 07176 15804.
- The Guide to Safety at Sports Grounds (The Stationery Office, 1997) ("The Green Guide") ISBN 0 11 300095 2.

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

However, in consulting these texts, which were prepared prior to the coming into force of the Licensing Act 2003, those creating operating schedules or club operating schedules, licensing authorities and responsible authorities should again note that under no circumstances should any conditions be regarded as standard for all premises.

Disabled People

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

- When disabled people are present, adequate arrangements exist to enable their safe evacuation in the event of an emergency; and
- Disabled people on the premises are made aware of those arrangements.

Escape routes

It may be necessary to include conditions relating to the maintenance of all escape routes and exits including external exits. These might be expressed in terms of the need to ensure that such exits are kept unobstructed, in good order with non-slippery and even surfaces, free of trip hazards and clearly identified. In restaurants and other premises where chairs and tables are provided this might also include ensuring that internal gangways are kept unobstructed.

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given in the Operating Schedule to ensure that:

- All exits doors are easily open able without the use of a key, card, code or similar means.
- Doors at such exits are regularly checked to ensure that they function satisfactorily, and a record of the check kept.
- Any security fastenings are removed prior to the premises being open to the public.
- All fire doors are maintained effectively self-closing and shall not be held open.
- Fire resisting doors to ducts, service shafts, and cupboards shall be kept locked shut.
- The edges of the treads of steps and stairways are maintained so as to be conspicuous.
- Adequate handrails to staircases and changes of floor level.

Safety checks

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given in the Operating Schedule that ensure that:

- Safety checks are carried out before the admission of the public.
- Details of such checks are kept in a log-book.

Curtains, hangings, decorations and upholstery

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given in the Operating Schedule that ensure that:

- Hangings, curtains and temporary decorations are maintained in a flame-retardant condition.
- Any upholstered seating meets on a continuous basis the pass criteria for smouldering ignition source 0, flaming ignition source 1 and crib ignition source 5 when tested in accordance with Part 5 of BS 5852:1990.
- Curtains, hangings and temporary decorations are arranged so as not to obstruct exits, fire safety signs or fire-fighting equipment.
- Temporary decorations are not used without the consent of the Council.

Accommodation limits

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

- Arrangements are made to ensure that any capacity limit imposed under the premises licence or club premises certificate are not exceeded.
- The licence holder, a club official, manager or designated premises supervisor should be aware of the number of people on the premises and required to inform any authorised person on request.

Fire action notices

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

- Notices detailing the actions to be taken in the event of fire or other emergencies, including how the fire brigade should be summoned, are prominently displayed and protected from damage and deterioration.

Outbreaks of fire

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

- The fire brigade must be called at once to any outbreak of fire, however slight and the details recorded in a Fire Log-book.

Loss of water

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

- The local Fire Control centre are notified as soon as possible if the water supply to any hydrant, hose reel, sprinkler, drencher or other fire extinguishing installation is cut off or restricted.

Access for emergency vehicles

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

- Access for emergency vehicles is kept clear and free from obstruction.

First aid

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

- Adequate and appropriate supply of first aid equipment and materials is available on the premises.
- At least one suitably trained first-aider shall be on duty when the public are present; and if more than one suitably trained first-aider that their respective duties are clearly defined.

Lighting

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

- In the absence of adequate daylight, the lighting in any area accessible to the public, members or guests shall be fully in operation when they are present.
- Fire safety signs are adequately illuminated.
- Emergency lighting is not to be altered without the consent of the Council.

- Emergency lighting batteries are fully charged before the admission of the public, members or guests.
- In the event of the failure of normal lighting, where the emergency lighting battery has a capacity of an hour, arrangements are in place to ensure that the public, members or guests leave the premises within 20 minutes unless within that time normal lighting has been restored and the battery is being re-charged; and, if the emergency lighting battery has a capacity of three hours the appropriate period by the end of which the public should have left the premises is one hour.

Temporary electrical installations

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

- Temporary electrical wiring and distribution systems are not provided without notification to the Council at least ten days before commencement of the work.
- Temporary electrical wiring and distribution systems shall comply with the recommendations of BS 7671 or where applicable BS 7909.
- Temporary electrical wiring and distribution systems are inspected and certified by a competent qualified person before they are put to use.

Ventilation

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that the premises are effectively ventilated:

- Where the ventilation system is designed to maintain positive air pressure within part of the premises, that pressure is maintained whenever the public, member or guests are present in that part of the premises.
- Ventilation ductings are kept clean.
- Air filters are periodically cleaned and replaced to maintain a satisfactory air supply.

Indoor Sports Entertainments

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

- If necessary, an appropriately qualified medical practitioner is present throughout a sports entertainment involving boxing, wrestling, judo, karate or other sports entertainment of a similar nature.
- Where a ring is involved, it is constructed and supported to the satisfaction of the Council and any material used to form the skirt around the ring is flame-retardant.

- At any wrestling or other entertainments of a similar nature members of the public do not occupy any seat within 2.5 metres of the ring.
- At water sports entertainments, staff adequately trained in rescue and life safety procedures are stationed and remain within the vicinity of the water at all material times (see also Managing Health and Safety in Swimming Pools issued jointly by the Health and Safety Commission and Sport England).

Theatres and Cinemas (Promotion of Public Safety)

There are particular matters in the context of public safety and fire safety, which should be considered in connection with theatres and cinemas. The principle remains that conditions must be necessary and should be established through risk assessment.

Premises used for Closely Seated Audiences

Attendants

- (a) The number of attendants on each floor in a closely seated auditorium should be as set out in the table below:

Number of members of the audience present on a floor	Minimum number of attendants required to be present on that floor
1 - 100	One
101 - 250	Two
251 - 500	Three
501 - 750	Four
751 - 1000	Five
And one additional attendant for each additional 250 persons (or part thereof)	

- (b) Attendants shall not be engaged in any duties that would hinder the prompt discharge of their duties in the event of an emergency or entail their absence from that floor or auditorium where they are on duty.
- (c) Any attendant shall be readily identifiable to the audience (but this need not entail the wearing of a uniform).
- (d) The premises shall not be used for a closely seated audience except in accordance with seating plan(s), a copy of which is available at the premises and shall be shown to any authorised person on request.
- (e) No article shall be attached to the back of any seat which would reduce the clear width of seat ways or cause a tripping hazard or obstruction.
- (f) A copy of any certificate relating to the design, construction and loading of any temporary seating shall be kept available at the premises and shall be shown to any authorised person on request.

Standing and Sitting in Gangways etc

- (a) Sitting on floors shall not be permitted except where authorised in the premises licence or club premises certificate.

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

Drinks

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

Balcony Fronts

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

Special effects

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

Special effects include:

- Dry ice machines and cryogenic fog
- Smoke machines and fog generators
- Pyrotechnics, including fireworks
- Real flame
- Firearms
- Motor vehicles
- Strobe lighting
- Lasers (see HSE Guide The Radiation Safety of lasers used for display purposes [HS(G)95] and BS EN 60825: Safety of laser products)
- explosives and highly flammable substances
- In certain circumstances, it may be necessary to require that certain special effects are only used with the prior consent of the Council.

Scenery

Any scenery should be maintained flame-retardant.

Safety curtain

Where a safety curtain is necessary, it should be arranged so as to protect the audience from the effects of a fire or smoke on stage for sufficient time to enable the safe evacuation of the auditorium.

Where a stage with a proscenium arch is not equipped with a safety curtain, any curtains provided between the stage and the auditorium should be heavyweight and

be made of non-combustible material or inherently or durably treated flame-retarded fabric.

Ceilings

All ceilings in those parts of the premises to which the audience are admitted should be inspected by a suitably qualified person every five years and a structural safety certificate concerning the condition of the ceilings forwarded to the Council.

Seating

Where potential audience exceeds 250 all seats in the auditorium should, except in boxes accommodating not more than 8 persons, be either securely fixed to the floor or battened together in lengths of not fewer than four or more than twelve.

Premises used for Film Exhibitions

Attendants - premises without a staff alerting system

Where the premises are not equipped with a staff alerting system, the number of attendants present should be as set out in the table below:

Number of members of the audience present on the premises	Minimum number of attendants required to be on duty
1 - 250	Two
And one additional attendant for each additional 250 members of the audience present (or part thereof)	
Where there are more than 150 members of an audience in any auditorium or on any floor	At least one attendant shall be present in any auditorium or on any floor

Attendants - with a staff alerting system

(a) Where premises are equipped with a staff alerting system, the number of attendants present should be as set out in the table below:

Number of members of the audience present on the premises	Minimum number of attendants required to be on duty	Minimum number of staff on the premises who are available to assist in the event of an emergency
1 - 500	Two	One
501 - 1000	Three	Two
1001 - 1500	Four	Four
1501 or more	Five plus one for every 500 (or part thereof) persons over 2000 on the premises	Five plus one for every 500 (or part thereof) persons over 2000 on the premises

(b) staff shall not be considered as being available to assist in the event of an emergency if they are:

- (i) the holder of the premises licence or the manager on duty at the premises; or

- (ii) a member of staff whose normal duties or responsibilities are likely to significantly affect or delay his response in an emergency situation; or
 - (iii) a member of staff whose usual location when on duty is more than 60 metres from the location to which he is required to go on being alerted to an emergency situation.
- (c) Attendants shall as far as reasonably practicable be evenly distributed throughout all parts of the premises to which the public have access and keep under observation all parts of the premises to which the audience have access.
- (d) The staff alerting system shall be maintained in working order.

Minimum Lighting

The level of lighting in the auditorium should be as great as possible consistent with the effective presentation of the film; and the level of illumination maintained in the auditorium during the showing of films would normally be regarded as satisfactory if it complies with the standards specified in BS CP 1007 (Maintained Lighting for Cinemas).

Flammable films

No flammable films should be allowed on the premises without the consent of the Council.

Rother D.C. Policy B1 (Public Safety)

Where an applicant identifies an issue with regard to public safety, which is not covered by existing legislation, the applicant should identify in their operating schedule the steps which will be taken to ensure public safety.

Premises that provide regulated entertainment for large numbers of people create additional safety hazards that need to be controlled. It is expected that operating schedules for these premises will include details of provisions to ensure the safety of temporary and permanent electrical installations, measures to provide means of escape from fire (including maximum numbers and emergency lighting), fire-fighting, fire precautions, lighting, attendants and structural safety.

Reason

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

Section C: The Prevention of Public Nuisance

It should be noted that provisions of the Environmental Protection Act 1990 and the Noise Act 1996 provide some protection to the general public from the effects of noise nuisance. In addition, the provisions in Part 8 of the Licensing Act 2003 enable a senior police officer to close down instantly for up to 24 hours licensed premises and premises carrying on temporary permitted activities that are causing nuisance resulting from noise emanating from the premises. These matters should be considered before deciding whether or not conditions are necessary for the prevention of public nuisance.

Matters to be Considered by Applicants

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

Hours

The hours during which the premises are permitted to be open to the public or to members and their guests can be restricted (other than where they are protected by the transitional provisions of the Licensing Act 2003) by the conditions of a premises licence or a club premises certificate for the prevention of public nuisance. This must be balanced by the potential impact on disorder which results from artificially early fixed closing times.

Restrictions could be necessary on the times when certain licensable activities take place even though the premises may be open to the public at such times. For example, the playing of recorded music after a certain time might be prohibited, even though other licensable activities are permitted to continue.

Restrictions might be necessary on the parts of premises that might be used for certain licensable activities at certain times. For example, while the provision of regulated entertainment might be permitted while the premises is open to the public or members and their guests, regulated entertainment might not be permitted in a garden area of the premises after a certain time.

Noise and vibration

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

- Noise or vibration does not emanate from the premises so as to cause a nuisance to the occupants of nearby properties. This might be achieved by a simple requirement to keep doors and windows at the premises closed, or to use noise limiters on amplification equipment used at the premises.
- Prominent, clear and legible notices are displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly.

- Prohibit certain rooms from being used for purposes that create noise.
- The use of explosives, pyrotechnics and fireworks of a similar nature, which could cause disturbance in surrounding area are restricted.
- The placing of refuse - such as bottles - into receptacles outside the premises takes place at times that will minimise the disturbance to nearby properties.

Noxious smells

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

- Noxious smells from licensed premises are not permitted so as to cause a nuisance to nearby properties and the premises are properly vented.

Light pollution

Flashing or particularly bright lights on or outside licensed premises should not cause a nuisance to nearby properties. Any such condition needs to be balanced against the benefits to the prevention of crime and disorder of bright lighting in certain places.

Rother D.C. Policy C1 (Prevention of Public Nuisance)

Exterior Lighting

Exterior lighting and security lighting must be positioned to avoid disturbing neighbouring residential property.

Reason

Bright lights shining into the windows of residential properties can cause disturbance.

Rother D.C. Policy C2 (Prevention of Public Nuisance)

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

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

Premises where licensable activities occur between 2300 and 0800 will be expected to have:-

- (a) a high level of accessibility to public transport services; **and/or**

Policy C2 (Contd).

- (b) an appropriate amount of car parking, readily accessible to the premises, and in places where vehicular movement will not cause demonstrable adverse impact to local residents; **and**
- (c) an operating schedule that has been agreed with the Council indicating that the applicant is taking appropriate steps to comply with the licensing objective of preventing public nuisance.

Exceptions may be made where it can be demonstrated that:

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

Reason

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

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

Rother D.C. Policy C3 (Prevention of Public Nuisance)

Tables and Chairs outside Premises and Beer gardens

The authority may impose conditions on the number of tables and chairs permitted, their location and the times they can be present.

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

The leaving of tables and chairs on the public highway will need the consent of East Sussex County Council. On private land consent may not be required, but, the operating schedule must adequately address public nuisance. The Council may restrict the use of chairs and beer gardens on both the public highway and private gardens. The restriction may specify hours of use, the removal of chairs or the numbers of chairs permitted.

The noise from patrons socialising outside a premises can be particularly disturbing after 2200 or sunset.

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

Reason

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

Rother D.C. Policy C4 (Prevention of Public Nuisance)

Sanitary Accommodation

Premises must have sufficient provision of sanitary accommodation (e.g. water closets and urinals) for males and females and adequately signed, located, maintained and kept clean. The Council has adopted standards for sanitary accommodation provision.

Reason

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

Rother D.C. Policy C5 (Prevention of Public Nuisance)

Noise Controls

Where an applicant identifies an issue with regard to the prevention of public nuisance, which is not covered by existing legislation the applicant, should identify in their operating schedule the steps, which will be taken to ensure the prevention of public nuisance.

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

The operating schedule must have regard to the nature of the area where the premises are situated, the type of premises concerned, the licensable activities to be provided, operational procedures and the needs of the local community. In this respect the Council will expect the schedule to demonstrate how it is intended that the premises will be “good neighbours” both to residents and to other venues and businesses.

In particular it will expect the applicant to be proposing practical steps to prevent disturbance to local residents. In relation to noise from within the building the Council will expect the applicant to have carried out sound tests to ascertain whether there is sound leakage. This noise could relate not only to music but also from air handling equipment or patrons. In premises that are open between 0800 and 2300 that provide regulated entertainment or if there is sound leakage the Council will expect this to have been addressed i.e.

- Switching off fans and ventilation not required for public areas at 2300.
- Keeping doors and windows closed and providing adequate mechanical ventilation.
- Reducing sound levels and installing a sound limiting device (approved by the Council) to prevent sound exceeding the appropriate level.
- Installing soundproofing measures to contain sound and vibration.

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

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

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

Policy C5 (Contd).

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

Fans and ventilation systems if not properly designed, constructed and maintained can cause noise disturbance. The noise produced may not be a problem during the evening but may cause disturbance to local residents when they are trying to sleep, i.e. at 2300. The total noise energy (L_{Aeq}), background noise (L_{A90}) and tonal content of the noise are important. Premises which will be operating fans and ventilation systems after 2300 should demonstrate in their operating schedules that the noise produced will not cause disturbance to local residents.

There should be no loud speakers outside the building unless agreed by the Council for a specific event and the operating schedule must include measures to control noise e.g. hours of use.

Reason

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

Rother D.C. Policy C6 (Prevention of Public Nuisance)

Patrons in the Street

The noise from patrons congregating in the street outside licensed premises can cause disturbance to local residents particularly late at night. Patrons may stand in the street smoking and be joined by friends consuming alcohol.

Applicants should include if necessary in their operating schedule:

- Information about where patrons can smoke without causing a disturbance under this particular objective at any time.
- Conditions prohibiting the consumption of alcoholic and non-alcoholic drink and food purchased from the premises on a street after 2200.
- The prohibition of open containers of alcohol or non-alcoholic drinks being taken outside of the building.
- Demonstrate how you will control the behaviour of patrons in and around your premises in the prevention of public nuisance.

Reason

The noise from patrons socialising on a street late at night can disturb local residents.

Section D: Protection of Children

Matters to be considered by the applicants

Applicants should have regard to the following matters when writing their operating schedules and it is recommended they could seek advice from the East Sussex Safeguarding Children's Partnership ESSCP.Contact@eastsussex.gov.uk

If the Council receive a representation, at the Hearing that determines the application, additional conditions may be imposed.

It should be noted that it is unlawful under the 2003 Act to permit unaccompanied children under the age of 16 to be present on (a) premises exclusively or primarily used for supply of alcohol for consumption on those premises under the authorisation of a premises licences, club premises certificates or a temporary event notice when open for the purposes of being used for the supply of alcohol for consumption there or (b) in between midnight and 0500hrs at all premises supplying alcohol for consumption on those premises under the authorisation of any premises licence, club premises certificate or temporary event notice. Conditions duplicating these provisions are, therefore unnecessary.

Access for children to licensed premises - in general

Restrictions on the access of children under 18 to premises where licensable activities are being carried on should be made where it is necessary to protect children from harm. Conditions attached to premises licences and club premises certificates may reflect the concerns of responsible authorities and interested parties who have made representations but only where the Council considers it necessary to protect children from harm. Whilst applications in relation to premises licences and club premises certificates must be judged by licensing authorities on their individual merits and characteristics, the Secretary of State recommends (unless there are circumstances justifying the contrary) that:

- For any premises with known associations (having been presented with evidence at a hearing) with underage drinking, drugs, significant gambling, or any activity or entertainment (whether regulate entertainment or not) of a clearly adult or sexual nature, there should be a strong presumption against permitting any access at all for children under 18 years. Applicants wishing to allow access for children to premises where these associations may be relevant, when preparing operating schedules or club operating schedules or variations of those schedules for the purposes of obtaining or varying a premises licence or club premises certificate should:
 - Explain their reasons; and
 - Outline in detail the steps that they intend to take to protect children from harm on such premises.
- For any premises, not serving alcohol for consumption on the premises, but where the public are allowed on the premises after 10.00 pm in the evening, there should be a presumption against the presence of children unaccompanied by adults under the age of 12 after that time. Applicants wishing to allow access when preparing operation schedules or variations of those schedules or club

operating schedules for the purposes of obtaining or varying a premises licence or club premises certificate should:

- Explain their reasons; and
- Outline in detail the steps that they intend to take to protect children from harm on such premises.

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

Age Restrictions - specific

Under the 2003 Act a wide variety of licensable activities could take place at various types of premises and at different times of the day and night. Whilst it may be appropriate to allow children unrestricted access at particular times and when certain activities are not taking place licensing authorities following relevant representations are made by responsible authorities and interested parties will need to consider a range of conditions that are to be tailored to the particular premises and their activities where these are necessary. Licensing authorities are expected to consider:

- The times of day during when age restrictions should and should not apply. For example, the fact that adult entertainment may be presented at premises after 20:00 hrs does not mean that it would be necessary to impose age restrictions for earlier parts of the day.
- Types of event or activity in respect of which no age restrictions may be needed, for example;
 - Family entertainment; or
 - Non-alcoholic events for young age groups such as under 18s dances,

Similarly, types of event or activity which give rise to a more acute need for age restrictions than normal, for example;

- During "Happy Hours" or on drinks promotion nights;
- During activities outlined above.
- Gambling such as poker.

Age restrictions - cinemas

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

- A condition that where the Council itself is to make recommendations on the admission of children to films, the cinema or venue operator must submit any film to the authority that it intends to exhibit 28 days before it is proposed to

show it. This is to allow the authority time to classify it so that the premises licence holder is able to adhere to any age restrictions then imposed.

- A condition that when films are classified, by either the film classification body as specified in the licence or the Council, they should be classified in the following way:
 - U - Universal - suitable for audiences aged four years and over.
 - PG - Parental Guidance. Some scenes may be unsuitable for young children.
 - 12 - Passed only for viewing by persons aged 12 years or older.
 - 12A - Passed only for viewing by persons aged 12 years or older or persons younger than 12 when accompanied by an adult.
 - 15 - Passed only for viewing by persons aged 15 years and over.
 - 18 - Passed only for viewing by persons aged 18 years and over.
- That conditions specify that immediately before each exhibition at the premises of a film passed by the British Board of Film Classification there shall be exhibited on screen for at least five seconds in such a manner as to be easily read by all persons in the auditorium a reproduction of the certificate of the Board or, as regards a trailer advertising a film, of the statement approved by the Board indicating the classification of the film.
- A condition that when a Council has made a recommendation on the restriction of admission of children to a film, notices are required to be displayed both inside and outside the premises so that persons entering can readily be made aware of the classification attached to any film or trailer. Such a condition might be expressed in the following terms:

"Where a programme includes a film recommended by the Council as falling into the 12, 12A, 15 or 18 category no person appearing to be under the age of 12, under 12 and unaccompanied, 15 or 18 as appropriate shall be admitted to any part of the programme; and the licence holder shall display in a conspicuous position at each entrance to the premises a notice in the following terms -

PERSONS UNDER THE AGE OF [INSERT APPROPRIATE AGE] CANNOT BE ADMITTED TO ANY PART OF THE PROGRAMME

Where films of different categories form part of the same programme, the notice shall refer to the oldest age restriction.

This condition does not apply to members of staff under the relevant age provided that the prior written consent of the person's parents or legal guardian has first been obtained.

Theatres

The admission of children to theatres, as with other licensed premises, is not normally expected to be restricted unless it is necessary to promote the licensing objective of the protection of children from harm. However, theatres may be the venue for a wide range of activities. The admission of children to the performance of a play is expected to normally be left to the discretion of the licence holder and no condition restricting

the access of children to plays should be attached. However, theatres may also present entertainment including, for example, variety shows, incorporating adult entertainment including, for example, variety shows, incorporating adult entertainment. A condition restricting the admission of children in such circumstances may be necessary. Entertainment may also be presented at theatres specifically for children (see below).

A condition should be attached to a premises licence which requires the presence of a sufficient number of adult staff on the premises to ensure the well-being of children present on the premises during any emergency.

Performances especially for children

Where performances are presented especially for children in theatres and cinemas conditions are anticipated to be needed which require:

- An attendant to be stationed in the area(s) occupied by the children, in the vicinity of each exit, provided that on each level occupied by children the minimum number of attendants on duty should be one attendant per 50 children or part thereof.

Whether or not standing should be allowed. For example, there may be reduced risk for children in the stalls than at other levels or areas in the building.

Children in performances

There are many productions each year that are one-off shows where the cast is made up almost entirely of children. They may be taking part as individuals or as part of a drama club, stage school or school group. The age of those involved may range from 5 to 18. The Children (Performances) Regulations 1968 as amended set out requirements for children performing in a show. However, if it is necessary to consider imposing conditions for the promotion of the protection of children from harm then the Council will consider the matters outlined below:

- **Venue** - the backstage facilities should be large enough to accommodate safely the number of children taking part in any performance.
- **Fire safety** - all chaperones and production crew on the show should receive instruction on the fire procedures applicable to the venue prior to the arrival of the children.
- **Special effects** - it may be inappropriate to use certain special effects, including smoke, dry ice, rapid pulsating or flashing lights, which may trigger adverse reactions especially with regard to children.
- **Care of children** - theatres, concerts halls and similar places are places of work and may contain a lot of potentially dangerous equipment. It is therefore important that children performing at such premises are kept under adult supervision at all times including transfer from stage to dressing room and anywhere else on the premises. It is also important that the children can be accounted for at all times in case of an evacuation or emergency.

Gambling

The Gambling Act 2005 allows category C & D gaming machines to be installed in certain licensed premises.

The Gambling Commission has published a code of practice controlling the use of gaming machines. The Act also allows the playing of poker (for maximum stakes) provided children are not on the premises.

Regulations have been made limiting the amount of stakes playable in pub poker which strive to ensure the amounts involved are minimal.

Rother D.C. Policy D1 (Protection of Children)

Topless waiters/waitress, striptease and table-dancing

Where the activities proposed under the licence include those of a sex related nature (e.g. topless waiters/waitresses, striptease, table dancing etc) the Council will take into account the increased risk to the licensing objectives. For the sake of convenience the term “striptease” in this part of the policy should be taken to refer to any entertainment or service involving exposure of private parts or the sexual stimulation of patrons.

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

The area proposed for striptease shall:

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

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

NO PERSON UNDER 18 WILL BE ADMITTED

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

Reason

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

Rother D.C. Policy D2 (Protection of Children)

Additional controls for certain premises

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

- Where there have been convictions for serving alcohol to a minor or with a reputation for under-age drinking.
- With a known association with drug taking or dealing.
- Where there is a strong element of gambling on the premises.
- Where entertainment of an adult or sexual nature is provided.
- Playing of poker.
- Failure to comply with the Gambling Commission code of practice on gambling machines in licensed premises.

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

- Limitations on the hours when children may be present.
- Age limitations below 18.
- Limitations or exclusions from the whole or designated parts when certain activities are taking place.

Requirements for accompanying adults

- Full exclusion of people under 18 from the premises when any licensable activities are taking place.

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

Reason

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

Rother D.C. Policy D3 (Protection of Children)

Children & Cinemas

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

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

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

Reason

To prevent children from viewing unsuitable films.

Rother D.C. Policy D4 (Protection of Children)

Children and Regulated Entertainment

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

Licences Fees / Regulated Entertainment/ Late Night Refreshments

Licence Fees

The Licensing Authority is required to suspend a premises licence or club premises certificate if the annual fee is not paid when it is due. The licence will only be reinstated when the outstanding fee is paid. In the case of a licence or certificate where more than one payment year has been missed payment of the outstanding fee in relation to each year will be required to reinstate the licence.

Regulated Entertainment

Schedule 1 to the 2003 Act sets out what activities are regarded as the provision of regulated entertainment and when they are licensable and these activities which are not and therefore exempt from the regulated entertainment regime. Changes in regulated entertainment came into effect on the 6th of April 2015. As a result of deregulation there have been a range of amendments to the 2003 Act which means there are circumstances where a licence is no longer required. The details of changes are set out in the Legislative Reform (Entertainment Licensing) Order 2014 and in Home Office revised guidance issued under section 182 of the Licensing Act 2003 – March 2015 (Chapter 15). Interested parties can find information within these documents on the changes introduced.

There have been a significant number of relaxations in requirements and it is therefore recommended that applicants or licence holders do consult the guidance to ascertain if a licence is still required.

Late Night Refreshments

New comprehensive guidance on the licensing late night refreshment was published on the 1st of October 2015 this explains proposed changes and sets out how licensing authorities can apply exemptions. The new guidance is non-statutory but will be incorporated into the main statutory guidance issued under section 182 as part of the next update.

The changes, inserted by section 71 of the Deregulation Act 2015, came into effect on the 1st of October but will not be available for use in full until regulations prescribing specific types of premises which can be exempted come into force. Subject to Parliamentary scrutiny, the regulations are due to come into force in early November.

The link to the late night refreshment guidance is below:

<https://www.gov.uk/government/publications/guidance-on-the-licensing-of-late-night-refreshment>

Safety Advisory Groups

1. Introduction

An event organiser has a duty to plan, manage and monitor the event to make sure that employees and the visiting public are not exposed to health and safety risks.

2. Safety Advisory Groups (SAGs)

SAGs are usually co-ordinated by a local authority (LA) and made up of representatives from the LA, emergency services and other relevant bodies. They meet at regular intervals, or when necessary, before the event, to review event applications and advise on public safety.

SAGs do not have legal powers or responsibilities and are not empowered to approve or prohibit events from taking place. They provide independent advice to event organisers, who retain the legal responsibility for ensuring a safe event. (Individual representatives of organisations forming the SAG may have powers to require event organisers to comply with their legal obligations.)

The Safety Advisory Group will operate in accordance with agreed terms of reference and keep a record of the advice given and actions to be taken. The decision to hold a Safety Advisory Group for any specific event will not be taken purely on the number of people expected to attend, although large numbers will be a contributory factor. Once a proposed event is known about, members of the Safety Advisory Group will liaise with the organisers to identify the associated risks for those attending and likely impact on the wider community.

The SAG will advise the event organiser of the outcome of their assessment of their event management plan. If any relevant subject has not been considered, e.g. fire or health and safety, it should be made clear to the organiser at the same time. When SAGs consider applications where LAs have responsibilities, e.g. as an organiser / co-organiser or landowner, the SAG should make the relevant LA department aware of any concerns so that they can act accordingly.

It is the event organiser's responsibility to take any appropriate action. If the LA is the event organiser or co-organiser or has legal responsibilities by virtue of its control of premises / land, it cannot rely on the SAG process to discharge its legal responsibilities. Those legal responsibilities should be discharged separately.

An EMP exists to control the hazards associated with an event, it is not an emergency plan, although an emergency may occur as a result of an event taking place.

3. The standing members of the SAG will be:

- Representative of Environmental Health and Licensing Service (Chair)
- Representatives of South East Ambulance Service NHS Trust (SECAMB), ESFRS and Police

The event organiser should submit to the Service Manager Environmental Health and Licensing an Event Management Plan, normally 6 months before a major event. The

plan will be circulated to the standing members and if questions are raised a meeting will be held 3 months before a major event. The aim is to get the EMP to an acceptable standard before the meeting.

4. Terms of reference

To ensure as far as possible that the risk to public safety is minimised for all those attending or working at an event by providing advice to the event organiser, who has the responsibility for the safety of the event.

To provide a forum within which the Local Authority and other agencies may develop a coordinated approach to spectator/visitor/crowd safety and other event safety matters

To provide a forum through which the event proposals and supporting documentation can be communicated between partner agencies in order for an accurate assessment to be made as to whether a Safety Advisory Group is required for that event.

To ensure that each member of the group is aware of their individual role within the group and at the event.

To advise the event organiser of the relevant legislative requirements.

To provide advice to the event organiser, that any inconvenience to local residents, businesses and the general public is minimised.

To make recommendations and give advice/guidance to the organisers on the Event Management Plan.

To make recommendations and give advice/guidance to the organisers on the contingency plans or arrangements for dealing with emergency situations at the event.

To reasonably satisfy themselves that Organisers of events are fully aware of their responsibilities in relation to Health and Safety and Duty of Care requirements when organising an event.

To keep a record of all meetings whether formal or preliminary, to clearly note recommendations agreed by the advisory group and note actions arising from those meetings.

To receive reports in relation to matters found during any monitoring visits by group members.

To receive notification of the issue of any prohibition notice and any prosecutions.

To hold an annual review and debrief of the Safety Advisory Group Process and make recommendations as necessary.

To hold a debrief after major events and make recommendations as necessary arising from the experience of that event.

To share lessons learned from joint experiences of events and any emergency situations.

To encourage event organisers to devise and facilitate desk top exercises, to participate in such exercises and to facilitate learning from those exercises.

The Safety Advisory Group as such cannot take any decisions on behalf of the Emergency Services and the Local Authority.