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EREWASH



LICENSING ACT 2003

STATEMENT OF LICENSING POLICY 2021 – 2026

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Licensing Act 2003

Statement of Licensing Policy

Preface

This Statement of Licensing Policy (the licensing statement) sets out Erewash Borough Council's policies and proposals for the determination of licence applications and related matters in accordance with the Licensing Act 2003 (the Act) It replaces the Statement of Licensing Policy adopted by Erewash Borough Council in February 2016 This statement comes into effect on 8 February 2021.

The licensing statement has been put forward for review in the context of matters arising from:

- The Licensing Act 2003 and any statutory instruments made under it
- Statutory guidance issued under s182 of that Act
- The experiences of Erewash Borough Council as a Licensing Authority
- Relevant matters arising from the Policing and Crime Act 2009, The Equalities Act 2010, the Police Reform and Social Responsibility Act 2011, Live Music Act 2012 and Anti-social Behaviour, Crime and Policing Act 2014 and Immigration Act 2016
- Erewash Borough Council's key policies and strategies as appropriate.

The Council has consulted with the persons/organisations listed in Section 5(3) of the Act. Our consultation took place between 7 July 2020 and 18 September 2020

This licensing statement was approved at a meeting of the Licensing and Public Protection Committee on 15 October 2020 and referred to Council on 17 December 2020.

Copies are available by downloading from the website.

Should you have any comments as regards this licensing statement please send them via e-mail to: '**licensing@erewash.gov.uk**' or by letter to the
The Licensing Manager, Civic Centre, Derby Road, Long Eaton NG10 1HU

Executive Summary

Erewash Borough Council seeks to promote a sustainable local night time economy. Such an economy must be safe, welcoming, diverse, accessible and attractive to the community and to the population as a whole.

The Licensing Authority acknowledges the potential issues associated with licensable activities in relation to nuisance and anti-social behaviour, which in turn impacts on the community in a variety of ways. It aims to minimise the negative impacts of such an economy, whether on local residents, visitors or the environment.

The Licensing Authority has a crucial role to play achieving this, through the formulation of policy, individual decision-making, promotion and encouragement of best practice and where necessary through enforcement actions. It works in partnership with the Community Safety Partnership, responsible authorities, licensed trade and local communities to identify and resolve issues where possible.

Introduction

- 1.1 Erewash Borough Council is a Licensing Authority for the purpose of the Licensing Act 2003 (the Act). Section 5 of the Act requires all licensing authorities to prepare and publish a Statement of Licensing Policy that they propose to apply in exercising their functions under the Act. The Statement of Licensing Policy will last for a maximum of five years. The policy must be kept under review and can be revised by the authority at any time it considers appropriate, for instance in the light of feedback from the local community on whether the licensing objectives are being met. The five-year period will commence on the date the policy is published. The Council Statement of Licensing Policy published on the 8 February 2016 will remain in force until replaced by the revised policy.
- 1.2 The Statement of Licensing Policy must be produced following consultation with those bodies and persons set out in subsection (3) of section 5. This Statement of Policy meets the requirements of the Guidance issued by the Government under S182 of the Act as revised in April 2018.
- 1.3 The Council is the Licensing Authority under the Act and is responsible for granting premises licences, club premises certificates, and personal licences in the Borough of Erewash in respect of the sale and/or supply of alcohol, late night refreshment and the provision of regulated entertainment.

Erewash Borough Council has different roles under the Licensing Act 2003, so: 'Authority' is used where it acts as the Licensing Authority under the 2003 Act. Council' is used where the Council acts in other capacities, for example: to determine policy or when Environmental Health or Planning Control acts as a responsible authority in making a representation about an application received.

- 1.4 The Statement of Licensing Policy sets out the manner in which applications for licences, which are required by the Act, will be considered by the Council.
- 1.5 Each application will be considered on its individual merits.
- 1.6 The entertainment industry brings cultural and financial benefits to the Borough and additional businesses operating in both the daytime and night-time economy support that industry. However, issues such as
- striking an appropriate balance between the needs of residents and the needs of businesses,
 - the control of underage and immature drinking,
 - the reduction of alcohol related violence and disorder
- are matters which are particularly relevant to the exercise of the Council's licensing functions and ones which applicants and existing licensees also need to consider.
- 1.7 This Statement of Licensing Policy will not directly seek to regulate matters which are provided for in other legislation but will nonetheless seek to complement and on occasions mirror them to ensure compliance with the licensing objectives.
- 1.8 In order to sustain a vibrant night-time economy licensees are encouraged to provide a wide range of entertainment activities within the Borough that will promote live music, dance, theatre, etc. for the wider cultural benefit of the community.

2 Erewash Borough Council

- 2.1 The Borough of Erewash is to be found in the south-east corner of Derbyshire, taking its name from the River Erewash which forms its eastern boundary with Nottinghamshire. The Borough lies between the cities of Derby and Nottingham with the Rivers Trent and Derwent forming its southern and western boundaries.
- 2.2 Erewash is a Borough of sharp contrasts. Approximately 70 per cent of its residents live in the corridor within one mile of the eastern boundary formed by the towns of Ilkeston, Sandiacre and Long Eaton. The remainder of the Borough is predominantly rural consisting of villages set in the pleasant rural landscape typical of the English Shires.
- 2.3 In determining the Statement of Licensing Policy, Erewash Borough Council has taken into account the above factors.

- 2.4 Erewash Borough Council has adopted the following Corporate Vision for the period of 2021 – 2023.

Making Erewash ‘a first class borough in which people have pride and where they choose to live, work and play.’

The Vision is delivered through the following Corporate Plan priorities;

- A welcoming borough, that is clean and safe.
 - Support our communities.
 - Planning for the future.
 - A well run, efficient council.
- 2.5 The Licensing Authority contributes a part in ensuring that all five priorities are achieved. The primary objective is to assist in reducing the levels of crime and the fear of crime, this to ensure a safe Borough, and a good place for all to live life to the full. The Council intends that this Statement of Licensing Policy should support and promote the council’s Corporate Plan priorities and other appropriate policies and strategies.
- 2.6 The Authority recognises the appropriate integration of strategic links and other regulatory systems, statutory controls and initiatives which link to the licensing regulatory system including the Erewash Community Safety and Violent Alcohol Harm Licensing Group Partnerships.
- 2.7 Erewash Community Safety Partnership is made up of several statutory organisations that are required by law to work together to reduce crime, anti-social behaviour and re-offending. Statutory partners include:
- Erewash Borough Council
 - Derbyshire County Council
 - Derbyshire Constabulary
 - Derbyshire Fire and Rescue Service
 - Derbyshire Clinical Commissioning Group
 - National Probation Service
 - Police and Crime Commissioner
- 2.8 Applicants and licence holders are encouraged to participate in schemes promoted by Erewash Community Safety Partnership, where they are suitable to their premises and in line with the Community Safety Partnership Plan 2020-23.

3 Aim of the Council’s Statement of Licensing Policy

- 3.1 The aim of the Council’s Statement of Licensing Policy (hereafter referred to as licensing statement) is to secure the safety and amenity of residential

communities whilst facilitating a sustainable entertainment and cultural industry within the scope of the Act. In adopting this licensing statement the Council recognises the need to;

- secure the safety and amenity of our communities;
- facilitate a safe and sustainable licensed trade that contributes to the economy and vibrancy of the Borough;
- reflect the needs of the Borough's community in relation to its cultural needs and diversity by supporting licensable activities, including live music, dancing, theatre and the other cultural experiences offered by such activities.

3.2 To achieve this aim the Council is committed to partnership working with Derbyshire Constabulary and other local authority services, commerce, including the licensing trade, residents and others towards the promotion of the licensing objectives.

3.3 The licensing statement sets out how the Council intends to promote the licensing objectives pursuant to section 5 of the Act. In accordance with the Act, the licensing statement will be reviewed at least every five years. In preparing this statement the Authority has taken into account the Act and any regulations and the guidance issued by the Secretary of State under section 182 (hereafter referred to as section 182 guidance).

4 Consultation

4.1 Before determining its review of the licensing statement, the Authority must consult the following:

- the Chief Officer of Derbyshire Constabulary;
- Derbyshire Fire and Rescue Service;
- the Director of Public Health for Derbyshire
- such persons/ bodies which are considered to be representative of holders of premises licence issued by the Authority;
- such persons/ bodies which are considered to be representative of holders of club premises certificates issued by the Authority;
- such persons/ bodies which are considered representative of holders of personal licences issued by the Authority; and
- such persons/ bodies which are representative of businesses and residents in the Council's area.

4.2 The views of all the above persons or bodies will be given appropriate weight. The Authority will make all reasonable effort to identify and consult with other persons or bodies that may have an interest and represent all parts of industry affected by the provisions of the Act. **A list of consultees is attached at Appendix 3**

5 Scope and purpose of the Policy

5.1 The licensing statement is concerned with the administration of the licensing functions required of the Council under the Act. It has four main purposes, which are:

- To confirm to elected Members of the Licensing and Public Protection Committee, the boundaries and powers of the Authority and the parameters within which to make decisions.
- To inform licence applicants of the parameters within which the Authority will make licensing decisions and therefore how licensed premises are likely to be able to operate within the area.
- To inform local residents and businesses of the parameters within which the Authority will make licensing decisions and as a result how their needs will be addressed.
- To provide a clear process on which licensing decisions are made to support a case in a court of law if the Authority has to show how it arrived at its licensing decisions.

6 Interpretation

6.1 Any words or expressions in this licensing statement have the meanings assigned to them under the Act or the 2005 Regulations, or in absence, under section 182 Guidance or guidance produced by the Authority. Nothing in the licensing statement can be regarded or interpreted so as to prejudice the Act or Regulations.

7 The Council's licensing function and the licensing objectives

7.1 The Authority will carry out its licensing functions solely with a view to promoting the four licensing objectives in accordance with the Act, having regard to the section 182 Guidance and its licensing statement.

7.2 The licensing objectives are:

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

The four licensing objectives have equal importance.

7.3 Licensing in this context refers to regulating licensable activities that take place on licensed premises, qualifying clubs i.e. Member's clubs and at temporary events within the terms of the 2003 Act. The activities which require a

premises licence, club premises certificate or temporary event notice include the: -

- Retail sale of alcohol;
- Supply of alcohol by or on behalf of a club, or to the order of a club member;
- Provision of late-night refreshment - the supply of hot food and/or drink from any premises between 11pm and 5am.
- The provision of regulated entertainment – to the public, to club members or with a view to profit:
 - a performance of a play;
 - an exhibition of a film;
 - an indoor sporting event;
 - boxing or wrestling entertainment;
 - a contest, exhibition or display which combines boxing or wrestling with one or more martial arts (combined fighting sports)
 - a performance of live music;
 - any playing of recorded music;
 - a performance of dance;
 - entertainment or similar descriptions

7.4 The issue of personal licences is also within the licensing function of the Authority to those resident in its area to authorise the sale of alcohol. Guidance to the application process is available at: [Personal licence](#)

All applicants must be over the age of 18 and have a right to work in the UK.

7.5 As a result of amendments made to the Act by the Live Music Act 2012 and the Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013, Legislative Reform Order 2014 and the Deregulation Act 2015 the following activities are classed as de-regulated and as such a licence is not required for the following activities, as long as the activity takes place between 08:00- 23:00 on any day:

- a performance of a play in the presence of any audience of no more than 500 people;
- an indoor sporting event in the presence of any audience of no more than 1,000 people, this includes Greco Roman or free style wrestling
- most performances of dance in the presence of any audience of no more than 500 people; and
- live music, where the live music comprises;
 - a performance of unamplified live music
 - a performance of live amplified music in a workplace with an audience of no more than 500 people; or

- a performance of live or recorded music on licensed premises which takes place in the presence of an audience of no more than 500 people, provided that a number of conditions are satisfied.
- There are exemptions from the need for a licence for music entertainment, in defined circumstances including for:
 - places of public worship, village halls, church halls and other similar buildings
 - schools
 - hospitals
 - local authority premises
 - incidental music –music that is incidental to other activities that are not classed as regulated entertainment

7.6 Where de-regulated activities take place on licensed premises any licence conditions relating to 'live' music or entertainment will be suspended but it is possible to impose new, or reinstate existing, conditions following a review of a premises licence or club premises certificate.

7.7 When considering whether an activity constitutes 'the provision of regulated entertainment, each case will be treated on its own merits. There will inevitably be a degree of judgement as to whether a performance is live music or not. Organisers of events should be encouraged to check with the Authority if in doubt.

7.8 The Authority recognises that the Act is not a mechanism for the general control of anti-social behaviour by individuals once they are beyond the direct control of the individual, club or business holding the licence, certificate or permission concerned. This is a matter for the Police. The Authority will not, therefore, attempt to control such through its exercise of licensing functions unless clear evidence links alcohol related violence or disorder to persons having left those premises. The Authority also recognises the impact of drug misuse on and around alcohol licensed premises and will expect premises to adopt a zero tolerance approach and to have reporting procedures in place.

8 The Council's approach to applications for premises licences & club premises certificates

8.1 The Authority recognises that each licensing application must be dealt with on its own individual merits and in accordance with the Council's Statement of Licensing Policy.

8.2 To minimise the number of relevant representations, applicants for a premises licence, club premises certificate or variations are encouraged to provide sufficient information in their operating schedules to demonstrate the steps they intend to take to promote the four licensing objectives. Consideration

should be given to any impact the application could have on the local area and mitigate against the risk of nuisance to nearby properties.

- 8.3 The Authority may wish to make a representation as a responsible authority, in order to ensure that appropriate and proportionate conditions are included on a licence where it is not considered clear from an operating schedule.
- 8.4 Applications will not be valid unless made on the prescribed form, complete and advertised in accordance with Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005. (The Regulations). Further guidance is available on the Council's website at: [Premises licence](#)
- 8.5 The following shall apply to ensure that the legislation has been complied with and that the application is valid.
- Applications should be advertised in a public notice in either a local newspaper or where there is none, in a local newsletter, circular or similar document, which circulates in the vicinity, and
 - Proof of the advertisement shall be provided within 5 working days of the advertisement being published.
- 8.6 Methods of serving an application include; by recorded delivery, first class post, by hand or by electronic application facility, the relevant fee must be paid in order for the application to be considered valid. A link to the Council's fees can be found at: [fees and charges](#)
- Applications received via the electronic application facility can include an electronic signature or this section may be left blank, however, a signed declaration should be provided to the authority within the statutory consultation period.
 - Applications for variation or transfer of the licence require the applicant to provide the licence, this may be scanned, if it cannot be provided, a reason why must be given.
 - If an application is made online it will be the responsibility of the Authority to copy the application to relevant responsible authorities on the first working day after the receipt of a valid application.
 - If part of the application is received in writing it will remain the responsibility of the applicant to copy the whole application to the relevant responsible authorities.
 - Personal licence applications and renewals, applications for review and representations cannot be served via the electronic application facility. However,

applications for review and representations may be received through the normal e-mail procedure if the Authority has made prior agreement.

- Applications that require notice to be given to the Premises Licence Holder or Designated Premises Supervisor will remain the responsibility of the applicant, even if an online application has been made.
- 8.7 The Act specifies the responsible authorities that must be consulted for each premises licence, club premises certificate or full variation application. **Contact details for these agencies are available at Appendix 1.** It is the applicant's responsibility to ensure that a copy of the application is served on each responsible authority, unless the application is made through the electronic application facility.
- 8.8 In cases where the Council is the responsible authority the applicant must serve a separate copy of the application on each of the various services (i.e. Health and Safety, Environmental Health, Planning etc.) Under the Act the Licensing Authority has two separate roles (responsible authority and administration) It will not be necessary for the applicant to serve two copies on the Licensing Authority. Consultation periods will not commence until the appropriate responsible authorities have been served with a copy of the application and all relevant documentation.
- 8.9 Applications for premises licences and relevant variation must be accompanied by a plan which shall be compliant with the requirements of section 23 (3) of the Licensing Act 2003 (Premises Licences etc.) Regulations 2005.
- 8.10 Plans in support of written and electronic applications, will not be required to be submitted in any particular scale, but they must be in a format which is clear and legible in all material respect's i.e. they must be accessible and provide sufficient detail for the Authority to be able to determine the application, including the relative size of any features relevant to the application. In addition to the requirements of section 23 (3), plans should show the location of any CCTV cameras, monitors and recording equipment used in the licensed premises and the position of firefighting equipment and emergency escapes.
- 8.11 All applications for premises licences and full variations will refer to current written risk assessments within the Operating Schedule, these will be available for inspection on request by a Police constable, other responsible authority or other Authorised Officers under the Act.

Licence Fees

- 9.1 The Authority will suspend a premises licence or club premises certificate if the annual fee is not paid when it is due.

- 9.2 A grace period of 21 days will be given in cases of dispute of liability or administration error to allow the Authority to resolve the dispute or error. The licence will be suspended if the dispute or error is not resolved during the 21 day grace period.
- 9.3 The Authority will notify the licence / certificate holder in writing and will give at least the minimum of two working days' notice of the date on which the suspension will take effect.
- 9.4 A suspension will cease to have effect when the Authority receives the outstanding fee from the licence / certificate holder.
- 9.5 Written acknowledgement of the receipt of the outstanding fee will be sent to the licence / certificate holder no later than two working days after the payment is received.
- 9.6 Derbyshire Constabulary will be contacted and advised of any licences/ certificates that are suspended or re-instated on payment of the outstanding fee.

10 Minor Variation process

- 10.1 Under sections 41A to 41C of the Licensing Act 2003, an application may be made for small variations that will not impact adversely on the licensing objectives by way of a simplified 'minor variations' process.
- 10.2 Minor variations will generally fall into one of the below categories:
- Minor changes to the structure or layout of the premises
 - The removal of out of date, irrelevant or unenforceable conditions
 - The addition of volunteered conditions
 - The addition of certain licensable activities
 - The removal of licensable activities
- 10.3 The licensee is not required to advertise the variation in a newspaper or copy it to the Responsible Authorities. However, they must display the variation in a white notice at the premises in accordance with Regulations for no less than 10 working days, starting on the working day after the minor variation was given to the Authority.
- 10.4 The Authority shall consider whether the variation could adversely impact upon the licensing objectives and will consult relevant Responsible Authorities if there is any doubt about the impact of the variation on the licensing objectives or it requires specialist advice.

- 10.5 The Authority will also take into account any relevant representations received from other persons in making a decision on a minor variation application. Where the Authority considers that the application could adversely impact upon one or more of the licensing objectives, the application will be refused. There is no right to an appeal under the minor variation process.
- 10.6 Applications must be determined within 15 working days, beginning on the first working day after the application was received by the Authority. The licensee will be offered the opportunity to treat an undetermined application as a new application if the application is not determined within 15 working days.

11 Right to Make Representation and Consultation

- 11.1 The Authority must consider relevant representations as part of its determinations of premises licences and club premises certificates. Relevant representations can be made in opposition to, or in support of, an application and can be made by a responsible authority or any individual, body or business that has grounds to do so within the prescribed time periods. Where the Authority is of the opinion that representations are frivolous or vexatious, the Act prohibits them being considered as relevant representations.

Meaning of relevant representation:

- matters about the likely effect of the grant of the premises licence on the promotion of the licensing objectives with the representation relating to one or more of the licensing objectives; or
- a representation made by the Chief Officer of Police for Derbyshire in respect of a proposed designated premises supervisor. Club premises are not required to have a designated premises supervisor.

Meaning of Responsible Authority:

- the Licensing Authority
- the Chief Officer of Police for Derbyshire;
- Derbyshire Fire and Rescue Service;
- the enforcing authority for health and safety under Health and Safety at Work etc. Act 1974;
- the Council as the local planning authority or under its powers to minimise or prevent the risk of pollution of the environment or of harm to human health;
- Derbyshire Trading Standards
- Derbyshire Safeguarding Children Board;
- Derbyshire Public Health
- Other Councils in whose area part of the premises is situated if the premises straddle the Borough boundary; or,
- Other responsible Authorities as included in the Act.

- 11.2 Representations must be signed, dated, provide the grounds of representation in full and include the name and address of the person / body making the representation. Where exceptional circumstances justify this action the Authority may decide to withhold some or all of the personal details from the applicant.
- 11.3 To maximise the efficiency of administering licences and reduce the necessity for representations and hearings, the Authority will actively encourage applicants to consult with the responsible authorities and seek professional guidance from Council services, when operating schedules are being prepared. To allow for liaison to take place in such areas as noise reduction, CCTV, refuse and litter etc.
- 11.4 In promoting the licensing objectives, the Authority will refer complaints about licensed premises/ club premises / temporary events or licensed individuals to its own appropriate service team (e.g. Health and Safety, Pollution Control) or to another agency (e.g. Derbyshire Constabulary, Derbyshire Fire and Rescue Service) for their consideration, in accordance with the Council's own and Derbyshire licensing enforcement protocols.
- 11.5 The Director of Public Health is responsible for making representations and observations on applications on behalf of health bodies. Public health is not a licensing objective but Public Health is a responsible authority under the Licensing Act, and the Authority believes that public health has much to add to licensing in relation to the local populations' alcohol related health needs. Health bodies such as Public Health have unique access to data not available to other responsible authorities which may inform licensing decisions. Public Health is useful in providing evidence of alcohol related health harms particularly in relation to cumulative impact policies. The Authority recognises the impact of alcohol misuse, and it is hoped that through the implementation of this Licensing Policy, the promotion of the four licensing objectives will in turn have a positive effect on preventing alcohol misuse in the Borough.

12 Cumulative Impact

- 12.1 The Council will not consider the question of need in determining an application. This is not a matter for an Authority or its Statement of Licensing Policy, need is a matter for planning committees and for the market competition.
- 12.2 The Council does, however, recognise that in exceptional circumstances the cumulative impact of the number, type and density of licensed/club premises in a given area, may seriously undermine the licensing objectives.

- 12.3 The Council fully debated the issue of cumulative impact in 2006 and at that time considered there was insufficient evidence to justify the adoption of a cumulative impact policy.
- 12.4 In order for the Council to consider whether to adopt a cumulative impact policy there should be an evidential basis. The steps to be followed in considering whether to adopt a special policy within the licensing statement are;
- identification of concern about crime and disorder or public nuisance;
 - demonstrate 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;
 - consultation with those specified by section 5(3) of the Act as part of the general consultation required in respect of the whole licensing statement;
 - subject to that consultation inclusion of a special policy about future premises licence or club premises certificate applications as part of the licensing statement;
- 12.5 The absence of a cumulative impact policy does not prevent any responsible authority or other person from making representations on a new application for the grant of a licence, on the grounds that the premises will give rise to a negative cumulative impact on one or more the licensing objectives.
- 12.6 The Council regards the adoption of a cumulative impact policy as being exceptional. Many other mechanisms exist outside the licensing regime that are available to address such issues. For example:
- 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 Council
 - the provision of CCTV surveillance in town centres, ample taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols
 - powers of the Council to designate parts of the Borough as places where consumption of alcohol may be restricted

- enforcement of the normal law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices
- the prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk
- the confiscation of alcohol from adults and children in designated areas
- Derbyshire Constabulary's powers to close down instantly for up to 24 hours (extendable to 48 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 Derbyshire Constabulary, other responsible authorities or other persons to seek a review of the licence or certificate in question.
- The power of Derbyshire Constabulary, to seek a summary review within 48 hours under section 53A of the Act
- Raising a contribution to policing the late night economy through the Late Night Levy between the hours of midnight and 6am.
- Introduction of an Early Morning Restriction Order in whole or part of the Council's area to restrict the sale of alcohol between the hours of midnight and 6am.
- The power to apply a prohibition in a public spaces protection order or closure of premises associated with nuisance or disorder etc. under the Anti-social Behavior, Crime and Policing Act 2014.

These should be supplemented by other local initiatives that similarly address these problems.

- 12.7 Quotas, which pre-determine the individual merits of any application - even in respect of premises selling alcohol for consumption on those premises, will not be used by the Council as such quotas have no regard to the individual characteristics of the premises concerned. Proper regard will be given to those differences and the differing impact they will have on the local community.

13 Licensing Hours

- 13.1 The 2003 Act gives the Authority the power to make decisions regarding licensed opening hours as part of the implementation of its licensing statement based on local knowledge and in consultation with other responsible authorities. However, the Authority will not impose pre-determined licensed

opening hours and will determine licensing hours on the individual merits of each application.

- 13.2 If relevant representations are received the Authority may impose stricter conditions with regard to noise control in areas which have denser residential accommodation, although this will not prejudice consideration of individual applications where the licensing objectives are observed.
- 13.3 Shops, stores and supermarkets may provide the sale of alcohol for consumption off the premises at any time when the retail outlet is open for shopping unless there is a good reason for restricting them, such as disorder or disturbance. Derbyshire Constabulary would normally be asked to make comment on any alleged patterns of disorder or disturbance and any history of alleged under-age sales.
- 13.4 Where businesses have indicated, when applying for a licence under the Act, that they have also applied for planning permission or that they intend to do so, licensing and planning committees will aim to mutually agree acceptable operating hours.
- 13.5 Planning permission and building control approval and licensing regimes should be separated to avoid duplication and inefficiency. Planning and licensing regimes involve consideration of different, albeit related matters. Licensing committees are not bound by decisions made by a planning committee, and vice versa. Where hours are set as a condition of planning permission and these hours are different to the licensing hours, the applicant must observe the earlier closing time.

14 Conditions

- 14.1 Any conditions that are attached to licenses and certificates will be tailored to the individual style and characteristics of the premises and the proposed activities. Conditions will only be imposed where it is appropriate to promote the licensing objectives. Standardised conditions will be avoided.
- 14.2 There are three types of conditions:

Mandatory by 2003 Act – Mandatory conditions are provided by the Act, amended by the (Mandatory Licensing Conditions) (Amendment) Order 2014 and should be included in every licence and/or club premises certificate. **The Mandatory conditions are attached at Annex 2**

Proposed by the applicant within the Operating Schedule - The Authority will not replicate the steps recorded in the applicant's operating schedule and will, where there have been no relevant representations, grant a licence/

certificate subject to such conditions transcribed to reflect the applicant's intent with any mandatory conditions set under the Act.

Imposed by The Authority at a hearing - The Authority will consider the indirect costs that may arise because of any imposed conditions and consider whether these could be a deterrent to holding events that are valuable to the community or for the funding of good and important causes. Conditions will be:-

- appropriate for the promotion of the licensing objectives.
- precise and enforceable and unambiguous and clear in what they intend to achieve
- should not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation
- tailored to the individual style and characteristics of the premises and events concerned.
- proportionate, justifiable and capable of being met,
- in the direct control of the licence holder and staff i.e. cannot seek to manage the behaviour of customers once they have left the area, but may impact on the behaviour of customers in the immediate vicinity of the premises or as they enter and leave.
- prescriptive format and use wording such as must, shall and will.

Standardised conditions will be avoided and may be unlawful when it cannot be demonstrated that they are appropriate for the promotion of the licensing objectives on a case by case basis.

- 14.3 The Authority will give due regard to the imposition of conditions arising from consultation between the Responsible Authorities.

15 Crime and Disorder

- 15.1 The Authority will expect the applicant to detail the steps he/she proposes to ensure the deterrence and prevention of crime and disorder. The following issues should be considered in the operating schedule;

- The applicant's intention to engage with recognised local liaison groups, such as Pubwatch, and/or other groups/organisations (e.g. the Council, Derbyshire Constabulary, the Community Safety Partnership and other agencies) working to promote the licensing objectives in the Borough.
- Acknowledgement and implementation of the Code of Practice produced by the Portman Group which seeks to ensure that drinks are packaged and promoted in a socially responsible manner and only sold to those who are 18 years old or older;
- Provision of CCTV for inside and outside the premises and recording equipment; to include details of the type or specification of the system,

number of cameras and the proposals for the maintenance of the equipment and retaining and downloading of images.

- Radio network communication;
- Search facilities, including, as appropriate metal detection equipment for concealed weapons etc.;
- Use of safety/shatter-resistant glasses/receptacles;
- Responsible pricing policies for alcoholic drinks;
- Measures that are aimed at preventing the incidence, supply and consumption of drugs including the use of new psychoactive substances (NPS).
- Proof of age monitoring arrangements;
- Signage and crime prevention notices;
- Door supervision
- Recording of incidents;
- Capacity limits
- responsible pricing policies for alcoholic drinks and promotion and events such as happy hours.

16 Public Safety

- 16.1 Licensees must ensure the physical safety of people using the relevant premises or place.
- 16.2 The Authority recognises the protection afforded by the Health & Safety at Work etc. Act 1974 plus the Regulatory Reform (Fire Safety) Order 2005 and other safety legislation. However, where the legislation does not cover the unique circumstances of some regulated activities, if relevant representations are received the Authority will consider attaching conditions to premises licences and club premises certificates where these are appropriate for the promotion of the public safety licensing objective.
- 16.3 Applicant's should detail the steps they propose to ensure public safety. The following issues are given to assist applicants who may need to comment on them in their operating schedule;
- The relevance to and, if applicable, the implementation of health & safety at work, fire precautions and other safety legislation;
 - Provision of competent personnel;
 - Maintenance of electrical, fire detection/alarm, emergency lighting, gas appliances and other relevant plan and systems;
 - Capacity limits;
 - The facilities, arrangements and procedures to minimise the harmful effects of drug misuse;
 - Any other relevant matter(s).

17 Public Nuisance

- 17.1 Licensed premises have a significant potential to impact adversely upon communities through public nuisances that arise from their operation. The Licensing Authority will normally apply stricter conditions, including controls on licensing hours, where licensed premises are in residential areas and where significant relevant representations have been received.
- 17.2 The following issues are given to assist applicants who may need to comment on them in their operating schedule;
- Prevent noise and vibration escaping from the premises. Such measures may include sound proofing, air conditioning, acoustic lobbies and sound limitation devices;
 - Prevent disturbance by customers arriving at, or leaving the premises, which is usually of greater significance later into the evening and in the early morning. Details may address the potential disturbance caused by queuing;
 - Prevent noise and disturbance caused at the premises by persons leaving the building for the purposes of smoking;
 - Control nuisance associated with public disturbance;
 - The generation of odour, for example from the preparation of food;
 - Prevent potential litter problems in the vicinity of and caused by their activities including, for example, the distribution of flyers, fly posting and food packaging left by customers from late night refreshment premises;
 - Any other relevant matter(s).
- 17.3 The Authority recognises:-
- applicants will only be expected to prevent public nuisance that is under their direct control. The control of nuisance that is not within the vicinity of the premises or the responsibility of the licence holder falls outside the scope of the Act;
 - the rich cultural benefit of live entertainment / performances including but not exclusively music, such as singing, jazz, opera, dancing, carnival events, comedians, children's entertainers and physical performance artists (eg. jugglers and mimes) and theatre;
 - the need to promote the enjoyment, involvement and celebration of cultural experiences particularly for children, and the need to balance these benefits against the potential for limited disturbance in neighbourhoods.
- 17.4 The Authority will have regard to the smoke-free legislation contained within the Health Act 2006 when considering applications in order to ensure that local residents do not suffer from nuisance caused by or in consequence of compliance measures implemented at licensed premises.

18 Children

- 18.1 The Authority recognises the great variety of premises for which licences may be sought, for instance theatres, cinemas, restaurants, pubs, nightclubs, cafes, takeaways, community halls and schools.
- 18.2 The Authority will not impose conditions that restrict access to children to any type of premises unless it is considered appropriate to protect them from harm. for example:
- where entertainment of an adult or sexual nature is commonly provided;
 - where there have been convictions of members of the current staff for serving alcohol to minors or the premises has a history of convictions for underage drinking at the premises;
 - where a known association for drug taking or dealing exists;
 - where there is evidence to suggest there will be gambling on the premises (but not for example the simple presence of a small number of cash prize gaming machines);
 - where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.
- 18.3 It would be unusual for the Authority to completely prohibit access of children from premises. The Authority may use the following options in order to protect children from harm;
- limitations on the hours when children may be present;
 - age limitations;
 - limitations or exclusions when certain activities are taking place;
 - requirements for an accompanying adult;
 - full limitations of people under 18 years old from the premises when certain licensable activities are taking place.
- 18.4 The Authority will not impose any condition which requires the admission of children to any premises.
- 18.5 Where the Authority imposes no restriction on access by children it is for the individual licensee or club to ensure the licensing objectives are observed.
- 18.6 The Authority will liaise with Derbyshire Constabulary and Derbyshire County Council's Trading Standards about the extent of unlawful sale and consumption of alcohol to minors and, as appropriate, will be involved in the development of any strategies to control or prevent these unlawful activities and to pursue prosecutions.
- 18.7 The Authority will give considerable weight to representations about child protection matters including the protection of children from moral,

psychological and physical harm. This includes not only protecting children from the harms associated directly with alcohol consumption but also wider harms such as exposure to strong language and sexual expletives (for example, in the context of exposure to certain films or adult entertainment).

- 18.8 To minimise the risk to children, young and vulnerable people, premises need to have preventive systems in place to ensure children and vulnerable persons are protected from harm. Staff should be able to recognise the signs of possible abuse or child sexual exploitation and understand their duty to report it. The Authority will consider the need to protect children and vulnerable persons from sexual or criminal exploitation when undertaking its licensing functions and will aim to support the relevant agencies in this duty.
- 18.9 Where a responsible authority, or other person presents evidence linking specific premises with harms to children, the Director of Public Health may support a representation with health data about the harms that alcohol can cause to underage drinkers (such as ambulance data or emergency department attendances by persons under 18 with alcohol related illnesses or injuries). The Authority will liaise with the appropriate bodies at Derbyshire County Council where matters involving safeguarding may exist.

19 Cinemas and Children

- 19.1 In the case of premises giving film exhibitions, the Authority expects applicants to include in their operating schedule arrangements for enforcing the age restriction on films as classified according to the recommendations of the British Board of Film Classification or other body approved. The Authority may impose age restrictions where a film is not classified.

20 Temporary Event Notices (TEN)

- 20.1 These Notices are for events holding licensable activities which are not covered under any premises licence or club premises certificate.
- 20.2 Applications for a Standard TEN must be served on the relevant authorities at least 10 working days before the date of the event. Applicants are advised to submit TEN's at least one month before the event to ensure time is given to permit an appeal process.
- 20.3 Applications submitted between 5 and 9 working days before the date of the event would be classed as a late TEN. Late TENs will be refused if a relevant representation is received. There is no right to an appeal process under these circumstances.
- 20.4 Temporary Event Notices should be sent or delivered to:

- The Licensing Section, Erewash Borough Council, Town Hall, Derby Road, Long Eaton, Derbyshire, NG10 1HU;
- Chief Officer of Police, The Licensing Section, Derbyshire Constabulary, D Division Headquarters, Prime Park Way, Chester Green, Derby, DE1 3AB;
- The Environmental Health Section, Erewash Borough Council, Merlin House, Merlin Way, Ilkeston, Derbyshire, DE7 4RA.

20.5 Two copies of the temporary event notice must be served on the Licensing Section and one copy to be served on the Police and Environmental Health Section for the area in which the premises is situated. The Licensing Authority will endorse one of the two copies and return it to the applicant as acknowledgement.

20.6 The limitations imposed on the use of TENS include:

- A maximum period for using premises for licensable activities under the authority of a TEN is 168 hours (7 days).
- A holder of a valid personal licence issued under the Act may hold up to 50 Standard temporary events with up to 10 late events per year and all other persons may hold up to five Standard temporary events with up to two late events per year.
- A single premise can hold up to 15 events per calendar year however this must not exceed 21 days in total. A minimum period of 24 hours must apply between events, a TEN submitted for an event occurring less than 24 hours following another event will be rejected.
- A TEN can be given for part of a building such as a single room within larger premises. A clear description of the area in which the licensable activities are to take place should be given in the application.
- A TEN can only be issued for events which restrict the number of people attending to 499 or under.
- Existing conditions may be attached at a hearing where the venue holds a premises licence or club premises certificate and the conditions are appropriate to promote the licensing objectives. This function may be delegated to an officer where all parties agree to modify the TEN and attach the conditions of the relevant premises licence.

20.7 A TEN will not apply to events over 499 persons and applicants should contact the Authority leaving sufficient time to apply for a premises licence.

20.8 The Authority would expect that organisers of any large scale events over 499 people, where licensable activities are to be taking place, to prepare an event management plan incorporating risk assessments. The authority would expect event organisers to have regards for, and to comply with the Health, Safety and Welfare at Music and Other Events. [The Purple Guide](#)

21 Integrating Strategies

- 21.1 The Authority will ensure its licensing function promotes the licensing objectives through its decision making process and by appropriate use of its powers and through liaison and partnership work. The Authority will secure proper integration with the Local Plan, local crime prevention, planning, community safety, transport, tourism and cultural strategies and plans in carrying out its licensing function and, more widely, in the interest of the Borough of Erewash.
- 21.2 The Authority recognises the importance of attaching licence conditions that reflect local crime prevention strategies and will have regard to the likely impact of licensing when considering the location, impact, operation and management of all proposed applications. It will give due regard to the legislation and guidance contained within the Violent Crime Reduction Act 2006 and any preceding legislation.

22 Equalities Act 2010

- 22.1 The Authority recognises that the Equalities Act 2010 places an obligation on all public authorities to have due regard to the need to eliminate inequality, discrimination, harassment and victimisation.

23 Human Rights Act 1998

- 23.1 The Authority will implement the Act in a manner consistent with the Human Rights Act 1998. The council will consider the respective human rights of applicants and other parties who may be affected by the grant of licences. Conditions will only be imposed on licences when they are considered to be a proportionate response to the problems they are seeking to address.

24 Immigration Act 2016

- 24.1 The Authority must be satisfied that an individual or individuals applying for a premises licence or personal licence have the right to work in the UK. This only applies to applications for licences that include the sale of alcohol or/and late night refreshment. Where an applicant's right to work is time limited the licence will be granted for an indefinite period but will lapse where a person's immigration permission is cut short or ends.

25 Avoidance of Duplication with other regulatory regimes

- 25.1 The Authority acknowledges the efforts and responsibilities of other regulators for instance Derbyshire Constabulary, Derbyshire Fire and Rescue Service and the Health and Safety Enforcing Authority under other legislation, which

benefit the promotion of the licensing objectives. Licence conditions should not duplicate other statutory provisions. Licence holders should be mindful of requirements and responsibilities placed on them by other legislation.

- 25.2 Where other legislation does not cover the unique circumstances of some licensable activities, the Authority will consider attaching conditions to premises licences and club premises certificates where relevant representations are received and these are appropriate for the promotion of the licensing objectives.

26 Enforcement

- 26.1 The Council will provide adequate resources to enforce the requirements of the Act in accordance with its Enforcement Policy, any enforcement protocols, agreed with other agencies and the Government's Enforcement Concordat.
- 26.2 In determining the most appropriate course of action to secure the licensing objectives the Authority will be mindful of other separate legislation and other enforcement bodies' powers. Additionally the Authority will take into account any enforcement protocols developed with these organisations and our partner agencies.

27 Designated Premises Supervisor and Personal Licence Holders

- 27.1 The sale and supply of alcohol carries with it greater responsibility than that associated with the provision of regulated entertainment and late night refreshment because of its impact on the wider community, crime and anti-social behaviour.
- 27.2 The Authority accepts that not every person retailing alcohol needs to hold a personal licence, but every sale or supply of alcohol must be authorised by a licence holder. Such authorisation is a requirement of holding a premises licence under the Act and should be kept at the premises for examination by a Police Officer or other Authorised Officer.
- 27.3 The Authority recognises the responsibility of personal licence holders, particularly the Designated Premises Supervisor in overseeing the day-to-day sale of alcohol. The Council expects there to be clear control in the absence of the Designated Premises Supervisor and sufficient arrangements and numbers of personal licence holders to be present during the hours of operation.
- 27.4 The Authority recognises that the Act retains a special status for bona fide clubs, such as political, working men's clubs and sports and social clubs. This allows alcohol to be supplied for on and behalf of the club without the need for

any member or employee to hold a personal licence, or to be named as the Designated Premises Supervisor.

- 27.5 A request may be made to the Authority for the disapplication of the mandatory condition concerning the supervision of alcohol sales by a personal licence holder, and the need for a designated premises supervisor. This only applies to community premises such as Church and Village Halls, and only if the applicant is a committee or board of individuals with responsibility for the management of the premises ("the management committee"). The management committee should notify the Authority if there are changes in the committee composition.

Review of a Premises Licence or Club Premise Certificate

- 28.1 The Authority recognises the importance of its ability to review premises licences. The procedures set out in the Act for reviewing premises licences represent a key protection concerning problems associated with crime and disorder, public safety, public nuisance or the protection of children from harm.
- 28.2 The Authority will support Derbyshire Constabulary in reducing serious crime, in particular alcohol related violence and disorder or where the premises have been used for criminal activity. The provisions of section 53A of the Act will offer additional steps to tackle those premises associated with such issues.

29 Administration, Exercise and Delegation of Functions

- 29.1 The Authority recognises many of the decisions and functions under the Act are purely administrative in nature. **The delegation of licensing functions is set out in Appendix 3.**

30 How this policy applies

- 30.1 All applications for new premises licences or variations need to be supported by an operating schedule. The schedule must specify the steps which the applicant proposes to promote each of the licensing objectives.
- 30.2 The Authority must grant the application if it does not receive a valid objection (relevant representation) from a responsible authority or other person. The steps proposed by the applicant in the operating schedule will become licence conditions. The Authority will have no discretion to refuse the application or to alter or add to the conditions arising from the operating schedule, subject only to addition of the mandatory conditions under the Act
- 30.3 Where there are relevant representations, a hearing before a licensing sub-committee (licensing panel) will normally follow. The sub-committee must take such steps as it considers appropriate to promote the licensing objectives.

These may include granting the application, adding to or modifying the conditions proposed in the operating schedule or refusing the application.

- 30.4 The licensing statement has been drawn up in consultation with other expert bodies and responsible authorities, together with community stakeholders. In exercising its discretion, the licensing sub-committee will have regard to this licensing statement. The licensing statement represents the Authority view of the best means of securing the licensing objectives. Applicants are advised to read this licensing statement carefully when drawing up their operating schedule.
- 30.5 Where there have been relevant representations the Authority will always consider the merits of the case. Conditions will not be applied where the steps proposed by the applicant are sufficient to meet the licensing objectives.
- 30.6 The contents of this section apply both to premises licences and club premises certificates.

APPENDIX 1

LICENSING ACT 2003 – RESPONSIBLE AUTHORITIES

LICENSING AUTHORITY

Licensing Section
Erewash Borough Council
Civic Centre
Derby Road
Long Eaton
Derbyshire NG10 1HU
licensing@erewash.gov.uk
Telephone number: 0115 9072244

POLICE

Derbyshire Constabulary
D Division Headquarters
Prime Park Way
Chester Green
Derby
DE1 3AB
derby.licensing@derbyshire.pnn.police.uk
Telephone number: 0300 1224911
Fax: 0300 1227737

FIRE AUTHORITY

Derbyshire Fire and Rescue Service – East
Area Office
Ilkeston Fire Station
Derby Road
Ilkeston
Derbyshire
DE7 5EZ
Telephone number: 0115 9320222/
9326832
Fax: 0115 9447506

ENVIRONMENTAL PROTECTION

Environmental Protection Team
Environmental Health
Erewash Borough Council
Merlin House
Merlin Way
Ilkeston
Derbyshire
DE7 4RA
environmentalhealth@erewash.gov.uk
Telephone number: 0115 9316030

**ENFORCING AUTHORITY FOR HEALTH
AND SAFETY AT WORK etc. ACT 1974**

Food, Health and Safety Team
Environmental Health
Erewash Borough Council
Merlin House
Merlin Way
Ilkeston
Derbyshire
DE7 4RA
environmentalhealth@erewash.gov.uk
Telephone number: 0115 9316030

**For premises where the Health and
Safety Executive has enforcement
responsibility:-**

Noelle Walker
H.M Inspector of Health & Safety
Health & Safety Executive
City Gate West
Tollhouse West
Nottingham
NG1 5AT
Noelle.walker@hse.gsi.gov.uk
Telephone number: 0115 9712856

TRADING STANDARDS

Trading Standards Unit
Derbyshire County Council
Chatsworth Hall
Chesterfield Road
Matlock
Derbyshire, DE4 3FW
trading.standards@derbyshire.gov.uk
Telephone number: 01629 580000
extension 6181 or 6187
Faxsimile:01629 585917

PLANNING

Development Control Section
Erewash Borough Council
The Civic Centre
Derby Road
Long Eaton
Derbyshire, NG10 1HU
planning@erewash.gov.uk
Telephone number: 0115 9072240

**DERBYSHIRE SAFEGUARDING
CHILDREN BOARD**

Safeguarding Children Board
Derbyshire County Council
Chatsworth Hall
Chesterfield Road
Matlock

Derbyshire, DE4 3FW
trading.standards@derbyshire.gov.uk
Telephone number: 01629 532178

DERBYSHIRE PUBLIC HEALTH

Derbyshire Public Health
Derbyshire County Council
Chatsworth Hall
Chesterfield Road
Matlock
Derbyshire, DE4 3FW
trading.standards@derbyshire.gov.uk
Tel: 01629 536180

APPENDIX 2

MANDATORY CONDITIONS PROVIDED BY THE LICENSING ACT 2003

No alcohol may be supplied unless there is a designated premises supervisor in respect of the premises licence or if the designated premises supervisor does not hold a licence or has had his/her personal licence suspended.

- 1) Every supply of alcohol under the premises licence must be made or authorised by a person who holds a person licence.

(Mandatory Licensing Conditions) (Amendment) Order 2014

- 1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
- 2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises:-
 - a) games or other activities which require or encourage, or are designed to require or encourage, individuals to-
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;

- d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.
 - e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).
- 3) The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
- 4) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol:-
- a) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
 - b) The policy must require individuals who appear to the responsible person to be under 18 years of age or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either-
 - c) a holographic mark, or
 - d) an ultraviolet feature
- 5) The responsible person must ensure that:-
- a) Where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures-
 - (i) Beer or cider – ½ pint;
 - (ii) Gin, rum, vodka or whisky – 25ml or 35ml; and
 - (iii) Still wine in a glass – 125ml; and
 - b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
 - c) where a customer does not, in relation to the sale of alcohol, specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

Mandatory Licensing Conditions in force from 28 May 2014

Permitted price of alcohol

This condition aims to ensure that all licensed premises which sell or supply alcohol for consumption on or off the premises cannot sell or supply alcohol for a price which is less than the permitted price.

- 1) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
- 2) For the purposes of the condition set out in paragraph 1—
 - (a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
 - (b) “permitted price” is the price found by applying the formula— $P = D + (D \times V)$ where— (i) P is the permitted price, (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
 - (c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence— (i) the holder of the premises licence, (ii) the designated premises supervisor (if any) in respect of such a licence, or (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
 - (d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
 - (e) “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994.
- 3) Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
- 4) (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day (“the first day”) would be different from the permitted price on the next day (“the second day”) as a result of a change to the rate of duty or value added tax.
(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.”

Guidance relating to this condition

[Home Office Guidance](#) on the banning of below-cost sales of alcohol in England and Wales, and a duty plus VAT permitted price calculator.

Conditions relating to the prevention of crime and disorder

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

- knowingly to sell or supply or attempt to sell or supply alcohol to a person who is drunk

- knowingly to allow disorderly conduct on licensed premises
 - for the holder of a premises licence or a designated premises supervisor knowingly to 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 5am 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

APPENDIX 3

TABLE 1

<u>DELEGATION OF FUNCTIONS</u>		
Matter to be dealt with	Licensing Panel*	Officers*
Application for personal licence	If a Police objection	If no representation made
Application for personal licence with unspent convictions	All cases	
Application for premises licence/club premises certificate	If a relevant representation made	If no representation made
Application for provisional statement	If a relevant representation made	If no representation made
Application to vary premises licence/club premises certificate	If a relevant representation made	If no representation made
Application to vary premises licence/club premises certificate by way of a minor variation		All cases
Application to vary designated premises supervisor	If a Police objection	All other cases
Request to be removed as designated premises supervisor		All cases
Application for transfer of premises licence	If a Police objection	All other cases
Applications for Interim Authorities	If a Police objection	All other cases
Application to review premises licence/club premises certificate	All cases	
Application for Mandatory alcohol condition requiring a DPS in respect of a premises licence to be dis-applied	If a police objection a review must be heard	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	