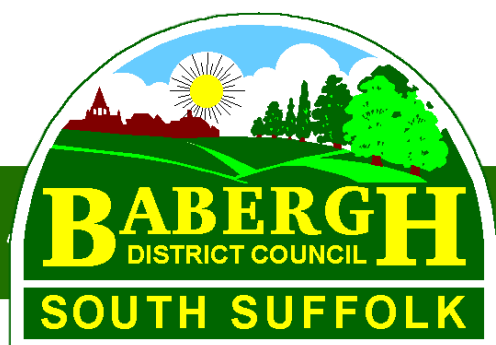


# APPENDIX A



Babergh District Council

## Licensing Act 2003 Statement of Licensing Policy

**2020 REVISION – PRE CONSULTATION DRAFT**

RED = pre-consultation draft revisions  
BLUE = post-consultation draft revisions



## **BABERGH DISTRICT COUNCIL LICENSING ACT 2003: STATEMENT OF LICENSING POLICY**

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**BABERGH DISTRICT COUNCIL**  
**Licensing Act 2003 Statement of Licensing Policy (Fourth Fifth Edition)**

**INTRODUCTION**

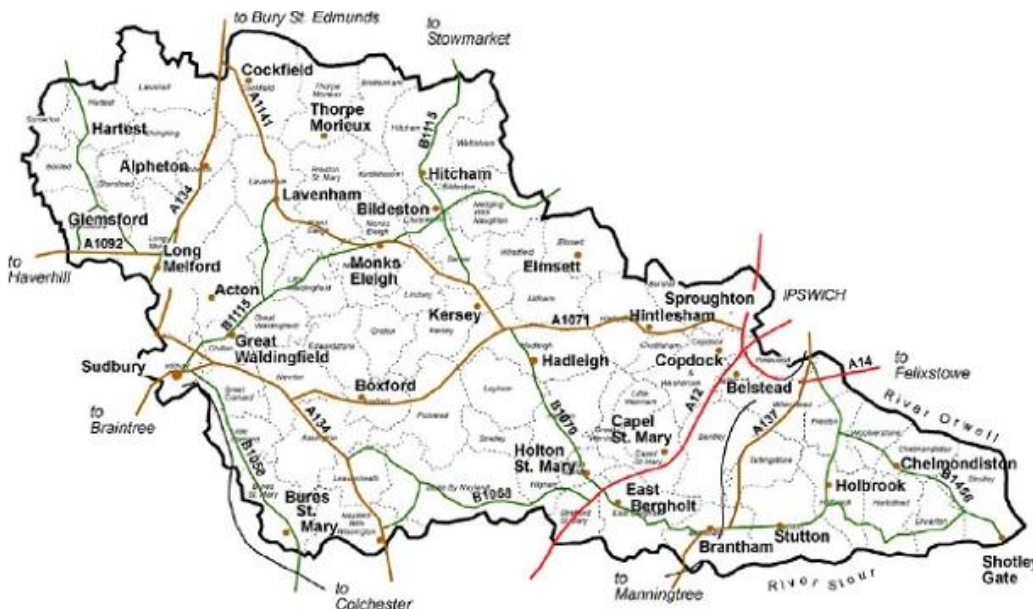
The Licensing Act 2003 became fully implemented on 24 November 2005, and brought about the single biggest change to the licensing arrangements for many types of leisure premises in 40 years. The legislation has been amended several times since 2005. Licensing legislation and national statutory guidance continue to evolve, be tested by the Courts and be amended.

The Act integrated six separate licensing regimes covering the sale and supply of alcohol, the provision of regulated entertainment, the provision of late night hot food or drink (between the hours of 11pm and 5am), night café, theatres and cinemas.

This document is the ~~fourth~~ fifth version of the local ‘Statement of Licensing Policy’ for Babergh District Council. Revisions endeavour to incorporate the Authority’s practical experience of the legislation to date, law updates, feedback from all relevant stakeholders and achieve greater integration with its other functions and local priorities since the last revision in ~~2014~~ 2015. This version of the policy endeavours to strike the right balance between supporting growth and diversification, in all licensed sectors, with proportionate controls and protections which are appropriate to promote the licensing objectives. It is in everybody’s interests for leisure businesses and events to be well managed, successful and sustainable.

The Licensing Authority recognises that it is not always straightforward to reach decisions that satisfy all parties, but the Authority shall always endeavour to carefully balance the interests of owners, employees, customers and neighbours of licensable premises, and will remain focused on the promotion of the four licensing objectives, which are:

- 1. The prevention of crime and disorder**
- 2. Public safety**
- 3. The prevention of public nuisance**
- 4. The protection of children from harm**



**THE BABERGH DISTRICT**

Babergh is an attractive district in the southern part of Suffolk and has a long border with the county of Essex. Whilst it remains predominately rural, it is within close and convenient distance of London and the Continent. The district has a population of approximately ~~87,000~~ 91,500 residents divided between 76 parishes. It covers an area of 230 square miles and contains several areas of historical significance, including the nationally renowned villages of Lavenham and Long Melford - both of which retain much of their original outstanding character and appearance.

The largest town in Babergh is Sudbury which, along with its neighbouring village of Great Cornard, has a population of approximately ~~20,500~~ 33,200. The other market town of Hadleigh ~~–where the Council’s offices~~

~~are currently located~~ has a population of approximately ~~8,500~~ 8,700. Ipswich (10 miles from Hadleigh) is now spilling over into the district and has a population in excess of ~~130,000~~ 137,400 people.

The highest concentrations of licensed premises in the district are, predictably, within the Sudbury and Hadleigh town centre areas. The main licensing activity arises as a consequence of the significant leisure and tourism industry. Most premises are under economic pressure within the community, as a result of which many are seeking to diversify and offer more flexibility and greater choice to the consumer. Many traditional public houses now offer both food and entertainment to improve their economic viability, and many village halls and community facilities are seeking additional flexibility in their relevant licences in order to provide their local communities with a greater choice in how to spend their leisure time. There are a growing number of both small and large scale outdoor public events, music food and drink festivals (including showcasing local produce, crafts and heritage) as well as other cultural activities involving licensable elements now taking place at various locations across the district, and within Suffolk generally. Babergh District Council recognises the value and importance of such activity to the local economy, tourism, supply chains and contributing to the profile of the district as a great place to reside, visit and work.

The Licensing Act 2003 catches 'any premises' involved in providing licensable activities, and Babergh District Council have issued licences to a broad variety of different types of premises, including:

- **Pubs, commercial clubs, restaurants, hotels, conference centres**
- **Private members clubs**
- **Shops, supermarkets, off-licences, breweries, farm shops, village tearooms, hairdressers, gaming centres**
- **Village halls, community facilities, schools, sports clubs**
- **Warehouses for mail order and internet sales of alcohol**
- **Mobile late night fast food vans, florists, garages**
- **Festivals, concerts, street fairs, bonfire parties, agricultural shows, fairs**
- **Takeaways (serving hot food or drink between 11pm and 5am)**
- **Local Authority public open spaces**

~~As of November 2015~~ At the time of writing, Babergh District Council has on issue ~~430~~ 482 premises licences, 50 club premises certificates, ~~975-1,161~~ personal licences and authorises approximately ~~500~~ 420 Temporary Event Notices per annum. Since 2005 the Licensing Authority has arranged in excess of ~~200~~ 250 licensing hearings to determine contested applications, and helped facilitate mediated agreements for many more.

## **THE ROLE OF THE LICENSING AUTHORITY IN THE DECISION MAKING PROCESS**

It is important for any person reading this Statement of Licensing Policy to note that the Licensing Authority's decision making role, referred to throughout this Statement of Licensing Policy, is only engaged following a relevant representation/objection being lodged in respect of an application, and where that representation or objection is not withdrawn. From 2012 the power to raise representations was extended to Licensing Authorities in their own right. The relevant application would then ordinarily be heard by a sub-committee of the Council's Licensing Act 2003 Committee (as the statutory Licensing Committee). However it should also be noted that, in contrast, the process and determination in respect of minor variations and community premises mandatory conditions alternative are exceptions to these usual arrangements, as referred to later in this document.

The Licensing Act 2003 provides discretion for the Licensing Authority to facilitate a mediation process between parties. Where it is appropriate for the Licensing Authority to do so, following a relevant representation being made, the Authority shall make all reasonable efforts to facilitate mediation. In doing so, the Licensing Authority will be mindful of the legislative framework and any relevant government guidance.

In cases where a premises licence application or club premises certificate has been lawfully made, and no responsible authority or other person has made a representation, the Licensing Authority must grant the application on the terms sought, subject only to conditions which are consistent with the operating schedule and relevant mandatory conditions in the Act. This should be undertaken as an administrative process by the Licensing Authority's officers who will translate the proposals contained within the operating schedule to promote the licensing objectives into clear and understandable conditions. As referred to above, there are different arrangements in place for some minor processes under the Act.

It is the intention of the Licensing Authority to work closely and collaboratively with licensees and their representatives, responsible authorities, local communities, other persons and partner agencies in order to

promote the licensing objectives and minimise the burden on all involved to ensure that as far as possible the licensing arrangements work satisfactorily and successfully.

## STATEMENT OF LICENSING POLICY (4<sup>th</sup> 5<sup>th</sup> edition)

This policy was adopted by the Council on [DATE] and is effective from [DATE] until revised (whether under statutory or voluntary arrangements)

### 1. Licensing Objectives

- 1.1 This policy must be read in conjunction with the Licensing Act 2003 (the Act), secondary legislation and the Guidance issued under s.182 of the Licensing Act 2003 (the Guidance).
- 1.2 Where revisions are made to the legislation or Guidance issued by the Secretary of State, there may be a period of time when the local Statement of Licensing Policy is inconsistent with such revisions. In these circumstances, the Licensing Authority will have regard, and give appropriate weight, to the relevant changes, Guidance and its own Statement of Licensing Policy.
- 1.3 In preparing this Statement of Licensing Policy the Licensing Authority has consulted in accordance with the requirements of the Act, and has had due regard to the Guidance. For details of the consultation see the Minutes of the Licensing Act 2003 Committee meeting held on [DATE].
- 1.4 The Licensing Authority recognises that balancing the interests of owners, employees, customers and neighbours of licensable premises will not always be straightforward, but it will always be guided by the four licensing objectives of the Act, which are :
  - a) the prevention of crime and disorder;
  - b) the prevention of public nuisance;
  - c) public safety; and
  - d) the protection of children from harm

The Licensing Authority's general approach to addressing these four licensing objectives is set out in section 14 of this Statement of Licensing Policy.

- 1.5 In exercising its licensing functions, once its discretion is engaged, the Licensing Authority will primarily focus on the direct impact of the licensable activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the locality of the licensed premises, and steps which are appropriate to promote the licensing objectives.
- 1.6 The area impacted by the presence of licensed premises is a question of fact and will depend on the particular circumstances of each case.
- 1.7 The aims of this Statement of Licensing Policy include:
  - a) Helping to encourage and support strong and inclusive communities that balance the rights of licensable businesses and event organisers, customers and local residents/businesses; and
  - b) Integrating the Licensing Authority's aims and objectives with other strategic local priorities, initiatives and strategies that will help to:
    - reduce crime and disorder, and the fear of crime;
    - encourage tourism, economic growth and cultural diversity;
    - reduce alcohol misuse and contribute towards the better health and wellbeing of persons in our communities ;

- encourage the self sufficiency of local communities; and
- reduce the burden of regulation on business through collaboration, transparency and accessibility.

1.8 This Statement of Licensing Policy does not seek to undermine the right of any individual to apply under the terms of the Act for a variety of permissions and to have such an application considered on its individual merits, where the Licensing Authority's discretion has been engaged. It does not seek to override the right of any person to make representations on or about an application or seek a review of a licence or certificate where provision has been made for them to do so in the Act.

1.9 The licensing process can only seek to control those measures within the control of the licensee or certificate holder (and their staff/agents). Licensing law is not a mechanism for the general control of anti-social behaviour by individuals once they are away from such premises and beyond the direct control of the licence holder, nor is it a cure-all for community problems. If a licence holder has taken all appropriate steps to promote the licensing objectives whilst carrying on authorised licensable activities, and there is no causal link established between problem issues in the locality and a specific premises then it is unlikely that licensing processes are the mechanism to address them.

## 2. Purpose of the Statement of Licensing Policy

2.1 The purpose of this Statement of Licensing Policy is to:

- inform the elected councillors serving on the Licensing and Regulatory Committee of the parameters within which licensing decisions can be made;
- inform applicants, responsible authorities, residents and businesses of the parameters within which the Licensing Authority will make licensing decisions;
- ~~inform residents and businesses about how the Licensing Authority will make licensing decisions; and~~
- provide a basis for decisions made by the Licensing Authority if these decisions are challenged in a court of law.

2.2 This policy relates to the following licensable activities as defined by the Act:

- Retail sale of alcohol;
- Supply of alcohol by or on behalf of a club, or to the order of a member of the club
- Provision of regulated entertainment, which generally includes music, film, plays, indoor sporting events, boxing or wrestling, dance and similar activities. It should be noted that some entertainment activities may be subject to full or limited exemption in particular circumstances.
- Provision of late night refreshment

2.3 It should be noted that some previous licensable activities, and locations, are now deregulated (whether fully or partially) via amendments made to the 2003 Act. Further information on these is available from [www.gov.uk](http://www.gov.uk). Whether activities/locations may be entitled to benefit from an exemption or de-regulation would be assessed on a case-by-case basis.

2.4 In some cases additional licences for entertainment may be required under separate legislation, for example sexual entertainment venues may also require a licence under schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, or the venue may also require Performing Rights Society (PRS) or other permissions.

### 3. Other legislation, strategies and guidance

- 3.1 When carrying out its functions the Local Authority has duties, responsibilities and considerations under other legislation and strategies, for example:
- (a) Crime and Disorder Act 1998 (in particular obligations under section 17 relating to the prevention of crime and disorder);
  - (b) The European Convention on Human Rights, given effect by the Human Rights Act 1998; (subject to change 1 January 2021)
  - ~~(c) Race Relations Act 1976 (as amended by the Race Relations (Amendment) Act 2000);~~
  - (c) Anti-Social Behaviour, Crime and Policing Act 2014 (in particular powers available under section 80 relating to the closure of premises on the grounds of crime, disorder or nuisance);
  - (d) Environmental Protection Act 1990 (as amended) (in particular investigation of, and any enforcement action in relation to, statutory nuisances – including by noise, light or odour);
  - (e) Health and Safety at Work etc Act 1974;
  - (f) Noise Act 1996 (as amended);
  - (g) Health Act 2006;
  - (h) Clean Neighbourhoods and Environment Act 2005 (including powers for the Local Authority to issued fixed penalty notices to licensed premises emitting noise that exceeds the permitted level between 11pm and 7am);
  - (i) Policing and Crime Act 2009;
  - (j) Policing and Crime Act 2017 (giving the Licensing Authority powers to suspend a Personal Licence)
  - (k) The Council's published procedure for dealing with petitions and its obligations under the Local Democracy, Economic Development and Construction Act 2009;
  - (l) Equality and diversity obligations (Equality Act 2010 & Immigration Act 2016)
  - (m) European Union Services Directive. (subject to change)
  - (n) Regulator's Code under the Legislative & Regulatory Reform Act 2006
  - (o) The Legislative Reform (Entertainment Licensing) Order 2014
  - (p) The Deregulation Act 2015
- 3.2 Premises operators/responsible persons within a business or activity are normally responsible for compliance with any other separate statutory requirements which may apply, not dealt with directly by the Local Authority, for example compliance with the Regulatory Reform (Fire Safety) Order 2005.
- 3.3 The Licensing Authority will as far as possible seek to avoid duplication with other regulatory regimes when dealing with the licensing function. If other existing law already places certain statutory responsibilities on an employer or operator of premises, it cannot be appropriate to impose the same or similar duties on the premises licence holder or club. Once the discretion of the Licensing Authority is engaged, it is only where additional and supplementary measures are appropriate to promote the licensing objectives that tailored and proportionate conditions may be attached to a licence.
- 3.4 Other Local Authority and Central Government policies, strategies, responsibilities, and guidance documents may also refer to the licensing function, and the Licensing Authority may liaise with the relevant authorities or its directorates with regard to these. Whilst some of these may not be directly related to the promotion of the four licensing objectives, they can indirectly impact upon them.
- 3.5 For example, the Licensing Authority will liaise closely with the local Police/PCSOs and/or Community Safety/Locality Officers to ensure that the Local Authority can develop effective strategies that take full account of any local crime and disorder issues.
- 3.6 It is the Local Authority's intention that it will, through its officers and councillors monitor how these matters, set out in 3.4 above, impact on the Authority's licensing and other

functions, in order that it may seek to co-ordinate and integrate its licensing function with other relevant strategies.

- 3.7 The Local Authority may, in appropriate circumstances, consider seeking from the Licensing Authority premises licences in its own name for its own public spaces within the community. This may assist with the promotion of broader cultural activities and entertainments which add value to our communities and the local economy.
- 3.8 In respect of cultural strategies the Licensing Authority will, for example through consultation with local Communities/Locality officers, consider whether the provision of cultural activities and entertainments is being deterred by local licensing requirements, whether by the Licensing Authority directly or other responsible authorities. Where there is any indication that this is the case, the Licensing Authority may consider investigating how the situation might be reversed, and may if necessary in the light of such investigations consider a revision to the Statement of Licensing Policy.
- 3.9 Where it considers it appropriate to do so, and in order to seek proper integration of the licensing function, the Licensing Authority may directly or indirectly provide periodic reports to the Planning Authority on the general situation regarding licensed premises in the area, which may include reference to the impact of alcohol related crime and disorder. Reports and intelligence may also be shared with Economic Development officers in relation to growth, regeneration and local skills and employment matters.

#### **4. Relationship with Planning Process**

- 4.1 Applications for premises licences for permanent commercial premises should normally be from businesses with planning consent for the property concerned. However, applications for licences may be made before any relevant planning permission has been sought or granted by the Local Planning Authority.
- 4.2 It is strongly recommended that prospective licence applicants contact the Local Planning Authority in advance of making a licence application in order to check, or seek advice on, any planning consents or any conditions relevant to the use of the premises. It clearly makes operational sense to ensure that planning and licensing are compatible.
- 4.3 The Licensing Authority wishes to emphasise that the granting by the Licensing Committee of any variation of a licence which involves a material alteration to a building would not relieve the applicant of the need to apply for planning permission or building control where appropriate.
- 4.4 The Local Authority will aim to properly separate planning, building control and licensing regimes in order to avoid duplication and inefficiency. The Licensing and Planning regimes involve consideration of different (albeit related) matters. For instance, licensing considers public nuisance whereas planning considers amenity. However liaison will be undertaken between functions to provide a joined-up approach for service users, wherever possible.
- 4.5 The Licensing Authority will avoid treating licensing applications as a re-run of planning applications, and will not normally impose licensing conditions where the same or similar conditions have been imposed on a planning consent.
- 4.6 The Licensing Authority is not bound by decisions made by the Planning Committee and vice versa.
- 4.7 Where as a condition of planning permission a terminal hour has been set for the use of premises for commercial purposes that is different to the licensing hours, the licensee must observe the earlier closing time in order to avoid any breach of their planning permission - for which they may be liable to prosecution under planning law.



## **5. Cumulative Impact and Early Morning Alcohol Restriction Orders (EMROs)**

5.1 The Licensing Authority recognises that the cumulative effect of licensed premises may have negative consequences which could include:

- an increase in crime against both property and persons;
- an increase in noise causing disturbance to residents;
- traffic congestion and/or parking difficulties; and
- an increase in littering and fouling,

and that enforcement action taken to ensure that conditions are complied with may not always resolve any problems experienced in the vicinity of licensed premises.

5.2 Licensing is only one means of addressing the problems identified above, and cannot in isolation provide a solution to many of the problems that may be experienced. Other mechanisms to address problems could include:

- Planning controls;
- Powers of Local Authorities or Police to designate parts of the Local Authority area as places where alcohol may not be consumed publicly and confiscation of alcohol in these areas;
- Police and Local Authority powers to close down premises or temporary events for up to 48 hours on the grounds of preventing crime, disorder or nuisance
- Prosecution of personal licence holders who sell alcohol to people who are drunk or underage;
- Police and Local Authority powers under the Anti-Social Behaviour, Crime and Policing Act 2014;
- Powers available to responsible authorities under the provisions of the Policing and Crime Act 2009 or Violent Crime Reduction Act 2006.

5.3 Where the Licensing Authority is satisfied that there is evidence of a disproportionate detrimental effect on neighbouring businesses and residents and the operation of a number of premises in a defined area has the effect of undermining the licensing objectives, a special policy may be developed. Such a policy would ordinarily address the impact of a concentration of licensed premises selling alcohol for consumption on the premises, as it would not normally be justifiable to adopt such a policy on the basis of a concentration of shops, stores and supermarkets selling alcohol for consumption off the premises.

5.4 When setting such a policy, the Licensing Authority shall have due regard to the Guidance, and will follow the consultation, adoption and review procedures applicable to the process.

5.5 No special policy adopted for a specific area will be absolute, each application shall be considered individually on its own merits.

5.6 Whilst no part of the district is at the time of this policy revision subject to any Early Morning Alcohol Restriction Order (EMRO), the Licensing Authority is aware of the power conferred on it as set out in sections 172A to 172E of the 2003 Act to make, vary or revoke an EMRO. The exercise of the licensing authority's functions may be delegated by its committee to a sub-committee, other than the decision to make, vary or revoke an EMRO (which is exercised by full council). This power enables a licensing authority to prohibit the sale of alcohol for a specified time period between the hours of 12am and 6am in the whole or part of its area, if it is satisfied that this would be appropriate for the promotion of the licensing objectives.

5.7 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 anti-social behaviour which is not directly attributable to specific premises.

- 5.8 Before the Licensing Authority would make a determination to recommend to full council that it makes a proposed EMRO, it will satisfy itself that it has sufficient evidence to demonstrate that making the EMRO would be appropriate for the promotion of the licensing objectives. The requirement to take an evidence-based decision to promote the licensing objectives should enable the Licensing Authority to draw upon its experience from other licensing decisions it makes under the 2003 Act, such as the determination of applications for the grant of premises licences. The licensing authority would consider evidence from partners, including from responsible authorities and local Community Safety Partnerships, alongside its own evidence, to determine whether an EMRO would be appropriate for the promotion of the licensing objectives.
- 5.9 If at any point in time the licensing authority already has a Cumulative Impact Policy (CIP) in its Statement of Licensing Policy it will consider the relationship between the CIP and proposed EMRO area, and the potential overall impact on its local licensing policy.

## **6. Licensing Hours**

- 6.1 The Licensing Authority, through the exercise of its licensing functions once its discretion is engaged, shall not seek to restrict the trading hours of any particular premises unless it is considered appropriate and proportionate to promote one or more of the licensing objectives. Each application will be considered individually on its own merits.
- 6.2 In the absence of any specific reasons linked to the licensing objectives, the Licensing Authority will not seek to restrict licensed retail outlets ability to sell alcohol for consumption off the premises throughout their general trading hours. A possible example of an occasion when a limitation could be considered would be following Police representations that a shop was known to be a focal point for crime and disorder due to groups congregating there.
- 6.3 The Licensing Authority recognises that providing consumers with greater choice and flexibility is an important consideration and that in some circumstances flexible licensing hours for the sale of alcohol, in a well-managed environment, can help to ensure that the concentrations of customers leaving premises simultaneously are avoided, which in turn can reduce friction and congregations at late night fast food outlets, taxi ranks and other areas which can lead to crime, disorder and disturbance.
- 6.4 The Licensing Authority also acknowledges that licensing hours should not inhibit the development of thriving and safe evening and night-time local economies which are important for business growth and diversification, investment and employment locally and attractive to domestic and international tourists.
- 6.5 The Licensing Authority will however, where its discretion is engaged, always carefully balance the considerations in 6.3 and 6.4 above against its duty to promote the licensing objectives and protect the rights of local residents and businesses impacted by licensed premises.
- 6.6 The Licensing Authority will consider each application individually on its merits, once its discretion is engaged, and notes the Government's guidance that there is no general presumption in favour of lengthening licensing hours and that the four licensing objectives should be paramount considerations at all times. Where there are relevant representations against an application and the Licensing Committee believes that granting the licensing hours proposed would undermine the licensing objectives then it may reject the application or grant it with appropriate conditions and/or different hours from those requested.
- 6.7 Irrespective of the hours of operation granted for a premises under any licence under the Act, the premises operators should ensure that they comply with any limitation on hours imposed under any other relevant legislation in force - for example planning law, Sunday Trading Act 1994 or Christmas Day (Trading) Act 2004.

## 7. Relevant Representations

7.1 A relevant representation is one that is made in writing and:

- is about the likely effect of the licence on the promotion of the licensing objectives (for new applications representations may be probative/speculative and it will be for the Licensing Authority in each case to determine what weight to attach to representations and any supporting evidence) ;
- has been made by a responsible authority, other person or elected councillor as defined by the Act, within the relevant time period as prescribed by regulation;
- has not been withdrawn; and
- has not been determined by the Licensing Authority as frivolous or vexatious (or repetitious in respect of a review).

7.2 In 'borderline' cases, the Licensing Authority will normally give the benefit of the doubt to the other person or responsible authority making the representation, and any subsequent hearing would provide an opportunity for the person or body making the representation to amplify and clarify it. However, the Licensing Authority could decide not to take any action in respect of the application if, for example, the representation could not be supported.

7.3 Representations can be made in opposition to, or in support of, an application. In cases where only 'positive' representations are made, without qualifications, the Licensing Authority will consider whether a hearing is necessary, and may contact the parties concerned to give them an opportunity to withdraw their representations.

7.4 The Licensing Authority will determine, in accordance with its scheme of delegation, whether:

- the representation has been made by an 'other person' as defined under the Act; and
- any ordinary and reasonable person would consider the issue(s) raised in a representation as frivolous or vexatious (or repetitious in respect of a review).

A person aggrieved by a rejection of his representation on these grounds may challenge the Licensing Authority's decision by way of judicial review.

7.5 In addressing whether or not other persons, or incidents, are impacted by licensed premises, the Licensing Authority will primarily focus on the direct impact of the activities taking place, or proposed to take place, at the licensed premises on members of the public living, working or engaged in normal activity in the area concerned.

7.6 Where a relevant representation is made in respect of:

- an application; or
- an existing licensed premises

a hearing will be held, unless an agreement is reached between the Licensing Authority, the applicant and all of the parties who have made relevant representations, that a hearing is not required.

7.7 The Licensing Act 2003 provides a discretion for the Licensing Authority to facilitate a mediation process between parties. The Licensing Authority will attempt mediation between the relevant parties wherever it may be practicable or appropriate to do so, so as to avoid unnecessary hearings. It may also extend the normal time limits for hearings where it is considered to be in the public interest to do so (for example where all parties are on the point of reaching agreement or so as to ensure that it is possible for a party to attend the hearing). Mediation potential will be assessed case-by-case as each set of circumstances will be different. Where compromise may be viable to appropriately balance the interests of

all stakeholders, and doing so will not prejudice any party's rights under the law, then the Licensing Authority will take all reasonable steps to facilitate such discussions.

- 7.8 Whilst pre-application discussion between licence applicants and responsible authorities, and the communities in which they operate, is strongly encouraged, once an application has been formally lodged the process of relevant representations, supported by evidence and witnesses where appropriate, should be observed as should the discretion of the Licensing Authority to facilitate mediation.
- 7.9 It should be noted that the usual hearing arrangements, following receipt of a relevant representation, do not apply to minor variations. For these processes the power to determine the application has been delegated to the Licensing Officer, and no hearing mechanism is involved. Relevant representations and statutory guidance will, however, be considered as part of this process, and applications shall be assessed individually and on merit by the relevant officer.
- 7.10 The Corporate Manager (~~Licensing~~) (~~Public Protection~~) has been duly authorised by the Licensing Authority to perform the Licensing Authority role as a 'responsible authority' on behalf of Babergh District Council and this enables in relevant circumstances the raising of relevant representations about applications, or seeking the review of a licence or certificate on issue, when and if considered reasonably appropriate on a case-by-case basis. There is also a delegation enabling an authorised Licensing Officer to perform the same duties in circumstances where the Corporate Manager – ~~Licensing Public Protection~~ is unavailable or excluded. The councillor approved protocol underpinning that delegation and process is available directly from the Licensing Team upon request.

## **8. Administration, Exercise and Delegations of Functions**

- 8.1 The Council's published delegation scheme of functions under the Licensing Act 2003 is available on the Council website at [www.babergh.gov.uk](http://www.babergh.gov.uk) (see Part 3h of the Council's Constitution) or by contacting the Licensing Team.
- 8.2 Where an application has been lawfully made under the Act, and no relevant representations are outstanding, the Licensing Authority will grant the application, in accordance with the requirements of the Act under the authority delegated to an officer. The exceptions to this usual administrative process include minor variations and community premises mandatory conditions disapplication requests, as referred to elsewhere in this document.
- 8.3 Electronic applications will be administered in accordance with the requirements of the Licensing Act 2003 (Premises licences and club premises certificates) (Amendment) (Electronic Applications etc) Regulations 2009.

## **9. Hearings**

*(Subject to Regulations issued under s.183 of the Act)*

- 9.1 Where a hearing is required, the relevant representations made will be put before the Licensing Sub-Committee. The representations, including the name and address of the person making them, will normally become part of a public document. The address of the person making the representation is relevant to consideration of their representation. If any person is deterred from making a representation due to these requirements, for example if they have a genuine and well-founded fear of intimidation or violence, then they should promptly contact the Licensing Team for advice.
- 9.2 The hearing will be conducted in accordance with the Licensing Authority's published procedure, which is available on the Council website at [www.babergh.gov.uk](http://www.babergh.gov.uk) or directly

from the Licensing Team upon request. The hearing will take the form of an informal discussion led by the Licensing Authority.

9.3 Where an application is determined at a hearing, the Licensing Sub-Committee will give appropriate weight to the:

- relevant representations made;
- submissions and any evidence presented by all parties;
- Guidance issued under section 182 of the Act (as may be amended from time to time);
- Licensing Authority's Statement of Licensing Policy; and
- steps appropriate to promote the licensing objectives.

9.4 The Licensing Authority may use the power given within the hearings regulations to extend time limits where it considers this to be in the public interest. Extending time limits in the public interest will be assessed individually on a case-by-case basis.

## 10. Conditions

10.1 The 2003 Act (under sections 19, 19A, 20 and 21) makes provision for certain mandatory conditions which are summarised below. There are also mandatory conditions relating to a code of conduct for holders of on-licensed premises, via the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010 - arising from the Policing and Crime Act 2009. The Secretary of State has powers to set or amend mandatory conditions and may use this power from time to time.

- (a) Where a premises licence authorises the sale or supply of alcohol, no supply may be made at any time when there is:
- No designated premises supervisor (DPS) in respect of the licence; or
  - At a time when the designated premises supervisor does not hold a personal licence or it is suspended.

Note: an alternative mandatory condition may apply to community premises who have removed the usual DPS requirement, and this will place responsibility on the management committee/board.

- (b) Where a premises licence authorises the exhibition of films, the licence must include a condition requiring that the admission of children is restricted in accordance with the recommendation of the film classification body, or where varied, the film classification awarded by the Licensing Authority. (Note: The Licensing Authority may either award a classification to an unclassified film or vary the classification of a film upon application in accordance with its policy).

The Licensing Authority recognise the British Board of Film Classification (BBFC), or any successor person or persons designated as the authority under section 4 of the Video Recordings Act 1984, as the relevant film classification body for these purposes.

- (c) Where a licence includes a condition requiring that one or more individuals are present at the premises to carry out security activities, the licence must include a condition requiring such individuals to be licensed by the Security Industry Authority. This requirement will not normally apply to employees who benefit from any relevant exemption under the Private Security Industry **Authority** Act 2001 (the 2001 Act) or by virtue of any other legislation (for example the Violent Crime Reduction Act 2006).

Note: A premises licence need not impose such a requirement in relation to those licensed premises which the 2001 Act treats as ‘unlicensed premises’ – being premises staging plays or exhibiting films, licensed gaming premises such as casinos and bingo halls, and premises where a club premises certificate is in force and when activities are being carried on under the authority of that certificate.

- (d) Where a premises licence or club premises certificate authorises sale or supply of alcohol a condition relating to prohibiting irresponsible drinks promotions, providing potable water, age verification policy, availability of smaller measures and prohibition on below cost sales may apply.

- 10.2 The Licensing Authority may not attach to a licence authorising the performance of plays any condition which restricts the nature or manner of performing those plays (other than on the grounds of public safety).
- 10.3 With the exception of the above mandatory conditions, once its discretion is engaged the Licensing Authority will only attach appropriate and proportionate conditions to a premises licence or club premises certificate where these:
- are consistent with the issues addressed in the operating schedule which the applicant submits as part of their application; and
  - are appropriate for the promotion of the licensing objectives.
- 10.4 It is the intention of the Licensing Authority to express any such conditions in unequivocal and unambiguous terms and such conditions will be tailored to the specific premises concerned.
- 10.5 The Licensing Authority will avoid attaching standard conditions to premises licences or club premises certificates but would draw applicants’ attention to pools of possible measures to promote the licensing objectives for specific types and scale of licensed operations. Various licence types, available to view on the Council’s on-line public registers or upon request to the Licensing Team, may assist an applicant or licence holder with their own consideration of the licensing objectives. Such model wording and examples are purely provided to assist with an applicant formulating their own operating schedule who should base their proposals upon the individual nature, characteristics and activities of their own operation. Applicants will not be obliged or required to use anything produced or made available by the Licensing Authority for this purpose.
- 10.6 The Licensing Authority will avoid, as far as possible, attaching conditions to licences/certificates that duplicate the same or similar duties that are already placed on an employer or operator of a premises under other existing laws. However, where these general duties do not *adequately* address specific issues additional and supplementary measures may be appropriate to promote the licensing objectives.
- 10.7 A committee or board of individuals with responsibility for the management of community premises (‘the management committee’) may apply to have an alternative licence condition included in a premises licence in place of the normal mandatory conditions. The alternative condition is that every supply of alcohol under the licence be made or authorised by the management committee.

## 11. Appeals

- 11.1 Entitlement to appeal against any decision of the Licensing Authority is set out in Schedule 5 of the Act. Rights of appeal will be notified in writing to all parties to hearings as part of the decision notification.

## 12. Enforcement

- 12.1 Where necessary, enforcement action will be considered in accordance with the Regulators' Code and the Council's **General Corporate** Enforcement Policy. These guidelines are available direct from Babergh District Council and may be subject to periodic amendment.
- 12.2 The emphasis will be upon a risk-assessed and targeted approach to inspections, concentrating on those premises which either:
- present a greater risk;
  - have a history of non-compliance with conditions/regulation; or
  - demonstrate poor management practice which undermines the licensing objectives.
- 12.3 The Licensing Authority will not normally undertake inspections routinely but may do so when and if they are considered by the Authority as reasonably necessary. The 2003 Act does not require inspections to take place save at the discretion of those charged with an enforcement role.
- 12.4 The Licensing Authority has adopted a joint enforcement protocol with partner authorities – available via the Council website at **www.babergh.gov.uk** or upon request from the Licensing Team. This may be subject to periodic review and revision. In exercising its own compliance and enforcement remit the Licensing Authority will at all times be guided by its general enforcement policy based upon Regulators' Code principles, and where there is a shared remit for leading on enforcement matters with another agency (or agencies) the Licensing Authority will continue to observe its adopted corporate enforcement policy, accepting that other authorities are not bound to it and may have their own escalation policies or national guidance framework. The Licensing Authority will in all cases seek a collaborative and partnership approach to promotion of the licensing objectives and compliance support for licensed business, which includes that Regulators should:
- carry out their activities in a way that supports those they regulate to comply and grow;
  - provide simple and straightforward ways to engage with those they regulate and hear their views;
  - base their regulatory activities on risk;
  - share information about compliance and risk;
  - ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply; and
  - ensure that their approach to their regulatory activities is transparent.
- 12.5 The Licensing Authority will normally act as the enforcing authority in respect of offences under the Act, and for breaches of licence conditions, unless the circumstances of the particular case are such that it is appropriate for another responsible authority to act, in accordance with the agreed enforcement concordat, instead.
- 12.6 Suffolk Constabulary will retain responsibility as the enforcing authority in respect of the following offences under the Act:
- Section 97 Powers to enter and search
  - Section 143 Failure to leave licensed premises
  - Section 144 Keeping of smuggled goods
  - Section 155 Confiscation of alcohol;
  - Section 157 Power to prohibit sale of alcohol on a train; and
  - Part 8 offences with respect to closure of premises.

12.7 Suffolk County Council Trading Standards will retain responsibility as the enforcing authority in respect of the following offences under the Act, and may work in partnership where appropriate with Suffolk Constabulary in relation to the investigation and enforcement of underage sales:

- Section 146 Sale of alcohol to children
- Section 147 Allowing the sale of alcohol to children
- Section 147A Persistently selling alcohol underage
- Section 154 Weights and measures offences  
(which enable Trading Standards Officers to conduct test purchases and authorise other persons to do so).

12.8 Where expedient for the promotion or protection of the interests of the inhabitants of their area, the Council may also take action under Section 222 of the Local Government Act 1972, and other relevant provisions including Section 80 of the Anti-social Behaviour, Crime and Policing Act 2014. The Council will also have due regard to section 17 of the Crime and Disorder Act 1998 whilst carrying out its functions.

### **13. Closure Orders/Notices**

13.1 Part 8 of the Licensing Act 2003 provides for the arrangements relating to closure orders, and there are also powers available to the Local Authority and/or responsible authorities/court to close premises via other legislation on grounds of serious crime or disorder, persistent nuisance or protection of children - for example under the Violent Crime Reduction Act 2006, Criminal Justice and Immigration Act 2008 and Anti-social Behaviour, Crime & Policing Act 2014.

13.2 Where a Magistrates' Court has determined to exercise its powers in respect of a closure order, the Licensing Authority must conduct a review of the relevant premises licence in accordance with procedures prescribed by regulation. This will normally involve:

- serving notice on the premises licence holder and responsible authorities and advertising the review in accordance with the regulations;
- holding a hearing in accordance with the procedures outlined in section 9 of this Statement of Licensing Policy to review the premises licence; and
- determining the review no later than 28 days after the day on which it receives the notification of the closure order from the Magistrates' Court.

13.3 When determining a review following the notification of a closure order, the Licensing Authority will consider:

- the closure order and any extension to it;
- any magistrates' directives in relation to the order; and
- any relevant representations; and will

take such steps as it considers appropriate to promote the licensing objectives as outlined in section 22.4 of this Statement of Licensing Policy.

13.4 The Licensing Authority will notify the licence holder, the Chief Officer of Police and any person who made relevant representations of the outcome of the review hearing, including reasons for the decision. The Licensing Authority may suspend the operation of its decision until the end of the period given to appeal, or until the appeal is disposed of (if not already suspended by the Magistrates' Court), and will consider its powers under section 168 of the 2003 Act in that regard.



## 14.1 Addressing the Licensing Objectives

- 14.1.1 In respect of addressing each of the four licensing objectives in their Operating Schedule, applicants should carefully consider what steps they regards as appropriate to promote the licensing objectives, relevant to the individual style and characteristics of their premises and activities. Reference could be made as to whether additional measures will be taken on an occasional or specific basis such as when a special event or promotion is planned, which is intended to, or likely to attract larger or different demographic audiences.
- 14.1.2 Whilst applicants are not required to seek the views of responsible authorities before formally submitting applications, the Licensing Authority strongly encourage applicants to do so when drafting their operating schedule as applicants may find this a source of useful advice when addressing the licensing objectives. This may in some instances reduce the possibility of responsible authorities, or other persons, raising representations against an application. Organisers of large, temporary outdoor events (such as music festivals, fairs, shows and carnivals) are strongly encouraged to engage as early as possible with the responsible authorities, or any local Safety Advisory Group network, to ensure that their planned event is developed in a way likely to promote the licensing objectives.
- 14.1.3 As steps volunteered by applicants within their operating schedule will very often directly translate to conditions on the licence, the Licensing Authority encourages applicants to state their proposed steps to promote the licensing objectives in unequivocal and unambiguous terms. Pools of example conditions and model wording will be made available as an optional guidance tool to assist applicants/licence-holders.

## 14.2 Prevention of Crime and Disorder

- 14.2.1 The Council is committed to further improving the quality of life in its area by continuing to help reduce crime and disorder and the fear of crime. To this end, the Licensing Authority strongly encourages applicants and licensees to ensure that relevant factors within their control which impact on crime and disorder have been considered, for example:
- underage drinking;
  - drunkenness on the premises;
  - drunkenness in public;
  - drugs;
  - violent behaviour;
  - anti-social behaviour; and
  - **firearms and weapons**
- 14.2.2 Section 17 of the Crime and Disorder Act 1998 imposes a duty on each Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.
- 14.2.3 In order to promote the prevention of crime and disorder objective, the Licensing Authority encourages licence holders to become active partners with the Licensing and Responsible Authorities. Applicants are encouraged to demonstrate in their operating schedule that relevant, suitable and sufficient measures within their control have been considered and identified and will be implemented and maintained in order to reduce or prevent crime and disorder on, and in the locality of, their premises.
- 14.2.4 When addressing the issue of crime and disorder in their operating schedule, applicants may consider, but are not limited to, factors identified at paragraph 14.2.1 above.
- 14.2.5 ~~Applicants may find it helpful to contact the local Safer Neighbourhood Team (SNT) or Community Safety Officers in advance of making their application, as the SNT/CSO may~~

~~be able to offer expert advice and guidance on local crime and disorder issues and promotion of this licensing objective.~~

- 14.2.6 The following examples of control measures are given purely to assist applicants with development their operating schedule, having regard to their particular type of premises and/or activities. These are not in any way to be regarded as standard conditions or mandatory requirements:
- (a) effective and responsible management of premises
  - (b) prevention of overcrowding/congregation flashpoints
  - (c) training and supervision of staff (including at periodic intervals)
  - (d) adoption of best practice guidance and other industry codes of practice
  - (e) use of accredited 'proof of age' schemes (for example Challenge 21 or Challenge 25) where it is intended to operate more stringent measures than those contained within mandatory conditions (see section 10 of this document)
  - (f) banning individuals subject to court exclusion orders or PubWatch bans. (suggested to have radio links and/or a ring around phone system between local premises)
  - (g) provision and use of effective CCTV in and around premises (subject to any relevant data protection codes of practice)
  - (h) use of Security Industry Authority registered door staff (during specified days/times) and random searches for prohibited items (such as a search ratio of 1:10 customers)
  - (i) provision of toughened or plastic/polycarbonate glasses and polyethylene (PET) bottles
  - (j) provision of secure deposit boxes for confiscated items ('amnesty bins')
  - (k) provision of litter bins and security measures, such as lighting, outside premises
  - (l) control of customers entering and leaving with opened bottles/glasses – for example whilst they are observing smokefree regulations or using external areas.
  - (m) demarcation, capacity control, supervision and monitoring of areas immediately in the vicinity of the premises, used by smokers.
  - (n) searching policy; dispersal policy; risk assessment process to consider the crime and disorder implications of individual staff/performers - such as DJs and promoters.
  - (o) recording of incidents, refusals, confiscated items and ejections
  - (p) effective and robust controls for third party hirings – for example hiring agreement and hirer vetting, premises supervision, signing-in books
- 14.2.7 Within the operating schedule for a premises from which alcohol will be sold, a premises supervisor must be designated (Designated Premises Supervisor or 'DPS'), unless a relevant community premises disapplication has been applied for/authorised. The DPS will often have been given the day-to-day responsibility for running the premises by the premises licence holder and, as such, will usually be the first point of contact for authorised officers. In exceptional circumstances, the police may object to the designation of a new DPS where they believe that such an appointment would undermine the crime prevention objective.
- 14.2.8 Where the police object to an individual being appointed as a Designated Premises Supervisor, or object to an application made by community premises management committee for the inclusion of the alternative licence condition, the Licensing Authority will arrange for a hearing at which the issue can be considered in accordance with the procedure outlined in section 9 of this Statement of Licensing Policy.
- 14.2.9 The Licensing Sub-Committee considering the matter will confine their consideration to the prevention of crime and disorder objective.
- 14.2.10 Certain temporary events (see section 18 of this Statement of Licensing Policy) should be notified to the Licensing Authority using the Temporary Event Notice procedure. Depending on the nature and location of such temporary events these may, on occasion, have crime and disorder implications. Organisers of such events are encouraged to submit their notification as soon as reasonably practicable in advance of the event (and no

later than 5 working days before the event in line with existing statutory requirements) to enable the Police and the Local Authority to work with them to identify and reduce the risk of crime and disorder.

### 14.3 Public Safety

14.3.1 The Council is committed to ensuring that the physical safety of any person visiting or working in licensed premises is not compromised. To this end, the Licensing Authority encourages applicants and licensees to conduct a risk assessment prior to completion of their operating schedule to ensure that relevant factors within their control which impact on public safety have been considered and identified. These factors may include, but are not limited to:

- (a) the occupancy capacity of the premises (including staff and performers). Note: If a capacity has been imposed/set through other legislation, for example under Fire Safety legislation, it would be unnecessary to reproduce it in a premises licence. Anticipated maximum capacity/attendance for large, temporary outdoor events should be made clear.
- (b) the age, design and layout of the premises, including means of escape in the event of fire or other emergency
- (c) the nature of the licensable activities to be provided and whether those activities are of a temporary, occasional or permanent nature
- (d) the hours of operation (differentiating the hours of opening from the hours when licensable activities are provided, if different)
- (e) customer profile (such as age, disability or non-English first language)
- (f) the use of special effects such as lasers, pyrotechnics, smoke machines, foam machines, etc.
- (g) demarcation, capacity control, supervision and monitoring of areas immediately in the vicinity of the premises, used by smokers.
- (h) good communications with local authorities & emergency services
- (i) presence of trained first aiders on the premises and appropriate first aid kit

14.3.2 The Licensing Authority shall not seek to impose fire safety conditions where the Regulatory Reform (Fire Safety) Order 2005 adequately controls such matters.

14.3.3 The following examples of possible control measures are given purely to assist applicants when preparing their operating schedules, having regard to their particular type of premises and/or activities. These are not in any way to be regarded as standard conditions or mandatory requirements:

- (a) suitable and sufficient risk-assessments. Some applicants may wish to consider a commitment in their operating schedule to providing the relevant authorities with a full risk assessment prior to the commencement of licensable activities (this may be particularly relevant to large temporary outdoor events).
- (b) effective and responsible management of premises
- (c) provision of a sufficient number of people employed or engaged to secure the safety of the premises and patrons/staff
- (d) appropriate instruction, training and supervision of those employed or engaged to secure the safety of the premises and patrons
- (e) adoption of best practice guidance and other voluntary codes of practice (Note: Applicants may wish to contact the local Health & Safety Officers or HSE for advice)
- (f) provision and use of effective CCTV in and around premises
- (g) provision of toughened or plastic/polycarbonate glasses and polyethylene (PET) bottles
- (h) implementation of crowd management measures
- (i) monitoring arrangements such as door staff, ticketing, attendance clickers or maintenance of attendance records
- (j) regular/periodic review and testing (and certification where appropriate) of procedures, appliances, systems etc pertinent to safety

- (k) frequent waste disposal, particularly glass bottles
- (l) maintenance and repair relating to all aspects of the licensed premises at specified intervals and for evidence of these checks to be retained.
- (m) liaison with public transport/taxi & private hire service providers
- (n) siting of external lighting, including security lighting to adequately light the external area

## 14.4 Prevention of Public Nuisance

- 14.4.1 Licensed premises can have significant potential to impact adversely on persons in the vicinity through public nuisances that arise from their operation.
- 14.4.2 The Licensing Authority interprets 'public nuisance' in its widest sense, and takes it to include such issues as noise, light, odour, litter and anti-social behaviour, where these matters impact on those living, working or otherwise engaged in normal activity in the locality of a licensed premises.
- 14.4.3 The Licensing Authority encourages applicants and licensees to conduct a risk assessment prior to completion of their operating schedule to ensure that relevant factors within their control which impact on public nuisance have been considered and identified.
- 14.4.4 The Licensing Authority recommends that licensees apply a high standard of control to minimise the potential for any public nuisance that may arise from their operation of the premises, particularly where:
- they are situated in a residential or noise sensitive area;
  - events include amplified outdoor music or speech; or
  - extended opening hours are proposed.
- 14.4.5 When addressing the issue of prevention of public nuisance in their operating schedule, the applicant may identify steps to show that those factors that impact on the prevention of public nuisance objective have been considered. These may include, but are not limited to:
- the location of premises and proximity to residential and other noise sensitive premises, such as hospitals, care homes, hospices and places of worship
  - the hours of operation, particularly between 23.00hrs and 07.00hrs
  - the nature of activities to be provided, including whether those activities are of a temporary or permanent nature and whether they are to be held inside or outside
  - the design and layout of premises and in particular the presence of noise limiting features
  - the occupancy capacity of the premises
  - the availability of public transport/taxi and private hire services
  - 'wind down period' between the end of the licensable activities and closure of the premises
  - last admission time
- 14.4.6 The following examples of control measures are given purely to assist applicants when preparing their operating schedules, having regard to their particular type of premises and/or activities. These are not exhaustive, and are not to be regarded in any way as standard conditions or mandatory requirements, but include:
- (a) effective and responsible management of premises
  - (b) appropriate instruction, training and supervision of those employed or engaged to prevent incidents of public nuisance

- (c) control of operating hours for all or parts (such as garden, patio and terraced areas) of premises, including such matters as deliveries. This may include an earlier cessation timing, or a frequency control, for outdoor activities.
- (d) impact on neighbours due to customers opening doors/going outside or congregating to observe smoke free regulations
- (e) preparing a noise management plan, adoption of best practice guidance and other industry codes of practice. The local Environmental Protection Officer may be able to offer some helpful advice in this respect.
- (f) installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices
- (g) management of people, including staff, and traffic (and resulting queues) arriving and leaving premises, including a dispersal policy
- ~~(h) liaison with public transport/taxi and private hire service providers~~
- (h) siting of external lighting, including security lighting. The local Environmental Protection Officer may assist in ensuring any external lighting minimises the potential for light pollution nuisance.
- (i) management arrangements for collection and disposal of litter
- (j) effective ventilation systems to prevent nuisance from odour or noxious smells
- (k) demarcation, capacity control, supervision and monitoring of areas immediately in the vicinity of the premises, used by smokers.
- (l) making available a clear point of contact for responding promptly to nuisance complaints

14.4.7 Please note that applicants should consider contacting the local Planning Authority for advice on whether any proposed installation of lighting, ventilation, soundproofing, smoking shelter or other works require planning approval from the Planning Authority. This may be particularly relevant where premises are a listed building.

## 14.5 Protection of Children from Harm

14.5.1 The Licensing Authority, once its discretion is engaged concerning an application, shall not seek to limit the access of children to any premises unless it is necessary for the prevention of their physical, moral or psychological harm. Consideration shall be given to the individual merits of each application.

14.5.2 Whilst the Licensing Authority cannot anticipate every possible issue of concern that could arise in respect of children in relation to individual premises, areas that will give rise to particular concern in respect of children would include premises:

- Where entertainment or services of an adult or sexual nature are provided (whether permanently or occasionally);
- Where there have been convictions of members of the current staff at the premises for selling alcohol to minors or with a reputation for underage drinking;
- With a known association with drug taking or dealing;
- Where there is a strong element of gambling on the premises (but not for example the simple presence of a small number of cash prize gaming machines); and
- Where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.
- **Where it is known that unaccompanied children have been allowed access**

14.5.3 Whilst it is not possible for the Licensing Authority to give an exhaustive list of what amounts to relevant entertainment or services of an adult or sexual nature, examples would generally include topless bar staff, striptease, lap-dancing, table-dancing, pole-dancing, performances involving feigned violence or horrific incidents, feigned or actual sexual acts or fetishism, or entertainment involving strong and offensive language. It should be noted that premises deemed as 'sexual entertainment venues' under the

Policing and Crime Act 2009 are also likely to require an additional licence under the Local Government (Miscellaneous Provisions) Act 1982.

- 14.5.4 The 2003 Act made it an offence to permit children under the age of 16 who are not accompanied by an adult to be present on premises being used exclusively or primarily for supply of alcohol for consumption on those premises under the authorisation of a premises licence, club premises certificate or where that activity is carried on under the authority of a Temporary Event Notice (TEN). 'Exclusively or primarily' in relation to the consumption of alcohol will bear their ordinary and natural meaning in the context of the particular circumstances.
- 14.5.5 In addition, it is an offence to permit the presence of children under 16 who are not accompanied by an adult between midnight and 5am at other premises supplying alcohol for consumption on the premises under the authority of a premises licence, club premises certificate or where that activity is carried on under the authority of a Temporary Event Notice (TEN).
- 14.5.6 The Licensing Authority considers that, subject only to the provisions of the 2003 Act and unless restriction of access is necessary to protect children from harm, this is a matter for the discretion of the licensee.
- 14.5.7 The Licensing Authority shall not seek to impose any condition on any licence or certificate requiring the admission of children.
- 14.5.8 Applicants are strongly encouraged to demonstrate in their operating schedule that they have considered and identified any suitable and sufficient measures relevant to the style, character and activities of their individual premises to protect children from harm.
- 14.5.9 Where it is necessary for promotion of the protection of children from harm licensing objective, there are a range of alternatives which may be considered for limiting the access of children. These could include:
- (a) Limitations on the hours when children may be present;
  - (b) Limitations excluding the presence of children under certain ages when particular activities are taking place;
  - (c) Limitations on the parts of premises to which children might be given access;
  - (d) Age limitations (below 18);
  - (e) Requirements for accompanying adults; and
  - (f) Full exclusion from those under 18 from the premises when any licensable activities are taking place.
  - (g) **Restrictions or exclusions when certain activities are taking place**
- 14.5.10 The following examples of possible control measures are given purely to assist applicants with preparing their operating schedules, having regard to their particular type of premises and activities. These examples are not exhaustive, and are not in any way to be treated as standard conditions or mandatory requirements, but include:
- (a) provision of a sufficient number of people employed or engaged to secure the protection of children from harm
  - (b) appropriate instruction, training, supervision and background checks of those employed or engaged to secure the protection of children from harm
  - (c) adoption of best practice guidance (for example Public Places Charter)
  - (d) limitations on the hours when children may be present in all or parts of the premises
  - (e) the presence of an adequate number of adult staff to control the access and egress of children and to protect them from harm whilst on the premises
  - (f) an adequate number of adult staff to be responsible for the child performers. Disclosure and Barring Service (DBS) checks on such adult staff may be appropriate.

- (g) use of accredited 'proof of age' schemes (for example Challenge 21 or Challenge 25) where it is intended to operate more stringent measures than those contained within mandatory conditions (see section 10 of this document)
- (h) Lost children arrangements (for larger outdoor events)
- (i) Regular safety checks and signage in relation to children's play equipment

14.5.11 Where film exhibitions are authorised at a premises, the licence shall include a mandatory condition (section 20 of the Act) requiring that children are restricted from viewing age-restricted films in accordance with the British Board of Film Classification (BBFC), or in accordance with any recommendation made by the Licensing Authority.

14.5.12 The Licensing Authority recognise the British Board of Film Classification (BBFC), or any successor person or persons designated as the authority under section 4 of the Video Recordings Act 1984, as the relevant film classification body for these purposes.

14.5.13 Where an application is being made for a films activity, it is recommended that the applicant consider in their operating schedule how they will protect children from harm - for example a commitment to prohibiting or restricting the access of children to any film showing, or part thereof, that could give rise to concerns in protecting them from moral, psychological or physical harm.

For a non-BBFC rated film showing (for example the showing of a recorded television broadcast) the Licensing Authority may set an age restriction on the admission of children to that viewing.

The Licensing Authority seeks to work in partnership with licence holders in promotion of the licensing objectives, and Premises Licence/Club Premises Certificate holders may contact the Licensing Authority for guidance if they are planning to show a film that is not BBFC rated and may not be suitable for the presence of children. Where the Licensing Authority is minded to make any recommendation on a non-BBFC rated film showing it will do so in writing to the licence or certificate holder.

14.5.14 The Licensing Authority recognises the Suffolk Safeguarding Children Board as being competent to advise on matters relating to the protection of children from harm. Their contact details are [www.suffolkscb.org.uk](http://www.suffolkscb.org.uk)

14.5.15 Suffolk County Council Trading Standards and Suffolk Constabulary may, in collaboration with other appropriate agencies, conduct test purchases to check the compliance of retailers with the prohibition on underage sales of alcohol.

## 15. Personal Licences

*(Subject to Regulations issued under s.117 and s.133 of the Act)*

15.1 The Licensing Authority will grant a personal licence if the applicant has met the requirements set out in the Act and no objections are received. **Please note: All applicants must provide evidence of their right to work within the UK.**

15.2 Where an applicant is found to have an unspent conviction for a relevant offence or a foreign offence, and the Police object to the application on crime prevention grounds, the application will normally be referred to a Sub-Committee of the Licensing Committee.

15.3 Any hearing will be held in accordance with the procedure referred to in section 9 of this Statement of Licensing Policy.

15.4 All personal licence holders should ensure they are aware of the offences relating to personal licences, for example the duty of the holder to advise the Court of the existence of their personal licence if charged with a relevant offence and to advise the Licensing Authority of changes to name or address.

15.5 In accordance with the Guidance issued under section 182 of the Licensing Act 2003, the Licensing Authority recommends that personal licence holders (and DPSs/authorised community premises management committees) overtly authorise individuals in writing to sell alcohol under the authority of their personal licence/duty where the personal licence holder or DPS/management committee is unable to authorise the transaction(s) in person.

## 16. Applications for Premises Licences

*(Subject to Regulations issued under s.17, s.54 and s.55 of the Act)*

16.1 Central government provides a written guide to making an application, and this is available free of charge by contacting the Licensing Team or visiting the government website at [www.gov.uk](http://www.gov.uk). Local information, such as contact details for responsible authorities and other resources, is available on the Council website at [www.babergh.gov.uk](http://www.babergh.gov.uk) or by contacting the Licensing Team.

16.2 The Licensing Authority will make available examples and optional guidance purely to assist licence applicants and holders. Nothing produced for this purpose will be considered as required or mandatory. The Council's on-line licensing register is also a useful self-help resource for prospective licence applicants.

16.3 An application can be made to the Licensing Authority for any place within its area to be used for licensable activities or recognised club activities. The application requirements are prescribed by regulation and will normally include:

- a) the required fee;
- b) an operating schedule;
- c) plan of the premises, in accordance with regulatory requirements; and
- d) if it is intended that the premises be authorised to sell alcohol, a form of consent given by the person the applicant wishes to have specified in the Premises Licence as the Designated Premises Supervisor (DPS), or else request to disapply this usual requirement if for an eligible 'community premises'.
- e) **Individual applicants must provide evidence of their right to work within the UK**

16.5 The Operating Schedule will include a statement of:

- a) the relevant licensable activities, including a description of the style and character of the business and activities to be conducted on the premises;
- b) the times during which the applicant proposes that the relevant licensable activities are to take place;
- c) any other times during which the applicant proposes that the premises are to be open to the public;
- d) where the applicant wishes the licence to have effect for a limited period, that period;
- e) where the relevant licensable activities include the sale by retail of alcohol, the name and address of the individual whom the applicant wishes to have specified as the Designated Premises Supervisor and a consent form signed by that person including details of their personal licence (or else a 'community premises' disapplication request may be applicable);
- f) where the relevant licensable activities include the sale by retail of alcohol, whether such sales are proposed to be for consumption on the premises or off the premises, or both;
- g) the steps which the applicant proposes to take to promote the licensing objectives; and
- h) any other prescribed matters.

16.6 Where relevant representations are received about an application, and those representations are not withdrawn, the application will normally be referred to a Sub-Committee of the Licensing Act 2003 Committee, which will be held in accordance with the procedure referred to in section 9 of this Statement of Licensing Policy.



16.7 Where a premises licence application is being applied for to authorise a large scale outdoor event of a temporary nature (for example a music concert, street fair, show or carnival) the Licensing Authority strongly recommends that applicants contact the responsible authorities, and any local Safety Advisory Group network, as soon as possible in advance of making their application in order to seek expert advice and guidance on formulation of their operating schedule to ensure that the event runs safely and with a view to promoting the four licensing objectives.

## **17. Club Premises Certificates**

*(Subject to Regulations issued under s.71, s.91 and s.92 of the Act):*

17.1 Paragraphs 16.1 to 16.3 above apply

17.2. The application requirements for a Club Premises Certificate are set by regulation and will normally include provision of:

- a) the relevant fee;
- b) the Club Operating Schedule;
- c) a plan of the premises in accordance with regulatory requirements;
- d) a copy of the rules of the Club; and
- e) details to verify that the Club is a qualifying Club

17.3 The Club Operating Schedule will contain the following information:

- a) details of the recognised Club activities to which the application relates;
- b) the times during which it is proposed the recognised Club activities take place;
- c) any other times during which it is proposed the premises are open to members and their guests;
- d) the steps which it is proposed to take to promote the licensing objectives; and
- e) any other prescribed matters.

17.4. Where relevant representations are received in respect of an application, and those representations are not withdrawn, the application will normally be referred to a Sub-Committee of the Licensing Committee, and the hearing will be held in accordance with the procedure referred to in section 9 of this Statement of Licensing Policy.

## **18. Temporary Events Notices (TENS)**

18.1 The [Licensing Act 2003 Section 100](#) sets out the terms and conditions under which an application for a TEN may be made. Standard TENSs must be applied for a minimum of 10 working days prior to the first day of the event, and the Licensing Authority recommend that wherever possible notice-givers submit their TEN a minimum of 28 days prior to the commencement of the event. Should any statutory modifications be made to the TENS system, for example relating to service requirements, then the Licensing Authority shall have due regard to these and publicise any such changes including via its website at [www.babergh.gov.uk](http://www.babergh.gov.uk)

18.2 Where a TEN is given and one or more of the relevant statutory limits are exceeded, the Licensing Authority will serve a Counter-Notice on the notice giver in accordance with section 107 of the Licensing Act 2003 to prevent the licensable activities from going ahead. There is no provision under the Act to appeal against the issue of a Counter-Notice.

18.3 Where a TEN complies with the statutory requirements, and the Chief Officer of Police or Environmental Health Officer has not submitted an objection notice to the Licensing Authority within the prescribed time, the Licensing Authority shall record the notice in its

licensing register and send an authorised copy of the Notice to the premises user. The event may then proceed in accordance with the submission within the Temporary Event Notice.

- 18.4 Where the Chief Officer of Police or Environmental Health Officer has issued an objection notice, the Licensing Authority will normally consider this at a hearing (unless the objection notice is withdrawn before the hearing date). The hearing will be confined to consideration of the licensing objectives and will be held in accordance with the procedure outlined in section 9 above.
- 18.5 The Licensing Authority will notify the applicant of its decision at least 24 hours before the beginning of the event period specified in the temporary event notice.

## **19. Provisional Statements**

*(Subject to Regulations issued under s.29 and s.30 of the Act)*

- 19.1. The Act sets out the terms and conditions under which an application for a provisional statement may be made.
- 19.2 Where a Provisional Statement has been issued and a person subsequently applies for a Premises Licence in respect of the premises in accordance with the provisions of the Licensing Act, and:
- (a) The application for a licence is in the same form as the licence described in the provisional statement
  - (b) The work in the schedule of works has been satisfactorily completed.
  - (c) Given the information in the application for a Provisional Statement the person objecting could have made the same, or substantially the same, representations about the application but failed to do so without reasonable excuse; and,
  - (d) There has been no material change in circumstances relating either to the relevant premises or to the area in the vicinity of those premises.

Representations made by that person to the Licensing Authority cannot be taken into account.

## **20. Variations of Licences**

*(Subject to Regulations issued under s.34, s.37, S41A and s.84 of the Act)*

- 20.1 Where a premises licence holder wishes to amend the licence the Act allows, in most cases, for an application to be made to vary the licence rather than requiring an application to be made for a new licence. It should be noted that 'substantial variations' may not be applied for using the variation procedures prescribed by section 34 of the Act, instead substantial changes, for example an amendment to the duration of the licence or transfer of the licence from one premises to another, will require a new application under section 17 of the Act. In the case of a change of name or address of someone named in the licence (section 33) or application to vary the individual specified in the licence as DPS (section 37) there are simplified processes for making such applications.
- 20.2 The Legislative Reform (Supervision of Alcohol Sales in Church and Village Halls etc.) Order 2009 (SI 2009/1724) amended the 2003 Act to allow certain 'community premises' which have, or are applying for, a premises licence that authorises alcohol sales to also apply to include the alternative licence condition in sections 25A(2) and 41D(3) of the 2003 Act in the licence instead of the usual mandatory conditions in sections 19(2) and 19(3) of the 2003 Act. These provisions took effect from 29 July 2009.
- 20.2 The Act and Guidance set out the terms, conditions and considerations under which an application for a minor variation, or request from the management of 'community premises' to disapply the usual mandatory conditions, may be made. Minor variation

processes may be applied for in some circumstances, subject to some specific exclusions, to reduce the normal service, advertising and consultation requirements (and associated financial impacts in cost and time).

20.3 The minor variation process is intended for some small variations to licences/certificates that will not adversely impact on promotion of the licensing objectives (for example small variations to layout or some minor alterations to activities, timing or conditions). In each case the Licensing Authority will consult the relevant Responsible Authorities and make a decision on whether the variation could impact adversely on the licensing objectives. This process also makes a more limited provision for 'other persons' to make comment on the proposals. In determining these applications, under his/her delegated authority on behalf of the Licensing Authority, the Licensing Officer shall carefully assess each application on a case-by-case basis in the light of government guidance and all relevant factors. The licence/certificate holder may wish to seek advice from responsible authorities, in advance of submitting an application, as to whether the licensing objectives are likely to be affected by the proposals.

20.4 If relevant representations are made and not withdrawn the Licensing Authority will normally hold a hearing, unless a minor variation, will be held in accordance with the procedure referred to in section 9 of this Statement of Licensing Policy, and at that hearing the Licensing Authority may:

- a) Grant the application as applied for, subject only to any conditions consistent with the operating schedule and any relevant mandatory conditions;
- b) Modify the conditions (either by means of omission, inclusion or amendment) of the licence; or
- c) Reject the application in whole or in part.

20.5 The Licensing Authority may determine a licence so that different conditions may apply to:

- a) different parts of the premises concerned; and
- b) different licensable activities,

where to do so would be considered appropriate and proportionate for promotion of the licensing objectives.

20.6 Where the police submit an objection to an application to vary a Designated Premises Supervisor (DPS), or from a community premises to disapply the usual mandatory conditions, because they consider that the circumstances are such that granting it would undermine the crime and disorder objective then a hearing will normally be held in accordance with the procedure referred to in section 9 of this Statement of Licensing Policy.

## **21. Transfer of Premises Licences**

*(Subject to Regulations issued under s.42 of the Act)*

21.1. Where an application is lawfully made under the Act for the transfer of a licence and the Police submit an objection to the application, the Licensing Authority will normally hold a hearing in accordance with the procedure referred to in section 9 of this Statement of Licensing Policy. This hearing will be confined to consideration of the crime and disorder objective and the application may be rejected where the Licensing Authority considers it appropriate for the promotion of the crime prevention objective to do so. **Please note: All individual applicants must provide evidence of their right to work within the UK.**

## **22. Reviews**

*(Subject to Regulations issued under s.51, s.87 and s.167 of the Act):*

- 22.1 The review of a premises licence or club premises certificate is a key protection for local communities where problems associated with one or more of the licensing objectives are occurring and these are causally linked to the operation of licensed premises.
- 22.2 Where relevant representations are made about an existing licence or certificate the Licensing Authority will normally hold a hearing which will be held in accordance with the procedure referred to in section 9 of this Statement of Licensing Policy to consider them unless:
- a) the representation is considered frivolous, vexatious or to be repetitious (that is, identical or substantially similar to a ground specified in an earlier application for a licence, provisional statement or review)
- 22.3 A review of the premises licence will normally also follow:
- (a) summary review powers of the Police pursuant to section 21 of the Violent Crime Reduction Act 2006 (regarding serious crime and disorder) ; or
  - (b) any exercise of the closure order powers available to the magistrates' court.
- 22.4 In determining a review application at a hearing, the Licensing Authority may take such steps as it considers necessary to promote the licensing objectives, which include:
- a) modifying the conditions of the licence (by inclusion, amendment or omission);
  - b) excluding a licensable activity from the scope of a licence;
  - c) removing a designated premises supervisor;
  - d) suspending the licence for a period not exceeding three months; or
  - e) revoking the licence.
- 22.5 Where the Police make application for summary review under section 53A of the Licensing Act 2003 the relevant licensing authority will normally consider whether it is necessary (noting that this provision has not been amended to 'appropriate') to take interim steps pending the determination of the review applied for. Such consideration may take place without the holder of the premises licence having been given an opportunity to make representations to the relevant licensing authority. The interim steps the relevant licensing authority must consider taking are -
- (a) the modification of the conditions of the premises licence;
  - (b) the exclusion of the sale of alcohol by retail from the scope of the licence;
  - (c) the removal of the designated premises supervisor from the licence; and
  - (d) the suspension of the licence.
- Should a summary review be instigated, the Licensing Authority shall follow the procedures as set out in the Licensing Act 2003 (Summary Review of Premises Licences) Regulations 2007.
- 22.6 Applications may also be made for the review of licences which are held by a management committee in respect of community premises, and which include the alternative licence condition instead of the normal mandatory conditions. In relation to such applications, the licensing authority may determine that the normal mandatory conditions should apply instead of the alternative condition if it considers this to be necessary for the promotion of the licensing objectives. Such a determination may be reached following the usual procedure for review applications set out in sections 51 to 53 of the Act.
- 22.7 The outcome of a review hearing will not ordinarily have effect until such time as the period given for appealing (normally 21 days) expires or an appeal is disposed of. For reviews following a closure order the Licensing Authority will consider its powers in the context of section 168 of the Licensing Act 2003.

