



ROCHFORD DISTRICT COUNCIL

DRAFT STATEMENT OF LICENSING POLICY

CONSULTATION DOCUMENT

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DEFINITIONS

Note: In this Policy, the following definitions are included to provide an explanation of certain terms included in the Act and therefore in the Policy. In some cases they are an abbreviation of what is stated in the Licensing Act 2003, or an interpretation of those terms. For a full definition of the terms used, the reader must refer to the Licensing Act 2003.

'Licensable Activity' means: -

- the sale by retail of alcohol;
- the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club;
- the provision of regulated entertainment;
- the provision of late night refreshment.

'Regulated Entertainment' means: -

- a performance of a play
- an exhibition of a film
- an indoor sporting event
- a boxing or wrestling entertainment indoor and outdoor
- a performance of live music
- any play of recorded music
- a performance of dance
- entertainment of a similar description to that falling within the performance of live music, the playing of recorded music and the performance of dance
but only where the entertainment takes place in the presence of an audience and is provided for the purpose (or for purposes which include the purpose) of entertaining that audience.

'Late Night Refreshment' means the supply of hot food or hot drink to members of the public (whether for consumption on or off the premises) between the hours of 11.00 p.m. and 5.00 am.

'Premises' means any place including a vehicle, vessel or moveable structure.

'Licensed Premises' means premises in respect of which a premises licence has effect.

'Premise's Licence' means the licence that, having regard to the operating schedule, has been granted in respect of a specified premises authorising the type and duration of licensable activity permitted.

'Operating Schedule' means a document containing a statement of the following matters (and any others that may be prescribed): -

- the relevant Licensable Activities conducted on the premises
- the times during which it is proposed that the relevant licensable activities are to take place (including the times during each day of the

week, during particular holiday periods and during particular seasons, if it is likely that the times would be different during different parts of the year)

- any other times when the premises are to be open to the public
- where the licence is required only for a limited period, that period
- where the licensable activities include the supply of alcohol, the name and address of the individual to be specified as the designated premises supervisor
- where the licensable activities include the supply of alcohol, whether the alcohol will be supplied for consumption on or off the premises or both
- the steps which the applicant proposes to take to promote the licensing objectives
- control measures based upon any risk assessment for the premises

‘Temporary Event Notice’ means a Permitted Temporary Activity involving one or more Licensable Activities subject to the following various conditions and limitations: -

- duration – they are limited to events lasting for up to 96 hours;
- scale – they cannot involve the presence of more than 499 people at any one time;
- use of the same premises – the same premises cannot be used on more than 12 occasions in a calendar year, but are subject to the overall aggregate of 15 days irrespective of the number of occasions on which they have been used, and
- the number of notices given by an individual within a given period of time – a Personal Licence holder is limited to 50 notices in one year, and an other person to five notices in a similar period.

‘Interested Party’ means:

- a person living in the vicinity of the premises;
- a body representing persons living in that vicinity;
- a person involved in a business in that vicinity;
- a body representing persons involved in such businesses.

‘Responsible Authority’ means any of the following: -

- the Divisional Commander of Rayleigh Police Division
- the Fire Authority
- the enforcing authority for Health and Safety at Work
- the local planning authority
- the local authority responsible for minimising or preventing the risk of pollution of the environment or of harm to human health
- the body representing matters relating to the protection of children from harm
- in relation to a vessel, a navigation authority, the Environment Agency, or the British Waterways Board

‘Personal Licence’ means a licence granted to an individual, valid for 10 years, which authorises that person to sell liquor.

‘Designated Premises Supervisor’ means, in the case of premises selling alcohol, the person (who must be a Personal Licence holder) who will normally have been given the day to day responsibility for running the premises by the holder of the Premises Licence or will be the Premises Licence holder themselves.

‘Transitional Period’ means from the first appointed day 7th February, 2005 until the second appointed day which will be in November, 2005.

OVERVIEW OF ROCHFORD DISTRICT

1. The District covers an area of 65 square miles within an area bounded by the River Crouch in the north, the A127 Arterial Road in the south, the North Sea in the east and the A130 route in the west.
2. The area is predominantly rural in character with many smaller towns and villages and two main urban centres at Rochford and Rayleigh. It has a population of approximately 79000 people.
3. The District offers a wide and developing variety of culture, history, recreation and dwellings with transport infrastructure provided by the mainline railway to London and Southend, together with local bus services.
4. There are few concentrations of premises that provide regulated late-night entertainment within the district of which the main one is situated adjacent to the airport's boundary at Aviation Way. The majority of licensed premises currently consist of public houses and restaurants spread throughout the district but with the main concentrations being in Rayleigh and Rochford.
5. In the more rural areas, public houses, village halls and community centres tend to form a focal point for the community and, increasingly, local convenience stores, off-licences, garages and take-away restaurants make an important contribution to local communities by providing opportunities to buy food and drink.
6. The continuing expansion of the leisure industry will provide an essential contribution to the local economy, in jobs and revenue but, in the interest of preserving the heritage of the area, it is right that such expansion is subject to some regulation.
7. The Licensing Act 2003 provides the means for leisure and recreational activity to increase within a more liberal regime of licensing that has, nevertheless, the ability to safeguard local amenity.

ROCHFORD DISTRICT COUNCIL

DRAFT STATEMENT OF LICENSING POLICY

1.0 INTRODUCTION

Introduction

- 1.1 Under the Licensing Act 2003, Rochford District Council is the Licensing Authority for the Rochford District and, in respect of the sale and/or supply of alcohol and the provision of regulated entertainment and late night refreshment, is responsible for granting premises licences, club premises certificates and personal licences and for administering the system of temporary events notices.
- 1.2 The Licensing Authority is required to discharge its licensing function through a licensing committee of between 10 – 15 members, which for this district will be the Appeals & Licensing Committee.
- 1.3 When assessing applications, the Council must be satisfied that the measures proposed in the applicant's operating schedule aim to achieve the four licensing objectives. In this policy, bold type refers to matters that the Council expects to see addressed in the applicant's operating schedule, where appropriate. Passages of text that are not in bold type are provided to assist applicants to understand what the Council is seeking to achieve, the factors that influence the achievement of that outcome and the control measures that could be implemented by the applicant to achieve that outcome.
- 1.4 However, it should be recognised that this policy covers a wide variety of premises and activities carried on in them including theatres, cinemas, restaurants, pubs, nightclubs, private members' clubs, village halls and community centres, as well as off-licences and late night food premises and vehicles selling hot food or hot drink after 11p.m. For this reason, this policy cannot detail all the factors that influence the achievement of the licensing objectives nor can this policy detail all the control measures that may be appropriate.

The Licensing Objectives

- 1.5 The 2003 Act requires the Council to carry out its various licensing functions so as to promote the four licensing objectives. These are:
 - the prevention of crime and disorder
 - public safety
 - the prevention of public nuisance
 - the protection of children from harm

- 1.6 **Applicants will need to provide evidence to the Council that suitable and sufficient measures, relevant to the individual style and characteristics of their premises and events, are detailed in their operating schedule and will be implemented and maintained in respect of each of the four licensing objectives. Reference will need to 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 audiences.**

Statement of Licensing Policy

- 1.7 The 2003 Act further requires the Council to publish a 'Statement of Licensing Policy' that sets out the policies the Council will generally apply to promote the licensing objectives when making decisions on applications made under the Act.
- 1.8 This 'Statement of Licensing Policy' has been prepared in accordance with the provisions of the 2003 Act and having regard to the guidance issued under Section 182 of the Act. It has been drafted in partnership with the Essex Joint Licensing Officers' Forum, the Rochford Crime and Disorder Reduction Partnership and the Rochford Drug and Alcohol Reference Group. These partnerships provide links to the Essex Chief Executives' Association's Crime and Disorder Steering Group, who will maintain a strategic overview of issues associated with permissions issued under the Licensing Act 2003.
- 1.9 This Policy Statement takes effect on February 7, 2005 and will remain in force for a period of not more than three years. It will be subject to regular review and further consultation prior to February 7, 2008.

Consultation

- 1.10 There are a number of groups who have a stake in the leisure industry, including providers, customers, residents and enforcers, all of whom have views and concerns that require consideration as part of the licensing function and promotion of the licensing objectives.
- 1.11 In developing this Policy Statement, the Council consulted widely. The views of the Divisional Commander of Rayleigh Police Division, Essex County Fire and Rescue Service, existing licence holders, businesses, voluntary groups and residents were taken into account. Due consideration has also been given to the views of all those who responded to that consultation process.

Links to other Strategies

- 1.12 In preparing this statement of licensing policy, the Council has taken into account other relevant strategic documents, e.g. the Council's Corporate Plan, the local Crime & Disorder Reduction Strategy, the Council's Cultural

Strategy, its Local Development Plan and Economic Review Strategy to ensure proper co-ordination and integration of aims and actions. Review and amendment of these strategies will be considered for their impact on this statement of licensing policy.

- 1.13 Further, arrangements will be made for the Appeals & Licensing Committee to receive reports, when appropriate, on the needs of local tourism to ensure that these are reflected in their considerations. The Appeals & Licensing Committee will also be appraised of the local employment situation and the need for new investment and employment, where appropriate.
- 1.14 To ensure proper integration with the Council's planning policies, the Appeals & Licensing Committee, when appropriate, will provide reports to the Environmental Services Committee on the situation regarding licensed premises in the area, including the general impact of alcohol-related crime and disorder, to inform policy making and so enable the Planning Services Committee to have regard to such matters when making its decisions.
- 1.15 The Council recognises its responsibilities under the Race Relations Act, 1976, as amended. The impact of this policy on race relations will be monitored through the Council's race equality scheme.

Regulated Entertainment

- 1.16 Having regard to the Council's Cultural Strategy and the International Covenant on Economic, Social and Cultural Rights (ICESCR), ratified in 1976, a diverse provision of cultural activities is welcomed for the benefit of communities. The Council will monitor the licensing of regulated entertainment, especially with regard to live music and dancing, theatrical performances, circuses, etc. to ensure that such events are promoted without unreasonable restrictions being imposed, which would discourage such events. The Council will need to balance the natural concern to prevent disturbance in neighbourhoods with the wider cultural benefits, particularly the cultural benefits for children. Advice and guidance on this matter will be sought from the Council's Contracted Services Department.

Applications

- 1.17 When considering applications, the Council will have regard to:
- the Licensing Act 2003 and the licensing objectives
 - guidance issued under Section 182 of the Licensing Act 2003
 - any supporting regulations
 - this statement of licensing policy
- 1.18 This does not, however, undermine the rights of any person to apply under the 2003 Act for a variety of permissions and have the application considered on its individual merits, nor does it override the right of any

person to make representations on any application or seek a review of a licence or certificate where they are permitted to do so under the 2003 Act.

- 1.19 When the Council is considering any application, it will avoid duplication with other regulatory regimes, so far as possible, and does not intend to use the licensing regime to achieve outcomes that can be achieved by other legislation. In particular, the Council's licensing functions will be discharged separately from its functions as the local planning authority. **However, applications for premises licences for permanent commercial premises should normally be from businesses with planning consent for the property concerned.** (Other permissions may be applicable to licensed premises and applicants are expected to ensure that such permissions are obtained where necessary.)
- 1.20 When one part of the Council seeks a premises licence from the licensing authority, the Appeals & Licensing Committee and its officers will consider the matter from an entirely neutral standpoint. If relevant representations are made, e.g. by local residents or the police, they will be considered fairly by the Committee.
- 1.21 In all cases, applicants and those making representations who are genuinely aggrieved by a decision of the Committee are entitled to appeal to the Magistrates' Court against the decisions of the Committee.
- 1.22 Appendix A provides applicants with the details of the application process, having regard to the Licensing Act 2003, the regulations, statutory guidance and local practice and procedures.

Representations

- 1.23 Any Responsible Authority or Interested Party may make relevant representations on applications for the grant of a premises licence or club premises certificate and request reviews of licences or certificates that have been granted. However, only the Divisional Commander of Rayleigh Police Division may make representations in respect of the grant of a personal licence or the issue of a temporary event notice.
- 1.24 A representation will only be 'relevant' if it relates to the likely effect of the grant of the licence on the promotion of at least one of the four licensing objectives. In addition, the representation must not be frivolous or vexatious or, in the case of reviews, repetitious.

Conditions

- 1.25 Licensing is about the appropriate control of licensed premises, qualifying clubs, temporary events and the people who manage them or hold personal licences within the terms of the 2003 Act.

- 1.26 Where relevant representations are made, the Council will seek to make objective judgements as to whether conditions may need to be attached to various authorisations and others in possession of relevant authorisations, to secure achievement of the licensing objectives.
- 1.27 Any conditions arising from the operating schedule or as a result of representations will primarily focus on the direct impact of the activities taking place at licensed premises on those attending the premises and members of the public living, working or otherwise engaged in normal activity in the area concerned and will cover matters that are within the control of individual licensees.
- 1.28 The Council acknowledges that the licensing function cannot be used for the general control of the anti-social behaviour of individuals once they are beyond the direct control of the licensee of any premises concerned. However, other mechanisms may be utilised, where appropriate, to tackle unruly or unlawful behaviour of consumers when beyond the control of the individual, club or business holding the licence, certificate or authorisation concerned. These may include:
- planning controls
 - positive measures by the Council to create a safe and clean town environment in partnership with local businesses, transport operators, etc.
 - 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 local authorities to designate parts of the local authority area as places where alcohol may not be consumed publicly, e.g. in Rochford High Street
 - police enforcement of the general law concerning disorder and anti-social behaviour, including issuing fixed penalty notices for disorder, making dispersal orders, etc.
 - the prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk
 - the confiscation of alcohol from children and adults in designated areas
 - police and/or local authority powers to close down instantly for up to 24 hours any licensed premises or temporary events on grounds of disorder, the likelihood of disorder or noise emanating from the premises causing a nuisance
 - the power of the police, other responsible authorities or a local resident or business to seek a review of the licence or certificate in question
- 1.29 If an applicant volunteers a prohibition or restriction in their operating schedule because their own risk assessment has determined such prohibition or restriction to be appropriate, such volunteered prohibitions or restrictions will become conditions attached to the licence, or certificate and will be enforceable as such.

- 1.30 The Council recognises that all applications should be considered on an individual basis and any condition attached to such a licence will be tailored to each individual premises, in order to avoid the imposition of disproportionate and other burdensome conditions on those premises. Standard conditions will therefore be avoided and no condition will be imposed that cannot be shown to be necessary for the promotion of the licensing objectives.

Delegation of Functions

- 1.31 With the exception of the approval and review of its Licensing Policy, decisions on licensing matters will be taken in accordance with an approved scheme of delegation aimed at underlining the principles of timely, efficient and effective decision-making. A table setting out how the licensing authority intends to approach its various functions is attached at Appendix B. The Appeals & Licensing Committee will receive regular reports regarding licences determined by officers under delegated powers, in order to maintain an overview of the general situation.

The Need for Licensed Premises

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

Cumulative Impact of a Concentration of Licensed Premises

- 1.33 “Cumulative impact” means the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. The cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for a licensing authority to consider in developing its licensing policy statement.
- 1.34 The Council acknowledges that a concentration of licensed premises in a particular area can result in an increased number of people walking through or congregating in streets during the night with the potential impact of an increase in crime, anti-social behaviour, noise pollution and other disturbance to residents, together with an increase in littering or fouling. In such cases the amenity of local residents can be placed under severe pressure but may not be attributable to any individual premises.
- 1.35 The Council should only adopt a special policy on cumulative impact if there is evidence that a significant number of licensed premises concentrated in one area are resulting in unacceptable levels of crime and disorder or public nuisance.

- 1.36 **The Council, having regard to the evidence currently available, considers that there is no particular part of the district causing a cumulative impact on any of the licensing objectives.**
- 1.37 However, the question of the cumulative impact of licensed premises in a particular area may, at a future time, be triggered for consideration on representation from residents or businesses or a responsible authority. The onus will rest on those persons or groups to provide evidence that additional licences or the variation of existing licences (e.g. to increase such aspects as capacity or operating hours) will produce the cumulative impact claimed.
- 1.38 Following a successful representation in such matters, the Council's Statement of Licensing Policy will be reviewed and amended.

Advice and Guidance

- 1.39 The Council recognises the valuable cultural, social and business importance that premises and events requiring a licence under the Licensing Act provide and welcomes the diversity of activities that are provided by licence holders. For this reason, pre-application discussions will be encouraged to assist applicants to develop their operating schedule. The Council, Essex Police and/or Essex County Fire and Rescue Service will offer as much advice and guidance to applicants, as resources permit.
- 1.40 The Council will also seek to liaise with applicants and/or mediate between applicants and others who may make representations, to achieve a satisfactory outcome for all involved, wherever possible and where resources permit. Where an applicant considers that mediation and liaison may be likely or probable, it is recommended that the applicant discuss his proposal with the licensing section and those from who they think representations are likely prior to submitting their application. Once an application has been lodged, there are statutory timescales imposed upon the application and determination process, which restrict the opportunity for such discussions, liaison and mediation.
- 1.41 Appendix (*details awaited*) provides details of various organisations, trade associations and reference literature that an applicant may find useful in preparing an operating schedule and running a safe premises/event.

Reviews of Licences

- 1.42 Where possible and appropriate the Council, Essex Police and/or Essex County Fire and Rescue Service will give early warning to licence holders of any concerns about problems identified at premises and of the need for improvement.
- 1.43 Responsible authorities and/or interested parties living in the vicinity can trigger a review of a premises licence but an evidentiary basis would be required to be presented to the Council.

- 1.44 No more than one review from interested parties will be normally permitted within any 12-month period on similar grounds except in exceptional and compelling circumstances.

Transitional Period and ‘Grandfather Rights’

- 1.45 During the transitional period, there are special arrangements for holders of existing licences to convert those licences, on the same terms, conditions and restrictions, (known as ‘grandfather rights’). In these circumstances, only the Police may raise a representation and only in respect of the crime and disorder objective. The procedure for conversion is detailed in Appendix D.

Enforcement

- 1.46 The Council delivers a wide range of enforcement services aimed at safeguarding the environment and the community and at providing a ‘level playing field’ on which businesses can fairly trade. The administration and enforcement of the licensing regime is one of these services. The Council has adopted the Government’s Enforcement Concordat designed to ensure effective and efficient public protection services. Specifically, the Council is committed to accord with the principles of good enforcement practice by carrying out its regulatory functions in a fair, open and consistent manner.
- 1.47 The Enforcement Concordat is based on the principles that businesses should:
- receive clear explanations from enforcers of what they need to do and by when;
 - have opportunities to resolve differences before enforcement action is taken - unless immediate action is needed;
 - receive an explanation of their rights of appeal
- 1.48 The Council recognises the interests of both citizens and businesses and will work closely, with partners, to assist licence holders to comply with the law and the four licensing objectives it seeks to promote. However, proportionate but firm action will be taken against those who commit serious offences or consistently break the law.
- 1.49 The Council has set clear standards of service and performance that the public and businesses can expect. In particular, an enforcement policy has been created that explains how the Council will undertake its role and how the principles of effective enforcement will be achieved. This policy is freely available from the licensing section, as are details of the Council’s corporate complaints procedures. These documents can also be viewed on the Council’s website: www.rochford-council.gov.uk
- 1.50 The Council has established an enforcement protocol with Essex Police, Essex County Fire and Rescue Service and Essex County Council Trading Standards on enforcement issues. This protocol provides for the targeting of

resources towards high-risk premises and activities that require greater attention, while providing a lighter touch in respect of low risk premises that are well operated.

2.0 LICENSING OBJECTIVES

- 2.1 The following sections set out the Council's Policy relating specifically to the four licensing objectives (paragraph 1.5 above).
- 2.2 In each of the following sections the Council has defined its intended outcome (in bold type) in respect of the objectives. Each section then lists the influencing factors on the achievement of that objective but, because of the wide variety of premises and activities to which this policy applies, the lists provided are not exhaustive. **Applicants should know their premises best and will be expected to address all aspects relevant to the individual style and characteristics of their premises and events.**
- 2.3 Further, in each section, a list of possible control measures is provided, to be of assistance to applicants, but again is not intended to be an exhaustive list. Many control measures achieve more than one objective but have not necessarily been listed under each objective. Similarly, applicants will not be required to mention a control measure more than once in their operating schedule.
- 2.4 **The selection of control measures, referred to in 2.3 above, should be based upon a risk assessment of the premises, events, activities and the customers expected to attend (e.g. their age, number, etc.).** Whilst the Council cannot require such risk assessments to be documented, (other than where required by other legislation), it considers such documentation to be good practice and a useful tool in the instruction and training of staff, as well as a sound basis for review by the licence holder, in the event of requiring to make application for variation or in response to changing circumstances/conditions at the premises.
- 2.5 Additional measures may be necessary on an occasional or specific basis such as when a special event (e.g. popular live band) or promotion (e.g. during major sporting occasions) is planned, which is intended to, or likely to attract larger audiences and/or audiences of a different nature, and which can have a significant impact on the achievement of the licensing objectives. **Reference must be made in an applicant's operating schedule, where applicable, to such occasions and the additional measures that are planned in order to achieve the licensing objectives.**
- 2.6 The Council considers the effective and responsible management of the premises, instruction, training and supervision of staff and the adoption of best practice to be amongst the most essential control measures for the achievement of all the licensing objectives. **For this reason, these**

elements should be specifically considered and addressed within an applicant's operating schedule.

2.7 In addition, the occupancy capacity for premises, and events as appropriate, is also considered to be an essential factor in the achievement of the four licensing objectives, (except in respect of premises licensed for the consumption of food and/or alcohol off the premises). **The Council will expect the issue of occupancy capacity to be considered and addressed, where necessary, within an applicant's operating schedule and, in most instances, will agree a maximum occupancy capacity, based on the applicant's assessment within their operating schedule.**

2.8 The design and layout of premises are important in determining capacity, as is the availability and size of exits within recommended travel distances. Other factors should also be considered when assessing the appropriate capacity for premises or events. These include:

- the nature of the premises or event
- the nature of the licensable activities being provided
- the provision or removal of such items as temporary structures, such as a stage, or furniture
- the number of staff available to supervise customers both ordinarily and in the event of an emergency
- the age of the customers
- the attendance by customers with disabilities, or whose first language is not English
- availability of suitable and sufficient sanitary accommodation
- nature and provision of facilities for ventilation

2.9 The agreement to a capacity for premises or events should not be interpreted as a requirement to also provide permanent monitoring arrangements such as doorstaff, attendance clickers or maintenance of attendance records. The Council recognises that the person in charge at the premises can often readily assess the capacity of premises without resort to such measures. **However, where the capacity is likely to be reached (such as on known busy evenings) and particularly where a special event or promotion is planned, the applicant will be expected to detail the additional arrangements that will be put in place to ensure that the capacity of the premises is not exceeded.**

3.0 PREVENTION OF CRIME AND DISORDER

3.1 Rochford District Council is committed to further improving the quality of life for the people of the district by continuing to reduce crime and the fear of crime.

3.2 Section 17 of the Crime and Disorder Act 1998 introduced a wide range of measures for preventing crime and disorder and imposed a duty on Rochford District Council, Essex Police, Essex County Council and others

to consider crime and disorder reduction in the exercise of all their duties. The Licensing Act 2003 reinforces this duty for local authorities.

- 3.3 The promotion of the licensing objective, to prevent crime and disorder, places a responsibility on licence holders to become key partners in achieving this objective. **Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to reduce or prevent crime and disorder on and in the vicinity of their premises, relevant to the individual style and characteristics of their premises and events.**
- 3.4 When addressing the issue of crime and disorder, the applicant should demonstrate that those factors that impact on crime and disorder have been considered. These may include:
- Underage drinking
 - Drunkenness on premises
 - Public drunkenness
 - Drugs
 - Violent behaviour
 - Anti-social behaviour
- 3.5 The following examples of control measures are given to assist applicants who may need to take account of them in their operating schedule, having regard to their particular type of premises and/or activities:
- Effective and responsible management of premises
 - Training and supervision of staff
 - Adoption of best practice guidance (e.g. Safer Clubbing, the National Alcohol Harm Reduction Strategy Toolkit and other voluntary codes of practice, including those relating to drinks promotions e.g. The Point of Sale Promotions published by BBPA, Security in Design published by BBPA and Drugs and Pubs, published by BBPA)
 - Acceptance of accredited 'proof of age' cards e.g. PASS, locally approved 'proof of age' cards e.g. 'Prove It' and/or 'new type' driving licences with photographs
 - Provision of effective CCTV in and around premises
 - Employment of Security Industry Authority licensed doorstaff
 - Provision of toughened or plastic drinking vessels
 - Provision of secure, deposit boxes for confiscated items ('sin bins')
 - Provision of litterbins and other security measures, such as lighting, outside premises
 - Membership of local 'Pubwatch' schemes or similar organisations
- 3.6 Within the operating schedule for premises from which alcohol will be sold, a Premises Supervisor must be designated ('Designated Premises Supervisor' DPS). The Council will normally expect the DPS to have been given the day to day responsibility for running the premises by the premises licence holder, and, as such, would normally be present on the licensed

premises on a regular basis. In addition to the DPS holding a personal licence, the Council would strongly encourage the DPS to undergo additional training, and to have experience commensurate with the nature and style of entertainment provided and the capacity of the premises.

- 3.7 Certain temporary events are not required to be licensed but can be notified to the Council using the Temporary Event Notice procedure. However, depending on the nature and location of such events, these can have serious crime and disorder implications. Organisers of these events are encouraged to submit their notification as soon as reasonably practicable to enable the police and the Council to work with them to identify and reduce the risk of crime and disorder.

4.0 PUBLIC SAFETY

- 4.1 The Licensing Authority is committed to ensuring that the safety of any person visiting or working in licensed premises is not compromised. **To this end, applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to ensure public safety, relevant to the individual style and characteristics of their premises and events.**

- 4.2 When addressing the issue of public safety, an applicant must demonstrate that those factors that impact on the standards of public safety have been considered. These may include:

- the occupancy capacity of the premises
- the age, design and layout of the premises, including means of escape in the event of fire
- the nature of the licensable activities to be provided, in particular the sale or supply of alcohol, and/or the provision of music and dancing and including whether those activities are of a temporary or permanent nature
- the hours of operation (differentiating the hours of opening from the hours when licensable activities are provided, if different)
- customer profile (e.g. age, disability)
- the use of special effects such as lasers, pyrotechnics, smoke machines, foam machines, etc.

- 4.3 The following examples of control measures are given to assist applicants who may need to take account of them in their operating schedule, having regard to their particular type of premises and/or activities:

- Suitable and sufficient risk assessments
- Effective and responsible management of premises
- Provision of a sufficient number of people employed or engaged to secure the safety of the premises and patrons

- Appropriate instruction, training and supervision of those employed or engaged to secure the safety of the premises and patrons
- Adoption of best practice guidance (e.g. Guide to Fire Precautions in Existing Places of Entertainment and Like Premises, The Event Safety Guide, Safety in Pubs published by the BBPA))
- Provision of effective CCTV in and around premises
- Provision of toughened or plastic drinking vessels
- Implementation of crowd management measures
- Proof of regular testing (and certification where appropriate) of procedures, appliances, systems etc. pertinent to safety

5.0 PREVENTION OF PUBLIC NUISANCE

5.1 Licensed premises have a significant potential to adversely impact on communities through public nuisances that arise from their operation. The Council wishes to proactively maintain and protect the amenity of residents and other businesses from the potential consequence of the operation of licensed premises whilst recognising the valuable cultural, social and business importance that such premises provide.

5.2 The Council intends to interpret “public nuisance” in its widest sense, and takes it to include such issues as noise, light, odour, litter and anti-social behaviour, where these matters impact on those living, working or otherwise engaged in normal activity in an area.

5.3 Applicants need to be clear that the Council will normally apply stricter conditions, including controls on licensing hours, where licensed premises are in residential areas and where relevant representations have been received. Conversely, premises may be suitable for extended hours of opening where it can be demonstrated that effective measures have been planned to prevent public nuisance, etc.

5.4 In the case of shops, stores and supermarkets selling alcohol, unless there are exceptional reasons relating to disturbance or disorder, the Council will normally permit the hours during which alcohol is sold to match the normal trading hours during which other sales take place.

5.5 **Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to prevent public nuisance, relevant to the individual style and characteristics of their premises and events.**

5.6 When addressing the issue of prevention of public nuisance, the applicant must demonstrate that those factors that impact on the likelihood of public nuisance have been considered. These may include:

- the location of premises and proximity to residential and other noise sensitive premises, such as hospitals, hospices and places of worship

- the hours of opening, particularly between 23.00 and 07.00
- the nature of activities to be provided, including whether those activities are of a temporary or permanent nature and whether they are to be held inside or outside premises
- the design and layout of premises and in particular the presence of noise limiting features
- the occupancy capacity of the premises
- the availability of public transport
- 'wind down period' between the end of the licensable activities and closure of the premises
- last admission time

5.7 The following examples of control measures are given to assist applicants who may need to take account of them in their operating schedule, having regard to their particular type of premises and/or activities:

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

6.0 **PROTECTION OF CHILDREN FROM HARM**

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

6.2 The general relaxation in the 2003 Act giving accompanied children greater access to licensed premises is a positive step, aimed at bringing about a social change in family friendly leisure. Clearly this relaxation places additional responsibilities upon licence holders. However, it is also recognised that parents and others accompanying children also have responsibilities.

6.3 The protection of children from harm includes the protection of children from moral, psychological and physical harm and in relation to the

exhibition of films, or transmission of programmes or videos, this includes the protection of children from exposure to strong language and sexual expletives. In certain circumstances children are more vulnerable and their needs will require special consideration. Examples would include topless bar staff, striptease, lap, table or pole dancing, performances involving feigned violence or horrific incidents, feigned or actual sexual acts or fetishism, or entertainment involving strong and offensive language. This vulnerability includes their susceptibility to suggestion, peer group influences, inappropriate example, the unpredictability of their age and the lack of understanding of danger.

6.4 The Council considers that, on the one hand, there should be no presumption of giving children access or, on the other hand, no presumption of preventing their access to licensed premises. The Council has no intention of imposing conditions requiring the admission of children and where no licensing restriction is necessary, admission of children will remain entirely a matter for the discretion of the individual licensee or club, or person who has given a temporary event notice.

6.5 **Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to protect children from harm, relevant to the individual style and characteristics of their premises and events.**

6.6 Whilst children may be adequately protected from harm by the action taken to protect adults, they may also need special consideration and no policy can anticipate every situation. When addressing the issue of protecting children from harm, the applicant must demonstrate that those factors that impact on harm to children have been considered. Areas that will give particular concern in respect of children include:

- where entertainment or services of an adult or sexual nature are commonly provided
- where there have been convictions of members of the current staff at the premises for serving alcohol to minors or with a reputation for underage drinking
- with a known association with drug taking or dealing
- where there is a strong element of gambling on the premises, and
- where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.

6.7 The following examples of control measures are given to assist applicants and are considered to be amongst the most essential that applicants should take account of in their operating schedule, having regard to their particular type of premises and/or activities:

- Effective and responsible management of premises
- Provision of a sufficient number of people employed or engaged to secure the protection of children from harm

- Appropriate instruction, training and supervision of those employed or engaged to secure the protection of children from harm
- Adoption of best practice guidance (Public Places Charter, The Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks)
- Limitations on the hours when children may be present, in all or parts of the premises
- Limitations or exclusions by age when certain activities are taking place
- Imposition of requirements for children to be accompanied by an adult
- Acceptance of accredited 'proof of age' cards and/or 'new type' driving licences with photographs
- Measures to ensure children do not purchase, acquire or consume alcohol
- Measures to ensure children are not exposed to incidences of violence or disorder

These examples can be adopted in any combination.

- 6.8 **In the case of film exhibitions, the Council will expect licence and certificate holders and those who have given notice of a temporary event within the terms of the 2003 Act to implement measures that restrict children from viewing age-restricted films classified according to the recommendations of the British Board of Film Classification or the Council. In the case of a film exhibition that has not been classified, the Council will expect the licensee to conduct an assessment of the suitability of the film for exhibition to children and to implement measures that restrict viewing by children if necessary.**
- 6.9 If considered appropriate, the licensing authority will require, as a condition of the premises licence, that vetting takes place of adult supervisors to ensure their suitability to work with children.
- 6.10 The Council will rarely impose complete bans on access to children. In exceptional circumstances, conditions restricting access or excluding children completely may be considered necessary.

APPLICATION PROCESS

To be detailed when regulations and guidance is available; to include:-

- *Definition of premises and indication of activities in each part of the premises; indication of what is the primary use; what is incidental; what hours licensable activity etc. will take place*
- *Delegated powers and committee process*
- *Application for premises and personal licences and temporary events*
- *Notification for change of details*
- *Applications for variation and the process for individual/one-off special occasions; etc.*
- *Temporary events requiring premises licence – need for early discussion and reference to relevant documents*
- *Administrative details*
- *Preferred timescales for notifying temporary events*
- *New developments; provisional statements; ‘Secure by design’*
- *Applications for amusement with prizes machines*
- *Operating schedules and their use for drafting conditions*
- *Details of recognised body for child protection matters; details of ‘Responsible Authorities’*
- *Contact point for public to obtain advice etc.*

DELEGATION OF FUNCTIONS

Matter to be dealt with	Sub-Committee	Head of Housing, Health & Community Care
Application for a personal licence	If a police objection	If no objection made
Application for personal licence with unspent convictions	All cases	
Application for premises licence/club premises certificate	If a relevant representation made	If no relevant representation made
Application for provisional statement	If a relevant representation made	If no relevant representation made
Application to vary a premises licence/club premises certificate	If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor	If a police objection	All other cases
Request to be removed as designated premises supervisor		All cases
Application for transfer of premises licence	If a police objection made	All other cases
Applications for interim authority	If a police objection made	All other cases
Application to review premises licence/club premises certificate	All cases	
Decision as to whether a complaint is relevant		All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application	All cases	
Determination of police objection to temporary event notice	All cases	

EXEMPTIONS

The following activities are not regarded as Regulated Entertainment are are exempt for the purposes of the Act:-

Exhibition of a Film

If the sole or main purpose of the entertainment is to demonstrate any product, advertise any goods or services, or provide information, education or instruction.

If the entertainment consists of or forms part of an exhibit put on show for any purposes of a museum or gallery.ition

Live Music or Playing Recorded Music

If the entertainment is incidental to some other activity which is not itself within the description of Regulated Entertainment or the provision of entertainment facilities.

Television or Radio Receivers

If the entertainment consists of the simultaneous reception and playing of a programme included in a programme service within the meaning of the Broadcasting Act 1990.

Religious Services & Places of Worship

If the entertainment is for the purposes of, or for purposes incidental to, a religious meeting or service at a place of public worship.

Garden Fetes

If the entertainment is at a garden fete or at a function or event of a similar kind, unless the fete, function or event is promoted with a view to applying the whole or part of its proceeds for purposes of private gain (as defined in the Lotteries & Amusements Act 1976).

Morris Dancing etc.

If the entertainment is a performance of Morris dancing or any dancing of a similar nature or a performance of unamplified, live music as an integral part of such a performance, or facilities for enabling persons to take part in such activities.

Vehicles in Motion

If the entertainment is on premises consisting of or forming part of a vehicle and at a time when the vehicle is not permanently or temporarily parked.

Small Venues Providing Dancing and Amplified or Unamplified Music

Where,

- a premises licence or club premises certificate authorises the supply of alcohol for consumption on the premises and the provision of music entertainment (live music and dancing),
- the relevant premises are used primarily for the consumption of alcohol on those premises, and
- the premises have a capacity not exceeding 200,

any conditions relating to the provision of music entertainment imposed on the licence by the Licensing Authority, other than those set out by the licence or certificate which are consistent with the operating schedule, will be suspended except where they were imposed as being necessary for public safety or the prevention of crime and disorder.

In addition, where

- a premises licence or club premises certificate authorises the provision of music entertainment (live music and dancing), and
- the premises have a capacity limit of up to 200

then, between the hours of 8am and midnight, if the premises are being used for the provision of unamplified live music but no other description of regulated entertainment, any conditions imposed on the licence by the Licensing Authority, other than those set out by the licence or certificate which are consistent with the operating schedule, will be suspended except where they were imposed as being necessary for public safety or the prevention of crime and disorder.

MANDATORY CONDITIONS**Where a premises licence authorises the supply of alcohol:**

1. That no supply of alcohol may be made under the premises licence:-
 - a) at a time when there is no designated premises supervisor in respect of the premises licence, or
 - b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
2. That every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

Exhibition of Films

1. Where a premises licence or club premises certificate authorises the exhibition of films, the licence or certificate must include a condition requiring the admission of children to the exhibition of any film to be restricted in accordance with these paragraphs.
2. Where the film classification body is specified in the licence or certificate, unless paragraph 3(b) below applies, admission of children must be restricted in accordance with any recommendation by that body.
3. Where,
 - a) the film classification is not specified in the licence or certificate, or
 - b) the Licensing Authority has notified the holder of the licence or the club which holds the certificate that this paragraph applies to the film in question,

admission of children must be restricted in accordance with any recommendation made by the Licensing Authority.

4. In these paragraphs, 'children' means persons aged under 18, and 'film classification body' means the person or persons designated as the authority under section 4 of the Video Recordings Act 1984 (authority to determine suitability of video works for classification).

Door Supervision

Where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out security activity, the licence must include a condition that each such individual must be licensed by the Security Industry Authority.

LIST OF CONSULTEES

Essex Police
Essex Fire & Rescue Service
Health & Safety Executive
Local Planning Authority
Existing holders of liquor, public entertainment & late night refreshment house
licences
Town Centre Management
Chamber of Commerce
Federation of Small Businesses
Parish Councils
Residents' Associations (where known)
Residents (via Council website and RDC newspaper?)
Local schools
Crime & Disorder Reduction Partnership
Drug & Alcohol Reference Group
Voluntary Sector (through the Council for Voluntary Services)
Essex Child Protection Committee
Campaign for Real Ale (Camra)
Equity
Musicians' Union
Rural Community Council of Essex
Licensing Solicitors and Licensing Agents
British Beer & Pub Association
British Institute of Innkeepers
Licensed Victuallers' Association
National Federation of Retail Newsagents
Association of Convenience Stores
Bar Entertainment & Dance Association (BEDA)
Security Industry Authority