



Rochford District Council

REVISION OF THE STATEMENT OF LICENSING POLICY

For the period

7 JANUARY 2005 – 6 JANUARY 2008

PREFACE

This Statement of Licensing Policy has been reviewed and revised following 10 months operation of the new licensing system and in recognition of the outcome of a judicial review of Canterbury City Council's policy, which particularly criticised the prescriptive nature of some of the content of the policy.

The Statement of Licensing Policy for Rochford District published in January 2005 was based upon a draft policy that had been drawn up by the Essex Licensing Officer's Forum. In drawing up the draft policy, officers had leant heavily on the Statutory Guidance issued by the Secretary of State under section 182 of the Licensing Act 2003.

Amongst a number of other councils, Canterbury City Council had also based their Statement of Licensing Policy on the Essex model.

In light of the judicial review, Rochford District Council have reviewed their policy statement and removed or amended those parts that were considered to be overly prescriptive. Wherever possible the contents have been modified in order to retain the fullest possible guidance and assistance.

To assist readers, amendments to the original text appear with a line scored through it; new text added appears in italics and underlined. For the purposes of this review and consultation, paragraph and page numbers may differ from the final draft.

This revised Statement of Licensing Policy is offered for consultation to Responsible Authorities, Interested Parties and the public at large, who are invited to make written representations or comment to the address below by no later than 31 March 2006.

The address to which comments should be sent is: -

Rochford District Council,
Licensing Unit,
3 – 19 South Street,
Rochford, Essex,
SS4 1BW

or by e-mail to licensing@rochford.gov.uk

CONTENTS

<u>Paragraph</u>		<u>Page</u>
	Foreword	4
1.0 – 1.14	Introduction	6
1.5 – 1.6	• Licensing Objectives	6
1.7 – 1.10	• Statement of Licensing Policy	7
1.11	• Disclaimer	7
1.12 – 1.13	• Consultation	7
1.14 – 1.17	• Links to other strategies	8
1.18 – 1.21	• Regulated Entertainment	8
1.22 – 1.30	• Applications	9
1.31 – 1.35	• Representations	10
1.36 – 1.44	• Conditions	10
1.45	• Mandatory Conditions	12
1.46 – 1.47	• Delegation of Functions	12
1.48	• The Need for Licensed Premises	13
1.49 – 1.55	• Cumulative Impact	13
1.56 – 1.58	• Advice and Guidance	13
1.59 – 1.61	• Reviews	14
1.62 – 1.67	• Enforcement	14
2.0 – 2.15	Licensing Objectives	16
3.0 – 3.8	Prevention of Crime and Disorder	18
4.0 – 4.4	Public Safety	20
5.0 – 5.7	Prevention of Public Nuisance	22
6.0 – 6.14	Protection of Children From Harm	24

Foreword

Rochford 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.

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.

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, and local bus services.

The District currently has 113 premises licensed for the sale of alcohol of which 45 are public houses; 37 are off-licences; 19 are restaurants; 12 are licensed clubs. In addition there are 34 premises licensed for public entertainment and 27 premises with a Club Registration Certificate.

The majority of premises are spread throughout the district with the main concentrations being in Rayleigh and Rochford. There are few premises that provide late-night entertainment of which the main concentration is situated adjacent to the airport's boundary at Aviation Way.

In the more rural areas, public houses, village halls and community centres form focal points for the community and local convenience stores, off-licences, garages and take-away restaurants make an important contribution to local communities by providing outlets to buy food and drink.

The Licensing Act 2003 affects all premises that are used to supply alcohol, to carry on permitted club activities, to provide regulated entertainment or to provide hot food and drink between 11pm and 5am. The effect is that potentially a larger number of premises will require licences including, for the first time, mobile burger-vans and take away restaurants that trade after 11pm.

During the 'transitional period' in which existing licences were 'converted' into new premises licences and club premises certificates, It is anticipated that approximately 200 premises in the Rochford District will need to be licensed and 296 people will need to be issued with personal licences authorising them to sell or supply alcohol. It is also expected that of the existing 134 premises licensed for the sale of alcohol, about 100 will apply for variation to their hours and type of trading.

The Council will monitor the continuing expansion of the leisure industry, which provides an essential contribution to the local economy in jobs and revenue in the district, in order to maintain a balance between those interests and the interests of preserving the heritage of the area and protecting the interests of residents.

This 'Statement of Licensing Policy' sets out: the policies the Council will generally apply to promote the licensing objectives when making decisions on applications, information about the application process, what is expected of applicants and how people can make representations about applications, the types of controls that are available to the Council when decisions are made about licence applications, and what action can be taken if complaints are received.

There are specific sections of the 'Statement of Licensing Policy' that deal with each of the four 'licensing objectives'.

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.

1.0 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 committee of between 10 and 15 members - the Licensing Committee.
- 1.3 ~~When assessing applications, the Licensing Authority 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 Licensing Authority expects to see addressed in the applicant's operating schedule, where appropriate. *In this policy, bold type refers to matters that the Licensing Authority considers to be of particular importance for applicants to consider in preparing an application.* Passages of text that are not in bold type are provided to assist applicants to understand what the Licensing Authority 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 Licensing Authority 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 Licensing Authority 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.~~

- 1.6 **Applicants should consider what measures are required to be implemented and maintained in respect of each of the four licensing objectives that are relevant to the individual style and characteristics of their premises and the types of licensable activities and events that it is proposed to carry out in them. Where appropriate, applicants should consider whether or not any additional measures are required in respect of occasional or specific events that it is intended will or are likely to attract larger audiences.**

Statement of Licensing Policy

- 1.7 The 2003 Act requires the Licensing Authority to publish a 'Statement of Licensing Policy' for each 3 year period that sets out the policies the Licensing Authority 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 The 2003 Act further requires the Licensing Authority to monitor, review and, where appropriate, amend its Statement of Licensing Policy. The Licensing Authority will consult with those groups mentioned in paragraph 1.13 below prior to amending any part of the policy and in preparing its Statement of Licensing Policy for each future 3-year period.
- ~~1.10 This 'Statement of Licensing Policy' takes effect on January 7, 2005.~~
- 1.10 **This 'Statement of Licensing Policy' was reviewed in December 2005, circulated for consultation between January and March 2006 before being ratified by Full Council on 27 April 2006. It has effect until January 6, 2008.**

Disclaimer

- 1.11 **The advice and guidance contained in the appendices attached to this Statement of Licensing Policy is intended only to assist readers in consulting the policy and should not be interpreted as legal advice or as constituent of Rochford District Council's Statement of Licensing Policy. Readers are strongly advised to seek their own legal advice if they are unsure of the requirements of the Licensing Act 2003, or of the Guidance or Regulations issued under the Act.**

Consultation

- 1.12 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.

- 1.13 In developing this Policy Statement, the Licensing Authority 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 the consultation process.

Links to other Strategies

- 1.14 In preparing this statement of licensing policy, the Licensing Authority 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.
- 1.15 Further, arrangements will be made for the Licensing Committee to receive reports, when appropriate, on the needs of local tourism to ensure that these are reflected in their considerations. The Licensing Committee will also be apprised of the local employment situation and the need for new investment and employment, where appropriate.
- 1.16 To ensure proper integration with the Council's planning policies, the 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.
- 1.17 The Licensing Authority 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

- 1.18 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.
- 1.19 The Licensing Authority 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.
- 1.20 The Licensing Authority 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.

- 1.21 Appendices A and B provide definitions of legal terms used within the Act and exemptions to the need for licensing.

Applications

- 1.22 When considering applications, the Licensing Authority 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.
- 1.23 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.
- 1.24 When the Licensing Authority 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.
- 1.25 **The Licensing Authority would normally expect that applications for premises licences for permanent commercial premises should 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.)
- 1.26 When one part of the Council seeks a premises licence from the licensing authority, the 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.
- 1.27 In keeping with the Council's policy on the introduction of e-Government, the Licensing Authority consents to applications and other notices being given electronically where the Act and regulations allow. *However, it should be noted that regulations to the Licensing Act 2003 require that where applications and notices are given electronically, they must also be given in writing, i.e. in manuscript form with a signature.*
- 1.28 The address at which the Licensing Authority will accept applications and notices is: -
- By post/personal service to The Licensing Unit, Rochford District Council, South Street, Rochford, Essex, SS4 1BW
 - By e-mail to licensing@rochford.gov.uk
 - By facsimile to 01702 545737

- On-line (when the facility becomes available)
- 1.29 Where applications for premises licences and club premises certificates have been granted, the Licensing Authority will send the licence or certificate to applicants by post. ~~However, in respect of the initial grant of a personal licence, the Licensing Authority requires applicants to collect them personally and provide evidence of identity, date of birth and address.~~
- 1.30 Appendices C and D provide applicants with advice and guidance on the application process and the scale of licensing fees.

~~Transitional Period and 'Grandfather Rights'~~

- ~~4.31 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.~~

Representations

- 1.31 Any Responsible Authority or Interested Party may make relevant representations in respect of applications for the grant or variation 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 personal licences, premises supervisors, transfers of premises licences, interim authorities or the issue of a temporary event notice.
- 1.32 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.
- 1.33 Where a representation is made and not withdrawn, the Licensing Authority must hold a hearing to determine the application (unless all parties involved agree that a hearing is unnecessary).
- 1.34 Where the Responsible Authorities or Interested Parties do not raise any relevant representations about the application, the Licensing Authority will grant the licence or certificate subject to, in the case of a premises licence or club premises certificate, only those conditions that are consistent with the operating schedule and any mandatory conditions prescribed by the Licensing Act 2003.
- 1.35 Appendices E and F provide applicants with contact details of Responsible Authorities and information concerning Representations (and who can make them), Reviews, Hearings and Appeals.

Conditions

- 1.36 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.

- 1.37 In order to minimise the necessity for hearings, it would be sensible for applicants and clubs to consult with Responsible Authorities when operating schedules are being prepared to allow for proper liaison before representations prove necessary.**
- 1.38 Where relevant representations are made, the Licensing Authority 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.
- 1.39 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.
- 1.40 The Licensing Authority may not impose any conditions unless its discretion has been engaged following the making of relevant representations and it has been satisfied at a hearing of the necessity to impose conditions due to the representations raised. It may then only impose such conditions as are necessary to promote the licensing objectives arising out of the consideration of the representations.
- 1.41 The Licensing Authority 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 customers 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 premises licence or club premises certificate in question.
- 1.42 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.
- 1.43 The Licensing Authority 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. No condition will be imposed that cannot be shown to be necessary for the promotion of the licensing objectives.
- 1.44 In all cases, applicants and those making representations that are genuinely aggrieved by a decision of the Committee are entitled to appeal to the Magistrates' Court against the decisions of the Committee.

Mandatory Conditions

- 1.45 Appendix G sets out the Mandatory Conditions that are applicable to all premises in respect of the supply of alcohol, exhibition of films and employment of door supervisors.

Delegation of Functions

- 1.46 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. The Licensing Committee will receive regular reports regarding licences determined by officers under delegated powers, in order to maintain an overview of the general situation.
- 1.47 Appendix H contains a table setting out how the licensing authority intends to approach its various functions.

The Need for Licensed Premises

- 1.48 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

- 1.49 “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.

- 1.50 The Licensing Authority 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.
- 1.51 The Licensing Authority 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.
- 1.52 The Licensing Authority, 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.**
- 1.53 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.
- 1.54 In any future consideration of the question of a special policy regarding “cumulative impact” the Licensing Authority will consult the persons listed in section 5 (3) Licensing Act 2003.
- 1.55 Following a successful representation in such matters, the Licensing Authority’s Statement of Licensing Policy will be reviewed and amended.

Advice and Guidance

- 1.56 The Licensing Authority 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 Licensing Authority, Essex Police and/or Essex County Fire and Rescue Service will offer as much advice and guidance to applicants, as resources permit.
- 1.57 The Licensing Authority 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.

- 1.58 Appendices J and K provide a list of references to 'best practice' and details of various organisations and trade associations that an applicant may find useful in preparing an operating schedule and running a safe premises/event.

Reviews of Licences

- 1.59 Where possible and appropriate the Licensing Authority, ~~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.
- 1.60 Responsible authorities and/or interested parties living in the vicinity can trigger a review of a premises licence *or club premises certificate, based upon one or more of the licensing objectives not being met*, but an evidentiary basis would be required to be presented to the Licensing Authority.
- 1.61 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.

Enforcement

- 1.62 The Licensing Authority is responsible for the administration and enforcement of the licensing regime and has adopted the Government's Enforcement Concordat designed to ensure effective and efficient public protection services. Specifically, the Licensing Authority is committed to accord with the principles of good enforcement practice by carrying out its regulatory functions in a fair, open and consistent manner.
- 1.63 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.
- 1.64 The Licensing Authority 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.
- 1.65 The Licensing Authority 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 Licensing Authority will undertake its role and how the principles of effective enforcement will be achieved.

- 1.66 The Licensing Authority 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.
- 1.67 The enforcement policy and protocols are freely available from the licensing section, as are details of the corporate complaints procedures, which can also be viewed on the Council's website: www.rochford-council.gov.uk

2.0 LICENSING OBJECTIVES

- 2.1 The following sections set out the Licensing Authority's Policy relating specifically to the four licensing objectives (paragraph 1.5 above).
- 2.2 In each of the following sections the Licensing Authority 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.
- 2.3 **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.**
- 2.4 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.
- 2.5 **The selection of control measures, referred to in 2.4 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.).**
- 2.6 The Licensing Authority ~~expects~~ *suggests* that such risk assessments ~~would~~ *should* be documented as 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.
- 2.7 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.
- 2.8 **Reference ~~must~~ *should* be made in an applicant's operating schedule, where applicable, to such occasions and the additional measures that are ~~planned~~ *considered necessary* in order to achieve the licensing objectives.**
- 2.9 The Licensing Authority 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.
- 2.10 **The Licensing Authority therefore strongly encourages all holders of premises licences to ensure that these elements are considered and undertaken.**
- 2.11 In addition, the occupancy capacity for premises and events, as appropriate, is also considered to be an important 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).

- ~~2.12 The Licensing Authority will expect the issue of occupancy capacity to be considered and addressed, where necessary, within an applicant's operating schedule and, in appropriate instances, will agree a maximum occupancy capacity, based on the applicant's assessment within their operating schedule.~~
- 2.12 **The Licensing Authority suggests that the issue of occupancy capacity should be considered and addressed, where necessary, within an applicant's operating schedule.**
- 2.13 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.
- 2.14 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 Licensing Authority recognises that the person in charge at the premises can often readily assess the capacity of premises without resort to such measures.
- 2.15 **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 Licensing Authority expects an applicant to detail the additional arrangements that will be put in place to ensure that the capacity of the premises is not exceeded applicants must take such measures as they consider appropriate to ensure the capacity of the premises is not exceeded.**

3 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.
- ~~3.4 **When addressing crime and disorder the applicant should initially identify any particular issues (having regard to their particular type of premises and/or activities) that are likely to adversely affect the promotion of the crime and disorder objective. Such steps as are required to deal with these identified issues should be included within the applicant's operating schedule.**~~
- 3.4 *When preparing an application for the grant or variation of a premises licence or club premises certificate, applicants should consider if there are any particular issues effecting crime and disorder, having regard to their particular type of premises and / or activities proposed. Where an applicant identifies such issues, they should include within the operating schedule such steps as are considered appropriate to deal with them.***
- 3.5 Applicants should demonstrate that they have considered those factors that impact on crime and disorder. These may include Examples of some of the issues that impact on crime and disorder are: -
- underage drinking,
 - drunkenness on premises,
 - public drunkenness,
 - drugs,
 - violent behaviour,
 - anti-social behaviour.
- 3.6 Applicants may wish to consider the following examples of control measures that might be included 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.

3.7 Within the operating schedule for premises from which alcohol will be sold, a Premises Supervisor must be designated. The Licensing Authority will normally expect the Designated Premises Supervisor (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 frequent basis. In addition to the DPS holding a personal licence, the Licensing Authority would strongly encourage the DPS to undergo training and to have experience commensurate with the nature and style of entertainment provided and the capacity of the premises.

3.8 Certain temporary events are not required to be licensed but can be notified to the Licensing Authority 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 Licensing Authority to work with them to identify and reduce the risk of crime and disorder.

4 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.

~~4.2 Where an applicant identifies an issue in regard to public safety (including fire safety) which is not covered by existing legislation, the applicant should identify in their operating schedule the steps which will be taken to ensure public safety, relevant to the individual style and characteristics of their premises and events.~~

4.2 *When preparing an application for the grant or variation of a premises licence or club premises certificate, applicants should consider if there are any particular issues effecting public safety (including fire safety), having regard to their particular type of premises and / or activities proposed. Where an applicant identifies such issues, they should include within the operating schedule such steps as are considered appropriate to deal with them.*

4.3 Applicants should demonstrate that they have considered those factors that may impact on public safety. These may include *Examples of some of the issues that impact on public safety are:* -

- 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.

4.4 Applicants may wish to consider the following examples of control measures that might be included 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 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 Licensing Authority wishes to 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 Licensing Authority 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 Licensing Authority 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 Licensing Authority will normally permit the hours during which alcohol is sold to match the normal trading hours during which other sales take place.
- ~~5.5 **When addressing public nuisance the applicant should initially identify any particular issues (having regard to their particular type of premises and/or activities) that are likely to adversely affect the promotion of the objective to prevent public nuisance. Such steps as are required to deal with these identified issues should be included within the applicant's operating schedule**~~
- 5.5 *When preparing an application for the grant or variation of a premises licence or club premises certificate, applicants should consider if there are any particular issues effecting public nuisance, having regard to their particular type of premises and / or activities proposed. Where an applicant identifies such issues, they should include within the operating schedule such steps as are considered appropriate to deal with them.***
- 5.6 Applicants should demonstrate that they have considered those factors that may impact public nuisance. These may include Examples of some of the issues that impact upon public nuisance are: -
- 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 Applicants may wish to consider the following examples of control measures that might be included 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 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 Licensing Authority considers that, on the one hand, there should be no presumption of either giving children access or, on the other hand, of preventing their access to licensed premises. The Licensing Authority 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 When addressing the protection of children, the applicant should initially identify any particular issues (having regard to their particular type of premises and/or activities) that are likely to cause concern in relation to children. Such steps as are required to deal with these identified concerns should be included within the applicant's operating schedule.~~
- 6.5 **When preparing an application for the grant or variation of a premises licence or club premises certificate, applicants should consider if there are any particular issues effecting safeguarding children from harm, having regard to their particular type of premises and / or activities proposed. Where an applicant identifies such issues, they should include within the operating schedule such steps as are considered appropriate to deal with them.**
- 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. Applicants should demonstrate that they have considered those factors that impact on harm to children. Areas that will require particular consideration in respect of children

~~include~~ Examples of some of the issues that impact on protecting children from harm are: -

- premises where entertainment or services of an adult or sexual nature are commonly provided,
- premises 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,
- premises with a known association with drug taking or dealing,
- premises where there is a strong element of gambling on the premises,
- premises 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 Applicants may wish to consider the following examples of control measures that might be included 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 2003 Act requires a condition to be included in all premises licences and club premises certificates for the admission of children to the exhibition of any film to be restricted in accordance with the recommendations of, currently, the British Board of Film Classification or the Licensing Authority itself.

- 6.9 It is this Licensing Authority's policy that the grant of a licence authorising the exhibition of any film will be conditional upon such film/s having been classified by the British Board of Film Classification or, exceptionally in the case of an unclassified film, by the Licensing Authority. Where the Licensing Authority decides to impose its own classification on a film, it will do so using the guidelines shown at Appendix L.
- ~~6.10 In the case of film exhibitions, the Licensing Authority will expect licence and certificate holders and those who have given notice of a 'permitted temporary activity' to include in their operating schedules those measures that will be implemented for restricting children from viewing age-restricted films classified according to the recommendations of the British Board of Film Classification or, exceptionally, those made by the Licensing Authority.~~
- 6.10 **In the case of film exhibitions, applicants should consider appropriate measures that may be implemented for restricting children from viewing age-restricted films classified according to the recommendations of the British Board of Film Classification or, exceptionally, those made by Rochford District Council and, where appropriate, such measures should be included in the operating schedule.**
- 6.11 The Licensing Authority will require, as a condition of the premises licence, that adult supervisors be vetted to ensure their suitability to work with children and young persons.
- 6.12 The Licensing Authority expects that when a licensable activity is held exclusively for children and young persons, that there will be sufficient numbers of staff available who have undertaken an enhanced disclosure check with the CRB, to ensure the safety of those children. This does not require each member of staff to have undergone this level of check but the Licensing Authority expects that there should be sufficient members that have, who are then able to supervise others, e.g. there will be one person at the main entrance to the premises who has been subject of advanced disclosure responsible for supervising the searching and checking of children by those who have not.
- 6.13 Any searching of children or young persons, other than of outer clothing that can firstly be removed, must always be conducted by someone of the same sex as the child.
- 6.14 The Licensing Authority will rarely impose complete bans on access to children. In exceptional circumstances, conditions restricting access or excluding children completely may be considered necessary.