

REVIEW OF STATEMENT OF LICENSING POLICY

1 SUMMARY

- 1.1 This report details the response to the draft Statement of Licensing Policy that was approved for consultation by the Licensing Committee on 15 July 2010.

2 INTRODUCTION

- 2.1 In accordance with Section 5 (1) of the Licensing Act 2003 the Council's current policy for the period ending 6 January 2011 was reviewed, revised and approved for consultation between 19 July and 18 October 2010.

3 BACKGROUND

- 3.1 The consultative process was carried out by sending copies of the draft policy to the Responsible Authorities under the Act; by placing copies of the policy at the Council's offices and in local libraries; by advertising the process on the Council's website and by notifying other stakeholders of the process.
- 3.2 A copy of the policy consulted upon is attached at Appendix A.

4 RESPONSES

- 4.1 There were no responses received to the consultation.

5 RISK IMPLICATIONS

- 5.1 There is a statutory obligation for the statement of licensing policy to be reviewed and published for each 3-year period. Failure to do so could result in the policy being challenged.
- 5.2 If successfully challenged on the content of the policy, the Council's reputation would be harmed.
- 5.3 The Licensing Authority is bound by the provisions of the Act, the statutory guidance issued by the Secretary of State and its own statement of licensing policy in administration of the licensing regime and in determining licensing issues. The integrity of the policy therefore has the potential to directly impact upon the Authority's determination of applications under the Act.

6 LEGAL IMPLICATIONS

- 6.1 There may be a potential for decisions made in determining licensing applications to become the subject of judicial review or appeal if the statement of licensing policy is not credible and is subject to legal challenge,

7 RECOMMENDATION

- 7.1 It is proposed that the Council **RESOLVES** to approve the Statement of Licensing Policy for the period 7 January 2011 to 6 January 2014

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Background Papers: -

None.

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If you would like this report in large print, Braille or another language please contact 01702 546366.

Statement of Licensing Policy

Licensing Act 2003

For the period ending 6 January 2014



Preface

This Statement of Licensing Policy is the fourth that has been approved by the Licensing Authority in accordance with the Licensing Act 2003.

Since the adoption of the third statement the Act has been amended. The amendments allow the imposition of additional mandatory conditions; remove the requirements for certain community premises to have a designated premises supervisor; provide a simpler procedure for minor variations to a licence or certificate; provide summary review procedure in cases of serious crime or disorder; provide new offences and powers in relation to underage sales and empower local authorities to make early morning alcohol restriction orders. References in this statement to the Licensing Act 2003 are references to the Act as amended.

In reviewing this Statement of Licensing Policy, the Licensing Authority took account of the revised guidance issued by the Secretary of State for the Department of Culture, Media & Sport under section 182 of the Licensing Act 2003 approved in March 2010.

The revised policy was offered for consultation between 19 July 2010 and 18 October 2010 to which there were no responses.

The policy was approved by the Licensing Authority on 14 December 2010 and has effect from 7 January 2011 to 6 January 2014 unless reviewed and revised during that period.

Any comments on the contents of this policy should be sent to:-

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

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

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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 79,000 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 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 2300hrs and 0500hrs. The effect is that potentially a larger number of premises will require licences including itinerant and take-away food businesses that trade after 2300hrs. The majority of premises are spread throughout the District with the main concentrations being in Rayleigh and Rochford.

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 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. It also sets out information about the application process, what is expected of applicants and how people can make representation about applications. It also sets out the types of controls that are available to the Council when decisions are made about licence applications and explains 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, as amended, 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 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 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 11.00 pm. 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:-
 - (a) the prevention of crime and disorder;
 - (b) public safety;
 - (c) the prevention of public nuisance;
 - (d) the protection of children from harm.
- 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 are to be carried 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 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 Community Safety 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' was reviewed in June 2010, circulated for consultation between 19 July 2010 and 18 October 2010 before being ratified by Full Council on 14 December 2010. It has effect until 6 January 2014.

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 South-Eastern Police Division, Essex County Fire and Rescue Service, representatives of existing licence holders, businesses, voluntary groups and residents were taken into account. Due consideration was also given to the views of all those who responded to the consultation process.

Responsible Authorities

- 1.14 The Licensing Act 2003, as amended, prescribes the Responsible Authorities that have statutory functions or are considered to be consultees under the Act.
- 1.15 In addition, paragraph 13.52 of the guidance issued by the Secretary of State under section 182 of the Act recommends that the Licensing Authority should indicate the body that is competent to advise it about the protection of children from harm.
- 1.16 The Authority have applied the following considerations in discharging this responsibility:-
- (a) the competency of the body to advise the Licensing Authority;
 - (b) the need for the body to be responsible for an area covering the whole of the Licensing Authority's area;
 - (c) the need for the body to be answerable to persons who are duly elected through a statutory process rather than any particular invested interest group etc.
- 1.17 The Licensing Authority designates the Essex Safeguarding Children's Board for this purpose.

Links to other Strategies

- 1.18 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 Community Safety Partnership plan, the Council's Cultural Strategy, its Local Development Plan and Economic Development 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.
- 1.19 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.
- 1.20 To ensure proper integration with the Council's planning policies, the Licensing Committee, when appropriate, will provide reports to the Executive 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 Development Control Committee to have regard to such matters when making its decisions.

- 1.21 The Licensing Authority recognises its responsibilities under the Race Relations Act, 1976, as amended. The impact of this policy on those matters will be monitored through the Council's Race Equality Scheme.

Regulated Entertainment

- 1.22 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.
- 1.23 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.
- 1.24 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.
- 1.25 Appendices A and B provide definitions of legal terms used within the Act and exemptions to the need for licensing.

Applications

- 1.26 When considering applications, the Licensing Authority will have regard to:
- (a) the Licensing Act 2003, as amended and the licensing objectives;
 - (b) guidance issued under Section 182 of the Licensing Act 2003, as amended;
 - (c) any supporting regulations;
 - (d) this Statement of Licensing Policy.
- 1.27 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.
- 1.28 The Licensing Authority recognises that, in some circumstances, longer licensing hours for the sale of alcohol may help to avoid concentrations of customers leaving premises simultaneously and to reduce the potential for disorder. It also recognises that overly restrictive hours may inhibit the development of night-time economies that are important for investment, employment and tourism.

- 1.29 When determining applications before a Licensing Sub-Committee, the Authority will seek to balance those factors against their duty to promote the 4 licensing objectives and the rights of residents to peace and quiet.
- 1.30 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.
- 1.31 **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.)
- 1.32 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.

New and Varied Licences/Certificates

- 1.33 Where no licence or certificate exists in respect of premises, an application for a new licence or certificate must be made in order to carry out licensable activities.
- 1.34 An application may be made to vary a premises licence or a club premises certificate, or to vary a premises licence to specify an individual as the premises supervisor.
- 1.35 Following amendments to the Act; applications may be made for a 'minor variation' under a less bureaucratic and costly process. The Act prescribes the types of variation that may not be dealt with as 'minor variations' (Appendix C1).
- 1.36 In addition, Guidance issued by the Secretary of State under section 182 of the Licensing Act 2003, as amended, suggests types of variation that might or might not be considered to be minor.
- 1.37 The Act also provides the Licensing Authority with discretion to determine whether a proposed variation is a minor variation.
- 1.38 This Authority considers that the following types of application will not normally fall within the category of being a minor variation:-
- (a) To increase the hours during which licensable activity may be carried on under the licence;
 - (b) To increase the opening hours of the premises;
 - (c) To make a second or subsequent application for structural alterations to be carried out within 12 months of a similar application being made.

- 1.39 In all cases, the Authority reserves the right to consider each application on its own merit. The decision will be taken by officers of the Authority and their decision will be final.
- 1.40 The Licensing Authority will consider applications for minor variations to premises licences or club premises certificates, providing that the Authority is satisfied that the variation will not adversely impact on the licensing objectives and the Licensing Authority will consult with the responsible authorities whom they deem necessary to make assessment.
- 1.41 An application to vary the existing licence or certificate should be made where the proposed variation is in respect of changes to the types of licensable activities that are to be undertaken and / or the hours those activities are to take place, or where structural changes are to be made to the premises.
- 1.42 Where the proposed variation to a licence or certificate is in respect of structural alterations, the application must always be accompanied by a plan of the proposed alterations in addition to the existing licence or certificate and the plan to which it relates.
- 1.43 There is little guidance available as to when a new licence should be applied for rather than a variation to an existing licence in respect of structural alterations. The Licensing Act 2003, as amended, does not allow an application to vary the licence to be made to vary substantially the premises to which it relates. This will be a matter of fact in each case and applicants are advised to discuss the matter with Officers of the Authority before submitting an application.
- 1.44 In addition, when completing section 3 of the application form, it is important that applicants ensure they provide sufficient time for the alterations to be carried out when stating the date upon which the variation is to take effect. This is to ensure that when the licence or certificate comes into force, the plan to which it relates accurately reflects the layout of the building.
- 1.45 If the actual date when the alterations have been completed differs from that requested, applicants must inform the Licensing Authority so that the licence or certificate can be issued correctly. **Failure to do so may result in an offence being committed under section 136 of the Licensing Act 2003, as amended, of carrying on a licensable activity otherwise than under and in accordance with an authorisation.**

Electronic Applications

- 1.46 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. The address at which the Licensing Authority will accept applications and notices is:-
- (a) by post/personal service to The Licensing Unit, Rochford District Council, South Street, Rochford, Essex, SS4 1BW;
 - (b) by e-mail to licensing@rochford.gov.uk;
 - (c) by facsimile to 01702 545737;
 - (d) on-line at www.rochford.gov.uk
- 1.47 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.
- 1.48 Appendices C and D provide applicants with advice and guidance on the application process and the scale of licensing fees.

Interested Parties

- 1.49 Interested Parties can make representations about licensing applications or apply for a review of an existing licence.
- 1.50 A person is an Interested Party in relation to an application for or in respect of a Premises Licence or Club Premises Certificate if, in the opinion of the Licensing Authority the person:-
- (a) lives in the vicinity of the premises, i.e. lives sufficiently close to the premises that they are likely to be affected by the authorised activities;
 - (b) is involved in a business in the vicinity of the premises; or
 - (c) represents persons who satisfy paragraphs (a) or (b).
 - (d) is a Member of the Licensing Authority
- 1.51 The principles the licensing authority will apply to determine whether a person is an interested party are that:-
- (a) each case will be decided upon its merits;
 - (b) the authority will not apply a rigid rule to its decision-making and will consider the examples of considerations provided in the guidance to the Act;

- (c) the authority will also consider the term "involved in any business" in its widest possible context, which might include partnerships, charities, faith groups and medical practices.
- 1.52 Interested Parties can also include persons who are duly elected, such as Parish Councillors and MPs, who can make representations in writing and at a hearing in their own right if they live or are involved in a business in the vicinity of the premises in question or on behalf of an interested party such as a resident or local business if specifically asked to do so.
- 1.53 However, where they have a prejudicial interest in an application, they can only attend a meeting to make representations, answer questions or give evidence (where the public are also allowed to attend for the same purpose) provided that they withdraw from the meeting immediately afterwards.
- 1.54 The Licensing Authority considers that Trade Associations, Trade Unions and Residents and Tenants Associations qualify as Interested Parties where they can demonstrate that they represent persons in paragraph 1.50 (a) or (b).
- 1.55 This authority will not however generally view these bodies as Interested Parties unless they have a member who can be classed as an Interested Party.
- 1.56 This Authority will generally require written evidence that a person is authorised to represent an Interested Party in any case other than that mentioned in paragraph 1.52 above.
- 1.57 In determining if a person lives or has business interests sufficiently close to the premises that are likely to be affected by the authorised activities the Licensing Authority will consider the following factors:-
- (a) the size of the premises;
 - (b) the nature of the premises;
 - (c) the distance of the premises from the location of the person making the representation;
 - (d) the potential impact of the premises (e.g. number of customers, routes likely to be taken by those visiting the establishment);
 - (e) the nature of the complaint. This does not mean the personal characteristics of the complainant but the interest of the complainant, which may be relevant to the distance from the premises;
 - (f) the catchment area of the premises (i.e. how far people travel to visit);

Representations

- 1.58 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 South-Eastern Police Division may make representations in respect of the grant of a personal licence, transfer of a premises licence or changes to the premises supervisor, or the issue of a temporary event notice.
- 1.59 A representation will only be 'relevant' if it relates to the 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.
- 1.60 As the Licensing Authority has to be satisfied that the representation is made by an Interested Party, which can generally only be determined by reference to the name and address of the person making it, this Authority will not consider any representation that fails to provide those details.
- 1.61 Where relevant representations are made, the Licensing Authority must provide copies of those representations to the applicant. The Licensing Authority accepts that in exceptional circumstances, an Interested Party may not wish for his/her personal details to be disclosed to the applicant.
- 1.62 Where the Licensing Authority consider that a relevant representation has been made and that exceptional circumstances exist, details of the name and address may be withheld from the copy of the representation that is provided to the applicant.
- 1.63 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.
- 1.64 Where the Responsible Authorities or Interested Parties do not raise any relevant representations about the application made to the Licensing Authority, the Licensing Authority will grant the licence or certificate subject only to conditions that are consistent with the operating schedule and any mandatory conditions prescribed by the Licensing Act 2003, as amended.
- 1.65 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

- 1.66 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.
- 1.67 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.
- 1.68 **In order to minimise problems and 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.**
- 1.69 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.
- 1.70 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.
- 1.71 The Licensing Authority acknowledges that the licensing function cannot be used for the general control of the anti-social behaviour of individuals. 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:-
- (a) planning controls;
 - (b) positive measures by the Council to create a safe and clean town environment in partnership with local businesses, transport operators, etc.;
 - (c) the provision of CCTV surveillance in town centres, ample taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols;

- (d) 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 Town Centre;
 - (e) police enforcement of the general law concerning disorder and antisocial behaviour, including issuing fixed penalty notices for disorder, making dispersal orders, etc.;
 - (f) the prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk;
 - (g) the confiscation of alcohol from children and adults in designated areas;
 - (h) 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;
 - (i) 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.
- 1.72 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.
- 1.73 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.

Mandatory Conditions

- 1.74 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

- 1.75 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.

- 1.76 Appendix H contains a table setting out how the licensing authority intends to approach its various functions.

The Need for Licensed Premises

- 1.77 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

- 1.78 “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.
- 1.79 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.
- 1.80 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.
- 1.81 **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.**
- 1.82 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.
- 1.83 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) of the Licensing Act 2003, as amended.

- 1.84 Following a successful representation in such matters, the Licensing Authority's Statement of Licensing Policy will be reviewed and amended.

Advice and Guidance

- 1.85 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.
- 1.86 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.
- 1.87 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

- 1.88 Where possible and appropriate the Licensing Authority will give early warning to licence holders of any concerns about problems identified at premises and of the need for improvement.
- 1.89 Any Responsible Authority or Interested Party may apply for a review of a premise's licence or a club premise's certificate by serving a notice containing details of the application on the holder of the licence or certificate and to each of the Responsible Authorities.
- 1.90 An application for review will only be 'relevant' if the grounds upon which it is made relate to the promotion of at least one of the four licensing objectives and is not frivolous, vexatious or repetitive. An evidentiary basis will be required to be presented to the Licensing Authority.
- 1.91 Where an Interested Party applies for a review, the Licensing Authority has to be satisfied that the person making it qualifies as an Interested Party and that it is relevant. There is no appeal to the decision of the Authority other than by way of judicial review.

- 1.92 As the Licensing Authority can generally only determine whether a person is an Interested Party by reference to the name and address of the person making the application, this Authority will not consider any application that fails to provide those details.
- 1.93 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.
- 1.94 Appendices E and F provide applicants with contact details of Responsible Authorities and information concerning Reviews (and who can make them), Hearings and Appeals.

Summary Reviews (Violent Crime Reduction Act 2006)

- 1.95 Where premises are associated with serious crime or serious disorder a senior police officer (Superintendent or above) may apply for a summary review of a premises licence.
- 1.96 If a summary review is applied for, the Licensing Authority must consider the application within 48 hours (time that is not on a working day is disregarded) and determine what interim steps to take, if any, of those listed below:-
- (a) the modification of the conditions of the premises licence;
 - (b) the exclusion of the sale of alcohol by retail from the scope of the licence;
 - (c) the removal of the designated premises supervisor from the licence;
 - (d) the suspension of the licence.
- 1.97 Although the law allows the decision to be determined in the absence of the premises licence holder, the Licensing Authority will endeavour to always notify the licence holder of the application having been made and of the time, date and place that it will be determined, in order to afford the licence holder or representative the opportunity to attend.
- 1.98 Where the Licensing Authority decide to take any of the interim steps, its decision has immediate effect and an immediate notice of the decision must be given to the licence holder.
- 1.99 Where the licence holder makes representation in respect of the decision, the Licensing Authority must hold a hearing within 48 hours (time that is not on a working day is disregarded) of receipt of the representations and, unless they are withdrawn, consider those representations and any made by the police; consider whether the interim steps are necessary for the promotion of the licensing objectives; determine whether to withdraw or modify the steps taken.
- 1.100 The Licensing Authority must also hold a review hearing within 28 days.

Enforcement

- 1.101 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.
- 1.102 The Enforcement Concordat is based on the principles that businesses should:-
- (a) receive clear explanations from enforcers of what they need to do and by when;
 - (b) have opportunities to resolve differences before enforcement action is taken – unless immediate action is needed;
 - (c) receive an explanation of their rights of appeal.
- 1.103 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.
- 1.104 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. This policy is freely available from the licensing section, as are details of the corporate complaints procedures, both of which can also be viewed on the Council's website:
www.rochford.gov.uk
- 1.105 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.

2 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 suggests that such risk assessments 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 should be made in an applicant's operating schedule, where applicable, to such occasions and the additional measures that are 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 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:-
- (a) the nature of the premises or event;
 - (b) the nature of the licensable activities being provided;
 - (c) the provision or removal of such items as temporary structures, such as a stage, or furniture;
 - (d) the number of staff available to supervise customers both ordinarily and in the event of an emergency;
 - (e) the age of the customers;
 - (f) the attendance by customers with disabilities, or whose first language is not English;
 - (g) availability of suitable and sufficient sanitary accommodation;
 - (h) 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, applicants must take such measures as they consider appropriate to ensure that 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 preparing an application for 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 such steps as are considered appropriate to deal with them within the operating schedule.**
- 3.5 Examples of some of the issues that impact on crime and disorder are:-
- (a) underage drinking;
 - (b) drunkenness on premises;
 - (c) public drunkenness;
 - (d) drugs;
 - (e) violent behaviour;
 - (f) anti-social behaviour.
- 3.6 Applicants may wish to consider the following examples of control measures that might be included in their operating schedule, where appropriate, having regard to their particular type of premises and/or activities:-
- (a) effective and responsible management of premises;
 - (b) training and supervision of staff;

- (c) 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);
 - (d) 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;
 - (e) provision of effective CCTV in and around premises;
 - (f) employment of Security Industry Authority licensed doorstaff;
 - (g) provision of toughened or plastic drinking vessels;
 - (h) provision of secure, deposit boxes for confiscated items ('sin bins');
 - (i) provision of litterbins and other security measures, such as lighting, outside premises;
 - (j) membership of local 'Pubwatch' schemes or similar organisations.
- 3.7 Within the operating schedule for premises from which alcohol will be sold, with the exception of qualifying community premises, 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 Whilst the Licensing Act 2003, as amended requires each sale of alcohol to be made or authorised by a personal licence-holder, there is no requirement for every sale to be made by a personal licence-holder or for them to be personally present at every transaction. Every sale by a person under the age of 18 years must be approved by an authorised person over 18 years. In determining whether real authorisation was given, the Guidance issued by the Secretary of State encourages the practice by personal licence-holders of giving a written authorisation to persons not holding a personal licence.**

- 3.9 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 **When preparing an application for 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 such steps as are considered appropriate to deal with them within the operating schedule.**
- 4.3 Examples of some of the issues that impact on public safety are:-
- (a) the occupancy capacity of the premises;
 - (b) the age, design and layout of the premises, including means of escape in the event of fire;
 - (c) 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;
 - (d) the hours of operation (differentiating the hours of opening from the hours when licensable activities are provided, if different);
 - (e) customer profile (e.g. age, disability);
 - (f) 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, where appropriate, having regard to their particular type of premises and/or activities:-
- (a) suitable and sufficient risk assessments;
 - (b) effective and responsible management of premises;
 - (c) provision of a sufficient number of people employed or engaged to secure the safety of the premises and patrons;
 - (d) appropriate instruction, training and supervision of those employed or engaged to secure the safety of the premises and patrons;

- (e) adoption of best practice guidance (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);
- (f) provision of effective CCTV in and around premises;
- (g) provision of toughened or plastic drinking vessels;
- (h) implementation of crowd management measures.

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 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 preparing an application for 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 such steps as are considered appropriate to deal with them within the operating schedule.**
- 5.6 Examples of some of the issues that impact on public nuisance are:-
- (a) the location of premises and proximity to residential and other noise sensitive premises, such as hospitals, hospices and places of worship;
 - (b) the hours of opening, particularly between 23.00 and 07.00;
 - (c) 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;
 - (d) the design and layout of premises and in particular the presence of noise limiting features;

- (e) the occupancy capacity of the premises;
- (f) the availability of public transport;
- (g) 'wind down period' between the end of the licensable activities and closure of the premises;
- (h) last admission time.

5.7 Applicants may wish to consider the following examples of control measures that might be included in their operating schedule, where appropriate, having regard to their particular type of premises and/or activities: -

- (a) effective and responsible management of premises;
- (b) appropriate instruction, training and supervision of those employed or engaged to prevent incidents of public nuisance, e.g. to ensure customers leave quietly;
- (c) control of operating hours for all or parts (e.g. garden areas) of premises, including such matters as deliveries;
- (d) 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);
- (e) installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices;
- (f) management of people, including staff, and traffic (and resulting queues) arriving and leaving premises;
- (g) liaison with public transport providers;
- (h) siting of external lighting, including security lighting;
- (i) management arrangements for collection and disposal of litter;
- (j) 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 preparing an application for 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 such steps as are considered appropriate to deal with them within the operating schedule.**
- 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. Examples of some of the issues that impact on protecting children from harm are:-
- (a) premises where entertainment or services of an adult or sexual nature are commonly provided;

- (b) 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;
- (c) premises with a known association with drug taking or dealing;
- (d) premises where there is a strong element of gambling on the premises;
- (e) 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, where appropriate, having regard to their particular type of premises and/or activities:-

- (a) effective and responsible management of premises;
- (b) provision of a sufficient number of people employed or engaged to secure the protection of children from harm;
- (c) appropriate instruction, training and supervision of those employed or engaged to secure the protection of children from harm;
- (d) adoption of best practice guidance (Public Places Charter, The Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks);
- (e) limitations on the hours when children may be present, in all or parts of the premises;
- (f) limitations or exclusions by age when certain activities are taking place;
- (g) imposition of requirements for children to be accompanied by an adult;
- (h) acceptance of accredited 'proof of age' cards and/or 'new type' driving licences with photographs;
- (i) measures to ensure children do not purchase, acquire or consume alcohol;
- (j) 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 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 Classifications, or exceptionally, those made by the Licensing Authority and where appropriate such measures should be included within 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, to be accompanied by one other responsible adult.
- 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.



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