



**GEDLING**  

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BOROUGH COUNCIL

**STATEMENT  
OF  
LICENSING POLICY  
2008 - 2011**

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Date: November 2007

Revision: draft 3

## PREFACE

This Statement of Licensing Policy, sets out Gedling Borough Council's policies and proposals for the determination of licence applications and related matters in accordance with the Licensing Act 2003.

It fully replaces the Gedling Statement of Licensing Policy adopted by Gedling Borough Council in December 2004. This statement comes into effect on 7th January 2008.

The Statement of Policy has been put forward for review in the context of matters arising from:

- The Licensing Act 2003
- Statutory guidance issued under s182 of that Act
- The experiences of Gedling Borough Council as a Licensing Authority

Gedling Borough Council has consulted widely over this Statement of Policy which sets out the policies to which the Authority will have regard when undertaking its duties under the Licensing Act 2003.

The Authority consulted the persons/organisations listed in Section 5(3) of the Act. Our consultation took place between the 23<sup>rd</sup> August to 15<sup>th</sup> November 2007 and followed the Better Regulation Executive revised Code of Practice and the Cabinet Office Guidance on Consultations by the public sector. Responses made through consultation have been incorporated in the Policy where considered appropriate, and the consideration by the Authority of those responses is available on the Authority's website at [www.gedling.gov.uk](http://www.gedling.gov.uk).

This Statement of Policy was approved at a meeting of the Full Council on XXXX and was published on its website on XXXX. Copies are available from the Licensing Section, Planning and Environment Department, Gedling Borough Council, Civic Centre, Arnot Hill Park, Arnold, Notts or by downloading from the Gedling Borough Council website.

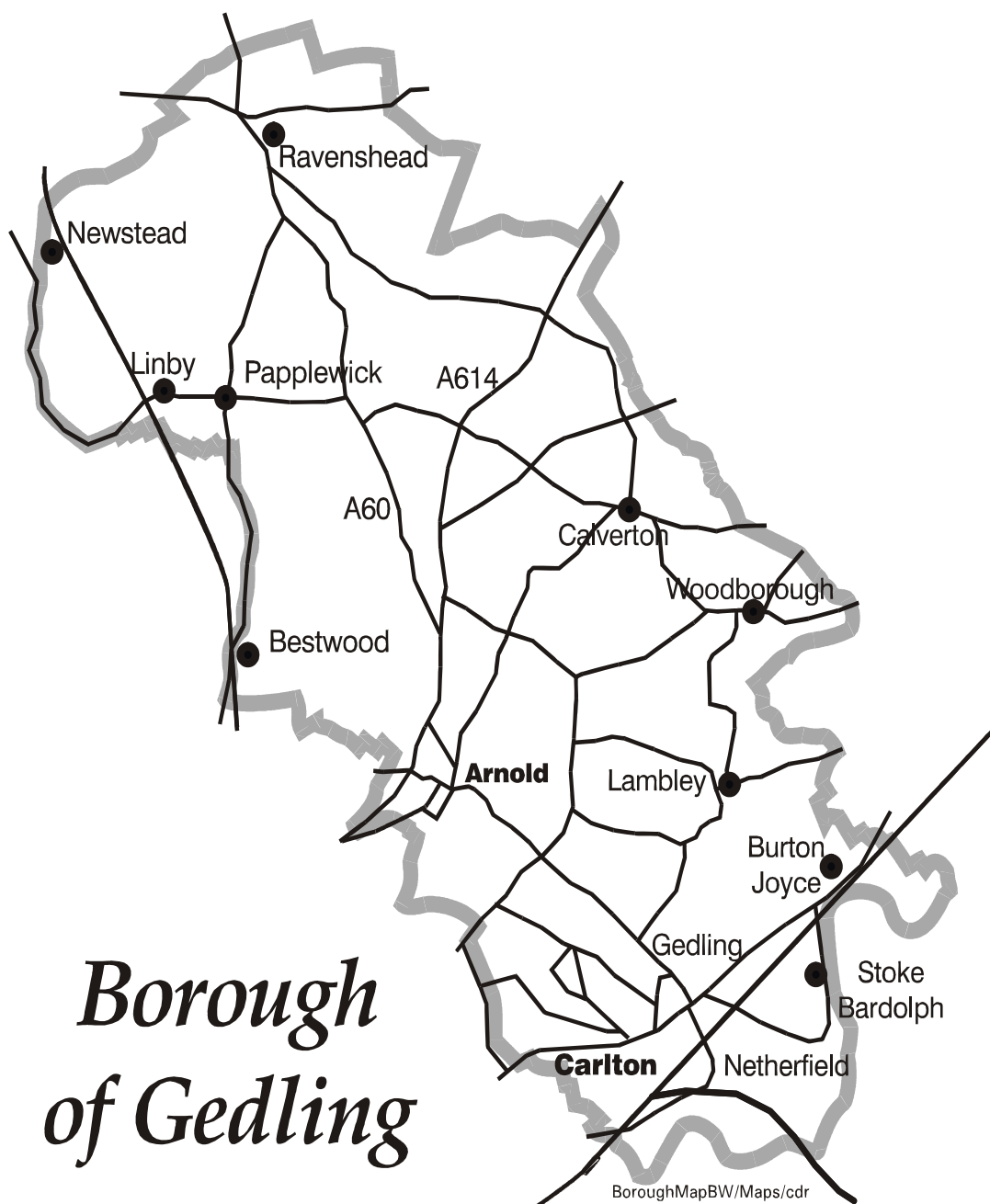
Should you have any comments as regards this Statement of Policy please send them via e-mail or letter to the following contact:

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# 1 INTRODUCTION

- 1.1 Gedling Borough Council is a Licensing Authority for the purpose of the Licensing Act 2003. Section 5 of the Act requires all licensing authorities to prepare and publish a Statement of Policy that they propose to apply in exercising their functions under the Act during the three-year period to which the policy applies. The Statement of Policy will last for a maximum of three years, but can be reviewed and revised by the authority at any time. The Statement of Policy must be produced following consultation with those bodies and persons set out in subsection (3) of section 5. This Statement of Policy meets the requirements of the Guidance issued by the Government under S182 of the Act as revised in June 2007
- 1.2 The Borough of Gedling covers 11998 hectares to the north and east of the City of Nottingham, which is the regional centre for the night-time economy. The Borough includes the commutable suburbs to the City Centre of Arnold, Mapperley, Carlton, Gedling and Netherfield, together with ten rural villages, the largest of which are Ravenshead in the north, Burton Joyce to the east, and the former colliery village of Calverton. The Borough of Gedling also shares boundaries with three other local authorities namely Rushcliffe Borough Council, Newark and Sherwood District Council and Ashfield District Council. Around 112,000 people live in the Borough in total.
- 1.3 Gedling Borough Council is a non-metropolitan district council providing a wide range of statutory and non-statutory services for the community.
- 1.4 Slightly over 5% of the local population come from black and minority ethnic (BME) backgrounds. The BME population is spread throughout the Borough and there are no distinct geographical BME communities.
- 1.5 The total number of businesses holding a premises licence is 237. The number of licensed club premises is 33. The number of Temporary Event Notices received in the year ending 31<sup>st</sup> March 2007 is 133.

1.6 Map of the Gedling Borough area



1.7 Gedling Borough Council welcomes the diversity of leisure and entertainment opportunities available locally and recognises that the licensed leisure and entertainment industry brings cultural and financial benefits to the area and the additional businesses operating in both the daytime and nighttime

economy support that industry which contributes to local retail and tourism. However, the Authority also recognises the problems that can be caused if licensed activities are not properly managed and premises well run. Gedling Borough Council believes that good management of the entertainment, alcohol and late night refreshment industries (and of the street environment within which it operates) is essential to the continued success of the Borough and to attracting the wide range of people who want to come here to work, to visit and to live. Gedling Borough Council will monitor the impact of licensing on the provision of regulated entertainment, and particularly live music in the area. Arrangements are in place for the Licensing Act Committee to receive reports on the needs of the local tourist economy, the local employment situation, and the need for new investment and employment where appropriate.

- 1.8 This Policy Statement seeks to establish sensible controls and appropriate guidance to encourage and further the efforts that are being made by the Council and its partners in the Crime and Disorder Reduction Partnership together with the licensed trade to help the Authority deal with problems that arise from licensed activities.

## **2 THE LICENSING OBJECTIVES**

- 2.1 In exercising their functions under the Licensing Act 2003, licensing authorities must have regard to the licensing objectives as set out in section 4 of the Act. The licensing objectives are:
  - (a) the prevention of crime and disorder;
  - (b) public safety;
  - (c) the prevention of public nuisance; and
  - (d) the protection of children from harm.
- 2.2 Guidance on the Licensing Objectives is available on the Government's website at: <http://www.culture.gov.uk/>
- 2.3 Licensing law is not the primary mechanism for the general control of anti-social behaviour by individuals once they are beyond the direct control of the individual, club or business holding the licence, certificate or permission concerned.
- 2.4 Licensing is about the management of licensed premises and activities within the

terms of the Act. The terms and conditions attached to various permissions will be focused on matters that are within the control of individual licensees and others granted relevant permissions. Accordingly, these matters will centre on the premises and places being used for licensable activities and the vicinity of those premises and places. Whether or not incidents can be regarded as being “in the vicinity” of licensed premises or places, is ultimately a matter of fact to be decided by the courts in cases of dispute. In addressing such matters consideration will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the area concerned.

- 2.5 The promotion of the Licensing Objectives is the paramount consideration for the Authority. In the absence of valid representations from responsible authorities or interested parties all applications must be granted subject only to any mandatory conditions prescribed by the Act and such other conditions which are consistent with the operating schedule provided by the applicant. Where valid representations are received and maintained the application will normally be determined at a hearing before a Licensing Panel comprising three members of the Licensing Act Committee. The Panel will then assess whether the application would result in the licensing objectives being undermined to such an extent that the application should be refused or, whether it would be possible to grant the licence subject to such conditions as are felt appropriate to be attached to the licence by the Authority. However, before conditions can be imposed on a licence as a result of representations received, the Authority must be satisfied from the representations before it that the conditions are both necessary for the promotion of one or more of the licensing objectives, and are proportionate to the matter being addressed. Conditions will be tailored to the size, style, characteristics and activities taking place at the premises concerned.

### **3 CONSULTATION ON THE POLICY**

- 3.1 This Statement of Policy has been written with reference to the requirements of Part 13 of the Government’s “Guidance issued under s182 of the Licensing Act 2003” and LACORS Licensing Guidance for local authorities. Consultation was carried out in accordance with Section 5 of the Act prior to adoption of this Statement of Policy. Applicants for licence and other permissions, Interested Parties and Responsible Authorities are encouraged to read the Statement of Policy and have regard to the policies that Gedling Borough Council will apply in



its role as Licensing Authority under the Licensing Act 2003.

- 3.2 Officers from this Authority attend the several local Pub Watch Groups, based on the national Pubwatch scheme, and obtain feedback from local stakeholders and partners on licensing issues.

## **4 THE FUNCTIONS OF THE LICENSING AUTHORITY**

- 4.1 The Act gives licensing authorities a number of important regulatory functions in relation to licensing. Their main functions are to:
- issue a Statement of Policy regarding the exercise of the licensing functions;
  - establish a licensing committee as required by the Act;
  - arrange for appropriate delegation of the licensing functions;
  - licence and regulate premises for the sale or supply of alcohol, late night refreshment and regulated entertainment;
  - consider notices given for the temporary use of premises for licensable activities; and
  - maintain a register containing prescribed information.

## **5 THE PURPOSE OF THE STATEMENT OF POLICY**

- 5.1 Section 5 of the Licensing Act 2003 (the Act) imposes a statutory duty upon licensing authorities to produce, develop and keep under review a Statement of Policy. The purpose of this Statement of Policy is to set out how Gedling Borough Council as Licensing Authority (the Authority) intends to carry out its Licensing Functions and so promote the Licensing Objectives. The scope of this Statement of Policy covers the licensable activities defined in the Act.
- 5.2 The purpose of the Statement of Policy is to:
- provide a clear basis for determining licence applications
  - provide a clear framework for licensing strategies, including the effect known as ‘cumulative impact’ support wider strategies of the Council.
- 5.3 Through this Statement of Policy the Authority seeks to establish sensible controls

and appropriate guidance to encourage and further the efforts that are being made by the council and its partners in the Crime and Drugs Partnership, together with the licensed trade to help the Authority and the Council deal with problems that arise from licensable activities. This will be achieved by:

- Establishing and building upon best practice within the industry;
- Recognising and facilitating the role of partners and stakeholders;
- Encouraging self-regulation by licensees and managers;
- Providing a clear basis for the determination of licence applications;
- Supporting related policies and strategies of the Council; and
- An inspection and enforcement regime targeted at premises that present a high risk e.g. the premises have a track record of non-compliance with legal requirements; the activities present a real risk of harm to the public, etc.

## 6 HOW TO READ THIS STATEMENT OF POLICY

- 6.1 The text of this Statement of Policy **in bold type** indicates the **Statements of Policy** with *the reason* for each policy shown immediately after *in bold italics*.
- 6.2 For convenience all policies are also listed separately at appendix A.
- 6.3 In this Statement of Policy any reference made to the imposition of conditions refers to conditions imposed in accordance with the requirements of the Act outlined in paragraph 2.5 above. It is not intended that this Statement of Policy duplicate existing legal requirements and obligations imposed by other regimes, however the Statement of Policy refers to them where appropriate.

## 7 STRATEGIC LINKS AND OTHER REGULATORY REGIMES

- 7.1 There is a range of strategic influences and statutory controls which affect the licensing system in terms of policy formulation, administration and enforcement activities. Whilst the following is not meant to be an exhaustive list, it identifies the key areas which may inform and shape the policies contained in this Statement of Policy. The Authority will seek to have an active involvement in the development and review of these and all other related Council strategies by ensuring an appropriate exchange of reports and comments between the Licensing Act

Committee and other relevant committees or bodies.

7.2 This Statement of Policy reflects the general strategic framework of this Council and more recent changes in central Government advice on licensing and matters such as Planning Policy Guidance Notes, recent reports on towns and cities and matters in connection with the operation of the late night economy. In particular it reflects elements of:

7.3 The Gedling Disorder and Drugs Strategy for 2005 – 2008 has been produced by the Gedling Community Safety Partnership made up of local organisations working together to reduce crime and the fear of crime within the Borough. Gedling Borough Council, Nottinghamshire County Council and Nottinghamshire Police, work alongside local community organisations including the Youth Offending Service, Nottinghamshire Youth Service, Nottinghamshire Fire and Rescue Service, the Primary Care Trust and the Probation Service. Results from the work of the Partnership will be used to inform the Licensing Authority and help shape and steer the direction of this policy during its life. Conditions attached to licences will so far as possible, reflect the Strategy. Liaison with the police and other partners on the application of the policy will take place at suitable intervals.

7.4 *The Nottinghamshire County Drug and Alcohol Strategy (DAAT) 2006-2009* – regard has been had in preparing this Statement of Policy, to the effect that alcohol has on drinkers and the manner in which licensed premises are operated in the Borough, and to national issues concerning alcohol misuse and the problems that are associated with operating the late night economy in the Town Centre. The risks to children and young people posed by alcohol are also recognised and reflected in the policies.

7.5 **Policy: STR 1**

**The Authority will have particular regard to the likely impact of licensing on related crime and disorder in the district particularly when considering the location, impact, operation and management of all proposed licence/certificate applications, renewals and variations of conditions.**

***REASON: Under the Crime and Disorder Act 1998 local authorities must have regard to the likely effect of the exercise of their functions on, and do all they can to prevent, crime and disorder in their area.***

## **7.6 PLANNING CONTROL**

7.7 Generally, the Authority will expect an applicant to have obtained the appropriate planning permission before making their licensing application. The Authority however recognises that there may be valid reasons why a licensing application has been made first or at the same time as one for planning permission.

7.8 The granting of a licence, certificate or provisional statement will not override any requirement of the planning system or vice-versa. The licensing system will provide for the detailed control of operational matters, which are unlikely to be addressed through planning processes. However there will be overlapping issues of interest e.g. disturbance, which will remain material considerations for planning purposes as well as being relevant in terms of the licensing objectives. Applicants should also ensure that they have due regard to any planning restrictions on the use of premises when applying for licence/certification to avoid any possible enforcement action.

7.9 The planning, building control and licensing regimes at Gedling Borough Council are properly separated to avoid duplication and inefficiency. The Licensing Act and Planning Committees of Gedling Borough Council will liaise over relevant matters as necessary.

## **7.10 GAMBLING ACT 2005 AND OTHER LICENSABLE ACTIVITIES**

7.11 Licensable activities carried on under other licensing regimes (e.g. Gambling Act 2005) at premises licensed under the 2003 Act shall be administered in accordance with the requirements of the statutes governing those other licensing regimes.

## **8 DELIVERING LICENSING SERVICES**

8.1 The Authority is committed to working with its licensing partners and stakeholders, (responsible authorities, interested parties and consultees,) in delivering its licensing services. Through this Statement of Policy Gedling Borough Council as Licensing Authority encourages applicants, responsible authorities and interested parties to discuss proposals informally before submitting applications to ensure that all parties are informed of the impact that licensable activities may have on

local communities. Through the Licensing Section the Authority will offer services including mediation and making guidance available to applicants, those making representation, and other interested parties. This will include advice about the general approach that the Authority will take in respect of licence applications and functions relevant to the licensing regime.

- 8.2 Nothing in this Statement of Policy should be regarded or interpreted as an indication that any requirement of law may be overridden; each application will be considered and treated on its own merits. No restrictive or contrived controls will be introduced or imposed.
- 8.3 There are certain matters that the Authority is prevented from taking into account or from dealing with in a specified way. For example the Authority is not entitled to take the issue of the “need” for further licensed premises into account when determining licence applications. On the other hand the cumulative impact of licensed premises on the promotion of the Licensing Objectives is a matter that can be properly considered by the Authority. Cumulative impact and related matters are dealt with in section 10 of this Statement of Policy. Restrictions on trading hours may be considered where this is necessary to meet the Licensing Objectives e.g. in residential areas. With regard to the sale of alcohol the Government strongly believes that, prior to the introduction of the Licensing Act 2003, fixed and artificially early closing times were one of the key causes of rapid binge drinking prior to closing times; and one of the causes of disorder and disturbance when large numbers of customers were required to leave the premises simultaneously. The aim through the promotion of the licensing objectives should be to reduce the potential for concentrations and achieve a slower dispersal of people from licensed premises through flexible opening times.
- 8.4 Other than in relation to cumulative impact the Authority is not entitled to create zones where it will refuse to grant licences of a certain type or impose standardised conditions relating to closing hours. Indeed the imposition of standardised conditions is itself prohibited as being disproportionate and burdensome. It should be noted, however, that the Authority is permitted to establish pools of conditions from which appropriate and proportionate conditions may be drawn.
- 8.5 Nothing in this Statement of Policy prevents any one person or body applying for a variety of current permissions under the Act.

- 8.6 The Authority will make available guidance on the licence application process and such further resources as required by law to enable engagement with the licensing process. Such guidance and resources may be accessed through the Licensing Section web site or by contacting the Authority direct (see appendix C “Contact Details”).
- 8.7 In acting for the Licensing Authority, the Licensing Section will maintain an impartial role in service delivery and cannot act in favour of one party over another.

## **9 APPLICATIONS**

- 9.1 Five fundamental principles underpin the Act.
1. The main purpose of the licensing regime is to promote the licensing objectives;
  2. Applicants for premises licences, or for major variations of such licences, are encouraged to conduct a thorough risk assessment with regard to the licensing objectives when preparing their applications.
  3. Professional bodies, expert in the areas concerned, should review operating schedules submitted as part of the application.
  4. Residents and neighbouring businesses should be free to raise reasonable and relevant representations about the proposals contained in the application.
  5. The role of the Authority is primarily to resolve disputes when they arise in the licensing process.

When considering applications, the Authority will seek to uphold these principles.

- 9.2 The procedure and documentation required for the application process is prescribed by the Act and regulations made under it, and further advice on the application process is available on the Licensing Section web page. This part of the Statement of Licensing Policy gives basic guidance on how those applications will be considered, rather than detailed guidance on the content of such applications that can be found elsewhere. However where the secondary legislation requires applications to be advertised and served on various people and bodies the following policy shall apply.
- 9.3 Any form of application that is required to be advertised by the Act or Regulations

in a newspaper shall be advertised in a newspaper circulating in the area.

9.4 Recommended methods of serving an application for licence or for making a representation include by recorded delivery or first class post. In due course the Authority will have the ability to receive on-line applications. This service will be announced on the Licensing Section web site when available.

9.5 The Act specifies the Responsible Authorities that must be consulted for each premises licence or club registration certificate application. Contact details for these agencies are available in Appendix C. It is the Applicant's responsibility to ensure that a copy of the application is served on each responsible authority.

## 9.6 PLANS

9.7 Plans should be drawn to the scale prescribed by regulation. Applications submitted with plans on any other scale without the express **prior** agreement of the Authority will not comply with the requirements of the legislation and may not be accepted.

In addition to the requirements of the legislation, plans should also show the location of any CCTV cameras, monitors and recording equipment used in the licensed premises and the position of fire fighting equipment and emergency escapes.

## 9.9 OPERATING SCHEDULES

### 9.10 Policy: APP 1

**Operating schedules should contain the following information:**

- (i) A description of the style and character of the business;**
- (ii) A description of the licensable activities to be carried on at the premises (including the nature and type of any entertainment or dancing being provided);**
- (iii) The times during which the relevant licensable activities are to take place (including the times during each day of the week and any relevant seasonal or holiday periods);**
- (iv) Any other times that the premises are to be open to the public;**
- (v) If the licence is to be for a limited period, that period;**
- (vi) Where the licence includes the sale or supply of alcohol, the name and**

- address of the designated premises supervisor;
- (vii) Where the licence includes the sale or supply of alcohol, whether that will be for consumption on or off the premises or both;
  - (viii) Where the licensable activity includes nudity, the controls that will be used to prevent access by persons under the age of 18;
  - (ix) Details of controls the applicant has identified that will be put in place from which the Authority will draw the applicant's offered conditions of licence;
  - (x) the steps the applicant proposes to take to promote the Licensing Objectives.

Further information can be found in the Guidance issued under s182 of the Act.

***REASON: To ensure the promotion of the Licensing Objectives and ensure that any condition imposed on the licence is necessary and proportionate.***

## 9.11 CONSULTATION

9.12 Applicants must display notice of their application as set out in regulations to the Act. In particular applicants are encouraged to:

- Place notices such that they will be easily seen by passers-by;
- Not place notices behind barriers, shutters, openable doors or similar such that the notice is obscured at any time;
- Ensure that if the notice is damaged, removed or otherwise affected so that it cannot be clearly read, it is replaced immediately;
- Ensure that the nature of the proposed licensable activities and the times they will be operated is clearly set out;
- Notify and consult with local residents, businesses or their representatives within the vicinity of the premises that may be affected by the proposed licensable activities.

9.13 As consultation progresses, the consultees may contact the applicant to seek clarification and agreement on the activity to be licensed and may seek to agree or apply reasonable conditions to the grant of licence. It will always be the aim of the Authority that agreement is reached between the applicant and interested parties. The Licensing Section as far as possible will facilitate such negotiations as arise through to the end of the consultation process, and will confirm the final



outcome. Where agreement cannot be reached the matter will be referred to a Licensing Panel.

9.14 The community will be engaged through the local Ward Councillor as a representative of the local electorate, through representative groups and forums and with individuals and local community groups where appropriate. Ward Councillors may, however, only make representations on applications where they are an Interested Party in their own right or where they are asked to represent an Interested Party.

#### 9.15 REPRESENTATIONS

#### 9.16 Policy: APP 2

**A Relevant Representation in respect of a licence application or current licence should specify the following detail:**

- (i) The name, address and a contact number for the person making the representation.**
- (ii) The name and address of the premises in respect of which the representation is being made.**
- (iii) The Licensing Objective(s) that is relevant to the representation.**
- (iv) The opinion why it is felt the Objective(s) is not being promoted.**
- (v) Details of available evidence that supports the opinion.**

***REASON: To ensure the representation is valid and related to the relevant premises.***

9.17 Guidance on making a representation is available from the DCMS and the Licensing Section web pages. A preferred form is available from the Licensing Section or may be downloaded from the Licensing Service web pages for individuals or groups to make their representations. (see Appendix C). Responsible Authorities have separately agreed the means by which they will make representation in line with the provisions of the Act.

9.18 For a representation to be relevant it should be positively tied or linked by a causal connection to particular premises. Representations received outside the statutory period for making such representations will be invalid and will not be taken into consideration when the application is determined.

9.19 It is for the Licensing Authority to determine whether any representation by an interested party is, on its own merits, vexatious or frivolous. The Authority will determine this and make the decision on the basis of what might ordinarily be considered to be vexatious or frivolous. Whilst the Regulations may allow for further information to be put forward at any subsequent hearing, that material must relate to the initial representation made by the Responsible Authority/Interested Party. It is therefore vitally important that as much detail and evidence as possible is included at the time the representation is made. Representations made without supporting detail and evidence may be viewed as frivolous or vexatious and disregarded. .

9.20 Ward councillors receiving complaints from residents within their own wards may be asked to represent such residents and make representations on their behalf in accordance with Policy App 3. However should the councillor also be a member of the Licensing Committee/Panel and consider that their own interests are such that they are unable to consider the matter independently they will disqualify themselves from taking part in the determination of the licence.

#### 9.21 **DETERMINATIONS**

9.22 The aim of the Authority is that determination of a licence application will be made by an officer wherever possible in accordance with the recommended Delegated Functions contained within the DCMS Guidance issued under section 182 of the Licensing Act 2003 (June 2007).

#### 9.23 **PANEL HEARINGS**

9.24 The hearing process will meet the requirements of any regulations made by the Secretary of State. The hearing will concentrate on the steps needed to promote the particular licensing objective which has given rise to the specific representation and will seek to avoid straying into undisputed areas.

9.25 The Act creates a presumption that applications will be granted unless a valid representation is raised which is sustainable under the terms of the Licensing Act. An application will be determined by the Council's Licensing Hearing Panel where the issue that leads to the representation cannot be negotiated to an agreed conclusion between the parties.

## 9.26 REVIEWS

9.27 At any stage following the grant of a premises licence or club premises certificate a responsible authority or an interested party may ask for a review. Evidence will however be required to show that a specific concern exists relating to one or more of the licensing objectives. The party requesting the review is required to make the application on the prescribed form and is to include a summary of available evidence as to which of the Licensing Objectives is being undermined and how this is manifested.

9.28 Where a review hearing is held the Licensing Authority has a variety of courses of action that it may take ranging from taking no action at all, to varying conditions or suspending or revoking the licence.

## 9.29 PERSONAL LICENCES

9.30 Where the licensed activities include the sale or supply of alcohol, that sale or supply can only be authorised by the holder of a personal licence. Applicants may apply for such licences whether or not they are currently employed or have business interests associated with the use of the licence. The application must be made to the licensing authority for the area in which the applicant ordinarily resides. Once granted that authority remains responsible for licensing the applicant even if he moves to another area. An applicant may only hold one personal licence and such licences remain in force for a period of 10 years, (unless previously surrendered, revoked or forfeited), and may be renewed at the end of that period. Such licences must be granted where

1. The applicant is over 18;
2. Possesses a relevant licensing qualification or is of a prescribed description,;
3. Has not had a personal licence forfeited in the 5 years prior to the application;  
and
4. Has not been convicted by a relevant offence or a foreign offence as prescribed by the regulations.

9.31 If any of items 1-3 above are not met the application must be refused. With regard to convictions however a licence will still be granted unless the Chief Officer of Police lodges an objection within the prescribed period that he is satisfied that the granting of the licence would undermine the Licensing Objectives. In such circumstances the application will be considered at a hearing of the Licensing

Panel.

**9.32 Policy: APP 3**

**In determining initial and renewal applications for personal licences where the Chief Officer of Police has lodged an objection notice the Authority will take the following matters into consideration:**

- (i) The circumstances in which the offences were committed;**
- (ii) The period that has elapsed since the offence(s) were committed;**
- (iii) Whether the offences reveal a pattern of offending or were a one off occurrence; and**
- (iv) Any mitigating circumstances.**

**The Authority will reject the application unless the applicant can show exceptional and compelling grounds and that it is unnecessary to do so in order to promote the Crime Prevention Objective.**

***REASON: Prevention of crime is both an objective of the Licensing Act 2003 and an important responsibility of the Authority under the Crime and Disorder Act 1998. Granting a licence to a person with relevant convictions will in many cases undermine rather than promote the crime prevention objective.***

**9.33** Where a Personal Licence holder is convicted of a relevant offence the Court may order that the licence be forfeit. If an applicant is convicted of a relevant offence during the application period and this only comes to light after the licence has been granted or renewed then the Authority must notify the Chief Officer of Police and if an objection notice is lodged within the relevant period a hearing will be held to determine whether the licence should be revoked.

**9.34 Policy: APP 4**

**Policy APP 3 will apply to revocation hearings as it does to application hearings.**

***REASON: Prevention of crime is both an objective of the Licensing Act 2003 and an important responsibility of the Authority under the Crime and Disorder Act 1998. Granting a licence to a person with relevant convictions will in many cases undermine rather than promote the crime prevention***

***objective especially where those convictions are recent.***

### 9.35 TEMPORARY EVENT NOTICES

9.36 Whilst the Authority recognises that a Temporary Event Notice may be served (up to) ten working days prior to the commencement of a Permitted Temporary Activity, the current Guidance issued under the Act encourages a locally established preferred period of notice. There is a case for not serving such Notices too early as this could make it difficult for a sensible assessment to be made of the implications of such an event on the crime and disorder Objective. The Authority considers that a reasonable period of notice for the service of a Temporary Event Notice is 28 days. Temporary event notices may only be signed by the premises user and not by other persons (e.g. solicitors or other agents) on their behalf. Premises users are also encouraged to serve Temporary Event Notices on the police **at the same time** as they serve the Licensing Authority. Premises users are required to send a Temporary Event Notice to both the Authority and police as part of the notification process. Where the Authority and/or the police are not sent notification the notification is invalid and the temporary event is unlicensed.

### 9.37 PREMISES MANAGEMENT

9.38 The Council considers the effective and responsible management of the premises, the instruction, training and supervision of staff and the adoption of best practice in the leisure industry to be amongst the most important control measures for the achievement of all of the Licensing Objectives.

### 9.39 Policy: APP 5

**The Authority expects to see evidence of the effective and responsible management of the licensed premises, the effective instruction, training and supervision of staff and the adoption of best practice used in the leisure industry.**

***REASON: To ensure the promotion of the licensing objectives.***

9.40 Capacity management at licensed premises or a licensed event is one element that may contribute to the promotion of the licensing objectives. An assessment of

the capacity of a venue is a normal risk assessment function which applicants and existing licensees are encouraged to undertake routinely; risk assessment is a process required under legislation. The need for a capacity limit in premises or at an event should not necessarily be seen as a requirement to provide permanent monitoring arrangements such as door staff, attendance clickers or the maintenance of attendance records in all circumstances. The Authority recognises that persons in charge of small premises and events with simple layouts, can often readily assess the number of people attending those premises or events without resort to such measures.

#### 9.41 **Policy: APP 6**

**In premises where a capacity limit is specified and in all large or complex premises and at events where the number of persons present cannot readily be assessed or where an imposed capacity limit is likely to be approached, the Operating Schedule should detail the arrangements that will be put in place to ensure that the permitted number of people attending the premises or event will not be exceeded.**

***REASON: To ensure the promotion of the licensing objectives.***

#### 9.42 **OUTDOORS SPORTS STADIA**

9.43 Outdoor sports stadia are subject to separate legislation with regard to health and safety and fire safety and the Authority will not duplicate any conditions relating to such legislation. The sports events taking place at such outdoor stadia do not fall within the definition of regulated entertainment under the 2003 Act; with the exception of boxing and wrestling matches.

9.44 Applications for premises licence will be limited to those activities that are licensable under the 2003 Act; i.e. the sale of alcohol, the provision of regulated entertainment and the provision of late night refreshment. Any representations relating to the supply/consumption of alcohol in the grounds/at seats/in the terraces of sports stadia will be given particularly careful consideration.

9.45 A premises licence may be granted that makes separate arrangements for public and private areas or for restaurant areas on the same premises. Areas may also be designated where alcohol may not be consumed at all, or at particular times. Reference to such matters should be made in the operating schedule

accompanying the application.

9.46 Certain sports events are more likely than others to give rise to concerns about the safety of, and disorder among, spectators. The views of the police will be taken into account in this respect.

9.47 **Policy: APP 7**

**Where representation is made by the police that certain licensable activities carried on at a stadium may give rise to concern about the safety of, and disorder amongst, spectators, conditions may be attached to the premises licence to mitigate the effects of such behaviour. In addition the premises licence may, by means of attached conditions, make different provision for different sports events where licensable activities take place because of the history of such events at those premises.**

***REASON: To ensure the promotion of the licensing objectives.***

9.48 **LICENSABLE HOURS**

9.49 Applicants should carefully consider the hours that they will wish to operate for each licensable activity and when to close their premises for the entry of customers and to require them to leave. They should consider each licensable activity separately and carefully, and reflect this in their operating schedule.

9.50 Advice issued by the Secretary of State in September 2005 reiterates that there is no presumption in the Act for longer hours over the concerns of local people and organisations. Where there are objections and the Authority believes that the proposed hours would undermine the licensing objectives they may reject the application or grant it with appropriate conditions and/or different hours to those requested. The benefits of “winding down” periods, after sales of alcoholic drinks have ceased and while food and non-alcoholic drinks are still available and the volume and tempo of music is reduced and the levels of lighting are increased, are widely recognised as helping to reduce crime and disorder and public nuisance. Applicants should consider the benefits of stopping serving alcohol before other licensable activities stop and a suitable time before the premises close and customers must leave. In noise sensitive areas operators should consider stopping the playing of dance music and switching to quieter, slower

tempo music with a less pronounced beat for a period prior to the closure of the premises.

- 9.51 Applicants should also consider making arrangements with local transport operators to provide information to customers to ensure they can access public transport and leave the vicinity of the premises quickly by the most appropriate route.

## **10 THE IMPACT OF LICENSED ACTIVITIES**

- 10.1 Where representations are received the characteristics of an area and the impact that the premises may have upon that area will be a fundamental consideration in determining whether a licence should be granted and if so what conditions should be attached to it. Conditions will be focused on matters that are within the control of individual licensees and others in possession of relevant authorisations. These matters will centre on the premises being used for licensable activities and the vicinity of those premises. What amounts to the “vicinity” will be a question of fact to be determined in the light of the individual circumstances of the case. Consideration will primarily be given to the direct impact of the licensed activity on those who live, work or are engaged in business or other activities in the area concerned.
- 10.2 Licensing law is not the primary mechanism for the general control of the anti-social behaviour of patrons once they have left the vicinity of the licensed premises rather it is part of a holistic approach to the management of the locality.
- 10.3 Where appropriate the Authority will seek to identify mechanisms that are available for addressing the potential impact of anti-social behaviour arising both in respect of the management and operation of licensed premises themselves and that arising once patrons leave the licensed premises. Regard will be had to the Secretary of State’s Guidance in this respect and the following mechanisms may be employed:
- Planning controls.
  - Powers of local authorities to designate parts of the local authority area as places where alcohol may not be consumed publicly.
  - Police enforcement of the law concerning disorder and antisocial behaviour, including the issuing of fixed penalty notices.
  - The prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk.



- The confiscation of alcohol from adults and children in designated areas.
- Police 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 excessive noise emanating from the premises.
- The power of the police, other responsible authorities or a local resident or business to seek a review of the licence or certificate in question.
- Any other local initiatives that similarly address these problems.

#### 10.4 Policy: IMP 1

**When preparing or considering applications, Applicants, Interested Parties, Responsible Authorities and the Licensing Authority should, where appropriate, take into account the following matters in assessing both the potential for the Licensing Objectives to be undermined and the necessity for, and proportionality of, any conditions which may be imposed on any resulting licence, certificate or permission:**

- (i) **The nature of the area within which the premises are situated.**
- (ii) **The precise nature, type and frequency of the proposed activities.**
- (iii) **Any measures proposed by the applicant as outlined in the Operating Schedule to mitigate or prevent any adverse impact upon the Licensing Objectives (including the proposed hours of operation).**
- (iv) **The nature (principally in terms of the age and orderliness) and number of any customers likely to attend the licensed premises.**
- (v) **The potential cumulative impact (see below).**
- (vi) **Other means and resources available to mitigate any impact.**
- (vii) **Such other matters as may be relevant to the application.**

***REASON: To ensure that all relevant matters are taken into consideration during the application process.***

- 10.5 Policy IMP 1 lists particular matters which it may be appropriate to take into account in considering whether a licensed activity is likely to cause an adverse impact, particularly to local residents, and thereby undermine any of the Licensing Objectives.
- 10.6 Levels of noise from licensed premises, which may be acceptable at certain times of day, may not be acceptable later in the evening or at night when ambient noise levels are much lower. The main impact of customers arriving, queuing and leaving should be confined to principal pedestrian routes as far as possible
- 10.7 Car parking by customers of licensed activities can be a serious problem. This affects local residents in terms of noise. When considering the possible impact on residents, the Authority will look at the area within which the impact could be

experienced in particular the likely distance at which most customers arriving by car would seek to park.

10.8 The Authority is mindful of the responsibilities that licence holders have for preventing anti social behaviour on their premises and within the vicinity. The Authority must, however, also bear in mind its statutory duty under the Crime and Disorder Act 1998 to do all it can to prevent crime and disorder in the area. Where appropriate conditions will be imposed which reflect local Crime Prevention Strategies.

10.9 Applicants are encouraged to have carried out the relevant risk assessments under other legislation (e.g. fire precautions, health and safety at work, etc) prior to submitting their applications. These risk assessments can be used to identify particular issues which may need to be addressed in the operating schedule in order to ensure that the objectives will not be undermined. Suggested methods of addressing the above policy may be outlined in more detail in any guidance issued by the Authority's or the responsible authorities but could include the matters listed below where appropriate.

#### 10.10 Minimising Crime and Disorder:

- Use of CCTV both within and outside the premises.
- Metal detection and search facilities.
- Procedures for risk assessing promotions and events such as "happy hours" and plans for minimising such risk.
- Measures to prevent the use or supply of illegal drugs.
- Employment of licensed door supervisors and other appropriately trained staff.
- Participation in an appropriate Pub Watch Scheme or other such scheme aimed at achieving a safe, secure and social drinking environment e.g. participation in a good management scheme.
- Use of measures aimed at ensuring patrons are more relaxed and quieter when leaving the licensed premises e.g. playing quieter music and promoting non-alcoholic drinks towards the end of the event, ensuring good lighting outside the premises, staggering the closing time with regard to nearby licensed premises, etc.

#### 10.11 Ensuring Public Safety:

- The preparation and application of appropriate risk assessments.
- The setting and monitoring of occupancy levels for the premises.
- Reasonable facilities, access and egress for people with disabilities.
- Having glassware policies based upon a risk based, per premises approach as advocated in the National Alcohol Strategy.

#### 10.12 Protection of children:

- Exclusion from the premises in certain circumstances.
- Adult to child ratios etc.
- See also section 11 of this Policy Statement.

#### 10.13 Preventing Nuisance:

- Keeping doors and windows of licensed premises closed to minimise noise break out.
- Sound limiting devices, or insulation to contain sound and vibration so as to address noise break out not only from music but also, for example, from air handling equipment, generators or patrons.
- Proper and adequate door supervision.
- Erecting prominent notices at the exits to premises asking customers to leave quietly and not to slam car doors and repeating such requests verbally.
- Reducing the volume of music towards the end of the evening and where appropriate playing quieter, more soothing music as the evening winds down.
- Arrangements with licensed taxis or mini-cabs to take patrons from the premises and liaising with them not to sound their horns.
- In appropriate cases door supervisors or a manager patrolling nearby streets to assess for themselves whether there is a problem and how best to deal with it.
- Banning people who regularly leave in a noisy fashion and liaising with other premises on such bans.
- Where the premises have a membership scheme, including provisions in the conditions of membership concerning conduct and noise when leaving the premises.
- Adequate provisions for dealing with litter/refuse arising from the operation of premises.
- Appropriate times for and methods of dealing with bottle delivery, disposal and collection.
- The licensee providing a help line or contact number for concerned residents.

10.14 In some cases it may be helpful for applicants and / or their advisors to discuss the draft Operating Schedule with council officers and representatives of Responsible Authorities, before it is formally submitted. This will help ensure it properly addresses all relevant issues that might give rise to concern.

## 10.15 CUMULATIVE IMPACT

10.16 In some areas of the Borough concentrated “pockets” of licensed premises/activities exist which might in the future lead to serious problems arising in the area, even some distance away from the premises. In such circumstances the impact of those premises, when taken as a whole, can be far greater than that arising from individual premises. It may not be possible to distinguish individual premises as being the sole cause, or even a major contributing factor, of a particular problem. It is the combined impact of all the premises which causes problems for a wider area and potentially undermines the licensing objectives.

10.17 The impact on the promotion of the licensing objectives by a significant number of licensed premises concentrated in one area is called cumulative impact. This should not be confused with the issue of “need” which relates to the commercial demand for licensed premises and cannot be taken into account when determining licensing applications. In addressing cumulative impact the Authority cannot impose quotas of premises or licences, nor can it adopt the principle of fixing predetermined hours of operation for a particular area (“Zoning”).

10.18 Having consulted those individuals and organisations listed in Section 5(3) of the Licensing Act the Authority is satisfied that there are no areas within the Borough which currently suffer from cumulative impact. However the Authority feels that it is both necessary and appropriate to include an approach to this issue in this Policy.

10.18 In order to address future cumulative impact in particular areas the Authority may apply the policies below (“*The Cumulative Impact Policies*”), which create a rebuttable presumption that certain types of applications for new premises licences or club certificates or material variations will normally be refused. The presumption will be rebutted where applicants can demonstrate through the operating schedule and, where appropriate, supporting evidence that the operation of the premises will not add to the cumulative impact already being experienced or that the risk factors associated with the application are such that cumulative impact will not be an imminent threat were the application to be granted. The policies however do not relieve responsible bodies or interested parties of the need to make representations before such applications are refused. If no representations are received then the application must be granted in terms consistent with the submitted operating schedule.

## 10.19 Policy: IMP 2

**Where representations about crime and disorder and/or nuisance are received in respect of applications for premises in a particular area of the Borough a rebuttable presumption will apply that such applications shall be refused. However, this policy only applies to applications of the types listed below and which include the sale or supply of alcohol namely:**

- **New premises licences,**
- **New club premises certificates.**
- **Material variations to existing premises licences / club premises certificates (for example, these may include matters such as increases in capacity or hours)**

**and in the case of applications for Provisional Statements an indication will be given that any subsequent application for a premises licence/club premises certificate is likely to be refused .**

***REASON: To ensure that those applications which may add to the levels of crime, disorder and nuisance already being experienced in the area are refused.***

10.20 This policy creates a rebuttable presumption that certain types of applications will be refused. The presumption may be rebutted where applicants can demonstrate through the Operating Schedule and, where appropriate, supporting evidence such as risk assessments, that the operation of the premises will not potentially add to the cumulative impact already being experienced.

10.21 Whilst the policy will not be applied inflexibly the circumstances in which the presumption of refusal may be rebutted will need to be exceptional and directly related to the reasons why the policy was adopted. An application is not likely to be classed as exceptional merely on the grounds that the premises have been or will be operated within the terms of its licence or that they are or will be well managed. This is to be expected of any application. An example of the type of application which might be granted could be where premises are being re-located or act as a direct replacement for others and where the impact is likely to be similar to the original location.

10.22 Policy IMP 2 however does not relieve Responsible Authorities or Interested Parties of the need to make representations before such applications are refused. If no representations are received then the application must be granted in terms consistent with the submitted operating schedule. The Authority will regularly review this Policy to assess its impact.

10.23 Where a provisional statement has been issued by the Authority and the relevant works are completed satisfactorily then any subsequent application for a premises licence must be granted and any objection which could have been raised at the Provisional Statement stage must be disregarded. It is important therefore that if there is potential for new or altered premises to contribute to or cause cumulative impact in any given area that the issue is addressed as soon as possible in the licensing process. For this reason Provisional Statements are included in Policy IMP 2. Whilst applications for Provisional Statements cannot be refused it is considered that such statements could properly be used to indicate that even if the works were satisfactorily completed that the subsequent premises licence application could be refused on the grounds of cumulative impact.

10.24 Responsible Authorities and Interested Parties may still make representations on specific applications concerning cumulative impact even though those applications are not for premises in designated saturation zones. In such circumstances the application may be refused, (though there will be no presumption that this will be the case), and the Authority may then choose to review this Statement of Policy and consult as to whether the particular area should be designated as a saturation zone to which policy IMP2 should apply.

#### 10.25 **Policy: IMP 3**

**In cases where Responsible Authorities or Interested Parties seek to establish that an application should be refused on the grounds that it would result in or further contribute to a cumulative impact in an area not designated as a saturation zone, which would undermine one or more of the Licensing Objectives they shall:**

- i. Identify the boundaries of the area from which it is alleged problems are arising;**
- ii. Identify the Licensing Objective(s) which it is alleged will be undermined;**
- iii. Identify the type of licensable activity alleged to be causing the**

problem (eg sale of alcohol, late night refreshment etc)

- iv. Provide full details and evidence to show the manner and extent to which it is alleged that the Licensing Objective(s) are being, or are at risk of being, undermined in the area;
- v. Provide evidence to show that the undermining of the objective(s) is caused by the patrons of licensed premises in the area.

***REASON: To ensure that objections are neither frivolous nor vexatious and that there is an evidential basis for the Committee to reach a decision.***

## **11 CHILDREN**

11.1 The Authority recognises that there are many activities for which licences may be sought. These will be located in a great variety of premises such as public houses, night-clubs, hotels, inns, theatres, cinemas, concert halls, restaurants, cafes, takeaways, fast-food outlets, community halls, schools and colleges.

11.2 Where there are concerns over the potential for harm to children the Authority recognises the following body as competent to advise on matters relating to the protection of children from harm:

- The Safeguarding Children Board (Children and Young Peoples Services) for the county.

Applicants should therefore copy their applications to this body in its capacity as a 'responsible authority' for any representation that may be made to the Authority (see Appendix C).

11.3 Examples which may give rise to concerns in respect of children include those:

- Where there have been convictions for serving alcohol to minors
- Where there is a reputation for underage drinking
- Where there is a known association for drug taking or dealing
- Where there is a strong element of gambling on the premises
- Where entertainment of an adult or sexual nature is provided

11.4 **Policy: CHI 1**

**The Authority will impose conditions restricting the access of children to**

premises where it is considered necessary for the prevention of harm to children. Where there are matters that give rise to serious concerns and restriction of access may not ensure adequate protection of children from harm, applications will be refused.

11.5 ***REASON: The Authority considers that harm may be moral and psychological as well as physical.***

#### 11.6 **SALE OF ALCOHOL**

11.7 The Act does not prevent children, who are accompanied by an adult, having access to premises selling alcohol for consumption on those premises even if the sale of alcohol is the exclusive or primary activity on those premises. Applicants are directed to the various criminal offences created by the Act relating to the sale or supply of alcohol to children.

#### 11.8 **Policy: CHI 2**

**The Authority will not impose any conditions that specifically require the access of children to premises.**

11.9 ***REASON: Where no conditions or restrictions are imposed, the issue of access for children still remains a matter of the discretion of individual licensees or clubs. This allows for premises to be ‘children’ and ‘family-friendly’ whilst ensuring that children are adequately protected.***

11.10 The Portman Group operates on behalf of the alcohol industry and has issued a Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks. Whilst this code applies to all alcohol sales/supplies, in particular the Code seeks to ensure that drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years old or older. The Authority commends this Code and recommends licensees to follow the principles promoted by it.

#### 11.11 **PROVISION OF ENTERTAINMENT OF AN ADULT OR SEXUAL NATURE**

11.12 The provision of adult entertainment on premises may necessarily mean that access to those premises by children will not be permitted during periods when such entertainment is taking place. The Authority expects applicants to include



arrangements for restricting children from viewing any adult entertainment in their Operating Schedule.

- 11.13 The Authority will expect that licensees ensure that any age restrictions for shows or entertainment of an adult or sexual nature are properly complied with.

#### 11.14 CHILDREN AND CINEMA EXHIBITIONS

- 11.15 Where premises are used for film exhibitions, the Authority will impose the mandatory condition restricting access only to persons who meet the required age limit in line with any certificate granted by the British Board of Film Classification or the Authority itself.

- 11.16 The Authority expects applicants to include any arrangements for restricting under-age children from viewing age-restricted films in their Operating Schedule. The Authority expects that licensees will ensure that any age restrictions for cinema exhibitions are properly complied with.

- 11.17 In considering applications or reviews, the Authority will take into account any evidence that age restrictions for cinema exhibitions are not being properly observed.

#### 11.18 CHILDREN AND PUBLIC ENTERTAINMENTS

##### 11.19 Policy: CHI 3

**Where large numbers of children are likely to be present on licensed premises, for example a children's show or pantomime, the Authority will normally attach a condition requiring an adequate ratio of adults to children in order to ensure the prevention of harm to the children and to ensure public safety. Normally this will be supervision by appropriately qualified, fit and proper persons.**

***REASON: The presence of large numbers of unsupervised children will require adequate steps to be in place to ensure they are protected from physical harm and to ensure public safety.***

#### 11.20 ACCESS TO PREMISES BY CHILDREN

#### 11.21 Policy: CHI 4

**When deciding whether to limit the access of children to premises, the Authority will judge each application on its own merits. Where concerns have been identified in respect of individual premises and it is felt that access of children should be restricted, the Authority will consider imposing conditions which may include the following:**

- (i) Limitations on the hours when children may be present.**
- (ii) Age limitations for persons under 18.**
- (iii) Limitations or exclusion when certain activities are taking place.**
- (iv) Full exclusion of persons under 18 when certain licensable activities are taking place.**
- (v) Limitations of access to certain parts of the premises for persons under 18.**
- (vi) A requirement for an accompanying adult to be present.**

***REASON: It is not possible to anticipate every issue of concern that could arise with regard to individual premises when deciding to limit the access of children to premises.***

## 12 EQUALITY AND DIVERSITY

12.1 Delivery of the regime will be in accordance with the Corporate Race Equality Scheme and the Corporate Equality Scheme. The use of an Impact Needs Assessment process will inform service delivery and will be subject to on-going monitoring and customer / stakeholder consultation during the life of this Policy with the framework of the regime. Relevant matters that come to light as a result of monitoring and consultation may result in changes to service delivery and where necessary may result in changes to the Gedling Borough Council licensing policy. The principles underpinning the International Covenant on Economic, Social and Cultural Rights have been borne in mind when devising this Statement of Policy with a view to seeking to ensure that everyone can participate in the cultural life of the community and enjoy the arts associated with the provision of regulated entertainment.

12.2 Advice and guidance will be made available in English which is the most common language of customers and stakeholders. Guidance documents issued by the

Licensing Service will include advice about translation and access to services information. However it is recognised that local communities will normally have access to alternative translation and advice services.

## **13 GENERAL ENFORCEMENT STATEMENT**

- 13.1 All decisions, determinations, inspections and enforcement action taken by the Authority will have regard to the relevant provisions of the Licensing Act 2003, national guidance and the enforcement policy of the Gedling Borough Council which is produced to the principles of the Enforcement Concordat.
- 13.2 It is the intention of the Authority to establish and maintain enforcement protocols with the local police and other relevant enforcement agencies. Such protocols will provide for the proportionate targeting of enforcement action in respect of licensed activities that require greater attention due to problems such as bad management and the operation of high-risk activities, and a corresponding lighter touch for well run, lower risk activities. Inspections will not be undertaken without a reason and Gedling Borough Council recognises that its regulatory activity will include the encouragement of economic progress by the trade and will intervene when there is a clear case for protection.

## **14 MONITORING AND REVIEW OF THIS STATEMENT OF POLICY**

- 14.1 This Statement of Policy will be reviewed every three years. In preparing the succeeding Statement of Policy regard will be had to data and information collated over the operating period of the current policy together with trends and the outcome of related initiatives from both local sources and nationally issued data and guidance.
- 14.2 Bodies that are Responsible Authorities for the purpose of the Act will be encouraged to report to the Authority on relevant issues within the remit of that body under the licensing function. The Licensing Section will provide a report each year to the Licensing Act Committee on matters that impact on, and influence, the delivery of the licensing function by the Authority. The report will include a summary statement of reports submitted by the responsible authorities and will also include relevant references to service work planning, action outcomes, staff and customer consultation, service performance, service development and improvement and a financial overview of the service.

## POLICIES USED IN THIS STATEMENT OF POLICY

All of the Council's policies for licensing under the Licensing Act 2003 are listed in this appendix for ease of reference. Please refer to the supporting text in the main policy document for the rationale behind the individual policies. References to the objectives met are to those listed in section 3 of this policy.

### Policy: STR 1

**The Authority will have particular regard to the likely impact of licensing on related crime and disorder in the district particularly when considering the location, impact, operation and management of all proposed licence/certificate applications, renewals and variations of conditions.**

***REASON: Under the Crime and Disorder Act 1998 local authorities must have regard to the likely effect of the exercise of their functions on, and do all they can to prevent, crime and disorder in their area.***

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### Policy: APP 1

**Operating schedules should contain the following information:**

- (i) A description of the style and character of the business;**
- (ii) A description of the licensable activities to be carried on at the premises (including the nature and type of any entertainment or dancing being provided);**
- (iii) The times during which the relevant licensable activities are to take place (including the times during each day of the week and any relevant seasonal or holiday periods);**
- (iv) Any other times that the premises are to be open to the public;**
- (v) If the licence is to be for a limited period, that period;**
- (vi) Where the licence includes the sale or supply of alcohol, the name and address of the designated premises supervisor;**
- (vii) Where the licence includes the sale or supply of alcohol, whether that will be for consumption on or off the premises or both;**
- (viii) Where the licensable activity includes nudity, the controls that will be used to prevent access by persons under the age of 18;**
- (ix) Details of controls the applicant has identified that will be put in place from which the Authority will draw the applicant's offered**

- conditions of licence;
- (x) the steps the applicant proposes to take to promote the Licensing Objectives.

Further information can be found in the Guidance issued under s182 of the Act and the Authority's Guidance to Applicants.

*REASON: To ensure the promotion of the Licensing Objectives and ensure that any condition imposed on the licence is necessary and proportionate.*

**Policy: APP 2**

A Relevant Representation in respect of a licence application or current licence should specify the following detail:

- (i) The name, address and a contact number for the person making the representation.
- (ii) The name and address of the premises in respect of which the representation is being made.
- (iii) The Licensing Objective(s) that is relevant to the representation.
- (iv) The opinion why it is felt the Objective(s) is not being promoted.
- (v) Details of available evidence that supports the opinion.

*REASON: To ensure the representation is valid and related to the relevant premises.*

**Policy: APP 3**

In determining initial and renewal applications for personal licences where the Chief Officer of Police has lodged an objection notice the Authority will take the following matters into consideration:

- (i) The circumstances in which the offences were committed;
- (ii) The period that has elapsed since the offence(s) were committed;
- (iii) Whether the offences reveal a pattern of offending or were a one off occurrence; and
- (iv) Any mitigating circumstances.

The Authority will reject the application unless the applicant can show exceptional and compelling grounds and that it is unnecessary to do so in order to promote the Crime Prevention Objective.

***REASON: Prevention of crime is both an objective of the Licensing Act 2003 and an important responsibility of the Authority under the Crime and Disorder Act 1998. Granting a licence to a person with relevant convictions will in many cases undermine rather than promote the crime prevention objective.***

**Policy: APP 4**

**Policy APP 3 will apply to revocation hearings as it does to application hearings.**

***REASON: Prevention of crime is both an objective of the Licensing Act 2003 and an important responsibility of the Authority under the Crime and Disorder Act 1998. Granting a licence to a person with relevant convictions will in many cases undermine rather than promote the crime prevention objective especially where those convictions are recent.***

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**Policy: APP 5**

**The Authority expects to see evidence of the effective and responsible management of the licensed premises, the effective instruction, training and supervision of staff and the adoption of best practice used in the leisure industry.**

***REASON: To ensure the promotion of the licensing objectives.***

**Policy: APP 6**

**In premises where a capacity limit is specified and in all large or complex premises and at events where the number of persons present cannot readily be assessed or where an imposed capacity limit is likely to be approached, the Operating Schedule should detail the arrangements that will be put in place to ensure that the permitted number of people attending the premises or event will not be exceeded.**

***REASON: To ensure the promotion of the licensing objectives.***

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**Policy: APP 7**

**Where representation is made by the police that certain licensable activities carried on at a stadium may give rise to concern about the safety of, and**

disorder amongst, spectators, conditions may be attached to the premises licence to mitigate the effects of such behaviour. In addition the premises licence may, by means of attached conditions, make different provision for different sports events where licensable activities take place because of the history of such events at those premises.

*REASON: To ensure the promotion of the licensing objectives.*

**Policy: IMP 1**

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When preparing or considering applications, Applicants, Interested Parties, Responsible Authorities and the Licensing Authority should, where appropriate, take into account the following matters in assessing both the potential for the Licensing Objectives to be undermined and the necessity for, and proportionality of, any conditions which may be imposed on any resulting licence, certificate or permission:

- (i) The nature of the area within which the premises are situated.
- (ii) The precise nature, type and frequency of the proposed activities.
- (iii) Any measures proposed by the applicant as outlined in the Operating Schedule to mitigate or prevent any adverse impact upon the Licensing Objectives (including the proposed hours of operation).
- (iv) The nature (principally in terms of the age and orderliness) and number of any customers likely to attend the licensed premises.
- (v) The potential cumulative impact (see below).
- (vi) Other means and resources available to mitigate any impact.
- (vii) Such other matters as may be relevant to the application.

*REASON: To ensure that all relevant matters are taken into consideration during the application process.*

**Policy: IMP 2**

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Where representations about crime and disorder and/or nuisance are received in respect of applications for premises in a particular area of the Borough a rebuttable presumption will apply that such applications shall be refused. However, this policy only applies to applications of the types listed below and which include the sale or supply of alcohol namely:

- New premises licences,

- New club premises certificates.
- Material variations to existing premises licences / club premises certificates (for example, these may include matters such as increases in capacity or hours)

and in the case of applications for Provisional Statement of Policy an indication will be given that any subsequent application for a premises licence/club premises certificate is likely to be refused .

***REASON: To ensure that those applications which may add to the levels of crime, disorder and nuisance already being experienced in the area are refused.***

**Policy: IMP 3** \_\_\_\_\_

In cases where Responsible Authorities or Interested Parties seek to establish that an application should be refused on the grounds that it would result in or further contribute to a cumulative impact in an area not designated as a saturation zone, which would undermine one or more of the Licensing Objectives they shall:

- i. Identify the boundaries of the area from which it is alleged problems are arising;
- ii. Identify the Licensing Objective(s) which it is alleged will be undermined;
- iii. Identify the type of licensable activity alleged to be causing the problem (eg sale of alcohol, late night refreshment etc)
- iv. Provide full details and evidence to show the manner and extent to which it is alleged that the Licensing Objective(s) are being, or are at risk of being, undermined in the area;
- v. Provide evidence to show that the undermining of the objective(s) is caused by the patrons of licensed premises in the area.

***REASON: To ensure that objections are neither frivolous nor vexatious and that there is an evidential basis for the Committee to reach a decision.***

**Policy: CHI 1** \_\_\_\_\_

The Authority will impose conditions restricting the access of children to premises where it is considered necessary for the prevention of harm to children. Where there are matters that give rise to serious concerns and restriction of access may not ensure adequate protection of children from



harm, applications will be refused.

***REASON: The Authority considers that harm may be moral and psychological as well as physical.***

**Policy: CHI 2**

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The Authority will not impose any conditions that specifically require the access of children to premises.

***REASON: Where no conditions or restrictions are imposed, the issue of access for children still remains a matter of the discretion of individual licensees or clubs. This allows for premises to be ‘children’ and ‘family-friendly’ whilst ensuring that children are adequately protected.***

**Policy: CHI 3**

Where large numbers of children are likely to be present on licensed premises, for example a children’s show or pantomime, the Authority will normally attach a condition requiring an adequate ratio of adults to children in order to ensure the prevention of harm to the children and to ensure public safety. Normally this will be supervision by appropriately qualified, fit and proper persons.

***REASON: The presence of large numbers of unsupervised children will require adequate steps to be in place to ensure they are protected from physical harm and to ensure public safety***

**Policy: CHI 4**

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When deciding whether to limit the access of children to premises, the Authority will judge each application on its own merits.

Where concerns have been identified in respect of individual premises and it is felt that access of children should be restricted, the Authority will consider imposing conditions which may include the following:

- (i) Limitations on the hours when children may be present.
- (ii) Age limitations for persons under 18.
- (iii) Limitations or exclusion when certain activities are taking place.
- (iv) Full exclusion of persons under 18 when certain licensable activities are taking place.
- (v) Limitations of access to certain parts of the premises for persons

under 18.

(vi) A requirement for an accompanying adult to be present.

***REASON: It is not possible to anticipate every issue of concern that could arise with regard to individual premises when deciding to limit the access of children to premises.***

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## APPENDIX B

### GLOSSARY OF TERMS

The interpretation of terms used in this policy is as given in sections 190 -194 Licensing Act 2003. Where terms are not explained in the Act the following is guidance to the general meaning that is applied and is used in this policy document.

**Authorised person:** an officer appointed for the purpose of the Act and includes an inspector appointed under section 19 of the Health and Safety at Work etc Act 1974, section 18 of the Fire Precautions Act 1971 and a surveyor of ships, appointed under section 256 of the Merchant Shipping Act 1995.

**Adverse impact:** means a matter, normally crime and disorder and/or public nuisance, the effect of which is such that it has a tangible negative result on the area around the premises and/or the residents/businesses in that area.

**Committee and Panel:** mean the Licensing Act Committee and Licensing Panel of the Council respectively.

**Conditions:** mean controls or restrictions applied to licences and which seek to control licensed activities, the management and the operation of such to ensure that the Licensing Objectives are met.

**Cumulative impact:** means the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area.

**Designated Premises Supervisor:** in relation to a premises licence means the individual for the time being specified in the Premises Licence as the Premises Supervisor.

**Interested party:** means any of:

A person living in the vicinity of the premises,

A body representing persons who live in that vicinity,

A person involved in a business in that vicinity,

A body representing persons involved in such businesses.

**LACORS:** Local Authority Coordinators of Regulatory Services

**Premises:** includes land in the open air such as might be used for Temporary Events.

**Policy and Statement of Policy of Licensing Policy:** means this policy document, “The Gedling Borough Council Licensing Policy”.

**Other guidance:** means guidance issued by the Secretary of State under Section 182 of the Act, or approved or recognised by the Government as being approved for the purposes of the Act.

**Order:** means an Order issued by the Secretary of State under section 197 of the Act.

**Responsible authority:** has the meaning given by s13 of the Act

**Risk Assessment:** means an assessment (ideally documented) of an activity, the people affected by the activity, the risks associated with the activity, how those risks will be removed or reduced to an acceptable level (the control measures) and any matters required to be undertaken to bring the control measures into force.

**Supply of alcohol:** the sale by retail of alcohol, or the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club.

**The Act:** means the Licensing Act 2003

**The Regulations:** means regulations issued by the Secretary of State under section 197 of the Act.

**Vicinity:** means the area around the premises or place where the licensed activity takes place. The extent of the area is a matter of degree in each individual case.

**CONTACT DETAILS**

**LICENSING AUTHORITY ADDRESS FOR APPLICATIONS & ADMINISTRATIVE MATTERS:**

The Licensing Section  
Planning and Environment Department,  
Gedling Borough Council,  
Civic Centre,  
Arnot Hill Park,  
Arnold,  
Notts.  
NG5 6LU

Email: [licensing@gedling.gov.uk](mailto:licensing@gedling.gov.uk)  
Telephone: (0115) 9013895  
Fax: (0115) 9013843

**RESPONSIBLE AUTHORITIES - ADDRESSES FOR APPLICATIONS**

**1. Food Hygiene and Health & Safety**

Food/Health & Safety Section,  
Planning and Environment Department,  
Gedling Borough Council,  
Civic Centre,  
Arnot Hill Park,  
Arnold,  
Notts.  
NG5 6LU  
Telephone: (0115) 9013838  
Fax: (0115) 9013843  
Email: [foodhygiene@gedling.gov.uk](mailto:foodhygiene@gedling.gov.uk)

## **2. Environmental Protection Section (for noise issues)**

Environmental Protection Section,  
Planning and Environment Department,  
Gedling Borough Council,  
Civic Centre,  
Arnot Hill Park,  
Arnold,  
Notts.  
NG5 6LU  
Telephone: (0115) 9013832  
Fax: (0115) 9013843  
Email: [EnvironmentaHealth@gedling.gov.uk](mailto:EnvironmentaHealth@gedling.gov.uk)

## **3. The Chief Constable of Nottinghamshire**

Nottinghamshire Police Headquarters  
HQ (CJ) Liquor Licensing  
Mansfield Police Station, Great Central Road, Mansfield  
Nottinghamshire  
NG18 2HQ  
Fax (01623) 483968

## **4. The Nottinghamshire Fire Service**

Central Fire Station  
Fire Protection Licensing Department  
Shakespeare Street  
Nottingham  
NG1 4FB  
Tel: (0115) 9487844  
Fax: (0115) 9480137  
Email: [firesafetylicensing@notts-fire.gov.uk](mailto:firesafetylicensing@notts-fire.gov.uk)

## **5. The Health and Safety Executive**

***For non-commercial operations and public bodies e.g. council owned premises:***

City Gate West  
Toll House Hill  
Nottingham  
NG1 5AT

Tel: 0115 9712800  
e-mail: [licensing.ApplicationsArea13@gsi.gov.uk](mailto:licensing.ApplicationsArea13@gsi.gov.uk)

## **6. Safeguarding Children Board / Children's Services**

Nottinghamshire Safeguarding Children Board,  
Children and Young Peoples Services,  
County Hall,  
West Bridgford,  
Nottingham.  
NG2 7QB

Tel: 0115 9774084  
e-mail: [clive.chambers@nottscc.gov.uk](mailto:clive.chambers@nottscc.gov.uk)

## **7. The Local Planning Authority**

Development Control Section,  
Planning and Environment Department,  
Gedling Borough Council,  
Civic Centre,  
Arnot Hill Park,  
Arnold,  
Notts.  
NG5 6LU  
Telephone: (0115) 9013720  
Fax: (0115) 9013843  
Email: [developmentcontrol@gedling.gov.uk](mailto:developmentcontrol@gedling.gov.uk)

## **8. Weights and Measures (Trading Standards)**

Nottinghamshire County Council Trading Standards  
The Assistant Director (Community Protection) Nottinghamshire County Council Trading  
Standards  
County Hall  
West Bridgford  
Nottingham NG2 7QP  
Tel: (0115) 9823823

## **9. For Vessels:**

### **The Maritime and Coastguard Agency.**

Eastern Region  
Crosskill House, Mill Lane, Beverley  
HU17 9JB  
Tel: 01482 866606

### **10. The Environment Agency.**

Trentside Offices  
West Bridgford, Nottingham  
NG2 5FA  
Telephone (0115) 9455722

### **11. The British Waterways Board.**

The Kiln  
Mather Road, Newark  
Nottinghamshire  
NG24 1FB  
Telephone (01636) 704481

### **12. Other Nottinghamshire Local Authorities**

Ashfield District Council  
Urban Road  
Kirkby-in-Ashfield  
Notts  
NG17 8DA  
Tel: (01623) 450000

Bassetlaw District Council  
Queens Buildings  
Potter Street  
Worksop



Notts  
S80 2AH  
Tel: (01909) 533533

Broxtowe Borough Council  
Council Offices  
Foster Avenue  
Beeston  
Nottingham  
NG9 1AB  
Tel: (0115) 9177777

Mansfield District Council  
Civic Centre  
Chesterfield Road South  
Mansfield  
Notts  
NG19 7BH  
Tel: (01623) 463463

Newark and Sherwood District Council  
Kelham Hall  
Newark  
Nottingham  
NG23 5QX  
Tel: (01636) 650000

Nottingham City Council  
Lawrence House  
Talbot Street  
Nottingham  
NG1 5NT  
Tel: (0115) 9155555

Rushcliffe Borough Council  
Civic Centre  
Pavilion Road  
West Bridgford

Nottingham  
NG2 5FE  
Tel: (0115) 9819911

**Nottingham Magistrates' Court**

***For appeals against licence decisions.***

Clerk to the Justices  
Nottingham Magistrates Court  
Carrington Street  
Nottingham NG2 1EE  
Telephone (0115) 9558111

**Mansfield Magistrates' Court**

***For appeals against licence decisions.***

Clerk to the Justices  
Rosemary Street  
Mansfield  
Notts  
NG19 6EE  
Tel: (01623) 451500

**LICENSING PANEL & COMMITTEE HEARING PROCEDURE**

1. Upon notification that a matter is to be put before a Licensing Panel or the Committee, the applicant, interested parties and the responsible authorities shall within the time period provided for in the relevant regulations give notice to the Licensing Office stating:
  - i. Whether they intend to be represented at the hearing
  - ii. The names and addresses of any witnesses that they intend to call
  - iii. The time estimate for their presentation/representations to the Committee.
  - iv. Whether they consider a hearing to be unnecessary.
2. Where a large number of interested parties are involved they will be encouraged to appoint a spokesperson or spokespersons so as to avoid duplication of evidence in so far as is possible.
3. Any one invited to attend before a Panel or the Committee may bring legal or other professional representatives with them if they so wish. Advocates are, however, reminded that these are civil proceedings and inquisitorial rather than adversarial in nature. Aggressive advocacy is not encouraged and will not be tolerated.
4. Copies of the application and representations made by the parties will have been circulated to members prior to the hearing. However in appropriate cases, where a matter is to proceed to a hearing the applicant will be expected to supply a further 6 copies of the plan accompanying the application for use at the hearing. The hearing will concentrate solely on those areas of the application which are in dispute. The Authority is under an obligation to disregard information which is not relevant to the application, representation, or notice or to the licensing objectives. Advocates are therefore asked to be as succinct as possible and should be aware that the Chair may impose a time limit within which parties are to present their case.
5. Whilst additional material in support of the application, representation or notice may be taken into account by the Authority, such material should be provided and circulated by the producer to all parties concerned (including the Authority) as soon as possible before the hearing. Material produced at the hearing can only be admitted with the consent of all the other parties. The late production of material may lead to a hearing having to be adjourned and is discouraged. Additional material which reveals a new ground of representation or which is not relevant to the application, representation or notice lodged will be disregarded.
6. Any party who intends to put additional written material before the Panel or the Committee should provide 18 copies of that material to the Licensing Office if the application is to go to the full Committee and 6 copies if the matter is to go

before the Panel. Applicants should note that changes to application plans during the application process should be notified to the Licensing Office as soon as possible and are likely to result in a new application having to be submitted. All relevant documentation received by the Authority will be sent to Members of the Panel/Committee and interested parties before the hearing if at all possible. Any failure to adhere to the requirements listed above may result in a case having to be adjourned and therefore delay the decision.

7. Where a party does not attend the hearing and is not represented the Authority may either adjourn the hearing if it is in the public interest to do so, or may continue with the hearing in the party's absence. If the latter option is followed the Committee/Panel will still consider any application, representation, or notice submitted by the absent party in so far as it is relevant.
8. The following procedure will ordinarily be followed at the Panel/Committee hearing:
  - i) The Chair will introduce themselves, other members and relevant officers. The Chair will also ask the applicant, interested parties and the responsible authorities to introduce themselves and any witnesses they wish to call. The Chair will then outline the procedure to be followed by the Panel/Committee and any time limits to be imposed on the presentation of cases.
  - ii) The applicant will be asked to present their case. Where a general presentation is made interested parties and the responsible authorities may ask questions at the end of that presentation. However, where witnesses are called, it is expected that each witness will give their evidence and then be open for questioning once their evidence has finished. The next witness will then give evidence. The order for asking questions will be:
    - Responsible Authorities
    - Interested parties
    - Panel/Committee Members
    - Legal advisor to the Panel/Committee (where appropriate)
  - iii) Responsible authorities, and interested parties will then be given an opportunity to present their representations. Once the representation has been presented and any evidence given, there will be an opportunity for questions to be asked firstly, by the applicant and then by other responsible authorities and interested parties, members and the legal advisor to the Panel/Committee. Where there is more than one body making representations to an application the order for the hearing of representations will normally be the responsible authorities followed by interested parties.
  - iv) Once all the evidence has been given responsible authorities, and interested parties will be given an opportunity to sum up their

representations in the same order as they presented their case. The applicant will then be given an opportunity to sum up their case and have the final word.

v) Whilst Hearings will normally be conducted in Public the Panel/Committee does have powers of exclusion (which cover the public, the press, and even applicants, parties and their representatives) in appropriate circumstances. The Panel/Committee will however always discuss and make its decision on the application in private.

vi) The decision will normally be announced in public and transmitted in writing in accordance with the relevant rules and guidance. The decision may however be notified where applicable to the parties in writing at a subsequent date following the conclusion of the hearing.

9. If all parties agree and the Authority considers it appropriate, a hearing may be dispensed with. In some circumstances (where representations are not withdrawn), the Panel/Committee may still have to determine the application but will do so having considered the papers previously submitted. In such circumstances the Authority would also consider the terms of any “consent order” drawn up by the parties indicating terms upon which all of the relevant parties would be content that the application be granted.

#### 10. Adjournments

i) Due to the time constraints upon the Panels/Committee, applications for adjournments will only be granted where absolutely necessary.

ii) Once a hearing date has been set it is for the parties to ensure that they attend or are represented. Hearings may proceed in the absence of a party and in such circumstances the party’s original representations will be taken into account together with any further material in support of that representation which has been served on all parties before the day of the hearing.

iii) If it is not possible for a party or their witness to attend a hearing the Authority’s preference would be for their representation to proceed by way of written evidence.

iv) If it is necessary to make an application for an adjournment the party seeking the adjournment should seek the consent of all other parties to the application and notify the Licensing Office as soon as possible that an adjournment may be sought. If all parties agree the matter may be adjourned administratively.

v) If not agreed administratively the matter will remain listed before the Panel/Committee to hear the application and determine whether to agree the adjournment or proceed.

vi) The Authority may adjourn proceedings of its own motion where it considers it necessary for its consideration of any application, representations or notice made or where it considers it to be in the interests of natural justice.

- vii) Where an adjournment is granted all parties will be given notice of the adjournment and the new hearing date.

#### 11. Applications to Extend Time Limits

- i) These may be dealt with administratively but will only be granted where it is necessary in the public interest.
- ii) Applications should be made to the Licensing Officer identifying:
  - The licensing application and premises concerned
  - The person making the application for the time limit to be extended
  - The time limit concerned
  - The reasons why that time limit cannot be complied with
  - The extension sought
  - Why it is believed that it would be in the interests of justice to grant the application, and
  - Whether all other parties have agreed to an extension of time.
- iii) Where an extension is granted all parties will be given notice of the extension.