



# DRAFT LICENSING POLICY

**The Licensing Authority wishes to consult widely on its draft Licensing Policy. Anyone wishing make comment may respond on the form provided or by letter.**

**Comments and observations, should be sent, in writing to:**

**By post: – Public Protection Division, 11 Houndgate, Darlington, DL1 5RF**

**Email: -public protection@darlington.gov.uk**

**Comments should be received no later than 12 Noon on 30 November 2004 so that they can be taken into account when the Licensing Authority decides on its Policy Statement. The Policy will be published and made available on 7 January 2005.**

# Draft Statement of Darlington Borough Council Licensing Policy – August 2004

## INTRODUCTION

A glossary of terms used in this document is attached as Appendix A.

The Local Authority is the Licensing Authority under the Licensing Act 2003 and is responsible for granting premises licences, club premises certificates, temporary events notices and personal licences in the Borough in respect of the sale and/or supply of alcohol and the provision of regulated entertainment and late night refreshment. Conditions can be attached to licences only to ensure the following:

- The Prevention of Crime & Disorder
- Public Safety
- The Prevention of Public Nuisance
- The Protection of Children from Harm

These are known as the “Licensing Objectives”. The Licensing Authority’s decision making ability is constrained either by the provisions of the Act and/or Regulations made under the Act. The Licensing Authority is also required to have regard to guidance from the Secretary of State for the Department of Culture, Media and Sport (DCMS) but may, if it considers it appropriate, deviate from the guidance where there are good reasons, which can be justified. The policy does not ignore or be inconsistent with the provisions of the Licensing Act 2003. In determining its policy the Licensing Authority will give appropriate weight to the views of those it has consulted.

The Licensing Act requires every Licensing Authority to prepare and publish a licensing policy, from February 2005, and to review it every three years. This policy relates to licensable activities as defined in the Act, and follows guidance published by DCMS. It seeks to provide clarity and guidance on the approach adopted by the Licensing Authority, and in those matters that will normally be taken into account, when making decisions on licensing applications.

The Licensing Authority, when publishing or revising this policy statement, will seek to achieve proper integration with policies affecting local crime prevention, community safety, planning, transport, tourism, race equality schemes and cultural strategies and other plans introduced for the management of Town Centre and the night time economy.

The Licensing Authority will monitor the impact of licensing on the Provision of Regulated Entertainment and particularly live music and dancing only necessary, proportionate and reasonable conditions will be imposed.

The Licensing Authority supports the principal of the Local Authority seeking premises' licences for public spaces to facilitate performances.

The Licensing Authority will consult with organisations and individuals in these areas to respond and encourage input into the policies. The Act requires consultation with:

- the Police
- the Fire Service
- representatives of licence holders
- local businesses and their representatives
- local residents and their representatives

In formulating this policy the Licensing Authority as a Local Authority has had regard to the provisions of the European Convention on Human Rights in that everyone has the right to respect for their home and private life and that every person is entitled to the peaceful enjoyment of their possessions (including a licence). The Human Rights Act 1998 makes it unlawful for a Public Authority to act in a way that will be incompatible with a convention right. Consequently an aim of this policy and in particular in relation to the decision-making processes of the Licensing Authority is to ensure that a licensing decision does not cause a breach of a convention right. The Licensing Authority has also taken into account the provisions of the Crime and Disorder Act 1998 with regard to the likely effect of the exercise of its functions on crime and disorder in the Darlington area and is committed to doing all it can to prevent crime and disorder.

The Licensing Authority recognises its responsibilities under the Race Relations Act, 1976, as amended by the Race Relations (Amendment) Act, 2000. The impact of this policy on race relations will be monitored through the Local Authority's race equality scheme.

With the exception of the approval and review of its Licensing Policy, decisions on licensing matters will be taken in accordance with an approved scheme of delegation aimed at underlining the principles of timely, efficient and effective decision-making. The Licensing Committee will receive regular reports regarding licences determined by officers under delegated powers, to maintain an overview of the general situation.

Separate guidance on the procedures to be followed by applicants and objectors will be available from the Licensing Authority.

### **Profile of Darlington**

The Borough of Darlington is a compact area with a clear identity. It comprises the town of Darlington and its surrounding rural area, covering a total area of 19,745 hectares. The River Tees and North Yorkshire lie to the south, the Teesside conurbation to the east, County Durham to the north, and rural Teesside to the west. There are excellent communication links with a principal station on the East Coast rail mainline, the A1 (M) Motorway and Teesside International Airport within its boundaries. Darlington is a medium sized town, with an employed workforce of approximately 40,000, and where most of the population live in the urban area. There are around 2,800 businesses, most of which are now in the service sector. The town centre is of sub-regional importance for shopping and services, and the town is also an important employment centre. Generally Darlington is an economy of small, owner-managed businesses which co-exist with branch factories, offices and shops. Service sector employment is expected to continue to dominate the local economy with further strong growth in tourism and miscellaneous services, female and part-time employment.

### **SCOPE OF THE POLICY**

The Licensing Activities specified in the Licensing Act 2003, which are covered by this policy, include:

- The retail sale of alcohol (including current “on” and “off” licences)
- Supply of hot food or drink from a premise from 23.00 to 05.00 hours
- Supply of alcohol or provision of regulated entertainment to club members
- Provision of entertainment listed below (known as regulated entertainment) to the public, to club members or with a view to profit:
  - Film exhibitions
  - Performances of a play
  - Indoor sporting events
  - A boxing or wrestling entertainment
  - Live music performances
  - Playing of recorded music
  - Dance performances
  - Provision of facilities for making music
  - Provision of dancing facilities

The Act also covers:

- the licensing of individuals for the retail sale of alcohol (“personal licences”);
- the licensing of premises for the retail sale of alcohol, the provision of regulated entertainment or late night refreshment (“premises licences”);
- the supply of alcohol or the provision of regulated entertainment to certain clubs (club premises certificates); and
- the permitting of certain licensable activities on a temporary basis (temporary event notices).

The policy relates to new applications, renewals where applicable, transfers and variations of licences and certificates, including where applicable, temporary premises licences. It will also include review of licences and certificates. Such a review could lead to the revocation of a licence or certificate. (In general a reference in this policy to a licence will include a club premises certificate).

## LICENSING OBJECTIVES

In carrying out its licensing functions The Licensing Authority is required to promote the licensing objectives set out in the Act. These are:

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance; and
- The protection of children from harm.

To achieve these objectives the Licensing Authority will use its full range of powers and engage all relevant stakeholders including its planning service, transport providers, its community safety/ crime and disorder service, police, the fire authority, local businesses, community representatives and local people.

## PERSONAL LICENCES

The Licensing Authority recognises it has very little discretion in the granting of personal licenses. In general provided an applicant has a qualification acceptable to DCMS and does not have “relevant criminal convictions” (see appendix B for details) the application will be granted.

If an applicant has a relevant conviction only the police can oppose the application. If an objection is lodged a hearing must be held.

**Policy: Before granting any personal licence the Licensing Authority must be satisfied that it will be in the interests of the crime prevention objective. It will consider the seriousness and relevance of any conviction(s), the period that has elapsed since the offence(s) were committed and any mitigating circumstances.**

**Reason:** Prevention of crime is both an objective of the Licensing Act 2003 and a responsibility of the Licensing Authority under the Crime and Disorder Act 1998. A person holding a personal licence should be a person who is not only properly qualified but a person who will assist in the prevention of crime. Granting a licence to a known criminal could undermine rather than promote the crime prevention objective.

## **PREMISES LICENCES AND CLUB PREMISES CERTIFICATES OTHER STRATEGIES**

The Licensing Authority recognises that the licensed entertainment business sector and community facilities contribute to the local economy and social infrastructure and wants to encourage licensees to provide a wide range of entertainment activities throughout their opening hours and promote live music, dance, theatre etc for the wide cultural benefit. They are factors in maintaining a thriving and sustainable community which is one of the Licensing Authority's aims.

Arrangements will be made for Licensing Committees to receive reports on the needs of the local tourist economy and employment together with the Cultural Strategy to ensure that these are reflected in their considerations and for the Committee to be appraised of the employment situation in the area and the need for new investment and employment where appropriate.

Regard will be had to the existing policies and strategies on the Local Transport Plan. There will be regular liaison meetings between the Police, Licensing Enforcement Officer and Transport Policy Division to ensure the need to disperse people from the Town Centre quickly and safely and avoid concentrations which produce disorder and disturbance.

Applicants for licences will be expected to address the licensing objectives and have taken local crime prevention strategies, planning and transportation policies and tourism and cultural strategies into account in determining their operational plan.

Note: In many cases it may be helpful to all concerned for applicants and/or their advisers to discuss with Licensing Authority Officers the draft-operating schedule before it is formally submitted. This will help ensure it properly addresses all the issues of concern to the Licensing Authority.

It will expect the operating schedule to have regard to the nature of the area where the premises are situated, the type of premises concerned, the licensable activities to be provided, operational procedures and the needs of the local community. In this respect the Licensing Authority will expect the plan to demonstrate how it is intended that the premises will be "good neighbours" both to residents and to other venues and businesses. They will also be expected to address the prevention and clearance of litter, and other waste materials, arising from the use of the premises. This is particularly relevant in relation to the practise of fly-posting and handing out promotional flyers, which advertise events, promotions & premises. Factors that are relevant will include:

- the type of use, the number of customers likely to attend the premises and the type of customers at the time of the application;
- the proposed hours of operation;
- the level of public transport accessibility for customers either arriving or leaving the premises and the likely means of public or private transport that will be used by the customers;
- the means of access to the premises which should have customer entrances and exits on the principal pedestrian routes;
- the arrangements and facilities at the premises for people with disabilities
- the level of likely car parking demand on principal roads and surrounding residential streets and its effect on local residents, in comparison with the existing situation; and the effect on residential parking and emergency access;
- the need for provision of toilet facilities outside of the premises
- the cumulative impact of licensed premises in an area and the scope for mitigating any impact; (see separate section)
- how often the activity occurs.

and, in considering any application which is already licensed, the Licensing Authority will take into account any evidence:

- of past demonstrable adverse impact from the activity especially on local residents; or
- that, if adverse impact has been caused, appropriate measures have been agreed and put into effect by the applicant to mitigate the adverse impact. If, however, such measures have not been put into effect or there has been insufficient time to assess them a licence may be granted for a limited period only.

#### Special Note

The Disability Discrimination Act 1995 introduced measures to tackle discrimination encountered by disabled people in the areas of employment, access to goods, facilities and services and the management, buying or renting of land or property. For service providers, such as licensees;

- since December 1996 it has been unlawful to treat disabled people less favourably than other people for a reason related to their disability;
- since October 1999 reasonable adjustments should be made for disabled people, such as providing extra help or making changes to the way they provide their services; and
- from Oct 2004 reasonable adjustments should be made to the physical features of their premises which are open to the public, such as Licensed Premises.

## PREVENTION OF NUISANCE

The decisions taken by the Licensing Authority will focus on matters within the control of individual licensees and others granted relevant permissions and the steps they can take to achieve the licensing objectives. These matters will centre on the premises and places being used for licensable activities and the likely impact of those activities on members of public living, working or engaged in normal activity in the area concerned. In taking its decisions the Licensing Authority accepts the difficulty a licence holder has in preventing anti-social behaviour by individuals once they are beyond the direct control of that licence holder. However, it will also take into account that the licensing objective of preventing public nuisance will not be achieved if patrons from licensed premises regularly engage in anti-social activities to the detriment of nearby residents or businesses. Furthermore it will also take into account its responsibility under the Crime and Disorder Act 1998 to do all it can to prevent crime and disorder in the Borough. The aim is to achieve a balanced approach to these difficult issues.

### Policy

**Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to prevent public nuisance, relevant to the individual style and characteristics of their premises and events. The operating schedule shall reflect the assessments made to minimise noise disturbance, both inside the premises & as patrons are leaving the premises and to implement the measures identified as being required to prevent nuisance to patrons, local residents & local businesses.**

### Reason

To achieve the licensing objective of preventing public nuisance. In furtherance of this aim the Licensing Authority will take into account the following matters when considering whether a licensed activity is likely to cause an adverse impact, particularly to local residents:

- a) The precise nature of the activity (especially entertainment) will be a factor in considering the impact, principally in terms of the age and orderliness of the customers.
- b) 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.
- c) The main impact of patrons arriving, queuing and leaving should be confined to principal pedestrian routes as far as possible. It would not be appropriate, for instance, to have licensed activities which caused large numbers of people to exit into a residential area as opposed to a situation where pedestrian movement takes place directly to and from nearby public transport services.



With any adverse impact it may be possible to take steps to mitigate or prevent the impact and if such measures are reliable, an activity may be licensed. When addressing the issue of prevention of public nuisance, the applicant must demonstrate that those factors that impact on the likelihood of public nuisance have been considered. These may include:

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

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

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

One of the greatest causes of annoyance to residents trying to sleep is the sound of music escaping from licensed premises. Such an escape of sound might preclude the grant of a licence or if one has already been granted for it to be reviewed with a view to possible revocation. It might also lead to a Noise Abatement notice being issued under the Environmental Protection Act. Responsible applicants and licensees will wish to avoid the need for such action, as they will wish to comply with the licensing objective of preventing public nuisance.

If prevent sound escape practical steps should be employed such as:

- Keeping doors and windows closed and providing adequate alternative ventilation
- Reducing sound levels and installing a sound limiting device to prevent sound exceeding the appropriate level
- Installing soundproofing measures to contain sound and vibration
- Providing quieter areas for patrons

Where there are beer gardens or similar outdoor areas, ensuring that amplified music is not relayed to such areas & that these areas are properly screened.

Popular venues, which attract queues, will be expected to formulate a system to avoid disturbance to residents. This can sometimes be achieved by simply ensuring that the direction of the queue is away from any residential accommodation.

Residents are frequently disturbed by patrons leaving entertainment venues in the early hours of the morning. While Licence holders cannot be held solely responsible for the behaviour of their patrons after they have left the premises, they will be expected to include in the operating plan details of measures they will implement to assist in the quieter exiting & dispersal of such patrons. Examples may include:

- Erecting prominent notices at the exits to premises asking customers to leave quietly and not to slam car doors.
- At appropriate times making loudspeaker announcements to the same effect.
- Instructing door staff to ask customers leaving the premises to leave the area quietly.
- Reducing the volume of music towards the end of the evening and, where appropriate, playing quieter, more soothing music as the evening winds down.
- Availability of licensed taxis, private hire vehicles or public transport to take patrons from the premises.
- In appropriate cases, requiring door supervisors or a manager to patrol nearby streets to assess for themselves whether there is a problem and how best to deal with it.
- Banning from the premises people who often leave in a noisy fashion.
- Increasing outside lighting levels.
- Installing digital CCTV systems outside the premises.
- Where there is a private forecourt, preventing patrons from using it for eating and drinking etc after 11pm.
- levy minimum door entry charges on Thursdays to Saturdays (possibly Sundays also) from 10.30pm to discourage large -scale movement of patrons between premises, thus reducing the likelihood of noise disturbance to nearby residents.

The Licensing Authority acknowledges that the licensing function cannot be used for the general control of the anti-social behaviour of individuals once they are beyond the direct control of the licensee of any premises concerned. However, other mechanisms may be utilised, where appropriate, to tackle unruly or unlawful behaviour of consumers when beyond the control of the individual, club or business holding the licence, certificate or authorisation concerned. These include:

- Planning controls
- Positive measures to create a safe and clean town centre environment in partnerships with local businesses, transport operators and other departments of a Licensing Authority
- Powers of licensing authorities to designate parts of the local authority area as places where alcohol may not be consumed publicly
- Police enforcement of the normal law concerning disorder and anti-social behaviour, including the issue 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 the grounds of disorder, the likelihood of disorder or excessive noise emanating from the premises
- The power of the police, other responsible authority or a local resident or business to seek a review (and possible revocation) of the licence or certificate in question.

For a variety of reasons many of these mechanisms may be of limited effectiveness and value in dealing with anti-social behaviour away from the premises. The Licensing Authority will, therefore, consider very carefully the grant of a licence particularly when the hours sought extend far into the hours of the following morning.

The Licensing Authority recognise that longer licensing hours should be encouraged in the interests of avoiding a concentration of disturbance while ensuring that nuisance is minimised to local residents. The Licensing Authority believe that shops and public houses should generally be permitted to sell alcohol during the hours they intend to open, unless there are very good reasons for restricting these hours. The Licensing Authority acknowledges this view but also considers that it is self evident that the risk of disturbance to local residents is greater when licensable activities continue late at night and into the early hours of the morning. For example the risk of residents sleep being disturbed by patrons leaving licensed premises is obviously greater at 2am than at 11pm.

## **Policy**

**The Licensing Authority will normally apply a closing time of 11pm for licensed premises in wholly residential areas. Hours of 12am and beyond may be permitted for premises located:**

- a) in predominantly commercial areas, such as the Town Centre; and**
- b) where there is a high level of accessibility to public transport services; and**
- c) where there is an appropriate amount of car parking, readily accessible to the premises; and**
- d) the operating plan indicates that the applicant is taking appropriate steps to comply with the licensing objective of preventing public nuisance.**

**Later closing times, ie. beyond 2am may be permitted where it can be demonstrated that, in addition to the above:**

- a) the licensed activities would not be likely to cause adverse impact especially on local residents, and that, if there is a potential to cause adverse impact, appropriate measures will be put in place to prevent it; and**
- b) there will not be any increase in the cumulative adverse impact from these or similar activities, on an adjacent residential area; and**
- c) the activity will not be likely to lead to a demonstrable increase in car parking demand in surrounding residential streets or on roads**

## **Reason**

This part of the policy dealing with opening hours is based on a broad distinction between the approach to be taken in certain predominantly commercial areas like parts of the town centre and the rest of the Borough.

Any activity involving public entertainment or eating or drinking on the premises has the potential to impact adversely on the surrounding area due to noise, smells, or congestion on the foot - way. It may be exacerbated by patrons being noisy when leaving, leaving litter or taking up on-street car parking space needed by residents. The impact of noise generated by these activities, especially patrons departing either on foot or in cars, is particularly intrusive at night when ambient noise levels are much lower.

Parts of this Borough are very sensitive to the impact of licensed activities because they are either residential in character or close to residential areas. Many shopping areas are close to residential areas, including housing above commercial premises. The impact of traffic and parking related to licensed premises can be considerable. Even where a majority of patrons arrive on foot or by public transport, the additional parking demand may be significant, especially where there are already a number of licensed premises. The impact may be felt by local residents being prevented from parking close to their homes and by increasing the danger from traffic in residential streets.

However, some commercial areas in the Borough, particularly the Town Centre may be more suitable locations for licensed activities, especially those with late opening hours or which attract significant numbers of people. In the Town Centre, more patrons are likely to travel by public transport. Licensable activities may help bring vitality to the area after normal shopping hours. The ambient noise levels are also likely to be higher in the evening particularly when compared with residential areas so that additional noise may be less of a problem.

Nevertheless, late at night, the impact of licensed activities is more likely to be objectionable to residents living within or close to a licensed activity. The ambient noise level will be lower so that noise disturbance from activities becomes relatively more noticeable.

Persons who visit entertainment venues, which open beyond the provision of the main public transport services, are more likely to use taxis or private cars (and seek to park in residential streets close to the activity). The policy allows for later closing times if it can be shown that it is appropriate in a location with particular regard to the impact on any residential areas. In those parts of the borough, which are predominantly residential, it is anticipated that the normal hours of opening of new licensed activities would be a maximum of 11pm.

Opening hours of midnight and beyond may be considered to be acceptable, in principle, for premises in commercial areas with high levels of public transport accessibility. However, in all cases, the granting of a licence will depend on impact of an activity, particularly on local residents. It is necessary to consider, amongst other things, the level of impact that could arise from noise and vibration, litter, parking, people coming and going, crowds and queuing; and whether any impact is particularly unacceptable late at night.

## **SATURATION AND CUMULATIVE EFFECT**

The Licensing Authority recognises that the cumulative effect of licensed premises may result in an increase in numbers of people either walking through or congregating in streets or cause adverse effects on amenity and this in turn may have a number of undesirable consequences, for example:

- An increase in crime against both property and persons
- An increase in noise causing disturbance to residents
- Traffic congestion and/or parking difficulties
- Littering and fouling.

The Licensing Authority will take into account:

- The Character of the surrounding area
- The potential and real impact of the licence on the surrounding area, both individually and cumulatively with existing licences
- The nature and character of the proposed operation
- Any other relevant considerations

Where there is evidence that a particular area of the Borough is suffering adverse effects arising from a concentration of licensed premises, or that residential areas are under stress, this will be taken into account in determining any further applications or variations to existing licences for premises within the area identified. The onus will be on the objectors to provide evidence to back up any assertion that the addition of the premises in question would produce the cumulative impact claimed.

- The Licensing Authority may consider a specific saturation policy if this proves necessary.
- The Licensing Authority in considering whether to adopt a special saturation policy will take the following steps:
  - identify serious and chronic concern from a responsible authority or representatives from residents or local businesses concerning nuisance and/or disorder;
  - assess the causes;
  - where it can be demonstrated that disorder and nuisance is arising as a result of customers of licensed premises, identify the area from which problems are arising and the boundaries of that area; and
  - adopt a special policy about future licence applications from that area.

At the present time the Licensing Authority has not designated any saturation areas within the Borough. If in future the Licensing Authority designates any such areas they will be advertised current licence holders will be informed and new applicants advised on their initial enquiry.

## **STAGGERED CLOSING TIMES**

### **Policy**

**In areas containing a number of licensed premises the policy of the Licensing Authority will be to encourage licensees to stagger their closing times. Where voluntary arrangements cannot be obtained or are unsuccessful and problems of nuisance for local residents or businesses arise, the Licensing Authority will consider whether it is appropriate to limit the hours of individual licensed premises. This will be particularly the case in noise sensitive areas.**

### **Reason**

To minimise disturbance and strain on transport systems and preventing public nuisance. One of the aims of the new licensing regime is to prevent the mass exodus of patrons at 11 p.m. or 2 a.m. which occurs under the current pre-2003 legislation. Fixed licensing hours are to be abolished in favour of hours tailored to individual premises. However the same cumulative effect referred to above may arise where the closing time of a number of licensed premises coincide

## **PLANNING CONSENT**

### **Policy**

**An application for a licence will not be considered unless the applicant can demonstrate that the premises have either an appropriate (in terms of the activity and hours sought) planning consent, or an appropriate certificate of lawful use or development. Exceptions may be made where the applicant can demonstrate compelling reasons why the application should be considered although the planning status of the premises has not been finalised.**

### **Reason**

To avoid unnecessary duplication and thus comply with DCMS guidance. The Licensing and Planning Committees will keep each other advised of their actions to ensure that a licensing application will not be a re-run of the planning application and will not cut across decisions taken by the local authority planning committee or following appeals against decisions taken by that committee.

Any premises for which a licence is required must also have an authorised use under town planning legislation. Typically, this could be for:

- "Use for the sale of food or drink for consumption on the premises or of hot food for consumption off the premises" (Use Class A3);
- Assembly and leisure (Use Class D2) which includes concert hall, dance hall and indoor/outdoor sports and recreation;
- Retail shop licensed for the sale of liquor eg an off-licence (Use Class A1);
- A hotel which has a restaurant or bar included in its authorised use (Use Class C1).

The references to use class come from the Town and Country Planning (Use Classes) Order 1987. The order classifies uses and labels them with a letter and a number. Not all uses come within a use class.

The Local Authority's Planning Policies are set out in its Unitary Development Plan supplemented by guidance on A3 uses (Restaurants, take-aways, public houses etc.). Government guidance in the form of Planning Policy Guidance Notes (PPG) and Regional Planning Policy Guidance Notes (RPG) is also relevant.

The strength of these policies is that there is an obligation both on the Local Authority, as local planning authority, and the decision -maker on any appeal, to give considerable weight to them. This helps to ensure consistency in the decision making process.

In general, planning permissions authorise a type of use, whereas licences relate to a particular premises and operator and may only cover a part of the premises. A planning permission is attached to the premises and is usually permanent. Unlike a licence it cannot normally be reviewed and if necessary revoked. Furthermore planning is only concerned with the premises and the use and hours proposed. It takes no account of the suitability or otherwise of the applicant.

Within certain limits, the activity may change without a new planning permission. A planning permission for an entertainment use, for instance, may cover activities that can have a wide range of different impacts in the locality. The precise nature of the impacts of the specific activities proposed by a prospective licence holder needs to be considered when an application is made for a licence.

In some cases where an application is made for a licence the town planning use will already be authorised by a previous planning permission or because the premises has long-standing lawful use. Therefore, a new application for planning permission is often not required. However, three points must be made:

- (i) The existing planning permission might, and if recently granted is very likely to, have conditions restricting the use of the premises in some way: eg the hours of operation. In that case, anybody seeking a licence to operate beyond those hours would first need to obtain a revised planning consent or a relaxation or removal of the condition.
- (ii) The existence of a planning permission (or lawful use) where there is no condition on the usage does not mean that a licence for late hours of operation or a particular entertainment would necessarily be appropriate. Similarly, if an existing planning permission has conditions on the hours of operation, it does not follow that a licence for a particular activity will be granted up to the hours specified in the planning permission.
- (iii) Where a long standing planning permission has no condition on hours, or where there is lawful use without planning permission, it is likely there has been no rigorous consideration of late night impact during the planning process. Experience within the borough has revealed the importance of these issues and planning permissions are no longer likely to be granted without such constraints.



## **PUBLIC SAFETY**

### **Policy**

**The Licensing Authority will expect the premises to be constructed and maintained to the highest possible standards of safety. It will expect the applicant to have addressed the requirements of Health and Safety at Work and Fire Safety legislation and, where appropriate, the Technical Standards published by the District Surveyors Association. In particular the Licensing Authority will expect compliance with Fire safety legislation in relation to upholstery, curtains & other hanging materials.**

### **Reason**

The Licensing Authority expects premises to be constructed with safety in mind and that the operating schedule details how the premises will be properly managed and maintained to ensure public safety at all times. The Licensing Authority will further expect the operating plan to reflect the maximum capacity as determined by the Fire Authority or other relevant legislative body.

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

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

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

Suitable and sufficient risk assessments :

- Effective and responsible management of premises
- Provision of a sufficient number of people employed or engaged to secure the safety of the premises and patrons
- Appropriate instruction, training and supervision of those employed or engaged to secure the safety of the premises and patrons

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

## **CRIME AND DISORDER**

### **Policy**

**The Licensing Authority will expect the applicant to indicate in his operating schedule the steps proposed to prevent crime and disorder on and in the vicinity of their premises and/or events**

### **Reason**

Prevention of crime and disorder is both an objective of the Licensing Act 2003 and a responsibility of the Licensing Authority under the Crime and Disorder Act 1998. It is important, therefore, that the applicant be able to demonstrate to the Licensing Authority the practical steps that will be taken to further this objective in the operating schedule, The factors that impact on crime and disorder may include:

- Underage drinking
- Drunkenness on premises
- Public drunkenness
- Drugs
- Violent behaviour
- Anti-social behaviour

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

- Effective and responsible management of premises
- Training and supervision of staff
- Adoption of best practice guidance (eg Safer Clubbing, the National Alcohol Harm Reduction Strategy Toolkit and other voluntary codes of practice, including those relating to drinks promotions eg The Point of Sale Promotions published by BBPA, Security in Design published by BBPA and Drugs and Pubs, published by BBPA)
- Acceptance of accredited means of age identification eg DVLA photo driving licence or 'proof of age' cards
- Provision of effective digital CCTV in and around premises
- Employment of Security Industry Authority licensed Door staff
- Provision of toughened or plastic drinking vessels

- Provision of secure, deposit boxes for confiscated items ('sin bins')
- The Portman Group Code of Practice on the naming, packaging and promotion of alcoholic drinks
- Provision of litterbins and other security measures, such as lighting, outside premises
- Membership of Darlington 'Pubwatch' scheme.

The Licensing Authority will expect the operating plan to include a risk assessment into the use of door-staff, in terms of the actual need for such a service & also the ratio of such personnel to patrons based on capacity of the premises.

### **Policy**

**The Licensing Authority will require a personal licence holder to be on the premises at all times when alcohol is being sold.**

### **Reason**

It is important that there is an accountable, responsible person present at all times when alcohol is being sold. This is to ensure that alcohol is not sold to persons who have had too much to drink; & to ensure that alcohol is only sold to persons over the age of 18 years. In terms of crime & disorder, there is a need for an identified person with whom the Licensing Authority & Police can discuss any problems/issues arising from the licensable activities offered on the premises.

## **Drugs**

### **Policy**

**The Licensing Authority will expect all licensees of venues that offer alcohol and entertainment to provide and implement a written drugs policy. This must be included as part of the operating schedule.**

### **Reason**

To further the crime prevention objective and to ensure public safety. The production of a drugs policy (advice on writing a policy is available from the Licensing Authority) combined with the effective professional management of a venue will assist in keeping incidents of drug abuse to a minimum

The Licensing Authority expects that all licensees who provide entertainment along with retail alcohol sales will comply with the Home Office Safer Clubbing Guidelines. These include:

- the provision of free drinking quality (potable) water in public areas eg The bar area and not in toilets
- the installation of a drugs deposit box in all licensed premises providing entertainment beyond 11pm
- a drugs register to record confiscated drugs and drugs deposits
- full qualified first aiders at all premises which provide entertainment beyond 11pm
- the provision of cooler, quieter areas for patrons

## **Tables and Chairs Outside Premises**

### **Policy**

**The placing of tables and chairs on the highway requires a Pavement Café licence issued by the Council. In the case of tables and chairs on private land the Licensing Authority will expect the applicant to advise of arrangements (including hours of operation) to minimise nuisance as part of the operating plan.**

### **Reason**

This policy is designed to strike a fair balance between the needs of those wishing to enjoy refreshment in the open air and the need to prevent safety and nuisance problems. The provision of tables and chairs outside the premises either on the highway or on private land can enhance the attractiveness of the venue. It can have the benefit of encouraging a continental style café culture. However, late at night these tables and chairs can contribute to noise and public order problems. This is because they can encourage patrons and passers by to loiter rather than disperse. The placing of tables and chairs on the public highway will need the consent of the Licensing Authority in the form of a separate Pavement Café Licence.

## **PROTECTION OF CHILDREN**

### **Policy**

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

### **Reason**

To allow flexibility for the licensee, to ensure that where appropriate licensed premises are “user friendly” for children but to ensure they are adequately protected. The Licensing Authority has taken account of the view of DCMS that the use of licensed premises by children should be encouraged. However it will, where necessary, impose conditions designed to protect children.

Examples of premises where the introduction of additional controls are likely to be necessary are:

- Where there have been convictions for serving alcohol to minors or with a reputation for under-age drinking
- With a known association with 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
- where the supply of alcohol for consumption on the premises is the exclusive and primary purpose of the services provided at the premises
- protection of children from exposure to tobacco smoke

In such circumstances while it may sometimes be necessary to impose a complete prohibition this would be only rarely imposed. The Licensing Authority would normally be more likely to impose requirements such as:

- Limitations on the hours when children may be present
- Proof of age arrangements for alcohol sales
- Age limitations below 18
- Limitations or exclusions when certain activities are taking place
- Requirements for accompanying adults
- Full exclusion of people under 18 from the premises when certain licensable activities are taking place (eg entertainment of a sexual nature)
- Limitation on the permits of premises to which children might be given access
- Protection of children from exposure to tobacco smoke

Where there is provision of entertainment specifically for children (eg a children's disco) the Licensing Authority will require the presence of sufficient adults to control the access and egress of the children and assure their safety. Such adults will be required to undergo an **enhanced level Criminal Record check**.

Conditions requiring the admission of children to any premises cannot be attached to licence or certificates. Where no licensing restriction is necessary, this should remain a matter for the discretion of the individual licensee or club or person who has given a temporary event notice. Venue operators seeking premises licences and club premises certificates may also volunteer such prohibitions and restrictions in their operating schedules because their own risk assessments have determined that the presence of children is undesirable or inappropriate. Where no relevant representations are made to the licensing authority concerned, these volunteered prohibitions and restrictions will become conditions attached to the licence or certificate and will be enforceable as such. No other conditions concerning the presence of children on premises may be imposed by the licensing authority in these circumstances.

Applicants for premises licences and club premises certificates will be required to copy details of their applications. A body that represents those who are responsible for, or interested in, matters relating to the protection of children from harm and is recognised by the licensing authority for that area as being competent to advise it on such matters. The Licensing Authority considers that the Competent Body to be the Area Child Protection Committee.

### **Exhibition Of Films**

**POLICY** Where the exhibition of films is permitted, the Licensing Authority will expect licence and certificate holders and those who have given notice of a temporary event within the terms of the 2003 Act to implement measures that restrict children from viewing age-restricted films classified according to the recommendations of the British Board of Film Classification or the Licensing Authority. In the case of a film exhibition that has not been classified, the Licensing Authority will expect the licensee to conduct an assessment of the suitability of the film for exhibition to children and to implement measures that restrict viewing by children if necessary.

## Sex Related Activities

**Policy: The Licensing Authority will not grant licences for entertainment which involves a sex related element in any premises located near schools, churches, hospitals, youth clubs or other premises where significant numbers of children are likely to attend. Where such licences are granted it will impose conditions designed to ensure that children are not admitted to and cannot witness these activities and to prevent crime and disorder problems.**

### Reason

To protect children by preventing them being exposed to unsuitable material or acts and to further the crime prevention and prevention of nuisance objectives by recognising the increased risk of nuisance or illegal activities such as performers offering “extras” to customers or the plying for trade by prostitutes.

Where the activities proposed under the licence include those of a sex -related nature (eg topless waitresses, striptease, table dancing) the Licensing Authority will take into account the increased risk to the licensing objectives. For the sake of convenience the term “striptease” in this part of the policy should be taken to refer to any entertainment or service involving removal of clothing, nudity or the sexual stimulation of patrons. Conditions may be imposed to address these risks, such as:

The area proposed for striptease shall be in:

- (a) a position where the performance cannot be seen from the street;
- (b) a designated area of the premises with segregation from the audience;
- (c) a position where the performers will have direct access to the dressing room without passing through or in close proximity to the audience.

Whilst striptease entertainment is taking place no person under the age of 18 shall be on the licensed premises. A clear notice shall be displayed at each entrance to the premises in a prominent position, so that it can be easily read by persons entering the premises, in the following terms: NO PERSON UNDER 18 WILL BE ADMITTED.

To prevent the possibility of children seeing unsuitable advertisements the policy of the Licensing Authority will be to attach a condition to the effect that “Except with the consent of the Licensing Authority there shall be no external advertising of the striptease entertainment either at the premises or in its immediate vicinity.”

In addition the Licensing Authority will place specific conditions designed to ensure that such entertainment is not obscene in nature. These may include minimum distances between performer & audience (eg in lap dancing), prohibition of physical contact & so on.

In considering the grant of applications involving striptease the Licensing Authority will also have regard to the increased risk of nuisance to nearby residents.

## **STAGE HYPNOTISM**

### **Policy**

**The Licensing Authority will require notification, in writing, 8 weeks prior to any performance of Stage Hypnotism. Where consent is given for this type of entertainment the Licensing Authority will impose conditions designed to ensure the safety of the audiences and in particular to ensure that children are not admitted to and cannot participate in such activities.**

### **Reason**

This Policy is designed to protect the public and also ensure that children are not exposed to unsuitable acts or influences.

Stage hypnotism raises concern in relation to the safety of the Public and also the protection of children from harm. This form of entertainment has been widely debated with allegations of long term harm being caused to participants.

In relation to performances of stage hypnotism the Licensing Authority would seek to prohibit all children under the age of 18 years.

## **SUPPLEMENTARY INFORMATION:**

### **Consultation**

#### **Policy**

**It is the policy of the Licensing Authority anyone affected by an application should be made aware of it and of the opportunity to make representations.**

#### **Reason**

The Licensing Authority will carry out the statutory consultation required or permitted by the Act but will also carry out additional, appropriate consultation where necessary to ensure that the widest opportunities possible will be given to those affected by an application to make representations. Such methods may include the use of the Licensing Authority's web site, letters to residents groups, etc.

### **Determination Of Applications**

#### **Policy**

**In determining a licence application the overriding principle adopted by the Licensing Authority will be that each application will be determined on its individual merits, taking into account the law and DCMS guidance.**

#### **Reason**

To comply with the legislative requirements of the Licensing Act & also Human Rights legislation.

## **Conditions**

### **Policy**

**Licence conditions will be tailored to the individual style and characteristics of the premises and events concerned , only those necessary to meet the licensing objectives will be imposed. Where appropriate conditions from the DCMS guidance may be used. Licence conditions will not be imposed where the Licensing Authority considers other regulatory regimes provide sufficient protection to the public eg health and safety at work, fire safety legislation etc.**

### **Reason**

The Licensing Authority accepts that a “one size fits all” approach is not appropriate to achieving this outcome and that conditions should be tailored to the premises and activities to achieve the licensing objectives. Officers will seek to discuss proposed conditions in advance with the applicant and/or representative with the aim of achieving a mutually agreeable level of protection to the public and fulfilment of the licensing objectives.

Club premises licences will so far as possible reflect local crime prevention strategies and the input of the Darlington Crime and Disorder Reduction Partnership.

## **ENFORCEMENT**

### **Policy**

**In general, action will be in accordance Licensing Authority’s’s published enforcement policy that follows the principles of the Enforcement Concordat.**

### **Reason**

Application of consistency, transparency and proportionality.

## **DELEGATED AUTHORITY**

### **Policy**

**The powers of the Licensing Authority under the Act may be carried out by the Licensing Committee, by a Panel of the Licensing Committee or, by one or more officers acting under delegated authority.**

### **Reason**

In the interests of efficiency officers will make the decision when it is considered it is administrative and there are no areas of contention identified. Any application which attracts relevant representations or requires a review of licence will be dealt with by the Licensing Committee of the Licensing Authority.



## Glossary of terms

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

‘Amusements with Prizes’

‘Appointed Days’

The dates when different provisions of the Act come into force. On the first appointed day applications can be made to licensing authorities for the new licences. On the second appointed day, the old law will cease to have effect, all the new licences will come into force and the responsibilities of the existing magistrates’ court licensing committees will end.

‘Appeals’

Appeals against decisions of the licensing authority are to the magistrates’ court for the area in which the premises are situated. The appeal must be lodged within 21 days of being notified of the Licensing Authority’s decision. On appeal a magistrates’ court may, dismiss the appeal; substitute its own decision; remit the case to the licensing authority with directions; and make an order for costs.

‘Authorised Persons

“Authorised Persons” are specified people who have statutory duties in relation to the inspection of premises, eg licensing officers, police, fire, health & safety, environmental health.

‘Interested Parties’

“Interested Parties are persons living in the vicinity of the premises; a body representing such persons; a person involved in business in the vicinity; or a body representing businesses in the vicinity.

‘Responsible Authorities’

“Responsible Authorities” include the police, fire, enforcing authority for health and safety, planning authority, environmental health, bodies responsible for child protection and other specified authorities. Only these groups can make representations about an application for a premises licence.

‘Closure Order’

New powers for the police and courts to close premises. The 2003 Act significantly extends the existing powers of the police to see court orders in a geographical area that is experiencing or likely to experience disorder or to close down instantly individual licensed premises that are disorderly, likely to become disorderly or are causing noise nuisance.

#### 'Club Premises Certificate'

A certificate which licences a qualifying club for the sale/supply of alcohol. It can be granted to members clubs which comply with specific conditions eg membership rules, run by club committees, profits go to members not an owner etc club premises certificates replace registration under the Licensing Act 1964. The law for members clubs has changed relatively little under the 2003 Act. There is no time limit on the duration of the certificate but it may be withdrawn, surrendered or suspended.

#### 'Conditions'

A premises licence may be granted subject to different conditions, and these may be in respect of different parts of the premises and different licensable activities. There is no power to impose conditions on a personal licence. Secretary of State's guidance provides *"The only conditions which should be imposed on a premises licence or club premises certificate are those which are necessary for the promotion of the licensing objectives. Accordingly, if the existing law already places certain statutory responsibilities on an employer or operator of premises, it cannot be necessary to impose the same or similar duties on the premises licence holder"*. Conditions must be proportional and tailored to size, style, characteristics and activities taking place at the premises concerned.

#### 'Designated Premises Supervisor'

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

#### 'Grandfather Rights'

The term used to describe the transitional provisions contained in the 2003 Act by which applicants for premises and personal licences who are already licensed are entitled to be granted new licences authorising the same activities and with the same restrictions and conditions as they have already.

#### 'Interim Authority Notices'

Where a premises licence lapses due to death, incapacity or insolvency etc. of the holder, specified persons can within 7 days serve an interim authority notice on the licensing authority. This revives the licence, subject to police objection, for a period of up to 2 months so the premises can continue trading. This is the equivalent to "interim authorities" and "protection orders" under the Licensing Act 1964.

#### 'International Airports and International Ports'

Premises Licences can be issued to the above in areas where the non-travelling public have access. Areas the non-travelling public are not allowed known as airside or wharfside are not licensable under the 2003 Act.

#### 'Late Night Refreshment'

The supply of hot food and/or drink to members of the public (whether for consumption on or off the premises) between the hours of 11.00pm and 5.00am.

**'Licensable Activities'**

The sale by retail of alcohol.

The supply of alcohol by or on behalf of a club, or to the order of a member of the club.

The provision of Regulated Entertainment.

The provision of Late Night Refreshment.

**'Licensing Authority'**

Darlington Borough Licensing Authority

**'Licensing Objectives'**

The objectives of licensing set out in the Act:

The prevention of crime and disorder;

Public safety;

The prevention of public nuisance;

The protection of children from harm.

The Licensing Authority must carry out its functions under the Act with a view to promoting the licensing objectives.

**'Licensed Premises'**

Includes club premises and events unless the context otherwise requires.

**'Mandatory Conditions'**

Conditions that the Act requires are imposed on a premises licence, club premises certificate or personal licence.

**'Objection Notice'**

A procedure whereby the police can object to the grant of a personal licence on the grounds there where having regard to convictions of the applicant for relevant offences, the grant would undermine the crime prevention objective.

**'Operating Schedule'**

A document containing a statement of the following matters (and any others that may be prescribed):

Steps taken by the Licence holder to tackle the four licensing objectives.

The Licensable Activities to be conducted on the premises.

The times during which the Licensable Activities are to take place and any other times when premises are open to the public.

Where the licence is required only for a limited period, that period.

Where the Licensable Activities include the supply of alcohol, the name and address of the individual to be specified as the Designated Premises Supervisor.

#### ‘Personal Licence’

A licence granted to an individual and authorises that person to supply alcohol or authorise the supply of alcohol in accordance with a premises licence. The licence lasts for 10 years and can be renewed. It ceases to have effect when revoked, forfeited, surrendered or suspended. A personal licence holder is not required where the premises concerned does not supply alcohol as one of its licensable activities. A personal licence holder is also not required for the supply of alcohol in a club which holds a club premises certificate. Only the police can object to the grant of a personal licence (there is no equivalent to relevant representations as for premises licences).

#### ‘Premises Licence’

A licence granted in respect of any premises, which authorises the premises to be used for one or more licensable activities, has effect until revoked, surrendered or on the death, insolvency etc of the holder. Applications are dealt with by the licensing authority licensing committee in the area where the premises are situated.

#### ‘Provisional Statement’

A procedure by which the licensing authority can give a statement approving for licensing purposes proposals for a premises being built or in the course of being constructed. Equivalent to a “provisional grant” under the Licensing Act 1964. Where a provisional statement is made, subject to limited exceptions, the full licence must normally be granted once the premises are completed.

#### ‘Qualifying Club’

Club Premises Certificates will be issued to Qualifying Clubs formerly Registered Members Clubs. To be eligible for a Club Premises Certificate the club/organisation members must have joined together for a particular social, sporting or political purpose and then have combined to purchase alcohol in bulk as members of the organisation for supply to members and their guests. Qualifying conditions are specified in Section 61 of the Act and the Licensing Authority must be satisfied that these conditions have been met, including evidence to support that the club is non-profit making and that there is a minimum of 48 hours delay between application and acceptance of new members. The club must be established and conducted in 'good faith' (this involves consideration of details such as club finances).

#### ‘Regulated Entertainment’

A performance of a film.

An exhibition of a film.

An indoor sporting event.

A boxing or wrestling entertainment.

A performance of live music.

Any playing of recorded music.

A performance of dance.

Entertainment of a similar description to that falling within the performance of live music, the playing of recorded music and the performance of dance.

(or entertainment of a similar description falling within the last three of the categories listed above), where the entertainment takes place in the presence of and for the purposes of entertaining that audience or spectators.

## ‘Relevant Offences’

### “Representations”

The 2003 Act does not use the term “objections”. Instead authorised persons, interested parties and responsible authorities may be able to make relevant representations about an application for a licence. Representations must relate to the licensing objectives and where made by an interested party must not be frivolous or vexatious. When considering an application from an interested party or responsible authority the licensing authority need only consider relevant representations. The making of relevant representations engages the licensing authorities discretion to take “steps” consistent with the licensing objectives when considering the application.

### ‘Review of Licence’

Where a premises licence is in force an interested party or responsible authority may apply to the Licensing Authority for it to be reviewed. The Licensing Authority must hold a hearing to review the licence and as a result must take any necessary steps to promote the licensing objectives, such as modification of conditions; exclusion of licensable activities; removal of the premises supervisor; suspension of the licence for up to three months; or the revocation of the licence.

### ‘Responsible Authority’

The Chief Officer of Police in the area where the premises are situated.

The Fire Authority in the area where the premises are situated.

The enforcing authority for Health and Safety at Work.

The local Planning Authority.

The local authority responsible for minimising or preventing the risk of pollution of the environment or of harm to human health.

The body representing matters relating to the protection of children from harm.

In relation to a vessel, a navigation authority, the Environment Agency, or the British Waterways Board.

### ‘Statement of Licensing Policy’

Each licensing authority must every three years determine and publish a statement of licensing policy. There is a requirement to consult on the policy and keep it under review.

### ‘Supervisor’

Responsible for supervision of the premises eg the day-to-day manager. Any premises where alcohol is supplied as a licensable activity must have a designated premises supervisor.

#### 'Temporary Event Notice'

A permitted Temporary Activity involving one or more Licensable Activities subject to the following various conditions and limitations:

Duration – they are limited to events lasting for up to 96 hours.

Scale – they cannot involve the presence of more than 499 people at any one time.

Use of the same premises – the same premises cannot be used on more than 12 occasions in a calendar year, but are subject to the overall aggregate of 15 days irrespective of the number of occasions on which they have been used.

The number of notices given by one individual within a given period of time – a Personal Licence holder is limited to 50 notices in one year, and any other person to five notices in a similar period. (If these conditions are not fulfilled, the Temporary Event would require a Premises Licence if it were currently unlicensed for the activity involved).

#### 'Transfer'

A procedure where an application can be made to transfer the premises licence into a new name eg if a premises licence holder sells his premises an application may be made to transfer the premises licence to the new owner.

## Relevant Offences

An offence under the Licensing Act 2003

An offence under any of the following enactments:-

Schedule 12 to the London Government Act 1963 (c.33) (public entertainment licensing); The Licensing Act 1964 (c.26); The Private Places of Entertainment (Licensing) Act 1967 (c.19); Section 13 of the Theatres Act 1968 (c.54); The Late Night Refreshment Houses Act 1969 (c.53); Section 6 of, or Schedule 1 to, the Local Government (Miscellaneous Provisions) Act 1982 (c.30); The Licensing (Occasional Permissions) Act 1983 (c.24); The Cinemas Act 1985; The London Local Authorities Act 1990 (c.vii)

An offence under the Firearms Act 1968 (c.27).

An offence under section 1 of the Trade Descriptions Act 1968 (c.29) (false trade description goods) in circumstances where the goods in question are or include alcohol.

An offence under any of the following provisions of the Theft Act 1968 (c.60):

Section 1 (theft)

Section 8 (robbery)

Section 9 (burglary)

Section 10 (aggravated burglary)

Section 11 (removal of articles from places open to the public)

Section 12a (aggravated vehicle-taking), in circumstances where subsection (2) (b) of that section applies and the accident caused the death of any person

Section 13 (abstracting of electricity)

Section 15 (obtaining property by deception)

Section 15A (obtaining a money transfer by deception)

Section 16 (obtaining pecuniary advantage by deception)

Section 17 (false accounting)

Section 19 (false statements by company directors etc.)

Section 20 (suppression, etc. of documents)

Section 21 (blackmail)

Section 22 (handling stolen goods)

Section 24A (dishonestly retaining a wrongful credit)

Section 25 (going equipped for stealing etc.)

*An offence under section 7 (2) of the Gaming Act 1968 (c.65) (allowing child to take part in gaming on premises licensed for the sale of alcohol).*

An offence under any of the following provisions of the Misuse of Drugs Act 1971 (c.38):- Section 4 (2) (production of a controlled drug); Section 4 (3) (supply of a controlled drug); Section 5 (3) (possession of a controlled drug with intent to supply); Section 8 (permitting activities to take place on premises)

An offence under either of the following provisions of the Theft Act 1978 (c.31):-

Section 1 (obtaining services by deception); Section 2 (evasion of liability by deception)

*An offence under either of the following provisions of the Customs and Excise Management Act 1979 (c.2):-*

Section 170 (disregarding subsection (1) (a)) (fraudulent evasion of duty etc.)  
*Section 170B (taking preparatory steps for evasion of duty)*

An offence under either of the following provisions of the Tobacco Products Duty Act 1979 (c.7):-

Section 8G (possession and sale of unmarked tobacco)  
Section 8H (use of premises for the sale of unmarked tobacco)

An offence under the Forgery and Counterfeiting Act 1981 (c.45) (other than an offence under section 18 or 19 of that Act)

An offence under the Firearms (Amendment) Act 1988 (c.45)

An offence under any of the following provisions of the Copyright, Designs and Patents Act 1988 (c.48):- Section 107 (1) (d) (iii) (public exhibition in the course of a business of article infringing copyright); Section 107 (3) (infringement of copyright by public performance of work etc.); Section 198 (2) (broadcast etc. of recording of performance made without sufficient consent); Section 297 (1) (fraudulent reception of transmission); Section 297A (1) (supply etc. of unauthorised decoder)

An offence under any of the following provisions of the Road Traffic Act 1988 (c.52):-  
Section 3A (causing death by careless driving while under the influence of drink or drugs); Section 4 (driving etc. a vehicle when under the influence of drink or drugs);  
Section 5 (driving etc. a vehicle with alcohol concentration above prescribed limit)

An offence under either of the following provision of the Food Safety Act 1990 (c.16) in circumstances where the food in question includes alcohol:-

Section 14 (selling food or drink not of the nature, substance or quality demanded)  
Section 15 (falsely describing or presenting food or drink)

An offence under section 92 (1) or (2) of the Trade Marks Act 1994 (c.26) (unauthorised use of trademark, etc. in relation to goods) in circumstances where the goods in question are or include alcohol.

An offence under the Firearms (Amendment) Act 1997 (c.5)

A sexual offence within the meaning of section 161 (2) of the Powers of Criminal Courts (Sentencing) Act 2000 (c.6)

A violent offence within the meaning of section 161 (3) of that Act

An offence under section 3 of the Private Security Industry Act 2001 (c.12) (engaging in certain activities relating to security without a licence)