

MERTHYR TYDFIL COUNTY BOROUGH COUNCIL

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Public Protection and Housing

LICENSING SECTION

LICENSING POLICY 2019 - 2024

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1. THE LICENSING OBJECTIVES

1.1 Merthyr Tydfil County Borough Council (“the Licensing Authority”) will carry out its functions under the Licensing Act 2003 (“the Act”) with a view to promoting the following four licensing objectives set out in the Act, each of which is of equal importance:

- a) the prevention of crime and disorder;
- b) ensuring public safety;
- c) the prevention of public nuisance, and
- d) the protection of children from harm.

1.2 The Licensing Authority makes this Licensing Policy Statement (“the Policy”) in accordance with section 5 of the Act. In doing so the Licensing Authority has taken into account the Licensing Act 2003 together with the ‘Guidance issued under section 182 of the Licensing Act 2003’ (“the Guidance”) issued by the Secretary of State for Culture, Media and Sport.

1.3 If, in developing its Policy, the Licensing Authority departs from the Guidance, it will give full reasons for such departure. This will be a key consideration for the courts should departure from the Guidance result in a determination which gives rise to an appeal or judicial review.

2. MERTHYR TYDFIL

2.1 Merthyr Tydfil is a place of exceptional history. The County Borough lies at the top of the Taff Valley, 25 miles north of the Bristol Channel and at the foot of the Brecon Beacons mountains. Nearly 1/5 of the Authority lies within the Brecon Beacons National Park.

2.2 Nowadays the County Borough is home to 59,065 people. The town is strategically located at the intersection of the A470 and the A465 Heads of the Valleys Road. The A470 links Merthyr Tydfil with the M4 motorway and Cardiff, the capital city of Wales, which is approximately a 30 minute drive.

2.3 Two maps can be found in Annex A.

3. CONSULTATION

3.1 Licensing Authorities are required by the Act to publish a statement of policy which they propose to apply when exercising their functions. The final form of the Licensing Policy has been drawn up after consultation with:

- South Wales Police
- South Wales Fire and Rescue Services
- Persons/bodies representing local holders of Premises Licences
- Persons/bodies representing local holders of Club Premises Certificates
- Persons/bodies representing local holders of Personal Licences
- Local businesses and their representatives

- Local residents and their representatives, specifically through tenants' and residents' associations
 - Children's Safeguarding Unit
 - Cwm Taf Local Health Board (added in as a responsible authority)
 - Merthyr Tydfil Magistrates' Court
 - Prince Charles Hospital, Gurnos, Accident and Emergency Department.
 - British Transport Police
 - The Community Safety Partnership
 - Any relevant association(s) of Licensing Officers
 - The Events Safety Advisory Group
 - Such other organisations as appear to the Licensing Authority to be affected by licensing matters covered by this policy
- 3.2 Our consultation took place between xxxxx to the xxxx. we followed the Cabinet Office Consultation Principles (published July 2012) which is available at: (updated)
- <http://www.gov.uk/government/publications/consultation-principles-guidance>
- 3.3 The full list of comments made and the consideration by Licensing Authority of those comments is available by request to: Community Safety and Regulatory Compliance Manager, Licensing Section, Civic Centre, Castle Street, Merthyr Tydfil, CF47 8AN.
- 3.4 The policy was given final approval at a meeting of the Full Council on the xxxxxx and was published via our website on the xxxxxx. Copies were placed in the public libraries of the County Borough as well as being available in the Civic Centre.
- 3.5 It should be noted that this policy statement will not override the right of any person to make an application, make representations about an application, or apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Licensing Act 2003.

4. THE PURPOSE OF LICENSING

4.1 The aims of this Licensing Policy are to: -

(a) Help to create a fair and prosperous society that properly balances the rights of individuals with those of their communities.

(b) Integrate its aims and objectives with other initiatives that will: -

- Reduce alcohol-related crime and disorder
- Encourage tourism and the hospitality and leisure industry
- Promote a broad range of entertainment, particularly live music, dancing and theatre
- Reduce alcohol misuse
- Encourage the self-sufficiency of local communities

- Reduce the burden imposed by regulation on businesses
- Provide greater choice for consumers
- Encourage family friendly premises
- Encourage regeneration to increase investment in the County Borough and improve employment opportunities.

4.2 Licensing is about the regulation of licensed premises, qualifying members' clubs, personal licence holders and temporary events. Terms and conditions attached to the various permissions granted under the Act will be focused on matters within the control of the individual licensees and other relevant permissions.

4.3 Licensing law is not a mechanism for the general control of anti-social behaviour by individuals once they are beyond the direct control of the person, club or business holding the licence, certificate or permission concerned. As a matter of policy, the Licensing Authority expects every holder of a licence, certificate or permission to be responsible for minimising the impact of their activities and any anti-social behaviour demonstrated by their patrons within the immediate vicinity of their premises. Whether any place falls within the meaning of 'vicinity' will be a question of fact in each individual case.

4.4 The Licensing Authority recognises that balancing the interests of owners, employees, customers and neighbours of pubs, clubs and off-licences will not always be straightforward, but it will always be guided by the four principal licensing objectives of the Act. The Licensing Authority will use its powers to promote best practice in relation to the operation of licensed premises and to deter poor practice.

4.5 This Licensing Policy does not seek to undermine the right of any individual to apply under the terms of the Act for a variety of permissions and to have any such application considered upon its individual merits. It does not seek to override the right of any person to make representations on an application or seek a review of a licence or certificate where provision has been made for them to do so in the Act.

4.6 Each licence application that is received by the Licensing Authority will be considered on its own merits in the context of the four licensing objectives. Where no relevant representations are received from responsible authorities or interested parties in respect of an application, there is no provision for a licensing authority to impose conditions on a licence other than those proposed within an applications and the mandatory statutory conditions.

4.7 The Licensing Authority will pay due regard to the guidance issued to it by the Secretary of State under Section 182 of the Act. (Where it is necessary to depart from such guidance either in this Licensing Policy or at any other time the Licensing Authority will give clear and cogent reasons for doing so.)

5. ACTIVITIES TO BE LICENSED

5.1 The Policy relates to the following activities that are required to be licensed under the Act:

(A) *The sale by retail of alcohol* (including sales made via the internet or mail order). This includes the sale to the general public of alcohol in wholesale quantities.

(B) *The supply of alcohol to members of qualifying clubs.*

(C) *The provision of regulated entertainment.* The definition of 'regulated entertainment' is set out in Schedule 1 of the Act and includes:

- a performance of a play
- a film exhibition
- an indoor sporting event
- boxing or wrestling events
- a contest, exhibition or display which combines boxing or wrestling with one or more martial arts (combined fighting sports)
- a performance of live music
- the playing of recorded music (except incidental music)
- a performance of dance
- entertainment of similar description to live music, the playing of recorded music and performance of dance, but only where provided as entertainment in the presence of an audience

(D) *The provision of late night refreshments* (i.e. the supply of hot food or drink between 11pm and 5am). This applies to any premises, including mobile vehicles.

6. DISCRIMINATION

6.1 The Licensing Authority will not tolerate discrimination towards any section of the public on the grounds of colour, race, ethnic or national origin, disability, religious beliefs, sexual orientation or gender.

7. DUPLICATION

7.1 The Licensing Authority recognises the need to avoid duplication of existing legislation and other regulatory regimes that place obligations on employers & operators e.g. The Health & Safety at Work Act 1974 and the Regulatory Reform (Fire Safety) Order 2005.

- 7.2 This will be reflected by a commitment to only attach conditions of licence that will promote the licensing objectives. However it is recognised that the primary legislation of other agencies will not always adequately address specific issues that arise as a result of licensable, or ancillary activity associated with a premises. In such circumstances supplementary conditions will be imposed, proportionate to the promotion of the licensing objectives.

8. LIVE MUSIC, DANCING AND THEATRE

- 8.1 The Licensing Authority wishes to encourage and promote live music, dance and theatre for the wider cultural benefit of the community. The Licensing Authority notes that the Live Music Act 2012 already exempts live music, from the need for a licence in specific circumstances. The Licensing Authority also notes the de-regulation of the performance of plays, exhibitions of dance and indoor sporting events in specific circumstances.
- 8.2 For those activities that will still require licensing, the Licensing Authority will carefully balance the cultural need with the necessity of promoting the licensing objectives.
- 8.3 The Licensing Authority will only impose such conditions strictly necessary for the promotion of the licensing objectives and should be attached to licences for activities of this nature. The Licensing Authority is aware of the need to avoid unnecessary or disproportionate measures that could deter live music, dancing and theatre by imposing indirect costs of a substantial nature.
- 8.4 The Licensing Authority may also seek premises licences for public spaces in the community in its own name. This could include, for example, open spaces, town centre squares, community halls and similar spaces. With regard to those places, performers and entertainers will not need to obtain a licence or give a temporary event notice themselves in order to perform. Instead, they would require permission from the Licensing Authority as the premises licence holder.

9. PLANNING

- 9.1 The Licensing Authority recognises that Planning and Licensing are distinct, but complementary disciplines. Planning primarily controls use of land, whereas Licensing is concerned with the operation and management of the premises that are not addressed by planning concerns.
- 9.2 In general, the Licensing Authority will expect applicants to have an appropriate planning consent for their premises, prior to a licence application being made. The Licensing Committee may refuse to grant a licence following representations from the local Planning Authority that one of the licensing objectives are likely to be undermined. For example,

granting a premises licence for longer hours than permitted in a planning permission may undermine the prevention of public nuisance objective.

- 9.3 The aim is to provide consistency in areas of common concern, where key criteria overlap. To further this aim the Licensing Authority & local Planning Authority are committed to the sharing of information in the investigating of breaches of either licences or planning control.
- 9.4 A Planning authority may make representation as a responsible authority providing the representations relate to the licensing objectives.

10. LICENSING AS A RESPONSIBLE AUTHORITY

- 10.1 The PRSR Act amended the 2003 Act to include the Licensing Authority as a Responsible Authority. This Licensing Authority will therefore be empowered to fulfil the same functions as other Responsible Authorities under the Act including making relevant representations to new licence/certificate applications and variations and reviewing an existing licence/certificate.
- 10.2 The Local Authority shall generally only make representations where it has relevant evidence/information; where an application conflicts with our statement of policy or in order to improve upon conditions that might be offered in an operating schedule and which has not been resolved through negotiation.
- 10.3 In cases where the Licensing Authority is also acting in its capacity as a Responsible Authority it will ensure that there is a separation of responsibilities within the Council to ensure procedural fairness and eliminate conflict of interests. The Officer acting as a Responsible Authority shall not be involved in the application process. However, a separate Licensing Officer will receive and process these applications. Communications between both Officers shall remain formal and separate throughout the process. Thus a separation will be achieved by allocating distinct functions to different Officers. Essentially, the Licensing Officer advising the Licensing Sub Committee shall be different from the officer who is acting as the Responsible Authority.

11. TEMPORARY EVENTS NOTICE

- 11.1 The Act provides that certain occasions are to be designated as small scale events (that is, for no more than 499 people at a time and lasting for no more than 168 hours) and so may be classified as "Temporary Events" and do not require a licence.
- 11.2 The Licensing Authority recommends that at least three months' notice be given of the intention to hold such temporary events in the interests of public safety and in order to allow it to help organisers to plan their events. Any longer period than this may mean that organisers do not have all the details

available at the time the notice is submitted, and allowing any lesser time may mean that planning for the event could necessarily be rushed and haphazard.

- 11.3 The organiser of the event must serve the Licensing Authority with a Temporary Event Notice (i.e. advance notice) no later than 10 working days, excluding day of service and day of event. A “late” Temporary Event Notice can be received between 5 and 9 clear working days, excluding the day of service and the day of the event. A fee is payable to the Licensing Authority. Notices served outside this timescale will be deemed invalid.
- 11.4 The Temporary Event Notice must be copied to the Police and the Council’s Environmental Health Department. The TEN can be served on the Police at: Merthyr Tydfil Police Station, Swan Street, Merthyr Tydfil, CF47 8ES and Environmental Health at the Civic Centre, Castle Street, Merthyr Tydfil CF47 8AN.
- 11.5 Conditions may be added to a temporary event notice for existing licensed premises if representations have been made by the police or Environmental Health. Event organisers should be aware that an event cannot take place if an objection is made to a “late” temporary event notice, whereas objections to a “standard” temporary event notice will usually result in the notice being determined by the licensing sub-committee.
- 11.6 The Licensing Authority has established an Events Safety Advisory Group consisting of the Emergency Services and other statutory agencies such as the highways authority, to advise and to co-ordinate planning for public events held within the County Borough, whether or not a Premises Licence or a Temporary Event Notice is needed.
- 11.7 Organisers of temporary events are therefore strongly advised to contact the Council’s Licensing Officers for advice at the earliest opportunity when planning events. Where necessary, the advice of the Events Safety Advisory Group can be obtained, or discussions can be held with the Police in order to avoid any unnecessary objections being made due to any misunderstanding or confusion as to what precisely was being proposed.

12. CUMULATIVE IMPACT AND SPECIAL POLICIES

- 12.1 In determining an application the Licensing Authority will not give consideration to the need, i.e. the commercial demand, for such premises.
- 12.2 However, in the interests of the public the Licensing Authority will consider representations, where supported by evidence, that the cumulative effect of existing licences, new licences, or variations to existing licences, is leading to an over concentration of premises in an area, creating exceptional problems of disorder and nuisance over and above the impact from the individual premises.

- 12.3 Where satisfied that the cumulative effect of licensed premises, within an area, gives rise or will give rise to exceptional problems of public disorder and nuisance, in the surrounding vicinity, the Authority may consider it appropriate to adopt a “Special Policy” of refusing new licences, or relevant variations to existing licences, in that area.
- 12.4 In the event that the Authority becomes satisfied, after considering available evidence, and following consultation in accordance with Section 5(3) of the Act, that it is appropriate and necessary to have a cumulative impact “special policy”, it will indicate that it is adopting such a policy in this Statement. Any “special policy” will be kept under review to ensure that the evidence underpinning it is still current and relevant.
- 12.5 The effect of adopting a policy of this kind is to create rebuttable presumption that applications for new Premises Licences, Club Premises Certificates or variations will normally be refused, if relevant representations to that effect are received, unless it can demonstrate that the operation of the premises involved will not add to the cumulative impact already being experienced. Therefore such a policy would still allow for circumstances of each application to be considered properly and for licences that are unlikely to add significantly to saturation to be approved.
- 12.6 It should be noted that the absence of such a policy does not prevent any responsible authority or interested party making representations on an application for the grant or variation of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives.

13. EARLY MORNING RESTRICTION ORDERS

- 13.1 The Police Reform and Social Responsibility Act 2011 (“the PRSR Act”) gives the Licensing Authority the discretion to restrict sales of alcohol by introducing an Early Morning Restriction Order (“EMRO”) to restrict the sale or supply of alcohol between the hours of midnight and 6am to tackle high levels of alcohol-related crime and disorder, nuisance and anti-social behaviour.
- 13.2. The decision to implement an EMRO must be evidence based and the Licensing Authority must be satisfied that such an Order would be appropriate to promote the licensing objectives. Furthermore, the Licensing Authority shall consider the potential burden that would be imposed on premises licence/certificate holders.
- 13.3 As an EMRO is a powerful tool and a very stringent approach in tackling issues, the Licensing Authority will first consider whether other measures may address the problems and achieve the same goal.

14. LICENSING HOURS

- 14.1 There is no general presumption in favour of lengthening licensing hours, but applicants are encouraged to consider staggering their operating hours in comparison to neighbouring premises to avoid concentrations of patrons leaving premises at the same time.
- 14.2 When the licensing authority's discretion is engaged, consideration will be given to the individual merits of an application but the presumption will be to grant the hours requested, unless there are objections to those hours raised by responsible authorities or interested parties on the basis of the licensing objectives.
- 14.3 The Licensing Authority will consider licensing shops, stores & supermarkets to sell alcohol for consumption off the premises at any times when they are open for trading, unless representations raise reasons, based on the licensing objectives, for restricting those hours.

15. HOME DELIVERY SERVICE OF ALCOHOL

- 15.1 The Licensing Authority will expect applicants to include details of any home delivery services for the sale of alcohol in their application. This will include the procedures and conditions that will be in place to ensure that alcohol sales are made responsibly; that suitable checks and record keeping will be in place; and that deliveries of alcohol are only made to recipients over the age of 18.

16. MAKING REPRESENTATIONS

- 16.1 Relevant Representations can be made in opposition to, or in support of an application for a new premises licence/club certificate, the variation, minor variation or review of an existing licence.
- 16.2 For a representation to be a valid (i.e. relevant) one which the Licensing Authority can properly consider it must be about the likely effect of the application on the promotion of the four licensing objectives. It must:
- Relate to the effect the grant or variation of the licence on the promotion of the licensing objectives.
 - Be made by a responsible authority or other person (this includes any individual, body or business entitled to make representations)
 - Not have been withdrawn
 - Not be frivolous, vexatious or repetitive of an earlier representation
- 16.3 Representations from responsible authorities and other persons can be made:
- When applications are made to the Licensing Authority for the issue of a new licence, variation or minor variation of an existing one.
 - At any time by requesting the review of a premises licence.

- 16.4 Initially a decision will be taken by the Licensing Authority's Licensing Officers as to whether the representation is vexatious or frivolous or merely repeats an earlier representation which it believes it has already dealt with satisfactorily.
- 16.5 If the Licensing Authority considers that the representations are bona fide it must hold a hearing to consider those representations (unless all agree that this is unnecessary).
- 16.6 In accordance with statutory requirements, copies of representations will be forwarded to the applicant in order that they may respond.
- 16.7 In exceptional cases, where the Licensing Authority consider that an interested party has a genuine and well founded fear of intimidation, an alternative approach will be adopted, which will seek to maintain the anonymity of the interested party concerned. Such action will only be taken where the Licensing Authority is satisfied the representation is neither frivolous nor vexatious and genuine cause for concern has been established.

17 PETITIONS

- 17.1 For a petition to be accepted as a relevant representation, the following should be stated on each individual page:
- The title of the petition
 - The reason for it, including which of the four objectives it refers to.
 - Clearly states the full name address and signature of the author
 - Each individuals full name, address and signature.
- 17.2 All signatories should be over the age of 18 and should not be collected by children.
- 17.4 Prior to initiating a petition as a means of representation, the Licensing Authority strongly advises that contact be made with the Licensing Section in order that appropriate advice can be given.

THE FOUR LICENSING OBJECTIVES

18. GENERAL

18.1 The four licensing objectives set out in the Act, each of which is of equal importance is:

1. the prevention of crime and disorder
2. ensuring public safety
3. the prevention of public nuisance, and
4. the protection of children form harm

18.2 In respect of each of the four licensing objectives, it will be in the interests of applicants to provide evidence that suitable and sufficient measures which are relevant to the individual style and characteristics of their premises are detailed in their operating schedule.

18.3 In the absence of relevant representations the licensing Authority must grant an application subject only to statutory mandatory conditions and such conditions that are consistent with the applicant's operating schedule.

18.4 However, where relevant representations are received, conditions may be imposed at the discretion of the Licensing Authority which are deemed to be necessary to promote the licensing objectives, providing each case remains to be treated on its own merit. These conditions may be drawn from the Pool of Conditions set out in the Guidance (see Annex B of this document) or any other conditions which the Licensing Authority thinks necessary. There will be no blanket standard conditions imposed by the Licensing Authority.

18.5 Where the considerations apply in respect of late-night refreshment premises, they shall only be taken to apply to their operation between the hours of 11 p.m. and 5 a.m. when a Premises Licence would be required.

19. OBJECTIVE 1 - PREVENTION OF CRIME AND DISORDER

19.1 The Licensing Authorities starting point is to seek a reduction in crime and disorder throughout the County Borough, in accordance with its statutory duty under section 17 of the Crime and Disorder Act 1998. Licences may be granted if applicants can demonstrate that a positive reduction in crime and disorder will result, or that crime and disorder will not increase, as a result of the application being granted.

19.2 The fact that the Designated Premises Supervisor is of good standing or that the premises themselves are well run may not in themselves be sufficient reasons to justify any departure from this policy. An applicant who makes an application which involves poorly run premises should not expect to be granted a licence.

19.3 Applicants are advised that they should discuss the crime prevention procedures relating to their premises with the Licensing Authority and with the Police *before* any formal application is made.

19.4 In particular, the Licensing Authority will expect applicants to address the following matters in their operating schedules:

- The capability of the person in charge to ensure effective and responsible management of the premises
- The training given to staff in crime prevention measures
- Procedures for risk assessing events and promotions
- Physical security features installed in the premises (i.e. location and standard of CCTV equipment, toughened drinking glasses etc)
- Employment of SIA licensed door supervisors
- Participation in an appropriate crime prevention scheme (e.g. pubwatch)
- Measures to be taken for the prevention of violence and disorder
- The measures employed at the premises in order to prevent the consumption or the supply of illegal drugs, including any search procedures and entry policies;
- Where premises are subject to age restrictions, the procedures which are in place to conduct age verification checks;
- The likelihood of any violence, public disorder or policing problems which may be experienced if the licence was to be granted.
- Queuing arrangements outside the entrance to the licensed activity;
- Location of designated smoking areas so as to facilitate supervision.

19.5 For new licence applications, where a licence requires the provision of SIA Door Staff it will be a requirement that at least the head door staff will wear a body worn surveillance camera.

19.6 If not volunteered by the applicant in their operating schedule and following relevant representations, the Licensing Authority may need to attach conditions to licences to address crime and disorder issues. These conditions will only seek to secure the most effective solution, taking account of the nature of each individual premises.

'Pubwatch' Schemes

19.6 The Licensing Authority strongly recommends the participation of licensees and/or premises managers in such schemes, where they exist. It is considered to be a key element of positive partnership working, to address issues of concern and promote good practice.

20. OBJECTIVE 2 - PUBLIC SAFETY

- 20.1 The Licensing Authority recognises that different types of premises will present differing issues of public safety that will need to be addressed. For example, the safety considerations of public houses, nightclubs, restaurants, hotels (with entertainment), theatres and cinemas will raise issues particular to them.
- 20.2 The prime responsibility, however, is placed on those who provide entertainment, refreshment (alcohol & food) or events to secure the safety and well being of their customers and staff.
- 20.3 Where an applicant identifies an issue in regard to public safety (including fire safety), which is not covered by existing legislation the applicant, should identify in their operating schedule the steps that will be taken to ensure public safety.
- 20.4 In particular, the Licensing Authority will expect applicants to address the following matters in their operating schedules:
- Capacity
 - Design and layout of the premises and means of escape
 - The necessary Health and Safety and Fire Risk Assessments and other measures for the premises to reduce risk to public safety are in place.
 - The nature of licensable activities provided
- 20.5 If not volunteered by the applicant in their operating schedule and following relevant representations, the Licensing Authority may need to attach conditions to licences to address safety issues. These conditions will only seek to secure the most effective solution, taking account of the nature of the premises and the scale or type of entertainment to be provided

21. OBJECTIVE 3 - THE PREVENTION OF PUBLIC NUISANCE

- 21.1 The Licensing Authority is concerned to protect the amenity of residents and businesses in the vicinity of licensed premises. Whether any particular resident or business is within the 'vicinity' will be a finding of fact in each case.
- 21.2 The Licensing Authority intends to interpret 'public nuisance' in its widest sense and takes it to include such issues as noise, light, odour, litter and disturbance from customers in the immediate vicinity of the licensed premises, where these matters impact on those living or working in an area.
- 21.3 In considering all licence applications, the Licensing Authority will consider the adequacy of measures which are proposed to deal with the potential for nuisance and/or anti-social behaviour having regard to all the circumstances

of the application. In particular, the Licensing Authority will expect applicants to address the following matters in their operating schedules:

- The location of premises and proximity to residential and other noise sensitive premises, such as hospitals, hospices and places of worship.
- The hours of operation particularly between 10.00 p.m. and 8.00 a.m.
- The nature of activities to be provided and whether they are to be held inside and/or outside the premises structure.
- Measures taken to prevent noise and vibration escaping from the premises from such sources as music, noise from ventilation equipment and human voices.
- The use of beer gardens, patios and other open-air areas
- The siting of external lighting, including security lighting, that is installed inappropriately
- Any history of previous nuisance complaints which have been proved against the premises, particularly where statutory notices have been served on the present licensee(s).
- The steps taken or proposed to be taken by the applicant to prevent queuing. If some queuing is inevitable then queues should be diverted away from neighbouring premises or should be managed to prevent any disturbance or obstruction from arising
- External smoking areas must be selected so as to minimize any disturbance to the neighbourhood, should be covered effectually by CCTV or be supervised. Access to the smoking area must be controlled such that noise from any entertainment does not become intrusive to neighbouring premises. Arrangements must be put into place for the collection of smoking waste at the entrances and exits from the premises so as to minimize the effect of smoking litter on the local environment
- Whether the premises would lead to the increased storage of refuse or to disposal problems, or to additional litter (including fly posters and illegal placards) within the vicinity of the premises

21.4 If not volunteered by the applicant in their operating schedule and following relevant representations, the Licensing Authority may need to attach conditions to licences to address public nuisance issues. These conditions will only seek to secure the most effective solution, taking account of the location and nature of the premises.

22. OBJECTIVE 4 - PROTECTION OF CHILDREN FROM HARM

22.1 The Licensing Authority recognises the great variety of premises for which licences may be sought. These will include Theatres, Cinemas, Restaurants, Pubs, Nightclubs, Café's, Takeaways, Community Halls and Schools.

22.2 While the Act does not generally prohibit children from accessing licensed premises it does prohibit children under the age of 16, unless accompanied by an adult, from accessing licensed premises which are:

- primarily or exclusively for the supply and consumption of alcohol on the premises
- and, in any event, between the hours of midnight and 5.00 a.m.

22.3 Furthermore, the Licensing Authority recognises that additional limitations may have to be considered where it appears necessary to protect children from harm. In particular where Licensee's premises are being used to coordinate activities for children or vulnerable adults, it is best practice that the Licensee ask the Group / Organisation / Coordinator to develop a Child Protection and / or Protection of Vulnerable Adult Policy. This will highlight the duty of everybody to be alert to the need to report any child protection or protection of vulnerable concerns

22.4 The Licensing Authority will consult with the Children's Safeguarding Unit or alternatively the Integrated Children's services on any application that indicates that there may be concerns over access for children.

22.5 The Licensing Authority will judge the merits of each separate application before deciding whether to impose conditions limiting the access of children to individual premises. The following are examples of premises that will raise concern:

- Where there have been convictions for serving alcohol to minors or where there has been a reputation for underage drinking
- With a known association with drug taking or dealing
- Where there is a strong element of gambling on the premises
- Where entertainment of an adult or sexual nature is commonly provided
- Where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services being provided on the premises.
- Sales of tobacco to underage customers will also be an area of concern.

22.6 The Licensing Authority will consider any of the following options when dealing with a licence application where limiting the access of children is considered necessary to prevent harm to them:

- Limitations on the hours when children may be present
- Limitations on ages below 18
- Limitations or exclusion when certain activities are taking place
- Requirements for an accompanying adult
- Full exclusion of people under 18 from the premises when any licensable activities are taking place
- Limitation on parts of premises to which children are given access
- Requiring licensees to specify in their operating schedules the measures they intend to take to verify the age of potential customers (i.e. 'Proof of Age' schemes)

22.7 The Act does not give the Licensing Authority the power to impose a condition requiring that children be admitted to any premises and so this is largely a matter for the discretion of the individual licensee.

22.8 The Licensing Authority supports the Portman Group Code of Practice on the 'Naming, Packaging and Promotion of Alcoholic Drinks'.

Showing of Films, Videos, etc

22.9 In the case of premises giving film exhibitions the Licensing Authority will require licensees to impose conditions that children will be restricted from viewing age-restricted films classified according to recommendations of the British Board of Film Classification, that is:

U - Universal: Suitable for all.

PG - Parental Guidance: Some scenes may be unsuitable for young children.

12A – Passed only for viewing by persons aged 12 years or older or younger persons accompanied by an adult.

15 – Passed only for viewing by persons aged 15 years or older.

18 - Passed only for viewing by persons aged 18 years or older.

Restricted 18 - For viewing by persons aged 18 years or older who are members of a properly constituted club or their guests aged of 18 or over.

Children and Public Entertainment

22.10 Many children go to see and/or take part in an entertainment arranged especially for them, for example, children's film shows and dance or drama school productions, and additional arrangements are required to safeguard them while at the premises.

22.11 Where regulated entertainment is specially presented for children, the Licensing Authority will require the following arrangements in order to control their access and egress and to assure their safety:

- An adult member of staff is to be stationed in the vicinity of each of the exits from any level, subject to there being a minimum of one member of staff per 50 children or part thereof
- No child unless accompanied by an adult to be permitted in the front row of any balcony
- No standing to be permitted in any part of the auditorium during the performance.

22.12 The Licensing Authority will consider attaching Conditions to licences and to permissions in order to prevent harm occurring to children.

23. LICENCE REVIEWS

23.1 The Licensing Authority can only review a licence where it is alleged that the Licensing Objectives have been or are being breached.

23.2 A review can be called by a 'responsible authority' or other person and must be:

- relevant to the promotion of the licensing objectives, and
- be directly attributable to a particular premises, where a licence is in force.

23.3 The Licensing Authority will take a particularly serious view of any application for the review of any Premises Licence where any of the following have been involved:

- Sale/distribution of illegal substances
- Sale/distribution of illegal firearms
- evasion of copyright in respect of pirated films and/or music
- the underage purchase and consumption of alcohol
- prostitution or for the sale of unlawful pornography
- the use of the licensed premises by organised groups of paedophiles to groom children
- as the base for the organisation of criminal activity
- unlawful gaming/gambling
- organisation or promotion of racist activity or attacks
- sale of smuggled tobacco or goods
- sale of stolen goods
- knowingly employing a person who is unlawfully in the UK or who cannot be employed as a result of a condition on that person's leave to enter

23.4 Or, where management practices are failing to address adverse impact to the community in respect of the following criteria:

- where the Police have been called frequently to attend to incidents of disorder
- where there have been prolonged and/or repeated instances of public nuisance
- where there have been repeated incidents of excessive littering by patrons following attendance at the premises.
- where risks to public safety have been identified and the management is unable or unwilling to correct them
- where serious risks to children have been identified
- Continuous non compliance with conditions of licence, which indicates that the premises is being operated contrary to the operating schedule.

23.6 The Licensing Authority will work closely with all partners to seek to promote a culture of social responsibility and good management, intended to

facilitate sustainable business for the benefit of both the community and trader.

23.7 To this end, the Licensing Authority and partners will adopt a stepped approach, where early warning of concerns will be given to licensees to allow opportunity to address problems. A failure to take heed of a warning and effect an improvement is likely to result in a review. In cases when the crime prevention objective is being undermined it is expected that revocation of the licence – even in the first instance - will be seriously considered.

23.8 When considering a review application, the Licensing Committee may take such steps as it considers necessary for the promotion of the licensing objectives:

- Decide not to alter the licence and/or issue a warning as to improvement
- Amend the licence conditions
- Exclude a licensable activity
- Remove the designated premises supervisor
- Suspend the licence for a period of not exceeding 3 months
- Revoke the licence

23.9 Where a premises licence/club premises certificate is revoked in response to a review, there will be a presumption to refuse any subsequent application for licensable activity at the premises for a minimum period of 12 months, or such other period as considered necessary by the Licensing Committee.

Where an applicant wishes an exception to this policy to be considered, it will be the responsibility of the applicant to demonstrate why an exception should be made.

24. LICENCE SUSPENSIONS

24.1 The Licensing Act requires a licensing authority to suspend a premises licence or club premises certificate if the annual fee is not paid when it is due. However this does not apply immediately if:

- the payment was not made before or at the time of the due date because of an administrative error. An administrative error can include an error by the Licensing Authority or the licence/certificate holder.
- Where the licence/certificate holder has a dispute relating to liability to pay the fee or the amount of the fee they must notify the licensing authority on or before the date on which the fee becomes due.

24.2 Where there is a administrative error or dispute there is a 21 day period for the problem to be resolved afterwhich the licence/certificate will be suspended if the fee remains unpaid.

24.3 When the Licensing Authority suspends a licence they notify the holder in writing specifying the date on which the suspension will take place, the suspension date will be 21 days after the authority has given the notice. The suspension will cease to have effect on the day on which the licensing authority receives payment of the outstanding fee.

25. ENFORCEMENT

25.1 The Licensing Authority will exercise its enforcement functions, based around the principles of consistency, transparency and proportionality.

25.2 The Licensing Authority will take a graduated response where offences against licensing legislation are found or where licence conditions have been contravened. An isolated administrative offence – such as failing to maintain certain records – may be dealt with purely by way of a written warning. More serious offences, those which have been continually committed over a period of time or which jeopardise the licensing objectives may result in a referral for prosecution.

25.3 The Licensing Authority will establish protocols with the Police and others who have enforcement functions (e.g. the Fire Service) with a view to providing for a more efficient deployment of its own staff, Police officers and the staff of other organisations with enforcement duties. The protocols will provide for the targeting of problem premises and businesses which consistently fail to promote the licensing objectives or fail to comply with the conditions of their licences.

25.4 The Licensing Authority will work with the owners of businesses and their representative organisations to promote best practice in the trade. The Licensing Authority will liaise widely with local businesses and organisations to encourage measures which will reduce crime and disorder in the county borough.

25.5 The Licensing Authority will continue to employ Licensing Officers to investigate allegations of unlicensed activities and to ensure that licence conditions are complied with.

26. INSPECTION OF PREMISES

26.1 The Licensing Authority will inspect every premises that it has not previously licensed in order to ensure that the Act's Licensing Objectives and this Licensing Policy are complied with. The Licensing Authorities Licensing Officers will determine on a case-by-case basis which applications require an inspection and they will arrange for such an inspection to take place.

26.2 Inspections of licensed premises will be carried out on a risk analysis based on local intelligence.

26.3 The frequency of unannounced inspections will be based on factors such as response to complaints from the public or responsible authorities, and any other relevant factor.

27. ADMINISTRATION, EXERCISE AND DELEGATIONS FUNCTION

27.1 The Licensing Authority will administer its licensing duties through the following three tiers of administration:

- The Licensing Committee
- The Licensing Sub Committee
- Licensing Officers

The Licensing Committee

27.2 The Act requires that each Licensing Authority establishes a Licensing Committee. The Licensing Committee will consist of 11 Councillors and will have overall responsibility for deciding policy matters. It will determine from time to time any standard conditions applicable to and detailed policies governing the issue of licences, permits and consents. All other functions will normally be carried out by the Licensing Sub Committee.

The Licensing Sub Committee

27.3 A Licensing Sub Committee of three Councillors, chosen from the Licensing Committee, will sit to hear every application where representations have been received from interested parties and responsible authorities.

27.4 The Chairman of the Licensing Sub Committee shall on each occasion be the Chairman or Vice Chairman of the Licensing Committee.

27.5 Ward Councillors will not sit on the Licensing Committee or Licensing Sub Committee when an application within their own Ward falls to be decided.

27.6 The function of the Licensing Sub Committee is to hear and to determine licensing applications made under the Act or otherwise and to deal with all related and detailed matters including the transfer, modification, variation, suspension and revocation of licences relating to temporary events notices, Personal and Premises Licences and Club Registration Certificates, especially where representations have been received from the Police and other responsible authorities.

27.7 Where a Councillor who is a member of the Licensing Committee or the Licensing Sub Committee has a direct or indirect interest in an application before them, in the interests of good governance they will disqualify themselves from any involvement in the decision-making process affecting the premises which are applying for the licences in question.

27.8 Every determination of a licensing decision by the Licensing Committee or the Licensing Sub Committee shall be accompanied with clear, cogent reasons for the decision.

27.9 If any decision of the Licensing Committee or Sub Committee differs from the Licensing Policy the Committee will give clear and cogent reasons why they have so acted. This will be important in the event of an appeal against the decision.

Licensing Officers

27.10 The Licensing Authorities Licensing Officers will deal with all other routine licence applications where either no representations have been received, or where representations have been received and it is agreed by the parties that a hearing is not necessary.

27.11 The Licensing Authorities Licensing Officers will make the decision on whether representations or applications for a licence review should be referred to the Licensing Sub Committee. Where representations are rejected, the person making that representation will be given written reasons as to why such is the case.

27.12 The Licensing Authority will ensure that members and officers are appropriately trained to carry out their duties under the Act.

Delegation of Functions

27.13 Guidance on how functions under this Act are to be delegated is as follows:-

Matter to be dealt with	Licensing Committee	Licensing Sub Committee	Officers
Application for Personal Licence			All cases
Application for Personal Licence with unspent convictions	All cases where the Licensing Sub Committee is unable to deal with the matter	If a Police objection	If no objection made
Application for Premises Licence/club premises certificate		If a representation made	If no relevant representation made
Application for provisional statement		If a representation made	If no relevant representation made
Application to vary Premises Licence/club premises certificate		If a representation made	If no relevant representation made

Matter to be dealt with	Licensing Committee	Licensing Sub Committee	Officers
Application to vary a Designated Premises Supervisor		If a Police objection	If no objection made
Request to be removed as Designated Premises Supervisor			All cases
Application for transfer of Premises Licence		If a Police objection	If no objection made
Application for Interim Authorities		If a Police objection	If no objection made
Application to review Premises Licence/club premises certificate	All cases where the Licensing Sub Committee is unable to deal with the matter	All cases	
Decision on whether a complaint is irrelevant frivolous vexatious etc			All cases
Determination of an objection to a standard temporary event notice		All cases	
Determination of an objection to a late temporary event notice			All cases
Application for a minor variation			All cases
Decision on which Responsible Authorities are relevant for consultation with a Minor Variation			All cases
Application requesting the condition requiring a Designated Premises Supervisor be disapplied to a premises		If a Police objection	If no objection made
Decision to object when local authority is a consultee and not the relevant authority considering the application		All cases	
Decision to suspend a premises licence or club premises certificate for non payment of annual fees.			All cases

Matter to be dealt with	Licensing Committee	Licensing Sub Committee	Officers
Decision to specify the date on which a suspension takes effect for non payment of fees.			All cases
Power to make representations as a Responsible Authority for Licensing			All cases

28. APPEALS PROCEDURE

28.1 Entitlement to appeal for parties aggrieved by decisions of the Licensing Authority are set out in Schedule 5 of the Act.

29. APPEALS TO THE MAGISTRATES' COURT

29.1 An appeal has to be commenced by the giving of a notice of appeal by the Appellant to the Clerk to the Justices of the Magistrates' Court within a period of 21 days from the day upon which the Appellant was notified by the Licensing Authority of the decision appealed against. The Appellant will be deemed to have been served with such Notification 3 days after the date of posting of the Notice.

30. CONTACT DETAILS /ADVICE AND GUIDANCE

Further information on any aspect of the licensing regime, including applications and representations can be obtained from:

Licensing Section
Merthyr Tydfil County Borough Council
Civic Centre
Castle Street
Merthyr Tydfil
CF47 8AN

Tel: 01685 725000

Information about the Licensing Authority's Licensing Policy can be obtained from:

Steve Peters
Head Of Public Protection and Housing
Civic Centre
Castle Street
Merthyr Tydfil
CF47 8AN
Tel: 01685 725000

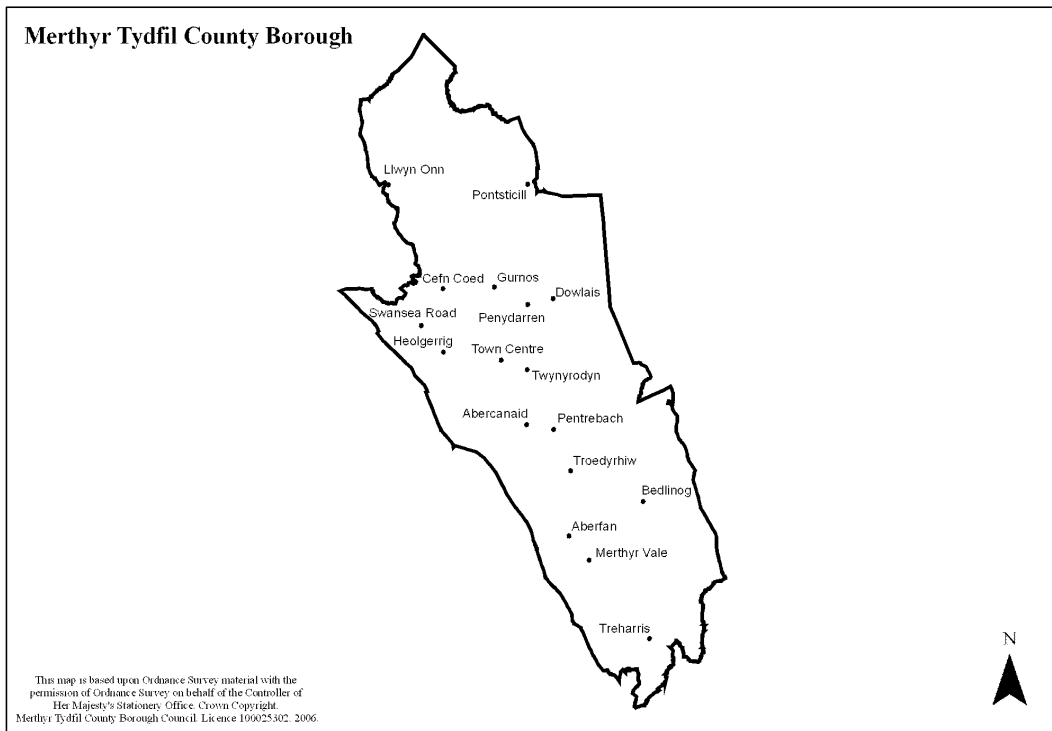
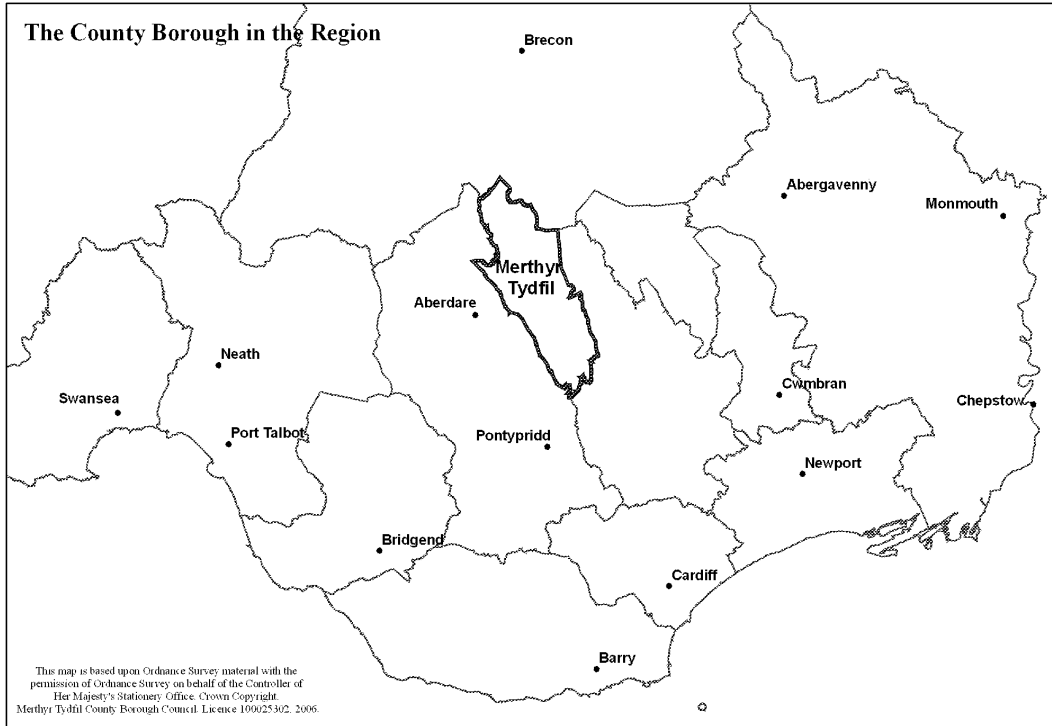
Information is also available from:

Home Office
4th Floor Fry Building
2 Marsham Street
London
SW1P 4DF
www.gov.uk/alcohol-licensing

31. REVIEW OF POLICY

28.1 This Policy Statement takes effect on xxxxxxx and will remain in force for a period of not more than 5 years. It will be subject to regular review and further consultation prior to xxxxxx

APPENDIX A – MAPS OF MERTHYR TYDFIL



APPENDIX B – POOL OF MODEL CONDITIONS

General

1. When applicants for premises licences or club premises certificates are preparing their operating schedules, responsible authorities are considering such applications and when licensing authorities are considering applications following the receipt of any relevant representations, they should consider whether the measures set out below are necessary, to promote the licensing objectives.
2. Any risk assessment to identify necessary measures should consider the individual circumstances of the premises (including local knowledge) and take into account a range of factors including:
 - The nature and style of the venue;
 - The activities being conducted there;
 - The location; and
 - The anticipated clientele.

Under no circumstances should licensing authorities regard these conditions as standard to be automatically imposed in all cases.

3. Any individual preparing an operating schedule or club operating schedule is at liberty to volunteer any measure, such as those described below, as a step they intend to take to promote the licensing objectives. When measures are incorporated into the licence or certificate as conditions, they become enforceable under the law and a breach of such a condition could give rise to prosecution.
4. Licensing authorities should carefully consider conditions to ensure that they are not only necessary but realistic, practical and achievable, so that they are capable of being met. Failure to comply with any conditions attached to a licence or certificate is a criminal offence, which on conviction would be punishable by fine up to £20,000 or up to six months imprisonment or both. As such, it would be wholly inappropriate to impose conditions outside the control of those responsible for the running of the premises. It is also important that conditions which are imprecise or difficult to enforce should be avoided.

5. It should be borne in mind that club premises operate under codes of discipline to ensure the good order and behaviour of members and that conditions enforcing offences under the Act are necessary.

Draft

Part 1. Conditions relating to the prevention of crime and disorder

Text/Radio pagers

Text and radio pagers connecting premises licence holders, designated premises supervisors, managers of premises and clubs to the local police can provide for rapid response by the police to situations of disorder which may be endangering the customers and staff on the premises.

Such pagers provide two-way communication, allowing licence holders, managers, designated premises supervisors and clubs to report incidents to the police, and the police to warn those operating a large number of other premises of potential trouble-makers or individuals suspected of criminal behaviour who are about in a particular area. Pager systems can also be used by licence holders, door supervisors, managers, designated premises supervisors and clubs to warn each other of the presence in an area of such people.

The Secretary of State recommends that text or radio pagers should be considered for public houses, bars and nightclubs operating in city and town centre leisure areas with a high density of licensed premises. These conditions may also be appropriate and necessary in other areas.

It is recommended that a condition requiring the text/radio pager links to the police should include the following requirements:

- the text/pager equipment is kept in working order at all times;
- the pager link be activated, made available to and monitored by the designated premises supervisor or a responsible member of staff at all times that the premises are open to the public;
- any police instructions/directions are complied with whenever given; and
- all instances of crime or disorder are reported via the text/radio pager link by the designated premises supervisor or a responsible member of staff to an agreed police contact point.

Door supervisors

Conditions relating to the provision of door supervisors and security teams may be valuable in:

- preventing the admission and ensuring the departure from the premises of the drunk and disorderly, without causing further disorder;
- keeping out individuals excluded by court bans or by the licence holder);
- searching and excluding those suspected of carrying illegal drugs, or carrying offensive weapons; and
- maintaining orderly queuing outside of venues.

Where the presence of door supervisors conducting security activities is to be a condition of a licence, which means that they would have to be registered with the Security Industry Authority, conditions may also need to deal with:

- the number of such supervisors;
- the displaying of name badges;
- the carrying of proof of registration;
- where, and at what times, they should be stationed on the premises; and
- whether at least one female supervisor should be available (for example, if female customers are to be the subject of body searches).

Door supervisors also have a role to play in ensuring public safety and the prevention of public nuisance.

Bottle bans

Glass bottles may be used as weapons inflicting more serious harm during incidents of disorder. A condition can prevent sales of drinks in glass bottles for consumption on the premises. This should be expressed in clear terms and include the following elements:

- no bottles containing beverages of any kind, whether open or sealed, shall be given to customers on the premises whether at the bar or by staff service away from the bar;
- no customers carrying open or sealed bottles shall be admitted to the premises at any time that the premises are open to the public (note: this needs to be carefully worded where off-sales also take place);

In appropriate circumstances, the condition could include exceptions, for example, as follows:

- but bottles containing wine may be sold for consumption with a table meal by customers who are seated in an area set aside from the main bar area for the consumption of food.

Bottle bans may also be a relevant necessary measure to promote public safety.

Plastic containers and toughened glass

Glasses containing drinks may be used as weapons and in untoughened form, can cause very serious injuries. Where necessary, consideration should therefore be given to conditions requiring the use of safer alternatives which inflict less severe injuries. Location and style of the venue and the activities carried on there are particularly important in assessing whether a condition is necessary. For example, the use of glass containers on the terraces of some outdoor sports grounds may obviously be of concern, and similar concerns may also apply to indoor sports events such as boxing matches. Similarly, the use of such plastic containers or toughened glass may be a necessary condition during the televising of live sporting events, such as international football matches, when there may be high states of excitement and emotion fuelled by alcohol.

The use of plastic or paper drinks containers and toughened glass may also be relevant as measures necessary to promote public safety.

Open containers not to be taken from the premises

Drinks purchased in licensed premises or clubs may be taken from those premises for consumption elsewhere. This is lawful where premises are licensed for the sale of alcohol for consumption off the premises. However, consideration should be given to a condition preventing customers from taking alcoholic and other drinks from the premises in open containers (eg glasses and opened bottles) for example, by requiring the use of bottle bins on the premises. This may again be necessary to prevent the use of these containers as offensive weapons in surrounding streets after individuals have left the premises.

Restrictions on taking open containers from the premises may also be relevant necessary measures to prevent public nuisance.

CCTV

The presence of CCTV cameras can be an important means of deterring and detecting crime at and immediately outside licensed premises. Conditions should not just consider a requirement to have CCTV on the premises, but also the precise siting of each camera, the requirement to maintain cameras in working order, and to retain recordings for an appropriate period of time.

The police should provide individuals conducting risk assessments when preparing operating schedules with advice on the use of CCTV to prevent crime.

Restrictions on drinking areas

It may be necessary to restrict the areas where alcoholic drinks may be consumed in premises after they have been purchased from the bar. An example would be at a sports ground where the police consider it necessary to prevent the consumption of alcohol on the terracing of sports grounds during particular sports events. Conditions should not only specify these areas, but indicate the circumstances in which the ban would apply and times at which it should be enforced.

Restrictions on drinking areas may also be relevant necessary measures to prevent public nuisance.

Capacity limits

Capacity limits are most commonly made a condition of a licence on public safety grounds, but should also be considered for licensed premises or clubs where overcrowding may lead to disorder and violence. If such a condition is considered necessary, door supervisors may be needed to ensure that the numbers are appropriately controlled.

Proof of age cards

It is unlawful for children under 18 to attempt to buy alcohol just as it is unlawful to sell or supply alcohol to them. To prevent the commission of these criminal offences, licensed premises should have in place an age verification policy. This requires the production of “proof of age” before such sales are made. The Secretary of State strongly supports the PASS accreditation system which aims to approve and accredit various proof of age schemes that are in existence. This ensures that such schemes maintain high standards, particularly in the area of integrity and security. While age verification policies may refer directly to PASS accredited proof of age cards, they should also allow for the production of other proof which bears a photograph, the individual’s date of birth and a holographic mark, such as photo-driving licences, National Identity Cards, some student cards and passports.

Since many adults in England and Wales do not currently carry any proof of age, the wording of any condition will require careful thought. For example many premises have adopted “Challenge 25”, “Challenge 21” or other similar initiatives.

Under these initiative those premises selling or supplying alcohol require sight of evidence of age from any person appearing to be under the specified age and who is attempting to buy alcohol.

Crime prevention notices

It may be necessary at some premises for notices to be displayed which warn customers of the prevalence of crime which may target them. Some premises may be reluctant to volunteer the display of such notices for commercial reasons. For example, in certain areas, a condition attached to a premises licence or club premises certificate might require the displaying of notices at the premises which warn customers about the need to be aware of pickpockets or bag snatchers, and to guard their property. Similarly, it may be necessary for notices to be displayed which advise customers not to leave bags unattended because of concerns about terrorism. Consideration could be given to a condition requiring a notice to display the name of a contact for customers if they wish to report concerns.

Drinks promotions

Licensing authorities should not attach standardised blanket conditions promoting fixed prices for alcoholic drinks to premises licences or club premises certificates in an area as this is likely to breach competition law. It is also likely to be unlawful for licensing authorities or police officers to promote voluntary arrangements of this kind as this can risk creating cartels. Discounting at individual premises may be permissible provided it is consistent with the licensing objectives.

Irresponsible drinks promotions are addressed through mandatory licensing conditions. Licensing authorities are reminded that there may be a judgement needed on whether a specific promotion is responsible or irresponsible. It is therefore vital that they consider these matters objectively in the context of the licensing objectives and before pursuing any form of restrictions at all, take their own legal advice.

Signage

It may be necessary for the normal hours at which licensable activities are permitted to take place under the terms of the premises licence or club premises certificate to be displayed on or immediately outside the premises so that it is clear if breaches of the terms of the licence or certificate are taking place.

Similarly, it may be necessary for any restrictions on the admission of children to be displayed on or immediately outside the premises to deter those who might seek admission in breach of those conditions.

Large capacity venues used exclusively or primarily for the “vertical” consumption of alcohol (HVVDs)

Large capacity “vertical drinking” premises, sometimes called High Volume Vertical Drinking establishments (HVVDs), are premises with exceptionally high capacities, used primarily or exclusively for the sale and consumption of alcohol, and have little or no seating for patrons.

Where necessary and appropriate, conditions can be attached to licences for these premises which require adherence to:

- a prescribed capacity;
- an appropriate ratio of tables and chairs to customers based on the capacity; and
- the presence of security staff holding the appropriate SIA licence or exemption to control entry for the purpose of compliance with the capacity limit.

Part 2. Conditions relating to public safety (including fire safety)

The attachment of conditions to a premises licence or club premises certificate will not in any way relieve employers of the statutory duty to comply with the requirements of other legislation including the Health and Safety at Work etc. Act 1974, associated regulations and especially the requirements under the Management of Health and Safety at Work Regulations 1999 and the Regulatory Reform (Fire Safety) Order 2005 to undertake risk assessments. Employers should assess the risks, including risks from fire, and take measures necessary to avoid and control them. Conditions enforcing those requirements are therefore unnecessary.

From 1 October 2006 the Regulatory Reform (Fire Safety) Order 2005 replaced previous fire safety legislation. Licensing authorities should note that under article 43 of the Regulatory Reform (Fire Safety) Order 2005 any conditions imposed by the licensing authority that relate to any requirements or prohibitions that are or could be imposed by the Order have no effect. This means that licensing authorities should not seek to impose fire safety conditions where the Order applies.

General

Additional matters relating to cinemas and theatres are considered in Part 3. It should also be recognised that special issues may arise in connection with outdoor and large scale events.

In addition, to considering the points made in this Part, those preparing operating schedules or club operating schedules, licensing authorities and responsible authorities should consider:

- Model National and Standard Conditions for Places of Public Entertainment and Associated Guidance ISBN 1 904031 11 0 (Entertainment Technology Press – ABTT Publications)
- The Event Safety Guide – A guide to health, safety and welfare at music and similar events (HSE 1999) (“The Purple Book”) ISBN 0 7176 2453 6
- Managing Crowds Safely (HSE 2000) ISBN 0 7176 1834 X
- 5 Steps to Risk Assessment: Case Studies (HSE 1998) ISBN 07176 15804
- The Guide to Safety at Sports Grounds (The Stationery Office, 1997) (“The Green Guide”) ISBN 0 11 300095 2

- Safety Guidance for Street Arts, Carnival, Processions and Large Scale Performances published by the Independent Street Arts Network, copies of which may be obtained through:

www.streetartsnetwork.org.uk/pages/publications.htm

- The London District Surveyors Association's "Technical Standards for Places of Public Entertainment" ISBN 0 9531229 2 1

The following British Standards should also be considered:

- BS 5588 Part 6 (regarding places of assembly)
- BS 5588 Part 9 (regarding ventilation and air conditioning systems)
- BS 5588 Part 9 (regarding means of escape for disabled people)
- BS 5839 (fire detection, fire alarm systems and buildings)
- BS 5266 (emergency lighting systems)

In most premises existing legislation will provide adequately for the safety of the public or club members and guests. However, where this is not the case, consideration might be given to the following conditions:

Safety checks

- safety checks are carried out before the admission of the public; and
- details of such checks are kept in a Log-book.

Escape routes

- exits are kept unobstructed, with non-slippery and even surfaces, free of trip hazards and clearly identified;
- where chairs and tables are provided in restaurants and other premises, internal gangways are kept unobstructed;
- all exits doors are easily openable without the use of a key, card, code or similar means;
- doors at such exits are regularly checked to ensure that they function satisfactorily and a record of the check kept;
- any removable security fastenings are removed whenever the premises are open to the public or occupied by staff; and

- the edges of the treads of steps and stairways are maintained so as to be conspicuous.

Disabled people

- when disabled people are present, adequate arrangements exist to enable their safe evacuation in the event of an emergency; and disabled people on the premises are made aware of those arrangements.

Lighting

- in the absence of adequate daylight, the lighting in any area accessible to the public, members or guests shall be fully in operation when they are present;
- emergency lighting is not altered;
- emergency lighting batteries are fully charged before the admission of the public, members or guests;
- in the event of the failure of normal lighting, where the emergency lighting battery has a capacity of one hour, arrangements are in place to ensure that the public, members or guests leave the premises within 20 minutes unless within that time normal lighting has been restored and the battery is being re-charged; and, if the emergency lighting battery has a capacity of three hours, the appropriate period by the end of which the public should have left the premises is one hour.

Curtains, hangings, decorations and upholstery

- Curtains, hangings and temporary decorations are arranged so as not to obstruct exits.
- temporary decorations are not used without prior notification to the licensing authority/relevant authority.

Capacity limits

- Arrangements are made to ensure that any capacity limit imposed under the premises licence or club premises certificate are not exceeded.
- The licence holder, a club official, manager or designated premises supervisor should be aware of the number of people on the premises and required to inform any authorised person on request.

Access for emergency vehicles

- Access for emergency vehicles is kept clear and free from obstruction.

First aid

- Adequate and appropriate supply of first aid equipment and materials is available on the premises.
- If necessary, at least one suitably trained first-aider shall be on duty when the public are present; and if more than one suitably trained first-aider that their respective duties are clearly defined.

Temporary electrical installations

- Temporary electrical wiring and distribution systems are not provided without notification to the licensing authority at least ten days before commencement of the work and/or prior inspection by a suitable qualified electrician.
- Temporary electrical wiring and distribution systems shall comply with the recommendations of BS 7671 or where applicable BS 7909.
- Where they have not been installed by a competent person, temporary electrical wiring and distribution systems are inspected and certified by a competent person before they are put to use.

With regard to the first bullet above, it should be recognised that ten days notice may not be possible where performances are supported by outside technical teams. For example, where temporary electrical installations are made in theatres for television show performances. In such circumstances, the key requirement is that conditions where necessary should ensure that temporary electrical installations are only undertaken by competent qualified persons, for example, employed by the television company.

Indoor sports entertainments

- If necessary, an appropriately qualified medical practitioner is present throughout a sports entertainment involving boxing, wrestling, judo, karate or other sports entertainment of a similar nature;
- Any ring is constructed and supported by a competent person and inspected by a competent authority.
- At any wrestling or other entertainments of a similar nature members of the public do not occupy any seat within 2.5 metres of the ring.
- At water sports entertainments, staff adequately trained in rescue and life safety procedures are stationed and remain within the vicinity of the water at all material times (see also Managing Health and Safety in Swimming

Pools issued jointly by the Health and Safety Commission and Sport England).

Special effects

The use of special effects in venues of all kinds being used for regulated entertainment is increasingly common and can present significant risks. Any special effects or mechanical installation should be arranged and stored so as to minimise any risk to the safety of the audience, the performers and staff. Further details are given in Part 3.

Alterations to the premises

Premises should not be altered in such a way as to make it impossible to comply with an existing licence condition without first seeking a variation of the premises licence to delete the relevant public safety condition. The applicant will need to propose how they intend to take alternative steps to promote the public safety objective in a new operating schedule reflecting the proposed alteration to the premises. The application for variation will enable the responsible authorities with expertise in safety matters to consider whether the proposal is acceptable.

Other measures

Other measures previously mentioned in relation to the Prevention of Crime and Disorder may also be relevant as necessary to promote public safety. These might include the provision of door supervisors, bottle bans, and requirements to use plastic or toughened glass containers (see Part 1 for further detail).

Part 3. Theatres, cinemas, concert halls and similar places (promotion of public safety)

In addition to the points made in Part 2, there are particular public safety matters which should be considered in connection with theatres and cinemas.

Premises used for closely seated audiences

Attendants

- a) The number of attendants on each floor in a closely seated auditorium should be as set out on the table below:

Number of members of the audience present on a floor	Minimum number of attendants required to be present on that floor
1 – 100	One
101 – 250	Two
251 – 500	Three
501 – 750	Four
751 -1000	Five
And one additional attendant for each additional 250 persons (or part thereof)	

- b) Attendants shall not be engaged in any duties that would prevent them from promptly discharging their duties in the event of an emergency or require their absence from that floor or auditorium where they are on duty.
- c) Any attendant shall be readily identifiable to the audience (but this need not entail the wearing of a uniform).
- d) The premises shall not be used for a closely seated audience except in accordance with seating plan(s), a copy of which is available at the premises and shall be shown to any authorised person on request.
- e) No article shall be attached to the back of any seat which would reduce the clear width of seatways or cause a tripping hazard or obstruction.
- f) A copy of any certificate relating to the design, construction and loading of any temporary seating shall be kept available at the premises and shall be shown to any authorised person on request.

Seating

Where the potential audience exceeds 250 all seats in the auditorium should, except in boxes accommodating not more than 8 persons, be either securely fixed to the floor or battened together in lengths of not fewer than four or more than twelve.

Standing and sitting in gangways etc.

- a) Sitting on floors shall not be permitted except where authorised in the premises licence or club premises certificate.
- b) Waiting or standing shall not be permitted except in areas designated in the premises licence or club premises certificate.
- c) In no circumstances shall anyone be permitted to
 - i. sit in any gangway;
 - ii. stand or sit in front of any exit; or
 - iii. stand or sit on any staircase including any landings.

Drinks

Except as authorised by the premises licence or club premises certificate, no drinks shall be sold to or be consumed by a closely seated audience except in plastic and paper containers.

Balcony Fronts

Clothing or other objects shall not be placed over balcony rails or upon balcony fronts.

Special effects

Any special effects or mechanical installation should be arranged and stored so as to minimise any risk to the safety of the audience, the performers and staff.

Specials effects include:

- dry ice machines and cryogenic fog;
- smoke machines and fog generators;
- pyrotechnics, including fireworks;

- real flame;
- firearms;
- motor vehicles;
- strobe lighting;
- lasers;
- explosives and highly flammable substances.

In certain circumstances, it may be necessary to require that certain special effects are only used with the prior notification of the licensing authority or [inspection by] fire authority. In these cases, the licensing authority should notify the fire and rescue authority, who will exercise their inspection and enforcement powers under the Regulatory Reform (Fire Safety) Order 2005.

Further guidance can be found in the following publications:

- HSE Guide 'The radiation safety of lasers used for display purposes' (HS(G)95);
- 'Smoke and vapour effects used in entertainment' (HSE Entertainment Sheet No 3);
- 'Special or visual effects involving explosives or pyrotechnics used in film and television production' (HSE Entertainment Sheet No 16);
- 'Electrical safety for entertainers' (HSE INDG 247);
- 'Theatre Essentials' – Guidance booklet produced by the Association of British Theatre Technicians 8.

Ceilings

All ceilings in those parts of the premises to which the audience are admitted should be inspected by a suitably qualified person who will decide when a further inspection is necessary and a certificate concerning the condition of the ceilings forwarded to the licensing authority.

Premises used for film exhibitions

Attendants – premises without a staff alerting system

Where the premises are not equipped with a staff alerting system the number of attendants present should be as set out in the table below:

Number of members of the audience present on the premises	Minimum number of attendants required to be on duty
1 – 250	Two
And one additional attendant for each additional 250 members of the audience present (or part thereof)	
Where there are more than 150 members of an audience in any auditorium or on any floor	At least one attendant shall be present in any auditorium or on any floor

Attendants – premises with a staff alerting system

a) Where premises are equipped with a staff alerting system the number of attendants present should be as set out in the table below:

Number of members of the audience present on the premises	Minimum number of attendants required to be on duty	Minimum number of other staff on the premises who are available to assist in the event of an emergency
1 – 500	Two	One
501 – 1000	Three	Two
1001 – 1500	Four	Four
1501 or more	Five plus one for every 500 (or part thereof) persons over 2000 on the premises	Five plus one for every 500 (or part thereof) persons over 2000 on the premises

b) Staff shall not be considered as being available to assist in the event of an emergency if they are:

- i. the holder of the premises licence or the manager on duty at the premises; or
 - ii. a member of staff whose normal duties or responsibilities are likely to significantly affect or delay his response in an emergency situation; or
 - iii. a member of staff whose usual location when on duty is more than 60 metres from the location to which they are required to go on being alerted to an emergency situation.
- c) Attendants shall as far as reasonably practicable be evenly distributed throughout all parts of the premises to which the public have access and keep under observation all parts of the premises to which the audience have access.
- d) The staff alerting system shall be maintained in working order.

Minimum lighting

The level of lighting in the auditorium should be as great as possible consistent with the effective presentation of the film; and the level of illumination maintained in the auditorium during the showing of films would normally be regarded as satisfactory if it complies with the standards specified in BS CP 1007 (Maintained Lighting for Cinemas).

Part 4. Conditions relating to the prevention of public nuisance

It should be noted that provisions of the Environmental Protection Act 1990 and the Noise Act 1996 and the Clean Neighbourhoods and Environment Act 2005 provide some protection to the general public from the effects of noise nuisance. In addition, the provisions in Part 8 of the Licensing Act 2003 enable a senior police officer to close down instantly for up to 24 hours licensed premises and premises carrying on temporary permitted activities that are causing nuisance resulting from noise emanating from the premises. These matters should be considered before deciding whether or not conditions are necessary for the prevention of public nuisance.

Hours

The hours during which the premises are permitted to be open to the public or to members and their guests can be restricted by the conditions of a premises licence or a club premises certificate for the prevention of public nuisance. But this must be balanced by the potential impact on disorder which results from artificially early fixed closing times. However, there is no general presumption in favour of lengthening licensing hours and the four licensing objectives should be paramount considerations at all times.

Restrictions could be necessary on the times when certain licensable activities take place even though the premises may be open to the public at such times. For example, the playing of recorded music after a certain time might be prohibited, even though other licensable activities are permitted to continue. Or the playing of recorded music might only be permitted after a certain time where conditions have been attached to the licence or certificate to ensure that any potential nuisance is satisfactorily prevented.

Restrictions might be necessary on the parts of premises that might be used for certain licensable activities at certain times. For example, while the provision of regulated entertainment might be permitted while the premises is open to the public or members and their guests, regulated entertainment might not be permitted in garden areas of the premises after a certain time.

In premises where existing legislation does not provide adequately for the prevention of public nuisance, consideration might be given to the following conditions.

Noise and vibration

In determining which conditions are necessary and appropriate, licensing authorities should be aware of the need to avoid unnecessary or disproportionate measures that could deter the holding of events that are valuable to the community, such as live music. Noise limiters, for example, are very expensive to purchase and install and are likely to be a considerable burden for smaller venues. The following conditions may be considered:

- a) Noise or vibration does not emanate from the premises so as to cause a nuisance to nearby properties. This might be achieved by one or more of the following conditions:
 - i. A simple requirement to keep doors and windows at the premises closed;
 - ii. Limiting live music to a particular area of the building;
 - iii. Moving the location and direction of speakers away from external walls or walls that abut private premises;
 - iv. Installation of acoustic curtains;
 - v. Fitting rubber seals to doorways;
 - vi. Installation of rubber speaker mounts;
 - vii. Requiring the licensee to take measure to ensure that music will not be audible above background level at the nearest sensitive location;
 - viii. Require licensee to undertake routine monitoring to ensure external levels of music are not excessive and take appropriate action where necessary;
 - ix. Noise limiters on amplification equipment used at the premises (if other measures have been unsuccessful).
- b) Prominent, clear and legible notices are displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly.
- c) The use of explosives, pyrotechnics and fireworks of a similar nature which could cause disturbance in surrounding areas are restricted.

- d) The placing of refuse – such as bottles – into receptacles outside the premises takes place at times that will minimise the disturbance to nearby properties.

Noxious smells

- Noxious smells from licensed premises are not permitted so as to cause a nuisance to nearby properties and the premises are properly vented.

Light pollution

- Flashing or particularly bright lights on or outside licensed premises do not cause a nuisance to nearby properties. Any such condition needs to be balanced against the benefits to the prevention of crime and disorder of bright lighting in certain places.

Other measures

Other measures previously mentioned in relation to the Prevention of Crime and Disorder may also be relevant s necessary to prevent public nuisance. These might include the provision of door supervisors, open containers not to be taken from the premises, and restrictions on drinking glasses (see Part 1 for further detail)

Part 5. Conditions relating to the protection of children from harm

An operating schedule or club operating schedule should indicate any decision for the premises to exclude children completely. This would mean there would be no need to detail in the operating schedule steps that the applicant proposes to take to promote the protection of children from harm. Otherwise, where entry is to be permitted, the operating schedule should outline the steps to be taken to promote the protection of children from harm while on the premises.

Access for children to licensed premises – in general

Restrictions on the access of children under 18 to premises where licensable activities are being carried on should be made where it is necessary to protect children from harm. Precise policy and details will be a matter for individual licensing authorities.

The Secretary of State recommends (unless there are circumstances justifying the contrary) that:

- for any premises with known associations (having been presented with evidence) with or likely to give rise to:
 - heavy or binge or underage drinking;
 - drugs;
 - significant gambling, or entertainment (whether regulated entertainment or not) of a clearly adult or sexual nature,

there should be a strong presumption against permitting any access at all for children under 18 years.

- For any premises, not serving alcohol for consumption on the premises, but where the public are allowed on the premises after 11.00 p.m. in the evening, there should be a presumption against the presence of children under the age of 12 unaccompanied by adults after that time.

Applicants wishing to allow access under the above circumstances, should when preparing operating schedules or club operating schedules or variations of those schedules:

- explain their reasons; and

- outline in detail the steps that they intend to take to protect children from harm on such premises.

In any other case the Secretary of State recommends that, subject to the premises licence holder's or club's discretion, the expectation would be for unrestricted access for children subject to the terms of the 2003 Act.

Age Restrictions – specific

Whilst it may be appropriate to allow children unrestricted access at particular times and when certain activities are not taking place, licensing authorities will need to consider:

the hours of day during which age restrictions should and should not apply. For example, the fact that adult entertainment may be presented at premises after 8.00 p.m. does not mean that it would be necessary to impose age restrictions for earlier parts of the day;

- types of event or activity in respect of which no age restrictions may be needed, for example;
 - family entertainment; or
 - non-alcohol events for young age groups, such as under 18s dances,
- types of event or activity which give rise to a more acute need for age restrictions than normal, for example;
 - during “Happy Hours” or on drinks promotion nights;
 - during activities outlined in the first bullet point in the first paragraph above.

Age restrictions – cinemas

The British Board of Film Classification classifies films in accordance with its published Guidelines which are based on extensive research into public opinion and professional advice. The Secretary of State therefore recommends that licensing authorities should not duplicate this effort by choosing to classify films themselves. The classifications recommended by the Board should be those normally applied unless there are very good local reasons for a licensing authority to adopt this role. Licensing authorities should note that the provisions of the 2003 Act enable them to specify the Board in the licence or certificate and, in relation to individual films, to notify the holder or club that it will make a recommendation for that particular film.

Licensing Authorities should be aware that the BBFC currently classifies films in the following way:

U – Universal. Suitable for audiences aged four years and over

PG – Parental Guidance. Some scenes may be unsuitable for young children.

12A – Passed only for viewing by persons aged 12 years or older or persons younger than 12 when accompanied by an adult.

15 – Passed only for viewing by persons aged 15 years and over.

18 – Passed only for viewing by persons aged 18 years and over.

Licensing authorities should note that these classifications may be subject to occasional change and consult the BBFC's website at www.bbfc.co.uk before applying relevant conditions.

The Secretary of State considers that, in addition to the mandatory condition imposed by section 20, conditions restricting the admission of the children to film exhibitions should include that:

- Where the licensing authority itself is to make recommendations on the admission of children to films, the cinema or venue operator must submit any film to the authority that it intends to exhibit 28 days before it is proposed to show it. This is to allow the authority time to classify it so that the premises licence holder is able to adhere to any age restrictions then imposed;
- immediately before each exhibition at the premises of a film passed by the British Board of Film Classification there shall be exhibited on screen for at least five seconds in such a manner as to be easily read by all persons in the auditorium a reproduction of the certificate of the Board or, as regards a trailer advertising a film, of the statement approved by the Board indicating the classification of the film;
- when a licensing authority has made a recommendation on the restriction of admission of children to a film, notices are required to be displayed both inside and outside the premises so that persons entering can readily be made aware of the classification attached to any film or trailer. Such a condition might be expressed in the following terms:

“Where a programme includes a film recommended by the licensing authority as falling into an age restrictive category no person appearing to be under the age shall be admitted to any part of the programme; where a programme includes a film recommended by the licensing authority as falling into a category requiring

any persons under a specified age to be accompanied by an adult, and the licence holder shall display in a conspicuous position a notice clearly stating the relevant age restrictions and requirements. For example:

**PERSONS UNDER THE AGE OF [INSERT APPROPRIATE AGE]
CANNOT BE ADMITTED TO ANY PART OF THE PROGRAMME**

Where films of different categories form part of the same programme, the notice shall refer to the oldest age restriction.

This condition does not apply to members of staff under the relevant age while on-duty provided that the prior written consent of the person's parent or legal guardian has first been obtained.

Theatres

The admission of children to theatres, as with other licensed premises, is not expected to normally be restricted unless it is necessary to promote the licensing objective of the protection of children from harm. However, theatres may be the venue for a wide range of activities. The admission of children to the performance of a play is expected to normally be left to the discretion of the licence holder and no condition restricting the access of children to plays should be attached. However, theatres may also present entertainment including, for example, variety shows, incorporating adult entertainment. A condition restricting the admission of children in such circumstances may be necessary. Entertainment may also be presented at theatres specifically for children (see below).

Licensing authorities are also expected to consider whether a condition should be attached to a premises licence which requires the presence of a sufficient number of adult staff on the premises to ensure the well being of children present on the premises during any emergency (See Part 3).

Performances especially for children

Where performances are presented especially for unaccompanied children in theatres and cinemas, licensing authorities will also wish to consider conditions to specify that:

- an attendant to be stationed in the area(s) occupied by the children, in the vicinity of each exit, provided that on each level occupied by children the minimum number of attendants on duty should be one attendant per 50 children or part thereof.

Licensing authorities should also consider whether or not standing should be allowed. For example, there may be reduced risk for children in the stalls than at other levels or areas in the building.

Children in performances

There are many productions each year that are one-off shows where the cast is made up almost entirely of children. They may be taking part as individuals or as part of a drama club, stage school or school group. The age of those involved may range from 5 to 18. The Children (Performances) Regulations 1968 as amended set out requirements for children performing in a show. Licensing authorities should familiarise themselves with the requirements of these Regulations and not duplicate any of these requirements. However, if it is necessary to consider imposing conditions, in addition to these requirements, for the promotion of the protection of children from harm then the licensing authority should consider the matters outlined below.

- **Venue** – the backstage facilities should be large enough to accommodate safely the number of children taking part in any performance.
- **Special effects** – it may be inappropriate to use certain special effects, including smoke, dry ice, rapid pulsating or flashing lights, which may trigger adverse reactions especially with regard to children.
- **Care of children** – theatres, concert halls and similar places are places of work and may contain a lot of potentially dangerous equipment. It is therefore important that children performing at such premises are kept under adult supervision at all times including transfer from stage to dressing room and anywhere else on the premises. It is also important that the children can be accounted for at all times in case of an evacuation or emergency.

The Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks

The Portman Group operates, on behalf of the alcohol industry, a Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks. 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. Complaints about products under the Code are considered by an Independent Complaints Panel and the Panel's decisions are published on the Portman Group's website, in the trade press and in an annual report. If a product's packaging or point-of-sale advertising is found to be in breach of the Code, the Portman Group may issue a Retailer Alert Bulletin to notify retailers of the decision and ask them not to replenish stocks of any such product or to display such point-of-sale material, until the decision has been complied with. The Code is an important mechanism in protecting children from harm because it addresses the naming, marketing and promotion of alcohol products sold in licensed premises in a manner which may appeal to or attract minors. Consideration can be given to attaching conditions to premises licences and club premises certificates that require compliance with the Portman Group's Retailer Alert Bulletins.