



**LICENSING ACT 2003  
STATEMENT OF LICENSING POLICY**

NOVEMBER 2013

Comments are invited on this document to:

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## PROLOGUE

Watford Borough Council is the licensing authority under the Licensing Act 2003, and are required to publish and keep under review a policy setting out our approach to our responsibilities under the Act.

It is intended that this policy will be used by a wide range of people within the Borough – from organisations who need authorisations under the Act; residents and others who may be affected by their activities, and by the statutory bodies with responsibilities under the Act.

This policy is in force from 20 November 2013 until 19 November 2018, unless revised beforehand. We hope that organisations and individuals will use it before making licence applications, and that residents and statutory bodies will use it when responding to licensing applications or existing licensed activities.

In drawing up the policy, we have consulted with:

- Local residents and their representatives
- Local community, cultural and entertainment organisations
- Holders of various licences for premises in the Borough who will be affected by it
- Hertfordshire Constabulary
- Hertfordshire Fire & Rescue Service
- Hertfordshire Trading Standards
- Hertfordshire Local Safeguarding Childrens' Board
- Watford Community Safety Partnership
- One Watford

Our consultation was conducted between 21 March 2013 and 30 September 2013, during which time we wrote to:

- over 150 local community organisations and residents' associations;
- more than 310 licensed premises;
- individual premises in writing around the proposed Sensitive Licensing Areas (SLAs);
- councillors for the wards where the SLAs are proposed and
- the statutory responsible authorities.

We placed details on our website and a public advertisement, and issued a press release which was published in the Watford Observer on 25 March 2013.

It was approved by the full Council – the Licensing Authority – on 19 November 2013.

Our licensing committee will consider each Spring how the policy has operated, and whether any changes to it are needed.

## **The Borough of Watford**

Watford Borough Council is situated in the county of Hertfordshire, which contains ten district councils in total. The council area has a population of 86,000 (ONS mid-year population estimate, August 2010) making it one of the smallest in the county in terms of population and one of the most densely populated in the country.

Watford Borough was granted a Royal Charter in 1922. Traditionally a market town, it has developed into an attractive sub-regional shopping centre and important centre for cultural and recreational facilities. Watford has a catchment area population of approximately 500,000 within a travel time of 20 minutes from the town centre (CACI Ltd 2001).

Situated in the south west of Hertfordshire, Watford has several locational advantages due to its excellent communication links. The M1 motorway, with direct links to the town centre, and the London to Glasgow railway pass through the Borough. London Euston can be reached in 20 minutes, while the nearby M25 motorway has enhanced road access to the major airports at Heathrow, Gatwick, Stansted and Luton.

Watford has major A-road links to adjoining areas and is also connected to the underground rail network with the Metropolitan Line terminus adjacent to Cassiobury Park. A branch line railway serves St. Albans Abbey. By 2016 the London Underground is expected to be connected to Watford Junction mainline railway station via the Croxley Rail Link, providing additional stations in West Watford.

Watford Borough covers an area of 2,142 hectares (8.3 sq. miles). Watford is a major town in the region. It is a sub-regional shopping destination, centered around the Harlequin Shopping Centre in the town centre, and has one of the most vibrant night-time economies in Hertfordshire. It was traditionally a centre for the printing industry and now boasts the headquarters of a number of nationally known firms. Unemployment figures are well below Great Britain's average. However there are pockets of deprivation, characterised by a high concentration of minority ethnic groups, single parent families, low income households and a high incidence of long term health problems.

Potential operators should however refer to the District Plan and the emerging Local Development Framework (through our Development Control Team or on our website at [www.watford.gov.uk](http://www.watford.gov.uk)) for details about the local planning authority's approach to granting planning permission for developments where such activities may take place.

Further information about the Borough is contained in the Community Plan 2006 – 2026, which can be obtained from the Council's offices or at <http://www.watford.gov.uk/ccm/content/strategic-services/equalities/eia-community-plan.en>

## INTRODUCTION

We recognise that the four objectives of the Licensing Act – prevention of crime and disorder; public safety; prevention of nuisance; and child protection – are paramount.

Our vision is to create a safe and family-friendly environment within the Borough, particularly within the town centre. Whilst we recognise that each application must be considered on its individual merits and must be granted in the absence of any relevant representations, policies will be implemented to achieve our overall aims.

In September 2008 we launched a 24-hour strategy for the town centre (available on request), to take us to 2012. Following public consultation, we began to tackle some key issues which are now being addressed. In January 2009 we launched our Cultural Study to remodel the town centre – particularly The Parade – to act as a stimulating focal point for culture and heritage within the borough. This aims to bring cultural, physical, economic and social improvements to the town.

This approach took us to being awarded Purple Flag accreditation from the Association of Town Centre Managers in September 2012 for our management with our partners of our town centre night-time economy.

Where we have discretion because relevant representations have been made about licensing applications, we may also take into account the following factors to fulfil our vision:

- (1) what contribution the application can make to creating a family-friendly town centre, specifically in terms of offer to a wide-range of customers; family-friendly policies and facilities; operating hours; and pricing;
- (2) entertainment aimed at over-25 year olds;
- (3) links with other activities in the town, to encourage day-time users to stay in the evening;
- (4) provision of a full food menu and not only alcohol;
- (5) the controlled and safe sale of alcohol;
- (6) transport/dispersal provision, particularly during periods when public transport is unavailable;
- (7) style and type of venue. The licensing authority wants to attract only high-quality operators who can provide a family-friendly environment, characterised by a range of activities and offers that would appeal to families of all backgrounds. A family-friendly environment may (but need not) be characterised by:
  - a range of alcoholic and soft drinks suitable for all ages;
  - a food menu catering for different tastes and needs, available throughout the duration of the premises' operating times;

- facilities suitable for assisting customers with young children, such as high-chairs and baby-changing facilities, and facilities for family groups such as suitably laid-out seating/table areas;
- a range of activities or entertainment that appeals to a range of age groups, whether provided at the same time or at separate times.

(8) involvement in local community events and organisations

(9) commitment to involvement in community safety partnership initiatives.

(10) use of street pavement licences for outdoor table areas.

### **Promoting and celebrating Watford's diverse cultures**

We are keen to promote the artistic and cultural life of the town, and licensing will be approached with a view to encouraging new and innovative forms of public entertainment that are consistent with the licensing objectives and this aim.

We encourage greater live music, dance, theatre and other forms of entertainment for the wider cultural benefit of the community. We note that the Live Music Act 2012 already exempts live and recorded music from the need for a licence in specific circumstances and that certain elements of "regulated entertainment" defined in schedule 1 to the Licensing Act has also been deregulated<sup>1</sup>.

For those activities that will still require licensing, we will seek to strike a balance between the potential for limited neighbourhood disturbance and the benefits of cultural activities and we will not allow the views of vocal minorities to predominate over the general interests of the community.

We will as far as possible avoid measures that deter live music, dance, theatre and entertainment, for example by imposing conditions that have indirect costs of a disproportionate nature.

We are aware of the community value of a broad range of cultural entertainments, particularly live music, theatre and dancing. We want to encourage them for the benefit of all. We have issued a premises licence for the town centre for the use of community and other groups, and enquiries should be addressed to our Arts & Events team at [community@watford.gov.uk](mailto:community@watford.gov.uk).

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<sup>1</sup> [The Licensing Act 2003 \(Descriptions of Entertainment\) \(Amendment\) Order 2013](#)

## GENERAL CONSIDERATIONS

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 licence-holder. However, as a matter of policy, we expect every holder of a licence, certificate or permission to be responsible for minimising the impact of their activities and anti-social behaviour by their patrons within the immediate vicinity of their premises and will require licence holders to demonstrate that they have taken appropriate action.

We will consider every application, on its own merits. We will have regard to the guidance issued by the Secretary of State under section 182 of the Licensing Act (available from [www.culture.gov.uk](http://www.culture.gov.uk)). Where it is necessary to depart from the guidance – either in this policy or at any other time – we will give clear and cogent reasons for doing so.

We will consult with relevant stakeholders on the operation of this policy where appropriate, in advance of an annual report each Spring to our Licensing Committee on the operation of the Act. We will also take advantage of other forum, such as Pubwatch and Door Supervisor liaison meetings.

## PRE-APPLICATION CONSIDERATIONS

Our experience in administering the licensing regime since 2005 shows us that many disputes start from poor communication – for example, the Act doesn't always allow applicants to fully explain their proposals, leading residents to misunderstand what is being proposed. In that case, formal representations are made and licensing hearings held to simply clarify what is being proposed.

We would strongly encourage applicants to hold pre-application discussions with us, other relevant statutory bodies and local residents or businesses before submitting all but the most straight-forward applications.

Applicants should note that all applications are detailed on a weekly email bulletin, which is published on our website. Applications for the grant and variation of premises licences and club premises certificates are also circulated by letter to the fifteen nearest properties to the premises affected by the application, to ensure those potentially affected are aware of the application. Applicants are requested to submit a copy of their public notice to our officers after it has been published in a local newspaper.

Licensing is about the regulation of licensed premises, qualifying members' clubs and temporary events. We may only impose conditions on premises licences and club premises certificates in one of two circumstances:

- (1) where the applicant volunteers them as part of their operating schedule; or
- (2) on receipt of relevant representations from potentially affected parties, or from responsible authorities .

We have produced a separate document containing pools of model conditions for premises licences and club premises certificates. Applicants are under no compulsion to use these when preparing their operating schedules, but doing so may reduce the likelihood of representations being made about the application. Should relevant representations be received, we will (unless policy LP2 is involved) use those pools of conditions to address the concerns raised before we consider whether to refuse an application.

Terms and conditions attached to premises licences or club premises certificates in these circumstances will be reasonable, proportionate, and relevant and will be focused on matters within the control of the individual licence-holders and others granted relevant permissions. Conditions will be tailored to the style and characteristics of the individual premises. These matters will centre on the premises and places being used for licensable activities and in the vicinity of those premises or places.

Our officers will draft appropriate conditions for premises licence and club registration certificates from the information supplied in operating schedules accompanying premises licence and club premises certificate applications.

We recognise that we have no statutory power to place conditions where a temporary event notice has been given and no objections have been received from the police or Environmental Health, but urge premises users to take note of the guidance in this policy in appropriate circumstances.



Where no representations have been received, we must grant the authorisation in the terms sought.

**POLICY LP1  
PREMISES DEFINITIONS**

For the purposes of policy LP2 and LP3, we define licensed premises as set out below:

<b>Premises</b>	<b>Use</b>
<b>Restaurants</b>	The sale of food and drink for consumption on the premises with full waiter service and/or full food menu throughout the trading period, and which typically has only incidental background music. Alcohol sales do not predominant over activities. It may occasionally include the provision of other licensable activities such as recorded or amplified music and limited facilities for the provision of dancing.
<b>Public houses, wine bars or other drinking establishments</b>	Primarily for the sale of alcohol and food for consumption on the premises, and which may include the provision of other licensable activities. Will include a "drinking up period" between the last sale of alcohol and the closing time of the premises.
<b>Café-bars</b>	The sale of food and or light refreshments, and where alcohol sales are not a predominant feature of the premises
<b>Hotel bars</b>	The sale of alcohol and/or food, either to hotel residents or to non-residents
<b>Night-clubs</b>	Primarily for the provision of licensable activities at night (typically including music and dancing), where alcohol sales are a strong feature
<b>Off-licences</b>	The sale of alcohol for consumption away from the premises
<b>Pavement licences</b>	The sale of alcohol and/or food on the highway outside of other premises licensed for such activities
<b>Qualifying clubs</b>	Qualify for a club premises certificate under the Licensing Act 2003
<b>Take-aways</b>	The provision of late night refreshment (hot food and drink) between 11 pm and 5 am for consumption away from the premises
<b>Other entertainment venues</b>	The sale of alcohol and provision of late night refreshment (hot food and drink) is either absent or only ancillary to other licensable activities

**POLICY LP2  
LOCATION AND OPERATION OF PREMISES**

1. The table below sets out our approach to licensing premises when we have received relevant representations to a licensing application, notwithstanding that each application will be considered on its merits:

<b>Premises type</b>	<b>Town centre (see also policy LP3)</b>	<b>Leisure or shopping area</b>	<b>Residential area</b>
<b>Café-bars</b>	Will generally be granted according to the application		
<b>Hotel bars</b>	Will generally be allowed alcohol sales and late night refreshment to residents 24-hours a day and to non-residents on the same basis as restaurants (see below)		
<b>Night-clubs (including lap-dancing clubs)</b>	Will generally be allowed licensable activities to 1 am only and until 10.30 pm on Sunday (other than for special occasions)	Will generally be allowed licensable activities to 1 am only (other than for special occasions)	Will generally be allowed licensable activities to midnight only (other than for special occasions)
<b>Off-licences</b>	Will generally be allowed alcohol sales to 8 pm only	Will generally be allowed alcohol sales in accordance with the normal opening hours of the shop	Will generally be allowed alcohol sales in accordance with the normal opening hours of the shop
<b>Other entertainment venues not listed</b>	Will generally be granted for the hours and activities requested		May be limited to midnight
<b>Pavement licences*</b>	Will generally be allowed alcohol sales to 10 pm only	Will generally be granted according to the application	Will not generally be granted for alcohol sales in residential areas outside pubs, but will if outside restaurants and café-bars
<b>Public houses, wine bars and other drinking establishments</b>	Will generally be allowed alcohol sales to midnight only, and until	Will be allowed alcohol sales to midnight only (other than for special occasions).	

\* We have published separate policies about pavement and about sex entertainment venue licences, which are available on our website and from our licensing team.

	10.30 pm on Sunday (other than for special occasions).		
<b>Qualifying clubs</b>	Will generally be granted for the hours and activities requested		
<b>Restaurants</b>	Will generally be allowed licensable activities to 2 am only (other than for special occasions)		Will generally be allowed alcohol sales to midnight only (other than for special occasions)
<b>Take-aways</b>	Will generally be allowed late-night refreshment sales to 1 am only (other than for special occasions)	Will generally be allowed late-night refreshment sales to 1 am only	Will generally be allowed late-night refreshment sales to midnight only (other than for special occasions)

2. Where alcohol is sold for consumption on the premises, our policy will be to generally grant an additional 60 minutes between the end of any sales of alcohol and the closing time of the premises (which we refer to as the “terminal hour”).
3. Where we have considered representations for licences that do not involve alcohol sales, we reserve the right to set a final hour for licensable activities and for the closing time of the premises (the “terminal hour”).

### Justification for LP2

We recognise that flexible licensing hours for alcohol sales can help to reduce concentrations of customers from leaving premises simultaneously, and to reduce conflict at late-night take-aways and taxi ranks. At the same time, we recognise that taxis/private hire vehicles (and private vehicles) are effectively the only form of post-midnight transport in the Borough.

We are adopting this policy with the Government’s recommendations at paragraph 13.42 of the statutory guidance in mind. This states that the Government acknowledges different licensing approaches may be appropriate for promoting the licensing objectives in different areas, and licensing authorities – in consultation with others – are best placed to make those decisions subject to the over-riding principle that opening hours must be not pre-determined without giving individual consideration to the merits of each application.

This justifies a more restrictive approach in residential areas when relevant representations have been made. A more restrictive approach for take-aways within the LP3 area is justified to reduce conflict late at night, and for off-licences to reduce the availability of alcohol being drunk on the streets (“pre-loading”) during the evening.

## **PETROL FILLING STATIONS**

Section 176 of the Licensing Act prohibits alcohol sales from premises that are used primarily as, or are part of premises that are primarily used, as garages for one or more of the retailing of petrol or derv; or the sale and maintenance of vehicles.

If premises that are primarily used as a garage are granted a licence, that licence is “of no effect” and alcohol may not be lawfully sold.

It follows that we must be satisfied whether or not any premises are used primarily as a garage before we grant a licence for it. This is not to restrict the granting of a licence in such cases but for all parties to be clear as to whether the licence is an effective one or not. This policy is intended to be applied flexibly, as we are aware many pubs and restaurants have car parks attached where customers may drink alcohol and then drive away, and that customers will also drive to supermarkets for example to buy alcohol, many of which also have car parks.

### **Policy LP2A**

1. In determining applications for garages, we require applicants to demonstrate that their premises are not primarily used as a garage. Such evidence must be based on sales and footfall data over the previous two years to show that petrol and derv sales, and vehicle maintenance and sales, are not the premises' main feature to show the intensity of use. Where such information is not available (because for example the premises have only just started trading), we will consider imposing a condition requiring this information to be provided to the licensing authority on a regular basis for the following two years to ensure the premises are not primarily a garage.
2. Where insufficient evidence exists to establish primary use, we will decide whether or not grant a licence and deal with any subsequent issues using our enforcement powers in conjunction with other responsible authorities.
2. Where relevant representations have been made and a premises licence is granted in these circumstances, we shall treat it as an off-licence for the purposes of policy LP2 and grant hours accordingly.

### **Justification for LP2A**

Paragraph 5.22 of the statutory guidance issued under the Act makes it clear that we must decide whether or not any premises is used primarily as a garage. We are aware that different licensing authorities take a number of different approaches to this question. This approach allows us to obtain the necessary information for us to reach that decision.

## **CIRCUSES**

It is clear that authority is needed under the Licensing Act should a circus sell alcohol or provide late night refreshment.

The position is less clear in terms of regulated entertainment, and we are aware of extremes in approaches by licensing authorities across the country. The incidental music to a circus performance is not licensable, clowns may not necessarily be playing a dramatic role qualifying as a theatrical performance, trapeze artistes are not engaged in indoor sports and film performances are rarely included. We are also conscious of the Government's proposal to exempt such entertainment from the Licensing Act in the future.

## **Policy LP2B**

1. It is our policy that circuses do not require authorisations under the Licensing Act 2003 for regulated entertainment, unless a significant proportion of the performance amounts to regulated entertainment. This policy is intended to be applied flexibly.

## **Justification for LP2B**

It is our experience that circuses are low risk, pose no significant risk to the licensing objectives, add value to the cultural activities of the town, and are regulated by other means including compliance with the Health and Safety at Work etc Act 1974.

### **POLICY LP3 CREATING A FAMILY FRIENDLY TOWN CENTRE**

This policy applies in these parts of the town centre:

- Albert Road South
- Charter Place
- Church Street
- Clarendon Road, between The Parade and Beechen Grove
- George Street
- High Street (between The Parade and Beechen Grove)
- King Street, between High Street and Exchange Road
- Market Street, between High Street and Exchange Road
- New Street
- Wellstones
- Queens Road between High Street and Beechen Grove
- The Parade

Our starting point is to seek a reduction in crime and disorder, consistent with our statutory duty under the Licensing Act and under section 17 of the Crime and Disorder Act 1998 (as amended), and an improvement in local amenity through the reduction in alcohol-related anti-social behaviour.

We have adopted a special policy for this part of the town centre, which is intended to be strictly applied. We want to encourage more restaurants, cafes, food establishments and venues offering entertainment licensable activities and would positively encourage applications for those type of premises whilst discouraging alcohol-led premises. Whether there is a need or not for further premises of a particular type, in accordance with the Secretary of State's guidance at paragraph 13.18, will not be a consideration.

This policy does not apply where an application to review a premises licence or club premises certificate has been made (Secretary of State's guidance, paragraph 13.36).

We have identified this area as one where it may be appropriate to introduce an Early Morning Restriction Order under the Police Reform and Social Responsibility Act 2011 should it become necessary in the future. Joint working with the town centre Pubwatch scheme on its action plan, the Purple Flag initiative and Best Bar None has seen a reduction in violent crime and theft from the person and we look forward to continuing this successful partnership working.

#### **Policy LP3**

1. When we have received relevant representations about an application for a pub, night-club or bar (as defined in policy LP1) in this part of the town centre, our starting point will be to refuse the application.
2. Where relevant representations about an application for a restaurant, café-bar, other entertainment venue, café or premises providing other non-alcohol licensable

activities (as defined in policy LP1) are received, our starting point will be to grant the application subject to conditions to address those representations.

3. Where exceptions can be shown and we have received relevant representations, variations to extend the hours of alcohol-led premises will not generally be allowed until the premises have been operating for at least 12 months without having an adverse impact on the licensing objectives.
4. Where relevant representations have been received, we will consider granting applications which limit the hours of operation to those set out in policy LP2 unless the exceptions to LP3 can be shown.
5. Where relevant representations have been received and exceptions can be shown for applications for public houses and night-clubs, we will consider whether to require waiter/table service for alcohol sales between 9 pm and the final time for the sale of alcohol.
6. Where relevant representations have been received to sell alcohol after 10 pm and exceptions can be shown, we will consider whether premises shall be required to demonstrate they have an effective dispersal management plan in place; to install a closed-circuit television system that meets the reasonable requirements of Hertfordshire Constabulary; installing an electronic identification entry system; and to have use of a Pubwatch radio.
7. Where relevant representations have been received in relation to applications for late-night refreshment premises that provides a delivery service, we shall consider imposing a condition that those deliveries are only made to a fixed physical address.

### **Exceptions to LP3**

1. Exceptions will not be made on the grounds that:
  - (1) the building design is of a high standard; we would expect all applicants will want to ensure the highest design standards possible;
  - (2) that the applicant is of good character. It is a legal requirement that premises selling alcohol must be under the management of a designated premises supervisor, who must themselves hold a personal licence to sell alcohol;
  - (3) the premises are small. Even small premises can contribute to crime, disorder and nuisance.
2. We will consider whether to grant an application, even when relevant representations have been received, if the application:
  - (1) contributes to the family-friendly development of the town centre; or
  - (2) effects a real reduction in capacity of alcohol sales; or



(3) replaces vertical drinking establishments with seated consumption and waiter service.

3. In any case where an applicant wishes an exception to be considered, the responsibility is with them to show why it should be considered and not on our licensing committee to show why an exception should be made.

### **Justification for LP3**

Tackling violent crime continues to be a strategic priority across Hertfordshire and for Safer Watford, our local community safety partnership. Since 2008 the violent crime and alcohol-related statistics for the town centre have remained unacceptably high. Although the Home Office classification of “violent crime” also includes those crimes not necessarily considered as violent by the public – such as causing harassment, alarm or distress to another without any physical injury resulting – over half of such crimes take place within the LP3 policy area. Much of this takes place between 1 am and 3 am.

Watford also has unacceptable levels of violent crime compared to other Hertfordshire towns, at 81.6 crimes per 1000 head of population during the 2012-13 financial year. Information from the Accident & Emergency department at Watford General Hospital also shows the majority of alcohol-related presentations arise from town centre locations.

The Local Authority Alcohol Profiles (Public Health England, August 2012) show that Watford compares unfavourably to other English local authorities in terms of alcohol-related violent crime and alcohol-related crime.

With our partners we have introduced a number of measures to help prevent more people becoming victims of crime:

- Additional policing resources at times of peak volumes (with an impact on policing at other times of the week)
- Town centre CCTV and requiring town centre premises to install CCTV
- Employing Council and police licensing enforcement officers
- Establishing door supervisor liaison arrangements
- Playing an active part in the town centre Pubwatch scheme (which includes a radio network linked to the CCTV control)
- Establishing a night-time economy focus group
- Implementing a late-night taxi marshal scheme
- A data-sharing scheme to record the number of alcohol-related injuries treated at Watford General Hospital
- Increasing the number of licensed taxis
- Encouraging the installation of electronic identification checking systems at the entrances to licensed premises
- Specific police operations such as Operations Carbine and Chanson and use of police powers such as dispersal orders under section 27 of the Violent Crime Reduction Act 2009
- Police conducting random weapons and drugs searches at the entrances to premises, with the consent and co-operation of premises’ managers

This has included positive and significant measures with the licensed trade and others including:

- Achieving and maintaining Purple Flag status for the LP3 area and aspirations to develop that further
- Improving The Parade during 2013 – 2014 to allow an ambitious programme of cultural events to take place from mid-2014
- A safety poster campaign by the police working closely with West Herts College and a town centre night-club
- Organising Best Bar None (in 2013 – 2014) for a third year
- Supporting the Watford Street Angels and God After Dark project

Working with local residents and the police, we have successfully demonstrated to the courts on more than ten occasions since 2001 the impact that more alcohol-licensed premises has on community safety in the Borough. However, we recognise that the correct approach is to work with and not to penalise good operators and to review the licences of poor operators. We have granted applications when it has been right to do so.

We are satisfied, on receipt of numerous representations from the police and the Watford Town Centre Residents' Association, that the level of violent crime, anti-social behaviour and nuisance caused by people visiting pubs and bars in the area defined in policy LP3 undermines the crime prevention, public safety and prevention of nuisance objectives. This policy accords with the Secretary of State's guidance at paragraph 13.33 to consider the contribution to cumulative impact made by different types of premises within the area.

## **POLICY LP4 SENSITIVE LICENSING AREAS**

We have identified four Sensitive Licensing Areas within the Borough. These are areas where we are particularly likely to make representations ourselves suggesting additional conditions to reduce any impact on the licensing objectives to address concerns about:

- (1) availability of stronger-strength alcohol to street drinkers leading to anti-social behaviour in the immediate vicinity of the premises
- (2) alcohol and/or late-night refreshment being available at times that are significantly different from other premises in that area likely to have an adverse impact on the licensing objectives
- (3) litter and other nuisances from a concentration of late-night take-aways

The Sensitive Licensing Areas are:

- (1) Whippendell Road, between its junction with Cassio Road and Hagden Lane
- (2) Queens Road, between Derby Road and Loates Lane
- (3) Market Street between Exchange Road and Merton Road/Cassio Road; and
- (4) St Albans Road between the A41 and Leavesden Road.

We may add to these areas where evidence of the problems identified above exist. We may consider the introduction of a cumulative impact policy within those areas should any of the licensing objectives begin to be adversely affected.

### **Policy LP4**

1. Where an application for alcohol sales or late-night refreshment has been received in a Sensitive Licensing Area, the licensing authority will consider making representations and will strictly apply policies LP6, LP7, L8 and LP9 in relation to those premises.
2. Where additional representations have been made by other parties, our strict starting point in these areas will be to consider whether conditions will be appropriate to address those concerns or whether a refusal is justified on the basis that the licensing objectives would be undermined.

### **Justification for LP4**

The Sensitive Licensing Areas are a mix of commercial and residential properties in densely built-up areas. Each has a relatively high number of licensed premises (7 in Whippendell Road; 9 in Queens Road; and 9 in Market Street and 30 in St Albans Road – eight restaurants; five late-night take-aways; four pubs; and seventeen off-licences with several more on roads directly connecting to St Albans Road). Although the concentration of premises has caused considerable concern in terms of the three issues identified above leading to licence reviews or significant levels of representations against

licence applications, levels of recorded crime, disorder, anti-social behaviour and nuisance are not significantly different from other parts of the Borough.

We carried out a consultation in August and September 2013. Of thirty responses (all of whom were local residents or businesses), twenty-six respondents supported the introduction of the SLAs. Twenty-eight respondents agreed that the SLAs will help to address the licensing objectives, and twenty-four thought that the size of the proposed SLA areas was right.

## **PLANNING PERMISSION**

The use of any licensed premises or places is subject to planning controls. There are several differences between licensing and planning control. The most significant is that planning is concerned with how land is used and its impact on the surrounding amenity, whilst licensing concentrates on protecting public safety in its widest sense.

New occupiers are not normally required to obtain planning permission unless there is a material difference in the use of the premises, before use of it begins. Material changes by existing operators may also require additional planning permission, and advice should be sought from the planning authority.

To avoid the risk of the planning authority raising representations against a proposed licensing application, applications are advised to ensure they have the correct planning consents in place before making a licensing application.

### **Policy LP5**

1. Where representations have been made by the Local Planning Authority on grounds that the application will undermine the licensing objectives unless planning permission has been obtained, and we resolve to grant a premises licence or club premises certificate, it shall be subject to a condition that it will be of no effect until the appropriate planning permission has been granted by the Local Planning Authority.

### **Exceptions to LP5**

1. Exceptions to this policy may be considered where, for example, the applicant has simultaneously applied for a licence and planning permission.

### **Justification for LP5**

The Secretary of State's guidance at paragraph 13.55 reinforces the view that planning and licensing are separate regulatory regimes and that licence applications may be made before a planning application. However, in the light of experience, whilst wishing to ensure the independence of the two regimes we also wish to see consistency between the two.

### **LICENSING AND OTHER LEGISLATION**

Operators of licensed premises will have to comply with planning, environmental health, health and safety at work, fire safety and building control legislation when opening or adapting premises licences.

We will seek to avoid confusion or duplication by not imposing licensing conditions that are required under other legislation, except where they can be exceptionally justified to promote the licensing objectives.

## TEMPORARY EVENTS

Most temporary events will not present any problems – for example, a temporary event notice may be needed to allow a special occasion in a pub or restaurant to be celebrated, or for wine to be sold at a parent-teacher association dinner.

In other circumstances, there may be slightly more risks involved. In these cases, we recommend that organisers consider the following points.

It would be helpful for organisers to give at least three months' notice to hold all but the smallest events, to allow us to help plan their events safely. Any longer period than this may mean that organisers do not have all the details available at the time of submitting the notice, and any lesser time means that planning may be rushed and haphazard. The law states that at least ten working days notice must be given (or five working days in the case of "late" notices) but the less time that is given will increase the likelihood of the police objecting.

Our Safety Advisory Group, consisting of the emergency services and other statutory agencies such as the highways authority, advise and co-ordinate planning for public events in the borough, whether or not a premises licence or a temporary event notice is needed. Event organisers are encouraged to use the Safety Advisory Group as part of their event planning process and may find it useful to refer to the Watford Event Guide. Contact can be made through our Community Services team on 01923 226400 or email [community@watford.gov.uk](mailto:community@watford.gov.uk).

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 "standard" temporary event notices will usually result in the notice being considered by a licensing sub-committee.

Temporary event notices within the LP3 policy area that are objected to by the police or Environmental Health will be considered on their own merits by a licensing sub-committee, unless all parties agree a hearing is not necessary.

When organising any small-scale event (whether or not requiring a temporary event notice), organisers are recommended to consider:

- the fire alarm in the premises – how does it work? Has it been tested and maintained? Are all staff aware of how to raise the alarm in an emergency?
- fire extinguishers – are the correct number and type available? Have they been serviced within the last year?
- is emergency lighting needed and is it suitable for the purpose? Has it been tested and maintained?
- have any crime prevention measures been considered – for example, are steps taken to regularly bank large amounts of cash during the event, or to keep it in a

- secure location? Are there a suitable number of stewards or door supervisors available?
- have nearby occupiers been considered – have you notified neighbours of the event and provided a contact telephone number?
  - have you considered noise-reduction measures (such as keeping windows and doors shut or turning noise down late at night)? Have you considered how visitors will arrive and leave the event?
  - have you considered whether you need to make any provision for First Aid should anyone need it, and the means for calling the emergency services?

Organisers of temporary events should be aware that although a licence or authorisation may not be needed under the Licensing Act, other legislation might apply. This can include:

- Health and Safety at Work etc Act 1974
- Fire Precautions Act 1971
- Environmental Protection Act 1990.
- Anti-Social Behaviour Act 2003.

The licensing authority's licensing enforcement officer and the police have powers to enter premises where temporary event notices are in force to ensure the crime prevention objective is not being undermined.

Organisers of large, occasional events that do require a premises licence (as opposed to the temporary event notice provisions) are advised to have regard to the following documents in preparing their operating schedules:

- 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/pages/publications](http://www.streetartsnetwork.org/pages/publications)

## **DESIGNATED PREMISES SUPERVISORS**

We strongly believe in the value of working in partnership with the police, other agencies and designated premises supervisors to promote the licensing objectives that may be associated with licensed premises.

Designated premises supervisors (and the holders of premises licences or club premises supervisors) for any other premises may be invited to a meeting where the police or licensing authority feel it is appropriate – for example, where there has been a prior history of the premises being run badly, or following a licence review or enforcement action.

We do not expect the premises supervisor to be physically present at the premises at all times it is open. However, we expect the premises supervisor to be able to exercise sufficient management control over the premises and for the responsible authorities to be able to contact them easily in the event of problems at the premises. We would also expect premises supervisors to give specific written authorisation to their staff who are authorised to sell alcohol on their behalf in accordance with paragraphs 10.28 – 10.33 of the Secretary of State's guidance.



## **THE LICENSING OBJECTIVES PREVENTION OF CRIME AND DISORDER**

We strongly recommend that before submitting applications involving premises licences or club registration certificates, you should discuss crime prevention procedures with the police, and consider inviting a police crime reduction officer or a licensing authority officer to conduct a crime prevention audit.

Not only does this demonstrate your commitment to reducing crime and disorder within Watford, but would also reduce the likelihood of the police making representations on those grounds.

We strongly encourage all premises licence holders to play an active role in local schemes such as Pubwatch, in order to share information and exchange best practise with other venues and the responsible authorities under the Act. Not adopting this co-operative approach could lead to adverse representations being made to licensing applications from the responsible authorities.

### **Policy LP6**

1. Where relevant representations have been made, we shall either consider the report of a crime prevention assessment where voluntarily produced as part of the operating schedule, or consider whether to require one to be conducted and the recommendations implemented as conditional on the grant of a licence or certificate.
2. Where relevant representations have been made, we will particularly consider the following:
  - (1) the ability of the person in charge of the premises to monitor the premises at all times it is open for licensable activities, particularly the sale of alcohol for consumption on the premises;
  - (2) the training given to staff in crime prevention measures and licensing law appropriate to those premises;
  - (3) physical security features installed in the premises. This may include matters such as the position of cash registers, where alcohol is stored in 'off-licences', the standard of CCTV that is installed, the use of toughened drinking glasses in pubs and clubs and secure storage of waste materials; or the use of electronic scanning equipment on entry;
  - (4) the employment of licensed door supervisors. We recommend that at least one male and one female door supervisor is employed where the venue has a policy of searching customers; and consideration given to industry standards in terms of ratio of doorstaff;
  - (5) management attitudes and practices, such as the willingness to stagger trading hours with nearby competing businesses to avoid all of their patrons subsequently competing for the limited public transport late at night, their willingness to limit sales

of bottled alcohol for immediate consumption, and the use of responsible pricing promotions;

(6) any other such measures as may be appropriate, such as participation in a local Pubwatch or Shopwatch scheme, 'music wind—down policies', restrictions on 'happy hours';

(7) use of plastic or polycarbonate glasses either as a matter of routine or during particular times of high risk;

(8) the measures employed to prevent the consumption or supply of illegal drugs, including any search procedures and entry policies;

(9) where premises are subject to age-restrictions, the procedures in place to conduct age verification checks;

(10) the likelihood of any anti-social behaviour, violence, public order or policing problem if the licence is granted.

#### **Justification for LP6**

We are under a statutory duty under the Licensing Act to promote the prevention of crime and disorder, and have a duty under the Crime and Disorder Act 1998 to seek a reduction in crime and disorder throughout the Borough.

## PUBLIC SAFETY

We are aware that applicants are legally responsible for complying with a range of legislation relating to public safety, such as the Health and Safety at Work Act 1974, the Regulatory Reform (Fire Safety) Order 2005 and conducting suitable and sufficient risk assessments of their activities under both.

A failure to comply with these provisions could lead to representations being submitted by the statutory responsible authorities, particularly the Health and Safety at Work enforcing authority or Hertfordshire Fire & Rescue Service.

Applicants are advised to seek appropriate advice on public safety matters either before opening or making variations to licensed premises.

We want to ensure the safety of everyone on licensed premises. In some cases, setting an occupancy limit for premises may be an important factor in promoting public safety where other legislation, such as the Regulatory Reform (Fire Safety) Order, is not sufficient.

### Policy LP7

1. Where a relevant representation relating to occupancy limits and its impact on public safety is received, we will consider setting an occupancy limit for nightclubs and other premises where regulated entertainment is to be provided. In doing so we will consider:
  - (1) advice from Hertfordshire Fire & Rescue Service to ensure any occupancy limit we set does not exceed that which would be considered acceptable for fire safety purposes;
  - (2) the design and layout of the premises;
  - (3) the nature of the premises, event or licensable activities being provided, including known busy times, special events or promotions;
  - (4) the provision or removal of temporary structures such as staging or furniture;
  - (5) the number of staff available to supervise customers both ordinarily and in emergencies, and the training they are to be given;
  - (6) the customer profile;
  - (7) the applicant's crowd management strategies and policies.
2. We will not consider imposing conditions that duplicate, enhance or 'gold-plate' existing health and safety requirements except in the following circumstances:
  - (1) where relevant representations have been received that a specific hazard has not been addressed by a suitable and sufficient risk assessment;

(2) where relevant representations have been received, to require equipment of a particular standard to be provided, and maintained and checked on the premises at specified intervals. We would not however require possession or production of specific certificates relating to such equipment where this is already covered by other legislation.

3. Other relevant factors we may take into account and which may not be adequately addressed by other legislation could include:

(1) access by emergency services;

(2) facilities for disabled people, particularly in an emergency;

(3) prior notification to the emergency services of special events;

(4) lighting levels;

(5) staffing levels, including the numbers of licensed door supervisors;

(6) seating arrangements;

(7) special effects such as pyrotechnics, imitation firearms, lasers, real flame, strobe lighting, etc;

(8) temporary electrical installations;

(9) safety checks (before, during and after regulated entertainment);

(10) First Aid facilities for members of the public.

### **Justification for LP7**

Applicants are under a duty to comply with Health and Safety at Work and associated legislation. In some cases, where other legislation does not adequately address risks posed from licensable activities, we shall address those risks through the premises licence or club premises certificate.

## PREVENTION OF PUBLIC NUISANCE

We are determined to protect the amenity of residents and businesses in the vicinity of licensed premises. For these purposes 'vicinity' is taken to mean the immediate area around licensed premises where the individual's residence or business is likely to be directly affected by disorder and disturbance occurring or potentially occurring on those premises or immediately outside.

The statutory guidance issued by the Secretary of State makes clear that 'nuisance' has the broad definition retained at common law. When deciding whether something is a nuisance, consideration must be given to the following:

- it is a persons' basic right to peacefully enjoy their property, but there is no right to total silence
- trivia cannot be taken into account when determining nuisance
- isolated acts, unless extreme, cannot be considered a nuisance. The problem must normally be continuous and regularly occurring
- the person complained of needs to substantially affect the enjoyment of comfortable living, that is it must interfere with a person's use, enjoyment or rights connected with their land. In the case of noise complaints the loss of a good night's sleep would be sufficient to meet these criteria. There would however have to be consideration for
  - the time the noise occurs
  - the area and
  - any precautions taken to minimise the disturbance.
- nuisance can only be established in law if there is material interference with comfort from normal standards. It does not give protection to abnormally sensitive people. The problems of noise or smell must therefore be considerable.
- neighbourhood character needs to be taken into account. What might be a nuisance in a residential area may not be so in the town centre and vice-versa.

### POLICY LP8

1. In considering all licence applications where appropriate representations have been received, we will consider any necessary measures to deal with the potential for nuisance and/or anti-social behaviour having regard to all the circumstances of the application including

(1) the steps taken or proposed to be taken by the applicant to prevent noise and vibration escaping from the premises, including music; noise from ventilation equipment, and human voices. Such measures may include the installation of

soundproofing, air conditioning, acoustic lobbies, keeping external windows and doors closed and sound limitation devices;

(2) the steps taken or proposed to be taken by the applicant to prevent disturbance by customers arriving at or leaving the premises. This will be of greater importance between 10 pm and 7 am than at other times of the day;

(3) the steps taken or proposed to be taken by the applicant to prevent queuing (either by pedestrian or vehicular traffic). If some queuing is inevitable then queues should be diverted away from neighbouring premises or be otherwise managed to prevent disturbance or obstruction;

(4) the steps taken or proposed to be taken by the applicant to ensure staff leave the premises quietly;

(5) the steps taken to identify food and drink packaging from the premises in questions and the steps to reduce litter as far as is reasonably practicable (particularly from off-licences and late night refreshment establishments);

(6) the arrangements made or proposed for parking by patrons, and the effect of parking by patrons on local residents;

(7) whether there is sufficient provision for public transport (including taxis and private hire vehicles) for patrons;

(8) whether licensed taxis or private hire vehicles are likely to disturb local residents;

(9) the installation of any special measures where licensed premises are or are proposed to be located near sensitive premises such as nursing homes, hospitals, hospices or places of worship;

(10) the use of gardens and other open-air areas, including those used for smoking;

(11) delivery and collection areas and times;

(12) the siting of external lighting, including security lighting that is installed inappropriately;

(13) whether the premises would lead to increased refuse storage or disposal problems, or additional litter (including flyposters, smoking materials or illegal placards) in the vicinity of the premises;

(14) the history of previous nuisance complaints proved against the premises, particularly where statutory notices have been served on the present licence-holders.

## PROTECTION OF CHILDREN FROM HARM

Other than the sale of alcohol, we wish to encourage licensable activities that are suitable for people of all ages, including children.

We strongly encourage applicants to give full details of proposed adult entertainment on their application forms to allow the responsible authorities to assess the merits of the proposal. Policy LP9 is intended to be strictly applied.

### Alcohol sales to those under 18

We expect applicants for the sale of alcohol to adopt an acceptable age verification scheme in order to comply with the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010. We would expect applicants to adopt as a minimum a "Challenge 21" scheme, and that the only accepted identification to be a passport, driving licence or Proof of Age Scheme (PASS) card. We would expect premises licence holders and/or designated premises supervisors to have an appropriate training scheme in place for their staff.

### Remote alcohol sales

Where alcohol is sold remotely such as via the internet or telephone ordering, age verification should take place both when the sale takes place (that is, when it is ordered), and when it is delivered to ensure both the buyer and the recipient are over the age of 18.

## Policy LP9

1. Where we receive relevant representations, we may impose conditions to restrict entry by children under 18:
  - (1) to all or part of the licensed premises;
  - (2) at certain times of the day;
  - (3) when certain licensable activities are taking place; or
  - (4) by children under specific ages unless accompanied by an adult.
2. Where we receive relevant representations we may impose conditions relating to the advertising or external display of licensable activities that may be harmful to children.
3. We will particularly take into account where:
  - (1) significant authorised gambling taking place such as gaming machines or poker games (taking note that under-18s and alcohol are generally prohibited from most licensed gambling premises anyway)
  - (2) there is a history or likelihood of under-age sales or consumption of alcohol

- (3) activities or entertainment (whether licensed under the 2003 Act or not) or a clearly adult or sexual nature
  - (4) criminality at the premises likely to harm children
  - (5) licensable activities are taking place during times when children under 16 may be expected to attending compulsory full-time education
  - (6) other hazards to children that are not sufficiently controlled
  - (7) events or activities are specifically targeted at those under 18 without appropriate safeguarding measures being proposed (eg running youth discos without a sufficient dispersal plan to ensure young people can leave the premises and get home safely)
4. Where we receive representations that an application does not appear to have sufficient safeguards to prevent the sale and/or delivery of alcohol to people under 18, we will impose appropriate conditions (modified if necessary) from our pool of model conditions.

### **Film exhibitions**

We would expect operating schedules for the display of films to include a stipulation that children will be restricted from viewing age-restricted films certified by the British Board of Film Classification (BBFC) in line with the mandatory condition under the Licensing Act for showing films to children under 18.

Where it is proposed to show films that are not classified by the BBFC (such as at amateur film festivals), our officers will determine the classifications in accordance with the current guidelines published by the BBFC.

### **Policy LP10**

1. We will only consider substituting a classification by the BBFC for one of our determination in the light of exceptionally strong representations that the BBFC classification provides insufficient protection for children. Those making representations in this respect will be expected to provide compelling reasons as to which other classification should be substituted in place of the BBFC's.
2. We will determine the classifications of films that have not been classified by the BBFC, in line with the BBFC's current guidelines.

### **Justification for LP10**

The BBFC are the acknowledged experts with the experience and expertise who have been entrusted by the Government to classify films for viewing by all sections of society. As such, we should not lightly over-turn its decisions, and we have not had previous cause to do so under either the Licensing Act or its predecessor Cinemas Act 1985.



## REPRESENTATIONS ABOUT APPLICATIONS

Representations may be made by people who live, or are involved in a business, within the Borough of Watford about an application for a new licence/certificate, a variation to an existing licence/certificate or when a licence/certificate is reviewed. Representations may be positively in support of an application, or may oppose an application.

Representations may also be made by organisations representing such bodies, such as residents' associations or chambers of commerce. Organisations such as churches, schools or hospitals may also make representations.

Ward councillors may represent 'interested parties' in their role as a representative of the community, make representations either in their own right, or may make representations as a member of the licensing authority about any relevant application, but may not sit on the committee dealing with that particular application.

We shall not generally make representations ourselves where other responsible authorities have done so. We shall generally only make representations where we have evidence that is not in the possession of anyone else; where an application conflicts with our statement of licensing policy; or in order to improve upon conditions that might be offered in an operating schedule and which has not been resolved through negotiation.

We recommend that representations should:

- (1) be made in writing (a legal requirement)
- (2) indicate the name and address of the person or organisation making the representation
- (3) indicate the premises to which the representation relates
- (4) indicate the proximity of the premises to the person making the representation
- (5) clearly set out the ground for making the representation.

Representations can only be considered if they are concerned with one of the four licensing objectives:

- (1) crime prevention;
- (2) public safety;
- (3) prevention of nuisance;
- (4) prevention of harm to children.

In accordance with statutory regulations, we will forward copies of representations to the applicants in order that they may respond. Representations which are not previously withdrawn are included in reports that are considered by councillors at hearings and are published on our website.

In some exceptional and isolated cases, we may consider that an interested party has a genuine and well-founded fear of intimidation from divulging their name and/or address to the applicant. We will consider an alternative approach in these circumstances providing we are satisfied that the circumstances justify such an action and the representations or concerns are not frivolous or vexatious.

### **Policy LP11**

1. Where a person has made a valid representations or a valid application for a licence to be reviewed, we will where practicable attempt to arrange a voluntary mediation meeting to address, clarify and try to resolve issues of concern.
3. We may reject representations if it appears the representations are frivolous (lacking in seriousness) or vexatious (made repeatedly on the same or similar grounds). Where a representation is not accepted because it is frivolous or vexatious, we will give reasons why that is the case in writing. In such cases, our officers will make the determination, giving interested parties the benefit of the doubt where appropriate.
3. Decisions as to whether representations are irrelevant, frivolous or vexatious must be made objectively and not on the basis of any political judgement. Accordingly, our officers will make the decisions on whether representations or applications for licence reviews should be referred to the licensing committee or sub-committees, giving the maker of the representation the benefit of the doubt. Where representations are rejected, the person making that representation will be given a written reason as to why that is the case. A report will be made to the licensing committee indicating only the general grounds of the representation and the reason it was rejected.

## **COMPLAINTS AGAINST LICENSED PREMISES**

We will investigate complaints against any licensed premises, including in conjunction with other responsible authorities where appropriate. In the first instance, we encourage complaints to be raised directly with the licence-holder or business concerned.

### **Policy LP12**

1. Where a person has made a valid representations or a valid application for a licence to be reviewed, we will where practicable attempt to arrange a voluntary mediation meeting to address, clarify and try to resolve issues of concern.
2. This process will not override the right of any person to ask that the licensing committee consider their valid representations or an application for a licence review, or for any licence holder to decline to participate in a mediation meeting.

## LICENCE REVIEWS

It is important to recognise that the promotion of the licensing objectives relies heavily on a partnership between licence holders, authorised persons, local residents or businesses and responsible authorities in pursuit of common aims. It is therefore equally important that reviews are not used to drive a wedge between these groups in a way that would undermine the benefits of co-operation. Responsible authorities are encouraged to give an early warning of concerns about problems identified at the premises concerned and of the need for improvement although it is recognised this is not always practicable or desirable. It is expected that a failure to respond to such warnings would lead to a decision to request a review.

### Policy LP13

1. We can only review a licence where it is alleged that the licensing objectives are not being kept. An application for a licence review is an acknowledgment that existing systems have broken down. We view particularly seriously applications for the review of any premises licence where it involves the:
  - (1) use of licensed premises for the sale or distribution of illegal drugs and the laundering of the proceeds of drugs crimes;
  - (2) use of licensed premises for the sale or distribution of illegal firearms;
  - (3) evasion of copyright in respect of pirated films and music;
  - (4) underage purchase or consumption of alcohol;
  - (5) use of licensed premises for prostitution or the sale of unlawful pornography;
  - (6) use of licensed premises for unlawful gaming;
  - (7) use of licensed premises as a base for organised criminal activity;
  - (8) use of licensed premises for the organisation of racist, homophobic or sexual abuse or attacks;
  - (9) use of licensed premises for the sale of smuggled tobacco or goods;
  - (10) the use of licensed premises for the sale of stolen goods;
  - (11) where the police are frequently called to attend to incidents of disorder;
  - (12) prolonged and/or repeated instances of public nuisance and/or anti-social behaviour;
  - (13) where serious risks to public safety have been identified and the management is unable or unwilling to correct those;

- (14) where serious risks to children have been identified;
  - (15) continuous breaches or contraventions of licence conditions;
  - (16) not operating the premises according to the agreed operating schedule.
2. Representations made by another department which is a responsible authority will be treated by the licensing authority in precisely the same way that they would treat representations made by any other body or individual. In every case, an evidentiary basis for the allegations made will need to be laid before the licensing authority.
  3. We would not expect a responsible authority which is also alleging criminal conduct on the part of a licence holder, (such as allowing underage sales of alcohol), to first exhaust the relevant legal powers at their disposal before making an application for a review.
  4. Where a review follows convictions or the failure of a prosecution in the criminal courts, it is not for the licensing committee to attempt to go behind the finding of the courts, which it will treat as a matter of undisputed evidence before it.
  5. It is envisaged that the responsible authorities will use the review procedures effectively to deter unlawful activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance - could be seriously considered.
  6. We will expect that any party making an application for a licence to be reviewed will prove the facts that they are relying on to support their allegations on the balance of probabilities, that is, that it is more likely than not that the circumstances being complained of did actually occur. Because of the potentially serious consequences to a licence holder following a licence review, mere anecdotal or hearsay evidence will not be sufficient.
  7. In considering our response to an application for a review, we will adopt the approach set out at appendix 1.

## **ENFORCEMENT AND COMPLIANCE POLICY**

We no longer conduct regular pre-programmed premises inspections. We will instead conduct inspections where there are concerns about the ability of the designated premises supervisor or premises licence holder to promote the licensing objectives or to meet the conditions on their permission.

### **Enforcement**

We have a long-established licensing enforcement policy based around the principles of consistency, transparency and proportionality set out in the Government's Enforcement Concordat and the statutory Regulators' Compliance Code, which also takes into account the Attorney-General's Guidelines to Crown Prosecutors for bringing prosecutions.

Our licensing enforcement policy proposes that a graduated response is taken where offences against licensing legislation are found or where licence conditions have been contravened. An isolated and minor offence may be dealt with purely by way of a written warning whilst more serious offences which have either been committed over a period of time or which jeopardise public safety may result in a referral for prosecution.

We continue to work actively with other responsible authorities in enforcing licensing legislation. We share information about licence-holders and licensed premises under the Crime and Disorder Act 1998, and expect to be closely consulted when any enforcement action may be required. We have signed the Hertfordshire Licensing Enforcement Protocol in conjunction with the other responsible authorities within the county.

## **THE LICENSING COMMITTEE**

Our licensing committee will consist of fifteen Councillors that will sit at least once annually.

The chair of the licensing committee shall be elected at the annual meeting of the Licensing Authority in May. The chair of the licensing sub-committees shall be elected at the meeting of the sub-committee.

We will ensure that members and officers are appropriately trained to carry out their duties under the Licensing Act. In accordance with the Council's Constitution, no councillor shall sit on any licensing committee unless they have received appropriate training.

### **Scheme of delegation**

Sub-committees of three councillors will sit to consider applications where valid representations have been received. Where a sub-committee does not have all three members present, it may only meet with the approval of the chair of the licensing committee in consultation with the Head of Legal and Property Services.

Applications referred to sub-committees will be accompanied with a report prepared by our officers. This will include recommendations relating to the operating schedule, representations, the Licensing Act and other legislation, statutory guidance, national and local policy, good practise, or recommended conditions that could be considered to alleviate any concerns raised in the representations.

The licensing committee will also sit to determine general licensing policies not associated with the Licensing Act 2003, such as those policies under taxi and private hire vehicle legislation.

The licensing committee and its sub-committees will also sit to determine matters arising under the Gambling Act 2005.

The full Licensing Committee will hear and consider any representations relating to a proposed Early Morning Restriction Order, and will make its recommendation to the Council acting as the Licensing Authority. A specific protocol will be approved and published for this purpose in advance of the committee hearing should this be necessary.

Our licensing officers will deal with all other 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. Officers will also

1. make representations on its behalf in appropriate cases. It will normally be clear that there is a separation of roles between officers who make representations and those who process the application
2. review and certify unclassified films in accordance with policy LP10, with the power to refer applications to a licensing sub-committee in cases of doubt.

3. consult with the responsible authorities they think are relevant to application for minor variations to premises licences and club premises certificates. They will also consult with the chair of the Licensing Committee before deciding whether to allow or refuse the application
4. suspend a premises licence or club premises certificate under sections 55A(1) or 92A(1) of the Act for non-payment of annual fees, and to specify the date (with at least two working days' notice) on which this takes effect
5. impose existing conditions from a premises licence or club premises certificate on a temporary event notice where all parties agree under section 106A of the Act that a hearing is not necessary.

### **Role of councillors**

Local councillors play an important role in their local communities. They can act on behalf of people who might be affected by licence applications. Local councillors with a prejudicial interest in an application may attend sub-committee or committee meetings to make representations, answer questions or give evidence (providing other parties may also do so). Councillors must however withdraw from the meeting immediately afterwards and on no account play a part in the decision-making process.

The licensing sub-committee will also refer to the licensing committee any matter it is unable to deal with because of the number of its members who are unable to take part in the consideration or discussion of any matter or vote on any question with respect to it.

This does not apply to applications made by the Council itself for licences or permissions under the Act. In those circumstances, it is unlikely that councillors would have a prejudicial interest in the matter before them, as defined in the Model Code of Conduct for Councillors issued under the Local Government Act 2000.

### **Committee decisions**

The licensing committee will refer to the licensing authority any matter it is unable to deal with because of the number of its members who are unable to take part in the consideration or discussion of any matter or vote on any question with respect to it.

Every determination of a licensing decision by the licensing committee or a licensing sub-committee shall be accompanied with clear, cogent reasons for the decision. A summary of the decision shall be posted on the licensing authority's website as soon as possible after the decision has been confirmed, where it will form part of the statutory licensing register required to be kept by the licensing authority.



## RELATIONSHIP TO OTHER POLICIES AND LEGISLATION

1. Although the four objectives are the only matters that the licensing authority may take into account when making licensing decisions, as a public body the licensing authority is also required:
  - (1) Under the Crime and Disorder Act 1998 to have due regard of the crime and disorder implications of any of its decisions, including the adoption of this policy;
  - (2) To implement the Licensing Act in a manner consistent with the Human Rights Act 1998 by giving due consideration to the rights contained in the European Convention on Human Rights and Fundamental Freedoms;
  - (3) To implement the Licensing Policy in a manner consistent with its equality scheme under the Race Relations (Amendment) Act 2000).
2. This policy also integrates with other Council policies and strategies such as:
  - (1) Corporate Plan 2009 – 2014
  - (2) Watford Community Plan 2006 – 2026
  - (3) 24-hour strategy for the town centre 2008
  - (4) Local Development Framework Core Strategy (Family Friendly Town Centre)
  - (5) Safer Watford Community Safety Plan
3. During the life of this policy the licensing authority is also likely to work closely with the Police and Crime Commissioner for Hertfordshire, and the county's Director of Public Health. Reducing alcohol-related harm is a feature of the Hertfordshire Joint Strategic Needs Assessment (see <http://atlas.hertslis.org/IAS/hwb/priorities/alcohol.html>).



## APPENDIX 1

**Licence review guidelines**

The Licensing Committee and sub-committees when holding licence review guidelines to maintain a degree of consistency and transparency in decision-making will apply the guidelines below. The Committee reserves the right to amend and republish these guidelines in the light of operational experience.

	<b>Aggravating factors</b>	<b>Mitigating factors</b>
<b>Prevention of crime and disorder</b>	<ul style="list-style-type: none"> <li>• Failure to heed police advice</li> <li>• Encouraging or inciting criminal behaviour associated with licensed premises</li> <li>• Serious injury results</li> <li>• Previous track record</li> </ul>	<ul style="list-style-type: none"> <li>• Minor breach of condition not justifying a prosecution</li> <li>• Confidence in management ability to rectify defects</li> <li>• Previous track record</li> <li>• Voluntary proposal/acceptance of additional condition</li> </ul>
<b>Prevention of public nuisance</b>	<ul style="list-style-type: none"> <li>• Noise late at night in breach of condition</li> <li>• Previous warnings ignored</li> <li>• Long and prolonged disturbance</li> <li>• Excessive nuisance during unsocial hours (relating to locality and activity concerned)</li> </ul>	<ul style="list-style-type: none"> <li>• Noise limiting device installed</li> <li>• Licence-holder apologised to those disturbed by nuisance</li> <li>• Hotline complaints telephone available</li> <li>• Short-term disturbance</li> <li>• Undertaking/commitment not to repeat activity leading to disturbance</li> <li>• Willingness to attend mediation</li> <li>• Voluntary acceptance/proposal of additional conditions</li> </ul>
<b>Public safety</b>	<ul style="list-style-type: none"> <li>• Death or serious injury occurred</li> <li>• Substantial risk in view of a responsible authority to public safety involved</li> <li>• Previous warnings ignored</li> <li>• Review arose out of wilful/deliberate disregard of licence conditions</li> </ul>	<ul style="list-style-type: none"> <li>• Minor or technical breach of licence condition</li> <li>• Confidence in management to rectify defects</li> <li>• Confidence in management to avoid repetition of incident</li> <li>• Voluntary acceptance/proposal of additional condition</li> </ul>

	<b>Aggravating factors</b>	<b>Mitigating factors</b>
<b>Protection of children from harm</b>	<ul style="list-style-type: none"> <li>• Age of children</li> <li>• Previous warnings ignored</li> <li>• Children exposed to physical harm/danger as opposed to other threats</li> <li>• Activity arose during normal school hours</li> <li>• Deliberate or wilful exploitation of children</li> <li>• Large number of children affected</li> <li>• Children not allowed on premises as part of operating schedule</li> </ul>	<ul style="list-style-type: none"> <li>• Conduct occurred with consent of person with parental responsibility for child</li> <li>• Short duration of event</li> <li>• No physical harm</li> <li>• Short-term disturbance</li> <li>• Undertaking/commitment not to repeat activity</li> <li>• Voluntary acceptance/proposal of additional conditions</li> <li>• Children permitted on the premises as part of operating schedule</li> <li>• Not involving under-age exposure to alcohol</li> </ul>
<b>Following enforcement action by responsible authorities</b>	<ul style="list-style-type: none"> <li>• Penalty imposed by court</li> <li>• Previous warnings ignored</li> <li>• Offender previously convicted or cautioned for same or similar offence</li> <li>• Offences over prolonged periods of time</li> <li>• Offences resulted in significant danger or nuisance</li> <li>• Offences as a result of deliberate actions or reckless disregard of licensing requirements</li> <li>• Offence likely to be repeated</li> </ul>	<ul style="list-style-type: none"> <li>• Compensation paid by offender or agreement towards mediation</li> <li>• Voluntary acceptance/proposal of additional conditions</li> <li>• Offence disposed of by way of simple caution or penalty notice for disorder ("fixed penalty notice")</li> <li>• First offence or warning</li> <li>• Single offence</li> <li>• No danger to the public or nuisance</li> <li>• Offences merely administrative in nature</li> <li>• Offence unlikely to be repeated</li> </ul>
<b>POSSIBLE OUTCOMES</b>		
<ol style="list-style-type: none"> <li>(1) To take no action</li> <li>(2) To issue a written warning</li> <li>(3) To modify the conditions of a premises licence or club premises certificate, including the addition of new conditions or deletion of old conditions</li> <li>(4) To exclude a licensable activity or qualifying club activity from the scope of the premises licence or club premises certificate</li> <li>(5) To remove the designated premises supervisor from the licence</li> <li>(6) To suspend the licence for a period not exceeding three months</li> <li>(7) To revoke the premises licence or withdraw the club premises certificate</li> </ol>		

