



## **LICENSING ACT 2003**

# **STATEMENT OF LICENSING POLICY**

January 2021

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## 1. INTRODUCTION

Powys County Council is designated as a Licensing Authority for the purposes of the Licensing Act 2003 and is responsible for granting premises licences, club premises certificates, temporary event notices and personal licences in the County for the sale and/or supply of alcohol, the provision of regulated entertainment and late night refreshment. The authority has delegated its licensing functions to the Licensing Act Committee. Members of this committee will be responsible for administration of the Council's function assisted by officers. The decision-making arrangements between Licensing Sub Committees and officers is set out in this policy statement.

Section 5 of the Act requires a licensing authority to prepare and publish a statement of its licensing policy at least every 5 years. The authority must ensure the policy is published before it can carry out any function in respect of individual applications and notices made under the terms of the Act. During the five-year period the policy must be kept under review and the licensing authority may make any revisions to it as it considers appropriate. If the licensing authority determines and publishes its policy in this way, a new five-year period commences on the day it is published.

The policy has been prepared in accordance with the requirements of the Act and having regard to guidance issued under section 182 of the Act.

This policy revision will take into account the following matters in its re-drafting.

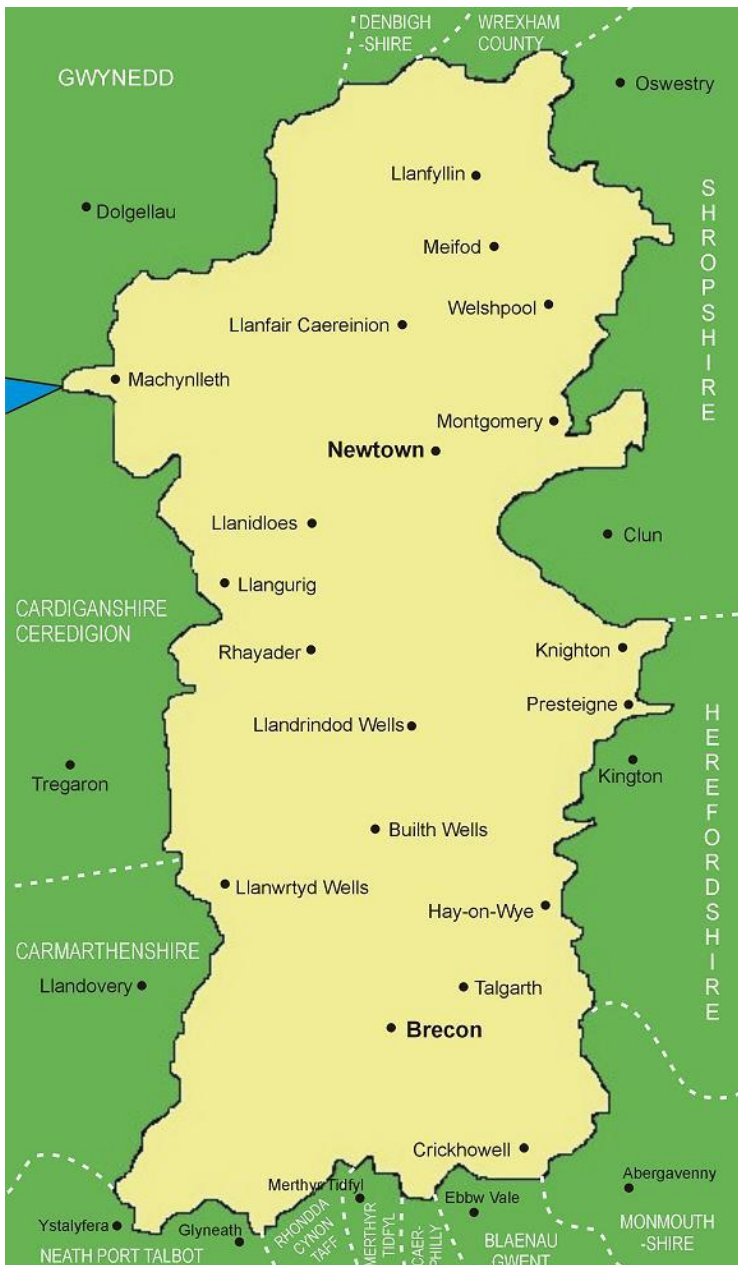
The amendments to the Licensing Act 2003 made by:

- The Police Reform and Social Responsibility Act 2011
- The Live Music Act 2012
- The Deregulation Act 2015
- Statutory instruments laid
- Revised Guidance issued under S182 of the Licensing Act 2003
- Immigration

The policy sets out a general approach to the making of licensing decisions by the Licensing Authority but does not undermine the right of any individual to apply for a variety of permissions to have any such applications considered on its individual merits.

## 2. PROFILE OF POWYS

Powys is a very large rural authority with a low population density with a population of around 132,000 and area of 5,200 sq km making it the largest yet most sparsely populated county in Wales. A high proportion of residents are over retirement age; 26.1% over the age of 65 compared to Wales average of 20.4%\*. The main towns in Powys are: Newtown, Ystradgynlais, Welshpool, Machynlleth, Llanidloes, Rhayader, Llandrindod Wells, Knighton, Presteigne, Brecon, Crickhowell, Hay on Wye and Builth Wells. In addition there are a number of smaller towns, villages and rural settlements.



Powys has around 1000 licensed premises including:

- Pubs, bars and nightclubs
- Cinemas
- Theatres
- Schools and Community Premises
- Restaurants
- Hotels & Guest Houses
- Members Clubs
- Shops and Supermarkets
- Late Night Food Venues

In the region of 2600 personal licences have been issued by the Authority also.

Powys is host to a number of nationally recognised events including the Royal Welsh Agricultural Show, Hay Literary Festival, The Greenman Festival, Brecon Jazz and a multitude of smaller events, festivals, music events and local shows that take place annually, many of these involve licensable activities authorised by way of a Premises Licence or Temporary Event Notice. The authority processes in the region of 800 Temporary Event Notices every calendar year.

However, alcohol remains a concern for public health and ranks among the top five risk factors for disability-adjusted life years in Wales.

Statistics for 2018/19 show that in Wales 2% of adults were harmful drinkers (average weekly alcohol consumption more than 50 units (men) or 35 units (women) and a further 16% were hazardous drinkers (average weekly alcohol consumption more than 14 units but no more than 50 units (men) or 35 units (women)

In 2020 the Wales minimum pricing per unit of alcohol law came into force to tackle harmful and damaging drinking of cheap strong alcohol. Welsh Government hope to see a reduction in the significant and widespread harm caused by the excessive consumption of alcohol as a result of this new law

*\*Figures from PCC website '50 facts about Powys' published 2017*

### **3 FUNDAMENTAL PRINCIPLES**

Licensing is about the control of licensable activities and the premises where they take place within the terms of the 2003 Act.

Licensable activities include the sale and supply of alcohol, regulated entertainment, and late-night refreshment. Premises are authorised to carry out licensable activities either by way of a licence, certificate or notice i.e. premises licences, club premises certificates and temporary event notices. Conditions may be attached to licences and certificates that will cover matters which are within the control of individual licensees and that uphold the licensing objectives (see below)

Individuals are issued with personal licences that authorise them to sell alcohol but only at a premise that is authorised to sell alcohol. Every premises with a premises licence that permits sale of alcohol will require a named personal licence holder known as the Designated Premises Supervisor. A Club Premises Certificate does not require a personal licence holder neither does a Temporary Event Notice.

The purpose of this policy is to describe how the Council will carry out its functions as a Licensing Authority to promote the four licensing objectives specified in the Act, that are

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

The commercial demand for additional premises licence will not be a matter for the Licensing Authority. These matters would be a specific consideration for the Local Planning Authority considering the demands of the licensed trade and market demands

### **4 CONSULTATION**

In reviewing the policy in accordance with the Act, the licensing authority will consult with:

- The Relevant Responsible Authorities (see Annex A)
- Persons/bodies representative of local premises holders.
- Persons/bodies representative of local club premises certificate holders.
- Persons/bodies representative of local personal licence holders; and
- Persons/bodies representative of businesses and residents in Powys.
- Pub watch members through BOBB meetings
- Community Councils

The views of all persons will be taken into consideration when determining the policy and any other relevant changes.

## 5 ADMINISTRATION

The Council's licensing team administers all aspects of the Licensing Act 2003 including applications, representations, processing annual fees, and requests for assistance and advice. The licensing team can be contacted as follows:

For enquiries:

North of Powys :

:

South of Powys:

Licensing Team  
Council Offices  
Neuadd Maldwyn  
Severn Road  
Welshpool  
Powys  
SY21 7AS

Licensing Team  
Council Offices  
Y Gwalia  
Ithon Road  
Llandrindod Wells  
Powys  
LD1 6AA

Tel: 01597 827389  
licensing@powys.gov.uk

All application requirements are specified in the regulations made under the Act in addition guidance notes for applicants have been prepared and are available on the Council's web site. The licensing team can also be contacted for advice and guidance with an application. Only complete applications that contain all the information required by the Act will be accepted. Electronically submitted applications are encouraged and can be made through council's website. Prospective applicants are strongly recommended to seek pre-application advice. Advice on the application process will be given, but at no stage will the Licensing Authority complete the application form on behalf of an applicant.

## 6 APPLICATIONS ADMINISTERED & DELEGATION ARRANGEMENTS

The authority processes the following types of applications under The Licensing Act 2003:

Matter to be dealt with	Licensing Sub Committee	Officer
Application for personal licence	If a representation made	If no representation made
Application for personal licence with unspent convictions	All cases	
Application for premises licence/club premises certificate	If a representation made	If no representation made
Consider revoking a personal licence following a relevant conviction	If police make a representation	
Application for provisional statement	If a representation made	If no representation made
Application to vary premises licence/club premises certificate	If a representation made	If no representation made
Application to vary designated personal licence holder	If Police representation	All other cases,

Request to be removed as designated personal licence holder		All cases
Application for transfer of premises licence	If Police representation	All other cases
Applications for Interim Authorities	If Police representation	All other cases
Application to review premises licence/club premises certificate	All cases	
Decision on whether a complaint is irrelevant, frivolous, vexatious etc.		All cases
Determination of a Police or Environmental Health representation to a temporary event notice	All cases	
Determination of applications to disapply the mandatory condition for a DPS for community premises licensed for sale of alcohol		All cases
Adjourn a hearing with all parties' consent		All cases on consultation with chair of committee
Determination of applications for minor variations to premises licence/club premises certificate		All cases
Suspension of licences following non-payment of annual fees		All cases

## 7 PERSONAL LICENCES

Personal licences are issued to individuals who make an application for a personal licence in the local authority where they reside. Personal licences have no expiry date, however they must be updated by the individual as and when their details change i.e. change of name or address. It is for the individual to notify the local authority and pay the statutory fee for a replacement licence. The personal licence always remains with the authority that issued their licence regardless of their current address

Personal licence holders can authorise the sale of alcohol at licensed premises. Personal licence holders may also be named as the Designated Premises Supervisor at a licensed premise usually this is when they manage the premises.

No sale of alcohol can be made from a licensed premise where there is no named Designated Premises Supervisor. A premise may have more than one personal licence holder but can only have one named designated premises supervisor.

The Council recognises it has very little discretion in the granting of a personal licence. In general provided an applicant is aged 18 or over, is entitled to work in the UK, has an approved qualification, has not had a personal licence forfeited within 5 years of this application and does not have relevant criminal convictions or civil penalty received after 6 April 2017 for immigration matters, the application must be granted.



If an applicant has a relevant conviction the Police can oppose the application. If an applicant has been issued with an immigration penalty or convicted of a relevant immigration offence on or after 6 April 2017, the Home Office may object to the application. When an objection is lodged a hearing must be held.

At a hearing in respect of an objection to the granting of a personal licence, or the revocation of an existing licence, the Council will consider carefully whether the grant of, or continuation of, the licence will be in the interests of the crime prevention objective. It will consider the seriousness and relevance of any conviction(s), the period that has elapsed since the offence(s) was/were committed and any mitigating circumstances. The Council will only grant the application, if it is satisfied that doing so will promote this objective.

Since 6 April 2017 the Policing and Crime Act 2017 gave licensing authorities the power to revoke or suspend personal licences. This is a discretionary power and may be undertaken when a licensing authority becomes aware that the licence holder has been convicted of a relevant offence or foreign offence or been required to pay an immigration penalty on or after 6 April 2017. The decision must be made by the Licensing Committee or sub-committee and they may revoke the licence or suspend it for a period up to 6 months.

## **8 LICENSABLE ACTIVITIES**

Licensable activities that require an authorisation by way of a Premises Licence, Club Premises Certificate or Temporary Event Notice are:

- the sale of alcohol by retail.
- the supply of alcohol by or on behalf of a club.
- the provision of regulated entertainment i.e.
  - the performance of a play,
  - exhibition of film,
  - indoor sporting event,
  - boxing or wrestling entertainment [indoor and outdoor],
  - performance of live music,
  - playing of recorded music,
  - a performance of dance,
  - entertainment of a similar description to performance of live music, playing of recorded music and dance).

NB - Only where the entertainment takes place in the presence of a public audience for the purpose of entertaining that audience. Private entertainment is not considered regulated unless it is subject to a charge made with a view to profit.

- the provision of late-night refreshment (hot food and drink between 11pm and 5am)

Certain activities in relation to the provision of entertainment and the provision of hot food and hot drink are exempt from licensing requirements. Details of these exemptions can be found in the Licensing Act 2003. In addition significant changes to the scope of regulated entertainment have been made by The Live Music Act 2012 the Description of Entertainment (Amendment) Order 2013 and the Deregulation Act 2015; for the most up to date position on whether or not entertainment is considered regulated under the Act please contact the Licensing Team.

## **9 PREMISES LICENCES**

A premises licence is granted in respect of any premises, other than a private members club, authorised for one or more licensable activities, such as the supply of alcohol, late night refreshment or regulated entertainment.

There are some exemptions for the requirement of a licence and they include the exhibition of films for educational or promotional reasons, films shown as part of an exhibition, amplified live and recorded music to audiences of less than 500 people between the hours of 8.00 am and 11.00 pm. Applicants are advised to contact the licensing authority on other exemptions for further guidance.

Where alcohol is supplied, a Designated Premises Supervisor, who must be the holder of a personal licence, must be nominated to authorise the sale of alcohol at the premises.

Premises licences are issued to individuals over the age of 18 years who carry on, or propose to carry on, a business which involves the use of the premises for licensed activities. In addition, charities, health service bodies, educational institutions and persons of other prescribed descriptions may apply for a premises licence.

A licence may be issued subject to conditions, which must always be complied with whilst the premise is being used for licensable activities during the times specified in the licence. Failure to comply with the terms and conditions of a licence or if licensable activities are carried out without a premises licence, may result in a fine, which is unlimited or a term of imprisonment of up to 6 months, or both.

Conditions attached to licences fall into three categories:

- mandatory,
- offered or agreed by the applicant when making the premises application or
- imposed by the licensing authority and thought to be appropriate to promote the licensing objectives following a hearing.

Fees for licences are based on the business rateable value of a premises and although licences are usually issued for an indefinite period, an annual fee is payable.

It is an expectation that the premises licence holder and designated premises supervisor will be aware of their permitted licensable activity types, permitted hours and conditions of licence. Failure to demonstrate or have a lack of regard to these could result in a lack of confidence in management by a Responsible Authority.

## **10 CLUB PREMISES CERTIFICATE**

A qualifying club, industrial and provident society, friendly society and miners welfare institute that satisfies the criteria specified in part 4 of the Licensing Act 2003 may provide licensable activities for its members and guests of a member that are authorised by a club premises certificate (CPC).

A CPC only authorises the use of a premises for the benefit of its members and their guests and cannot be used to provide licensable activities to non-members. If the premises are to be used to provide licensable activities for non-members an additional authorisation will be required. This may be a premises licence or a temporary event notice.

A premise operating under the authorisation of a CPC enjoys special privileges. The privileges include restricted rights of entry, no need to have a qualified person authorising sales of alcohol. Other considerations would be different taxation rules, advice should be sought from HMRC. It is an expectation that the CPC holder will be aware of their permitted licensable activity types, permitted hours and conditions of licence. Failure to demonstrate or have a lack of regard to these could result in a lack of confidence in management by a Responsible Authority.

Conditions are attached to CPC's in the same way as Premises Licences.

## 11 TEMPORARY EVENT NOTICES (TENs)

The temporary event notice system is a relatively light touch approach to authorise licensable activities for one-off events where the number of persons attending does not exceed 499. The duration of a TEN must not exceed 168 hours (1 week). Only the police and Environmental Health are invited to comment on a TEN.

A TEN is simply a notification given by an individual to the Licensing Authority giving notice of an event involving licensable activities that are due to take place. Examples of where a TEN can be used include:

- To authorise a licensable activity at a premise not currently licensed
- To temporarily extend the hours for providing a licensed activity at an existing licensed premise
- To temporarily provide licensable activities not authorised by the premises licence

Applicants for TENs must bear in mind the statutory timescales that require them to be served on the authority at least 10 clear working days before they have effect, this does not include the date the notice is received by the authority or the date of the event. The Act allows for the serving of a late TEN with 5 clear working days between the receiving of the notice and the event, but it should be noted that if such a TEN is objected to under the licensing objectives by either the Police or Environmental Health then there is no appeal against this decision.

TENs served less than 5 clear working days before the event are returned to the applicant unprocessed; there are **no** circumstances that enable the authority to authorise a TEN served outside the statutory timescales. Applicants must therefore be mindful of bank holidays and postage delays. The quickest and easiest method for an applicant to serve a TEN is electronically through the website or by contacting a Licensing Officer who can e-mail a blank notice for completion and e-mailing back, the applicant need not serve copies on the Police and Environmental Health in this instance as electronic copies will be forwarded to them by the licensing officer.

Where the Police or Environmental Health object to a TEN under one of the licensing objectives the TEN is referred to a hearing for decision, with the exception of late TENs where there is no recourse when relevant objections are made. Guidance notes giving applicants further details and advice on the use of TENs are available on the council's web site.

## 12. CUMULATIVE IMPACT ASSESSMENTS, LATE NIGHT LEVY & EARLY MORNING RESTRICTION ORDER

**Cumulative Impact Assessment (CIA)**- A CIA may be published by a licensing authority to help it to limit the number or types of licence applications granted in areas where there is evidence to show that the number or density of licensed premises in the area is having a cumulative impact and leading to problems which are undermining the licensing objectives there must be an evidential basis for the decision to publish a CIA

**Late Night Levy** – This enables licensing authorities to charge a levy to persons who are licensed to sell alcohol late at night in the authority's area, as a means of raising a contribution towards the costs of policing the late-night economy

**Early Morning Restriction Order (EMRO)** – The decision to make, vary or revoke an EMRO is exercised by full council. This power enables a licensing authority to prohibit the sale of alcohol for a specified time period between the hours of 12am and 6am in the whole or part of its area, if it is satisfied that this would be appropriate for the promotion of the licensing objectives. EMROs are designed to address recurring problems such as high levels of alcohol related crime and disorder in specific areas at specific times; serious public nuisance; and other instances of alcohol-related anti-social behaviour which is not directly attributable to specific premises

The Licensing Authority currently has no plans to introduce any of the above. However, should it choose to do so during the life of this policy, full consultation will be undertaken and the details will

be published on the licensing pages of the Council's website. The absence of a special policy will not prevent a responsible authority or other person making representations on a new application for the grant 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. BARE KNUCKLE BOXING**

Bare knuckle boxing can be considered as 'boxing or wrestling entertainment' under the Licensing Act 2003. Professional boxing in the UK is licensed by the British Boxing Board of Control (BBBC). The BBBC does not condone or support bare knuckle boxing. In addition the degree of violence and the likelihood of serious injury to the boxers are factors for a licensing authority to consider in assessing an application to carry out bare knuckle boxing. Also relevant are the licensing objectives in relation to preventing disorder and public nuisance. The crowds at boxing events have generally been considered more of a threat to these objectives than performances of other martial arts (such as judo), which is why indoors and outdoors boxing has historically been licensed. For these reasons a policy decision has been made in order to promote the four licensing objectives under the licensable activity of boxing:

- No bare knuckle boxing event will be permitted.
- No bare knuckle combined fighting sport will be permitted.
- No event advertised or promoted as bare knuckle boxing or bare knuckle fighting will be permitted.

### **14 SEXUAL ENTERTAINMENT**

There is an exemption under the Local Government (Miscellaneous Provisions) Act 1982 that allows premises to provide sexual entertainment no more than 11 times per year and no more frequently than monthly. Should premises choose to use this exemption and there be related concerns, this may lead to a review of the premises licence and the imposition of conditions

### **15 PLANNING**

The licensing authority usually expects applicants to ensure that they have planning consent for the intended use and hours of application, or otherwise have lawful status, before making an application for a premises licence, to avoid any conflict between planning and licensing.

It is strongly recommended that prospective licence applicants contact the relevant Local Planning Authority in advance of making a licence application in order to check, or seek advice on, any planning consents or any conditions relevant to the use of the premises. It clearly makes operational sense to ensure that planning and licensing are compatible.

The Licensing Authority wishes to emphasise that the granting by the Licensing Committee of any variation of a licence which involves a material alteration to a building would not relieve the applicant of the need to apply for planning permission or building control consent where appropriate.

The Local Authority will aim to properly separate planning, building control and licensing regimes in order to avoid duplication and inefficiency. The Licensing and Planning regimes involve consideration of different (albeit related) matters.

The Licensing Authority will avoid treating licensing applications as a re-run of planning applications, and will not normally:

- cut-across decisions taken by the relevant Local Authority Planning Committee; or

- impose licensing conditions where the same or similar conditions have been imposed on a planning consent.

The Licensing Authority is not bound by decisions made by the relevant Planning Committee and vice versa.

Where, as a condition of planning permission, a terminal hour has been set for the use of premises for commercial purposes that is different to the licensing hours, the licensee must observe the earlier closing time in order to avoid any breach of their planning permission - for which they may be liable to prosecution under planning law (and vice versa where the licensing hours finish earlier than the planning permission).

## 16 LICENSING HOURS

When determining individual licence applications for premises the licensing hours will be decided having regard to the individual merits of each application. The presumption will be to grant the hours as requested unless there are objections to those hours raised by responsible authorities or other persons on the basis of the licensing objectives. However as a guide to applicants the Responsible Authorities are less likely to object to applications with the following closing times:

- Pubs & Bars 11pm Sunday to Thursday / Midnight Friday & Saturday
- Nightclubs 1am Sunday to Thursday / 2am Friday & Saturday
- Restaurants and Cafes 11pm Sunday to Thursday / Midnight Friday & Saturday
- Takeaway Food – Midnight Sunday to Thursday / 1am Friday and Saturday
- Hotels / Guest Houses – 24 hour for residents only

Even though the traditional drinking up time was not carried over into the Act, the Council recommends that applicants of premises licensed for the on-sale of alcohol should consider a drinking up / cooling down period. During this time music volume may be reduced, customers may finish their drinks and plan for transportation from the premises. The Council considers that a 30-minute drinking up time will assist in the gradual dispersal of customers and consequently reduce any potential negative impact on the area.

The above hours are not pre-determined, and each application will be considered on its own merits. For applications within the above hours there is no presumption that the application will be automatically granted in cases where relevant representations have been made

The licensing authority will closely examine the hours of business for premises that are situated in predominantly residential areas and will impose strict conditions relating to noise control where representations are received, and it is considered necessary. Limitations will only be imposed restricting the times alcohol can be sold for consumption off the premises for premises such as supermarkets and stores if representations are received and there is evidence that the extended hours cause the premises to be a focus of disorder and disturbance.

The above hours should **not** be used as a guide for applications relating to the provision of licensable activities in an area which is either wholly or partly outside or within a temporary structure such as a tent or marquee that has the potential to disturb local residents.

## 13 LARGE EVENTS & FESTIVALS

Organisers of larger occasional events involving 500 or more people will be required to apply for premises licences. The Licensing Authority strongly recommends that event organisers contact licensing officers early in the planning stages of the event. Applicants of particularly large events (more than 1000 people) are encouraged to contact The Powys Safety Advisory Group (SAG) ([emergency.planning@powys.gov.uk](mailto:emergency.planning@powys.gov.uk)) with an overview of the event and a documented event

management plan . The Powys SAG is a multi-agency forum and includes internal and external agencies who aim to meet regularly through the year to overview the safety measures in place for events throughout the county. The group will consider the adequacy of the event management plan, offer advice to the applicant on the expectation of the content of the application and operating schedule it also provides an opportunity for the applicant to give in person an overview of the event and the way it will be managed.

The Following table is included as a suggested minimum period of time prior to an event for submitting a complete application, following consultations with the responsible authorities.

<b>Maximum number of attendees at any time</b>	<b>Minimum notice period</b>
500 - 999	Not less than 2 months
1000 – 2999	Not less than 3 months
3000 - 4999	Not less than 4 months
5000 - 19999	Not less than 5 months
20000 – 49999	Not less than 6 months
50000 -	Not less than 7 months

Organisers of large events are encouraged to refer to HSE guidance document ‘The Event Safety Guide’ otherwise known as ‘the purple book’. In addition premises licence holders should have regard to the Code of Practice for licensed premises (Annex D) , a document produced by Dyfed Powys police on behalf of The Builth Wells Safety Group that considers the safe operation of activities taking in place in the Builth Wells area during Royal Welsh Show week.

## **14 OPERATING SCHEDULE & LICENCE CONDITIONS**

The operating schedule will form the basis of conditions attached to any licence or CPC granted. In addition, there are a number of mandatory conditions that may apply (see Annex B). Conditions volunteered in Operating Schedules:

- Must be appropriate for the promotion of the licensing objectives.
- Must be precise and enforceable.
- Must be unambiguous and clear in what they intend to achieve.
- Should not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation.
- Must be tailored to the individual type, location and characteristics of the premises and events concerned.
- Should not be standardised and may be unlawful when it cannot be demonstrated that they are appropriate for the promotion of the licensing objectives in an individual case.
- Should not replicate offences set out in the 2003 Act or other legislation.
- Should be proportionate, justifiable and capable of being met.
- Cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff, but may impact on the behaviour of customers in the immediate vicinity of the premises or as they enter or leave; and
- Should be written in a prescriptive format.
- Expressed in plain language capable of being understood by those expected to comply with them

The licensing authority shall either reword or ignore meaningless, unenforceable conditions/statements made in operating schedules, where necessary and on consultation with the applicant. If they are covered adequately by other legislation they will not be included in the

licence conditions. Applicants should be aware that breaching the conditions of a Premises Licence or Club Premises Certificate is a criminal offence. Therefore, applicants should only volunteer conditions in their operating schedule that they are willing and able to comply with.

During the consultation procedure responsible authorities may make relevant representations requesting that the applicant consider agreeing to further conditions, if all concerned agree these conditions will be added to the licence, once granted, and the need for a hearing can be dispensed with. The Licensing Authority also has the power to attach conditions to a licence at a hearing if it is considered appropriate for the promotion of the Licensing Objectives.

When considering the wording of licence conditions to attach to a licence the authority will have regard to the Four Counties / Dyfed Powys area pool of model conditions in order to achieve consistency in the wording of licensing conditions

## 15 REPRESENTATIONS

When an application is made for the grant, variation or review of a premises licence or club premises certificate, representations about the application can be made by responsible authorities or other persons.

Representations must be made to the Licensing Authority within the statutory period of 28 days beginning on the day after the relevant application is received by the Licensing Authority.

Representation can be made either in support of an application or to express representations to an application being granted. The Authority can only accept relevant representations. A representation is 'relevant' if it related to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives.

Relevant representations can be made by any person, regardless of their geographical location in relation to the premises. However, the Licensing Authority will usually give greater weight to representations that are made by persons who can demonstrate that they would be directly affected by the carrying out of licensable activities at the premises concerned.

**Petitions** – Petitions may be submitted but are not as informative as individual correspondence and as such may be given less weight when considered by a licensing sub-committee. A petition will only be accepted if it identifies:

- the name and address of the application,
- the licensable activities and hours,
- reasons for the representation
- which of the licensing objectives are relevant
- Each page of the petition should contain information as to the purpose of the petition so that all persons know what they are signing.
- Each petitioner must give their name, full address including postcode.
- All signatories must be made aware that a copy of the petition will be supplied to the applicant and a copy will be contained within the committee papers, so their personal details will become public knowledge

The Licensing Authority will reject as invalid any representations deemed to be frivolous or vexatious. A representation might be vexatious if it appears to be intended to cause aggravation or annoyance. Frivolous representations are essentially categorised by a lack of seriousness.

Decisions as to the validity of representations will normally be made by officers of the Licensing Authority. In borderline cases the benefit of the doubt about any aspect of a representation will be given to the person making and a subsequent hearing would then provide for the person making the representation to amplify and clarify it.

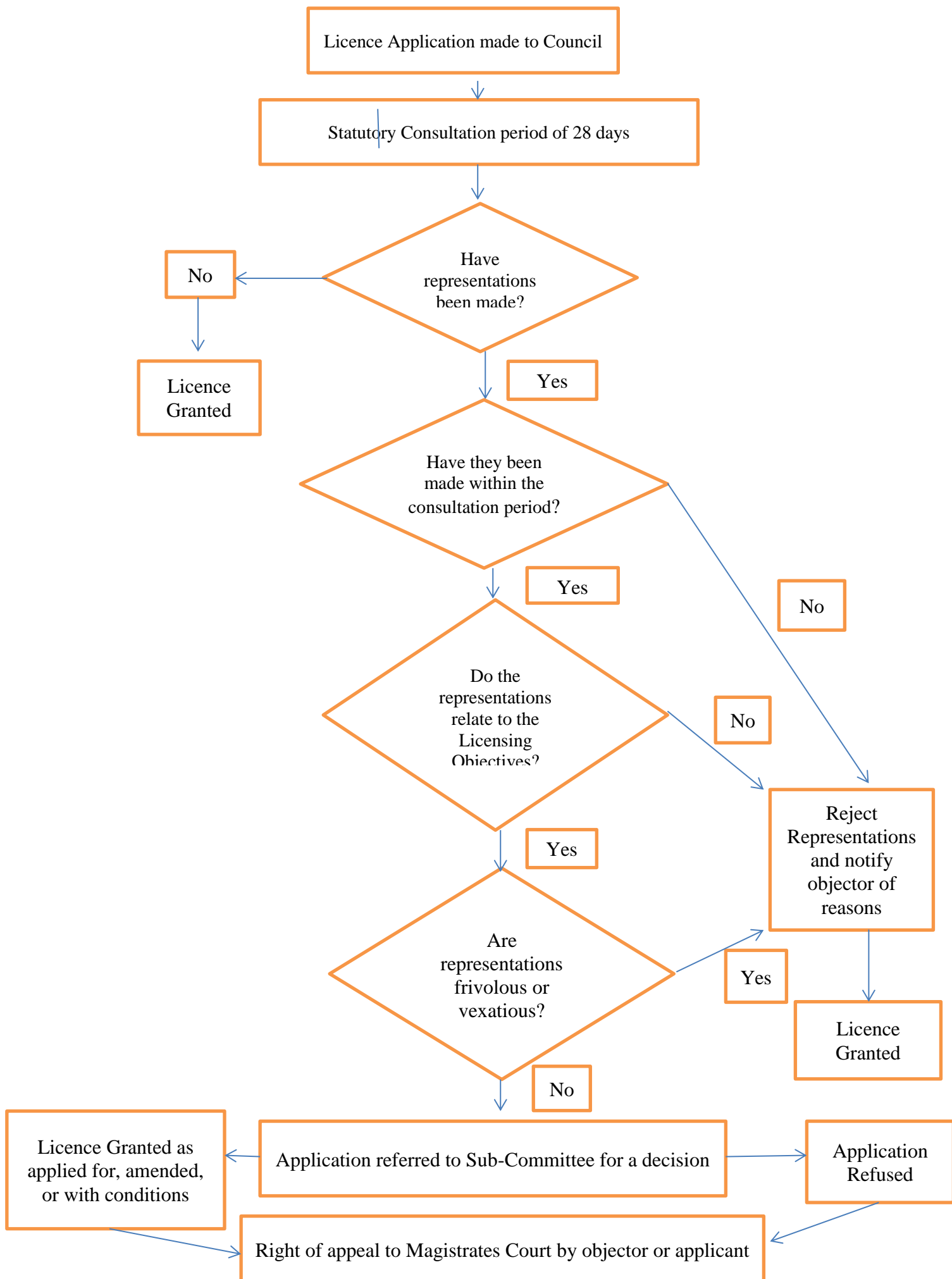
The licensing authority will inform persons who have made irrelevant, frivolous or vexatious representations that their representation will not be considered.

Where relevant representations have been received regarding an application then the application is referred to a Licensing Sub-Committee for a hearing for determination

Where a notice of a hearing is given to an applicant the licensing authority is required to provide the applicant with copies of the relevant representations that have been made.







## 17 PREVENTION OF CRIME AND DISORDER

Licensed premises, especially those offering late night/early morning entertainment, alcohol and refreshment for large numbers of people can be a source of crime and disorder problems. The Licensing Authority will expect operating schedules to satisfactorily address these issues, applicants are recommended to seek advice from the Licensing Authority and the Police. Where an applicant is considering installing CCTV as part of the operating schedule then advice should be sought from the Police Licensing Officer. Dyfed Powys Police have available an Operational Requirement Guidance document for premises that use CCTV <https://www.dyfed-powys.police.uk/media/8681/cctv-licensed-premises-guidelines-english.pdf>

There is a County-wide pub watch network in place run by licensees, known as the BOBB (Behave or be banned) scheme they promote good practice, sharing information, disseminating best practice and provide a forum for the responsible authorities to engage with licensees when necessary. The Licensing Authority encourages all licensees to actively participate in their local BOBB scheme in order to uphold this licensing objective

It may be appropriate for some late night venues to employ door staff in order to prevent crime and disorder, where door staff are employed then it is a mandatory condition that they are registered with the SIA (Security Industry Authority), operators will need to consider:

- what checks are made to the validity of the SIA licence?
- What records are kept of SIA checks,
- search & entrance policies
- employment times of SIA and their training?

Operators may wish to consider a drug and weapon policy? Is there a regular documented training of this policy carried out with staff when drugs/weapons are seized or stored? Are areas or surfaces designed to prevent the likelihood of drug use at the premises?

Use of polycarbonate drinking vessels might be a suitable control measure in some venues and also might be appropriate for all venues in some locations at certain times e.g. for premises in Builth Wells town centre during the Royal Welsh Show, or premises in Brecon town centre during the Brecon Jazz festival

## 18 PUBLIC SAFETY

The Licensing Authority will expect operating schedules to satisfactorily address issues concerning public safety and are advised to seek advice from the relevant bodies e.g. Health and Safety Enforcement Officers and Mid and West Wales Fire Authority.

The Licensing Authority expects that applicants meet the requirement for both a Health & Safety Risk Assessment and Fire Risk Assessment under the relevant provisions, where necessary.

Other controls measures for consideration in order to promote the public safety objective may include:

- Regular testing (and certification where appropriate) of procedures, appliances, systems etc. pertinent to safety.
- Appropriate First Aid facilities and staff training on when to administer/ not administer First Aid.

- Appropriate instruction, training and supervision of those employed or engaged to secure the safety of everyone attending the premises.
- Adoption of best practice guidance (Assistance can be obtained by contacting such Environmental Health, Fire Safety and HSE).
- Provision of effective CCTV in and around premises.
- Implementation of crowd management measures.

The Regulatory Reform (Fire Safety) Order 2005 introduced a requirement that any person responsible for the management of a premises must make a suitable and sufficient assessment of the risks, to which persons may be exposed for the purpose of identifying the general fire precautions, which need to be taken, this would include a safe operating capacity. Therefore, no conditions may be imposed on an authorisation where it directly relates to fire safety. It is expected therefore that authorisation holders will conduct a thorough risk assessment which is regularly reviewed and updated; The risk assessment should be retained at the premises and be available upon request by any authorised officer of the Council.

## **19 THE PREVENTION OF PUBLIC NUISANCE**

Licensed premises can have significant potential to impact adversely on persons in the vicinity and further afield through public nuisances that arise from their operation. Applicants must demonstrate in their operating schedule suitable and effective measures to prevent nuisance failure to address this objective is likely to lead to an objection. Particular regard should be had to minimise the potential for public nuisance that may arise from premises where:

- They are situated in residential or noise sensitive areas and/or
- Extended opening hours are proposed

Where an application has been made for either a one-off event or for a premises that is either wholly or partly outside or within a temporary structure such as a tent or marquee consideration needs to be given to the needs of local residents and the applicant will be required to offer controls so that local residents will not suffer noise nuisance; these should be proportionate to the nature/scale and duration of the event and also to the proximity to local residents. In some circumstances it will be appropriate to submit a noise management plan. Applicants should seek advice at an early stage from Environmental Protection Officers in relation to whether a Noise Management Plan in accordance with The Noise Council Code of Practice is required.

The Licensing Authority recognises that beyond the immediate vicinity of the premises the control that a licence holder can exert over its patrons diminishes and individuals who engage in anti-social behaviour are accountable.

Smoking & External areas - Legislation preventing smoking indoors at public premises has resulted in many customers of licensed premises and clubs using external areas. Premises licence holders, designated premises supervisors and applicants must have regard to how this has an impact on the four licensing objectives. Control measure may include restricting access to external drinking areas at certain times, or prevent customers from taking drinks into external smoking areas in order to discourage customers from lingering outside and potential causing a disturbance to residents

## **20 THE PROTECTION OF CHILDREN FROM HARM**

Nothing in this policy shall limit or restrict access of children to *premises unless there is an overriding requirement of necessity* to prevent harm to children. However, the 2003 Act details a number of offences restricting access to licensed premises including not allowing un-accompanied children under 16 to premises licensed for the supply of alcohol between midnight and 5am. An

applicant may choose to impose further restrictions deemed appropriate for the individual premises. In cases where conditions are agreed or offered in relation to children in licensed premises, the wording of the condition needs to clarify the age of the restriction e.g. either children under 16 or under 18 years of age.

To support the age-verification process the Authority strongly recommended that premises have the following measures in place to ensure age verification for sales -

- That 'Challenge 25' is supported as part of the age verification scheme established. The scheme should require the production of evidence of age from any person appearing to staff engaged in selling or supplying alcohol to be under the age of 25 and who is attempting to buy alcohol.
- That evidence of the scheme (in the form of documented procedures) is maintained and made available for inspection by authorised officers.
- That all staff involved in the sale of alcohol shall be trained in age verification schemes and proxy sales, where a person attempts to buy alcohol for a person under 18. Records of such training shall be retained on the premises and made available for inspection by authorised officers.
- That an incident log be maintained, and details of all age-related refusals recorded. This book shall be reviewed monthly by the DPS and actions taken recorded in the book and signed off by the DPS. The log shall be retained on the premises and made available for inspection by authorised officers.

That the DPS shall ensure that, as far as is reasonably practical, alcohol is displayed in an area which can be constantly monitored or supervised by staff, separate from goods likely to be purchased by persons under 18.

Safeguarding awareness training for staff, particularly those working in the night-time economy is a control measure that the authority promotes. In conjunction with Dyfed Powys Police and the Four Counties Licensing Forum (Carmarthen Ceredigion, Pembrokeshire and Powys County Councils) a training programme to raise awareness of safeguarding issues in the night time economy is under development, the training is targeted at premises licence holders, designated premises supervisors, SIA door staff bar and hotel staff. Materials used for the training include the following video link <https://vimeo.com/252898413> that is readily available to view now. The package will be made available to premises licence holders as soon as is finalised in a suitable format, although in the interim premises licence holders may wish to consider utilising any of the various on-line training resources available for free on line in order to promote the protection of children from harm objective by raising awareness of safeguarding issues

## **21 LICENCE REVIEWS**

The Council can only review a licence where it is alleged by a "responsible authority", or other person that the licensing objectives are being breached. Responsible authorities will aim to give licence holders early warning of any concerns identified at the premises. Only responsible authorities or other persons (e.g. residents, local organisations and councillors) can apply for the review of a licence; and determine its outcome at a hearing where an evidential basis for allegations made will be submitted.

The licensing authority and other responsible authorities use the review process as a last resort when other interventions with the premises licence holder to resolve any persistent issues or non-compliance at a premise have failed. It is common practice to engage the premises licence holders in drafting an action plan where this is the case. See section 24 below for further information on Enforcement and Action Plans

## **22. HEARINGS**

Applications for licences and certificates will be determined following consultation with relevant responsible authorities. Where no representations are received, they will be issued administratively by the Licensing Team, however, contentious applications must be referred to the Council's Licensing Sub-Committee (panel) for determination, unless it is agreed by all parties that a hearing is not necessary.

The period of notice of a hearing that must be given to all relevant parties, and the information which may be disclosed, varies depending on the type of application, subject to regulations. A Licensing Sub-Committee (panel) of three Elected Members will determine a contentious application and will either grant a licence, grant a licence with amendments or refuse an application. Any party can appeal against the Council's decision to a Magistrates' Court.

At any time during the period of a licence, any responsible authority or other person can ask for the review of a licence or certificate. All review applications will be determined by the Licensing Sub-Committee.

## **23. APPEALS**

Entitlements to appeal for parties aggrieved by decisions of the Council are set out in Schedule 5 of the Act. Other than in the case of personal licences, an appeal has to be made to the local Magistrates' Court. In the case of personal licences, the appeal must be made to the Magistrates' Court for the area in which the licensing authority which has considered the application (or any part of it) is situated.

An appeal has to be instigated by giving notice of the appeal by the appellant to The Clerk to the Justices, \*\*, Within a period of 21 days beginning with the day on which the appellant was notified by the Council of the decision appealed against.

On determining an appeal, the Court may: dismiss the appeal, substitute any other decision which could have been made by the Council or remit the case to the Council to dispose of it in accordance with the direction of the Court. The Court may make such order as to costs as it thinks fit.

In anticipation of such appeals, the Council will give comprehensive reasons for its decisions. On making findings of fact in its reasons, the Council will ensure that they address the standard of proof and the burden of proof that they have adopted. The Council will also address the extent to which decisions has been made with regard to its statement of licensing policy and the Guidance issued by the Secretary of State under section 182 Implementing the determination of the Magistrates' Courts

Where appropriate, the Licensing Authority will provide applicants and objectors etc. with information concerning their rights of appeal.

Where appropriate, the Licensing Authority will provide applicants and objectors etc. with information concerning their rights of appeal.

As soon as the determination of the Magistrates' Courts has been promulgated, the Council will not delay its implementation and necessary action will be taken forthwith unless ordered by a higher court to suspend such action [for example, as a result of an on-going Judicial Review]. The Act provides for no further appeal against the determination of the Magistrates' Courts.

## **24 ENFORCEMENT**

The Licensing Authority has established joint enforcement protocols with Dyfed Powys Police and the Mid and West Wales Fire Authority and other responsible authorities where appropriate on joint enforcement issues.

The Licensing Authority will carry out audits of licensing premises conditions, usually in the form of routine licensing inspections in accordance with a risk assessment in order to ensure that the high risk premises receive the greatest priority.

The authority will investigate complaints alleging breaches of the Act or licence conditions with a view to establishing if offences have been committed

The authority has an Enforcement Policy that encourages a graduated approach where there is evidence of an offence, the range of enforcement options include:

- Offering advice/guidance (verbal or written)
- Informal written warnings
- Cautions
- Prosecutions
- Review of Licence

Action plans - Where a premises is the subject of persistent complaints owing to either non-compliance with licence conditions or not upholding the licensing objectives then in the first instance the relevant authority in conjunction with the licensing authority will seek an intervention with the premises licence holder and/or designated premises supervisor in order to resolve the issue using an approach to avoid prosecution or review of the licence. This can only work where all parties cooperate and agree a documented action plan. It will be for the person responsible for the premises to offer up steps that can be adopted in order to seek to resolve the issue. The action plan is reviewed over a set time for effectiveness and adapted if necessary. Where a premise engages with the authority positively and can address the issues effectively through a documented action plan then the need for any formal action is avoided. However where premises do not engage or cooperate with authorities where there are persistent breaches or the licensing objectives are not being upheld then they run the risk of either having their licence reviewed, ending up being prosecuted for the offences or both

## 25 ANNUAL FEES

Amendments made to the Licensing Act 2003 by the Police Reform and Social Responsibility Act 2010 give councils the power to suspend premises licences and club premises certificates where the annual fee required by regulations is not paid.

The council will suspend any licence or certificate where the required fee is not paid by the 'due date', which is annually on the anniversary of the date that the licence was first granted. The council will follow the below procedure:-

Upon notification/discovery that an annual fee is not paid, the council will give notice to the licence/certificate holder, in writing,

• ***that the licence/certificate will be suspended 14 days from the date of the notice.***

• It will also state that the suspension will not become effective if the fee is paid prior to the suspension date.

• If an administration error is claimed, the suspension date may be 21 days from the due date; or the date of suspension on the 14 day notice, whichever is later.

• ***A copy of the notice will also be served on the designated premise supervisor/premises manager if they are not the premises licence holder.***

When the full payment is made the council will immediately lift the suspension, and confirm this in writing.

Where a licence/certificate is suspended and licensable activities are provided

the council will consider prosecuting the provider for offences under section 136 of the Licensing Act 2003

## **ANNEXES**

Annex A – List of Responsible Authorities and contact details

Annex B - Mandatory conditions under the Act

Annex C – Pool of Conditions (to be added when completed)

Annex D – Code of Practice for Licensed Premises (to be attached)

## RESPONSIBLE AUTHORITIES CONTACT DETAILS

### Licence applications to be sent to Home Office (Immigration Enforcement)

Home Office (Immigration Enforcement) will receive notification of the following:

#### **Premises licences for the sale of alcohol or late night refreshment**

- all applications for premises licences for the sale of alcohol and/or late night refreshment
- all applications to transfer the above
- all applications to vary a premises licence
- applications for minor variations considered by the licensing authority to require consultation with Home Office (Immigration Enforcement)
- all interim authority notices.

**Any of the Above applications must be sent to:-**      **Alcohol Licensing Team**  
**Lunar House**  
**40 Wellesley Road**  
**Croydon**  
**CR9 2BY**

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### Licence Applications to other Responsible Authorities

In the case of an application for a premises licence under section 17, a provisional statement under section 29, a variation of a premises licence under section 34, a review under section 51, a club premises certificate under section 71, a review under section 87 or a variation of a club premises certificate under section 84, the person making the application shall give notice of his application to each responsible authority by giving to each authority a copy of the application together with its accompanying documents, if any, on the same day as the day on which the application is given to the relevant licensing authority.

<u>The Police</u>	<u>The Fire Service</u>
<p>The Licensing Officer,  Dyfed Powys Police  Divisional Police Headquarters,  Plas-y-Ffynon  Cambrian Way, Brecon,  Powys, LD3 7HP.</p> <p>Tel: 01267 222020 Ext: 50461  Fax: 01874 611371</p>	<p>The Licensing Officer,  Mid &amp; West Wales Fire &amp; Rescue Service,  Powys Command HQ, Parc Noyadd Park,  Llandrindod Wells, Powys, LD1 5DF.</p> <p>Tel: 0370 6060699</p>

<u>The Health Authority</u>	<u>Child Protection</u>
<p>Directorate of Corporate Governanc  Powys Teaching Health Board  Neuadd Brycheiniog  Cambrian Way, Brecon,  Powys, LD3 7HR.</p> <p>Tel: 01874 615915</p>	<p>Childrens Services,  The Gwalia  Ithon Road, Llandrindod Wells,  Powys, LD1 6AA.</p> <p>Tel: (01597) 827325</p>
<u>Planning</u>	



<b><u>Powys County Council</u></b>		<b>Brecon Beacons National Park Authority</b>	
<b>Planning Services</b> <b>Powys County Hall,</b> <b>Spa Road East, Llandrindod Wells,</b> <b>Powys, LD1 5LG</b> <b>Tel: <del>(01874) 612272</del>-01597827161</b>		<b>Plas y Ffynon</b> <b>Cambrian Way, Brecon,</b> <b>Powys, LD3 7HR.</b>  <b>Tel: (01874) 624437</b>	
<b>Email: <a href="mailto:planning.services@powys.gov.uk">planning.services@powys.gov.uk</a></b>			
<b>If you are unsure which of the above should receive a copy of your application, please telephone one of the above offices for advice.</b>			
<b><u>Trading Standards</u></b>			
<b><u>Brecknockshire</u></b>	<b><u>Radnorshire</u></b>	<b><u>Montgomeryshire</u></b>	
<b>Trading Standards Officer</b> <b>Brecon Office</b> <b>Neuadd Brycheiniog</b> <b>Cambrian Way, Brecon,</b> <b>Powys, LD3 7HR,</b>  <b>Tel: (01874) 623420</b> <b>Tel: (01874) 612227</b>	<b>Trading Standards Officer</b> <b>Brecon Office</b> <b>Neuadd Brycheiniog</b> <b>Cambrian Way, Brecon,</b> <b>Powys, LD3 7HR.</b>  <b>Tel: (01874) 623420</b> <b>Tel: (01874) 612227</b>	<b>Trading Standards Officer</b> <b>Newtown Office</b> <b>The Park, Newtown,</b> <b>Powys, SY16 2NZ.</b>  <b>Tel: (01686) 617524</b>	
<b>If you are unsure which of the above should receive a copy of your application, please telephone one of the above offices for advice.</b>			

<b><u>Environmental Protection</u></b>
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<u><b>Brecknockshire</b></u>	<u><b>Radnorshire</b></u>	<u><b>Montgomeryshire</b></u>
<p>Environmental Protection Officer Environmental Health Offices Neuadd Brycheiniog Cambrian Way, Brecon,# Powys, LD3 7HR.</p> <p>Tel: (01874) 612250</p>	<p>Environmental Protection Officer Environmental Health Offices The Gwalia Ithon Road, Llandrindod Wells, Powys, LD1 6AA.</p> <p>Tel: (01597) 827168</p>	<p>Environmental Protection Officer Environmental Health Offices Neuadd Maldwyn Severn Road, Welshpool, Powys, SY21 7AS.</p> <p>Tel: (01938) 551299</p>
<p>If you are unsure which of the above should receive a copy of your application, please telephone one of the above offices for advice.</p>		

<u><b>Health and Safety</b></u>		
<u><b>Brecknockshire</b></u>	<u><b>Radnorshire</b></u>	<u><b>Montgomeryshire</b></u>
<p>Health and Safety Officer Environmental Health Offices Neuadd Brycheiniog Cambrian Way, Brecon, Powys, LD3 7HR.</p> <p>Tel: (01874) 612411</p>	<p>Health and Safety Officer Environmental Health Offices Neuadd Brycheiniog Cambrian Way, Brecon, Powys, LD3 7HR.</p> <p>Tel: (01874) 612411</p>	<p>Health and Safety Officer Environmental Health Offices Neuadd Maldwyn Severn Road, Welshpool, Powys, SY21 7AS.</p> <p>Tel: (01938) 551313</p>
<p>If you are unsure which of the above should receive a copy of your application, please telephone one of the above offices for advice.</p>		

Enforcement of the Health & Safety at Work Act 1974 etc. is undertaken by the Health & Safety Executive or inspectors of the local authority Environmental Health Section. The allocation of responsibility is described in The Health and Safety at Work (Enforcement Authority) Regulations.

The majority of premises in the Service Industry sector are the responsibility of the Inspectors employed by the Local Council. To simplify the application process the Local Council Health & Safety Officers will identify the limited number of applications, which are for premises inspected by the Health & Safety Executive and will forward those applications on your behalf. The Local Council Health & Safety Officers will inform applicants when applications have been forwarded to the Health and Safety Executive.

#### Additional Responsible Authorities

1. Any Licensing Authority (other than the relevant licensing authority) in whose area part of the premises is situated.
2. In relation to a Vessel: -
  - a navigation authority (within the meaning of section 221(1) of the Water Resources Act 1991 (c.57) having functions in relation to the waters where the vessel is usually moored or berthed or any waters where it is, or is proposed to be, navigated at a time when it is used for licensable activities,

- the Environment Agency,
- the British Waterways Board, or
- the Secretary of State

#### **Definition of a Responsible Authority**

1. "Responsible authority" means any of the following-

(a) the chief officer of police for any police area in which the premises are situated,

(b) the fire authority for any area in which the premises are situated,

(c) the enforcing authority within the meaning given by section 18 of the Health and Safety at Work etc. Act 1974 for any area in which the premises are situated,

(d) the local planning authority within the meaning given by the Town and Country Planning Act 1990 (c.8) for any area in which the premises are situated,

(e) the local authority by which statutory functions are exercisable in any area in which the premises are situated in relation to minimising or preventing the risk of pollution of the environment or of harm to human health,

(f) a body which-

(i) represents those who, in relation to any such area, are responsible for, or interested in, matters relating to the protection of children from harm, and

(ii) is recognised by the licensing authority for that area for the purposes of this section as being competent to advise it on such matters,

(g) any licensing authority (other than the relevant licensing authority) in whose area part of the premises is situated,

(h) in relation to a vessel-

(i) a navigation authority (within the meaning of section 221(1) of the Water Resources Act 1991 (c.57) having functions in relation to the waters where the vessel is usually moored or berthed or any waters where it is, or is proposed to be, navigated at a time when it is used for licensable activities,

(ii) the Environment Agency,

(iii) the British Waterways Board, or

(iv) the Secretary of State,

(J) For the purposes of sections 13(4) and 69(4), the local weights and measures authority (within the meaning of section 69 of the Weights and Measures Act 1985(a)) for any area in which the premises is situated is a responsible authority.

## Annex B

**Mandatory conditions****Alcohol**

No supply of alcohol may be made under the premises licence-

- a) at a time when there is no designated premises supervisor in respect of the premises licence, or
- (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

**Films**

The admission of children to the exhibition of any film must be restricted in accordance with the film classification.

**Door Supervisors**

Door supervisors will be correctly registered with the SIA.

**Mandatory Conditions for Club Premises Certificates**

The supply of alcohol for consumption off the premises can only be made at a time when the premises are open for the purposes of supplying alcohol, in accordance with the club premises certificate, to members of the club for consumption on the premises.

Any alcohol supplied for consumption off the premises must be in a sealed container.

Any supply of alcohol for consumption off the premises must be made to a member of the club in person.

**Mandatory Conditions from 6<sup>th</sup> April 2010**

The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children—

- (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to—

- (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
- (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
- (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);
- (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;
- (d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on—
  - (i) the outcome of a race, competition or other event or process, or
  - (ii) the likelihood of anything occurring or not occurring;
- (e) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.

The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.

The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol. The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

The responsible person shall ensure that—

- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
  - (i) beer or cider: ½ pint;
  - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
  - (iii) still wine in a glass: 125 ml;

and
- (b) customers are made aware of the availability of these measures.

## Mandatory Licensing Condition from 28<sup>th</sup> May 2014

A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

For the purposes of the condition set out in paragraph 1

- (a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979(a);
- (b) “permitted price” is the price found by applying the formula —  $P = D + (D \times V)$  where —
  - (i) P is the permitted price
  - (ii) D is the rate of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
  - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- (c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence —
  - (i) the holder of the premises licence,
  - (ii) the designated premises supervisor (if any) in respect of such a licence, or
  - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- (d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- (e) “valued added tax” means value added tax charged in accordance with the Value Added

Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

- (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day (“the first day”) would be different from the permitted price on the next day (“the second day”) as a result of a change to the rate of duty or value added tax.
- (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day. is present and able to prevent a supply of alcohol (in relation to premises in respect of which there is a club premises certificate). Paragraph 3 provides that the permitted price is rounded up to the nearest penny. Paragraph 4 provides that a change to the permitted price which would apply as a result of a change to the rate of duty or VAT charged in relation to alcohol would not apply until the expiry of the period of 14 days beginning on the day on which the change in the rate of duty or VAT takes effect.

Annex C

Pool of conditions – coming soon...

## Annex D

**Licensed Premises**  
**Code of Practice**

**Introduction/Aim of the code**

The aim of this code is to provide licensees with guidance on good practice for the promotion of the four licensing objectives which are paramount considerations at all times.

**How is this achieved?**

Licensees are expected to make a proactive commitment to preventing problems from occurring at licensed premises through the adoption of this code.

The Licensing Act 2003 (the Act) focuses on the promotion of four statutory licensing objectives which must be addressed when licensing functions are undertaken. The four licensing objectives are:

1. The prevention of Crime and Disorder
2. Public Safety
3. The prevention of Public Nuisance
4. The protection of children from harm

**Risks associated with licensed premises**

Risks associated with licensed premises can vary dependent on the premises type, the design layout, general environment. This code identifies many of the possible risks associated with the sale of alcohol and the provision of entertainment or late night refreshment and sets out good practice measures to mitigate those risks.

**General – all four licensing objectives**

This section provides guidance on good practice for the general promotion of all four licensing objectives at licensed premises. It is also designed to guide licensees on the general promotion of the licensing objectives. Training is the key to giving licence holders, premises managers and staff the knowledge and skills to deal with and manage risks associated with licensed premises.

**Lack of knowledge or understanding of the Licensing Act 2003**

- All staff should be advised of licensing law in writing before they are allowed to serve alcohol.
- A record should be kept of the date and name of person trained or advised and be made available for inspection by the police or licensing authority.

**Prevention of crime and disorder**

The main causes of crime and disorder in licensed premises arise from inadequate security provisions, poor design and layout, overcrowding and customers being drunk or under the influence of drugs.

Licence holders should have clear documented policies and procedures in place which identify all crime and disorder risks associated with their premises and the measures implemented to prevent, manage and respond to those risks.

**Security in and around the premises**

- CCTV should be installed inside and outside the premises. The cameras should cover all internal areas accessible to the public and areas immediately outside the premises.
- A trained member of staff should be on duty to operate the system whenever the premises are open.
- External lighting provides an obvious means of crime deterrence. Care should be taken so that lighting does not impact on neighbours.
- Door staff and/or stewards should be employed at the venue to supervise admissions and customers inside the venue.
- Any person performing the role of a door supervisor must be licensed with the Security Industry Authority (SIA)
- Door staff should be easily identifiable by wearing a uniform, high visibility jackets or arm bands.
- Stewards and other staff at the premises should also be easily identifiable.
- Stewards must not be used for supervision of the door.
- Effective security policies based on risk assessments can protect your premises, staff and customers and all staff must be aware of a premises security policy.
- Daily staff briefing and debriefing will enable licensees to improve working practices in their premises. Briefings can be informal but any problems identified and remedial action taken should be recorded with records kept in the main office.

### **Crime including conflict, violence or aggression in and around the premises**

- Proper management of the premises will depend on the size and type of venue. The number of door supervisors should be determined by a risk assessment, but at the very least on a ratio of 2 door supervisor per 100 customers.
- Consideration should be given to a sufficient provision of male and female door supervisors, but at least one female door supervisor should be used.
- Ejecting or refusing entry to persons from the premises if they do not meet your admissions standards or they are known to be violent or aggressive. In such cases, an entry should be made in an incident or log book
- A policy to manage capacity should be adopted to prevent overcrowding and patrons possibly becoming aggressive through accidental jostling. The use of clickers is essential to record the number of patrons inside the premises.

### **Drugs and weapons being brought into the premises**

- A zero tolerance policy to the use of drugs and carrying of weapons in the premises should be adopted. Posters can be displayed throughout the premises to remind customers of zero tolerance policy.
- Effective search policies will minimise the opportunity for drugs and weapons to be brought into licensed premises and lead to drug and weapon seizure if attempts are made. The use of search arches and wands may be appropriate in some cases.
- Calling the police if customers are suspected of being in possession of drugs or weapons. All staff must be made aware of this requirement.
- Seizing, retaining and documenting any drugs or weapons found with a clear audit trail and a process for surrendering them to the Police.
- A search policy should clearly set out procedures that must be followed by staff should they find drugs or weapons during a search including circumstances when the police should be called; the use of tamper proof bags and safe storage of seized items in a lockable box.
- Details that need to be recorded and how/when seized items should be surrendered to the police.
- Supervising toilet areas can be effective in discouraging drug selling or use. Regular toilet checks such as swabbing should be considered and where conducted, these should be documented with date, time and finding recorded.

### **Disorder from customers queuing to enter the premises or when leaving the premises**



- Reduce the potential for excessive queue lines with a well managed and efficient door policy.
- A customer dispersal policy can minimise the potential for disorder from customers leaving the premises. A policy should clearly set out measures to avoid a mass exit at the end of the evening such as a gradual change in music style and increasing lighting levels.
- Staff training in preventing disorder should be provided to give them the knowledge and confidence to deal with difficult situations.

### **Customers getting drunk and dealing with drunken customers**

- Staff training on the effects of alcohol and how to spot early signs of customers becoming drunk should be provided to give them the knowledge and confidence to deal with drunken patrons.
- Staff should be aware of their responsibilities under the Licensing Act 2003 and be able to recognise appropriate ‘cut off’ points for serving drunken customers, so as to reduce the likelihood of fights or aggressive behaviour.
- A duty of care policy regarding persons suffering adversely from the effects of drink should be in place at the premises. The policy should clearly express that every effort will be made by staff to prevent patrons from deteriorating to an uncontrolled intoxicated extent. All staff must be briefed on the policy.
- Drink-aware posters can be displayed in the premises to remind customers of the unit content in alcoholic drinks and the safe alcohol consumption limits.

## **Public Safety**

This section provides guidance on good practice for the promotion of public safety at licensed premises. It is designed to guide licensees on the promotion and management of public safety at their premises. Licence holders should have clear documented policies and procedures in place which identify all public safety risks associated with their premises and measures implemented to prevent, manage and respond to those risks.

### **General safety of staff and customers**

- A full risk assessment taking into account public safety should be carried out at the premises to identify potential hazards posed to staff or customers and setting out precautions to manage the hazards.
- All staff should be made aware of the risk assessment and precautionary measures therein.
- First aid boxes should be available at the premises and maintained with sufficient in date stock.
- Alternatives to glass drinking vessels should be considered to prevent glassware being used as an assault weapon, particularly during promoted events.

### **Overcrowding**

- A documented capacity should be set for the premises overall and for individual rooms within the premises.
- Capacity can be determined by a risk assessment in consultation with the fire safety authority. The risk assessment should consider factors such as floor space, numbers of toilets, potential queuing time and available fire exits.
- A policy to manage the capacity should be adopted to prevent overcrowding and localised overcrowding. The use of electronic clocking systems, clickers, may be appropriate.
- Consideration should be given to deliberately running below capacity to afford a comfort factor to your patrons.

### **Accident or other emergency incident on the premises**

- A written policy to deal with all types of accidents & emergency incidents should be in place at the premises.
- The policy should be based on risk assessments and include matters such as emergency management, contingency planning and evacuation procedures in the event of fire, bomb threats or suspect packages and when to contact emergency services.
- Evacuation responsibilities and roles should be clearly communicated to staff, routes and exits should be well defined and evacuation plans exercised regularly.
- Means of escape in case of any emergency must be clearly visible, unobstructed and well maintained including areas outside exits leading to a place of ultimate safety such as the street.
- Checks should be carried out before opening each day to ensure that exits are unlocked and unobstructed.
- Equipment should be checked and maintained regularly with a record kept of the date and findings of the checks.
- Staff training in fire safety and any premises safety policy should be provided for all staff to give them the knowledge and confidence to deal with emergency situations, including location of equipment, utilities, services and layout of premises.
- An accident book should be kept in order to record all accidents or incidents and made available for inspection.

### **Drug use or drink spiking**

- A zero tolerance policy to the use of drugs in the premises should be adopted. Posters can be displayed throughout the premises to remind customers of the zero tolerance policy.
- Refusing entry to anyone who appears to be showing signs of drug use and contacting the emergency services in appropriate circumstances.
- A duty of care policy regarding persons suffering adversely from the effects of drugs should be in place at the premises. The policy should include drug awareness training for all staff so that they can recognise the effects of controlled drugs and provide medical attention where necessary.
- Prevent the possibility of drink spiking by offering various anti drink spiking products to customers.
- If a customer suspects that their drink has been spiked, you should report it to the police immediately. A process for this should be clearly set out in your duty of care policy.
- A 'chill out' area should be provided. This should be cooler and quieter than rest of venue.

### **Safety of customers when leaving the premises**

- A 'chill out' period at the end of an evening can allow a slow dispersal from the premises allowing door staff to gain a handle on problem individuals, preventing arguing over taxis or congregation at takeaways and clashes with groups from other venues.
- Provision of non alcoholic drinks during a chill out period can be effective in allowing customers to sober up before leaving the premises.
- Increased lighting inside the premises should be considered towards the end of an evening to affect the alertness of customers before they leave the premises.
- Increased external lighting particularly in car parks under the direct control of the licence holder will provide added safety for customers as they leave the premises.

## **Prevention of Public Nuisance**

Licence holders should also engage with local residents and businesses on a regular basis to ensure that they are being good neighbours and dealing with problems as they arise.

### **Music, singing and speech noise breakout from the premises**

- A noise management policy should be in place that sets out sound attenuation measures to prevent or control music, singing and speech noise breakout from the premises.

## **Protection of children from harm**

This section provides a guide to licensees on the protection and management of children from harm at their premises.

### **Children accessing licensed premises**

- A documented policy setting out measures to protect children from harm should be in place at the premises. The policy should consider all activities associated with the premises including the sale of alcohol and the provision of regulated entertainment and when children should be allowed on or restricted from the premises.
- All staff including door staff and bar staff should be trained on the policy.

### **Underage sales of alcohol**

- Operate a strict 'No ID – No Sale' policy. 'Challenge 25' scheme serves as a reminder to staff of the need to be vigilant in preventing underage sales and to customers that it is against the law for anyone under 18 to purchase alcohol.
- Only accept photographic driving licences, passports or PASS (Proof of Age Standards Scheme) cards approved as means of ID.
- Use till prompts to remind staff to ask for proof of age.
- Prominently advertise the scheme in your premises so that customers are aware, in particular, display proof of age signs at the point of sale.
- Display posters at the premises stating that it is an offence to purchase alcohol on behalf of an underage person (proxy sales).
- Keep a refusals book (or refusal button on EPOS – Electronic Point of Sale) on the premises and ensure it is completed whenever a sale is refused to a person who cannot prove they are over the age of 18.
- Staff training in the age related sections of the Licensing Act 2003 should be provided to all door, bar and till staff.