



STATEMENT OF LICENSING POLICY

**JANUARY 2016
TO
JANUARY 2021**

FOREWORD

It is nearly ten years since the Licensing Act 2003 came into force and just over ten years since publication of the Councils' first Statement of Licensing Policy. During this time the Policy has been reviewed and re-published three times and has evolved to incorporate best practice by taking account of various changes in legislation, codes of practice and statutory guidance.

This is the fourth Statement of Licensing Policy to be issued and explains how the Council, acting in its capacity as the Licensing Authority, will seek to balance increased leisure opportunities with the protection that local residents and communities need and expect.

The change in licensing law that was implemented in full in 2005 took place at a time when many were concerned about the amount of alcohol being consumed and the antisocial behaviour that often went with it. The Licensing Authority recognises its key role in dealing with such issues and by working with our partner organisations has achieved some notable successes in this area. Whilst it is accepted that the majority of the public are well behaved and responsible, we must not let a minority of badly behaved and inconsiderate individuals spoil life for the majority.

The Licensing Authority recognises how important the leisure and entertainment industry is to the economic and social well being of the Borough and well-run businesses are assured of will get the support of the Authority. The Council welcomes applications for new leisure developments that are well planned and where issues such as crime and disorder, transport and public safety are-have been considered early in the planning process. are-welcomed.

The Council works proactively in partnership with the responsible authorities and other agencies to promote the four licensing objectives and to provide training and assistance where appropriate to local businesses and individuals. However, the Licensing Authority has demonstrated on a number of occasions that it will not hesitate in dealing firmly where problems of anti-social behaviour fuelled by excess alcohol and other issues, such as the sale of alcohol to minors, exist.

Some of the key changes since the Licensing Act came into force are:

- Additional Mandatory conditions that are applicable to all alcohol licences
- Removal of the requirement for some community based premises to operate with a Designated Premises Supervisor (DPS)
- A simplified process of Minor variations for some changes to a Premises Licence or Club Premises certificate in cases where the licensing objectives will not be adversely affected
- The ability for the Police to call for an expedited review of a Premises Licence in cases of serious crime or disorder
- Discretionary controls where evidence exists to implement Early Morning restriction Orders and/or a Late Night Levy
- Partial deregulation of live and recorded music (between the hours of 8am and 11pm) on alcohol licensed premises
- Amendments to the limits and frequency of Temporary Event Notices

- The ability for 'any other person' to make representation in respect of a premises licence application or to call for a review of a premises licence or club premises certificate
- Relaxation of the burden of proof during a review or in implementing a cumulative impact policy (CIP)
- Removal of the requirement to renew a personal licence

This Policy will be kept under regular review and it will no doubt change over a period of time to reflect local issues and circumstances. The Licensing Authority will seek through the licensing process and the decisions it takes, to make Brentwood a safe and welcoming place for residents and visitors to live and visit.

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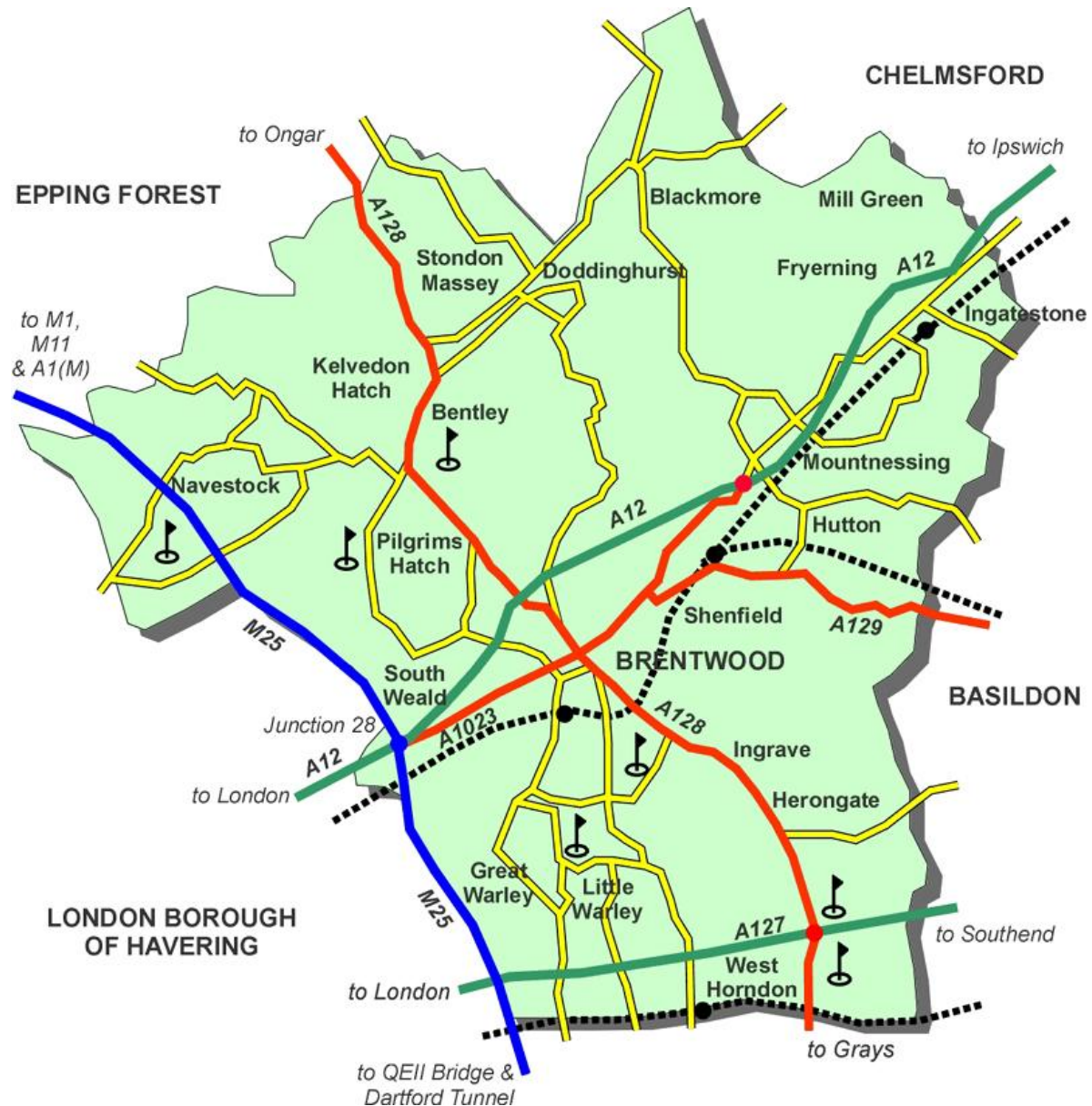
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ABOUT BRENTWOOD



The Borough of Brentwood is situated in the southwest of Essex and is a pleasant, busy town conveniently situated for London and the surrounding countryside and villages. Brentwood has a good mix of shops, schools, businesses and recreational facilities.

The Borough is located within the Metropolitan Green Belt, with the heart of the Town only minutes away from pleasant woods, commons and rights of way.

Apart from its urban heart, the Borough of Brentwood has about 3,000 acres (about 1,215 hectares) of woodland, three country parks, a large amount of farmland and a number of very attractive villages within its borders, yet it is only 18 miles from London.

Road and rail connections are excellent with the M25, A12 and A127 trunk roads within the Borough and convenient, fast rail links with London and East Anglia.

Stansted, City and Southend airports are all 30 to 40 minutes drive away, with Heathrow and Gatwick airports not much more. The Dartford Tunnel/Queen Elizabeth II Bridge and Tilbury Docks are also within easy reach. To the east, Harwich and Felixstowe are 90 minutes away via the A12 road. Such assets give the Borough of Brentwood a superior locational advantage much appreciated by local residents and businesses.

The Borough of Brentwood includes the parishes of Blackmore Hook End and Wyatts Green, Doddinghurst, Herongate and Ingrave, Ingatestone and Fryerning, Kelvedon Hatch Mountnessing, Navestock, Stondon Massey and West Horndon. These parishes vary in size and comprise a number of attractive villages and landscapes with many important and historic buildings. Within the Borough as a whole there are more than 500 buildings listed for their historical and architectural importance.

The Borough has a total area of around 15,315 hectares and a population of approximately 73,600 (based on the 2011 Census).

The Borough is subject to considerable pressure for development for both housing and employment and increasingly for leisure and recreational purposes.

Much of Brentwood's housing is owner-occupied, the majority of which has been built since 1945. Much of the older housing has been renovated and there are few areas of poor quality housing in the Borough, although there is a need for significantly more low cost, affordable housing.

Employment within the Borough is very much concentrated in the service sector, which is mainly located in Brentwood Town Centre, Brentwood Station and Warley Business Park. There are however, seven industrial estates and numerous other smaller enterprises scattered throughout the Borough. Notwithstanding this, over 50% of the resident workforce commutes out of the Borough to work, particularly into London.

The main shopping area is Brentwood Town Centre, with many multiples including Marks and Spencer, Boots and Sainsbury's represented. Shenfield and Ingatestone are smaller, but nevertheless important shopping centres serving local needs and there are a number of smaller shopping parades and village centres around the Borough.

The Town Centre is also an historic centre with three designated Conservation Areas, incorporating several Listed Buildings and an Ancient Monument - the St Thomas a Becket Chapel. Elsewhere in the Borough there are eleven (11) Conservation Areas.

Less than 20% of the Borough is built up. Brentwood itself has a well landscaped character, which reduces the impact of the urban environment.

There are a number of important green wedges reaching into the built up area, two of which extend right into the centre of the town Hartswood/Shenfield Common, and Brentwood School/Merrymeade Park. Thriftwood is also an extensive woodland area within the Town. In addition, the well landscaped areas like Hutton Mount, Hartswood and the Homesteads add to this sylvan character.

Within the rural area of the Borough, there are three sites of Special Scientific Interest. There is a variety of both public and private sports and recreational facilities in the Borough, including the multi-functional Brentwood Centre and International Hall at Pilgrims Hatch.

1.0 Introduction

- 1.1 Brentwood Borough Council is the Licensing Authority under the Licensing Act 2003 (the Act), ~~as amended~~, and is responsible for granting premises licences, club premises certificates, temporary events notices and personal licences in the Borough in respect of the sale and/or supply of alcohol, the provision of regulated entertainment and late night refreshment.
- 1.2 For the purposes of this policy document, when carrying out functions required by the Licensing Act 2003, Brentwood Borough Council will be referred to as "the Licensing Authority", otherwise Brentwood Borough Council will be referred to as "the Council". All references to the Act contained within this policy relate to the Licensing Act 2003 as amended.
- 1.3 When assessing applications, the Licensing Authority must be satisfied that the measures proposed in the applicant's operating schedule aim to meet the four licensing objectives. Paragraphs 18 to 24 of this policy address matters that the Authority would normally expect to be considered by applicants in their operating schedule and provide sample control measures that applicants may wish to include to ensure adequate promotion of the Licensing Objectives. These control measures are examples and are by no means exhaustive. ~~Bold type refers to matters that the Licensing Authority expects to see addressed in the applicant's operating schedule, where appropriate. Passages of text that are not in bold are provided to assist applicants to understand what the Licensing Authority is seeking to achieve, the factors that influence the achievement of the licensing objectives and the control measures that could be implemented by the applicant to achieve that outcome.~~
- 1.4 However, it should be recognised that this policy covers a wide variety of premises and activities carried on in them including theatres, cinemas, restaurants, pubs, nightclubs, private members clubs, village halls and community centres, as well as off-licences and late night food premises and vehicles selling hot food or hot drink after 11p.m. For this reason, this policy cannot detail all the factors that influence the achievement of the licensing objectives nor can this policy detail all the control measures that may be appropriate.
- 1.5 Nothing in this Statement of Policy should be regarded or interpreted as an indication that any requirement of law may be over-ridden; each application will be considered and treated on its own merits.
- 1.6 Applicants are encouraged to read this policy prior to submitting any application for a Premises Licence, Club Premises Certificate or Temporary Event Notice.

2.0 The Licensing Objectives

- 2.1 The 2003 Act requires the Licensing Authority to carry out its various licensing functions so as to promote the four licensing objectives. These are:-
- a) The Prevention of crime and Disorder
 - b) The Prevention of Public Nuisance
 - c) Public safety
 - d) The Protection of Children from Harm

These objectives must be promoted at all times by applicants and licence holders and are the only matters that this Authority is permitted to have regard to in carrying out its functions, including when assessing applications for the variety of authorisations provided for by the Act.

- 2.2 In respect of each of the four licensing objectives, applicants will need to provide evidence to the Licensing Authority that suitable and sufficient measures, as detailed in their operating schedule, will be implemented and maintained, relevant to the individual style and characteristics of their premises and events. Reference will need to be made as to whether additional measures will be taken on an occasional or specific basis such as when a special event or promotion is planned, which is intended to, or likely to attract, larger audiences.

3.0 Statement of Licensing Policy

- 3.1 The 2003 Act, further requires that the Licensing Authority publishes a 'Statement of Licensing Policy' that sets out the policies the Licensing Authority will generally apply to promote the licensing objectives when making decisions on applications made under the Act.

- 3.2 This 'Statement of Licensing Policy' has been prepared in accordance with the provisions of the 2003 Act and having regard to the revised Guidance issued under Section 182 of the Act. It ~~has been~~ was originally drafted in partnership with the Essex Joint Licensing Officers Forum, Brentwood Crime and Disorder Reduction Partnership and the Brentwood Drug and Alcohol Reference Group. These partnerships provide links to the Essex Chief Executives Association, who will maintain a strategic overview of all issues associated with the Licensing Act 2003.

- 3.3 This Policy Statement will remain in force for a period of not more than ~~3~~ 5 years. It will be subject to regular review and further consultation prior to January 2021.

- 3.4 When making and publishing its policy, the Licensing Authority must have regard to the Secretary of State's Guidance, as amended. The Licensing Authority may depart from this Licensing Policy if the individual circumstances of any case merit such a decision in the interests of the promotion of the Licensing Objectives and if this situation arises the Licensing Authority will give full reasons for doing so.

- 3.5 It is possible that during a consultation period, or soon after publication of a policy, the statutory guidance issued by the Secretary of State may be subject to revision leading to some temporary inconsistencies between the two documents. In such circumstances, the Licensing Authority will have regard to the revised guidance as well as its licensing policy.

4.0 Consultation

- 4.1 There are a number of groups who have a stake in the leisure industry, including providers, customers, residents and enforcers, all of whom have views and concerns that require consideration as part of the licensing function and promotion of the licensing objectives.

- 4.2 In developing this Policy Statement, the Licensing Authority consulted widely.

- 4.3 Along with the statutory consultees (including the Chief Police Officer for the Borough, the Essex County Fire and Rescue Service and persons/bodies representative of existing licence holders) the views of Borough Councillors, Local MPs and MEPs, Town and Parish Councils, bodies representing various minority groups and disabled people were also sought. Due consideration was given to the views of all those who responded to the consultation process.

5.0 Links to Other Strategies

- 5.1 In preparing this Statement of Licensing Policy, the Licensing Authority has had regard to and consulted those involved in its local strategies on crime prevention, planning, transport, culture, equality and diversity, tourism and regeneration, to ensure the proper co-ordination and integration of the aims and actions of these strategies. Review and amendment of these strategies will be considered for their impact on this Statement of Licensing Policy.
- 5.2 To ensure proper integration with the Council's planning policies, the Licensing Committee will provide reports to the Development Control Committee, where appropriate, on the situation regarding licensed premises in the area, including the general impact of alcohol related crime and disorder, to enable the Development Control Committee to have regard to such matters when making its decisions.
- 5.3 The Council recognises its responsibilities under the Race Relations Act, 1976, as amended by the Race Relations (Amendment) Act, 2000, the Equality Act 2006, the Disability Discrimination Act 2005 and other related legislation. The impact of this policy on race relations, equality issues and disabled people will be monitored through the Council's equality and diversity policies and strategies and the Licensing Authority will take these responsibilities into account when dealing with applications.

6.0 Regulated Entertainment

- 6.1 Having regard to the Council's Corporate Plan, 2013 – 2016, and its' Cultural Strategy, a diverse provision of cultural leisure and entertainment activities ~~is~~are welcomed for the benefit of communities. The Licensing Authority will monitor the licensing of regulated entertainment, especially with regard to live and recorded music and dancing, theatrical performances, ~~circuses~~, etc., to ensure that such events are promoted without unreasonable restrictions being imposed, which would discourage such events. The Licensing Authority will need to balance the natural concern to prevent disturbance in neighbourhoods with the wider cultural benefits, particularly the cultural benefits for children. Advice and guidance on this matter will be sought from the appropriate services within Brentwood Borough Council but will also include outside forums where appropriate.
- 6.2 Certain forms of entertainment have been deregulated by the Government under a variety of legislative changes as highlighted in Appendix xx. The Licensing Authority supports the ability for local residents and business to enjoy the freedoms brought about by these changes. It will work with other agencies to ensure that entertainment giving rise to concern is addressed by the appropriate authority and in the appropriate manner.

6.3 Particularly with regard to deregulated live and recorded music the licensing authority will consider removal of the exemption where it is shown that a public nuisance is being caused.

7.0 Applications

7.1 When considering applications, the Licensing Authority will have regard to:-

- (a) The Licensing Act 2003, and the licensing objectives.
- (b) Government guidance issued under Section 182 of the Licensing Act 2003
- (c) Any supporting regulations.
- (d) This Statement of Licensing Policy.

7.2 This does not, however, undermine the rights of any person to apply under the 2003 Act for a variety of permissions and have the application considered on its individual merits, nor does it override the right of any person to make representations on any application or seek a review of a licence or certificate where they are permitted to do so under the 2003 Act.

7.3 When the Licensing Authority is considering any application, it will avoid duplication with other regulatory regimes, so far as possible, and does not intend to use the licensing regime to achieve outcomes that can be achieved by other legislation. In particular, its licensing functions will be discharged separately from the Authority's functions as the local planning authority. **However, applications for premises licences for permanent commercial premises should normally be from businesses with planning consent for the property concerned.** (Other permissions may be applicable to licensed premises and applicants are expected to ensure that such permissions are obtained where necessary).

7.4 The Licensing authority recognises that in some circumstances, longer licensing hours may help to avoid concentrations of customers leaving premises simultaneously, which may reduce the potential for disorder. It is also recognised that overly restrictive hours may inhibit the development of the night time economy that is important for investment, employment and tourism. When determining applications before a licensing sub-committee, the Authority will seek to balance these factors against the requirement to promote the four licensing objectives and the amenity of local residents.

7.5 When one part of the Council seeks a premises licence from the Licensing Authority, the Licensing Committee and its officers will consider the matter from an entirely neutral standpoint. If relevant representations are made, for example, by local residents or the Police, they will be considered fairly by the committee. Those making representations who are aggrieved by a positive decision in favour of a Local Authority application by the Licensing Authority will be entitled to appeal to the Magistrates' Court and thereby receive an independent review of any decision made.

7.6 In all cases, applicants and those making representations in respect of applications to the Licensing Authority have a right of appeal to the Magistrates' Court against the decisions of the Licensing Authority.

7.7 Appendix A provides applicants with the details of the application process, having regard to the Licensing Act 2003, as amended, the regulations, statutory guidance and local practice and procedures. It should be noted that an incomplete or incorrect application will not be accepted but will be returned with an explanation of why it is incomplete or incorrect.

7.8 An application will only be deemed to be properly submitted if it has been given as follows:-

(a) Sent to the Licensing Authority by electronic means through the online application section of the Council Website

(b) By post and sent to the address shown below:-

Brentwood Borough Council
Town Hall
Ingrave Rd
Brentwood
Essex
CM15 8AY

or

(c) Delivered in person to the above address during normal office opening hours.

8.0 Temporary Events

8.1 Certain temporary events are not required to be licensed but must be notified to the Licensing Authority using the Temporary Event Notice procedure. However, depending on the nature and location of such events, these can have serious crime and disorder implications. Organisers of these events are encouraged to submit their notification as soon as reasonably practicable to enable the Police and the Licensing Authority to work with them to identify and reduce the risk of crime and disorder, (see Appendix A for details regarding the application process and timescales for the submission of Temporary Event Notices).

9.0 Minor Variations

9.1 Applications for Minor Variations will be considered in respect of minor changes to the plan structure or layout of the premises, small changes to the licensing hours, the removal or addition of conditions, where appropriate, the removal or addition of licensable activities (where permitted by legislation) and any other minor matter, in all cases where it is considered that there will be no adverse impact on promotion of the licensing objectives.

9.2 A simplified process will be adopted for minor variations, whereby the Licensing Authority will consult with any relevant responsible authority as it may determine to be appropriate in the context of the application. Whilst the Licensing Authority will consider all applications on their individual merit, it will be normal practice to refuse an application in favour of a full variation, should any representations be received unless agreement can be reached that satisfies the representation. However, in the absence of any representation the minor variation would normally be granted provided that it is considered that in so doing there is no likelihood of any adverse impact on the licensing objectives.

10.0 Representations

10.1 The Chief Officer of Police, the Fire and Rescue Authority, the Enforcing Authority for health and safety purposes, the Local Planning Authority, the authority responsible for Environmental Health, the local weights and measures (Trading Standards) authority, the director of Public Health, the Child Protection Authority and this Licensing Authority are all known as 'Responsible Authorities'. These responsible authorities may make representations on applications, so far as they relate to the promotion of the four licensing objectives, and request reviews once licences have been granted.

10.2 Any other person i.e. (but not exhaustively) Local residents and businesses, in the vicinity of the premises subject to the application, or their representatives, are free to raise relevant representations. Members of the Licensing Authority may also make representations ~~as interested parties~~ as an individual. A representation would only be relevant if it relates to the effect of the grant of the licence on the promotion of at least one of the four licensing objectives. In addition, the representation must not be frivolous or vexatious, and in the case of reviews not repetitious.

10.3 When a Member of the Licensing Authority makes representation, this should normally be made as an individual member of the public unless they have specifically been asked by an individual(s) to make representation on their behalf. In such cases, representation may be made as a Member of the Council, however, it should be made clear, who and how many residents are being represented.

10.4 Where a representation is made, the Licensing Authority will determine whether it is relevant to one or more of the licensing objectives.

10.5 Representations are only considered relevant if they relate specifically to the likely effect of the grant of the licence on one or more of the licensing objectives at, or in the immediate vicinity of the subject premises and if they are not frivolous or vexatious.

10.6 Representations that are not relevant will be rejected; however, where time permits the author will be advised as to why the representation is considered invalid and given opportunity to make a relevant representation.

10.7 Where relevant representations are made, the Licensing Authority must provide copies of those representations to the applicant. Representations cannot be made anonymously.

10.8 In exceptional circumstances a person making representation may be reluctant for their personal details to be disclosed to the applicant due to fears of intimidation or violence. Where the Licensing Authority considers that a person making a valid representation has a genuine and well-founded fear in relation to disclosure of their personal details, their name and address will still be required by the Licensing Authority but may be withheld from the copy of the representation sent to the applicant.

10.9 Where no relevant representations are received, the Licensing Authority **must** grant the licence or certificate as applied for subject only to conditions that are consistent with the operating schedule and any mandatory conditions as may be prescribed under provision of the Licensing Act or any amendment to it.

11.0 Conditions

11.1 Licensing is about the appropriate control of licensed premises, qualifying clubs, temporary events and the people who manage them or hold personal licences within the terms of the 2003 Act.

11.2 In order to minimise representations, to fully consider all relevant matters relating to promotion of the licensing objectives and to reduce the requirement for hearings, it is advised that applicants for the grant or variation of a premises licence or club premises certificate should consult with responsible authorities (in particular with the Police and Environmental Health) before finalising their operating schedules.

11.3 Where relevant representations are made, the Licensing Authority will seek to make objective judgments as to whether conditions may need to be attached to various authorisations in order to secure ~~achievement~~ promotion of the licensing objectives.

11.4 Any conditions arising from the operating schedule or as a result of representations will primarily focus on the direct impact of the activities taking place at licensed premises on those attending the premises and members of the public living, working or otherwise engaged in normal activity in the area concerned. These conditions will cover matters that are within the control of individual licensees and others with relevant responsibilities.

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

- a) Planning controls
- b) Positive measures to create a clean and safe environment in partnership with local businesses, transport operators and other departments of the local authority
- c) The provision of CCTV surveillance in Town Centres
- d) Availability of taxi ranks
- e) Provision of public conveniences
- f) Street cleaning and litter patrols

- g) Powers of the local authority to designate parts of the local authority area as places where alcohol may not be consumed publicly
- h) Police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices
- i) The prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk
- j) The confiscation of alcohol from children and adults in designated areas
- k) Police and/or local authority powers to close down instantly for up to 24 hours any licensed premises or temporary event on grounds of disorder or noise emanating from the premises causing a nuisance
- l) The power of the Police, other responsible authorities or individuals to seek a review of a premises licence or club premises certificate
- m) Action under the Violent Crime Reduction Act 2006
- n) Anti-Social behaviour powers

11.6 If an applicant volunteers a prohibition or restriction in their operating schedule because their own risk assessment has determined such prohibition or restriction to be appropriate, such volunteered prohibitions or restrictions will become conditions attached to the licence, or certificate and will be enforceable as such.

11.7 The Licensing Authority recognises that all applications should be considered on an individual basis and any condition attached to such a licence will be tailored to each individual premise, in order to avoid the imposition of disproportionate and other burdensome conditions on those premises. Although the Licensing Authority may maintain a pool of conditions which may be produced to assist applicants and others, standard or blanket conditions, other than mandatory conditions, will be avoided and no condition will be imposed that cannot be shown to be necessary appropriate and proportionate for the promotion of the licensing objectives.

Duplication

11.8 Duplication caused by licence conditions for matters that are dealt with by other legislation, for example health and safety at work or fire safety, will be avoided. Conditions will only be attached to the grant of any licence or certificate that are appropriate for the promotion of the licensing objectives if they are not already provided for in other legislation. However, certain safety legislation includes exemptions because it is assumed that licensing controls will provide the necessary coverage, in such cases, conditions may be imposed.

12.0 Delegation of Functions

12.1 With the exception of the approval and review of its Licensing Policy and the making of early morning alcohol restriction orders Policy consideration of various general discretionary powers, such as Cumulative Impact Policy (CIP), Late Night Levy and Early Morning Restriction Orders (EMRO), decisions on licensing matters will be taken in accordance with an approved scheme of delegation aimed at underlining the principles of timely, efficient and effective decision- making.

13.0 The Need for Licensed Premises

13.1 There can be confusion about the difference between “need” and the “cumulative impact” of premises on the licensing objectives. “Need” concerns the commercial demand for another pub or restaurant or hotel. This is not a matter for a licensing authority in discharging its licensing functions or for its Statement of Licensing Policy.

14.0 Cumulative Impact of a Concentration of Licensed Premises

14.1 “Cumulative impact” ~~means-refers to~~ the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. The cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for a licensing authority to consider when reviewing its Licensing Policy Statement.

14.2 The Licensing Authority acknowledges that a concentration of licensed premises in a particular area can result in an increased number of people walking through or congregating in streets during the night with the potential impact of an increase in crime, anti-social behaviour, noise pollution and other disturbance to residents, together with an increase in littering or fouling. In such cases the amenity of local residents can be placed under severe pressure but this may not be attributable to any individual premises.

14.3 The Licensing Authority will only adopt a special policy on cumulative impact if there is evidence that a significant number of licensed premises concentrated in one area are resulting in unacceptable levels of crime and disorder or public nuisance.

14.4 However, the cumulative impact of licensed premises in a particular area may, ~~at a future time, be considered at any time, should significant evidence become available of general alcohol related crime or disorder that cannot be associated with any one individual premises. A request of this nature may take the form of a representation from residents or businesses or a responsible authority and this will,~~ trigger the consideration of whether any additional licences or ~~substantial~~ variations to existing licences, to increase such aspects as capacity or operating hours, would lead to an unacceptable saturation in an area. In such cases, the Licensing Authority will follow the procedure set out in the Secretary of State's Guidance to determine whether a special policy covering cumulative impact should be incorporated in the Statement of Licensing Policy.

14.5 If a 'special policy' were to be created it would take the form of a presumption that applications for both new and variations to premises licences, club premises certificates and Temporary Event Notices would be refused if relevant representations were received. In order to rebut this presumption, an applicant would need to address the issues raised in the representations (and under the terms of the special policy) by means of their operating schedule and demonstrate that the operation of their business will not add to the cumulative impact of the area.

14.6 The existence of a 'special policy' does not mean that a responsible authority, resident or 'other person' need not make representations about any application, as if no representations are received this must be granted by the Licensing Authority on the terms applied for as a process of law. If representations are received, the licensing sub-committee will consider if there are any grounds to justify a departure from its special policy in the individual circumstances of the application.

14.7 The Licensing Authority, having regard to current evidence and being aware of other measures that are available to the Local Authority and Police to address such issues, considers that there is no particular part of the Borough causing a cumulative impact on any of the licensing objectives at this time. This position is kept under constant review and therefore, should it be considered at a future time that it would be appropriate to introduce a special policy the reasons will be published and full consultation undertaken in accordance with the requirements of the Act.

15.0 Advice and Guidance

15.1 The Licensing Authority recognises the valuable cultural, social and business importance that premises and events requiring a licence under the Licensing Act 2003, as amended, provide and welcomes the diversity of activities that are provided by licence holders. In respect of new businesses and developments involving licensable activities, the Licensing Authority welcomes an early opportunity to offer advice and guidance whether before or after planning permission has been sought. At this stage, it is often easier and more cost effective to integrate issues such as crime and disorder, transport and public safety into the early design stages. With regard to existing businesses, discussions prior to submitting an application under the Licensing Act 2003, will be encouraged to assist applicants to develop their operating schedule. The Licensing Authority, Essex Police and/or Essex County Fire and Rescue Service will offer as much advice and guidance to applicants as resources permit.

15.2 The Licensing Authority will also seek to liaise with applicants and/or mediate between applicants and others who may make representations, to achieve a satisfactory outcome for all involved, wherever possible and where resources permit. Where an applicant considers that mediation and liaison may be likely or probable, it is recommended that the applicant discuss his proposal with the Licensing Authority's Licensing Section and those from whom they think representations are likely prior to submitting their application. Once an application has been lodged, there are statutory timescales imposed upon the application and determination process, which restrict the opportunity for such discussions, liaison and mediation.

15.3 Appendix XX provides details of various organisations, trade associations and reference literature that an applicant may find useful in preparing an operating schedule and running a safe premises / event.

16.0 Reviews

- 16.1 Where possible and appropriate the Licensing Authority, ~~Essex Police and/or Essex County Fire and Rescue Service~~ or other responsible authorities will give early warning to licence holders of any concerns about problems identified at premises and of the need for improvement.
- 16.2 Responsible authorities ~~and/or interested parties living in the vicinity~~ businesses or any other person can trigger a review of a premises licence but an evidentiary basis would be required to be presented to the Licensing Authority. The review application and any representations made relating to that application must be relevant to the promotion of the licensing objectives and must not be frivolous, vexatious or repetitive.
- 16.3 In stating that a review may not be repetitive this means that no more than one review from ~~interested parties~~ individuals will normally be permitted within any 12 month period on similar grounds in respect of the same licensed premises, except in exceptional and compelling circumstances.
- 16.4 There is no appeal against the decision of the Licensing Authority to reject any application for a review other than by way of a Judicial Review.
- 16.5 This Authority will not consider anonymous representations; however, the Licensing Authority accepts that in exceptional circumstances, a member of the public may not wish to provide their personal details to the licence or certificate holder. In those circumstances the member of the public might consider providing the relevant Responsible Authority with details of how they consider the licensing objectives are being undermined so that the Responsible Authority can consider whether it is appropriate for it to apply for a review.

17.0 Enforcement

- 17.1 The Council delivers a wide range of enforcement services aimed at safeguarding the environment and the community and at providing a 'level playing field' on which businesses can fairly trade. The administration and enforcement of the licensing regime is one of these services. The Licensing Authority has adopted ~~the Government's Enforcement Concordat~~ an enforcement policy, which aims to promote the principles of openness, helpfulness, proportionality, consistency, targeting, transparency and accountability, having been designed to ensure effective and efficient public protection services. Specifically, the Licensing Authority is committed to accord with the principles of good enforcement practice by carrying out its regulatory functions in a fair, open and consistent manner.
- 17.2 The Licensing Authority recognises the interests of both citizens and businesses and will work closely, with partners, to assist licence holders to comply with the law and the four licensing objectives it seeks to promote. However, proportionate but firm action will be taken against those who commit serious offences or consistently break the law. The Licensing Authority has set clear standards of service and performance that the public and businesses can expect. In particular, a Licensing Enforcement Policy has been adopted that explains how the Council will undertake its role as Licensing Authority and how the principles of effective enforcement will be achieved.

17.3 The Licensing Authority has established an Enforcement Protocol with Essex Police, Essex County Fire and Rescue Service and (Essex County Council) Trading Standards [on enforcement issues](#). This protocol [provides for the targeting of resources](#) towards high-risk premises and activities that require greater attention, while providing a lighter touch in respect of low risk premises that are well operated. [A copy of the protocol is available on the Council website.](#)

18.0 Licensing Objectives

18.1 The following sections set out the Licensing Authority's Policy relating specifically to the four licensing objectives:

- (a) The Prevention of Crime and Disorder.
- (b) Public Safety.
- (c) The Prevention of Public Nuisance.
- (d) The Protection of Children from Harm.

18.2 In each section relating to the objectives, the Licensing Authority has defined its intended outcome (in bold type). Each section then lists the influencing factors on the achievement of that objective but, because of the wide variety of premises and activities to which this policy applies, the lists provided are not exhaustive. **Applicants should know their premises best and will be expected to address all aspects relevant to the individual style and characteristics of their premises and events.**

18.3 Further, in each section, a list of possible control measures is provided, to be of assistance to applicants, but again is not intended to be an exhaustive list. Many control measures achieve more than one objective but have not necessarily been listed under each objective. Similarly, applicants will not be required to mention a control measure more than once in their operating schedule.

18.4 **The selection of control measures, referred to in 18.3 above, should be based upon a risk assessment of the premises, events, activities and the customers expected to attend (e.g. their age, number, etc.).** Whilst the Licensing Authority cannot require such risk assessments to be documented, (other than where required by other legislation), it considers such documentation to be good practice and a useful tool in the instruction and training of staff, as well as a sound basis for review by the licence holder, in the event of him/her wishing to make application for variation or in response to changing circumstances/conditions at the premises.

18.5 Additional measures may be necessary on an occasional or specific basis such as when a special event (e.g. popular live band) or promotion (e.g. during major sporting occasions) is planned, which is intended to, or likely to attract larger audiences and/or audiences of a different nature, and which can have a significant impact on the achievement of the licensing objectives. **Reference must be made in an applicant's operating schedule, where applicable, to such occasions and the additional measures that are planned in order to achieve the licensing objectives.**

18.6 The Licensing Authority considers the effective and responsible management of the premises, instruction, training and supervision of staff and the adoption of

best practice to be amongst the most essential control measures for the achievement of all the licensing objectives. **For this reason, these elements should be specifically considered and addressed within an applicant's operating schedule.**

18.7 In addition, the occupancy capacity for premises, and events as appropriate, is also considered to be an essential factor in the achievement of the four licensing objectives, (except in respect of premises licensed exclusively for the consumption of food and/or alcohol off the premises). **The Licensing Authority will expect the issue of occupancy capacity to be considered and addressed, where necessary, within an applicant's operating schedule and, in most instances, will agree a maximum occupancy capacity, based on the applicant's assessment within their operating schedule.**

18.8 The design and layout of premises are important in determining capacity, as is the availability and size of exits within recommended travel distances. Other factors should also be considered when assessing the appropriate capacity for premises or events. These include:-

- (a) The nature of the premises or event.
- (b) The nature of the licensable activities being provided.
- (c) The provision or removal of such items as temporary structures, such as a stage, or furniture.
- (d) The number of staff available to supervise customers both ordinarily and in the event of an emergency.
- (e) The age of the customers.
- (f) The attendance by customers with disabilities, or whose first language is not English.
- (g) The availability of suitable and sufficient sanitary accommodation.
- (h) The nature and provision of facilities for ventilation.

18.9 The Licensing Authority will consider applications for minor variations to premises licences, provided that the Authority is satisfied that the variation will not adversely impact on the licensing objectives and the Licensing Authority will consult with Responsible Authorities whom they deem necessary to make such assessment.

18.10 The agreement to a capacity for premises or events should not be interpreted as a requirement to also provide permanent monitoring arrangements such as door staff, attendance clickers or maintenance of attendance records. The Licensing Authority recognises that the person in charge of the premises can often readily assess the occupancy level of the premises without resort to such measures. **However, where the capacity is likely to be reached (such as on known busy evenings) and particularly where a special event or promotion is planned, the applicant will be expected to detail the additional arrangements that will be put in place to ensure that the capacity of the premises is not exceeded.**

19.0 Prevention of Crime & Disorder

19.1 Brentwood Borough Council, through its Corporate Strategy is committed to further improving the quality of life for the people of the Borough of Brentwood by continuing to reduce crime and the fear of crime.

- 19.2 Section 17 of the Crime and Disorder Act 1998 introduced a wide range of measures for preventing crime and disorder and imposed a duty on Brentwood Borough Council, Essex Police, Essex County Council and others to consider crime and disorder reduction in the exercise of all their duties. The Licensing Act 2003, as amended, reinforces this duty for local authorities.
- 19.3 The promotion of the licensing objective, to prevent crime and disorder, places a responsibility on licence holders to become key partners in achieving this objective. **Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to reduce or prevent crime and disorder on and in the vicinity of their premises, relevant to the individual style and characteristics of their premises and events.**
- 19.4 When addressing the issue of crime and disorder, the applicant should demonstrate that those factors that impact on crime and disorder have been considered. These may include:-
- (a) Underage drinking.
 - (b) Drunkenness on premises.
 - (c) Public drunkenness.
 - (d) Drugs.
 - (e) Violent behaviour.
 - (f) Anti-social behaviour.

Control Measures Relating to Crime and Disorder

- 19.5 The following examples of control measures are given to assist applicants who may need to take account of them in their operating schedule, having regard to their particular type of premises and/or activities:-
- (a) Effective and responsible management of premises.
 - (b) Training and supervision of staff.
 - (c) Adoption of best practice guidance (e.g. Safer Clubbing, the National Alcohol Harm Reduction Strategy Toolkit and other voluntary codes of practice, "Security in Design", "Drugs and Pubs" which are published by the British Beer and Pub Association [BBPA])
 - (d) Acceptance of accredited 'proof of age' cards e.g. PASS, locally approved 'proof of age' cards, e.g. 'Prove It' and/or 'new type' driving licences with photographs.
 - (e) Provision of effective CCTV in and around premises.
 - (f) Employment of Security Industry Authority licensed door staff.
 - (g) Provision of toughened or plastic drinking vessels.
 - (h) Provision of secure deposit boxes for confiscated items ('sin bins').
 - (i) Provision of litterbins and other security measures, such as lighting, Outside premises.
 - (j) Membership of local 'Pubwatch' schemes or similar organisations.
 - (k) Use of specialist equipment such as a High Frequency Deterrent Device known as a 'Mosquito Device' in order to deter and drive away congregations of young persons outside premises.

20.0 Designated Premises Supervisor [DPS]

- 20.1 Within the operating schedule for premises from which alcohol will be sold, with the exception of qualifying community premises, a Premises Supervisor must be designated ("Designated Premises Supervisor") and such person must be in possession of a current Personal Licence. The Licensing Authority will normally expect the Designated Premises Supervisor [DPS] to have been given the day to day responsibility for running the premises by the premises licence holder and, as such, would normally be present on the licensed premises on a regular basis. In addition to the DPS holding a personal licence, the Licensing Authority would strongly encourage the DPS to undergo additional training and to have experience commensurate with the nature and style of entertainment provided and the capacity of the premises.
- 20.2 The Act does not require a DPS or any other Personal Licence Holder to be present on the premises at all times when alcohol is sold. However, the DPS and the Premises Licence Holder remain responsible for the premises at all times and have a duty to comply with the terms of the Licensing Act and any conditions, including the matters set out in the premises' Operating Schedule, in order to promote the Licensing Objectives. To that end, the Licensing Authority will be mindful of the Guidance issued by the Secretary of State, which recommends that a Personal Licence Holder/DPS gives specific written authorisations to those individuals they are authorising to retail alcohol. Although written authorisation is not a requirement of the Act and the Designated Premises Supervisor/Personal Licence Holder remain ultimately responsible for ensuring compliance with the Act and licensing conditions, this action could assist in demonstrating due diligence should any issues arise with regard to enforcement. The Licensing Authority will therefore expect that where the Personal Licence Holder/DPS does not have the premises under their immediate day to day control, written authorisations will be issued to staff acting on their behalf, such authorisations being made available for inspection by a responsible Officer of the Licensing Authority or the Police upon request.

21.0 Public Safety

- 21.1 The Licensing Authority is committed to ensuring that the safety of any person visiting or working in licensed premises is not compromised. **To this end, applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to ensure public safety, relevant to the individual style and characteristics of their premises and events.**

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

- (a) The occupancy capacity of the premises.
- (b) The age, design and layout of the premises, including means of escape in the event of fire.
- (c) The nature of the licensable activities to be provided, in particular the sale or supply of alcohol, and/or the provision of music and dancing and including whether those activities are of a temporary or permanent nature
- (d) The hours of operation (differentiating between the hours of opening from

- the hours when licensable activities are provided, if these are different)
- (e) The Customer profile (e.g. age, disability)
- (f) The use of special effects such as lasers, pyrotechnics, smoke machines, foam machines, etc.
- (g) Compliance with the Disability Discrimination Act etc.

Control Measures Relating to Public safety

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

- (a) Suitable and sufficient risk assessments.
- (b) Effective and responsible management of premises.
- (c) Provision of a sufficient number of people employed or engaged to secure the safety of the premises and patrons.
- (d) Appropriate instruction, training and supervision of those employed or engaged to secure the safety of the premises and patrons.
- (e) Adoption of best practice guidance (e.g. Guide to Fire Precautions in Existing Places of Entertainment and Like Premises, The Event Safety Guide, Safety in Pubs published by the BBPA).
- (f) Provision of effective CCTV in and around premises.
- (g) Provision of toughened or plastic drinking vessels.
- (h) Implementation of crowd management measures.
- (i) Proof of regular testing (and certification where appropriate) of procedures, appliances, systems etc., pertinent to safety.

22.0 Prevention of Public Nuisance

22.1 Licensed premises have a significant potential to impact adversely on communities through public nuisances that arise from their operation. The Licensing Authority wishes to maintain and protect the amenity of residents and other businesses from the consequence of the operation of licensed premises whilst recognising the valuable cultural, social and business importance that such premises provide.

22.2 The Licensing Authority intends to interpret “public nuisance” in its widest sense, and takes it to include such issues as noise, light, odour, litter and anti-social behaviour, where these matters impact on those living, working or otherwise engaged in normal activity in an area.

22.3 Applicants need to be clear that the Licensing Authority will normally apply stricter conditions, including controls on licensing hours, where licensed premises are in residential areas and where relevant representations have been received. Conversely, premises for which it can be demonstrated have effective measures planned to prevent public nuisance, may be suitable for 24-hour opening.

- 22.4 In the case of shops, stores and supermarkets selling alcohol, the Licensing Authority will normally permit the hours during which alcohol is sold to match the normal trading hours during which other sales take place, unless there are exceptional reasons relating to disturbance or disorder.
- 22.5 **Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to prevent public nuisance, relevant to the individual style and characteristics of their premises and events.**
- 22.6 When addressing the issue of prevention of public nuisance, the applicant must demonstrate that those factors that impact on the likelihood of public nuisance have been considered. These may include:-
- (a) The location of premises and proximity to residential and other noise sensitive premises, such as hospitals, hospices and places of worship.
 - (b) The hours of opening, particularly between 23.00 and 07.00.
 - (c) The nature of activities to be provided, including whether those activities are of a temporary or permanent nature and whether they are to be held inside or outside premises.
 - (d) The design and layout of premises and in particular the presence of noise limiting features.
 - (e) The occupancy capacity of the premises.
 - (f) The availability of public transport.
 - (g) A 'wind down period' between the end of the licensable activities and closure of the premises.
 - (h) A last admission time.

Control Measures Relating to Public Nuisance

- 22.7 The following examples of control measures are given to assist applicants who may need to take account of them in their operating schedule, having regard to their particular type of premises and/or activities:-
- (a) Effective and responsible management of premises.
 - (b) Appropriate instruction, training and supervision of those employed or engaged to prevent incidents of public nuisance, e.g. to ensure customers leave quietly.
 - (c) Control of operating hours for all or parts (e.g. garden areas) of premises, including such matters as deliveries and collections.
 - (d) Adoption of best practice guidance (e.g. Good Practice Guide on the Control of Noise from Pubs and Clubs, produced by the Institute of Acoustics, Licensed Property: Noise, published by BBPA).
 - (e) Installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices.
 - (f) Management of people, including staff, and traffic (and resulting queues) arriving and leaving premises.
 - (g) Liaison with public transport providers.
 - (h) Sighting of external lighting, including security lighting.
 - (i) Management arrangements for collection and disposal of litter including the provision of appropriate receptacles.
 - (j) Clearly showing the name of the premises on all disposable packaging

- used for takeaway food and/or hot drinks.
- (k) Effective ventilation systems to prevent nuisance from odour.
- (l) Use of specialist equipment such as a High Frequency Deterrent Device known as a 'Mosquito Device' in order to deter and drive away congregations of young persons outside premises.

23.0 Protection of Children from Harm

- 23.1 The protection of children from harm is a most important issue. It is hoped that family friendly premises will thrive, but the risk of harm to children remains a paramount consideration when determining applications.
- 23.2 The general relaxation in the Licensing Act 2003, as amended, giving accompanied children greater access to licensed premises is a positive step, aimed at bringing about a social change in family friendly leisure. Clearly this relaxation places additional responsibilities upon licence holders. However, it is also recognised that parents and others accompanying children also have responsibilities.
- 23.3 The protection of children from harm includes the protection of children from moral, psychological and physical harm and in relation to the exhibition of films, or transmission of programmes or videos, this includes the protection of children from exposure to strong language and sexual expletives. In certain circumstances children are more vulnerable and their needs will require special consideration. Examples would include topless bar staff, striptease, lap, table or pole dancing, performances involving feigned violence or horrific incidents, feigned or actual sexual acts or fetishism, or entertainment involving strong and offensive language. This vulnerability includes their susceptibility to suggestion, peer group influences, inappropriate example, the unpredictability of their age and the lack of understanding of danger. This applies to premises licensed under the Licensing Act, 2003, as amended, only and not those fully licensed and regulated as sexual entertainment venues under the Local Government (Miscellaneous Provisions Act) 1982.
- 23.4 The Licensing Authority considers that, on the one hand, there should be no presumption of giving children access or, on the other hand, no presumption of preventing their access to licensed premises unless this is necessary for the prevention of physical, moral or psychological harm to them. The Licensing Authority has no intention of imposing conditions requiring the admission of children and where no licensing restriction is necessary, admission of children will remain entirely a matter for the discretion of the individual licensee or club, or person who has given a Temporary Event Notice.
- 23.5 **Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to protect children from harm, relevant to the individual style and characteristics of their premises and events.**
- 23.6 Whilst children may be adequately protected from harm by the action taken to protect adults, they may also need special consideration and no policy can anticipate every situation. When addressing the issue of protecting children from harm, the applicant must demonstrate that those factors that impact on harm to children have been considered. Areas that will give particular concern in respect of children include:-

- (a) Where entertainment or services of an adult or sexual nature are commonly provided;
- (b) Where there have been convictions of members of the current staff at the premises for serving alcohol to minors or with a reputation for underage drinking;
- (c) Where requirements for proof of age cards or other age identification to combat the purchase of alcohol by minors is not the norm;
- (d) With a known association with drug taking or dealing;
- (e) Where there is a strong element of gambling on the premises, and
- (f) Where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.

Control Measures Relating to the Protection of Children from Harm

23.7 The following examples of control measures are given to assist applicants and are considered to be amongst the most essential that applicants should take account of in their operating schedule, having regard to their particular type of premises and/or activities:-

- (a) Effective and responsible management of premises.
- (b) Provision of a sufficient number of people employed or engaged to secure the protection of children from harm.
- (c) Appropriate instruction, training and supervision of those employed or engaged to secure the protection of children from harm.
- (d) Adoption of best practice guidance (Public Places Charter, The Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks).
- (e) Limitations on the hours when children may be present in all or parts of the premises.
- (f) Limitations or exclusions by age when certain activities are taking place (e.g. feigned or actual sexual acts or fetishism, etc.).
- (g) Imposition of requirements for children to be accompanied by an adult.
- (h) Measures to ensure children do not purchase, acquire or consume alcohol.
- (i) Measures to ensure children are not exposed to incidences of violence or disorder.
- (j) Limitations on the parts of premises to which children might be given access.

These examples can be adopted in any combination.

24.0 Film Exhibitions

24.1 **In the case of film exhibitions, the Licensing Authority will expect licence and certificate holders and those who have given notice of a Temporary Event within the terms of the 2003 Act to implement measures that restrict children from viewing age-restricted films classified according to the recommendations of the British Board of Film Classification or the Council. In the case of a film exhibition that has not been classified, the Licensing Authority will expect the licensee to conduct an assessment of**

the suitability of the film for exhibition to children and to implement measures that restrict viewing by children if necessary.

- 24.2 If considered appropriate, the Licensing Authority may require that adult supervisors be checked for suitability to work with children.
- 24.3 The Licensing Authority will rarely impose complete bans on access to children. However, in exceptional circumstances, conditions restricting access or excluding children completely may be considered necessary.

25.0 Events and Event Risk Assessments

25.1 Organisers of larger events, events for 'one off' special occasions and/or any event that may lead to concern over addressing or promoting any licensing objective are advised to seek early advice from the Council licensing team or Safety Advisory Group (SAG). This will ensure that bona fide events, including those for charitable purposes may be considered and advice given at an early stage so as to ensure that all risks are identified and measures may be put in place to permit a successful event with minimal risk to the safety of the public and the other objectives of the Act.

25.2 It should be noted that currently neither Disc Jockeys nor events promoters are licensed or regulated in any way. Whilst it is not suggested that there is a general concern over such persons, there have been documented cases of issues that have breached the licensing objectives. The adequate control of persons providing a service of this type under the terms of a Premises Licence or other authorisation issued under the Act is the responsibility of the licence holder. In order that the licence holder may maintain full control of such events and minimise the risks in relation to the breach of any licensing objective, applicants are encouraged to complete both pre and post event risk assessments. Either the Licensing Authority or Essex Police would be pleased to advise in this respect.

26.0 Suspension of Premises Licences

26.1 The licence holder is responsible for ensuring that the annual licence fee is paid in full by the due date. Under measures imposed by the Police Reform and Social Responsibility Act 2012, failure to pay the annual fee in respect of a Premises Licence or Club Premises Certificate will result in suspension of the licence or certificate.

26.2 If a licence or certificate is suspended due to an unpaid annual fee, this will mean that licensable activity will not be lawfully permitted until such time as the fee is paid and the licence or certificate has been reinstated, in writing, by the Licensing Authority.

27.0 Smoking – Health Act 2007

27.1 As from 1 July 2007, it became illegal in England to smoke in virtually all enclosed public places and workplaces. The ban includes offices, factories, shops, pubs, clubs, bars, restaurants and public transport.

27.2 Businesses are required to display signs containing prescribed information at the entrance to any premises. Further information is available from the department of health at www.smokefreeengland.co.uk.

27.3 One of the results of the Health Act is that customers wishing to smoke are often attracted to premises that have a 'beer garden' or designated outdoor smoking areas. This can lead to more consumption of alcohol outside of licensed premises. Although smoking is not a licensable activity, it may clearly at times be associated with a licensable activity, namely the sale of alcohol and may therefore be viewed as an area that requires consideration of possible control measures in the interests of avoiding a public nuisance.

27.4 There may be occasions where licensees are required (following representation or application for a review) to control areas and/or hours for such activity and/or have conditions imposed upon their licence if this is deemed appropriate and proportionate in promoting one or more of the licensing objectives and in particular the prevention of public nuisance.

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APPENDIX A

DETAILS OF APPLICATION PROCESS

GENERAL INFORMATION

1. GRANT OF A PREMISES LICENCES

- (a) All applications to be made under the provisions of the Licensing Act 2003, as amended, must be made in the form specified by the Secretary of State and appropriate application packs will be issued. Details of how to submit an application online can be found on the Council's website.
- (b) Guidance Notes providing full details of how to apply, documentation required and other information designed to assist applicants with the submission of their application will accompany the application pack. Further information can be obtained on the Council's website.
- (c) On receipt of an application, the Licensing Authority will check the form and the accompanying documents to ensure that their copy of the application is complete. If the application is not complete, the application will be rejected and all documentation, including the fee, will be returned to the applicant together with an explanation of why the application cannot be accepted. If the application is submitted electronically and is found not to be complete the applicant will be notified, by e-mail, that the application has been rejected.
- (d) Copies of all applications submitted to the Licensing Authority, in paper format, must also be forwarded to the Responsible Authorities as detailed in the Guidance Notes at the same time that the application is sent to the proper office of the Licensing Authority as shown in the Licensing Policy. The Responsible Authorities' contact details are also included in Appendix 'C' attached to the Licensing Policy. An application is not deemed as complete unless the Responsible Authorities have been served and received a copy of the application, together with any supporting documents and plan(s) of the premises, on the same day that the application is submitted to the Licensing Authority. For applications submitted online the Licensing Authority will forward copies of complete applications to the Responsible Authorities.
- (e) The Licensing Authority will notify the Responsible Authorities that an application has been received and will request confirmation that they have received their copy. If a copy of the application has not been received by any of the consultees by noon the day following the submission of the application to the Licensing Authority, the application will be rejected and all documents, including the fee received by the Licensing Authority will be returned. This will mean that the applicant will have to submit a completely new application.
- (f) If the application is confirmed as being complete, with the Responsible Authorities having received their copy of the application together with any supporting documentation, then the timescale laid down by the Government will

commence, namely, that an application for the grant or variation of a Premises Licence must be determined within a period of two months from the date a complete application is received, otherwise the application will be deemed as granted (under the EU Services Directive this is known as a Tacit Consent).

- (g) The applicant and the Licensing Authority will be informed by the relevant consultee whether or not the application is valid, i.e. that their relevant Licensing Objective has been fully met within their business Operating Schedule and if a representation [objection] is to be lodged. If a representation is received a date will be set for the application to be heard by one of the Premises/Personal Licences Sub-Committees. In the meantime, the applicant and the consultee will be expected to meet and negotiate with a view to that representation being withdrawn and therefore remove the necessity for a Hearing to take place.
- (h) On the day that the application has been submitted, a notice to that effect has to be displayed on the premises for a period of 28 days so that members of the public may be aware that an application has been submitted to the Licensing Authority allowing them to make representations if they so wish. The notice must be coloured blue and shall be no less than a minimum of A4 in size with a type size of not less than 12 pitch. The application will also be required to be advertised in a local newspaper in the area in which the premises are situated. If a representation is received which is relevant to one of the four Licensing Objectives, a Hearing will be required. A provisional date for the Hearing will be set and all parties will be advised. In the meantime, the Licensing Authority will initiate a meeting with the applicant and the person making the representation with a view to seeing if an agreement can be reached and the representation withdrawn. If this cannot be achieved, a firm Hearing date will be set and all parties will be advised.
- (i) If no representations are received from any source by the relevant expiry date, the application will be dealt with by Council Officers and the licence issued on the terms and conditions as requested.
- (j) If an application has to be heard by the Licensing Sub-Committee, the decision and the reasons for arriving at that decision will be given to all parties as soon as possible after the decision has been reached. Any party who disagrees with the decision of the Licensing Authority has the right of appeal to the Magistrates' Court and they will be informed of their right of appeal when they receive notification of that decision.

2. VARIATION OF A PREMISES LICENCE

- (a) The appropriate application pack will be issued, together with guidance notes, which will state the documents required to be submitted with the application. Applications can also be submitted online.
- (b) The application procedure for the variation of a Premises Licence will follow the same procedural steps as for the grant of a Premises Licence as set out in 1, above. The exception being that of a Minor Variation Application. Applicants for a Minor Variation are advised, in the first instance, to contact the Licensing Section for advice prior to submission. .

- (c) The Act states that a licence may not be varied so as to extend the period for which the current licence has effect nor to seek to vary substantially the premises to which the existing Licence(s) relates. If applicants are in any doubt as to whether they should apply for a variation of their Premises Licence or make a grant application, they should seek advice from the Licensing Authority.

3. TRANSFER OF A PREMISES LICENCE

- (a) The appropriate application pack will be issued, together with guidance notes, which will state the documents required to be submitted with the application. Applications can also be submitted online.
- (b) Although procedural arrangements follow those set out in 1. above, it should be noted that only the Police Authority must be consulted and receive a copy of the application and that the period for the receipt of representations from this source is 14 days. For applications submitted electronically the Licensing Authority will serve a copy of the application on the Police Authority.
- (c) If no representations are received, the application will be granted in accordance with 1(i) above.
- (d) If a representation is received then a Hearing will be arranged in accordance with the procedure set out in 1. above.

4. DESIGNATED PREMISES SUPERVISOR

GRANT/SUBSTITUTION OF DESIGNATED PREMISES SUPERVISOR

Where a licensable activity includes the sale of alcohol, the applicant has to include in his application details of the person he wishes to be specified in the Premises Licence as the Designated Premises Supervisor, unless the premises are Community Premises and a dispensation has been sought. Should it be necessary to request that the licence be varied so as to substitute another person to act as the Designated Supervisor the following procedure is to be adopted:-

- (a) An application shall be submitted to the Licensing Authority in the specified format, together with the documentation specified in the Guidance Notes. Applications can also be submitted online.
- (b) A copy of the notice shall be served upon the Police Authority. For applications submitted electronically the Licensing Authority will serve a copy of the notice on the Police Authority.
- (c) A copy of the notice shall be served upon the Designated Premises Supervisor [if there is one]
- (d) It will be necessary to state whether the application requires the variation to take immediate effect.

- (e) The procedure for determining the application follows the normal procedure set out in 3. above in that, if there are no representations from the Chief Officer of Police, the application must be granted.
- (f) If representations are received, the Licensing Authority will notify all parties and, unless the representation is withdrawn, a Hearing will be held in accordance with the procedure already detailed in this Appendix.

REMOVAL OF DESIGNATED PREMISES SUPERVISOR

- (a) Where an individual wishes to cease being the Designated Premises Supervisor in respect of a Premises Licence he or she may give the Licensing Authority notice to that effect, the notice to be in writing together with the documentation required for the particular type of notice being given and detailed in the Guidance Notes. Applications can also be submitted online.
- (b) Within 48 hours of the notice being served upon the Licensing Authority, the individual must [unless he or she is the Premises Licence holder] serve a copy of the notice and another notice requiring the Premises Licence holder to send the Premises Licence to the Licensing Authority. The Premises Licence holder must comply with this request within 14 days of that notice.
- (c) Provided that the proper notices are served and documentation supplied within the specified timescales, the Licensing Authority will no longer treat that individual as the Designated Premises Supervisor.

5. PROVISIONAL GRANT APPLICATIONS

The Licensing Act 2003, as amended, permits the granting of Provisional Licences to allow applications to be accepted for the grant of a Premises Licence where the actual premises has not been built or where works are necessary to be carried out to bring the building into use for any purposes covered by the Act. Guidance notes will be available for those persons wishing to make this type of application and may be obtained from the Licensing Authority upon request.

6. INTERIM AUTHORITY NOTICES

- (a) Should a Premises Licence lapse due to the death, incapacity or insolvency of the licence holder, then an application may be made to the Licensing Authority for an Interim Authority Notice to enable the premises to continue to trade pending a transfer application being made. This may be made in paper format or electronically.
- (b) An application may be submitted by a Personal Representative, a person holding a Power of Attorney or an Insolvency Practitioner.

- (c) As soon as the Interim Authority Notice is given, the Premises Licence will be reinstated as from that time and the person who gave the notice will be considered to be the holder of the Premises Licence.
- (d) The Premises Licence will lapse after a period of 28 days unless a copy of the notice has been given to the Chief Officer of Police or a Transfer application has been submitted to the Licensing Authority.
- (e) If no representation is received, the application will be processed by Officers of the Licensing Authority.
- (f) If the Chief Officer of Police wishes to object to the transfer on the grounds of the Crime and Disorder Licensing Objective he must, within 48 hours of receiving the notice, give notice to the Licensing Authority stating the reasons for this decision and, unless the representation is withdrawn, a Hearing will be arranged in accordance with the procedure set out above.
- (g) There is nothing to prevent the person giving the Interim Authority Notice from making a transfer application if it is made during the Interim Authority period or if the application for the Interim Authority application is rejected or withdrawn or if the licence lapses again at the time of rejection or withdrawal.
- (h) In certain circumstances, the Interim Authority Notice may be cancelled if the Crime and Disorder objective is being undermined and the Act provides the procedure which must be followed in this event.

7. REINSTATEMENT OF LICENCE

The Act provides that an application for the reinstatement of a licence following the events set out in Paragraph 6 above can be made when the Interim Authority Licence ceases to have effect when it is cancelled or withdrawn. The application must be made no later than seven days after the licence has lapsed and where an application for transfer has been made.

8. GRANT/RENEWAL OF A PERSONAL LICENCE

- (a) An individual must apply for the grant of a Personal Licence to the Licensing Authority in whose area they are ordinarily resident. The renewal of the Personal Licence must be submitted to the original Licensing Authority where the licence was first issued or,
- (b) If not so resident, to any Licensing Authority.
- (c) The application should be accompanied by the required supporting documentation or a statement as to why such documents are not being supplied.
- (d) A renewal application cannot be made more than three months before the expiry date of the existing licence, but no later than two months prior to that expiry date.

- (e) Only one Personal Licence may be held by an individual at any one time.
- (f) The criteria to be met for the grant of a Personal Licence will be contained in the appropriate application pack.
- (g) Where the criteria are not met with regard to age, qualifications or forfeiture of a personal licence, the application will be rejected. In the case whereby the applicant has been convicted of a relevant offence, the Chief Officer of Police will be notified. If a representation is received from that source under the Crime and Disorder objective and is not withdrawn or considered by the applicant, the police and the Licensing Authority to be unnecessary, then a Hearing will be held to determine the application.
- (h) At the present time it is not possible to apply for a Personal Licence electronically.

9. APPLICATIONS SUBMITTED ELECTRONICALLY

All online applications must be submitted by way of the ELMS Portal provided by Business Link UK. For further information, please go to www.ukwelcomes.businesslink.gov.uk

APPENDIX B

DELEGATION OF FUNCTIONS

Matter to be dealt with	Licensing Committee	Premises/Personal Licences Sub-Committee	Officers
Application for Personal Licence		If a Police objection	If no objection made
Application for Personal Licence with unspent convictions		All cases	
Application for Premises Licence/Club Premises Certificate		If a relevant representation made	If no relevant representation made
Application for Provisional Statement		If a relevant representation made	If no relevant representation made
Application to vary Premises Licence/Club Premises Certificate		If a relevant representation made	If no relevant representation made
Application to vary Designated Premises Supervisor		If a Police objection	All other cases
Request to be removed as Designated Premises Supervisor			All cases
Application for transfer of Premises Licence		If a Police objection	All other cases
Applications for Interim Authorities		If a Police objection	All other cases
Application to review Premises Licence/Club Premises Certificate		All cases	
Decision on whether complaint is irrelevant, frivolous, vexatious, etc.			All cases
Decision to object when Local Authority is a consultee and not the relevant authority considering the application		All cases	
Determination of a Police objection to a Temporary Event Notice		All cases	

Useful Contacts

The following contact details for the Responsible Authorities under the Licensing Act 2003 are provided for the service of premises and club applications and to enable pre-application discussions to take place.

Licensing Authority

Brentwood Borough Council, Town Hall, Ingrave Road, Brentwood, Essex CM15 8AY
Principal Licensing Officer: Mr G O'Shea 01277 312500
Email: licensing@brentwood.gov.uk

Responsible Authorities

Essex Police

Epping Police Station, High Street, Epping, Essex CM14 4AP
Contact: Peter Jones 101 ext: 318156
Email: peter.jones@essex.pnn.police.uk

Essex County Fire & Rescue Service

Basildon & Brentwood Service Delivery, c/o Fire Station, Broadmayne, Basildon, Essex SS14 1EH
Contact: Station Officer G Owles 01376 576705
Email: garry.owles@essex-fire.gov.uk

Planning Authority

Brentwood Borough Council, Town Hall, Ingrave Road, Brentwood, Essex CM15 8AY
Contact: Duty Planning Officer 01277 312500
Email: planning@brentwood.gov.uk

Health & Safety Team*

Brentwood Borough Council, Town Hall, Ingrave Road, Brentwood, Essex CM15 8AY
Contact: District Environmental Health Officer 01277 312500
Email: hoehpps@brentwood.gov.uk

Pollution Team

Brentwood Borough Council, Town Hall, Ingrave Road, Brentwood, Essex CM15 8AY
Contact: District Environmental Health Officer 01277 312500
Email: hoehpps@brentwood.gov.uk

Trading Standards

Information and Business Support Team, Essex Trading Standards, New Dukes Way Office, 2 Beaufort Road, Dukes Park Industrial Estate, Chelmsford, Essex CM2 6PS

Email: TSInformationAndBusinessSupportTeam@essexcc.gov.uk

Childrens Safeguarding Service

Head of Child Protection (Licensing Applications), Essex County Council, 70 Duke Street, County Hall, Chelmsford, Essex CM1 1YS

Email: Sian Fordham at licenceapplications@essexcc.gov.uk

Local Health Board

Public Health, Licensing Administration, North Essex Cluster, Essex County Council, A1 Block, Market Road, Chelmsford, Essex, CM1 1QH

Kathy.Taylor@northeastessex.nhs.uk

APPENDIX D

TEMPORARY EVENT NOTICES

APPLICATION PROCESS / TIMESCALES

TEMPORARY EVENT NOTICES

If an event is to be held at a premises where the Premises Licence does not authorise the activity involved and/or for the times and days sought, an application should be made to the Licensing Authority for a Temporary Event Notice.

The main points to bear in mind are:-

- ❑ Anyone aged 18 or over may apply to hold a Temporary Event [TEN] and, if the supply of alcohol is involved, they do not have to possess a Personal Licence.
- ❑ The applicant must be over 18 years old.
- ❑ The period of time over which the event is to be held must not exceed 96 hours.
- ❑ The maximum number of people attending the event, including staff, should not exceed 500 at any one time. If more than 500 people are to attend the event, then a Premises Licence would be required.
- ❑ There must be a minimum period 24 hours between one TEN and the next TEN.

The number of times that a premises may be used for a TEN or that an individual may apply for a TEN are restricted as follows:-

- ❑ The same premises cannot be used on more than 12 occasions in any calendar year. Also, each premises is subject to an overall aggregate of 15 days' use, irrespective of the number of individual occasions on which they have been used.
- ❑ The number of notices given by one individual within a given period of time is limited:-
 - (i) A Personal Licence Holder is limited to 50 notices in one calendar year, which is deemed to run from 1 January in each year.
 - (ii) Any other person to 5 notices in the same period.
[N.B. This limitation applies to England and Wales, not just this Licensing Authority]
- ❑ There is also a limitation attached to 'Associated Persons' in order to prevent the above restrictions being exceeded. Generally, an Associated Person would be deemed to include the immediate family, down to child, parent, grandchild, brother or sister, an agent or employee of the original applicant and the agent's or employee's spouse.

IF YOU ARE IN ANY DOUBT WITH REGARD TO THE ABOVE, PLEASE CONTACT THE LICENSING SECTION FOR ADVICE.

APPLICATION PROCESS

The application form should be completed in accordance with the printed instructions accompanying the form. An application fee of £21.00 is required to accompany the application and the form should be submitted in duplicate to the Licensing Authority, one copy of which will be returned to you signed on behalf of the Licensing Authority and a copy of the application form should also be sent to the Police. Applications can also be submitted online. In such cases the Licensing Authority will forward a copy to the Police. You must give a full ten working days' notice prior to the event being held otherwise your application will be rejected. Only the Police are permitted to object to the granting of a Temporary Event Notice, however if the granting of the application would exceed any of the limitations/conditions set out above, the Licensing Authority may issue a Counter Notice, which will cancel the Temporary Event Notice that has been submitted. The Licensing Authority is allowed to give advice on Noise, Nuisance or Health & Safety issues, etc., and applicants are advised to contact the Authority for such advice.

If the Police wish to object to the application, they must do so within 48 hours of the notification being received and in this case a Hearing will be convened unless all parties following discussions agree that this will not be necessary. If the Licensing Authority upholds the Police representation, then a Counter Notice will be issued giving the reasons for the decision and copies of the Notice will be given to the Police. However, if the Temporary Event noticed is in order and no Counter Notice is given, the Licensing Authority will record the event in the Licensing Register and the event will proceed.

Service of Temporary Event Notice

In order for your Notice to be deemed as having been properly served, you should proceed in accordance with the Temporary Event procedures set out at the end of the application form. The form should be completed in accordance with the instructions contained in the form, which should be submitted as follows:-

- (a) Two copies to the Licensing Authority at the following address:

The Licensing Officer, Brentwood Borough Council, Town Hall, Ingrave Rd,
Brentwood. Essex CM15 8AY
- (b) One copy to Essex Police at the following Address:

Brentwood Police Station, London Road, Brentwood, Essex CM14 4QJ

For applications submitted electronically the Licensing Authority will forward a copy to Essex Police.

N.B. When accepting an application for a Temporary Event Notice, the Licensing Authority will assume that the applicant has ensured that all the necessary permissions and planning consents have been obtained to enable the particular event to take place.

Appeals

If, as a result of the Police lodging a representation, the Licensing Authority issues a Counter Notice, the premises user has the right of appeal. However, there is no right of appeal where the limits have been exceeded with regard to the number of persons attending the event or where the applicant has not given the required ten working days' notice.

Similarly, if the Police lodge a representation and the Licensing Authority does not issue a Counter Notice, the Police may appeal against that decision.

In both cases the appeal is made to the Magistrates' Court within 21 days, commencing on the day which either party was notified of the decision either to issue - or not issue - a Counter Notice. However, no appeal may be brought later than 5 working days before the first day of the relevant event period.