



**Stevenage**  
**BOROUGH COUNCIL**

**LICENSING ACT 2003**

**LICENSING POLICY 2011-2014**

Consultation Period  
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# **1. Purpose and Scope of the Licensing Policy.**

- 1.1.1 Stevenage Borough Council is situated in the County of Hertfordshire. The Borough is mostly urban consisting of 6 planned residential neighbourhoods, each with a local centre with facilities such as public houses, small supermarkets/grocers/off licences and community centres. There are areas of more commercial activity such as found in the High Street, the Town Centre and the Leisure Park. Designated as Britain's first new town in 1946, the Council area has a population of approximately 78,000 making it the smallest district council in the County in terms of population. In terms of area it is also the smallest, covering approximately 20 square miles. The town is located on the A1(M) just 30 miles from London and 15 minutes from the M25. Rail connections are good, being situated on the East Coast London to Edinburgh line, and both Luton and Stanstead airports are within easy travelling distance.
- 1.1. Stevenage Borough Council is the licensing authority under the Licensing Act 2003 (the Act) and has the responsibility for granting premises licences, club premises certificates, temporary event notices and personal licences in the Borough in respect of the sale and/or supply of alcohol and the provision of regulated entertainment and late night refreshment.
- 1.2. Details of the numbers of licences in force can be found at <http://www.stevenage.gov.uk/business/licencesandstreettrading/licensingact2003publicregister> or by telephoning the Licensing Team on 01438 242259.
- 1.3. The Act requires the licensing authority to prepare and publish its licensing policy every three years. The policy must be published before the licensing authority carries out any function in respect of applications made under the terms of the 2003 Act. The licensing authority will keep under review the policy and may make such revisions to it as it considers appropriate, regarding the statutory objectives are being met.
- 1.4. The Act requires the licensing authority to carry out its licensing function so as to promote the four licensing objectives:
- 1. The prevention of crime and disorder**
  - 2. Public safety**
  - 3. The prevention of public nuisance**
  - 4. The protection of children from harm.**
- 1.5. Before the licensing authority determines its policy for any three year period, its must consult with those persons listed in section 5(3) of the Act. These are:
- a. The chief officer of police for the borough;
  - b. The fire authority for the borough;
  - c. Persons/bodies representative of local holders of premises licences;
  - d. Persons/bodies representative of local holders of club premises certificates;
  - e. Persons/bodies representative of local holders personal licences;
  - f. Persons/bodies representative of business and residents in the borough.
- 1.6. The licensing authority recognises, in particular, that as part of implementing its cultural strategy, proper account will have to be taken of the need to encourage and promote live music, dancing and theatre for the wider cultural benefit of the community. Any conditions that may be required will not, therefore, discourage the promotion of such entertainment but will relate solely to the promotion of the licensing objectives.

- 1.7. The specific activities which require a licence under the provisions of the Act and which are covered in the policy statement include:
- The retail sale of alcohol (including via the internet or mail order);
  - The supply of alcohol to members of a registered club;
  - The provision of entertainment to the public or to members of a club or events with a view to making profit to which the public are not admitted including raising money for charity where the entertainment involves:
    - a theatrical performance
    - a film exhibition
    - any indoor sporting event including boxing or wrestling
    - the performance of live music
    - the playing of recorded music
    - a 'dance' performance
    - the provision of facilities for dancing or for making music
    - and/or entertainment of a similar nature such as karaoke
  - The supply of any hot food or drink between 23:00 and 05:00 hours.
- 1.8. In determining a licence application, the principle adopted by licensing authority will be that each application will be determined on its merits. In considering every application, under the terms of this policy, regard will be given to Government guidance under Section 182 of the Licensing Act, the Licensing Act 2003 generally and to any supporting regulations issued by Central Government.
- 1.9. Any individual preparing an operating schedule is at liberty to volunteer any measures as a step he or she intends to take to promote the licensing objectives. When incorporated into the licence or certificate as a condition, they become enforceable under the law and a breach of such a condition could give result in prosecution.

## **2. Policies, Strategies & Initiatives**

- 2.1. The licensing authority will continue to promote and work in partnership to discharge its responsibilities identified by other Government and local strategies and initiatives, where they impact on the objectives of the Licensing Act. National strategies and initiatives are;
- Stevenage PubWatch Scheme
  - Alcohol Harm Reduction Strategy
  - Tackling Drugs to build a Better Britain
  - Action plan to Tackle Alcohol Related Crime
- 2.2. The licensing authority will consider each application on its own merits, but may make reference to other adopted Council policies including;
- Community Safety Action Plan
  - Crime and Disorder Strategies
  - Enforcement Concordat.
  - Arts and Heritage Strategy.
- 2.3. Stevenage PubWatch has been developed to enhance the safety, security, comfort and well being of customers and staff for all types of premises. The licensing authority will take an active part in the scheme and will actively work with all licence holders to promote a Voluntary Code of Practice in respect of discounting of alcoholic drinks and responsible drinking campaigns

- 2.4. The licensing authority will fully support and assist in the development of a Code of Practice for the use of proof of age of patrons using venues within Stevenage Borough
- 2.5. Orders made by the Council under the Police and Criminal Justice Act 2001 to control the drinking of alcohol in the streets will be regularly reviewed along with this policy.

### **3. Culture, Live Music, Dancing and Theatre**

- 3.1. The licensing authority wishes to encourage and promote live music, dance and theatre for the wider cultural benefit of the community. We will seek to obtain a balance between the potential for limited neighbourhood disturbance and the benefits of cultural activities, particularly for children, and will not allow the views of vocal minorities to predominate over the general interests of the community.
- 3.2. We will only attach licence conditions that are reasonable, proportionate, and strictly necessary for the promotion of the licensing objectives. We are aware of the need to avoid measures as far as possible that deter live music, dancing and theatre for example by imposing indirect costs of a disproportionate nature.
- 3.3. We will monitor the impact of licensing on regulated entertainment in the Borough, particularly on live music and dancing. If there is evidence that licensing requirements deter such activities, we will consider how to prevent it, and if necessary will change this Policy.
- 3.4. The licensing authority is aware of the value to the community of a broad range of cultural entertainments, particularly live music, dancing and theatre. We wish to encourage them for the benefit of all.
- 3.5. The Council has sought in its own name premises licences for appropriate public spaces within the Borough. There are such licences in place for Fairlands Valley Park and King George V Playing Fields. Further licences may be sought in the Council's name; for the current position, please check the website address referenced in paragraph 1.3. This will make it easier for people to organise suitable cultural events. We will consider any request for permission to use such public spaces for cultural activities.
- 3.6. Consideration will be given to the particular characteristics of any event, including the type, scale and duration of the proposed entertainment, especially where limited disturbance only may be caused.
- 3.7. Incidental performance of live music or the playing of recorded music may not be regarded as regulated entertainment under the Act in certain circumstances. This is where they are incidental to another activity which is not entertainment or the provision of entertainment facilities. Whether or not music is incidental to other activities will be judged on a case by case basis but:
  - The playing of live or recorded music at volumes which predominate other activities at a premises would not normally be regarded as incidental;
  - A juke box played at moderate levels would normally be regarded as incidental to the other activities.
- 3.8. Spontaneous performance of music, singing or dancing does not amount to the provision of regulated entertainment, unless facilities are provided and made available for the purpose or purposes to enable the entertainment to take place.

## Circuses

- 3.9. The Licensing Authority recognises that some uncertainty exists as to whether circuses fall within the remit of the Licensing Act 2003.

Should a circus wish to sell alcohol, or provide late night refreshment, it would be necessary for the event organiser to apply for the relevant permissions in accordance with the Licensing Act 2003.

The Licensing Authority has a licence in place for the area known as Fairlands Valley, where historically, circuses have held performances. Any person wishing to hold a circus in this area would need to obtain permission from the premises licence holder (Stevenage Leisure Limited), and would be required to comply with the conditions of the licence for this area.

## **4. Cumulative Impact and Special Policies**

- 4.1. The licensing authority will not take 'need' into account when considering an application, as this is a matter for planning control and the market. However, it recognises that the cumulative impact of the number, type and density of licensed premises in a given area may lead to serious problems of nuisance and disorder outside and some distance from the premises.
- 4.2. Representations may be received from a responsible authority/ interested party that an area has become saturated with premises making it a focal point for large groups of people to gather and circulate away from the licensed premises themselves, creating exceptional problems of disorder and nuisance over and above the impact from the individual premises.
- 4.3. There may be situations where the licensing authority would be unlikely to grant further licences in one particular area, where it believes that this would, even if a licence were granted subject to conditions, not allow the licensing authority to fulfil its obligations under the Act.
- 4.4. The following assessments will be made whether to adopt the above approach:
- Identify concern about crime and disorder or public nuisance
  - Consider whether there is good evidence that crime and disorder or nuisance are happening and are caused by the customers of licensed premises, or that the risk of cumulative impact is imminent
  - Identify the boundaries of the area where problems are occurring
  - Consult with those specified in section 5(3) of the 2003 Act, and those who are subject to the outcome of the consultation
  - Include and publish details of special policy in the licensing policy statement
- 4.5. The licensing authority will consider representations based on the impact on the promotion of the licensing objectives in the Borough generally of the grant of the particular application in front of them.
- 4.6. The licensing authority will review any such policies described in the above paragraph, every three years to see whether they have had the effect intended, and whether they are still needed.
- 4.7. The licensing authority will not use such policies solely:
- as the grounds for removing a licence when representations are received about problems with existing licensed premises, or,

- to refuse modifications to a licence, except where the modifications are directly relevant to the policy, for example where the application is for a significant increase in the capacity limits
- 4.8. The licensing authority recognises that the diversity of premises selling alcohol, serving food and providing entertainment covers a wide range of contrasting styles and characteristics and will have full regard to those differences and the differing impact these will have on the local community.
- 4.9. The licensing authority also recognises that, within this policy, it may be able to approve licences that are unlikely to add significantly to the saturation, and will consider the circumstances of each individual application.
- 4.10. The licensing authority will expect Operating Schedules to satisfactorily address these issues.

## **5. Licensing Hours**

- 5.1. The Government's view is that longer licensing hours should be encouraged in the interests of avoiding a concentration of disturbance while ensuring that nuisance is minimised to local residents. It is widely believed by the Government that shops and public houses generally would be permitted to sell alcohol during hours they intend to operate. Entertainment providers should be encouraged to provide a range of entertainment during their operating hours and to promote live music, dancing and theatre for the wider cultural benefit of the community.
- 5.2. The licensing authority understands the view of Government and accepts the principle of 24 hour opening for licensed premises, but considers that it is self evident that a risk of disturbance to residents is greater when licensable activities continue late into the night and the early hours of the morning. It also realises the majority of licensed premises will not wish to remain open for 24 hours even if their licence permits it. Where an applicant applies to extend their current opening hours, the licensing authority will expect their operating schedule to detail the measures to be taken to ensure the licensing objectives have been addressed, and where necessary for small businesses to comply with the necessary licensing objectives.
- 5.3. The licensing authority recognises that longer licensing hours for the sale of alcohol would avoid large numbers of people leaving premises at the same time, which in turn could reduce the friction at late night fast food outlets, taxi ranks, minicab offices and other sources of transport that can lead to disorder and disturbance.
- 5.4. Fixed trading hours within designated areas will not be set as this could lead to significant movements of people across boundaries at particular times seeking premises opening later, with the attendant concentration of disturbance and noise.
- 5.5. This would treat residents in one area less favourably than those in another would, as well as causing the peaks of disorder and disturbance the Act is trying to avoid.
- 5.6. The licensing authority will deal with the issue of licensing hours having due regard to the individual merits of each application. However, consideration will be given to imposing stricter conditions in respect of noise control where premises are situated in mainly residential areas and representations have been made to the licensing authority.
- 5.7. This policy will not attempt to artificially introduce staggered closing times and the concept of a lock in period after which no further customers are to be admitted to the premises, is unlikely to be applied.



## Shops, Stores and Supermarkets

- 5.8. The licensing authority will generally consider licensing shops, stores and supermarkets to sell alcohol for consumption off the premises at any times they are open for shopping.
- 5.9. However, it may consider there are very good reasons for restricting those hours, for example, where police representations are made in respect of isolated shops known to be the focus of disorder and disturbance.

## **6. Representations**

- 6.1. The Police and other responsible authorities including any Environmental Health Officers from this or any other local authorities may make representations to the licensing authority in respect of proposals. Local residents and traders should also feel free to raise reasonable and relevant representations although there is a preliminary stage at which the licensing authority must determine whether the representation is relevant, vexatious or frivolous. If the licensing authority so determine, no hearing will be convened.

## **7. Licence Conditions**

- 7.1. Licensing is about the control of licensed premises, qualifying clubs and temporary events within the terms of the Act, where representations are made and if considered necessary, conditions will be attached to licences, certificates and permissions that will cover matters which are within the control of individual licensees and any mandatory conditions prescribed in the 2003 Act itself.
- 7.2. The licensing authority may not impose any condition unless it has been satisfied at a hearing of the necessity to impose conditions due to the representations raised. It will then only impose conditions necessary to promote the licensing objectives.
- 7.3. When considering conditions, the licensing authority will primarily focus on the impact of the activities taking place at licensed premises, on members of the public living, working or engaged in normal activity in the vicinity of the premises. The vicinity means, where the premises can be identified as the cause.
- 7.4. The licensing authority acknowledges that the licensing function is not be used for the general control for the anti-social behaviour by individuals when they are beyond the direct control of the licensee and the vicinity of any premises concerned. However, as a matter of policy, the council expects every holder of a licence, certificate or permission to be responsible for minimising the impact of their activities and any anti-social behaviour by their patrons.
- 7.5. In this respect, the licensing authority recognises that, apart from the licensing function, there are a number of other mechanisms available for addressing issues of unruly behaviour that can occur away from licensed premises, including:
  - planning controls;
  - ongoing measures to create a safe and clean environment in these areas in partnership with local businesses, transport operators and other Council Departments;
  - designation of parts of the Borough as places where alcohol may **not** be consumed publicly;

- regular liaison with the Police on law enforcement issues regarding disorder and anti-social behaviour, including the issue of fixed penalty notices, prosecution of those selling alcohol to people who are drunk; confiscation of alcohol from adults and children in designated areas and instantly closing down licensed premises or temporary events on the grounds of disorder, or likelihood of disorder or excessive noise from the premises;
  - the power of the police, other responsible authority or a local resident or business to seek a review of the licence or certificate.
- 7.6. The licensing authority is currently addressing many of these issues through the Community Safety Partnership to create a safe and secure Stevenage, in line with the strategic objectives for crime and disorder reduction within the Borough.
- 7.7. The licensing authority shall also endeavour to work with other local authorities and other enforcement agencies, particularly in Hertfordshire and Bedfordshire, to ensure a consistent approach is taken to licensing matters whilst respecting the differing needs of the individual communities throughout the area.
- 7.8. Operating Schedules for licensed premises licences are the key to ensuring compliance with the four licensing objectives.
- 7.9. In the vast majority of cases, the terms of the Operating Schedule should translate into the licence conditions that set out how the business will be run. The licensing authority will endeavour to work in full co-operation with licensees and applicants to minimise the number of disputes that may otherwise arise in this area.
- 7.10. Prospective holders of new premises licences, and those seeking variations to existing premises licences, are advised to consult with the council's licensing officers and the various responsible authorities at the earliest possible planning stages in order to reduce the risk of confusion and dispute arising.
- 7.11. The licensing authority will seek to impose the minimum conditions necessary on events and premises that present the lowest risk to public safety, particularly where such events are charitable in nature.
- 7.12. Conditions attached to licences or certificates will be tailored to the individual style and characteristics of the particular premises and events concerned.
- 7.13. However, where considered appropriate, and necessary for the promotion of the Licensing Objectives, the licensing authority may consider attaching Conditions drawn from the relevant Model Pools of Conditions set out in the Guidance under Section 182 of the Licensing Act 2003. This document is available at:

[http://webarchive.nationalarchives.gov.uk/+http://www.culture.gov.uk/reference\\_library/publications/6796.aspx](http://webarchive.nationalarchives.gov.uk/+http://www.culture.gov.uk/reference_library/publications/6796.aspx)

#### Mandatory Conditions

- 7.14. The Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010 SI 2010/860 introduced new mandatory conditions as part of a revision to s.19 of the Act that takes effect from the 6th April 2010 and 1st October 2010 respectfully. The Council will not be re-issuing all existing licences so as to include these conditions as the s.182 Guidance has confirmed at para 10.53 that this is not necessary.
- 7.15. The conditions will apply automatically to all premises licences and club premises certificates that authorise the sale or supply of alcohol for consumption on the premises. Only condition 4 of SI 2010/860 will apply to premises licensed for the sale or supply of alcohol for consumption off the premises.

- 7.16. Condition 1 of SI 2010/860 refers to ‘irresponsible drinking promotions’ in relation to the retail sale of alcohol for consumption on the premises. In consider this issue, the Licensing Authority will have regard to the Guidance issued by the DCMS and the Home Office publication ‘Selling Alcohol Responsibly: The New Mandatory Licensing Conditions’, dated April 2010.
- 7.17. Whilst the Home Office publication makes it clear that certain promotions will no longer be permissible, such as ‘all you can drink for £10’, the Licensing Authority will consider the merits of each promotion, whilst being mindful that for a promotion to be considered irresponsible, it must be a promotion that carries significant risk of leading or contributing to crime and disorder, prevention of public safety, causes a public nuisance or exposes children to harm.

### Minor Variations

- 7.18. The licensing authority is aware of the administrative burden and the associated costs of making an application to vary either a premises licence or club premises certificate, for changes that bear no impact on the licensing objectives.
- 7.19. Whilst the authority recognises that conditions cannot be imposed as a result of an application for a minor variation, it does recognise that applicants do have the facility to include proposed operating schedule conditions as part of their application. In this instance, the authority will actively encourage dialogue between the applicant and the responsible authorities, and/or interested parties and businesses in the vicinity of the premise, in order that the applicant can include such measures that may address potential concerns that could alleviate representations being made.

## **8. Licensing Objectives**

### **8.1. General**

- 8.1.1. The following sections set out Stevenage Borough Council Licensing Policy relating specifically to each of the four licensing objectives.
- 8.1.2. All applicants will need to provide evidence to the licensing authority in respect of each of the four licensing objectives information which is relevant to the individual style and characteristics of their premises and events. Existing licensed premises will only be required to supply such information to which a variation is being applied for.
- 8.1.3. Special measures may be required occasional or for specific type of event such as when a popular live band or promotions are planned, which are intended, or likely to attract larger audiences or audiences of a different nature. These can often have a significant impact on the achievement of the licensing objectives. Reference should be made in the applicants operating schedule where applicable, to such occasions and the additional measures, which are planned to achieve the licensing objectives.

### **8.2. Prevention of crime and disorder.**

- 8.2.1. The proximity of entertainment venues to residential and other premises is an issue requiring detailed assessment in order to minimise the potential for crime and disorder problems arising from patrons.
- 8.2.2. In addition to the requirements for the licensing authority to promote the licensing objectives, it also has a duty under Section 17 of the Crime and Disorder Act 1998 to do all it reasonable can to prevent crime and disorder in the Borough.

- 8.2.3. The licensing authority will consider attaching conditions to licences when representations are made, to deter and prevent crime and disorder both inside and within the immediate vicinity of the premises, these may include Conditions drawn from the Model Pool of Conditions relating to Crime and Disorder or from the premises operating schedule.
- 8.2.4. In considering all licence applications, the licensing authority will consider the adequacy of measures proposed to deal with the potential for crime and disorder having regard to all the circumstances of the application and when representations have been received. The licensing authority will particularly consider:
- Control over any areas other than the public highways.
  - the steps taken or proposed to be taken, by the applicant to prevent crime and disorder.
  - the use of special promotions.
  - any known association with drug taking or dealing.
  - any criminal record, including formal cautions, of the licensee or any person with a significant interest in the business.
  - the giving of false or misleading information by the applicant in the operating schedule or verbally to licensing authority or other enforcement officers.
  - the supply of alcohol for which the requisite excise duty has not been paid.
- 8.2.5. When addressing crime and disorder the applicant should identify any particular issues (particular to type of premises and /or activities) which are likely to adversely affect the promotion of the crime and disorder objective. Any steps as identified issues should be included with the applicants operating schedule.

### **8.3. Public Safety**

- 8.3.1. The Act covers a wide range of premises that require licensing, including, cinemas, concert halls, theatres, nightclubs, public houses, cafes/restaurants and fast food outlets and takeaways.
- 8.3.2. Each of these types of premises present a mixture of risks, with many common to most premises and others unique to specific operations. It is essential that premises are constructed or adapted and operated so as to acknowledge and safeguard occupants against these risks.
- 8.3.3. The licensing authority will expect Operating Schedules to satisfactorily address these issues.
- 8.3.4. It should be noted that conditions relating to public safety should be those that are necessary, in the particular circumstances of any individual premises or club premises, and should not duplicate other requirements of the law. Equally, the attachment of conditions to a premises licence or club premises certificate will not in any way relieve the duty holder of the statutory duty to comply with the requirements of other legislation. These include the Health and Safety at Work (etc) Act 1974, associated regulations, the requirements under the Management of Health and Safety at Work Regulations 1999 and the Regulatory Reform (Fire Safety) Order 2005 to undertake risk assessments. Duty holders should assess the risks, including risks from fire and take measures necessary to avoid and control these risks. Conditions enforcing those requirements would therefore be unnecessary. However, these regulations will not always cover the unique circumstances that arise in connection with licensing and entertainments at specific premises. It is in these cases that licence conditions will be used as appropriate.

- 8.3.5. The licensing authority will consider attaching Conditions to licences and permissions where representations have been made, in order to promote safety, these may include Conditions drawn from parts 2 and 3 of the Model Pool of Conditions relating to 'Public Safety'. In considering all licence applications, the council will consider the adequacy of measures proposed to ensure public safety having regard to all the circumstances of the application.
- 8.3.6. Where an applicant identifies an issue in regard to public safety which is not covered by existing legislation, the applicant should identify in their operating schedule the steps to be taken to ensure public safety. Depending on the individual style and characteristics of the premises and/ or events. The licensing authority will particularly consider:
- the arrangements for ensuring, safety and absence of risks to health in connection with the use, handling, storage and transport of articles and substances;
  - the provision of such information, instruction, training and supervision as is necessary to ensure health and safety;
  - the maintenance of premises in a condition that is safe and without risks to health and the provision and maintenance of means of access to and egress from it that are safe and without such risks;
  - the provision and maintenance of an environment that is safe and without risks to health;
  - the provision and maintenance of plant and systems of work that are safe and without risks to health;
  - controlling the keeping and use of explosive or highly flammable or otherwise dangerous substances,
  - measures to prevent overcrowding;
  - prior notification of special events

## **8.4. Prevention of Public Nuisance**

- 8.4.1. The proximity of entertainment venues to residential and other premises is an issue requiring detailed assessment in order to minimise the potential for nuisances to people living, working or sleeping the vicinity of the premises.
- 8.4.2. The concerns mainly relate to noise nuisance, light pollution and noxious smells and due regard will be taken on the impact these may have and the licensing authority will expect Operating Schedules to satisfactorily address these issues. The licensing authority shall also take into account previous history of the premises.
- 8.4.3. The licensing authority may consider attaching conditions to licences and permissions when relevant representations have been made, to prevent public nuisance. These may include Conditions drawn from part 4 of the Model Pool of Conditions relating to 'Public Nuisance'. When the licensable activities include the supply of alcohol, the council will consider the adequacy of measures proposed to deal with the potential for nuisance and/or anti-social behaviour having regard to all the circumstances of each application. The licensing authority will particularly consider:
- (i) the steps taken or proposed to be taken by the applicant to prevent noise and vibration escaping from the premises, including music; noise from ventilation equipment, and human voices. Such measures may include the installation of soundproofing, air conditioning, acoustic lobbies, sound limitation devices and other noise amelioration measures.
  - (ii) the steps taken or proposed to be taken by the applicant to prevent disturbance by customers arriving at or leaving the premises. Such measures may include CCTV and the use of door supervisors within an in the immediate vicinity of the

premises. This will be of greater importance between 22.00 hrs and 07.00 hrs, than at other times of the day.

- (iii) the steps taken or proposed to be taken by the applicant to prevent queuing (either by pedestrian or vehicular traffic). If some queuing is inevitable then queues should be diverted away from neighbouring premises or be otherwise managed to prevent disturbance or obstruction.
- (iv) the steps taken or proposed to be taken by the applicant to ensure staff and patrons leave the premises quietly and orderly manner.
- (v) the arrangements made or proposed for parking by patrons, and the effect of parking by patrons on local residents and other businesses.
- (vi) whether there is sufficient provision for public transport for patrons, including taxis and private hire vehicles.
- (vii) whether licensed taxis or private hire vehicles are likely to disturb local residents.
- (viii) the installation of any special measures where licensed premises are or are proposed to be located near sensitive premises such as dwellings, residential homes, nursing homes, hospitals, hospices or places of worship.
- (ix) the use of gardens, patios, forecourts and other open-air areas.
- (x) delivery and collection arrangements, including proximity to noise sensitive premises and the time of such activities.
- (xi) the siting of external lighting, including security lighting that is installed inappropriately.
- (xii) the siting of any other equipment or facilities used in conjunction with the premises.
- (xiii) whether activities on the premises would lead to increased refuse storage or disposal problems.
- (xiv) whether activities on the premises would lead to additional litter, including fly posting and illegal placards in the vicinity of the premises
- (xv) the history of previous nuisance complaints proved against the premises, particularly where statutory notices have been served on the present licensees.
- (xvi) the contribution the applicant makes or proposes to make towards the cost of CCTV surveillance, litter collection or associated street furniture.

## **8.5. Protection of Children from Harm**

### Access to Licensed Premises

- 8.5.1. The wide range of premises that require licensing means that children can be expected to visit many of these, often on their own, for food and/or entertainment.
- 8.5.2. While the Act does not prohibit children from having free access to any licensed premises, the licensing authority recognises that limitations may have to be considered where it appears necessary to protect children from harm.

- 8.5.3. The licensing authority will consult with the appropriate Hertfordshire Safeguarding Children Board on any application that indicates there may be concerns over access for children.
- 8.5.4. The licensing authority will judge the merits of each separate application before deciding whether to impose conditions limiting the access of children to individual premises when representations have been made. The licensing authority will in particular consider:
- (i) where there have been convictions for supply of alcohol to minors or premises with a reputation for underage drinking
  - (ii) where there is a known association with drug taking or dealing
  - (iii) where there is a strong element of gambling on the premises
  - (iv) where entertainment of an adult or sexual nature is commonly provided
- 8.5.5. The licensing authority will consider any of the following options when dealing with a licence application following representations, limiting the access of children is considered necessary to prevent harm to children:
- (i) limitations on the hours when children may be present.
  - (ii) limitations on ages below 18.
  - (iii) limitations or exclusion when certain activities are taking place.
  - (iv) requirements for an accompanying adult.
  - (v) full exclusion of people under 18 from the premises when any licensable activities are taking place.
- 8.5.6. No conditions will be imposed requiring that children be admitted to any premises and, where no limitation is imposed, this will be left to the discretion of the individual licensee.
- 8.5.7. The Act contains a number of sections designed to protect children in licensed premises and the licensing authority will work closely with the police to ensure the appropriate enforcement of the law, especially relating to the sale and supply of alcohol to children.

#### Access To Cinemas

- 8.5.8. Films cover a vast range of subjects, some of which deal with adult themes and/or contain, for example, scenes of horror, violence or sexual nature that may be considered unsuitable for children within certain age groups.
- 8.5.9. In order to prevent children from seeing such films, the licensing authority will impose conditions requiring licensees to restrict children from viewing age-restricted films classified according to the recommendations of the BBFC, or by the licensing authority.

#### Children And Public Entertainment

- 8.5.10. Many children go to see and/or take part in an entertainment arranged especially for them, for example dance or drama school productions, and additional arrangements are required to safeguard them while at the premises.
- 8.5.11. Where a regulated entertainment is specially presented for children, the licensing authority will, following representations, require the following arrangements in order to control their access and egress and to assure their safety:

- an adult member of staff to be stationed in the vicinity of each of the exits from any level, subject to there being a minimum of one member of staff per 50 children or part thereof.
- no child, unless accompanied by an adult to be permitted in the front row of any balcony.
- no standing to be permitted in any part of the auditorium during the performance unless an approved area has been agreed by the council.
- such other measures as may be specified by the area child protection committee.

8.5.12. Where children are taking part in any regulated entertainment the licensing authority will, following representations, require the arrangements set out in the Health and Safety Guidance for Young People at Work to be implemented by organisers where children are involved.

8.5.13. The licensing authority will expect Operating Schedules to satisfactorily address these issues.

8.5.14. The licensing authority will, following representations, consider attaching conditions to licences and permissions to prevent harm to children, and these may include Conditions drawn from part 5 of the Model Pool of Conditions relating to the Protection of Children from Harm.



## **9. Enforcement**

- 9.1. Stevenage Council delivers a wide range of enforcement services aimed at safeguarding the environment and the community on which business can fairly trade. The administration and enforcement is one part of this service. The Council has adopted the Central & Local Governments Concordat on Enforcement and best practice designed to ensure effective and efficient public protection services. The Council is committed to accord with the principles of good enforcement and practice by carrying out its regulatory functions in a fair, open and consistent manner and will abide by its own Enforcement Policy.
- 9.2. The Enforcement Concordat is based on the principles that businesses should:
- Receive clear explanations from enforcers of what they need to do and by when;
  - Have opportunities to resolve differences before enforcement action is taken – unless immediate action is needed;
  - Receive an explanation of their rights of appeal.
- 9.3. This Enforcement Policy is freely available from the Council, as is this Policy and details of the Council's Complaints Procedure.
- 9.4. The licensing authority will seek to work actively with other responsible authorities in enforcing licensing legislation. It expects the responsible authorities to share information about licence holders and licensed premises and to consult closely with the licensing authority when any enforcement action may be required. The licensing authority has signed the Hertfordshire Licensing Enforcement Protocol in conjunction with the other responsible authorities within the county.
- 9.5. This joint approach is intended to prevent duplication of effort, maximise the potential for controlling crime and disorder at premises and to ensure compliance with relevant conditions, as appropriate. Inspections will take place at the discretion of the licensing authority and its partner agencies and resources will be concentrated on areas of need. Premises that are well managed and maintained shall be on a graduated inspection and enforcement regime those premises which present a high risk shall be inspected more regularly.
- 9.6. Once licensed, it is essential that premises are maintained and operated so as to ensure the continued promotion of the licensing objectives and compliance with the specific requirements of the Act. The licensing authority will make arrangements to monitor premises and take appropriate enforcement action to ensure this is achieved in accordance with the central and local government enforcement concordat.
- 9.7. Where representation are made to the licensing authority, the onus would be on the objectors to provide evidence to support any representation, taking into account that the impact will be different for premises with different styles and characteristics.

### **Inspection of Premises.**

- 9.8. The licensing authority will inspect every premises that it has not previously licensed, to secure compliance with the licensing objectives and this policy. It will also inspect every premises on receipt of an application to vary the premises licence, save where only a minor change is being proposed. Officers will determine on a case to case basis which applications require an inspection, and will arrange for such inspections to occur with the applicant.

9.9. In order to evaluate premises for risk, officers will take account of other responsible authorities risk assessments where they identify areas of risk to members of staff and the public.

9.10. They will also take account of the type of activities taking place at the premises these will include special effects, sale of alcohol, children’s entertainments, where the premises provide dance facilities between the hours of midnight to 6.00am, film exhibition, theatre performance and entertainment of an adult nature.

9.11. Other factors which affect the frequency of inspection include:

- Refusal to participate in schemes such as Stevenage PubWatch;
- Where the activities and use of the premises leads to a high number of accidents being reported either due to excessive alcohol consumption or the design layout of the premises;
- The structure of the building where it has a large occupancy number over 500 persons and large open rooms;
- Where the building has been adapted over time and would not meet current building regulations, minimum standard of emergency lighting, escape routes are circuitous or narrow;
- Where the premises are in mainly or surrounded by residential properties;
- When the premises history indicates poor management related to crowd control, disorderly behaviour or public nuisance factors;
- Where monitoring inspections have identified failures to comply with licence conditions or inadequately complied with or significant hazards are present and cannot be readily mitigated by remedial action;
- Where the premises are targeted for specific activities and interest such as events for young people between the ages of 14-17 or events such as hen and stag parties

9.12. All premises will be risk-rated and will be inspected on the following basis:

<b>Risk Status</b>	<b>Inspection and Monitoring</b>
<b>High</b>	Inspection of premises every 6 months  Additional monitoring inspections may be conducted on a more frequent basis
<b>Medium</b>	Inspection of premises once a year
<b>Low</b>	Inspection of premises every 18 months.
<b>Very Low</b>	Inspection of premises every two years

9.13. The licensing authority may carry additional inspection where complaints have been received from any of the responsible authorities, other agencies, members of the public or where information that a breach of licence may occur.

## **10. Reviews**

- 10.1. An interested party, as defined in the Licensing Act 2003, and/or responsible authority have the power to seek a review of either a premises licence or club premises certificate, using the prescribed application form, if they are of the opinion that one or more of the licensing objectives are not being met by the licence holder.
- 10.2. The licensing authority, in determining if the application for a review is relevant, will have regard to the s.182 guidance issued by the Secretary of State in so far as to whether an application is frivolous, vexatious or repetitious. Any representation made by a responsible authority cannot be deemed as being frivolous, vexatious or repetitious.
- 10.3. Once the licence is at a review hearing, there are several options available to the licensing committee. They include:
  - Modification to the current conditions of the licence;
  - Exclusion of a licensable activity currently permitted on a licence, or certificate;
  - Removal of the designated premises supervisor;
  - Suspension of the licence, or certificate, for a period not exceeding three months; or
  - Revocation of the licence, or certificate.
- 10.4. The licensing authority in its duties recognises that it cannot itself initiate any review application. The role of the licensing authority will be solely to administer the process, and to determine the application by way of a hearing, at which time evidence to support the review can be given.
- 10.5. The licensing authority recognises the importance of partnership working, and will pro-actively support working with interested parties and/or businesses in the vicinity of a licensed premise or club, and responsible authorities, to allow the holders of a licence or club premises certificate the opportunity to address concerns raised at the earliest opportunity, with a view to resolve matters informally where possible.

## **11. Temporary Event Notices**

- 11.1. Certain temporary events do not require a licence and can be notified to the licensing authority by a Temporary Event Notice giving a minimum of 10 working days notice. This period begins the day after receipt of the notice and does not include the day of the event itself.
- 11.2. However, some events size, location or timing of the event may not allow sufficient time for organisers to carry out full and proper discussion on the possible crime and disorder, public nuisance and health and safety issues with the licensing authority, Police and other interested parties.
- 11.3. The licensing authority recommends that to ensure events occur with the minimum of risk, at least 28 days notice is given. Also some event may be more difficult to assess in advance it recommends that not more than 90 days notice is given.
- 11.4. The licensing authority and relevant authorities including representatives from the Police, Fire and Ambulance have agreed to a Safety Advisory Team (SAT) for the borough. The purpose of the team is to provide advice on the organisation and safety, and to assist with meeting with the requirements of other legislation that protects local residents and businesses, to person planning to hold temporary event. Applicants giving notification to the licensing authority of a temporary event should have regard to the SAT advice. For further information please contact the Licensing Team on 01438 242259.

## **12. Administration, Exercise and Delegation of Functions**

- 12.1. A major principle underlying the Act is that the licensing functions contained within the Act should be delegated to an appropriate level so as to ensure speedy, efficient and cost effective service delivery.
- 12.2. The licensing authority is committed to the principle of delegating its powers to ensure that the objectives are met and has arranged for its licensing functions to be discharged in accordance with the guidance issued by the Secretary of State. These arrangements are set out in the table at the Appendix 1.
- 12.3. The power of the licensing authority under the Act may be carried out by the Council's Licensing Committee, or one or more officers acting under delegated authority.
- 12.4. The Licensing Committee will be made up of 13 members with a quorum of four who will hear any relevant representations from authorised persons, responsible authorities and interested parties in the form of a hearing.
- 12.5. Many of the decisions and functions are administrative in nature, including the grant of non-contentious applications, such as those licences and certificates where no representations have been made. All such matters will be delegated to Licensing Officers and reported on a quarterly basis to the members of the Licensing Committee.
- 12.6. This form of delegations is without prejudice to officers being able to refer an application to the committee, if considered appropriate in the circumstances of any particular case.
- 12.7. Whilst contested licensing applications are quasi judicial in nature the Committee will try to keep proceedings as informal as possible. However, some degree of formality is needed to ensure that all parties receive a fair hearing. The procedures adopted by Stevenage Borough Council as the Licensing Authority are designed to ensure that all parties are able to express their view openly and fairly. The Committee procedure is inquisitorial rather than adversarial and whilst applicants, interested parties, and responsible authorities are entitled to bring legal representation with them if they wish, this is by no means a requirement.
- 12.8. Whilst the Committee usually meets in public, it does have the power to hear certain applications in private. The Committee will, however, always reach its decision in private. A public announcement of the decision will be made at the end of the hearing. The decision determined by the Committee will be accompanied with clear, cogent reasons for the decision, having due regard to the Human Rights Act 1998, the four licensing objectives and all other relevant legislation.
- 12.9. The Committee will determine each case before it on its merits. However, in determining the application the Licensing Committee will consider:
- The case and evidence presented by all parties;
  - The promotion of the four licensing objectives;
  - Guidance by central Government;
  - This Licensing Policy.
- 12.10. Where the Committee determines that it is appropriate to attach conditions to a licence/certificate it will ensure those conditions are focused on the activities taking place at the premises, on members of the public, living working or engaged in normal

activity in the area concerned. Such conditions will be proportionate to the activity to be controlled and will only be imposed in the interests of the licensing objectives.

### **13. Licensing and other legislation**

- 13.1. The Licensing Authority can only impose conditions on a licence that are necessary and in proportion to the promotion of the licensing objectives. Where other existing legislation already places certain statutory responsibilities on an employer or operator of a premises, it cannot be necessary to impose the same or similar duties.
- 13.2. The licensing authority will seek to avoid confusion and duplication by not imposing licence conditions that are required under other legislation, except where they can be exceptionally justified to promote the licensing objectives.

#### Planning

- 13.3. The Council's Planning Policies are set out in its Local Development Framework. Government guidance in the form of Planning Policy Guidance Notes (PPG) and Regional Planning Policy Guidance Notes (RPG) are also relevant when applying for premises licences and reference to these will be made.
- 13.4. Licensing is separated from planning and licence applications will not, therefore, be a re-run of the planning application. In general the licensing authority will expect that, prior to the submission of a licensing application; the appropriate planning permission will have been resolved before a licence application is made. And that any operating hours sought does not exceed those authorised by the planning permission. It is recognised in certain situations a provisional statement may be sought alongside planning permission.

## **14. Applications for Personal Licences**

- 14.1. The four Licensing Objectives apply to the considerations for an application for personal licences.
- 14.2. In the case of an application for a personal licence under Part 6 of the Act the requirements set out in the Act shall be required.
- 14.3. Any individual may apply for a personal licence whether or not he is currently employed or has business interests associated with the licence use.

### Criminal record.

- 14.4. Applicants with unspent criminal convictions for relevant offences set out in the Licensing Act are encouraged to first discuss their intended application with the police and local authority licensing officers before making an application. The licensing authority and police will arrange to hold interview(s) with prospective personal licence holders to discuss the circumstances surrounding the conviction.
- 14.5. Applicants may bring with them supporting evidence, character references or representations to the meeting(s).

### Designated premises supervisors

- 14.6. A personal licence is required by individuals who may be engaged in making and authorising the sale or supply of alcohol. Not every person retailing alcohol at a premises licensed for that purpose needs to hold a personal licence although the licensing authority expects that every person authorised to make a sale of alcohol is clearly identified, for example by way of a written statement.
- 14.7. A joint interview will always be arranged where the police are minded to object to the transfer of a designated premises supervisor on the grounds that such a transfer may undermine the crime prevention objective.

## **15. Equal Opportunities**

### Human Rights

- 15.1. The Human Rights Act 1998 incorporated the European convention on Human Rights and makes it unlawful for a local authority to act in a way which is incompatible with a Convention right. The licensing authority will have particular regard to the following relevant provisions in determining licence applications.
  - **Article 6**  
In the determination of civil rights and obligations everyone is entitled to a fair public hearing within a reasonable time by an independent and impartial tribunal established by law.
  - **Article 8**  
That everyone has the right to respect for private and family life, home and correspondence.
  - **Article 1**  
That every person is entitled to the peaceful enjoyment of his or her possessions



### Race Equality

- 15.2. The Race Relations Act, as amended by the Race Relations (Amendment) Act 2000, places a legal obligation on public authorities to have due regard to the need to eliminate unlawful discrimination and to promote equality of opportunity and good relations between persons of different racial groups.
- 15.3. The licensing authority will therefore have due regard to this responsibility when imposing conditions on licences so as to ensure that they could not directly or indirectly lead to discrimination against any racial group.

**TABLE OF DELEGATIONS OF LICENSING FUNCTIONS**

<b>MATTER TO BE DEALT WITH</b>	<b>COMMITTEE</b>	<b>OFFICERS</b>
Initial and three yearly review of licensing policy	Recommend policy to Full Council	
Application for personal licence	If a police objection made	All other cases
Application for personal licence, with unspent convictions	If a police objection made	All other cases
Application for premises licence/club premises Certificate	If a representation made	All other cases
Application for provisional statement	If a representation made	All other cases
Application to vary premises licence/club premises Certificate	If a representation made	All other cases
Application to vary designated premises supervisor	If a police objection	All other cases
Request to be removed as designated premises supervisor		All cases
Decision as to a Police Representation to a temporary events notice	All cases	
Application for transfer of premises licence	If a police objection made	All other cases
Application for Interim Authorities	If a police objection made	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
Decision to object when local authority is a consultee and not the lead authority	All cases	

## **Other policies, legislation, case-law and guidance source**

### **Related Legislation**

Policing and Crime Act 2009  
Anti Social Behaviour Act 2003  
Crime and Disorder Act 1998  
Crime and Security Act 2010  
Criminal Justice and Police Act 2001  
Private Security Industry Act 2001  
Race Relations Act 1976 as amended by the Race Relations (Amendment) Act 2000  
The Clean Neighbourhoods and Environment Act 2005  
The Health Act 2006  
Violent Crime Reduction Act 2006

### **Relevant case law regarding policy statements**

Limits of licensing policy:

*BBPA & Others v Canterbury City Council [2005] EWHC 1318 (Admin)*

“Strict” licensing policies and exceptions to policy:

*R (Westminster City Council) v Middlesex Crown Court and Chorion plc [2002] LLR 538*

Cumulative impact policies and hours:

*R (JD Weatherspoon plc) v Guildford Borough Council [2006] EWHC 815 (Admin)*

Duplication and conditions:

*R (on the application of Bristol Council) v Bristol Magistrates’ Court [2009] EWHC 625 (Admin)*

Extra-statutory notification by the licensing authority:

*R (on the application of Albert Court Residents Association and Others) v Westminster City Council [2010] EWHC 393 (Admin)*

The prevention of crime and disorder: ambit of the objective

*Blackpool Council, R (on the application of) v Howitt [2008]*

Crime and disorder: sanctions on review: deterrence

*Bassetlaw District Council, R (on the application of) v Workshop Magistrates Court [2008]*

### **Guidance Documents**

Home Office ‘Practical Guide for Preventing and Dealing with Alcohol Related Problems

Home Office Safer Clubbing Guide

Home Office Alcohol Disorder Zone Guidance

Home Office Designated Public Place Order (DPPO) guidance

DCMS s182 Guidance

LACORS/TSI Code of Practice on Test Purchasing

The Event Safety Guide (to be updated in 2011)

Licensing large scale events (music festivals, etc)

5 Steps to Risk Assessment

The Guide to Safety at Sports Grounds

Safety Guidance for Street Arts, Carnivals, Processions and Large-Scale Performances

UK BIDS: Business Improvement Districts (national BIDS advisory service)

BIS Code of Practice on Consultation

The Plain English Campaign

## **Useful Reference (organisations)**

### **Association of Convenience Stores (ACS)**

<http://www.thelocalshop.com/tls/index.asp>

Federation House, 17 Farnborough Street, Farnborough, Hampshire, GU14 8AG

E-mail: [acs@acs.org.uk](mailto:acs@acs.org.uk)

### **Association of Licensed Multiple Retailers (ALMR)**

<http://www.almr.org.uk/>

9B Walpole Court, Ealing Studios, London, W5 5ED

Tel: 020 8579 2080

E-mail: [info@almr.org.uk](mailto:info@almr.org.uk)

### **Association of Town Centre Managers (ACTM and Purple Flag)**

<http://actm.org/>

ACTM, 1 Queen Anne's Gate, Westminster, London, SW1H 9BT

E-mail: [office@actm.org](mailto:office@actm.org)

### **British Beer and Pub Association (BBPA)**

<http://www.beerandpub.com>

British Beer & Pub Association, Market Towers, 1 Nine Elms Lane, London, SW8 5NQ

Tel: 020 7627 9191

E-mail: [web@beerandpub.com](mailto:web@beerandpub.com)

### **British Board of Film Classification (BBFC)**

[www.bbfc.co.uk](http://www.bbfc.co.uk)

3 Soho Square, London, W1D 3HD

E-mail: [contact the bbfc@bbfc.co.uk](mailto:contact_the_bbfc@bbfc.co.uk)

### **British Institute of Inn Keeping (BII)**

<http://bii.org/>

Wessex House, 80 Park Street, Camberley, Surrey, GU15 3PT

Tel: 01276 684449

### **British Retail Consortium (BRC)**

<http://www.brc.org.uk/default.asp>

21 Dartmouth Street, London, SW1H 9BP

### **Circus Arts Forum**

[www.circusarts.org.uk](http://www.circusarts.org.uk)

E-mail: [info@circusarts.org.uk](mailto:info@circusarts.org.uk)

### **Cinema Exhibitors' Association (CEA)**

<http://www.cinemauk.org.uk/>

22 Golden Square, London, W1F 9JW

Tel: 020 7734 9551

## **Department for Culture, Media and Sport**

[www.culture.gov.uk](http://www.culture.gov.uk)

2-4 Cockspur Street, London, SW1Y 5DH

E-mail: [enquiries@culture.gov.uk](mailto:enquiries@culture.gov.uk)

### **Equity**

<http://www.equity.org.uk/>

Head Office, Guild House, Upper St Martins Lane, London, WC2H 9EG

Tel: 020 7379 6000

E-mail: [info@equity.org.uk](mailto:info@equity.org.uk)

### **Independent Street Arts Network**

[www.streetartsnetwork.org.uk](http://www.streetartsnetwork.org.uk)

54 Charlton Street, London, NW1 1HS

### **Institute of Licensing (IOL)**

<http://www.instituteoflicensing.org/>

45 Larcombe Road, St Austell, Cornwall, PL25 3EY

### **Justices Clerks' Society**

[www.jc-society.co.uk](http://www.jc-society.co.uk)

Tel: 0151 255 0790

E-mail: [secretariat@jc-society.co.uk](mailto:secretariat@jc-society.co.uk)

### **LACORS**

<http://www.lacors.gov.uk/>

E-mail: [info@lacors.gov.uk](mailto:info@lacors.gov.uk)

### **Licensed Victuallers Association (LVSs)**

<http://www.flva.co.uk/>

Federation of Licensed Victuallers Association, 126 Bradford Road, Brighouse, West Yorkshire, HD6 4UA

### **National Association of Local Government Arts Officers (NALGO)**

<http://www.nalgao.org/>

Oakvillia, Off Amman Road, Brynamman, Ammanford, Neath, SA18 1SN

Tel & Fax: 01269 824728

### **National Pub Watch**

<http://www.nationalpubwatch.org.uk/index.php>

PO Box 3523, Barnet, EN5 9LQ

### **NOCTIS (Formerly Bar, Entertainment and Dance Association (BEDA))**

<http://www.noctisuk.org/>

5 Waterloo Road, Stockport, Cheshire, UK, SK1 3BD

### **The Portman Group**

[www.portman.org.uk](http://www.portman.org.uk)

4<sup>th</sup> Floor, 20 Conduit Street, London, W1S 2XW

Tel: 020 7290 1460

E-mail: [info@portmangroup.org.uk](mailto:info@portmangroup.org.uk)