



Licensing and Regulatory Committee 15 October 2012

Proposed Amendments to Licensing Statement of Policy

1. Recommendation

- 1.1 That the Licensing and Regulatory Committee recommend that full Council approve the proposed revised Licensing Statement of Policy, as contained in Appendix A to Report D160.

2. Corporate Objective(s)

- 2.1 The recommendation meets the following as contained within the Corporate Plan:-
'Working together for strong, healthy and diverse communities'.

3. Key Issues

- 3.1 The Council cannot legally undertake any functions under the Act or determine any applications without an adopted Licensing Statement of Policy, which has been consulted on in accordance with the Act.
- 3.2 The current Licensing Statement of Policy was reviewed and published in January 2011, and was subsequently further amended to re-instate a Cumulative Impact Policy, which took effect on 11 April 2011. The Council is obliged under the Licensing Act 2003 to review its Statement of Policy every third year following its initial adoption. This three year period expires on 4 January 2014.
- 3.3 One of the consequences of the Police Reform and Social Responsibility Act 2011 was a number of changes to the Licensing Act 2003, including:-
- (a) Licensing Authority as Responsible Authority;
 - (b) Health Body as Responsible Authority;
 - (c) removal of vicinity;
 - (d) 'Interested Parties' to become 'Other Persons';
 - (e) conditions to be appropriate;
 - (f) Environmental Health Services to be consulted on Temporary Event Notices (TENS);
 - (g) provision for late TENS;
 - (h) provision for the suspension of licences for non payment of fees;
 - (i) provision for Licensing Authority to set its own fees;
 - (j) provision for Early Morning Restriction Orders;

- (k) provision for Late Night Levy; and
- (l) change of review period for Licensing Statement of Policy from three years to five years.

- 3.4 Although not all of these measures have yet been implemented through Commencement Orders, it has justified an early review of the Council's current Licensing Statement of Policy. The proposed amended policy, following review and showing tracked changes (Report D25 refers) was considered by members of the Committee on 11 June 2012 is attached as Appendix D to the report. A summary of the revisions to the Statement of Licensing Policy is attached as Appendix B.
- 3.5 Certain elements of the proposed changes, namely, locally set fees, Late Night Levy and Early Morning Restriction Orders have yet to be published. For this reason they have been referred to, and it is proposed that revisions to these matters be dealt with by way of appendices to be consulted on separately as and when the Regulations are published.
- 3.6 Similar revisions to the Licensing Statement of Policy for Forest Heath District Council are also being considered as part of the work of the new shared Licensing Service.

4. Background

- 4.1 Licensing under the Act commenced on 6 February 2005 and the transitional period during which existing licence holders could apply to convert licences ended on 6 August 2005. The Act came fully into force on 24 November 2005. Currently a total of 432 premises in this Borough are licensed under the Act, and over 400 Temporary Event Notices are given each calendar year.
- 4.2 All Licensing authorities are required by the Licensing Act 2003 to have a Licensing Statement of Policy in order to process applications for licences. The designated licensing authorities in Suffolk worked earlier this year to revise the policy template.
- 4.3 In carrying out this work, consideration was given to:-
- (a) the requirements in the Act relating to licensing policy;
 - (b) the revised Guidance Issued under Section 182 of the Act;
 - (c) secondary advice provided by the Home Office; and
 - (d) advice provided by the Local Authorities Co-ordinators of Regulatory Services (LACORS).
- 4.4 The current Policy remains in force until 4 January 2014, but must be kept under review. Any amendment to a Licensing Statement of Policy must follow consultation with:-
- (a) the Chief Officer of Police for the licensing authority's area;
 - (b) the Fire Authority for that area;
 - (c) such persons as the licensing authority considers to be representative of holders of premises' licences issued by that authority;
 - (d) such persons as the licensing authority considers to be representative of holders of club premises' certificates issued by that authority;
 - (e) such persons as the licensing authority considers to be representative of holders of personal licences issued by that authority; and
 - (f) such other persons as the licensing authority considers to be representative of businesses and residents in its area.
- 4.5 The Licensing and Regulatory Committee considered proposed changes to the Licensing Statement of Policy on 11 June 2012 (report D25 refers). Following this meeting, a full public consultation was carried out between 9 July and 28 September 2012.

- 4.6 A schedule of responses and actions arising from them is attached as Appendix C.
- 4.7 The proposed Licensing Statement of Policy, which incorporates those changes identified in the schedule of responses, is attached as Appendix D. The proposed changes are tracked from the approved draft Policy for ease of reference.

5. Community impact

5.1 The ongoing development of the Licensing Statement of Policy will mean that when determining applications and any future reviews of licences the Council can ensure that the interests of the community are balanced with those of the applicants and licensees through the promotion of the Licensing Objectives.

6. Resource implications

6.1 Costs arising from the consultation have been met from existing budgets.

7. Legal or Policy implications

7.1 The Licensing Statement of Policy forms part of the Council's policy framework and determining licence applications and reviews remains a non-executive function exercised by the Licensing and Regulatory Committee and its Licensing Act Sub-Committees.

Wards affected	All	Portfolio Holder	Housing, Licensing and Environmental Health
Background Papers	Report D25	Decision	

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St Edmundsbury Borough Council



St Edmundsbury
BOROUGH COUNCIL

LICENSING ACT 2003

**St Edmundsbury Borough
Licensing Authority**

LICENSING STATEMENT OF POLICY

This updated policy was first adopted by the St Edmundsbury Borough Council on 5 April 2011 and subsequently reviewed following the commencement of Part 2 of the Police Reform and Social Responsibility Act 2011. It is effective during the period until inclusive.

1. Introduction

The Licensing Act 2003 became fully implemented on 24 November 2005, and brought about the single biggest change to the licensing arrangements for many types of leisure premises in 40 years.

The Act integrated six separate licensing regimes covering the sale and supply of alcohol, the provision of regulated entertainment, the provision of late night hot food or drink (between the hours of 11pm and 5am), night café, theatres and cinemas. The legislation is continuing to evolve, and be amended.

The licensing authority acknowledges the benefits provided by the Act as detailed in the commentary provided by the Secretary of State for Culture, Media & Sport within the introduction to the revised guidance issued in March 2010, namely that the Act:

- Allows local people a bigger voice in licensing decisions, with local people becoming more aware of and engaged in the licensing process;
- Assists with providing a better system of regulation for business, greater choice for consumers, and where possible help for areas in need of economic regeneration;
- Is evidencing that licensees are making good progress towards taking their responsibilities seriously, and are actively working with the Police and each other to eliminate sales of alcohol to underage persons and to combat alcohol related crime and disorder;
- Encourages effective multi-agency partnership working to target 'problem' premises, and that new closure and review powers are working to help clamp down on the irresponsible minority of retailers; and
- Cannot in isolation provide a solution to many of the problems associated with alcohol misuse, and must be part of a broader strategy to achieve better management of the night-time economy and a better balance between the rights and responsibilities of everyone living and working in each community.

As from April 2012 The Police Reform and Social Responsibility Act 2011 will make significant changes to the licensing Act 2003

1.1 Location

St Edmundsbury is at the heart of Western Suffolk, at the centre of the triangle created by Norwich, Ipswich and Cambridge. The Borough runs north-east from Haverhill, near the Essex and Cambridgeshire borders, to the Norfolk border. It is an area of unspoiled natural beauty with a keen sense of its rural heritage. Bury St Edmunds and Haverhill are the two main towns within which 57% of the population live. The Borough has a predominately rural character with a low population density of 1.4 people per hectare, compared to the national average of 2.4. Based on current demographic trends, our population is expected to grow by 12% by 2021.

1.2 Bury St Edmunds

This historic market town is a centre for tourism, with its medieval street plan, cathedral, abbey ruins and fine timber-framed and Georgian buildings. It has a large rural hinterland and thus a wider range of shops and services than might be expected in a town of its size. The town has good communication links with the only railway station in the Borough, linking it with Ipswich to the east and Cambridge and Peterborough. Both London and the

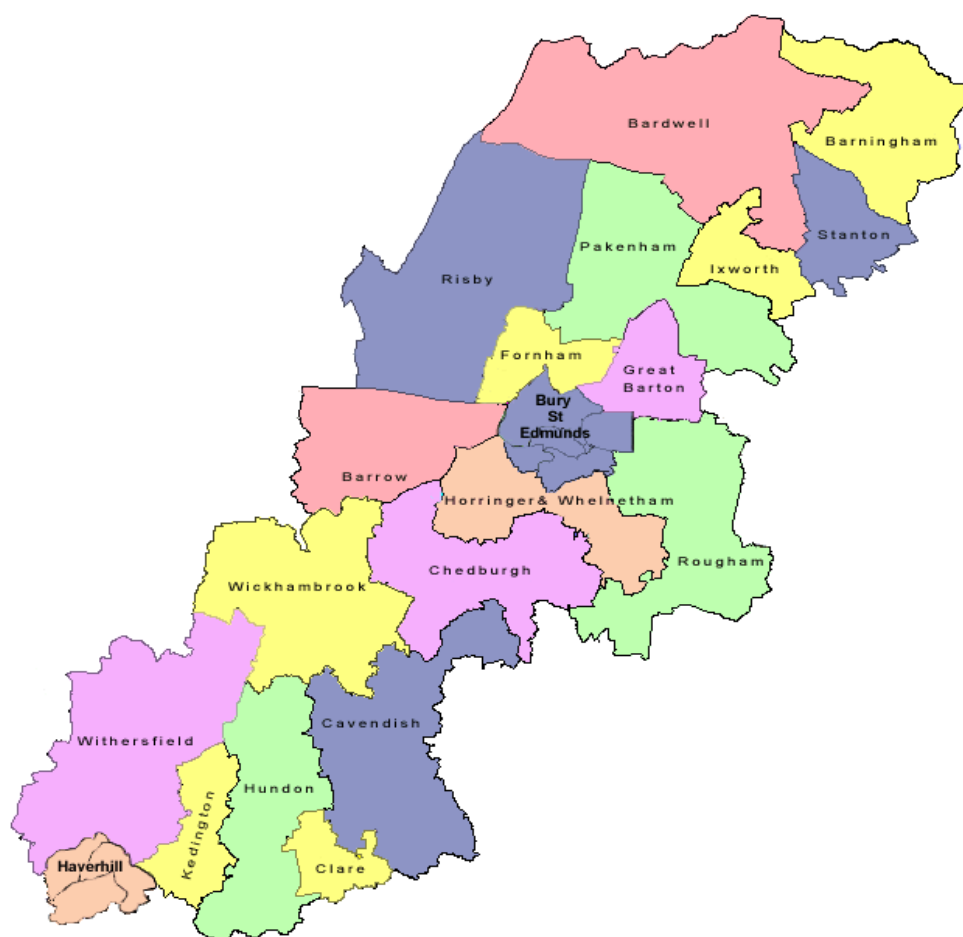
Midlands can be reached in 90 minutes via the A14. Approximately 360,000 people live within 20 miles of the town which has experienced a period of rapid growth in the past 60 years, almost doubling in size since 1931.

Haverhill

This was part of the Greater London Council's expansion scheme, and experienced a period of very rapid growth, more than quadrupling in size from 4099 in 1951 to 19,536 in 1991. On the A1307, it is less than 20 miles from Cambridge, 16 miles from the M11 to London, near Stansted Airport and is part of the 'M11 Corridor'. A centre experiencing growth in manufacturing and other industries, the town has some interesting architecture and its community has a strong sense of identity. About 550,000 people live within a 20 mile radius of the town, which is surrounded by attractive countryside.

1.3 Rural

Approximately 43% of the Borough's population live in the 77 parishes in our rural areas, compared with 20% in Britain in general. Many villages are traditionally attractive, with thatched and timber framed cottages; Clare and Cavendish are perhaps the two best known. Some of the villages are tiny; the three smallest have populations of just 30. Only three rural parishes have a population of more than 2000.



2. Purpose of the Licensing Policy

2.1 The purpose of this licensing policy is to:

- inform the elected Members serving on the Licensing Committee of the parameters within which licensing decisions can be made;
- inform applicants, residents and businesses of the parameters within which the Licensing Authority will make licensing decisions;
- inform residents and businesses about how the Licensing Authority will make licensing decisions; and
- provide a basis for decisions made by the Licensing Authority if these decisions are challenged in a court of law.

2.2 This policy relates to the following licensable activities as defined in the Act:

- Retail sale of alcohol;
- The supply of alcohol by or on behalf of a club, or to the order of a member of the club;
- The provision of regulated entertainment, which includes:
 - a performance of a play;
 - an exhibition of a film;
 - an indoor sporting event;
 - a boxing or wrestling entertainment (indoors and outdoors);
 - a performance of live music;
 - any playing of recorded music;
 - a performance of dance;
 - entertainment of a similar description to that falling within the performance of live music, the playing of recorded music and the performance of dance;
- The provision of late night refreshment.

2.3 It should be noted that the 2003 Act (Part 2 of Schedule 1) makes provision for exempt or unregulated activities or locations. Further information on some of these is available from the Department for Culture Media & Sport. Whether activities/locations may be entitled to benefit from an exemption would be assessed on a case-by-case basis.

2.4 The Licensing Authority will have due regard to the intention of the Act to contribute to the overall economy of the district and in particular to the potential benefits of longer opening hours, which the Act foresees.

2.5 Where the Guidance published by the government under s.182 is revised at any time the Licensing Authority will have regard to it where it departs from the Licensing Statement of Policy.

2.6 In some cases additional licences may be required under separate legislation, for example sexual entertainment venues may also require a licence under schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, or the venue may also require Performing Rights Society (PRS) permissions.

3. Licensing Objectives

3.1 This policy must be read in conjunction with the Licensing Act 2003 (the Act), secondary legislation and the Guidance issued under s.182 of the Licensing Act 2003 (the Guidance).

3.2 Where revisions are made to the legislation or Guidance issued by the Secretary of State, there may be a period of time when the local Statement of Licensing Policy is inconsistent with these revisions. In these circumstances, the Licensing Authority will have regard, and

give appropriate weight, to the relevant changes, Guidance and its own Statement of Licensing Policy.

3.3 Removed in its entirety

3.3 The licensing authority recognises that balancing the interests of owners, employees, customers and neighbours of licensed premises will not always be straightforward, but it has a duty to promote the four licensing objectives of the Act:

- **the prevention of crime and disorder;**
- **the prevention of public nuisance;**
- **ensuring public safety; and**
- **protection of children from harm.**

These are the only four objectives in the Act and as such they are paramount to all licensing considerations. The Licensing Authority's approach to addressing these four objectives is set out in section 16.

3.4 In exercising its licensing functions, once its discretion is engaged, the licensing authority will consider the direct impact of the licensable activities on other persons.

3.5 The Licensing Authority wishes to proactively maintain and protect the amenity of residents and other businesses from the potential consequence of the operation of licensed premises whilst recognising the valuable cultural, social and business importance that such premises provide.

3.6 The aims of this Statement of Licensing Policy are to:

- Help to encourage and support a strong and inclusive society that balances the rights of individuals and their communities.
- Integrate the Licensing Authority's aims and objectives with other initiatives and strategies that will:
 - reduce crime and disorder;
 - ensure the safety of the public engaging in licensable activities
 - encourage tourism and cultural diversity;
 - reduce alcohol misuse;
 - encourage the self sufficiency of local communities; and
 - reduce the burden of unnecessary regulation on business.

3.7 This Statement of Policy does not seek to undermine the right of any individual to apply under the terms of the Act for a variety of permissions and to have such an application considered on its merits where the Licensing Authority's discretion has been engaged. It does not seek to override the right of any person to make representations on or about an application or seek a review of a Licence or Certificate where provision has been made for them to do so in the Act.

3.8 The licensing process can only seek to regulate those measures within the control of the licensee or certificate holder (and their staff/agents), and in the immediate vicinity of the premises involved in licensable activities, for example, on the pavement, in a beer garden or smoking shelter. Licensing law is not a mechanism for the general prevention of anti-social behaviour by individuals once they are away from such premises and beyond the direct control of the licence holder, nor is it the cure-all for all community problems.

4. The role of the licensing authority in the decision making process:

It is important for any person reading this Statement of Licensing Policy to note that the Licensing Authority's discretion and decision making role, referred to throughout this Statement of Licensing Policy, is only engaged following a relevant representation being lodged in respect of an application, and where that representation is not withdrawn. The application will then ordinarily be heard by a sub-committee of the Council's Licensing and Regulatory Committee. However it must be noted that, in contrast, the process and determination in respect of minor variations and dis-application of mandatory conditions for community premises are exceptions to these usual arrangements, as referred to later in this document.

The Licensing Act 2003 provides for a mediation process between parties. Where it is appropriate for the Licensing Authority to do so, following a relevant representation being made, the Authority shall make all reasonable efforts to facilitate mediation. In doing so, the licensing authority will be mindful of the legislative framework and any relevant government guidance.

In cases where a premises licence application or club premises certificate has been lawfully made, and no responsible authority or person other than a responsible authority (other persons) has made a representation, the Licensing Authority must grant the application on the terms sought, subject only to conditions which are consistent with the operating schedule and relevant mandatory conditions in the Act. This should be undertaken as an administrative process by the Licensing Authority's officers who will translate the proposals contained within the operating schedule to promote the licensing objectives into clear and understandable conditions. As above, there are different arrangements in place for some minor processes under the Act.

The Police Reform and Social Responsibility Act 2011 created a further role for the Licensing Authority as a Responsible Authority thereby allowing it to make representations and/or seek a review of a premises licence or club premises certificate. The details of the involvement of the Licensing Authority as a Responsible Authority are in accordance with Appendix C to this Policy.

It is the intention of the licensing authority to work closely with licensees and their representatives, responsible authorities, other persons and partner authorities in order to promote the licensing objectives and minimise the burden on all involved to ensure that as far as possible the licensing arrangements work satisfactorily and successfully.

5. Other Legislation, Strategies and Guidance

5.1 When carrying out its functions the Licensing Authority must comply with the following legislation:

Crime and Disorder Act 1998;

The European Convention on Human Rights, given effect by the Human Rights Act 1998.

Criminal Justice and Police Act 2001 (in particular the powers available under section 13 to make 'designated public place orders' (DPPO's) to control the consumption of alcohol in a public place outside licensed premises);

Race Relations Act 1976 (as amended by the Race Relations (Amendment) Act 2000);

Anti-Social Behaviour Act 2003 (in particular powers available under sections 40 and 41 relating to the closure of premises on the grounds of public nuisance caused by noise);

Violent Crime Reduction Act 2006 ;

Environmental Protection Act 1990 (as amended);

Health Act 2006;

Noise Act;
Health and Safety at Work Act;
Clean Neighbourhoods and Environment Act 2005 (including powers for the Local Authority to issued fixed penalty notices to licensed premises emitting noise that exceeds the permitted level between 11pm and 7am).
Policing and Crime Act 2009;
Police Reform and Social Responsibility Act 2011
Sunday Trading Act 1994
Christmas day (Trading) Act 2004
Safety at Sports Grounds 1975
Public Health Act 2006 (section 10)
Any National Alcohol Strategy;
The Council's published policy on Safeguarding Children.
The Council's published procedure for dealing with petitions and its obligations under the Local Democracy, Economic Development and Construction Act 2009;
Equality and diversity obligations; and
European Union Services Directive.

- 5.2 The premises operators are normally responsible for compliance with any other statutory requirements which may apply (for example, Regulatory Reform (Fire Safety) Order).
- 5.3 The Licensing Authority will seek to avoid duplication with other regulatory regimes when dealing with the licensing function. If other existing law already places certain statutory responsibilities on an employer or operator of premises, it cannot be appropriate or proportionate to impose the same or similar duties on the premises licence holder or club. Once the discretion of the Licensing Authority is engaged, it is only where additional and supplementary measures are appropriate to promote the licensing objectives that proportionate conditions will be attached to a licence.
- 5.4 Other Local Authority and Government policies, strategies, responsibilities, and guidance documents may also refer to the licensing function, and the Licensing Authority may liaise with the relevant authorities or its directorates with regard to these. Whilst some of these may not be directly related to the promotion of the four licensing objectives, they can indirectly impact upon them. For example, the Licensing Authority will liaise closely with the local Safer Neighbourhood Teams (SNT) and/or Crime and Disorder Reduction Partnership (CDRP) and/or the Suffolk Safety Advisory Group (SAG) to ensure that the Local Authority can develop effective strategies that take full account of local crime and disorder issues.

It is the Licensing Authority's intention that it will, through its Licensing Committee monitor how the matters set out in this paragraph impact on the Licensing Authority's licensing and other functions, in order to integrate its licensing function with other relevant strategies.

The Licensing Authority will maintain a list of those strategies and policies with which it seeks to integrate its aims and objectives on the website, at www.stedmundsbury.gov.uk.

- 5.5 The Licensing Authority may 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, the Licensing Authority may review the policy.
- 5.6 The Licensing Authority wishes to encourage and promote live music, dance and theatre for the wider cultural benefit of the community. It will seek to obtain a balance between the potential for limited neighbourhood disturbance and the benefits of cultural activities on residents and/or visitors to the Borough.

5.7 The Council may seek Premises Licences for public spaces in the community in its own name. With regard to those places, performers and entertainers may not need to obtain a licence or give a temporary event notice themselves in order to perform. Instead, they may require permission from the Council as the Premises Licence holder. The Council may use this method of licensing to encourage circus and street arts to our local communities.

5.8 Removed in its entirety

5.9 The Violent Crime reduction Act 2006 amends the Criminal Justice and Police Act 2001, to clarify those circumstances when a Designated Public Places Order (DPPO) applies. A DPPO can be used to tackle the problems of anti-social drinking in a public place. The effect of the amendment is that where a local authority occupies or manages premises or where premises are managed on its behalf, and a premises licence is in force which authorises the sale of alcohol, the DPPO will not apply when the licence is being used for alcohol sales (or 30 minutes after). The DPPO remains effective where there is a premises licence in force for that area that does not authorise retail sale of alcohol. The details of any DPPO currently in force within the Borough appear, with the accompanying plans, in Appendix B to this Statement of Licensing Policy

6. Relationship with Planning Process

6.1 Any premises for which a licence is required should have either:

- a) planning consent; or
- b) lawful use under the planning legislation

in order to operate lawfully under the conditions of any licence granted under the Act.

However, the lack of either (a) or (b) above will not prevent the Licensing Authority from considering and determining an application, although it clearly makes operational sense to ensure that planning and licensing are compatible.

6.2 The Licensing Authority will avoid treating licensing applications as a re-run of planning applications, because licensing matters will always be subject to consideration of the four licensing objectives; whereas planning matters are subject to different considerations.

6.3 The licensing and planning authorities are responsible for enforcing conditions attached under their respective licences and consents.

6.4 Where the terminal hour for the operation of a premises is stated on a planning consent, but differs from that specified on the licence, the licence holder must observe the earlier closing time to operate lawfully.

7. The cumulative impact of a concentration of licensed premises

7.1 Cumulative impact is the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area e.g. the potential impact on:

- crime and disorder;
- public nuisance;
- public safety; or
- protection of children from harm.

7.2 The cumulative impact of licensed premises on the promotion of the licensing objectives is a matter which the Licensing Authority can take into account. This should not, however, be confused with 'need' which concerns the commercial demand for a particular type of

premises e.g., a pub, restaurant or hotel. The issue of 'need' is primarily a matter for the market to decide and does not form part of this licensing policy statement.

- 7.3 The Licensing Authority can only adopt a special policy on cumulative impact if there is evidence that a significant number of licensed premises concentrated in one area is causing a cumulative impact on one or more of the licensing objectives. The Licensing Authority will keep the situation as to whether an area is nearing this point under review.
- 7.4 The Licensing Authority recognises that the cumulative effect of licensed premises may have consequences which include:
- an increase in crime against both property and persons;
 - an increase in noise causing disturbance to residents;
 - traffic congestion and/or parking difficulties; and
 - an increase in littering and fouling
- and that enforcement action taken to ensure that conditions are complied with may not resolve all the problems experienced in the vicinity of these premises.
- 7.5 The absence of a special policy does not prevent any responsible authority or other persons making representations on a new application for the grant or variation of a licence on the grounds that the premises will give rise to a detrimental cumulative impact on one or more of the licensing objectives in a particular area.
- 7.6 Once away from the licensed premises, a minority of consumers may behave badly and unlawfully. However, there are other mechanisms, both within and outside the licensing regime, that are available for addressing such issues. For example: Licensing is only one means of addressing the problems identified above. Other mechanisms include:
- planning controls;
 - powers of local authorities or police to designate parts of the local authority area as places where alcohol may not be consumed publicly and confiscation of alcohol in these areas;
 - Suffolk Constabulary powers to close down premises or temporary events for up to 24 hours on the grounds of disorder, the likelihood of disorder or excessive noise;
 - prosecution of personal licence holders who sell alcohol to people who are drunk or underage;
 - powers of the Suffolk Constabulary, responsible authorities or a local resident or business to seek a review of a licence or premises certificate; and
 - local authority powers under section 5 of the Anti-Social Behaviour Act 2003.
 - positive measures to create a safe and clean environment in partnership with local businesses, transport operators and others
 - the provision of CCTV and ample taxi ranks;
 - confiscation of alcohol from adults and children in designated areas;
 - police enforcement of the law with regard to disorder and anti-social behaviour, including the issuing of fixed penalty notices;
 - Powers available to responsible authorities under the provisions of the Policing and Crime Act 2009 or Violent Crime Reduction Act 2006.

The above can be supplemented by other local initiatives that similarly address these problems, for example, through the Night Safe and pub watch schemes operating in the Borough and County in line with the strategic objectives for crime and disorder reduction within the Borough.

- 7.7 Where the Licensing Authority is satisfied that, within an area, the number, type and density of premises authorised for licensable activities is causing a serious problem of nuisance and disorder, and there is evidence of a disproportionate detrimental effect on neighbouring businesses and residents it may consider the adoption of a special saturation

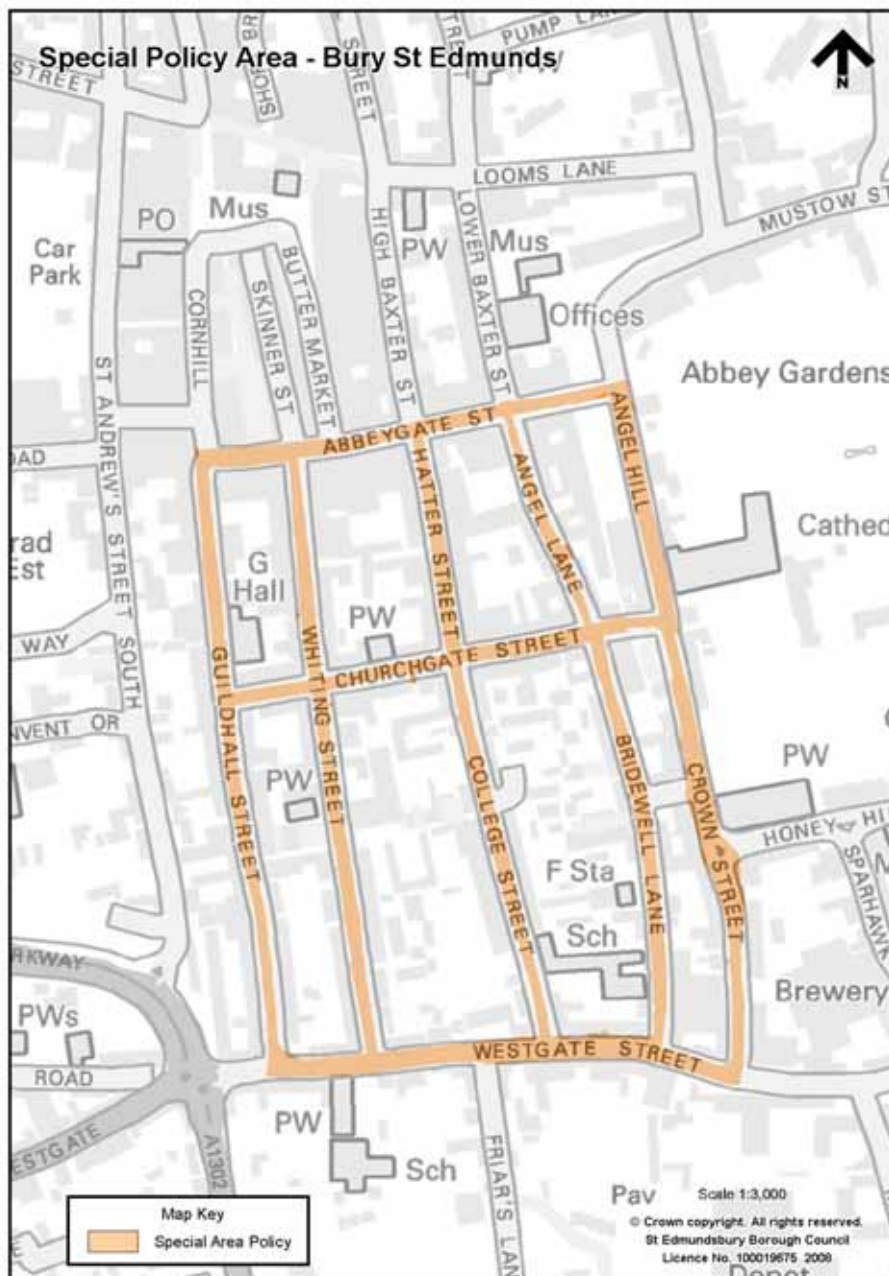
policy of refusing new premises licences or club certificates, or refusing to vary a premises licence or club certificate where it receives relevant representations about the cumulative impact on the licensing objectives of and application in an area covered by such a policy.

- 7.8 When setting such a policy, the Licensing Authority shall have regard to the Guidance issued under Section 182 of the Act, and will follow the consultation, adoption and review procedures applicable to the process.
- 7.9 The Council will take the following steps when considering whether to adopt a Special Saturation Policy:
- Identification of concern about crime and disorder or public nuisance in a specified area;
 - Consideration of whether it can be demonstrated that serious and chronic crime and disorder and nuisance problems are arising and are caused by the customers of licensed premises, and if so, identifying the area from which the problems are arising and the boundaries of that area; or that the risk factors are such that the area is reaching a point when a cumulative impact is imminent.
 - Subject to consultation in accordance with s.5(3) of the Act, inclusion of a special policy about future premises licence or club premises certificate applications for that specified area in the Statement of Licensing Policy and
 - Publication of the special policy as part of the Statement of Licensing Policy.
- 7.10 The Licensing Authority will review any special saturation policies as part of its general duty to keep this statement of Licensing Policy under review and re-determine and re-publish it at least every five years.
- 7.11 No special policy adopted for a specific area will be absolute, each application shall be considered properly on its own merits.
- 7.12 By adopting a special policy, there will be a presumption that:
- Where relevant representations are received, applications and applications for major variations will normally be refused unless;
 1. It can be shown that the operation of the premises involved will not add to the cumulative impact on the licensing objectives already being experienced; and
 2. The onus will be on the applicant to demonstrate in their operating schedule why the special policy should not be applied.
- 7.13 Where a special area policy is implemented, the policy may only be engaged in respect of a particular application where a relevant representation has been made by either a Responsible Authority or other persons
- 7.14 The Licensing Authority has reviewed the special area policy adopted for the area bounded by Guildhall Street, Westgate Street, Crown Street, Angel Hill and Abbeygate Street (both sides of each street,) on 5 January 2009, and taken the following steps in considering whether to re-adopt a special policy on cumulative effect within this statement of licensing policy:
- Identified concern about crime and disorder or public nuisance
 - Considered whether there is good evidence that crime and disorder are happening and are caused by customers of licensed premises and that the risk of cumulative impact is imminent
 - Identified the boundaries of the areas where problems are occurring
 - Consulted with those specified in section 5(3) of the Licensing Act 2003, on the proposal for a special policy in relation to new applications and variations to existing

premises licences and club premises certificates and considered the outcome of the consultation

7.16 Having considered the available evidence and undertaken consultation, the Licensing Authority considers that it is appropriate and necessary to control cumulative impact. The Licensing Authority is re-adopting the special policy relating to cumulative impact in the area set out below.

7.17 The Licensing Authority is adopting a special policy relating to cumulative impact in relation to the areas of the town of Bury St Edmunds indicated on the plan below:



The area is bounded by both sides of Abbeygate Street, Guildhall Street; Westgate Street; Crown Street; Angel Hill; and includes all streets within that area with effect from 11 April 2011 until 4 January 2014.

7.18 The evidence which the council considered for this special policy is set out in report B501.

- 7.19 This special policy creates a rebuttable presumption that, where the Licensing Authority's discretion is engaged following relevant representations about the cumulative impact on the licensing objectives, applications within the area set out in paragraph 7.1 for:
- new premises licences; or
 - club premises certificates; or
 - variations that are likely to add to the existing cumulative impact
- will normally be refused, unless the applicant can demonstrate why the operation of the premises involved will not add to the cumulative impact already being experienced.
- 7.20 Applicants will need to address the special policy issues in their operating schedules in order to rebut such a presumption.
- 7.21 Despite the presumption against grant, responsible authorities and interested parties will still need to make a relevant representation before the Licensing Authority may lawfully consider giving effect to its special policy. This means that if no representation is received, the application must be granted (subject to such conditions as are consistent with the operating schedule and any mandatory conditions required by the Licensing Act 2003). Responsible authorities and interested parties can make a written representation referring to information which had been before the Licensing Authority when it developed its statement of licensing policy.
- 7.22 The Licensing Authority recognises that a special policy should never be absolute. The circumstances of each application will be considered properly and applications for licences and certificates that are unlikely to add to the cumulative impact on the licensing objectives may be granted.
- 7.23 After receiving representations in relation to a new application or for a variation of a licence or certificate, the licensing authority will consider whether it would be justified in departing from its special policy in the light of the individual circumstances of the case.
- 7.24 The impact can be expected to be different for premises with different styles and characteristics. If the Licensing Authority decides that an application should be refused, it will need to show that the grant of the application would undermine the promotion of the licensing objectives and that appropriate conditions would be ineffective in preventing the problems involved.
- 7.25 This special policy will not be used:
- as a ground for revoking an existing licence or certificate when representations are received about problems with those premises
 - to justify rejecting applications to vary an existing licence or certificate except where those modifications are directly relevant to the policy (as would be the case with an application to vary a licence with a view to increasing the capacity limits of the premises) and are strictly necessary for the promotion of the licensing objectives
 - to include any provisions for a terminal hour in any particular area which might impose a fixed closing time akin to that under the 'permitted hours' provisions of the Licensing Act 1964
 - to impose quotas - based on either the number of premises or the capacity of those premises - that restrict the consideration of any application on its individual merits or which seek to impose limitations on trading hours in particular areas. Quotas have no regard to individual characteristics of the premises concerned. Proper regard will be given to those differences and the differing impact they will have on the promotion of the licensing objectives

7.26 This special policy will be reviewed regularly to assess whether it is still needed or should be expanded.

8. Licensing Hours

8.1 The Licensing Authority, through the exercise of its licensing function, will not seek to restrict the trading hours of any particular premises unless this is appropriate to promote one or more of the licensing objectives. Each application will be considered individually on its own merits.

8.2 Irrespective of the hours of operation granted for a premises under any licence under the Act, the premises should have either:

- planning consent; or
- lawful use under the planning legislation

and should comply with any limitation on hours imposed under planning or any other legislation, for example, Sunday Trading Act 1994 and Christmas Day (Trading) Act 2004 in order to operate lawfully.

8.3 The consideration of hours of operation will be in the context of the particular circumstances of each application and the licensing objectives. The hours at which noise may occur and disturbance of resident's rest, relaxation and sleep will be of particular concern.

8.4 The Licensing Authority will aim, through the promotion of the licensing objectives, to reduce the potential for concentrations of patrons leaving the premises and achieve a slower dispersal of people from licensed premises through flexible opening hours.

8.5 An Early Morning Restriction Order is an un-commenced power from the Licensing Act 2003 (as amended by the Crime and Security Act 2010) and will be introduced by the Police Reform and Social Responsibility Act 2011. Subject to a Commencement Order and the requirements of any resulting regulations the Council will set out its approach to this provision within Appendix D

9. Relevant Representations

9.1 A relevant representation is one that is made in writing and:

- is about the likely effect of a licence on the promotion of the licensing objectives, and could be either a representation objecting to an application or in support of it;
- has been made by a responsible authority, or other persons during the time period prescribed by regulation;
- has not been withdrawn; and
- has not been determined by the Licensing Authority as frivolous, vexatious or repetitious.

9.2 Electronic representations will be administered in accordance with the requirements of the Licensing Act 2003 (Premises licences and club premises certificates) (Amendment) (Electronic Applications etc) Regulations 2009 and are accepted by the licensing authority provided that the representation is received within the prescribed time limits. An electronic representation is not deemed to be received until it is opened which will be within office hours and if the e-mail is sent outside those hours and the consultation period finishes before the office is next open then the representation is late and will be refused.

9.3 An Officer of the Licensing Authority will determine whether any ordinary and reasonable person would consider the issue raised in a representation is repetitious. Any person

aggrieved by a rejection of his representations on these grounds may challenge the authority's decision by way of judicial review.

- 9.4 It will be for the Licensing Act Sub-Committee to determine whether any ordinary and reasonable person would consider the issue raised in a representation as either vexatious or frivolous. Therefore the representation will be deemed to be accepted by the Licensing Authority until such decision is made.
- 9.5 Local Councillors play an important role in their communities. They can make representations in writing and subsequently at a hearing as:
1. a member of the relevant licensing authority, i.e. elected councillors of the licensing authority for the area in which a premises is situated;
 2. on behalf of a named other person such as a resident or local business if specifically requested to do so; and
 3. as an individual in their own right.
- Their involvement in and/or participation in meetings to discuss matters is subject to the Local Authorities (Model Code of Conduct) 2012.
- 9.6 The Licensing Authority seeks to consider each representation on its merits, and taking into consideration the following matters;
- location of the premises which is the subject of the application
 - the nature of the surrounding area
 - the direct impact of the activities proposed to take place; and
 - the likely distance that sound might travel.
- 9.7 Where representations are not considered to be frivolous or vexatious, and the other person expresses a real concern about the likelihood of intimidation or violence if their details are published, that the LA may, consider withholding information from the public domain which would identify an individual.
- 9.8 Where a relevant representation is made in respect of:
- an application; or
 - an existing licensed premises
- a hearing will be held, unless an agreement is reached between the Licensing Authority, the applicant and all of the parties who have made relevant representations, that a hearing is not required. It is not anticipated that a hearing will be held where the only representations received are in support of an application and without qualification.
- 9.9 The Licensing Authority will attempt mediation between the relevant parties wherever it may be practicable or appropriate to do so, so as to avoid unnecessary hearings. It may also extend the normal time limits for hearings where it is considered in the public interest to do so (for example where all parties are on the point of reaching agreement).
- 9.10 It should be noted that the usual hearing arrangements, following receipt of a relevant representation, do not apply to minor variations. For these processes the power to determine the application has been delegated to the Licensing Officer, and no hearing mechanism is involved. Relevant representations and statutory guidance will, however, be considered as part of this process, and applications shall be assessed individually and on merit by the relevant officer.

10. Administration, Exercise and Delegations of Functions

- 10.1 The Council's published Scheme of Delegation for functions under the Licensing Act 2003 is set out in Part 3 of the Council's Constitution and is available on the Council website at www.stedmundsbury.gov.uk or by contacting Licensing Services.
- 10.2 Where an application has been made in accordance with the statutory requirements, and either no relevant representations have been received, or, relevant representations have been received and have all been withdrawn, the Licensing Authority will grant the application in accordance with the requirements of the Act under authority delegated to an officer. The exceptions to this usual administrative process are:-
- o Applications for a review of a premises which must be referred to a hearing when the application is made,
 - o minor variations and
 - o community premises mandatory conditions disapplication requests, as referred to elsewhere in this document.
- 10.3 Where an application does not meet the statutory requirements, it will be returned to the applicant with an explanation of the matters that need to be addressed in order to meet the statutory requirements.
- 10.4 Electronic applications will be administered in accordance with the requirements of the Licensing Act 2003 (Premises licences and club premises certificates) (Amendment) (Electronic Applications etc) Regulations 2009.

11. Hearings

- 11.1 Where a hearing is held any relevant representations will be put before the Licensing Act Sub-Committee. The representations, including the name and address of the person making them (subject to para 9.5) will be part of a public document.
- 11.2 The hearing will be conducted in accordance with the Licensing Authority's published procedure (www.stedmundsbury.gov.uk).
- 11.3 Where an application is determined at a hearing, the Licensing Act Sub-Committee will give appropriate weight to the:
- relevant representations
 - submissions and evidence presented by all parties;
 - steps appropriate to promote the licensing objectives set out at paragraph 3.3 above
 - the Licensing Authority's Statement of Policy; and
 - the Guidance issued under s.182 of the Act;
- 11.4 The Licensing Authority may use the power given within the hearings regulations to extend time limits where it considers this to be in the public interest. This may for example, include occasions where discussions between the applicant and those making representations are taking place and it is likely that all parties are reaching the point of agreement. Extending time limits in the public interest will be assessed individually on a case by case basis.
- 11.5 The Licensing Act 2003 provides for a mediation process between parties. Where it is appropriate for the Licensing Authority to do so, following a relevant representation being made, the Authority shall make all reasonable efforts to facilitate mediation. In doing so the Licensing Authority will be mindful of the legislative framework and any relevant

government guidance. Any guidance provided by the authority will be available on the website, at www.stedmundsbury.gov.uk

12. Conditions

12.1 The Act makes provision for certain mandatory conditions (sections 18-20) which are summarised below:

- Where a premises licence authorises the sale or supply of alcohol, no supply may be made at any time when there is:
 - no designated premises supervisor in respect of the licence; or
 - at a time when the designated premises supervisor does not hold a personal licence or it is suspended.
- Where a premises licence authorises the exhibition of films, the licence must include a condition requiring that the admission of children is restricted in accordance with the recommendation of the film classification body, or where varied, the film classification awarded by the Licensing Authority.
(n.b. The Licensing Authority recognise the British Board of Film Classification (BBFC), or any successor person or persons designated as the authority under section 4 of the Video Recordings Act 1984, as the relevant film classification body for these purposes. The Licensing Authority may also either award a classification to an unclassified film or vary the classification of a film on application in accordance with its policy www.stedmundsbury.gov.uk).
- Where a licence includes a condition requiring that one or more individuals are present at the premises to carry out security activities, the licence must include a condition requiring such individuals to be licensed by the Security Industry Authority.
(n.b. this does not apply to:
 - *premises with licences authorising plays or films,*
 - *premises used exclusively by a club with a club premises certificate*
 - *premises used under a temporary event notice or under a premises licence issued pursuant to the Gambling Act 2005); or*
 - *certain employees who benefit from any relevant exemption under the Private Security Industry Authority Act 2001 (the 2001 Act) or by virtue of any other legislation (for example the Violent Crime Reduction Act 2006).*
- The Licensing Authority may not attach to a licence authorising the performance of plays any condition which restricts the nature or manner of performing those plays (other than on the grounds of public safety).

12.2 There are also mandatory conditions relating to a code of conduct for holders of ON licensed premises, via the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010 - arising from the Policing and Crime Act 2009. The Secretary of State has powers to set further mandatory conditions and may use this power from time to time.

12.3 With the exception of the above mandatory conditions, the Licensing Authority will only attach conditions to a premises licence or club premises certificate or, in certain circumstances, a Temporary Event Notice where these:

- are consistent with the additional steps identified in the operating schedule which the applicant submits in support of their application; or
- at a hearing following a relevant representation, the conditions are considered appropriate for the promotion of the licensing objectives and are proportionate and reasonable.

In these circumstances, it is the intention of the Licensing Authority to express any such conditions in unequivocal and unambiguous terms and such conditions will be tailored to the specific premises concerned.

- 12.4 In so far as conditions proposed by any applicant is concerned the Guidance states that it is not acceptable for the licensing authorities to simply replicate the wording from the operating schedule. The authority will endeavour to interpret any condition in accordance with the applicant's intention.
- 12.5 The Violent Crime Reduction Act 2006 amends the Licensing Act 2003 which enables the Licensing Authority, on the application of a Senior Police Officer to attach interim conditions to licences pending a full review of the licence.
- 12.6 The Regulatory Reform (Fire Safety) Order 2005 provides that any conditions imposed by the licensing Authority that are or could be imposed by the order automatically cease to have effect, with certain exceptions.
- 12.7 Although the guidance confirms that the conditions should be tailored to the specific premises the licensing authority has produced an operating schedule tool kit that is regularly reviewed and updated which the applicant and others may draw upon as appropriate. In addition the Home Office has produced supporting guidance in respect of pools of conditions and which can be located on the its website at www.homeoffice.gov.uk
- 12.8 A committee or board of individuals with responsibility for the management of community premises ("the management committee") may apply to have an alternative licence condition included in a premises licence in place of the normal mandatory conditions. The alternative condition is that every supply of alcohol under the licence be made or authorised by the management committee.

13. Appeals

- 13.1 Entitlement to appeal against any decision of the Licensing Authority is set out in Schedule 5 of the Act.
- 13.2 Please note that there are no provisions for appeals to the Magistrates court in respect of applications for minor variations or disapplications for requirement for Designated Premises Supervisor.
- 13.3 Should the discretion of the licensing authority be engaged following an application for a Summary review under section 53A and Interim Steps are imposed by the licensing authority pending the review of the premises then there is no appeal as against that decision.

14. Enforcement

- 14.1 Where necessary, enforcement action will be considered in accordance with the compliance code, and the council's general enforcement policy (www.stedmundsbury.gov.uk).
- 14.2 The emphasis will be upon a risk assessed approach to inspections, concentrating on those premises which either:
- present a greater risk;
 - have a history of non-compliance with conditions or regulations; or
 - demonstrate poor management practice which undermines the licensing objectives.
- 14.3 The Licensing Authority has adopted a joint enforcement protocol with partner authorities – available via the Council website at www.stedmundsbury.gov.uk or upon request from the Licensing Team.

14.4 The Council will normally act as the enforcing authority in respect of offences under the Act, unless the circumstances of the particular case are such that it is appropriate for another responsible authority or Suffolk County Licensing Authority Trading Standards to act instead.

14.5 The Suffolk Constabulary will retain responsibility as the enforcing authority in respect of the following offences under the Act:

- Section 97 Power to enter and search
- Section 143 Failure to leave
- Section 144 Keeping of smuggled goods
- Section 155 Confiscation of alcohol; and
- Part 8 offences with respect to closure of premises.

Suffolk County Council Trading Standards will retain responsibility as the enforcing authority in respect of the following offences under the Act:

- Section 146 Sale of alcohol to children
- Section 147 Allowing the sale of alcohol to children
- Section 147A Persistently selling alcohol under age
- Section 154 Weights and measures offences

14.6 Where expedient for the promotion or protection of the interests of the inhabitants of their area, the Licensing Authority may also take action under Section 222 of the Local Government Act 1972 and other relevant provisions including Section 40 of the Anti-Social Behaviour Act 2003. The Council will also have due regard to section 17 of the Crime and Disorder Act 1998 whilst carrying out its functions.

15. Closure Orders/Notices

15.1 Part 8 of the Licensing Act 2003 provides for the arrangements relating to closure orders, and there are also powers available to the Local Authority and/or responsible authorities/court to close premises via other legislation on grounds of serious crime or disorder, persistent nuisance or protection of children - for example under the Violent Crime Reduction Act 2006, Criminal Justice and Immigration Act 2008 and Anti-Social Behaviour Act 2003.

15.2 Where the Magistrates' Court has determined to exercise any of its powers in respect of closure orders under any existing legislation, the Licensing Authority will:

- serve notices on the premises licence holder and responsible authorities and advertise the review in accordance with the regulations;
- hold a hearing in accordance with the procedure outlined in section 11 above to review the premises licence; and
- determine the review at the conclusion of the hearing and within 28 days of receipt of the notice of the closure order from the Magistrates' Court.

15.3 When determining a review following the notice of a closure order, the Licensing Authority will consider:

- the closure order and any extension of it;
- any order under s.155(2); and
- any relevant representations;

and will take such steps as it considers appropriate to promote the licensing objectives as outlined in section 3.4 of this Statement of Licensing Policy.

- 15.4 The Licensing Authority will notify the licence holder, the Chief Officer of Police and any person who made relevant representations of the outcome of the review hearing and the reasons for the decision. The Licensing Authority may suspend the operation of its decision until the end of the period given to appeal, or until the appeal is disposed of (if not already suspended by the Magistrates' Court).
- 15.5 The anti-social behaviour Act 2003 makes provision for the closure of premises for up to 24 hours where the noise from any licensed premises is causing a public nuisance.

16. Late Night Levy

- 16.1 The Police Reform and Social Responsibility Act 2011 introduces the principle of a Late Night Levy which is a power for licensing authorities to introduce a charge for premises that have a late alcohol licence. Subject to a Commencement Order and the requirements of any resulting regulations the Council will set out its approach to this provision within Appendix E

17. Addressing the Licensing Objectives

17.1 General

- 17.1.1 In respect of each of the four Licensing Objectives, when completing their operating schedule, applicants, should consider:
- the nature and style of the venue;
 - the activities being conducted there;
 - the location;
 - any special effects or risks and
 - the anticipated or target clientele.
- 17.1.2 Applicants are encouraged to carry out a risk assessment before completing the operating schedule and identifying those additional measures appropriate to promote the licensing objectives. Any risk assessment completed would not need to be provided to the licensing authority as part of the application, although Responsible Authorities would find this information helpful when assessing whether or not to make a representation. Reference should 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.
- 17.1.3 Applicants should be aware that any measures included in their operating schedule will be converted into conditions consistent with these measures attached to the licence. For this reason, applicants should, where possible identify measures which are specific and clear as to the action to be undertaken and who is responsible for that action.
- 17.1.4 Where a relevant representation is made and the discretion of the Licensing Authority is engaged, the proposed operating schedule submitted by the applicant may be amended by the Licensing Authority, where it considers this appropriate and proportionate to address the licensing objectives.
- 17.1.5 Organisers of large, temporary outdoor events (such as music festivals, fairs, shows and carnivals) are strongly encouraged to engage as early as possible with the responsible authorities to ensure that their planned event is developed in a way likely to promote the

licensing objectives. They should also seek the advice of the Suffolk Safety Advisory Group or any successor body. (See details in paragraph 5.4)

- 17.1.6 In respect of each of the four licensing objectives, when completing their operating schedule applicants should consider what measures are appropriate relevant to the size, individual style and characteristics of their premises and events.

17.2 Prevention of Crime and Disorder

- 17.2.1 The Council is committed to further improving the quality of life in its area by continuing to help reduce crime and disorder and the fear of crime. To this end, the Licensing Authority strongly encourages applicants and licensees to ensure that relevant factors within their control which impact on crime and disorder have been considered, for example:

- control and supervision of patrons smoking on pavements adjacent to the premises;
- underage drinking;
- drunkenness on the premises;
- drunkenness in public;
- drugs;
- violent behaviour;
- criminal damage at the premises or in the immediate vicinity and
- anti-social behaviour.

- 17.2.2 Section 17 of the Crime and Disorder Act 1998 imposes a duty on each local authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.

- 17.2.3 In order to promote the prevention of crime and disorder objective, the Licensing Authority encourages licence holders to become active partners with the Licensing and Responsible Authorities. Applicants are encouraged 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.

- 17.2.4 Applicants may find it helpful to contact the local Safer Neighbourhood Team (SNT) or Crime and Disorder Reduction Partnership (CDRP) in advance of making their application, as the SNT/CDRP may be able to offer expert advice and guidance on local crime and disorder issues and promotion of this licensing objective.

- 17.2.5 The following examples of control measures are given to assist applicants when developing their operating schedule, having regard to their particular type of premises and/or activities:

- a) Capacity limits (*including prevention of overcrowding*)
- b) Maintaining records of training and supervision of staff
- c) Specific actions identified from best practice guidance (*e.g. Safer Clubbing, the National Alcohol Harm Reduction Strategy Toolkit and other voluntary codes of practice such as The Point of Sale Promotions published by BBPA, and the Portman Group*)

- d) Use of accredited 'proof of age' schemes (for example Challenge 21 or Challenge 25) where it is intended to operate more stringent measures than those contained within mandatory conditions
- e) Signing up to and participating in a Nightsafe or Pubwatch scheme where it is in operation
- f) Provision **and use** of effective CCTV in and around premises
- g) Employment of Security Industry Authority licensed door staff
- h) Provision of toughened, polyethylene Terephthalate (PET) or plastic polycarbonate drinking glasses
- i) decanting glass bottles into toughened, polyethylene Terephthalate (PET) or plastic polycarbonate drinking glasses
- j) Provision of secure, deposit boxes for confiscated items ('*amnesty bins*');
- k) Provision of litter bins and other security measures, such as lighting, outside premises
- l) Provision for the disposal of waste on the frontage of the premises (including smoking ephemera; and
- m) Provision of:
 - a dispersal policy;
 - A searching policy; and/or
 - Risk assessment process to consider the crime and disorder implications of individual DJ's and promoters
- n) control or prevention of customers entering and leaving with opened bottles/glasses – for example whilst they are observing smoke free regulations.
- o) demarcation, capacity control, supervision and monitoring of areas immediately in the vicinity of the premises, used by smokers.

17.2.6 Within the operating schedule for premises from which alcohol will be sold, a Premises Supervisor must be designated ('*Designated Premises Supervisor*' *DPS*), unless a relevant community premises disapplication has been applied for/authorised. The Licensing Authority will expect the DPS to be the first point of contact for authorised officers. In exceptional circumstances, the Suffolk Constabulary may object to the designation of a new premises supervisor where they believe that such appointment would undermine the crime prevention objective.

17.2.7 Where the Suffolk Constabulary object to an individual being appointed as a Designated Premises Supervisor, or object to an application made by community premises management committee for the inclusion of the alternative licence condition, the Licensing Authority will arrange for a hearing at which the issue can be considered and both parties may put their arguments. This will be held in accordance with the procedure outlined in section 11 above.

17.2.8 The Licensing & Regulatory Sub-Committee considering the matter will confine their consideration to the issue of crime and disorder.

17.2.9 Certain temporary events (see section 20 below) must be notified to the Licensing Authority using the Temporary Event Notice procedure. Depending on the nature and location of such events these may, on occasion, have serious crime and disorder implications. Organisers of these events are encouraged to submit their notification as soon as reasonably practicable before the event, in line with existing statutory requirements, to enable the Suffolk Constabulary, the Environmental Health department of St Edmundsbury Borough Council and the Licensing Authority to work with them to identify and reduce the risk of crime and disorder.

17.3 Public Safety

- 17.3.1 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 encouraged to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to ensure public safety.
- 17.3.2 When addressing the issue of public safety, an applicant should demonstrate that those factors that impact on the standards of public safety have been considered. These may include, but are not limited to:
- a) the occupancy capacity of the premises (including staff and performers). Note: If a capacity has been imposed/set through other legislation, for example under Fire Safety legislation, it may not be appropriate to reproduce it in a premises licence. Anticipated maximum capacity/attendance for large, temporary outdoor events should be made clear.
 - 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, or provision of any special effects in conjunction with, or as part of regulated entertainment and including whether those activities are of a temporary, occasional or permanent nature;
 - d) the hours of operation (*differentiating the hours of opening from the hours when licensable activities are provided, if different*);
 - e) customer profile (*such as age, disability or culture*); and
 - f) the use of special effects such as lasers, pyrotechnics, smoke machines, foam machines, etc.
 - g) demarcation, capacity control, supervision and monitoring of areas immediately in the vicinity of the premises, used by smokers.
- 17.3.3 The following examples of control measures are given to assist applicants when preparing their operating schedules, having regard to their particular type of premises and/or activities. These are not exhaustive, but include:
- a) suitable and sufficient risk-assessments. Some applicants may wish to consider a commitment in their operating schedule to providing the relevant authorities with a full risk assessment prior to the commencement of licensable activities (this may be particular relevant to large temporary outdoor events).
 - b) provision of a sufficient number of people employed or engaged to secure the safety of the premises and patrons;
 - c) appropriate instruction, training and supervision of those employed or engaged to secure the safety of the premises and patrons;
 - d) Specific actions identified from best practice guidance (*for example, Safer Clubbing, the National Alcohol Harm Reduction Strategy Toolkit and other voluntary codes of practice*);
 - e) provision **and use** of effective CCTV in and around premises;
 - f) provision of toughened, Polyethylene Terephthalate (PET) or plastic polycarbonate drinking glasses;
 - g) decanting glass bottles into toughened, polyethylene Terephthalate (PET) or plastic polycarbonate drinking glasses
 - h) implementation of crowd management measures; and
 - i) monitoring arrangements such as door staff, ticketing, attendance clickers or maintenance of attendance records.

- j) regular/periodic review and testing (and certification where appropriate) of procedures, appliances, systems etc pertinent to safety (e.g. fire extinguishers, fire warning systems, emergency installations and building control certificates)

17.3.4 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, but are not limited to:

- the nature of the premises or event;
- the nature of the licensable activities being provided;
- the provision or removal of such items as temporary structures, (*for example, stages, or furniture*);
- the number of staff available to supervise customers both ordinarily and in the event of an emergency;
- instruction, training and supervision of staff;
- the age of the customers;
- the attendance by customers with disabilities, or whose first language is not English;
- availability of suitable and sufficient sanitary accommodation; and
- nature and provision of facilities for ventilation.

17.3.5 Where the applicant identifies a capacity limit for a premises or events, this should not be interpreted as a requirement to also provide permanent monitoring arrangements. The Licensing Authority recognises that the person in charge at the premises can often readily assess the capacity of 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.

17.4 Prevention of Public Nuisance

17.4.1 Licensed premises may have a significant potential to impact adversely on communities through public nuisances that arise from their operation

17.4.2 Subject to case law the Licensing Authority interprets “public nuisance” in its widest sense, and takes it to include such issues as noise (whether music or speech), light, odour, litter and anti-social behaviour, where these matters impact on those living, working or otherwise engaged in normal activity in the vicinity of a premises.

17.4.3 Applicants and licensees are encouraged 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.

17.4.4 The Licensing Authority expects the licensee to apply a high standard of control to minimise the potential for and mitigate the effects of any public nuisance that may arise from their operation of the premises, particularly where:

- they are situated in a residential or noise sensitive area; or
- where extended opening hours are proposed.

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

17.4.5 When addressing the issue of prevention of public nuisance, the applicant is encouraged to carry out a risk assessment to identify whether there are any factors which impact on the likelihood of public nuisance, and, if so, to address these in their operating schedule. These may include, but are not limited to:

- the location of premises and proximity to residential and other noise sensitive premises, such as hospitals, hospices, care homes and places of worship;
- the hours of operation, particularly between 23.00 and 07.00;
- 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;
- the design and layout of premises and in particular the presence of any noise limiting features;
- the occupancy capacity of the premises;
- the availability of public transport, taxi and private hire services to assist the speedy dispersal of patrons after events;
- the hours during which licensable activities take place and closure of the premises;
- last admission time;
- a dispersal policy; and
- provision for the disposal of waste on the frontage of the premises.

17.4.6 The following examples of control measures are given to assist applicants when preparing their operating schedules, having regard to their particular type of premises and/or activities. These are not exhaustive, but include:

-
- appropriate instruction, training and supervision of those employed or engaged to prevent incidents of public nuisance;
- control of operating hours for all or parts (*such as garden areas*) of premises, including such matters as deliveries or the collection or disposal of glass ware;
- impact on neighbours due to customers opening doors/going outside to observe smoke free regulations
- adoption of best practice guidance (*such as the Good Practice Guide on the Control of Noise from Pubs and Clubs, produced by Institute of Acoustics, Safer Clubbing, the National Alcohol Harm Reduction Strategy Toolkit and other industry codes of practice*);
- installation and effective maintenance of soundproofing, air conditioning, acoustic lobbies and sound limitation devices;
- management of people, including staff, and traffic (*and resulting queues*) arriving and leaving premises (arrival and dispersal policy);
- liaison with public transport, taxi and private hire service providers;
- siting of external lighting, including security lighting;
- effective ventilation systems to prevent nuisance from odour
- any adverse noise created by any ventilation or air conditioning system or any other machinery positioned outside the building.

17.5 Protection of Children from Harm

17.5.1 A child is an individual under the age of eighteen (or any subsequent age of majority determined by the Government) and the current St Edmundsbury Borough Council Safeguarding Children's Policy can be found at www.stebmundsbury.gov.uk.

17.5.2 The move towards giving accompanied children greater access to licensed premises made possible by the Act may bring about a social change in family friendly leisure. This relaxation places additional responsibilities upon licence holders, but it is also recognised

that parents and others accompanying children also have responsibilities. The vast majority of adults will naturally behave appropriately with children and recognise sensible boundaries. Licensees should be aware that children will normally see licensees and their staff as responsible adults – and that children are particularly vulnerable to adults who are “responsible” and “in authority” if those adults use their position to develop inappropriate relationships or otherwise abuse children’s trust.

- 17.5.3 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 or acts. In certain circumstances children are more vulnerable and their needs require special consideration. This vulnerability includes:
- o their susceptibility to suggestion;
 - o peer group influences;
 - o inappropriate examples;
 - o the unpredictability of their age; and
 - o their lack of understanding of danger.

Whilst it is not possible for the Licensing Authority to give an exhaustive list of what amounts to entertainment or services of an adult or sexual nature, examples would generally include:

- o topless bar staff;
- o Striptease;
- o lap-dancing, table-dancing, and/or pole-dancing;
- o performances involving feigned violence or horrific incidents;
- o feigned or actual sexual acts or fetishism; or
- o entertainment involving strong and offensive language, whether regularly or occasionally.

It should be noted that premises deemed as ‘sexual entertainment venues’ under the Policing and Crime Act 2009 will in most cases be required to obtain an additional licence under the Local Government (Miscellaneous Provisions) Act 1982. The Council has adopted a Policy on the licensing of Sexual Entertainment Venues (SEV’s) which may be found at www.stedmundsbury.gov.uk

- 17.5.4 Where its discretion is engaged following a relevant representation, the Licensing Authority, when considering an Application for a premises licence and any options appropriate to prevent harm to children, will take into account the nature of the activities proposed to be provided and the history of a particular premises, which may include, but is not limited to:
- the purchase, acquisition or consumption of alcohol;
 - exposure to drugs, drug taking or drug dealing;
 - exposure to a strong element of gambling (but not, for example, the presence of a small number of cash prize gaming machines);
 - exposure to activities of an adult or sexual nature;
 - exposure to incidents of violence or disorder; and
 - where there have been convictions of members of the current staff at the premises for serving alcohol to minors, or premises with a reputation for underage drinking.
- 17.5.5 Where its discretion is engaged following a relevant representation, the Licensing Authority will not:
- impose conditions restricting or prohibiting the admission of children to any licensed premises; or
 - limit the access of children to licensed premises, or parts thereof,

unless appropriate for their protection from harm. The Licensing Authority considers that, unless restriction of access is appropriate to protect children from harm, this is a matter for the discretion of the licensee.

- 17.5.6 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.
- 17.5.7 Where included in the operating schedule, or where the Licensing Authority's discretion is engaged, conditions may be attached to any licence to:
- a) Limit the hours during which children may be present;
 - b) Limit or exclude the presence of children under certain ages when particular activities take place;
 - c) Limit the parts of a premises to which children might be given access;
 - d) Impose certain age limitations (below 17);
 - e) Impose requirements for accompanying adults; and/or
 - f) Impose a full exclusion of those under the age of 18 from the premises when any licensable activities take place.
- 17.5.8 The following examples of control measures are given to assist applicants when preparing their operating schedules, having regard to their particular type of premises and/or activities. These are not exhaustive, but include:
- a) provision of a sufficient number of people employed or engaged to secure the protection of children from harm;
 - b) appropriate instruction, training, supervision and background checks of those employed or engaged to secure the protection of children from harm;
 - c) specific actions identified from best practice guidance;
 - d) limitations on the hours when children may be present in all or parts of the premises;
 - e) limitations or exclusions by age when certain activities are taking place
 - f) imposition of requirements for children to be accompanied by an adult;
 - g) the presence of an adequate number of adult staff to control the access and egress of children and to protect them from harm whilst on the premises;
 - h) an adequate number of adult staff to be responsible for the child performers; and
 - i) use of accredited 'proof of age' schemes and/or photo-id driving licences where it is intended to operate more stringent measures than those contained within mandatory conditions.
- 17.5.9 Where film exhibitions are given at premises, licensees must ensure that children are restricted from viewing age-restricted films classified according to the British Board of Film Classification, or by the Licensing Authority. The Council's policy on film classification can be found on its website at www.stedmundsbury.gov.uk. The current system of film classification implemented by the British Board of Film Classification (BBFC) can be found on its website at www.bbfc.co.uk.
- 17.5.10 The Licensing Authority recognises the Suffolk Area Child Protection Committee, or its designated nominee for the time being as being competent to advise on matters relating to the protection of children from harm. The contact details are set out in the Guidance to Applicants.
- 17.5.11 Suffolk County Council Trading Standards service and the Suffolk Constabulary, in conjunction with other appropriate agencies may, through making purchases, test the compliance of retailers with the prohibition on under age sales of alcohol.

18. Personal Licences

- 18.1 The Licensing Authority will grant a personal licence if the applicant has met the requirements set out in the Act and no objection notice is received from the Suffolk Constabulary.
- 18.2 Where an applicant is found to have an unspent conviction for a relevant offence or a foreign offence, and the Suffolk Constabulary object to the application on crime prevention grounds, the application will be referred to the Licensing Act Sub-Committee.
- 18.3 Any hearing will be held in accordance with the procedure outlined in section 11 above.
- 18.4 All personal licence holders should ensure they are aware of the offences relating to personal licences, for example the duty of the holder to advise the Court of the existence of their personal licence if charged with a relevant offence and to advise the Licensing Authority of changes to name or address.
- 18.5 The Licensing Authority considers that, when establishing whether or not an authorisation has been given for the retail sale of alcohol, the following factors are relevant:
- there should be an overt act of authorisation, (this could, for example, a specific written statement given to the individual being authorised);
 - the person(s) authorised to sell alcohol at any particular premises should be clearly identified;
 - the authorisation should specify the acts which may be carried out by the person authorised; and
 - there should be in place sensible arrangements for the personal licence holder to monitor the activity authorised on reasonably regular basis.
 - training records should be kept relevant to the training provided to each individual authorised by the personal licence holder

19. Applications for Premises Licences

- 19.1 The Department for Culture Media & Sport (DCMS) provides a written guide to making an application, and this is available free of charge by contacting the Licensing Team or visiting the government website at www.culture.gov.uk. Local guidance information, such as contact details for responsible authorities and other guidance documents, is available on the Council website at www.stedmundsbury.gov.uk or by contacting the Licensing Team
- 19.2 Pre-application discussions with responsible authorities are encouraged to assist applicants to develop their operating schedule in a way which is likely to promote the licensing objectives.
- 19.3 The Licensing Authority may make provision for a negotiation procedure to mediate between the applicant, responsible authorities and interested parties where relevant representations are made, within the restrictions of the statutory time limits and in accordance with any relevant government guidance. It may also extend the normal time limits for hearings where it is considered in the public interest to do so (for example where all parties are on the point of reaching agreement, or so as to ensure that it is possible for a party to attend the hearing).
- 19.4 An application may be made to the Licensing Authority for any place within its area to be used for licensable activities or recognised club activities. The application must be accompanied by:
- The prescribed fee;

- An Operating Schedule, which may be supported by any appropriate risk assessments the applicant has undertaken;
- A plan of the premises, in accordance with the regulations. The Council may reduce plans submitted to a scale suitable for publishing on the public register; and
- If it is intended that the premises be authorised to sell alcohol, a form of consent given by the person the applicant wishes to have specified in the Premises Licence as the Designated Premises Supervisor, or else request to disapply this usual requirement if for an eligible 'community premises'.

19.5 The Operating Schedule must include a statement of:

- the relevant licensable activities;
- the times during which the applicant proposes that the relevant licensable activities are to take place;
- any other times during which the applicant proposes that the premises are to be open to the public;
- where the applicant wishes the licence to have effect for a limited period, that period;
- where the relevant licensable activities include the sale by retail of alcohol, the name and address of the individual whom the applicant wishes to have specified as the designated Premises Supervisor and a consent form signed by that person in the prescribed form, (or else a 'community premises' disapplication request may be applicable);
- where the relevant licensable activities include the sale by retail of alcohol, whether such sales are proposed to be for consumption on the premises or off the premises, or both;
- the steps which the applicant proposes to take to promote the licensing objectives; and
- any other prescribed matters.

19.6 Where relevant representations are received about an application, and those representations are not withdrawn the application will be referred to a Sub Committee of the Licensing & Regulatory Committee, which will be held in accordance with the procedure outlined in section 11 above.

19.7 Where a premises licence application is being applied for to authorise a large scale outdoor event of a temporary nature (for example a music concert, street fair or carnival) the Licensing Authority strongly recommend that applicants contact the responsible authorities well in advance of making their application in order to seek expert advice and guidance on formulation of their operating schedule to ensure that they are able to identify appropriate measures to promote the licensing objectives.

20. Club Premises Certificates

20.1 Paragraphs 19.1 to 19.3 above apply.

20.2 An application for a Club Premises Certificate must be accompanied by:

- the relevant fee;
- the Club Operating Schedule, which may be supported by any appropriate risk assessments the applicant has undertaken;
- A plan of the premises, in accordance with the regulations. The Council may reduce plans submitted to a scale suitable for publishing on the public register;
- a copy of the rules of the Club; and
- evidence that the Club is a qualifying Club (*see the Guidance to Applicants*).

20.3 The Club Operating Schedule must contain the following:

- details of the recognised Club activities to which the application relates;
- the times during which it is proposed the recognised Club activities take place;
- any other times during which it is proposed the premises are open to members and their guests;
- the steps which it is proposed to take to promote the licensing objectives; and
- any other prescribed matters.

20.4 Where relevant representations are received in respect of an application, and those representations are not withdrawn, the application will normally be referred to the Licensing & Regulatory Committee or one of its sub-committees which will be held in accordance with the procedure outlined in section 11 above.

21 Temporary Events Notices (TEN)

21.1 The Act sets out the terms and conditions under which an application for a TEN may be made. Where reference is made to the minimum period for the giving of a standard TEN, the Licensing Authority understands this to mean 10 days exclusive of the day on which the event is to start and exclusive of the day on which the notice is given. Should any statutory modifications be made to the TENS system, for example relating to service requirements, then the Licensing Authority shall have due regard to these and publicise any such changes including via its website at www.stedmundsbury.gov.uk.

21.2 There is provision for making an application for a late TEN. Such application may be made no earlier than 9 working days before the event and no less than 5 working days before the event. Again Licensing Authority understands this to mean 9 or 5 days exclusive of the day on which the event is to start and exclusive of the day on which the notice is given.

21.3 Where either a standard TEN or late TEN is given and one or more of the relevant statutory limits are exceeded, the Licensing Authority will serve a Counter-Notice on the notice giver in accordance with section 107 of the Licensing Act 2003 to prevent the licensable activities from going ahead. There is no provision under the Act to appeal against the issue of a Counter-Notice.

21.4 Where a TEN complies with the statutory requirements, the Licensing Authority will record the notice in its register and send an acknowledgement to the premises user. The event may then proceed in accordance with the submission in the Temporary Event Notice unless the person who gave the notice is subsequently notified that it is the belief of the Licensing Authority that the notice was not served in accordance with the Legislation or an objection notice was subsequently received from either the Suffolk Constabulary or Environmental Health.

21.5 Where either the Suffolk Constabulary or Environmental Health issue an objection notice to a standard TEN, within the prescribed period, the Licensing Authority will normally consider this at a hearing (*unless the objection notice is withdrawn before the hearing date*). The hearing will be held in accordance with the procedure outlined in section 11 above.

21.6 If the TEN is submitted, and there is an objection notice, for an event that takes place at a premises that has either a premises licence or club premises certificate for all or part of the premises then the licensing authority can add conditions to the TEN provided such conditions are appropriate for the promotion of the licensing objectives and are consistent with the carrying out of the licensable activities under the TEN.

- 21.7 Where either the Suffolk Constabulary or Environmental Health issue an objection notice to a late TEN, there is no provision either for the Licensing Authority to consider a hearing or add conditions.
- 21.8 The licensing authority will notify the applicant of its decision at least 24 hours before the beginning of the event period specified in the Temporary Event Notice.

22. Provisional Statements

- 22.1 The Act sets out the terms and conditions under which an application for a Provisional Statement may be made.
- 22.2 Where a Provisional Statement has been issued and a person subsequently applies for a Premises Licence in respect of the premises, in accordance with the provisions of the Licensing Act and:
- given the information in the application for a Provisional Statement the person objecting could have made the same, or substantially the same, representations about the application but failed to do so without reasonable excuse; and,
 - there has been no material change in circumstances relating either to the relevant premises or to the area in the vicinity of those premises
- then representations made by a person to the Licensing Authority will not be taken into account.

23. Variations of Licences

- 23.1 An application for the variation of a premises licence or a club premises certificate will be required for any circumstances set out in the Act, and where any change to the premises has an impact on any of the four licensing objectives, for example:
- varying the hours during which a licensable activity is permitted
 - adding or removing licensable activities;
 - amending, adding or removing conditions within a licence; and
 - altering any aspect of the layout of the premises which is shown on the plan.

It should be noted that there is no provision in the Act for a variation application to be made in respect of a substantial variation. The Licensing Authority understands this to mean any proposed increase in the size of the premises of greater than 50% of the existing licensed area, although each proposed application will be considered on its merit. Where there is a substantial variation, an application for a new premises licence should be made.

In certain circumstances there is provision for a limited consultation where the proposed changes are unlikely to adversely impact on the Licensing Objectives. This is known as a Minor Variation. Some guidance and information on fees may be found on the web site www.stedmundsbury.gov.uk. The Licensing Authority will normally consider the following proposals as suitable for an application for a minor variation:-

- minor changes to plans
- removal of extant conditions (including those carried through from the Licensing Act 1964)
- changes to the operating schedule to promote the licensing objectives as the result of discussions with any Responsible Authority.

The Legislative Reform (Supervision of Alcohol Sales in Church and Village Halls etc.) Order 2009 (SI 2009/1724) amends the 2003 Act to allow certain 'community premises' which

have, or are applying for, a premises licence that authorises alcohol sales to also apply to include the alternative licence condition in sections 25A(2) and 41D(3) of the 2003 Act in the licence instead of the usual mandatory conditions in sections 19(2) and 19(3) of the 2003 Act. These new provisions took effect from 29 July 2009.

- 23.2 The Act and Guidance set out the terms, conditions and considerations under which an application for a minor variation, or request from the management of 'community premises' to dis-apply the usual mandatory conditions, may be made. Minor variation processes may be applied for in some circumstances, subject to some specific exclusions, to reduce the normal service, advertising and consultation requirements (and associated financial impacts in cost and time).
- 23.3 The minor variation process is intended for some small variations to licences/certificates that will not adversely impact on promotion of the licensing objectives (for example small variations to layout or some minor alterations to activities, timing or conditions). In each case the Licensing Authority will consult the relevant Responsible Authorities and make a decision on whether the variation could impact adversely on the licensing objectives. This process also makes a more limited provision for interested parties to make comment on the proposals. In determining these applications, under his/her delegated authority on behalf of the Licensing Authority, the Licensing Officer shall carefully assess each application on a case-by-case basis in the light of government guidance and all relevant factors. The licence/certificate holder may wish to seek advice from responsible authorities, in advance of submitting an application, as to whether the licensing objectives are likely to be affected by the proposals.
- 23.4 If relevant representations are made and not withdrawn the Licensing Authority will normally hold a hearing unless the application is for a minor variation which will be held in accordance with the procedure outlined in section 11 above and at that hearing which the Licensing Authority may:
- grant the application as applied for, subject only to any conditions consistent with the operating schedule and any relevant mandatory conditions;
 - modify the conditions (either by means of omission, inclusion or amendment) of the Licence; or
 - reject the whole or part of the application.
- 23.5 Where its discretion has been engaged, the Licensing Authority may determine a Premises Licence or Club Premises Certificate so that different conditions may apply to:
- different parts of the premises concerned; and
 - different licensable activities.
- 23.6 Where the Suffolk Constabulary submit an objection to:-
- an application to vary a Designated Premises Supervisor, or
 - an application from community premises to disapply the usual mandatory conditions,
- because they consider that the circumstances are such that granting it would undermine the Crime and Disorder Objective, a hearing will be held in accordance with the procedure outlined in section 11 above.

24. Transfer of Premises Licences

- 24.1 Where an application is made under the Act for a transfer of a licence for any reason and the Suffolk Constabulary submit an objection to an application, the Licensing Authority will hold a hearing in accordance with the procedure outlined in section 11 above. This hearing will be confined to consideration of the crime and disorder objective and the

application may be rejected where the Licensing Authority considers it appropriate for the promotion of the crime prevention objective to do so.

25. Reviews

- 25.1 The review of a Premises Licence or Club Premises Certificate is a key protection for local communities where problems associated with one or more of the licensing objectives are occurring and these are linked to the operation of the licensed premises.
- 25.2 Where relevant representations are made about an existing licence the Licensing Authority will normally hold a hearing which will be held in accordance with the procedure outlined in section 11 above to consider them unless:
- the representation is considered to be a repetition (*that is, identical or substantially similar to a ground specified in an earlier application for a licence, provisional statement or review*); or
 - the Licensing Authority, the applicant and everyone who has made representations agree that the hearing is not necessary.
- 25.3 A review of the Premises Licence will normally also follow:
- any action by the Suffolk Constabulary or Local Authority to close down the premises for up to 24 hours on grounds of disorder or public nuisance;
 - summary review powers of the Police pursuant to section 21 (regarding serious crime and disorder) of the Violent Crime Reduction Act 2006 ; or
 - any exercise of the closure order powers available to the Magistrates' Court.
- 25.4 Where a Responsible Authority seeks review of a premises licence or club premises certificate, the Licensing Authority will only take into account non-compliance with other statutory requirements where it considers that the non-compliance has or continues to undermine one or more of the licensing objectives.
- 25.5 In determining a review application, the Licensing Authority will take such steps as it considers appropriate to promote the licensing objectives, which may include:
- modifying the conditions of the licence (*by inclusion, amendment or omission*);
 - excluding a licensable activity from the scope of a licence;
 - removing a Designated Premises Supervisor;
 - suspending the licence for a period not exceeding three months; or
 - revoking the licence.
- 25.6 Where the Police make application for summary review under section 53A of the Licensing Act 2003 the relevant licensing authority will normally consider whether it is necessary to take interim steps pending the determination of the review applied for. Such consideration may take place without the holder of the premises licence having been given an opportunity to make representations to the relevant licensing authority. The interim steps the relevant licensing authority must consider taking are -
- (a) the modification of the conditions of the premises licence;
 - (b) the exclusion of the sale of alcohol by retail from the scope of the licence;
 - (c) the removal of the designated premises supervisor from the licence; and
 - (d) the suspension of the licence.

Should a summary review be instigated, the Licensing Authority shall follow the procedures as agreed by the Licensing and Regulatory Committee in April 2012 and available at www.stedmundsbury.gov.uk.

- 25.7 Applications may also be made for the review of licences which are held by a management committee in respect of community premises, and which include the alternative licence condition instead of the normal mandatory conditions. In relation to such applications, the licensing authority may determine that the normal mandatory

conditions should apply instead of the alternative condition if it considers this to be appropriate for the promotion of the licensing objectives. Such a determination may be reached following the usual procedure for review applications set out in sections 51 to 53 of the Act.

25.8 The outcome of the hearing will not have effect until such time as the period given for appealing (*21 days*) expires or an appeal is disposed of.

26 Fees

25.1 The Police Reform and Social Responsibility Act will introduce the principle of locally set fees. The level of each fee category will be based on cost recovery but with a nationally set cap for each category. Prior to the introduction of locally set fees the Secretary of State will issue guidance. Currently there is no further information available.

Appendix A

Statement of Licensing Policy

In preparing this statement the Licensing Authority has consulted in accordance with the Act, having regard to the Guidance. For details of the consultation see the minutes of the Licensing and Regulatory Committee meetings held on TBC

Appendix B

Designated Public Places Orders

As at the day of 2012 the following Designated Public Places Orders were in existence and copies are available on request:-

(1) The Alcohol Consumption in Designated Public Places (Bury St Edmunds Town Centre) Order2005 which came into force on the 26th June 2006

(2) The Alcohol Consumption in Designated Public Places (Haverhill) Order2008 which came into force on the 8th May 2008

Appendix C

Local Authority as Responsible Authority

The 2003 Act similarly enables licensing authorities to act as responsible authorities as a means of early intervention. They may do so where they consider it appropriate without having to wait for representations from other responsible authorities.

However it is reasonable for the licensing authority to expect that other responsible authorities will intervene where the basis for the intervention falls within the remit of that responsible authority.

Further, the licensing authority does not expect to act as a responsible authority on behalf of other parties (for example, local residents, local councillors or community

groups) although there are occasions where the authority may decide to do so, based on the merits of the individual cases. Such parties can make relevant representations to the licensing authority in their own right, and it is reasonable to expect them to make representations themselves where they are reasonably able to do so.

In general terms the following are examples of occasions when the Licensing Authority may either make representations within either an application for the grant or variation of a licence or an application for a review.

- Anti-social behaviour unless the alleged behaviour is connected to crime. Any participation will be in conjunction with either the Councils own anti-social behaviour team or the local safer neighbourhood team
- Noise connected with the dispersal of patrons from a premise or associated with groups of drinkers and/or smokers congregating outside the licensed premises on the pavement or highway.
- Applications in connection with time-limited premises for events particularly when there is no engagement by the premises with the Suffolk Safety Advisory Group
- Public Nuisance that may be caused by light pollution, litter or noxious odours.
- The provision of adult entertainment at premises on an infrequent basis so that a licence under the Local Government (Miscellaneous Provisions) Act 1982 is not required. Issues like preventing accidental access by children maybe addressed or safeguards to protect either the dancers and/or the patrons and addressing the potential concerns of the community in the immediate vicinity.

At 12.4 Within the body of this Policy it is confirmed that it is not acceptable for the licensing authorities to simply replicate the wording from the operating schedule. The authority will endeavour to interpret any condition in accordance with the applicant's intention. In addition the Licensing Authority, as Responsible Authority, may engage with the Premises Licence Holder (particularly if there is any application to be determined) with a view to creating conditions that are not only appropriate or proportionate but are also:-

- Specific
- Measurable
- Achievable
- Realistic
- Timely

The Councils schedule of delegation makes provision for certain specified officers or other officers to whom this function has been delegated in writing to act as a Responsible Authority.

As far as reasonable practical the Council as Licensing Authority will endeavour to make provision for there to be a separation of roles between the licensing officer making any such representation and the licensing officer preparing and presenting the report to the sub-committee of the Council's licensing and regulatory Committee.

Appendix D

Early Morning Restriction Orders

An Early Morning Restriction Order is a power from the Licensing Act 2003 (as amended by the Crime and Security Act 2010) and will be introduced by the Police Reform and Social Responsibility Act 2011. Currently the provisions have yet to come into force.

Appendix E

Late Night Levy

The Police Reform and Social Responsibility Act 2011 introduces the principle of a Late Night Levy which is a power for licensing authorities to introduce a charge for premises that have a late alcohol licence. Currently the provisions have yet to come into force.



Licensing Act 2003: Fifth Edition Policy (Jan 2013⇒)
Summary of Suggested Revisions

Page	Section	Summary
Page 4	Introduction	Reference to revised and updated s.182 Guidance Reference to implementation of the Police Reform and Social Responsibility Act 2011 (PRSR)
Page 7	Licensing Objectives	3.3 Summary of the consultation process removed in its entirety. 3.6 Insert reference to safety of the public engaging in licensable activities.
Page 8	Role of the Licensing Authority in the decision making process	Update to make reference to "other persons" ¹ Update to make reference to the licensing authority as a responsible authority
Page 9	Other legislation, strategies and guidance	5.1 Expand references to include: Police Reform and Social Responsibility Act 2011 Sunday Trading Act 1994 Christmas day (Trading) Act 2004 Safety at Sports Grounds 1975 Public Health Act 2006 (section 10) Any National Alcohol Strategy; The Council's published policy on Safeguarding Children. 5.3 Update to refer to change from necessary to appropriate ² 5.4 Include reference to Suffolk Advisory Group 5.8 References to Alcohol disorder zones removed following PRSR Act 2011 5.9 include reference to DPPO for clarity and insert in Appendix to Statement of Licensing Policy
Page 15	Licensing Hours	8.5 Reference to Early Morning Restriction Order(s) included arising from implementation of PRSR Act 2011
Page 15 Page 16	Relevant representations	9.2 Explanation of the circumstances within which electronic representations will be accepted 9.4 Sets out responsibility for determining whether representations are vexatious or frivolous. 9.5 Clarifies those parameters within which local councillors may make representations
Page 17	Administration, Exercise and Delegation of functions	10.2 Reference to reviews
Page 17	Hearings	11.3 inclusion of reference to licensing objectives and licensing statement of policy
Page 18	Conditions	12.1 Addition to clarify that door supervisors are not required to be registered by SIA where a premises licence under the Gambling Act 2005 is held

¹ Note that all subsequent references to "interested parties" will be substituted by "other persons"

² Note that all subsequent references to "necessary conditions" will be substituted by "appropriate conditions"

		<p>12.3 Reference to conditions which may be attached to Temporary Event Notices in certain circumstances.</p> <p>12.4 Clarification in accordance with Guidance that the Licensing Authority will not simply replicate the operating schedule, but will attempt to ensure that conditions attached under Annex 2 are relevant, enforceable, and reflect the intent of the applicant.</p> <p>12.7 specifies sources of guidance that applicants may refer to in developing their operating schedules.</p>
Page 19	Appeals	13.3 Clarification that interim steps imposed under a summary review process may not be appealed pending a full review of the licence.
Page 21	Late Night Levy	16.1 Reference to Late Night Levys included arising from implementation of PRSR Act 2011
Page 21	Addressing the Licensing Objectives	<p>17.1.1 Inclusion of any special effects or risks</p> <p>17.1.3 Clarification to applicants about the conversion of operating schedules to annex 2 conditions</p>
Page 22	Prevention of crime and disorder	<p>17.2.1 Inclusion of reference to:</p> <ul style="list-style-type: none"> • criminal damage • PET or plastic drinking bottles <p>17.2.9 inclusion of Environmental Health as a responsible authority for TEN's.</p>
Page 24	Public Safety	<p>17.3.2 Clarification about what factors may impact on public safety, including reference to occupancy and special effects</p> <p>17.3.3 update of control measures to include PET/plastic bottles and reference to systems and appliances pertinent to safety.</p>
Page 25 Page 26	Prevention of public nuisance	<p>17.4.2 Added reference to case law</p> <p>17.4.5 added references to dispersal of patrons</p> <p>17.4.6 references to additional control measures</p>
Page 26 Page 27	Protection of children from harm	<p>17.5.1 Clarification as to legal definition of "child"</p> <p>17.5.3 additional reference to "Sexual Entertainment Venues"</p> <p>17.5.5 clarification that an LA will not restrict or prohibit the admission of children to premises unless it considers this appropriate.</p>
Page 28	Personal licences	18.2 Extra reference for clarity – referred to the Licensing Act Sub-Committee
Page 31	TENS	<p>21.2-21.7 Clarification and additional references following implementation of PRSR Act 2011, which introduced:</p> <ul style="list-style-type: none"> • Environmental health as a responsible authority; • late TENSs; and • conditions on TENSs in certain circumstances.
Page 32	Variations of licences	23.1 Expanded reference to Minor Variations and the separate decision making process/delegation involved with that.

Page 34	Reviews	25.6 Reference to procedures agreed by Licensing and Regulatory Committee.
Page 34	Fees	25.1 reference to new principle of locally set fees introduced under PRSR Act 2011
Appendix A	Statement of Licensing Policy	Summary of consultation process for Statement of Licensing Policy
Appendix B	Designated Public Places Order	Reference to current Designated Public Places Orders adopted by the borough council
Appendix C	Local Authority as Responsible Authority	Sets out how the Licensing Authority as Responsible Authority (introduced under the PRSR Act 2011) intends to exercise its new responsibilities
Appendix D	Early Morning Restriction Orders	Reference to Early Morning Restriction Order(s) included arising from implementation of PRSR Act 2011
Appendix E	Late Night Levy	Reference to Late Night Levy(s) included arising from implementation of PRSR Act 2011

Summary of Responses to Call for Evidence – Special Area Policy in Bury St Edmunds

Name	Date Received	Summary of Comments	Action
Bury St Edmunds Town Council	27/09/2012	<p>7.10 Review period has changed from 3 yearly to 5 yearly which would appear to be less desirable.</p> <p>9.5 Replace with reference to 2012 Code of Conduct</p> <p>9.6 Requirement of proximity of person making representation to the premises has gone - no longer required to limit to those who live or work in proximity to the premises - now anyone in the vicinity can make a representation - a detrimental step?</p> <p>11.3 Could refer to 17 as well which is about addressing the licensing objectives.</p> <p>12.7 Needs to specify the minimum period of review?</p> <p>16.1 Typo – should be “will set out its...”</p> <p>17.2 better control/supervision/management of people on or blocking the pavement whilst smoking which is intimidating to passers by/other pavement users - This is relevant to and should therefore be included in Prevention of Crime & Disorder, Public Nuisance and Public Safety sections.</p> <p>17.2.1 “criminal damage at the premises or in the immediate vicinity” - Good</p> <p>17.2.5(e) “Signing up to and participating in a Nightsafe or Pubwatch scheme where it is in operation” – good</p> <p>17.2.5(i) “decanting glass bottles into toughened, polyethylene Terephthalate (PET) or plastic polycarbonate drinking glasses” – good</p> <p>17.2.5(o) including fag butt bins</p> <p>17.3.2(c) “the nature of the licensable activities to be provided, in particular the sale or supply of alcohol, or provision of any special effects in conjunction with, or as part of regulated entertainment and including whether those activities are of a temporary, occasional or permanent nature;” – good</p>	<p>No Action</p> <p>Update</p> <p>No Action – prescribed under Police Reform and Social Responsibility Act</p> <p>No action required</p> <p>No action – specified in the Act</p> <p>Update</p> <p>Updated to include reference to this</p> <p>No action required</p> <p>No action required</p> <p>No action required</p> <p>This is covered in 17.2.5(i)</p> <p>No action required</p>

Name	Date Received	Summary of Comments	Action
		<p>17.3.3(g) "g) decanting glass bottles into toughened, polyethylene Terephthalate (PET) or plastic polycarbonate drinking glasses" – good</p> <p>17.4.5 what about not serving people who are showing signs of drunkenness?</p> <p>17.4.6 this bullet point should say "effective and responsible management of premises" "appropriate instruction, training and supervision of those employed or engaged to prevent incidents of public nuisance;" - responsible drinking policy "control of operating hours for all or parts (such as garden areas) of premises, including such matters as deliveries or the collection or disposal of glass ware;" – good</p> <p>"installation and effective maintenance of soundproofing, air conditioning, acoustic lobbies and sound limitation devices;" – good</p> <p>17.5.1 'child' is someone under the age of 18</p> <p>17.5.3 typos and consistency of terminology required</p> <p>17.5.7 Grammatical needs sorting. This list a) - e) of circumstances gets progressively more stringent in its application in that context it makes sense.</p> <p>17.5.7(f) typo delete 'from' and replace with 'of'</p> <p>18.5 "training records should be kept relevant to the training provided to each individual authorised by the personal licence holder" good</p> <p>21.2 Working days excluding date of delivery and date of receipt?</p> <p>21.5 is there no prescribed time limit for these parties to object now?</p> <p>21.7 so what happens then? - The application automatically fails.</p> <p>23.1 typo</p> <p>23.6 typo -"from a"</p> <p>25.6 preferable to have as an appendix - assists with usability.</p>	<p>No action required</p> <p>No action – this is an offence under the Act</p> <p>No action required – although the suggestion is not disputed, it would not be an enforceable condition or measure</p> <p>No action required</p> <p>No action required</p> <p>No action</p> <p>Update paragraph</p> <p>Update paragraph</p> <p>Update paragraph</p> <p>No action required</p> <p>Correct – no action required</p> <p>Update – insert in accordance with the Act</p> <p>No action required</p> <p>Update</p> <p>Update</p> <p>No action – to insert as an appendix would restrict ability to amend in response to changes to the Act</p>

Name	Date Received	Summary of Comments	Action
		<p>Appendix C – Local Authority as Responsible Authority</p> <p>At 12.4 Within the body of this Policy it is confirmed that it is not acceptable for the licensing authorities to simply replicate the wording from the operating schedule. The authority will endeavour to interpret any condition in accordance with the applicant's intention. In addition the Licensing Authority, as Responsible Authority, may engage with the Premises Licence Holder (particularly if there is any application to be determined) with a view to creating conditions that are not only appropriate or proportionate but are also:-</p> <ul style="list-style-type: none"> • Specific • Measurable • Achievable • Realistic • Timely <p>good</p>	No action required.

LICENSING ACT 2003

**St Edmundsbury Borough
Licensing Authority**

**LICENSING
STATEMENT OF
POLICY**

St Edmundsbury Borough Council



St Edmundsbury
BOROUGH COUNCIL

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This updated policy was first adopted by the St Edmundsbury Borough Council on 5 April 2011 and subsequently reviewed following the commencement of Part 2 of the Police Reform and Social Responsibility Act 2011. It is effective during the period until inclusive.

1. Introduction

The Licensing Act 2003 became fully implemented on 24 November 2005, and brought about the single biggest change to the licensing arrangements for many types of leisure premises in 40 years.

The Act integrated six separate licensing regimes covering the sale and supply of alcohol, the provision of regulated entertainment, the provision of late night hot food or drink (between the hours of 11pm and 5am), night café, theatres and cinemas. The legislation is continuing to evolve, and be amended.

The licensing authority acknowledges the benefits provided by the Act as detailed in the commentary provided by the Secretary of State for Culture, Media & Sport within the introduction to the revised guidance issued in March 2010, namely that the Act:

- o Allows local people a bigger voice in licensing decisions, with local people becoming more aware of and engaged in the licensing process;
- o Assists with providing a better system of regulation for business, greater choice for consumers, and where possible help for areas in need of economic regeneration;
- o Is evidencing that licensees are making good progress towards taking their responsibilities seriously, and are actively working with the Police and each other to eliminate sales of alcohol to underage persons and to combat alcohol related crime and disorder;
- o Encourages effective multi-agency partnership working to target 'problem' premises, and that new closure and review powers are working to help clamp down on the irresponsible minority of retailers; and
- o Cannot in isolation provide a solution to many of the problems associated with alcohol misuse, and must be part of a broader strategy to achieve better management of the night-time economy and a better balance between the rights and responsibilities of everyone living and working in each community.

As from April 2012 The Police Reform and Social Responsibility Act 2011 will make significant changes to the licensing Act 2003

1.1 Location

St Edmundsbury is at the heart of Western Suffolk, at the centre of the triangle created by Norwich, Ipswich and Cambridge. The Borough runs north-east from Haverhill, near the Essex and Cambridgeshire borders, to the Norfolk border. It is an area of unspoiled natural beauty with a keen sense of its rural heritage. Bury St Edmunds and Haverhill are the two main towns within which 57% of the population live. The Borough has a predominately rural character with a low population density of 1.4 people per hectare, compared to the national average of 2.4. Based on current demographic trends, our population is expected to grow by 12% by 2021.

1.2 Bury St Edmunds

This historic market town is a centre for tourism, with its medieval street plan, cathedral, abbey ruins and fine timber-framed and Georgian buildings. It has a large rural hinterland and thus a wider range of shops and services than might be expected in a town of its size. The town has good communication links with the only railway station in the Borough, linking it with Ipswich to the east and Cambridge and Peterborough. Both London and the

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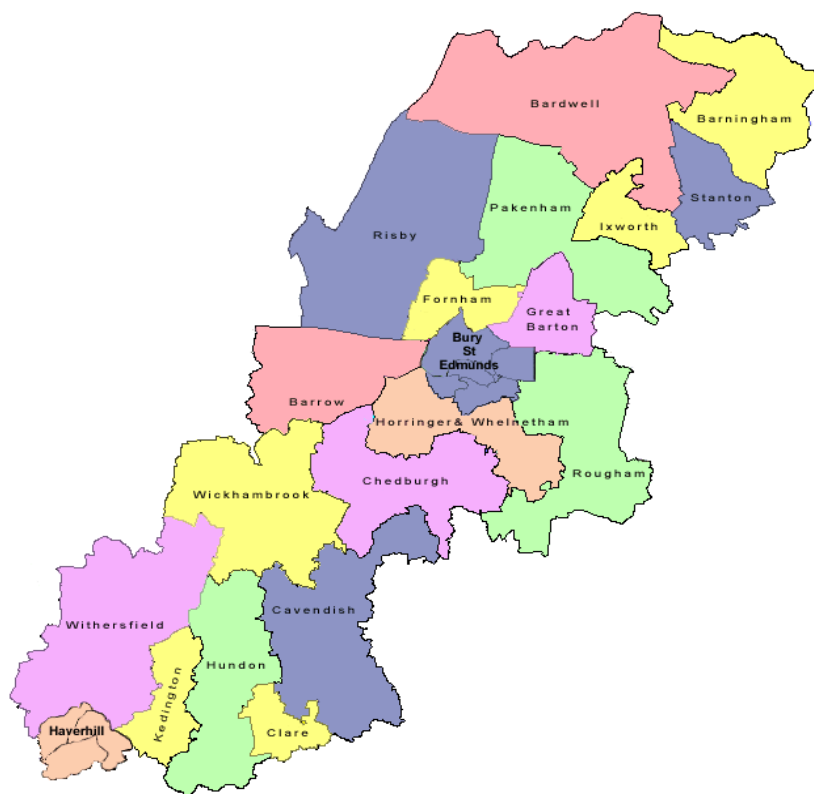
Midlands can be reached in 90 minutes via the A14. Approximately 360,000 people live within 20 miles of the town which has experienced a period of rapid growth in the past 60 years, almost doubling in size since 1931.

Haverhill

This was part of the Greater London Council's expansion scheme, and experienced a period of very rapid growth, more than quadrupling in size from 4099 in 1951 to 19,536 in 1991. On the A1307, it is less than 20 miles from Cambridge, 16 miles from the M11 to London, near Stansted Airport and is part of the 'M11 Corridor'. A centre experiencing growth in manufacturing and other industries, the town has some interesting architecture and its community has a strong sense of identity. About 550,000 people live within a 20 mile radius of the town, which is surrounded by attractive countryside.

1.3 Rural

Approximately 43% of the Borough's population live in the 77 parishes in our rural areas, compared with 20% in Britain in general. Many villages are traditionally attractive, with thatched and timber framed cottages; Clare and Cavendish are perhaps the two best known. Some of the villages are tiny; the three smallest have populations of just 30. Only three rural parishes have a population of more than 2000.



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2. Purpose of the Licensing Policy

2.1 The purpose of this licensing policy is to:

- inform the elected Members serving on the Licensing Committee of the parameters within which licensing decisions can be made;
- inform applicants, residents and businesses of the parameters within which the Licensing Authority will make licensing decisions;
- inform residents and businesses about how the Licensing Authority will make licensing decisions; and
- provide a basis for decisions made by the Licensing Authority if these decisions are challenged in a court of law.

2.2 This policy relates to the following licensable activities as defined in the Act:

- Retail sale of alcohol;
- The supply of alcohol by or on behalf of a club, or to the order of a member of the club;
- The provision of regulated entertainment, which includes:
 - a performance of a play;
 - an exhibition of a film;
 - an indoor sporting event;
 - a boxing or wrestling entertainment (indoors and outdoors);
 - a performance of live music;
 - any playing of recorded music;
 - a performance of dance;
 - entertainment of a similar description to that falling within the performance of live music, the playing of recorded music and the performance of dance;
- The provision of late night refreshment.

2.3 It should be noted that the 2003 Act (Part 2 of Schedule 1) makes provision for exempt or unregulated activities or locations. Further information on some of these is available from the Department for Culture Media & Sport. Whether activities/locations may be entitled to benefit from an exemption would be assessed on a case-by-case basis.

2.4 The Licensing Authority will have due regard to the intention of the Act to contribute to the overall economy of the district and in particular to the potential benefits of longer opening hours, which the Act foresees.

2.5 Where the Guidance published by the government under s.182 is revised at any time the Licensing Authority will have regard to it where it departs from the Licensing Statement of Policy.

2.6 In some cases additional licences may be required under separate legislation, for example sexual entertainment venues may also require a licence under schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, or the venue may also require Performing Rights Society (PRS) permissions.

3. Licensing Objectives

3.1 This policy must be read in conjunction with the Licensing Act 2003 (the Act), secondary legislation and the Guidance issued under s.182 of the Licensing Act 2003 (the Guidance).

3.2 Where revisions are made to the legislation or Guidance issued by the Secretary of State, there may be a period of time when the local Statement of Licensing Policy is inconsistent with these revisions. In these circumstances, the Licensing Authority will have regard, and

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give appropriate weight, to the relevant changes, Guidance and its own Statement of Licensing Policy.

3.3 Removed in its entirety

3.3 The licensing authority recognises that balancing the interests of owners, employees, customers and neighbours of licensed premises will not always be straightforward, but it has a duty to promote the four licensing objectives of the Act:

- **the prevention of crime and disorder;**
- **the prevention of public nuisance;**
- **ensuring public safety; and**
- **protection of children from harm.**

These are the only four objectives in the Act and as such they are paramount to all licensing considerations. The Licensing Authority's approach to addressing these four objectives is set out in section 16.

3.4 In exercising its licensing functions, once its discretion is engaged, the licensing authority will consider the direct impact of the licensable activities on other persons.

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3.5 The Licensing Authority wishes to proactively maintain and protect the amenity of residents and other businesses from the potential consequence of the operation of licensed premises whilst recognising the valuable cultural, social and business importance that such premises provide.

3.6 The aims of this Statement of Licensing Policy are to:

- Help to encourage and support a strong and inclusive society that balances the rights of individuals and their communities.
- Integrate the Licensing Authority's aims and objectives with other initiatives and strategies that will:
 - reduce crime and disorder;
 - ensure the safety of the public engaging in licensable activities
 - encourage tourism and cultural diversity;
 - reduce alcohol misuse;
 - encourage the self sufficiency of local communities; and
 - reduce the burden of unnecessary regulation on business.

3.7 This Statement of Policy does not seek to undermine the right of any individual to apply under the terms of the Act for a variety of permissions and to have such an application considered on its merits where the Licensing Authority's discretion has been engaged. It does not seek to override the right of any person to make representations on or about an application or seek a review of a Licence or Certificate where provision has been made for them to do so in the Act.

3.8 The licensing process can only seek to regulate those measures within the control of the licensee or certificate holder (and their staff/agents), and in the immediate vicinity of the premises involved in licensable activities, for example, on the pavement, in a beer garden or smoking shelter. Licensing law is not a mechanism for the general prevention of anti-social behaviour by individuals once they are away from such premises and beyond the direct control of the licence holder, nor is it the cure-all for all community problems.

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4. The role of the licensing authority in the decision making process:

It is important for any person reading this Statement of Licensing Policy to note that the Licensing Authority's discretion and decision making role, referred to throughout this Statement of Licensing Policy, is only engaged following a relevant representation being lodged in respect of an application, and where that representation is not withdrawn. The application will then ordinarily be heard by a sub-committee of the Council's Licensing and Regulatory Committee. However it must be noted that, in contrast, the process and determination in respect of minor variations and disapplication of mandatory conditions for community premises are exceptions to these usual arrangements, as referred to later in this document.

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The Licensing Act 2003 provides for a mediation process between parties. Where it is appropriate for the Licensing Authority to do so, following a relevant representation being made, the Authority shall make all reasonable efforts to facilitate mediation. In doing so, the licensing authority will be mindful of the legislative framework and any relevant government guidance.

In cases where a premises licence application or club premises certificate has been lawfully made, and no responsible authority or person other than a responsible authority (other persons) has made a representation, the Licensing Authority must grant the application on the terms sought, subject only to conditions which are consistent with the operating schedule and relevant mandatory conditions in the Act. This should be undertaken as an administrative process by the Licensing Authority's officers who will translate the proposals contained within the operating schedule to promote the licensing objectives into clear and understandable conditions. As above, there are different arrangements in place for some minor processes under the Act.

The Police Reform and Social Responsibility Act 2011 created a further role for the Licensing Authority as a Responsible Authority thereby allowing it to make representations and/or seek a review of a premises licence or club premises certificate. The details of the involvement of the Licensing Authority as a Responsible Authority are in accordance with Appendix C to this Policy.

It is the intention of the licensing authority to work closely with licensees and their representatives, responsible authorities, other persons and partner authorities in order to promote the licensing objectives and minimise the burden on all involved to ensure that as far as possible the licensing arrangements work satisfactorily and successfully.

5. Other Legislation, Strategies and Guidance

5.1 When carrying out its functions the Licensing Authority must comply with the following legislation:

Crime and Disorder Act 1998;

The European Convention on Human Rights, given effect by the Human Rights Act 1998.

Criminal Justice and Police Act 2001 (in particular the powers available under section 13 to make 'designated public place orders' (DPPO's) to control the consumption of alcohol in a public place outside licensed premises);

Race Relations Act 1976 (as amended by the Race Relations (Amendment) Act 2000);

Anti-Social Behaviour Act 2003 (in particular powers available under sections 40 and 41 relating to the closure of premises on the grounds of public nuisance caused by noise);

Violent Crime Reduction Act 2006 ;

Environmental Protection Act 1990 (as amended);

Health Act 2006;

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Noise Act;
Health and Safety at Work Act;
Clean Neighbourhoods and Environment Act 2005 (including powers for the Local Authority to issued fixed penalty notices to licensed premises emitting noise that exceeds the permitted level between 11pm and 7am).
Policing and Crime Act 2009;
Police Reform and Social Responsibility Act 2011
Sunday Trading Act 1994
Christmas day (Trading) Act 2004
Safety at Sports Grounds 1975
Public Health Act 2006 (section 10)
Any National Alcohol Strategy;
The Council's published policy on Safeguarding Children.
The Council's published procedure for dealing with petitions and its obligations under the Local Democracy, Economic Development and Construction Act 2009;
Equality and diversity obligations; and
European Union Services Directive.

- 5.2 The premises operators are normally responsible for compliance with any other statutory requirements which may apply (for example, Regulatory Reform (Fire Safety) Order).
- 5.3 The Licensing Authority will seek to avoid duplication with other regulatory regimes when dealing with the licensing function. If other existing law already places certain statutory responsibilities on an employer or operator of premises, it cannot be appropriate or proportionate to impose the same or similar duties on the premises licence holder or club. Once the discretion of the Licensing Authority is engaged, it is only where additional and supplementary measures are appropriate to promote the licensing objectives that proportionate conditions will be attached to a licence.
- 5.4 Other Local Authority and Government policies, strategies, responsibilities, and guidance documents may also refer to the licensing function, and the Licensing Authority may liaise with the relevant authorities or its directorates with regard to these. Whilst some of these may not be directly related to the promotion of the four licensing objectives, they can indirectly impact upon them. For example, the Licensing Authority will liaise closely with the local Safer Neighbourhood Teams (SNT) and/or Crime and Disorder Reduction Partnership (CDRP) and/or the Suffolk Safety Advisory Group (SAG) to ensure that the Local Authority can develop effective strategies that take full account of local crime and disorder issues.

It is the Licensing Authority's intention that it will, through its Licensing Committee monitor how the matters set out in this paragraph impact on the Licensing Authority's licensing and other functions, in order to integrate its licensing function with other relevant strategies.

The Licensing Authority will maintain a list of those strategies and policies with which it seeks to integrate its aims and objectives on the website, at www.stedmundsbury.gov.uk.

- 5.5 The Licensing Authority may 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, the Licensing Authority may review the policy.
- 5.6 The Licensing Authority wishes to encourage and promote live music, dance and theatre for the wider cultural benefit of the community. It will seek to obtain a balance between the potential for limited neighbourhood disturbance and the benefits of cultural activities on residents and/or visitors to the Borough.

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5.7 The Council may seek Premises Licences for public spaces in the community in its own name. With regard to those places, performers and entertainers may not need to obtain a licence or give a temporary event notice themselves in order to perform. Instead, they may require permission from the Council as the Premises Licence holder. The Council may use this method of licensing to encourage circus and street arts to our local communities.

5.8 Removed in its entirety

5.9 The Violent Crime reduction Act 2006 amends the Criminal Justice and Police Act 2001, to clarify those circumstances when a Designated Public Places Order (DPPO) applies. A DPPO can be used to tackle the problems of anti-social drinking in a public place. The effect of the amendment is that where a local authority occupies or manages premises or where premises are managed on its behalf, and a premises licence is in force which authorises the sale of alcohol, the DPPO will not apply when the licence is being used for alcohol sales (or 30 minutes after). The DPPO remains effective where there is a premises licence in force for that area that does not authorise retail sale of alcohol. The details of any DPPO currently in force within the Borough appear, with the accompanying plans, in Appendix B to this Statement of Licensing Policy

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6. Relationship with Planning Process

6.1 Any premises for which a licence is required should have either:

- a) planning consent; or
- b) lawful use under the planning legislation

in order to operate lawfully under the conditions of any licence granted under the Act. However, the lack of either (a) or (b) above will not prevent the Licensing Authority from considering and determining an application, although it clearly makes operational sense to ensure that planning and licensing are compatible.

6.2 The Licensing Authority will avoid treating licensing applications as a re-run of planning applications, because licensing matters will always be subject to consideration of the four licensing objectives; whereas planning matters are subject to different considerations.

6.3 The licensing and planning authorities are responsible for enforcing conditions attached under their respective licences and consents.

6.4 Where the terminal hour for the operation of a premises is stated on a planning consent, but differs from that specified on the licence, the licence holder must observe the earlier closing time to operate lawfully.

7. The cumulative impact of a concentration of licensed premises

7.1 Cumulative impact is the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area e.g. the potential impact on:

- crime and disorder;
- public nuisance;
- public safety; or
- protection of children from harm.

7.2 The cumulative impact of licensed premises on the promotion of the licensing objectives is a matter which the Licensing Authority can take into account. This should not, however, be confused with 'need' which concerns the commercial demand for a particular type of

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premises e.g., a pub, restaurant or hotel. The issue of 'need' is primarily a matter for the market to decide and does not form part of this licensing policy statement.

- 7.3 The Licensing Authority can only adopt a special policy on cumulative impact if there is evidence that a significant number of licensed premises concentrated in one area is causing a cumulative impact on one or more of the licensing objectives. The Licensing Authority will keep the situation as to whether an area is nearing this point under review.
- 7.4 The Licensing Authority recognises that the cumulative effect of licensed premises may have consequences which include:
- an increase in crime against both property and persons;
 - an increase in noise causing disturbance to residents;
 - traffic congestion and/or parking difficulties; and
 - an increase in littering and fouling
- and that enforcement action taken to ensure that conditions are complied with may not resolve all the problems experienced in the vicinity of these premises.
- 7.5 The absence of a special policy does not prevent any responsible authority or other persons making representations on a new application for the grant or variation of a licence on the grounds that the premises will give rise to a detrimental cumulative impact on one or more of the licensing objectives in a particular area.
- 7.6 Once away from the licensed premises, a minority of consumers may behave badly and unlawfully. However, there are other mechanisms, both within and outside the licensing regime, that are available for addressing such issues. For example: Licensing is only one means of addressing the problems identified above. Other mechanisms include:
- planning controls;
 - powers of local authorities or police to designate parts of the local authority area as places where alcohol may not be consumed publicly and confiscation of alcohol in these areas;
 - Suffolk Constabulary powers to close down premises or temporary events for up to 24 hours on the grounds of disorder, the likelihood of disorder or excessive noise;
 - prosecution of personal licence holders who sell alcohol to people who are drunk or underage;
 - powers of the Suffolk Constabulary, responsible authorities or a local resident or business to seek a review of a licence or premises certificate; and
 - local authority powers under section 5 of the Anti-Social Behaviour Act 2003.
 - positive measures to create a safe and clean environment in partnership with local businesses, transport operators and others
 - the provision of CCTV and ample taxi ranks;
 - confiscation of alcohol from adults and children in designated areas;
 - police enforcement of the law with regard to disorder and anti-social behaviour, including the issuing of fixed penalty notices;
 - Powers available to responsible authorities under the provisions of the Policing and Crime Act 2009 or Violent Crime Reduction Act 2006.

The above can be supplemented by other local initiatives that similarly address these problems, for example, through the Night Safe and pub watch schemes operating in the Borough and County in line with the strategic objectives for crime and disorder reduction within the Borough.

- 7.7 Where the Licensing Authority is satisfied that, within an area, the number, type and density of premises authorised for licensable activities is causing a serious problem of nuisance and disorder, and there is evidence of a disproportionate detrimental effect on neighbouring businesses and residents it may consider the adoption of a special saturation

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policy of refusing new premises licences or club certificates, or refusing to vary a premises licence or club certificate where it receives relevant representations about the cumulative impact on the licensing objectives of and application in an area covered by such a policy.

- 7.8 When setting such a policy, the Licensing Authority shall have regard to the Guidance issued under Section 182 of the Act, and will follow the consultation, adoption and review procedures applicable to the process.
- 7.9 The Council will take the following steps when considering whether to adopt a Special Saturation Policy:
- Identification of concern about crime and disorder or public nuisance in a specified area;
 - Consideration of whether it can be demonstrated that serious and chronic crime and disorder and nuisance problems are arising and are caused by the customers of licensed premises, and if so, identifying the area from which the problems are arising and the boundaries of that area; or that the risk factors are such that the area is reaching a point when a cumulative impact is imminent.
 - Subject to consultation in accordance with s.5(3) of the Act, inclusion of a special policy about future premises licence or club premises certificate applications for that specified area in the Statement of Licensing Policy and
 - Publication of the special policy as part of the Statement of Licensing Policy.
- 7.10 The Licensing Authority will review any special saturation policies as part of its general duty to keep this statement of Licensing Policy under review and re-determine and re-publish it at least every five years.
- 7.11 No special policy adopted for a specific area will be absolute, each application shall be considered properly on its own merits.
- 7.12 By adopting a special policy, there will be a presumption that:
- Where relevant representations are received, applications and applications for major variations will normally be refused unless;
 1. It can be shown that the operation of the premises involved will not add to the cumulative impact on the licensing objectives already being experienced; and
 2. The onus will be on the applicant to demonstrate in their operating schedule why the special policy should not be applied.
- 7.13 Where a special area policy is implemented, the policy may only be engaged in respect of a particular application where a relevant representation has been made by either a Responsible Authority or other persons
- 7.14 The Licensing Authority has reviewed the special area policy adopted for the area bounded by Guildhall Street, Westgate Street, Crown Street, Angel Hill and Abbeygate Street (both sides of each street,) on 5 January 2009, and taken the following steps in considering whether to re-adopt a special policy on cumulative effect within this statement of licensing policy:
- Identified concern about crime and disorder or public nuisance
 - Considered whether there is good evidence that crime and disorder are happening and are caused by customers of licensed premises and that the risk of cumulative impact is imminent
 - Identified the boundaries of the areas where problems are occurring
 - Consulted with those specified in section 5(3) of the Licensing Act 2003, on the proposal for a special policy in relation to new applications and variations to existing

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premises licences and club premises certificates and considered the outcome of the consultation

- 7.16 Having considered the available evidence and undertaken consultation, the Licensing Authority considers that it is appropriate and necessary to control cumulative impact. The Licensing Authority is re-adopting the special policy relating to cumulative impact in the area set out below.
- 7.17 The Licensing Authority is adopting a special policy relating to cumulative impact in relation to the areas of the town of Bury St Edmunds indicated on the plan below:



The area is bounded by both sides of Abbeygate Street, Guildhall Street; Westgate Street; Crown Street; Angel Hill; and includes all streets within that area with effect from 11 April 2011 until 4 January 2014.

- 7.18 The evidence which the council considered for this special policy is set out in report B501.

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- 7.19 This special policy creates a rebuttable presumption that, where the Licensing Authority's discretion is engaged following relevant representations about the cumulative impact on the licensing objectives, applications within the area set out in paragraph 7.1 for:
- new premises licences; or
 - club premises certificates; or
 - variations that are likely to add to the existing cumulative impact
- will normally be refused, unless the applicant can demonstrate why the operation of the premises involved will not add to the cumulative impact already being experienced.
- 7.20 Applicants will need to address the special policy issues in their operating schedules in order to rebut such a presumption.
- 7.21 Despite the presumption against grant, responsible authorities and interested parties will still need to make a relevant representation before the Licensing Authority may lawfully consider giving effect to its special policy. This means that if no representation is received, the application must be granted (subject to such conditions as are consistent with the operating schedule and any mandatory conditions required by the Licensing Act 2003). Responsible authorities and interested parties can make a written representation referring to information which had been before the Licensing Authority when it developed its statement of licensing policy.
- 7.22 The Licensing Authority recognises that a special policy should never be absolute. The circumstances of each application will be considered properly and applications for licences and certificates that are unlikely to add to the cumulative impact on the licensing objectives may be granted.
- 7.23 After receiving representations in relation to a new application or for a variation of a licence or certificate, the licensing authority will consider whether it would be justified in departing from its special policy in the light of the individual circumstances of the case.
- 7.24 The impact can be expected to be different for premises with different styles and characteristics. If the Licensing Authority decides that an application should be refused, it will need to show that the grant of the application would undermine the promotion of the licensing objectives and that appropriate conditions would be ineffective in preventing the problems involved.
- 7.25 This special policy will not be used:
- as a ground for revoking an existing licence or certificate when representations are received about problems with those premises
 - to justify rejecting applications to vary an existing licence or certificate except where those modifications are directly relevant to the policy (as would be the case with an application to vary a licence with a view to increasing the capacity limits of the premises) and are strictly necessary for the promotion of the licensing objectives
 - to include any provisions for a terminal hour in any particular area which might impose a fixed closing time akin to that under the 'permitted hours' provisions of the Licensing Act 1964
 - to impose quotas - based on either the number of premises or the capacity of those premises - that restrict the consideration of any application on its individual merits or which seek to impose limitations on trading hours in particular areas. Quotas have no regard to individual characteristics of the premises concerned. Proper regard will be given to those differences and the differing impact they will have on the promotion of the licensing objectives

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7.26 This special policy will be reviewed regularly to assess whether it is still needed or should be expanded.

8. Licensing Hours

8.1 The Licensing Authority, through the exercise of its licensing function, will not seek to restrict the trading hours of any particular premises unless this is appropriate to promote one or more of the licensing objectives. Each application will be considered individually on its own merits.

8.2 Irrespective of the hours of operation granted for a premises under any licence under the Act, the premises should have either:

- planning consent; or
- lawful use under the planning legislation

and should comply with any limitation on hours imposed under planning or any other legislation, for example, Sunday Trading Act 1994 and Christmas Day (Trading) Act 2004 in order to operate lawfully.

8.3 The consideration of hours of operation will be in the context of the particular circumstances of each application and the licensing objectives. The hours at which noise may occur and disturbance of resident's rest, relaxation and sleep will be of particular concern.

8.4 The Licensing Authority will aim, through the promotion of the licensing objectives, to reduce the potential for concentrations of patrons leaving the premises and achieve a slower dispersal of people from licensed premises through flexible opening hours.

8.5 An Early Morning Restriction Order is an un-commenced power from the Licensing Act 2003 (as amended by the Crime and Security Act 2010) and will be introduced by the Police Reform and Social Responsibility Act 2011. Subject to a Commencement Order and the requirements of any resulting regulations the Council will set out its approach to this provision within Appendix D

9. Relevant Representations

9.1 A relevant representation is one that is made in writing and:

- is about the likely effect of a licence on the promotion of the licensing objectives, and could be either a representation objecting to an application or in support of it;
- has been made by a responsible authority, or other persons during the time period prescribed by regulation;
- has not been withdrawn; and
- has not been determined by the Licensing Authority as frivolous, vexatious or repetitious.

9.2 Electronic representations will be administered in accordance with the requirements of the Licensing Act 2003 (Premises licences and club premises certificates) (Amendment) (Electronic Applications etc) Regulations 2009 and are accepted by the licensing authority provided that the representation is received within the prescribed time limits. An electronic representation is not deemed to be received until it is opened which will be within office hours and if the e-mail is sent outside those hours and the consultation period finishes before the office is next open then the representation is late and will be refused.

9.3 An Officer of the Licensing Authority will determine whether any ordinary and reasonable person would consider the issue raised in a representation is repetitious. Any person

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aggrieved by a rejection of his representations on these grounds may challenge the authority's decision by way of judicial review.

9.4 It will be for the Licensing Act Sub-Committee to determine whether any ordinary and reasonable person would consider the issue raised in a representation as either vexatious or frivolous. Therefore the representation will be deemed to be accepted by the Licensing Authority until such decision is made.

9.5 Local Councillors play an important role in their communities. They can make representations in writing and subsequently at a hearing as:

1. a member of the relevant licensing authority, i.e. elected councillors of the licensing authority for the area in which a premises is situated;
2. on behalf of a named other person such as a resident or local business if specifically requested to do so; and
3. as an individual in their own right.

Their involvement in and/or participation in meetings to discuss matters is subject to the Local Authorities (Model Code of Conduct) [2012](#).

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9.6 The Licensing Authority seeks to consider each representation on its merits, and taking into consideration the following matters;

- location of the premises which is the subject of the application
- the nature of the surrounding area
- the direct impact of the activities proposed to take place; and
- the likely distance that sound might travel.

9.7 Where representations are not considered to be frivolous or vexatious, and the other person expresses a real concern about the likelihood of intimidation or violence if their details are published, that the LA may, consider withholding information from the public domain which would identify an individual.

9.8 Where a relevant representation is made in respect of:

- an application; or
- an existing licensed premises

a hearing will be held, unless an agreement is reached between the Licensing Authority, the applicant and all of the parties who have made relevant representations, that a hearing is not required. It is not anticipated that a hearing will be held where the only representations received are in support of an application and without qualification.

9.9 The Licensing Authority will attempt mediation between the relevant parties wherever it may be practicable or appropriate to do so, so as to avoid unnecessary hearings. It may also extend the normal time limits for hearings where it is considered in the public interest to do so (for example where all parties are on the point of reaching agreement).

9.10 It should be noted that the usual hearing arrangements, following receipt of a relevant representation, do not apply to minor variations. For these processes the power to determine the application has been delegated to the Licensing Officer, and no hearing mechanism is involved. Relevant representations and statutory guidance will, however, be considered as part of this process, and applications shall be assessed individually and on merit by the relevant officer.

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10. Administration, Exercise and Delegations of Functions

- 10.1 The Council's published Scheme of Delegation for functions under the Licensing Act 2003 is set out in Part 3 of the Council's Constitution and is available on the Council website at www.stedmundsbury.gov.uk or by contacting Licensing Services.
- 10.2 Where an application has been made in accordance with the statutory requirements, and either no relevant representations have been received, or, relevant representations have been received and have all been withdrawn, the Licensing Authority will grant the application in accordance with the requirements of the Act under authority delegated to an officer. The exceptions to this usual administrative process are:-
- o Applications for a review of a premises which must be referred to a hearing when the application is made,
 - o minor variations and
 - o community premises mandatory conditions disapplication requests, as referred to elsewhere in this document.
- 10.3 Where an application does not meet the statutory requirements, it will be returned to the applicant with an explanation of the matters that need to be addressed in order to meet the statutory requirements.
- 10.4 Electronic applications will be administered in accordance with the requirements of the Licensing Act 2003 (Premises licences and club premises certificates) (Amendment) (Electronic Applications etc) Regulations 2009.

11. Hearings

- 11.1 Where a hearing is held any relevant representations will be put before the Licensing Act Sub-Committee. The representations, including the name and address of the person making them (subject to para 9.5) will be part of a public document.
- 11.2 The hearing will be conducted in accordance with the Licensing Authority's published procedure (www.stedmundsbury.gov.uk).
- 11.3 Where an application is determined at a hearing, the Licensing Act Sub-Committee will give appropriate weight to the:
- relevant representations
 - submissions and evidence presented by all parties;
 - steps appropriate to promote the licensing objectives set out at paragraph 3.3 above
 - the Licensing Authority's Statement of Policy; and
 - the Guidance issued under s.182 of the Act;
- 11.4 The Licensing Authority may use the power given within the hearings regulations to extend time limits where it considers this to be in the public interest. This may for example, include occasions where discussions between the applicant and those making representations are taking place and it is likely that all parties are reaching the point of agreement. Extending time limits in the public interest will be assessed individually on a case by case basis.
- 11.5 The Licensing Act 2003 provides for a mediation process between parties. Where it is appropriate for the Licensing Authority to do so, following a relevant representation being made, the Authority shall make all reasonable efforts to facilitate mediation. In doing so the Licensing Authority will be mindful of the legislative framework and any relevant

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government guidance. Any guidance provided by the authority will be available on the website, at www.stedmundsbury.gov.uk

12. Conditions

12.1 The Act makes provision for certain mandatory conditions (sections 18-20) which are summarised below:

- Where a premises licence authorises the sale or supply of alcohol, no supply may be made at any time when there is:
 - no designated premises supervisor in respect of the licence; or
 - at a time when the designated premises supervisor does not hold a personal licence or it is suspended.
- Where a premises licence authorises the exhibition of films, the licence must include a condition requiring that the admission of children is restricted in accordance with the recommendation of the film classification body, or where varied, the film classification awarded by the Licensing Authority.
(n.b. The Licensing Authority recognise the British Board of Film Classification (BBFC), or any successor person or persons designated as the authority under section 4 of the Video Recordings Act 1984, as the relevant film classification body for these purposes. The Licensing Authority may also either award a classification to an unclassified film or vary the classification of a film on application in accordance with its policy www.stedmundsbury.gov.uk).
- Where a licence includes a condition requiring that one or more individuals are present at the premises to carry out security activities, the licence must include a condition requiring such individuals to be licensed by the Security Industry Authority.
(n.b. this does not apply to:
 - *premises with licences authorising plays or films,*
 - *premises used exclusively by a club with a club premises certificate*
 - *premises used under a temporary event notice or under a premises licence issued pursuant to the Gambling Act 2005); or*
 - *certain employees who benefit from any relevant exemption under the Private Security Industry Authority Act 2001 (the 2001 Act) or by virtue of any other legislation (for example the Violent Crime Reduction Act 2006).*
- The Licensing Authority may not attach to a licence authorising the performance of plays any condition which restricts the nature or manner of performing those plays (other than on the grounds of public safety).

12.2 There are also mandatory conditions relating to a code of conduct for holders of ON licensed premises, via the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010 - arising from the Policing and Crime Act 2009. The Secretary of State has powers to set further mandatory conditions and may use this power from time to time.

12.3 With the exception of the above mandatory conditions, the Licensing Authority will only attach conditions to a premises licence or club premises certificate or, in certain circumstances, a Temporary Event Notice where these:

- are consistent with the additional steps identified in the operating schedule which the applicant submits in support of their application; or
- at a hearing following a relevant representation, the conditions are considered appropriate for the promotion of the licensing objectives and are proportionate and reasonable.

In these circumstances, it is the intention of the Licensing Authority to express any such conditions in unequivocal and unambiguous terms and such conditions will be tailored to the specific premises concerned.

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- 12.4 In so far as conditions proposed by any applicant is concerned the Guidance states that it is not acceptable for the licensing authorities to simply replicate the wording from the operating schedule. The authority will endeavour to interpret any condition in accordance with the applicant's intention.
- 12.5 The Violent Crime Reduction Act 2006 amends the Licensing Act 2003 which enables the Licensing Authority, on the application of a Senior Police Officer to attach interim conditions to licences pending a full review of the licence.
- 12.6 The Regulatory Reform (Fire Safety) Order 2005 provides that any conditions imposed by the licensing Authority that are or could be imposed by the order automatically cease to have effect, with certain exceptions.
- 12.7 Although the guidance confirms that the conditions should be tailored to the specific premises the licensing authority has produced an operating schedule tool kit that is regularly reviewed and updated which the applicant and others may draw upon as appropriate. In addition the Home Office has produced supporting guidance in respect of pools of conditions and which can be located on the its website at www.homeoffice.gov.uk
- 12.8 A committee or board of individuals with responsibility for the management of community premises ("the management committee") may apply to have an alternative licence condition included in a premises licence in place of the normal mandatory conditions. The alternative condition is that every supply of alcohol under the licence be made or authorised by the management committee.

13. Appeals

- 13.1 Entitlement to appeal against any decision of the Licensing Authority is set out in Schedule 5 of the Act.
- 13.2 Please note that there are no provisions for appeals to the Magistrates court in respect of applications for minor variations or disapplications for requirement for Designated Premises Supervisor.
- 13.3 Should the discretion of the licensing authority be engaged following an application for a Summary review under section 53A and Interim Steps are imposed by the licensing authority pending the review of the premises then there is no appeal as against that decision.

14. Enforcement

- 14.1 Where necessary, enforcement action will be considered in accordance with the compliance code, and the council's general enforcement policy (www.stedmundsbury.gov.uk).
- 14.2 The emphasis will be upon a risk assessed approach to inspections, concentrating on those premises which either:
- present a greater risk;
 - have a history of non-compliance with conditions or regulations; or
 - demonstrate poor management practice which undermines the licensing objectives.
- 14.3 The Licensing Authority has adopted a joint enforcement protocol with partner authorities – available via the Council website at www.stedmundsbury.gov.uk or upon request from the Licensing Team.

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14.4 The Council will normally act as the enforcing authority in respect of offences under the Act, unless the circumstances of the particular case are such that it is appropriate for another responsible authority or Suffolk County Licensing Authority Trading Standards to act instead.

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14.5 The Suffolk Constabulary will retain responsibility as the enforcing authority in respect of the following offences under the Act:

- Section 97 Power to enter and search
- Section 143 Failure to leave
- Section 144 Keeping of smuggled goods
- Section 155 Confiscation of alcohol; and
- Part 8 offences with respect to closure of premises.

Suffolk County Council Trading Standards will retain responsibility as the enforcing authority in respect of the following offences under the Act:

- Section 146 Sale of alcohol to children
- Section 147 Allowing the sale of alcohol to children
- Section 147A Persistently selling alcohol under age
- Section 154 Weights and measures offences

14.6 Where expedient for the promotion or protection of the interests of the inhabitants of their area, the Licensing Authority may also take action under Section 222 of the Local Government Act 1972 and other relevant provisions including Section 40 of the Anti-Social Behaviour Act 2003. The Council will also have due regard to section 17 of the Crime and Disorder Act 1998 whilst carrying out its functions.

15. Closure Orders/Notices

15.1 Part 8 of the Licensing Act 2003 provides for the arrangements relating to closure orders, and there are also powers available to the Local Authority and/or responsible authorities/court to close premises via other legislation on grounds of serious crime or disorder, persistent nuisance or protection of children - for example under the Violent Crime Reduction Act 2006, Criminal Justice and Immigration Act 2008 and Anti-Social Behaviour Act 2003.

15.2 Where the Magistrates' Court has determined to exercise any of its powers in respect of closure orders under any existing legislation, the Licensing Authority will:

- serve notices on the premises licence holder and responsible authorities and advertise the review in accordance with the regulations;
- hold a hearing in accordance with the procedure outlined in section 11 above to review the premises licence; and
- determine the review at the conclusion of the hearing and within 28 days of receipt of the notice of the closure order from the Magistrates' Court.

15.3 When determining a review following the notice of a closure order, the Licensing Authority will consider:

- the closure order and any extension of it;
- any order under s.155(2); and
- any relevant representations;

and will take such steps as it considers appropriate to promote the licensing objectives as outlined in section 3.4 of this Statement of Licensing Policy.

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- 15.4 The Licensing Authority will notify the licence holder, the Chief Officer of Police and any person who made relevant representations of the outcome of the review hearing and the reasons for the decision. The Licensing Authority may suspend the operation of its decision until the end of the period given to appeal, or until the appeal is disposed of (if not already suspended by the Magistrates' Court).
- 15.5 The anti-social behaviour Act 2003 makes provision for the closure of premises for up to 24 hours where the noise from any licensed premises is causing a public nuisance.

16. Late Night Levy

16.1 The Police Reform and Social Responsibility Act 2011 introduces the principle of a Late Night Levy which is a power for licensing authorities to introduce a charge for premises that have a late alcohol licence. Subject to a Commencement Order and the requirements of any resulting regulations the Council will set out its approach to this provision within Appendix E

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17. Addressing the Licensing Objectives

17.1 General

- 17.1.1 In respect of each of the four Licensing Objectives, when completing their operating schedule, applicants, should consider:
- the nature and style of the venue;
 - the activities being conducted there;
 - the location;
 - any special effects or risks and
 - the anticipated or target clientele.
- 17.1.2 Applicants are encouraged to carry out a risk assessment before completing the operating schedule and identifying those additional measures appropriate to promote the licensing objectives. Any risk assessment completed would not need to be provided to the licensing authority as part of the application, although Responsible Authorities would find this information helpful when assessing whether or not to make a representation. Reference should 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.
- 17.1.3 Applicants should be aware that any measures included in their operating schedule will be converted into conditions consistent with these measures attached to the licence. For this reason, applicants should, where possible identify measures which are specific and clear as to the action to be undertaken and who is responsible for that action.
- 17.1.4 Where a relevant representation is made and the discretion of the Licensing Authority is engaged, the proposed operating schedule submitted by the applicant may be amended by the Licensing Authority, where it considers this appropriate and proportionate to address the licensing objectives.
- 17.1.5 Organisers of large, temporary outdoor events (such as music festivals, fairs, shows and carnivals) are strongly encouraged to engage as early as possible with the responsible authorities to ensure that their planned event is developed in a way likely to promote the

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licensing objectives. They should also seek the advice of the Suffolk Safety Advisory Group or any successor body. (See details in paragraph 5.4)

- 17.1.6 In respect of each of the four licensing objectives, when completing their operating schedule applicants should consider what measures are appropriate relevant to the size, individual style and characteristics of their premises and events.

17.2 Prevention of Crime and Disorder

- 17.2.1 The Council is committed to further improving the quality of life in its area by continuing to help reduce crime and disorder and the fear of crime. To this end, the Licensing Authority strongly encourages applicants and licensees to ensure that relevant factors within their control which impact on crime and disorder have been considered, for example:

- control and supervision of patrons smoking on pavements adjacent to the premises;
- underage drinking;
- drunkenness on the premises;
- drunkenness in public;
- drugs;
- violent behaviour;
- criminal damage at the premises or in the immediate vicinity and
- anti-social behaviour.

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- 17.2.2 Section 17 of the Crime and Disorder Act 1998 imposes a duty on each local authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.

- 17.2.3 In order to promote the prevention of crime and disorder objective, the Licensing Authority encourages licence holders to become active partners with the Licensing and Responsible Authorities. Applicants are encouraged 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.

- 17.2.4 Applicants may find it helpful to contact the local Safer Neighbourhood Team (SNT) or Crime and Disorder Reduction Partnership (CDRP) in advance of making their application, as the SNT/CDRP may be able to offer expert advice and guidance on local crime and disorder issues and promotion of this licensing objective.

- 17.2.5 The following examples of control measures are given to assist applicants when developing their operating schedule, having regard to their particular type of premises and/or activities:

- a) Capacity limits (*including prevention of overcrowding*)
- b) Maintaining records of training and supervision of staff
- c) Specific actions identified from best practice guidance (*e.g. Safer Clubbing, the National Alcohol Harm Reduction Strategy Toolkit and other voluntary codes of practice such as The Point of Sale Promotions published by BBPA, and the Portman Group*)

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- d) Use of accredited 'proof of age' schemes (for example Challenge 21 or Challenge 25) where it is intended to operate more stringent measures than those contained within mandatory conditions
- e) Signing up to and participating in a Nightsafe or Pubwatch scheme where it is in operation
- f) Provision **and use** of effective CCTV in and around premises
- g) Employment of Security Industry Authority licensed door staff
- h) Provision of toughened, polyethylene Terephthalate (PET) or plastic polycarbonate drinking glasses
- i) decanting glass bottles into toughened, polyethylene Terephthalate (PET) or plastic polycarbonate drinking glasses
- j) Provision of secure, deposit boxes for confiscated items ('*amnesty bins*');
- k) Provision of litter bins and other security measures, such as lighting, outside premises
- l) Provision for the disposal of waste on the frontage of the premises (including smoking ephemera); and
- m) Provision of:
 - a dispersal policy;
 - A searching policy; and/or
 - Risk assessment process to consider the crime and disorder implications of individual DJ's and promoters
- n) control or prevention of customers entering and leaving with opened bottles/glasses – for example whilst they are observing smoke free regulations.
- o) demarcation, capacity control, supervision and monitoring of areas immediately in the vicinity of the premises, used by smokers.

17.2.6 Within the operating schedule for premises from which alcohol will be sold, a Premises Supervisor must be designated ('*Designated Premises Supervisor*' *DPS*), unless a relevant community premises disapplication has been applied for/authorised. The Licensing Authority will expect the DPS to be the first point of contact for authorised officers. In exceptional circumstances, the Suffolk Constabulary may object to the designation of a new premises supervisor where they believe that such appointment would undermine the crime prevention objective.

17.2.7 Where the Suffolk Constabulary object to an individual being appointed as a Designated Premises Supervisor, or object to an application made by community premises management committee for the inclusion of the alternative licence condition, the Licensing Authority will arrange for a hearing at which the issue can be considered and both parties may put their arguments. This will be held in accordance with the procedure outlined in section 11 above.

17.2.8 The Licensing & Regulatory Sub-Committee considering the matter will confine their consideration to the issue of crime and disorder.

17.2.9 Certain temporary events (see section 20 below) must be notified to the Licensing Authority using the Temporary Event Notice procedure. Depending on the nature and location of such events these may, on occasion, have serious crime and disorder implications. Organisers of these events are encouraged to submit their notification as soon as reasonably practicable before the event, in line with existing statutory requirements, to enable the Suffolk Constabulary, the Environmental Health department of St Edmundsbury Borough Council and the Licensing Authority to work with them to identify and reduce the risk of crime and disorder.

17.3 Public Safety

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17.3.1 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 encouraged to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to ensure public safety.

17.3.2 When addressing the issue of public safety, an applicant should demonstrate that those factors that impact on the standards of public safety have been considered. These may include, but are not limited to:

- a) the occupancy capacity of the premises (including staff and performers). Note: If a capacity has been imposed/set through other legislation, for example under Fire Safety legislation, it may not be appropriate to reproduce it in a premises licence. Anticipated maximum capacity/attendance for large, temporary outdoor events should be made clear.
- 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, or provision of any special effects in conjunction with, or as part of regulated entertainment and including whether those activities are of a temporary, occasional or permanent nature;
- d) the hours of operation (*differentiating the hours of opening from the hours when licensable activities are provided, if different*);
- e) customer profile (*such as age, disability or culture*); and
- f) the use of special effects such as lasers, pyrotechnics, smoke machines, foam machines, etc.
- g) demarcation, capacity control, supervision and monitoring of areas immediately in the vicinity of the premises, used by smokers.

17.3.3 The following examples of control measures are given to assist applicants when preparing their operating schedules, having regard to their particular type of premises and/or activities. These are not exhaustive, but include:

- a) suitable and sufficient risk-assessments. Some applicants may wish to consider a commitment in their operating schedule to providing the relevant authorities with a full risk assessment prior to the commencement of licensable activities (this may be particularly relevant to large temporary outdoor events).
- b) provision of a sufficient number of people employed or engaged to secure the safety of the premises and patrons;
- c) appropriate instruction, training and supervision of those employed or engaged to secure the safety of the premises and patrons;
- d) Specific actions identified from best practice guidance (*for example, Safer Clubbing, the National Alcohol Harm Reduction Strategy Toolkit and other voluntary codes of practice*);
- e) provision **and use** of effective CCTV in and around premises;
- f) provision of toughened, Polyethylene Terephthalate (PET) or plastic polycarbonate drinking glasses;
- g) decanting glass bottles into toughened, polyethylene Terephthalate (PET) or plastic polycarbonate drinking glasses
- h) implementation of crowd management measures; and
- i) monitoring arrangements such as door staff, ticketing, attendance clickers or maintenance of attendance records.

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- j) regular/periodic review and testing (and certification where appropriate) of procedures, appliances, systems etc pertinent to safety (e.g. fire extinguishers, fire warning systems, emergency installations and building control certificates)

17.3.4 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, but are not limited to:

- the nature of the premises or event;
- the nature of the licensable activities being provided;
- the provision or removal of such items as temporary structures, (*for example, stages, or furniture*);
- the number of staff available to supervise customers both ordinarily and in the event of an emergency;
- instruction, training and supervision of staff;
- the age of the customers;
- the attendance by customers with disabilities, or whose first language is not English;
- availability of suitable and sufficient sanitary accommodation; and
- nature and provision of facilities for ventilation.

17.3.5 Where the applicant identifies a capacity limit for a premises or events, this should not be interpreted as a requirement to also provide permanent monitoring arrangements. The Licensing Authority recognises that the person in charge at the premises can often readily assess the capacity of 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.

17.4 Prevention of Public Nuisance

17.4.1 Licensed premises may have a significant potential to impact adversely on communities through public nuisances that arise from their operation

17.4.2 Subject to case law the Licensing Authority interprets “public nuisance” in its widest sense, and takes it to include such issues as noise (whether music or speech), light, odour, litter and anti-social behaviour, where these matters impact on those living, working or otherwise engaged in normal activity in the vicinity of a premises.

17.4.3 Applicants and licensees are encouraged 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.

17.4.4 The Licensing Authority expects the licensee to apply a high standard of control to minimise the potential for and mitigate the effects of any public nuisance that may arise from their operation of the premises, particularly where:

- they are situated in a residential or noise sensitive area; or
- where extended opening hours are proposed.

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

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17.4.5 When addressing the issue of prevention of public nuisance, the applicant is encouraged to carry out a risk assessment to identify whether there are any factors which impact on the likelihood of public nuisance, and, if so, to address these in their operating schedule. These may include, but are not limited to:

- the location of premises and proximity to residential and other noise sensitive premises, such as hospitals, hospices, care homes and places of worship;
- the hours of operation, particularly between 23.00 and 07.00;
- 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;
- the design and layout of premises and in particular the presence of any noise limiting features;
- the occupancy capacity of the premises;
- the availability of public transport, taxi and private hire services to assist the speedy dispersal of patrons after events;
- the hours during which licensable activities take place and closure of the premises;
- last admission time;
- a dispersal policy; and
- provision for the disposal of waste on the frontage of the premises.

17.4.6 The following examples of control measures are given to assist applicants when preparing their operating schedules, having regard to their particular type of premises and/or activities. These are not exhaustive, but include:

- appropriate instruction, training and supervision of those employed or engaged to prevent incidents of public nuisance;
- control of operating hours for all or parts (*such as garden areas*) of premises, including such matters as deliveries or the collection or disposal of glass ware;
- impact on neighbours due to customers opening doors/going outside to observe smoke free regulations
- adoption of best practice guidance (*such as the Good Practice Guide on the Control of Noise from Pubs and Clubs, produced by Institute of Acoustics, Safer Clubbing, the National Alcohol Harm Reduction Strategy Toolkit and other industry codes of practice*);
- installation and effective maintenance of soundproofing, air conditioning, acoustic lobbies and sound limitation devices;
- management of people, including staff, and traffic (*and resulting queues*) arriving and leaving premises (arrival and dispersal policy);
- liaison with public transport, taxi and private hire service providers;
- siting of external lighting, including security lighting;
- effective ventilation systems to prevent nuisance from odour
- any adverse noise created by any ventilation or air conditioning system or any other machinery positioned outside the building.

17.5 Protection of Children from Harm

17.5.1 A child is an individual under the age of eighteen (or any subsequent age of majority determined by the Government) and the current St Edmundsbury Borough Council Safeguarding Children's Policy can be found at www.stebmundsbury.gov.uk.

17.5.2 The move towards giving accompanied children greater access to licensed premises made possible by the Act may bring about a social change in family friendly leisure. This relaxation places additional responsibilities upon licence holders, but it is also recognised

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that parents and others accompanying children also have responsibilities. The vast majority of adults will naturally behave appropriately with children and recognise sensible boundaries. Licensees should be aware that children will normally see licensees and their staff as responsible adults – and that children are particularly vulnerable to adults who are “responsible” and “in authority” if those adults use their position to develop inappropriate relationships or otherwise abuse children’s trust.

17.5.3 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 or acts. In certain circumstances children are more vulnerable and their needs require special consideration. This vulnerability includes:

- o their susceptibility to suggestion;
- o peer group influences;
- o inappropriate examples;
- o the unpredictability of their age; and
- o their lack of understanding of danger.

Whilst it is not possible for the Licensing Authority to give an exhaustive list of what amounts to entertainment or services of an adult or sexual nature, examples would generally include:

- o topless bar staff;
- o Striptease;
- o lap-dancing, table-dancing, and/or pole-dancing;
- o performances involving feigned violence or horrific incidents;
- o feigned or actual sexual acts or fetishism; or
- o entertainment involving strong and offensive language, whether regularly or occasionally.

It should be noted that premises deemed as ‘sexual entertainment venues’ under the Policing and Crime Act 2009 will in most cases be required to obtain an additional licence under the Local Government (Miscellaneous Provisions) Act 1982. The Council has adopted a Policy on the licensing of Sexual Entertainment Venues (SEV’s) which may be found at www.stedmundsbury.gov.uk

17.5.4 Where its discretion is engaged following a relevant representation, the Licensing Authority, when considering an Application for a premises licence and any options appropriate to prevent harm to children, will take into account the nature of the activities proposed to be provided and the history of a particular premises, which may include, but is not limited to:

- the purchase, acquisition or consumption of alcohol;
- exposure to drugs, drug taking or drug dealing;
- exposure to a strong element of gambling (but not, for example, the presence of a small number of cash prize gaming machines);
- exposure to activities of an adult or sexual nature;
- exposure to incidents of violence or disorder; and
- where there have been convictions of members of the current staff at the premises for serving alcohol to minors, or premises with a reputation for underage drinking.

17.5.5 Where its discretion is engaged following a relevant representation, the Licensing Authority will not:

- impose conditions restricting or prohibiting the admission of children to any licensed premises; or
- limit the access of children to licensed premises, or parts thereof,

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unless appropriate for their protection from harm. The Licensing Authority considers that, unless restriction of access is appropriate to protect children from harm, this is a matter for the discretion of the licensee.

17.5.6 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.

17.5.7 ~~Where included in the operating schedule, or where the~~ Licensing Authority's discretion is engaged, conditions may be attached to any licence to:

- a) ~~Limit the hours during which children may be present;~~
- b) ~~Limit or exclude the presence of children under certain ages when particular activities take place;~~
- c) ~~Limit the parts of a premises to which children might be given access;~~
- d) ~~Impose certain age limitations (below 17);~~
- e) ~~Impose requirements for accompanying adults; and/or~~
- f) ~~Impose a full exclusion of those under the age of 18 from the premises when any licensable activities take place.~~

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17.5.8 The following examples of control measures are given to assist applicants when preparing their operating schedules, having regard to their particular type of premises and/or activities. These are not exhaustive, but include:

- a) provision of a sufficient number of people employed or engaged to secure the protection of children from harm;
- b) appropriate instruction, training, supervision and background checks of those employed or engaged to secure the protection of children from harm;
- c) specific actions identified from best practice guidance;
- d) limitations on the hours when children may be present in all or parts of the premises;
- e) limitations or exclusions by age when certain activities are taking place
- f) imposition of requirements for children to be accompanied by an adult;
- g) the presence of an adequate number of adult staff to control the access and egress of children and to protect them from harm whilst on the premises;
- h) an adequate number of adult staff to be responsible for the child performers; and
- i) use of accredited 'proof of age' schemes and/or photo-id driving licences where it is intended to operate more stringent measures than those contained within mandatory conditions.

17.5.9 Where film exhibitions are given at premises, licensees must ensure that children are restricted from viewing age-restricted films classified according to the British Board of Film Classification, or by the Licensing Authority. The Council's policy on film classification can be found on its website at www.stedmundsbury.gov.uk. The current system of film classification implemented by the British Board of Film Classification (BBFC) can be found on its website at www.bbfc.co.uk.

17.5.10 The Licensing Authority recognises the Suffolk Area Child Protection Committee, or its designated nominee for the time being as being competent to advise on matters relating to the protection of children from harm. The contact details are set out in the Guidance to Applicants.

17.5.11 Suffolk County Council Trading Standards service and the Suffolk Constabulary, in conjunction with other appropriate agencies may, through making purchases, test the compliance of retailers with the prohibition on under age sales of alcohol.

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18. Personal Licences

- 18.1 The Licensing Authority will grant a personal licence if the applicant has met the requirements set out in the Act and no objection notice is received from the Suffolk Constabulary.
- 18.2 Where an applicant is found to have an unspent conviction for a relevant offence or a foreign offence, and the Suffolk Constabulary object to the application on crime prevention grounds, the application will be referred to the Licensing Act Sub-Committee.
- 18.3 Any hearing will be held in accordance with the procedure outlined in section 11 above.
- 18.4 All personal licence holders should ensure they are aware of the offences relating to personal licences, for example the duty of the holder to advise the Court of the existence of their personal licence if charged with a relevant offence and to advise the Licensing Authority of changes to name or address.
- 18.5 The Licensing Authority considers that, when establishing whether or not an authorisation has been given for the retail sale of alcohol, the following factors are relevant:
- there should be an overt act of authorisation, (this could, for example, a specific written statement given to the individual being authorised);
 - the person(s) authorised to sell alcohol at any particular premises should be clearly identified;
 - the authorisation should specify the acts which may be carried out by the person authorised; and
 - there should be in place sensible arrangements for the personal licence holder to monitor the activity authorised on reasonably regular basis.
 - training records should be kept relevant to the training provided to each individual authorised by the personal licence holder

19. Applications for Premises Licences

- 19.1 The Department for Culture Media & Sport (DCMS) provides a written guide to making an application, and this is available free of charge by contacting the Licensing Team or visiting the government website at www.culture.gov.uk. Local guidance information, such as contact details for responsible authorities and other guidance documents, is available on the Council website at www.stedmundsbury.gov.uk or by contacting the Licensing Team
- 19.2 Pre-application discussions with responsible authorities are encouraged to assist applicants to develop their operating schedule in a way which is likely to promote the licensing objectives.
- 19.3 The Licensing Authority may make provision for a negotiation procedure to mediate between the applicant, responsible authorities and interested parties where relevant representations are made, within the restrictions of the statutory time limits and in accordance with any relevant government guidance. It may also extend the normal time limits for hearings where it is considered in the public interest to do so (for example where all parties are on the point of reaching agreement, or so as to ensure that it is possible for a party to attend the hearing).
- 19.4 An application may be made to the Licensing Authority for any place within its area to be used for licensable activities or recognised club activities. The application must be accompanied by:
- The prescribed fee;

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- An Operating Schedule, which may be supported by any appropriate risk assessments the applicant has undertaken;
- A plan of the premises, in accordance with the regulations. The Council may reduce plans submitted to a scale suitable for publishing on the public register; and
- If it is intended that the premises be authorised to sell alcohol, a form of consent given by the person the applicant wishes to have specified in the Premises Licence as the Designated Premises Supervisor, or else request to disapply this usual requirement if for an eligible 'community premises'.

19.5 The Operating Schedule must include a statement of:

- the relevant licensable activities;
- the times during which the applicant proposes that the relevant licensable activities are to take place;
- any other times during which the applicant proposes that the premises are to be open to the public;
- where the applicant wishes the licence to have effect for a limited period, that period;
- where the relevant licensable activities include the sale by retail of alcohol, the name and address of the individual whom the applicant wishes to have specified as the designated Premises Supervisor and a consent form signed by that person in the prescribed form, (or else a 'community premises' disapplication request may be applicable);
- where the relevant licensable activities include the sale by retail of alcohol, whether such sales are proposed to be for consumption on the premises or off the premises, or both;
- the steps which the applicant proposes to take to promote the licensing objectives; and
- any other prescribed matters.

19.6 Where relevant representations are received about an application, and those representations are not withdrawn the application will be referred to a Sub Committee of the Licensing & Regulatory Committee, which will be held in accordance with the procedure outlined in section 11 above.

19.7 Where a premises licence application is being applied for to authorise a large scale outdoor event of a temporary nature (for example a music concert, street fair or carnival) the Licensing Authority strongly recommend that applicants contact the responsible authorities well in advance of making their application in order to seek expert advice and guidance on formulation of their operating schedule to ensure that they are able to identify appropriate measures to promote the licensing objectives.

20. Club Premises Certificates

20.1 Paragraphs 19.1 to 19.3 above apply.

20.2 An application for a Club Premises Certificate must be accompanied by:

- the relevant fee;
- the Club Operating Schedule, which may be supported by any appropriate risk assessments the applicant has undertaken;
- A plan of the premises, in accordance with the regulations. The Council may reduce plans submitted to a scale suitable for publishing on the public register;
- a copy of the rules of the Club; and
- evidence that the Club is a qualifying Club (*see the Guidance to Applicants*).

20.3 The Club Operating Schedule must contain the following:

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- details of the recognised Club activities to which the application relates;
- the times during which it is proposed the recognised Club activities take place;
- any other times during which it is proposed the premises are open to members and their guests;
- the steps which it is proposed to take to promote the licensing objectives; and
- any other prescribed matters.

20.4 Where relevant representations are received in respect of an application, and those representations are not withdrawn, the application will normally be referred to the Licensing & Regulatory Committee or one of its sub-committees which will be held in accordance with the procedure outlined in section 11 above.

21 Temporary Events Notices (TEN)

21.1 The Act sets out the terms and conditions under which an application for a TEN may be made. Where reference is made to the minimum period for the giving of a standard TEN, the Licensing Authority understands this to mean 10 days exclusive of the day on which the event is to start and exclusive of the day on which the notice is given. Should any statutory modifications be made to the TENS system, for example relating to service requirements, then the Licensing Authority shall have due regard to these and publicise any such changes including via its website at www.stedmundsbury.gov.uk.

21.2 There is provision for making an application for a late TEN. Such application may be made no earlier than 9 working days before the event and no less than 5 working days before the event. Again Licensing Authority understands this to mean 9 or 5 days exclusive of the day on which the event is to start and exclusive of the day on which the notice is given.

21.3 Where either a standard TEN or late TEN is given and one or more of the relevant statutory limits are exceeded, the Licensing Authority will serve a Counter-Notice on the notice giver in accordance with section 107 of the Licensing Act 2003 to prevent the licensable activities from going ahead. There is no provision under the Act to appeal against the issue of a Counter-Notice.

21.4 Where a TEN complies with the statutory requirements, the Licensing Authority will record the notice in its register and send an acknowledgement to the premises user. The event may then proceed in accordance with the submission in the Temporary Event Notice unless the person who gave the notice is subsequently notified that it is the belief of the Licensing Authority that the notice was not served in accordance with the Legislation or an objection notice was subsequently received from either the Suffolk Constabulary or Environmental Health.

21.5 Where either the Suffolk Constabulary or Environmental Health issue an objection notice to a standard TEN, within the prescribed period, the Licensing Authority will normally consider this at a hearing (*unless the objection notice is withdrawn before the hearing date*). The hearing will be held in accordance with the procedure outlined in section 11 above.

21.6 If the TEN is submitted, and there is an objection notice, for an event that takes place at a premises that has either a premises licence or club premises certificate for all or part of the premises then the licensing authority can add conditions to the TEN provided such conditions are appropriate for the promotion of the licensing objectives and are consistent with the carrying out of the licensable activities under the TEN.

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- 21.7 Where either the Suffolk Constabulary or Environmental Health issue an objection notice to a late TEN, there is no provision either for the Licensing Authority to consider a hearing or add conditions.
- 21.8 The licensing authority will notify the applicant of its decision at least 24 hours before the beginning of the event period specified in the Temporary Event Notice.

22. Provisional Statements

- 22.1 The Act sets out the terms and conditions under which an application for a Provisional Statement may be made.
- 22.2 Where a Provisional Statement has been issued and a person subsequently applies for a Premises Licence in respect of the premises, in accordance with the provisions of the Licensing Act and:
- given the information in the application for a Provisional Statement the person objecting could have made the same, or substantially the same, representations about the application but failed to do so without reasonable excuse; and,
 - there has been no material change in circumstances relating either to the relevant premises or to the area in the vicinity of those premises
- then representations made by a person to the Licensing Authority will not be taken into account.

23. Variations of Licences

- 23.1 An application for the variation of a premises licence or a club premises certificate will be required for any circumstances set out in the Act, and where any change to the premises has an impact on any of the four licensing objectives, for example:
- varying the hours during which a licensable activity is permitted
 - adding or removing licensable activities;
 - amending, adding or removing conditions within a licence; and
 - altering any aspect of the layout of the premises which is shown on the plan.

It should be noted that there is no provision in the Act for a variation application to be made in respect of a substantial variation. The Licensing Authority understands this to mean any proposed increase in the size of the premises of greater than 50% of the existing licensed area, although each proposed application will be considered on its merit. Where there is a substantial variation, an application for a new premises licence should be made.

In certain circumstances there is provision for a limited consultation where the proposed changes are unlikely to adversely impact on the Licensing Objectives. This is known as a Minor Variation. Some guidance and information on fees may be found on the web site www.stedmundsbury.gov.uk. The Licensing Authority will normally consider the following proposals as suitable for an application for a minor variation:-

- minor changes to plans
- removal of extant conditions (including those carried through from the Licensing Act 1964)
- changes to the operating schedule to promote the licensing objectives as the result of discussions with any Responsible Authority.

The Legislative Reform (Supervision of Alcohol Sales in Church and Village Halls etc.) Order 2009 (SI 2009/1724) amends the 2003 Act to allow certain 'community premises' which

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have, or are applying for, a premises licence that authorises alcohol sales to also apply to include the alternative licence condition in sections 25A(2) and 41D(3) of the 2003 Act in the licence instead of the usual mandatory conditions in sections 19(2) and 19(3) of the 2003 Act. These new provisions took effect from 29 July 2009.

23.2 The Act and Guidance set out the terms, conditions and considerations under which an application for a minor variation, or request from the management of 'community premises' to dis-apply the usual mandatory conditions, may be made. Minor variation processes may be applied for in some circumstances, subject to some specific exclusions, to reduce the normal service, advertising and consultation requirements (and associated financial impacts in cost and time).

23.3 The minor variation process is intended for some small variations to licences/certificates that will not adversely impact on promotion of the licensing objectives (for example small variations to layout or some minor alterations to activities, timing or conditions). In each case the Licensing Authority will consult the relevant Responsible Authorities and make a decision on whether the variation could impact adversely on the licensing objectives. This process also makes a more limited provision for interested parties to make comment on the proposals. In determining these applications, under his/her delegated authority on behalf of the Licensing Authority, the Licensing Officer shall carefully assess each application on a case-by-case basis in the light of government guidance and all relevant factors. The licence/certificate holder may wish to seek advice from responsible authorities, in advance of submitting an application, as to whether the licensing objectives are likely to be affected by the proposals.

23.4 If relevant representations are made and not withdrawn the Licensing Authority will normally hold a hearing unless the application is for a minor variation which will be held in accordance with the procedure outlined in section 11 above and at that hearing which the Licensing Authority may:

- grant the application as applied for, subject only to any conditions consistent with the operating schedule and any relevant mandatory conditions;
- modify the conditions (either by means of omission, inclusion or amendment) of the Licence; or
- reject the whole or part of the application.

23.5 Where its discretion has been engaged, the Licensing Authority may determine a Premises Licence or Club Premises Certificate so that different conditions may apply to:

- different parts of the premises concerned; and
- different licensable activities.

23.6 Where the Suffolk Constabulary submit an objection to:-

- o an application to vary a Designated Premises Supervisor, or
- o an application from community premises to disapply the usual mandatory conditions,

because they consider that the circumstances are such that granting it would undermine the Crime and Disorder Objective, a hearing will be held in accordance with the procedure outlined in section 11 above.

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24. Transfer of Premises Licences

24.1 Where an application is made under the Act for a transfer of a licence for any reason and the Suffolk Constabulary submit an objection to an application, the Licensing Authority will hold a hearing in accordance with the procedure outlined in section 11 above. This hearing will be confined to consideration of the crime and disorder objective and the

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application may be rejected where the Licensing Authority considers it appropriate for the promotion of the crime prevention objective to do so.

25. Reviews

- 25.1 The review of a Premises Licence or Club Premises Certificate is a key protection for local communities where problems associated with one or more of the licensing objectives are occurring and these are linked to the operation of the licensed premises.
- 25.2 Where relevant representations are made about an existing licence the Licensing Authority will normally hold a hearing which will be held in accordance with the procedure outlined in section 11 above to consider them unless:
- the representation is considered to be a repetition (*that is, identical or substantially similar to a ground specified in an earlier application for a licence, provisional statement or review*); or
 - the Licensing Authority, the applicant and everyone who has made representations agree that the hearing is not necessary.
- 25.3 A review of the Premises Licence will normally also follow:
- any action by the Suffolk Constabulary or Local Authority to close down the premises for up to 24 hours on grounds of disorder or public nuisance;
 - summary review powers of the Police pursuant to section 21 (regarding serious crime and disorder) of the Violent Crime Reduction Act 2006 ; or
 - any exercise of the closure order powers available to the Magistrates' Court.
- 25.4 Where a Responsible Authority seeks review of a premises licence or club premises certificate, the Licensing Authority will only take into account non-compliance with other statutory requirements where it considers that the non-compliance has or continues to undermine one or more of the licensing objectives.
- 25.5 In determining a review application, the Licensing Authority will take such steps as it considers appropriate to promote the licensing objectives, which may include:
- modifying the conditions of the licence (*by inclusion, amendment or omission*);
 - excluding a licensable activity from the scope of a licence;
 - removing a Designated Premises Supervisor;
 - suspending the licence for a period not exceeding three months; or
 - revoking the licence.
- 25.6 Where the Police make application for summary review under section 53A of the Licensing Act 2003 the relevant licensing authority will normally consider whether it is necessary to take interim steps pending the determination of the review applied for. Such consideration may take place without the holder of the premises licence having been given an opportunity to make representations to the relevant licensing authority. The interim steps the relevant licensing authority must consider taking are -
- (a) the modification of the conditions of the premises licence;
 - (b) the exclusion of the sale of alcohol by retail from the scope of the licence;
 - (c) the removal of the designated premises supervisor from the licence; and
 - (d) the suspension of the licence.

Should a summary review be instigated, the Licensing Authority shall follow the procedures as agreed by the Licensing and Regulatory Committee in April 2012 and available at www.stedmundsbury.gov.uk.

- 25.7 Applications may also be made for the review of licences which are held by a management committee in respect of community premises, and which include the alternative licence condition instead of the normal mandatory conditions. In relation to such applications, the licensing authority may determine that the normal mandatory

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conditions should apply instead of the alternative condition if it considers this to be appropriate for the promotion of the licensing objectives. Such a determination may be reached following the usual procedure for review applications set out in sections 51 to 53 of the Act.

- 25.8 The outcome of the hearing will not have effect until such time as the period given for appealing (*21 days*) expires or an appeal is disposed of.

26 Fees

- 25.1 The Police Reform and Social Responsibility Act will introduce the principle of locally set fees. The level of each fee category will be based on cost recovery but with a nationally set cap for each category. Prior to the introduction of locally set fees the Secretary of State will issue guidance. Currently there is no further information available.

Appendix A

Statement of Licensing Policy

In preparing this statement the Licensing Authority has consulted in accordance with the Act, having regard to the Guidance. For details of the consultation see the minutes of the Licensing and Regulatory Committee meetings held on TBC

Appendix B

Designated Public Places Orders

As at the day of 2012 the following Designated Public Places Orders were in existence and copies are available on request:-

- (1) The Alcohol Consumption in Designated Public Places (Bury St Edmunds Town Centre) Order2005 which came into force on the 26th June 2006
- (2) The Alcohol Consumption in Designated Public Places (Haverhill) Order2008 which came into force on the 8th May 2008

Appendix C

Local Authority as Responsible Authority

The 2003 Act similarly enables licensing authorities to act as responsible authorities as a means of early intervention. They may do so where they consider it appropriate without having to wait for representations from other responsible authorities.

However it is reasonable for the licensing authority to expect that other responsible authorities will intervene where the basis for the intervention falls within the remit of that responsible authority.

Further, the licensing authority does not expect to act as a responsible authority on behalf of other parties (for example, local residents, local councillors or community

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groups) although there are occasions where the authority may decide to do so, based on the merits of the individual cases. Such parties can make relevant representations to the licensing authority in their own right, and it is reasonable to expect them to make representations themselves where they are reasonably able to do so.

In general terms the following are examples of occasions when the Licensing Authority may either make representations within either an application for the grant or variation of a licence or an application for a review.

- Anti-social behaviour unless the alleged behaviour is connected to crime. Any participation will be in conjunction with either the Councils own anti-social behaviour team or the local safer neighbourhood team
- Noise connected with the dispersal of patrons from a premise or associated with groups of drinkers and/or smokers congregating outside the licensed premises on the pavement or highway.
- Applications in connection with time-limited premises for events particularly when there is no engagement by the premises with the Suffolk Safety Advisory Group
- Public Nuisance that may be caused by light pollution, litter or noxious odours.
- The provision of adult entertainment at premises on an infrequent basis so that a licence under the Local Government (Miscellaneous Provisions) Act 1982 is not required. Issues like preventing accidental access by children maybe addressed or safeguards to protect either the dancers and/or the patrons and addressing the potential concerns of the community in the immediate vicinity.

At 12.4 Within the body of this Policy it is confirmed that it is not acceptable for the licensing authorities to simply replicate the wording from the operating schedule. The authority will endeavour to interpret any condition in accordance with the applicant's intention. In addition the Licensing Authority, as Responsible Authority, may engage with the Premises Licence Holder (particularly if there is any application to be determined) with a view to creating conditions that are not only appropriate or proportionate but are also:-

- Specific
- Measurable
- Achievable
- Realistic
- Timely

The Councils schedule of delegation makes provision for certain specified officers or other officers to whom this function has been delegated in writing to act as a Responsible Authority.

As far as reasonable practical the Council as Licensing Authority will endeavour to make provision for there to be a separation of roles between the licensing officer making any such representation and the licensing officer preparing and presenting the report to the sub-committee of the Council's licensing and regulatory Committee.

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Early Morning Restriction Orders

An Early Morning Restriction Order is a power from the Licensing Act 2003 (as amended by the Crime and Security Act 2010) and will be introduced by the Police Reform and Social Responsibility Act 2011. Currently the provisions have yet to come into force.

Appendix E

Late Night Levy

The Police Reform and Social Responsibility Act 2011 introduces the principle of a Late Night Levy which is a power for licensing authorities to introduce a charge for premises that have a late alcohol licence. Currently the provisions have yet to come into force.

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